

TITLE 5 - REGULATORY PROVISIONS

CHAPTER 5-2 GAMING

5-2-1 Authority and Purpose

The Council has authority to adopt this Gaming Code under the Tribal Constitution Article I - Section 1 and Article VI - Section 2. The Constitution does not require approval of the Code or any amendment thereof by the Secretary of the Interior. The Code or amendment is effective upon approval of the National Indian Gaming Commission (NIGC) under the Indian Gaming Regulatory Act (IGRA), in accordance with section 5-2-25 of this Code. The purpose of this Code is to set forth the terms for Class II and Class III gaming operations on tribal lands.

5-2-2 Gaming Authorized

(a) Class II and III gaming as defined in the IGRA, P.L. 100-447, 25 U.S.C., Section 2703 (7) and (8) and by the regulations declared by the NIGC at 25 C.F.R. § 502.3 and 502.4 is hereby authorized.

(b) The Tribes hereby authorize Class III gaming in accordance with any Tribal/State Class III gaming compact in force and effect between the Tribes and the State, and the appendices attached hereto is hereby authorized. Such compacts are hereby incorporated by reference as if set forth fully herein and is enacted as part of this Code. No Class III gaming shall be conducted except in accordance with such a compact.

5-2-3 Definitions

The following definitions shall apply:

(a) "Bylaws": an operating document of the Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians ('Tribes' or 'Confederated Tribes') Gaming Commission.

(b) "Chairman": the Chairman of the NIGC.

(c) "Class I Gaming": social games played solely for prizes of minimal value, or traditional forms of Indian gaming when played by individuals in connection with tribal ceremonies or celebrations.

(d) "Class II Gaming":

(1) The game of chance commonly known as Bingo or lotto (whether or not electronic, computer or other technologic aids are used) when players:

- (A) Play for prizes with cards bearing numbers or other designations;
 - (B) Cover numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined; and
 - (C) Win the game by being the first person to cover a designated pattern on such cards;
- (2) If played in the same location as bingo or lotto, pull-tabs, punch boards, tip jars, instant bingo, and other games similar to bingo;
- (3) Nonbanking card games that:
- (A) State law explicitly authorizes, or does not explicitly prohibit, and are played legally anywhere in the state; and
 - (B) Players play in conformity with state laws and regulations concerning hours, periods of operation and limitations on wagers and pot sizes;
- (e) "Class III Gaming": all forms of gaming not classified Class I or II including but not limited to:
- (1) Any house banking game, including but not limited to:
 - (A) Card games such as baccarat, chemin de fer, or blackjack (21), and pai gow (if played as house banking games)
 - (B) Casino games such as roulette, craps and keno;
 - (2) Any slot machines as defined in 15 U.S.C. 1171(a) (1) and electronic or electromechanical facsimiles of any game of chance;
 - (3) Pari-mutuel wagering including but not limited to wagering on horse racing, dog racing or jai alai; or
 - (4) Lotteries.
- (f) "Commission": the Confederated Tribes Gaming Commission
- (g) "Corporation": any tribally chartered corporation responsible for developing, financing and operating Class II and Class III gaming activities of the Confederated Tribes on Confederated Tribes' Indian Lands.

(h) "Gambling Device":

(1) Any so-called 'slot machine', or any other machine or mechanical device an essential part of which is a drum or reel with insignia thereon, and

(A) Which when operated may deliver, as the result of the application of an element of chance, any money or property, or

(B) By the operation of which a person may become entitled to receive, as the result of the application of an element of chance, any money or property; or

(2) Any other machine, mechanical device (including, but not limited to, roulette wheels and similar devices), electromechanical or electronic device designed and manufactured primarily for use in connection with gambling, and

(A) which when operated may deliver, as the result of the application of an element of chance, any money or property, or

(B) by the operation of which a person may become entitled to receive, as the result of the application of an element of chance, any money or property; or

(C) any subassembly or essential part intended to be used in connection with any such machine, mechanical device or electromechanical or electronic device, but which is not attached to any such machine, mechanical device or electromechanical or electronic device as a constituent part.

(i) "Gaming Facility" The buildings and grounds on Confederated Tribes' Indian Land where gaming, other than Class I gaming is operated or conducted, and any property that is used by the Tribes in connection with gaming, including any property used to store gaming equipment, supplies or records.

