

## TITLE 5 - REGULATORY PROVISIONS

### CHAPTER 5-1 LIQUOR CONTROL

#### 5-1-1 Authority and Purpose

(a) The authority for this Code and its adoption by Tribal Council is found in the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians Tribal Constitution under Article I - Section 1, Article VI - Section 2 and the Act of October 17, 1984, Public Law No. 98-481, 98 Stat. 2250.

(b) This Code is for the purpose of regulating the sale, possession and use of alcoholic liquor on the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians (Tribes) Reservation and other lands subject to Tribal jurisdiction.

#### 5-1-2 Definitions

To the extent that definitions are consistent with tribal or federal law, terms used herein shall have the same meaning as defined in Oregon Revised Statutes Chapter 471 and in Oregon Administrative Rules Chapter 845.

(a) Alcoholic Liquor shall mean any alcoholic beverage containing more than one-half (1/2) of one percent (1%) alcohol by volume, and every liquid or solid, patented or not, containing alcohol and capable of being consumed by a human being.

(b) Tribes' Reservation shall mean all lands held in trust by the United States for the Tribes or their members and all lands owned by the Tribes, wherever located.

(c) Sell or To Sell refer to anything forbidden by this Chapter and related to alcoholic liquor, they include:

- (1) To solicit or receive an order.
- (2) To keep or expose for sale.
- (3) To deliver for value or in any way other than purely gratuitously.
- (4) To peddle.
- (5) To keep with intent to sell.
- (6) To traffic in.

(7) For any consideration, promise or obtained directly or indirectly under any pretext or by any means or procure or allow to be procured for any other person.

(d) Sale includes every act of selling as defined in subsection (c) of this section.

#### 5-1-3 Prohibited Activity

(a) It shall be unlawful for any person to sell, trade or manufacture any alcoholic liquor on the Tribes' Reservation except as provided for in this Code.

(b) It shall be unlawful for any business establishment or person on the Tribes' Reservation to possess, transport or keep with intent to sell, barter or trade to another any liquor, except for those commercial liquor establishments on the Tribes' Reservation licensed by the Tribes, provided, however, that a person may transport liquor from a licensed establishment consistent with the terms of the license.

(c) It shall be unlawful for any person to consume alcoholic liquor on a public highway.

(d) It shall be unlawful for any person to publicly consume any alcoholic liquor at any community function, or at or near any place of business, Indian celebration grounds, recreational areas, including ballparks and public camping areas, the Tribal Headquarters area and any other area where minors gather for meetings or recreation, except within a tribally licensed establishment where alcohol is sold.

(e) It shall be unlawful for any person under the age of twenty-one (21) years to buy, attempt to buy or to misrepresent their age in attempting to buy, alcoholic liquor. It shall be unlawful for any person under the age of twenty-one (21) years to transport, possess or consume any alcoholic liquor on the Tribes' Reservation, or to be under the influence of alcohol or to be at an established commercial liquor establishment, except as authorized under Section 5-1-5 of this Code. No person shall sell or furnish alcoholic liquor to any minor.

(f) Alcoholic liquor may not be given as a prize, premium or consideration for a lottery, contest, game of chance or skill, or competition of any kind.

#### 5-1-4 Procedure for License

(a) Any request for a license under this Code must be presented to the Tribal Council at least thirty (30) days prior to the requested effective date. Tribal Council shall set license conditions at least as strict as those required by federal law, including at a minimum:

(1) Liquor may only be served and handled in a manner no less strict than allowed under Oregon Revised Statutes Chapter 471; and

(2) Liquor may only be served by staff of the licensee.

(b) Council action on a license request must be taken at a regular or special meeting. Unless the request is for a special event license, the Council shall give at least fourteen (14) days' notice of the meeting at which the request will be considered. Notice shall be posted at the Tribal Council offices and at the establishment requesting the license, and will be sent by Certified Mail to the Oregon Liquor Control Commission.

#### 5-1-5 Sale or Service of Liquor by Licensee's Minor Employees

(a) The holder of a license issued under this Code or Oregon Revised Statutes Chapter 472 may employ persons eighteen (18), nineteen (19) and twenty (20) years of age who may take orders for, serve and sell alcoholic liquor in any part of the licensed premises when that activity is incidental to the serving of food except in those areas classified by the Oregon Liquor Control Commission as being prohibited to the use of minors. However, no person who is eighteen (18), nineteen (19) or twenty (20) years of age shall be permitted to mix, pour or draw alcoholic liquor except when pouring is done as a service to the patron at the patron's table or drawing is done in a portion of the premises not prohibited to minors.