(j) "Gaming Operation": Each economic entity authorized by this Code and licensed by the Confederated Tribes' Gaming Commission, that operates the games, generates the revenues, issues the prizes, and pays the expenses. A gaming operation may be operated by a tribe directly or through a tribally chartered corporation, or a management contractor.

(k) "Confederated Tribes Indian Land" or "Indian Land":

(1) Land within the limits of the Confederated Tribes' jurisdiction or reservation; or

(2) Land over which the Tribes exercise governmental power and that is either:

(A) Held in trust by the United States for the benefit of the Tribes or any Indian individual; or

(B) Held by an Indian Tribe or individual subject to restriction by the United States against alienation.

(l) "High Security Gaming Employee": any person who does not possess levels of authority indicative of a Primary Management Official and are employed in a Class II or Class III gaming area or security or surveillance, or has access to gaming cash or cash equivalents.

(m) "Key Employee" :

(1) For purposes of the Compact, Key Employee means any officer or any person who can substantially affect the course of business, make decisions, or is in a sensitive position in an organization or corporation that is a Class III Gaming Contractor or applicant for a Tribal gaming license.

(2) For all other purposes, Key Employee means:

(A) A person performing one or more of the following:

- (i) bingo caller;
- (ii) counting room supervisor;
- (iii) chief of security;
- (iv) custodian of gaming supplies or cash;
- (v) floor manager;
- (vi) pit boss;
- (vii) dealer;
- (viii) croupier;
- (ix) approver of credit; or
- (x) custodian of gambling devices including persons with access to cash and accounting records within such devices.

(B) Any other person whose total cash compensation is in excess of \$50,000 per year; or

(C) The four most highly compensated persons in the gaming operation.

(n) "Licensee": Any person or entity that holds a valid and current license pursuant to the provisions of this Gaming Code.

- (o) "Low Security Gaming Employee": any person who does not possess levels of authority indicative of a Primary Management Official or High Security Gaming Employee.
- (p) "NIGC": The National Indian Gaming Commission
- (q) "Net Revenue": Gross gaming revenues of the operation less amounts paid out as, or paid for, prizes and total gaming-related operating expenses, excluding management fees, if any.
- (r) "Primary Management Official":
- (1) The person having management responsibility for a management contract.
 - (2) The person with authority to hire and fire or set up working policy for the gaming operation; or
 - (3) The Chief Financial Officer or other person who has financial management responsibility.
- (s) "State": The State of Oregon
- (t) "Tribal State Compact" or "Compact": The agreement negotiated and executed by the Tribes and an official or agency of the State and approved by the Secretary of the Interior pursuant to 25 U.S.C. 2710(d)(8), governing the conduct of Class III gaming on Indian lands. Tribal State Compact for Regulation of Class III Gaming Between the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians and the State of Oregon, dated January 6, 2003.
- (u) "Tribes" or "Confederated Tribes": The Confederated Tribes of the Coos, Lower Umpqua & Siuslaw Indians.
- (v) "Tribal Council" or "Council": The Tribal Council of the Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians.
- (w) "Tribal Court" or "Court": The Tribal Court of the Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians.
- (x) "Vendor": Any manufacturer, consultant or supplier of goods or services related to Class II or Class III gaming.

5-2-4 Ownership

The Tribes shall have sole proprietary interest in and responsibility for conducting any Class II and Class III gaming operations authorized by this Code.

5-2-5 Unauthorized Gaming

The Tribes shall initiate an action against any person or entity conducting or taking part in unauthorized Class II or Class III gaming on Confederated Tribes' Indian Land in the Tribal Court, or if the Tribal Court lacks jurisdiction in any court of competent jurisdiction.

5-2-6 Use of Revenue

Net revenue from Class II and Class III gaming shall be used only for the following: funding tribal government operations and programs; providing for the general welfare of the Tribes and their members; promoting tribal economic development; donations to charitable organizations, or helping to fund operations of local governmental agencies. At least ten percent (10%) of net revenues after debt service shall be allocated to Tribal endowments for increased health care benefits, education and housing. The Finance Officer shall make this calculation at the end of the first quarter after the end of each full year of operation.

5-2-7 Gaming Commission

(a) The Gaming Commission is hereby established to regulate Class II and Class III gaming on Confederated Tribes' Indian Land. The Commission shall consist of three (3) members appointed by a majority vote of the Council. All Commissioners must be at least twenty-one (21) years of age. Commission membership shall include one (1) each of the following persons:

(1) The Chief Law Enforcement Officer of the Tribes who shall also be the Chief Enforcement Officer for the Commission, and who shall be appointed by the Council, is a permanent member of the Commission until such time he/she is fired by the Council or resigns, and

(2) A person with management or regulatory experience within the private sector or a governmental agency, preferably tribal government, and

(3) A person with at least ten (10) years of accounting experience, or a person with a bachelor's degree in accounting or related field and at least five (5) years of accounting experience.

(b) Commissioners, other than the Chief Law Enforcement Officer of the Tribes, shall serve terms of three (3) years and may be removed from office prior to the end of their term only for cause and a vote of six (6) Council members at an open, regular meeting.

(c) In order to establish staggered terms, the Council shall appoint the first Commissioners as follows: one shall serve a two- (2) year term and one shall serve a three- (3) year term, (initial terms only). After the initial term, all

subsequent terms of appointment shall run for three (3) years. Vacancies shall be filled within sixty (60) days by the Commission, with the approval of Council, provided, however, that a Commissioner whose term has expired shall hold his or her seat until it is filled. A vacancy shall be deemed to occur when a Commissioner is removed, resigns or upon expiration of his or her term without regard to whether the Commissioner seeks reappointment. When a vacancy occurs, or is about to occur, notice of such vacancy shall be published and posted, for at least fifteen (15) days. The notice shall identify the qualifications, if any, specific to the vacancy and request interested parties to file a statement with the Commission reflecting their qualifications and interest in serving as a Commission member. Upon termination of the notice period, the Commission shall develop selection procedures which are designed to promote appointment of the most qualified person.

(d) Commissioners, other than the Chief Law Enforcement Officer, may hold other non-elective and non-managerial tribal positions and may engage in business and gamble in any gaming operation, provided, however, that they may not be employed in or own any interest in or gamble in a gaming operation authorized by this Code. Additionally, Commissioners and their agents may not participate in the management of the Gaming Facility.

(e) Commissioners, shall be compensated at a rate established annually by the Commission and approved by the Council. Commissioners shall be reimbursed for actual expenses incurred on Commission business, including necessary travel expenses, in a manner consistent with the applicable policies and procedures of the Tribes.

(f) The Commission shall adopt bylaws for the conduct of business, which shall include the following provisions:

(1) The Commission shall select annually from its membership a Chair, Vice-Chair and Executive Secretary. The Chair shall have the power to convene special meetings with not less than forty-eight (48) hours' written or verbal notice to members of the Commission.

(2) General sessions of the Commission shall be open to the public.

(3) Executive sessions of the Commission shall not be open to the public. The Commission may only take official action while in executive session on Commission personnel and licensing matters.

(4) A quorum shall consist of two (2) members. All decisions shall be made by a majority vote provided, however, that no Commission action shall be taken by a vote of less than a majority of the full Commission unless indicated otherwise in this Code or the Bylaws.

(g) The Commission shall make quarterly reports to the Council within thirty (30) days of the end of each quarter. The reports shall include a summary of all licensing and enforcement actions.

(h) The Commission shall exercise all powers necessary to regulate Class II and Class III gaming on Confederated Tribes' Indian Land. . The Commission shall meet not less than once every two (2) months to hear recommendations and set policy, to hear reports from the Director, to make licensing, suitability and approval determinations, to conduct disciplinary hearings, to hear player dispute appeals, and to transact other business. The Commission shall publicize rules and regulations for the operation of any gaming facility and hear and resolve all disputes regarding any provision of the Code and rules and regulations promulgated by the Commission. In all decisions, the Commission shall act to promote and ensure integrity, security, honesty and fairness of operation and administration of all gaming activities. The Commission shall have the authority to approve, deny, limit, condition, suspend, revoke or restrict any license, or assess a fine against any person or entity licensed, or required to be licensed for any cause deemed reasonable.