(b) Except as stated in this section, it shall be unlawful to hire any person to work in connection with the sale and service of alcoholic beverages in a tribally licensed liquor establishment if such person is under the age of twenty-one (21) years.

#### 5-1-6 Warning Signs Required

(a) Any person in possession of a valid retail liquor license, who sells liquor by the drink for consumption on the premises or sells for consumption off the premises, shall post a sign informing the public of the effects and risks of alcohol consumption during pregnancy.

(b) The sign shall:

(1) Contain the message: "Pregnancy and alcohol do not mix. Drinking alcoholic beverages, including wine, coolers and beer, during pregnancy can cause birth defects."

(2) Be either:

(A) A large sign, no smaller than eight and one-half (8-1/2) inches by eleven (11) inches in size with lettering no smaller than five-eighths of an inch (5/8) in height; or

(B) A reduced sign, five (5) by seven (7) inches in size with lettering of the same proportion as the large sign described in paragraph (i) of this subsection.

(3) Contain a graphic depiction of the message to assist nonreaders in understanding the message. The depiction of a pregnant female shall be universal and shall not reflect a specific race or culture.

(4) Be in English unless a significant number of the patrons of the retail premises use a language other than English as a primary language. In such cases, the sign shall be worded both in English and the primary language or languages of the patrons.

(5) Be displayed on the premises of all licensed retail liquor premises as either a large sign at the point of entry, or a reduced sized sign at points of sale.

(c) The person described in (a) of this section shall also post signs of any size at places where alcoholic beverages are displayed.

#### 5-1-7 Civil Penalty

(a) Any person who violates the provisions of this Code is deemed to have consented to the jurisdiction of the Tribal Court and may be subject to a civil penalty in Tribal Court for a civil infraction. Such civil penalty shall not exceed the sum of one thousand dollars (\$1,000) for each such infraction, provided, however, that the penalty shall not exceed five thousand dollars (\$5,000) if it involves minors.

(b) The procedures governing the adjudication in Tribal Court of such civil infractions shall be those set out in the Tribal Court rules.

(c) The Tribal Council hereby specifically finds that such civil penalties are reasonably necessary and are related to the expense of governmental administration necessary in maintaining law and order and public safety on the Reservation and in managing, protecting and developing the natural resources on the Reservation. It is the legislative intent of the Tribal Council that all violations of this Chapter, whether committed by tribal members, non-member Indians or non-Indians, be considered civil in nature rather than criminal.

5-1-8 Severability

(a) If a court of competent jurisdiction finds any provision of this Code to be invalid or illegal under applicable Federal or Tribal law, such provision shall be severed from this Code and the remainder of this Code shall remain in full force and effect.

5-1-9 Consistency with State Law

(a) The Tribes agree to perform in the same manner as any other Oregon business entity for the purpose of liquor licensing and regulations, including but not limited to licensing, compliance with the regulations of the Oregon Liquor Control Commission, maintenance of liquor liability insurance, which is incorporated as if specifically set forth herein, as it may be amended from time to time.

5-1-10 Effective Date

(a) This Code shall be effective upon publication in the Federal Register after approval by the Secretary of the Interior or his designee.

(b) Tribal Council may adopt amendments to this Code and those amendments shall be effective upon publication in the Federal Register after approval by the Secretary of the Interior or his designee.

APPENDIX A

LEGISLATIVE HISTORY AND EDITORIAL CHANGES

## LIQUOR CONTROL

### LEGISLATIVE HISTORY AND EDITORIAL CHANGES

The Tribal Council of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians enacted the amendments approved at the June 28, 2004 Business Tribal Council meeting. Resolution 04-071, Ordinance No. 031A, in a regular Tribal Council meeting on October 10, 2004. Vote was 7 (for), 0 (against), and 0 (abstaining).

The Tribal Council of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians approved the amendments made to the "Liquor Control" Code. Changes occurred in 5-1-4, eliminating (a)(3) "*Liquor may only be served in rooms where gambling is not taking place.*" Add "and" after 5-1-4(a)1 and remove "and" after 5-1-4(a)2. Also add 5-1-10(b) "*Tribal Council may adopt amendments to this Code and those amendments shall be effective upon publication in the Federal Register after approval by the Secretary of the Interior or his designee.*" Resolution 04-048, Ordinance No. 031A, in a Business Tribal Council meeting on June 28, 2004. Vote was 5 (for), 0 (against), and 0 (abstaining).

The Tribal Council of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians enacted the "Liquor Control" Code, Resolution 01-091, Ordinance No. 031, in a regular Tribal Council meeting on December 9, 2001. Vote was 7 (for), 0 (against) and 0 (abstaining).