(i) The duties of the Commission shall include, but are not limited to, the following:

(1) Processing all license applications, making determinations regarding the suitability of persons for licensing, issuing licenses to qualified persons and notifying the NIGC of the issuance of such licenses as required by the IGRA;

(2) Denial, limitation, revocation, rescission or suspension of any license when deemed necessary under the provisions of this or any related Law of the Tribes, or any applicable Federal or State law;

(3) Causing to be conducted background investigations on all Primary Management Officials, High Security Gaming Employee, Low Security Gaming Employees, Vendors, Commission Employees and members of the Commission;

(4) Designing, printing and making available all necessary license application forms and appropriate licenses;

(5) Collecting license fees imposed pursuant to this Code or rule or regulation promulgated by the Commission;

(6) Inspecting and examining all premises, equipment and supplies where gaming is conducted or gaming devices or equipment are stored, sold or distributed;

(7) Inspecting and reviewing all gaming contracts to ensure compliance with this Code; and inspecting and reviewing records, books and financial documents relating to the conduct of gaming to determine compliance by the licensee with this Code and any other applicable law;

(8) Promulgating and amending such substantive and procedural regulations as the Commission deems necessary to carry out this Code and the Tribal State Compact, but only upon thirty (30) days' notice of the proposed rule-making, which notice shall be posted at the gaming facility, the Tribal offices and the Community Center, and provided to the Council, and the management of any licensed gaming facility;

(A) The notice shall specify the purpose of the proposed regulation, the language of the proposed regulation, and the factors the Commission has considered in its determination to enact the proposed regulation, and an address at which the Commission shall receive comments.

(B) During the notice period, the Commission shall receive comments regarding the proposed regulation at the Commission offices, or at a designated mailing address.

(C) The Commission shall consider comments received by it at an open public meeting. The Commission shall make a final determination regarding the need for the proposed regulation, the language of the proposed regulation, and the effective date of the proposed regulation on the basis of the information available to the Commission.

(D) A final determination to enact a proposed regulation may be appealed to Tribal Court as provided in Section 5-2-23 if this Code.

(9) Consulting with Tribal Attorney on legal questions, appeals and rule making;

(10) Imposing civil penalties or other sanctions including seizure of property, after a hearing as provided by this Code;

(11) Excluding individuals from the gaming facility due to his or her criminal acts, criminal history or association with career offenders or career offender organizations (as defined by the Commission) which may pose a threat to the security and integrity of the gaming operation.

(12) Executing all duties assigned to the Commission in the Tribal State Compact, or delegating those duties when appropriate.

(13) Ensuring that currency and negotiable instruments are transported by a reputable insured armored car service.

(j) A Commissioner's seat shall be immediately vacant upon conviction of any felony, conviction of any misdemeanor related to illegal gambling or bribery, or upon having three (3) consecutive unexcused absences from Commission meetings. Cause for removal of a Commissioner shall include but not be limited to: excessive use of intoxicants which impairs performance of duties, use of a tribal position for personal gain, failure to perform Commission duties adequately or according to this Code, violation of any law of the Confederated Tribes and bringing discredit or disgrace to the Commission or the Tribes.

(k) The Commission may organize itself into divisions, as it may deem necessary. The Commission shall establish its own budget for operations, including a budget for the Director (chief law enforcement officer), and acquire such furnishings, equipment, supplies, books, and other things as it may deem necessary or desirable in carrying out its functions, and incur such other expenses, within the limit of funds available to it, as it may deem necessary. Within the limits of its approved budget, the Commission shall employ and fix the salaries of, or contract for, the services of such personnel and consultants as the execution of its duties requires. The annual Commission budget shall be published with the Tribes' Annual Budget.

(l) At the end of the budget year, any unexpended funds may be applied to the following year's budget at the Council's discretion.

(m) The Commission and the Director shall maintain files and records as they deem desirable and all such records are open to Council inspection as Council deems appropriate, unless otherwise restricted by Tribal, state or federal law. Files and records shall not be removed from the Commission offices.

5-2-8 Commission Director

(a) The Director (chief law enforcement officer) shall be responsible for the day-to-day monitoring of gaming activities, including the implementation and enforcement of the rules and regulations promulgated by the Commission. No one convicted of a felony of any kind or a misdemeanor related to illegal gambling or bribery may serve as Director. The Director shall not have any financial interest in any gambling by any gaming facility patron.

(b) The Director shall be terminated automatically and immediately upon the Director's conviction in a tribal, federal or state court of competent jurisdiction for any felony or serious tribal offense or for any misdemeanor related to illegal gambling or bribery. If the Director is convicted of violating any part of this Code and the Tribal State Compact, or of a crime that relates to the Director's honesty or ability to fulfill his duties, the Director shall be immediately terminated.

(c) The Director shall, subject to the approval of the Commission, perform all duties, exercise all powers, assume and discharge all responsibilities, and carry

out and effect all purposes of this Code related to the establishment of all gaming activity. In all decisions, the Director shall act to promote and ensure integrity, security, honesty and fairness of the operation and administration of all gaming activity. The duties of the Director include, but not be limited to, the following:

- (1) Confirm that management is carrying out its responsibility, as provided for in this Code.
- (2) Communicate with the NIGC and agencies of the State of Oregon, including the State Police, as necessary and appropriate to ensure compliance with the rules and regulations of the NIGC and the Tribal State Compact
- (3) Ensure there is an adequate system for background investigations of applicants and licensees and that oversight of licensees is conducted on an ongoing basis. The Director will ensure that all applications and background investigations are completed so that no person shall be eligible for licensure or employment in or with any part of the gaming operation if that person's prior activities, criminal record, if any, or reputation, habits and associations pose a threat to the public interest or to the effective regulation of gaming, or create or enhance the dangers of unsuitable, unfair or illegal practices and methods and activities in the conduct of gaming. The Director shall ensure that the NIGC is given results of such background checks, if required by NIGC.
- (4) Review all records, documents and anything else necessary and pertinent to enforcement of any provisions of this Code.
- (5) Recommend to the Commission whether sanctions should be imposed on any person subject to the jurisdiction of this Code.

5-2-9 Audit

- (a) The Tribes shall cause to be conducted an annual audit of all tribal gaming operations and shall cause the results of that audit to be timely submitted to the NIGC.
- (b) If the Tribes do not cause an annual independent audit of the Gaming Operation to be conducted, as required by IGRA, the Commission shall cause one to be conducted and shall submit the results of the audit to NIGC.
- (c) All gaming related contracts that result in the purchase of supplies, services, concessions or other subject matter that the Commission determines is related to gaming in excess of \$25,000 annually, except contracts for legal and accounting services, shall be specifically included in the audit.

5-2-10 Construction, Maintenance and Operation of Facility

The gaming facility shall be constructed, maintained and operated in a manner which protects the environment, public health and safety. This shall include compliance with the Uniform Building Code, until the Tribes adopt their own building code.

5-2-11 License Applications for Primary Management Officials, Key Employees, High Security Gaming Employees and Low Security Gaming Employees

(a) The Commission shall develop license application forms for Primary Management Officials, Key Employees, High Security Gaming Employees and Low Security Gaming Employees, which shall include, at a minimum, requests for all information listed in this section and in section 5-2-12 of this Code and shall obtain the necessary approval for such forms.

(b) A Privacy Act notice in accordance with 25 C.F.R. §566.2 shall be placed on the application form to be signed by persons applying for positions classified as Primary Management Official, Key Employee, High Security Gaming Employee and Low Security Gaming Employee.

(c) A notice regarding false statements in accordance with 25 C.F.R. §556.3 shall be placed on the application form to be signed by persons applying for positions classified as Primary Management Official, Key Employee, High Security Gaming Employee and Low Security Gaming Employee.

5-2-12 Background Investigations

Each applicant for Commission membership, Commission employment, Primary Management Official, Key Employee, High Security Gaming Employee and Low Security Gaming Employee shall provide all of the following information.

(a) Full name, other names used (oral or written) including nicknames, social security number(s) birth date, place of birth, citizenship, gender, all languages spoken or written.

(b) All the following information currently and for the previous ten (10) years: business and employment positions held, ownership interests in those businesses, business and residence addresses, and drivers license numbers.

(c) Names and current addresses of three (3) personal references, including references acquainted with applicant during each period of residence listed under paragraph (b) above.

(d) Current business and residence telephone numbers.

- (e) A description of any existing and previous business relationships with Indian tribes, including ownership interests in those businesses.
- (f) A description of any existing and previous business relationships with the gaming industry in general, including ownership interests in those businesses.
- (g) The name and address of any licensing or regulatory agency where the applicant has filed an application for a license or permit related to gaming, whether or not a license or permit was granted.
- (h) The name and address of any licensing or regulatory agency with which the person has filed an application for an occupational license or permit, whether or not such license or permit was granted.
- (i) For each felony where there is a conviction or ongoing prosecution: charge, name and address of the court involved, and the date and disposition if any.
- (j) For each misdemeanor or infraction conviction or ongoing prosecution (except minor traffic violations) within the past ten (10) years: the name and address of the court involved, date and disposition if any.
- (k) For each criminal charge (except minor traffic charges), whether or not convicted, if within the past ten (10) years and not otherwise listed: the charge, name and address of the court, date and disposition if any.
- (l) Current photograph or photo identification.
- (m) Any other information the Commission may deem relevant
- (n) Relative to Commission membership, Commission employment, Primary Management Officials, Key Employees, and High Security Gaming Employees, fingerprints consistent with procedures adopted by the Commission according to 25 C.F.R. §522.2(h). Fingerprints shall be taken, processed and reviewed by an official of the Oregon State Police using federal data banks.
- (o) Prior to granting a license of any type, the information required to be provided by the applicant shall be thoroughly investigated for the purpose of verification of the information; applicant's references shall be interviewed to determine the qualifications of the applicant; and the Commission shall list and report on all information obtained showing potential problem areas and disqualifying information.
- (p) In conducting a background investigation, the Tribes or their agents shall keep confidential the identity of each person interviewed in the course of the investigation.

(q) If the NIGC has received an investigative report concerning an individual whom the Tribes wish to employ as a Primary Management Official, Key Employee, High Security Gaming Employee or Low Security Gaming Employee and if the Tribes have access to the investigative material held by another tribe, the Tribes may update the investigation and investigative report pursuant to the relevant rules and regulations of the NIGC.

5-2-13 Eligibility Determination

The Commission or its delegate shall review prior activities, criminal records (if any) reputation, habits and associations, and any other information deemed relevant of applicants to determine eligibility for appointment to the Commission, Commission employment, or licensure for Primary Management Official, Key Employee, High Security Gaming Employee or Low Security Gaming Employee positions. If the Commission or its delegate determines that appointment, employment or licensure of the individual is prohibited by the Tribal State Compact would pose a threat to the tribal interest or the effective regulation of gaming, or would create or enhance the danger of unsuitable, unfair or illegal practices or activities, the Tribes, the Commission, or the Gaming Operations, whichever is appropriate, shall not appoint, employ or license the individual.

5-2-14 Procedures for Forwarding Applications and Reports for Primary Management Officials, Key Employees, High Security Gaming Employees and Low Security Gaming Employees to NIGC

(a) Employees hired for Key Employee and High Security Gaming Employee positions may be temporarily licensed in accordance with the Tribal State Compact, but shall remain on probation until the background investigation is completed regardless of the time involved. The Tribes shall not continue to employ Key Employees, High Security Gaming Employees or Low Security Gaming Employees if they do not have a license after ninety (90) days.

(b) When the decision to hire a Primary Management Official, Key Employee, or High Security Gaming Employee is made, the commission shall begin the background investigation, and forward copies of the person's application to the State Police, State of Oregon and NIGC, if required.

(c) Upon completion of the background investigation and a determination of eligibility, the Commission shall forward a report to NIGC within sixty (60) days after a licensee begins work, if required by NIGC. The report shall include all of the following:

- (1) Steps taken in conducting a background investigation.
- (2) Results obtained.

- (3) Conclusion reached.
- (4) The basis for those conclusions, and
- (5) A copy of the eligibility determination made under section 5-2-13.

(d) If, within thirty (30) days after NIGC receives a report, NIGC does not object to the issuance of a license, the Commission's licensing determination shall be deemed conclusive

(e) The Commission shall respond to requests for information from the Chairman concerning Primary Management Officials, Key Employees, or High Security Gaming Employees who are the subject of a report. Such a request shall toll the thirty- (30) day period under section (d) of this section until the Chairman receives the information requested.

(f) If, within the thirty- (30) day period under section (d) of this section, NIGC provides the Tribes or Commission with a statement of objection, the Commission shall reconsider the application. The Commission shall make a final decision after considering the objections of the NIGC.

(g) If a license is not issued to an applicant, the Commission:

- (1) Shall notify the NIGC, and
- (2) May forward copies of its eligibility determination and report (if any) to the NIGC for inclusion in the Indian Gaming Individual's Records System (IGIRS).

(h) With respect to Primary Management Officials, Key Employees, and High Security Gaming Employees, the Commission shall retain applications and reports (if any) of background investigations for inspection by the Chairman or his or her designee for no less than three (3) years from the date of termination.

5-2-15 Drug Testing

Each Commission Member, Commission employee, Primary Management Official, Key Employees, High Security Gaming Employee and Low Security Gaming Employee, upon selection or hire and prior to appointment or licensure, shall undergo urinalysis to test for drug use, the results of which may be used in appointment and licensing determinations.

5-2-16 Licensing of Vendors

- (a) The Commission shall promulgate regulations for licensing of Vendors and determine that a background investigation is conducted in accordance with such regulations and the Tribal/State Gaming Compact.
- (b) The Commission shall develop license application forms for Vendors.
- (c) All applicants for a Vendor license shall provide all financial and operating data requested by the Tribes or the State.
- (d) Vendor licenses may not be granted for a period exceeding seven (7) years in duration.

5-2-17 Corporation Duties

The Corporation shall be responsible for ensuring sound development and management of all Class II and Class III gaming activities carried out under this Code. The Corporation's duties shall include:

- (a) Ensuring that Class II and Class III gaming is conducted in a businesslike manner;
- (b) Ensuring that Class II and Class III gaming is conducted in accordance with the applicable contracts with the Corporation; and

5-2-18 Licensing of Gaming

- (a) The Commission is hereby authorized to issue all licenses for the conduct of Class II and Class III gaming activities.
- (b) The Commission shall ensure that:
 - (1) Such gaming activity is located on Indian lands within the Tribes' jurisdiction, and the State of Oregon permits such gaming for any purpose by any person, organization or entity (and such gaming is not otherwise specifically prohibited on Indian lands by Federal laws);
 - (2) The Tribes will have the sole propriety interest and responsibility for the conduct of such gaming activity;
 - (3) Net revenues from such Gaming Activity are used in accordance with Section 5-2-6 of this Code;

(4) Such gaming activity is subject to annual outside audits, which may be encompassed within existing independent Tribal audit systems, and provided to the Council;

(5) All contracts for supplies, services or concessions for an aggregate amount in excess of \$25,000 annually, except contracts for legal and accounting services, relating to such gaming are also subject to independent audits;

(6) The construction and maintenance of the gaming facility, and the operation of that gaming is conducted in a manner which is in accordance with rules and regulations promulgated by the Commission and adequately protects the environment and the public health and safety; and

(7) All Primary Management Officials, Key Employees, High Security Gaming Employees and Low Security Gaming Employees of the gaming operation have completed a background investigation which is approved by the Commission, and if required, by the NIGC.

(c) The Commission shall consult with appropriate law enforcement officials concerning any gaming licenses it may issue. If, after issuance of a gaming license, the Commission receives reliable information from the State Police or any source other than the NIGC that a Primary Management Official, Key Employee, High Security Gaming Employee or Low Security Gaming Employee does not meet the standard established under Section 5-2-13 of this Code or if the information establishes good cause for revocation under the Tribal State Compact, the Commission may suspend such license and, after notice and hearing, may revoke such license.

(d) The Commission may set a fee for applications, background investigations and licenses. All such fees shall be made payable to the Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians, Community of Oregon.

(e) An applicant for licensing shall make true and full disclosure of all information to the Director and the Commission's License Locations: The Commission shall issue a separate license to each gaming operation or location on Confederated Tribes' Indian Land where Class II or III gaming is conducted under the provisions of this Code.

5-2-19 Prohibition Against Certain Individuals

(a) It shall be a violation of this Code for any gaming operation to knowingly fail to exclude or eject from the gaming facility any individual who:

(1) Is under the influence of liquor or any narcotic or such other substance;

- (2) Is under the age of twenty-one (21) years of age and present on the gaming floor, unless such minor is a licensee allowed on the gaming floor to perform non-gaming employment duties;
- (3) Engages in disorderly conduct;
- (4) Is armed and not engaged in legitimate law enforcement activity;
- (5) Has been excluded by the Commission; or
- (6) Engages in any unlawful activity.

5-2-20 Unlawful Acts

(a) It is unlawful for any person:

- (1) To alter or misrepresent the outcome of a game or other event on which wagers have been made after the outcome is sure but before it is revealed to the players;
- (2) To place, increase or decrease a bet or to determine the course of play after acquiring knowledge, not available to all players, of the outcome of the game or that is the subject of the bet or wager;
- (3) To aid anyone in acquiring knowledge as set forth in subparagraph (2), for the purposes of increasing or decreasing a bet or wager, or for the purpose of determining the course of play contingent upon that event or outcome;
- (4) To claim, collect or take, or attempt to claim, collect or take, money or anything of value in or from a gambling game with intent to defraud, without having made a wager contingent thereon, or to claim, collect or take an amount greater than the amount won;
- (5) Knowingly entice or induce another to go to any place where a game is being conducted or operated in violation of the provisions of this Code, with the intent that the other person play or participate in the game;
- (6) To place or increase a bet or wager after acquiring knowledge of the outcome of the game or event which is the subject of the bet or wager, including past-posting and pressing bets;
- (7) To reduce the amount wagered or cancel the bet after acquiring knowledge of the outcome of the game or other event which is the subject of the bet or wager, including pinching bets;

(8) To manipulate with intent to cheat, any component of a gambling device in a manner contrary to the designed and normal operational purpose for the component, with knowledge that the manipulation affects the outcome of the game or with knowledge of any event that affects the outcome of the game;

(9) Except as specifically permitted by the Director, with approval of the Commission, to possess with the intent to use, or use at any table game, any calculator, computer or other electronic, electrical, or mechanical device to assist in projecting an outcome at any table game, to keep track of or analyze the cards having been dealt, or to change probabilities of any table game or the playing strategies to be utilized;

(10) To trespass upon any premises licensed by this Code without the consent of the licensee and/or the Commission; or

(11) To take anything of value from a gaming facility without authorization.

(b) Any person who engages in activities on property subject to this Code without a license, in violation of a license or terms imposed thereon, in violation of any regulation, provision or amendment of this Code shall be in violation of the Code.

(c) No fine shall be assessed nor any action taken for any violation under this section unless a charge is filed in proper form with the Commission or Tribal Court, within one year of the commission of the offense.

(d) Council Members, Commissioners, Corporate Board Members, the Director and their immediate families shall receive no personal compensation, gift, reimbursement or payment of any kind from any person doing or wishing to do business with the Tribes relating to gaming nor from any person wishing to obtain an unfair advantage in any authorized wager on gaming. Any property received in violation of this provision, including cash payments, shall be immediately forfeited to the Tribes and the offending persons shall be prosecuted to the full extent possible under Tribal law. The Commission shall cooperate to the fullest extent possible with any Federal or State law enforcement agency to pursue prosecution under applicable Federal or State law.

5-2-21 License Suspension

(a) If, after issuance of a gaming license, the Director receives notification from the NIGC that a Primary Management Official, Key Employee, or High Security Gaming Employee does not meet the standard established under Section 5-2-13 of this Code, the Director shall suspend the license and notify the licensee, the Gaming Operation and the Commission in writing of the suspension and proposed action. If, after the issuance of a gaming license, the Director receives reliable information that a Primary Management Official, Key Employee, High Security

Gaming Employee, Low Security Gaming Employee or Vendor is not eligible for licensure under this Code or the Tribal State Compact, or has violated this Code or rules and regulations promulgated by the Commission, the Director may suspend the license and notify the licensee, the Gaming Operation and the Commission in writing of the suspension and proposed action.

(b) If the Director does not rescind the suspension, the Director shall petition the Commission for revocation of the license. The Commission shall provide notice to the licensee which shall include the date, time and place for a hearing on the revocation. The date for the hearing shall be the next regularly scheduled Commission meeting which is at least ten (10) days after the time for licensee to file a written response to the petition has expired, provided, however that the Commission may extend the time at the request of the Director or licensee.

(c) After the hearing, the Commission shall render a written decision which shall contain findings of fact and conclusions of law. The Commission shall notify NIGC of the decision in the case of a Primary Management Official, Key Employee, or High Security Gaming License and shall notify the State Police of the decision when required to do so under the Tribal State Compact.

(d) A licensee may appeal the decision of the Commission in accordance with section 5-2-22(c) of this Code.

5-2-22 Appeals of Licensing Decisions

(a) Should an applicant or licensee disagree with a licensing decision of the Commission, she or he may request a hearing before the Commission not later than seven (7) days after receipt of notification from the Director of the Commission's decision. The Commission shall hold a hearing to review its decision at the next regularly scheduled Commission meeting, or at the discretion of the Chair, a special meeting may be called to hear the appeal.

(b) Following such hearing, the Commission shall affirm, modify or reverse its initial licensing decision.

(c) Any denial of a gaming license by the Commission is final. There is no right of appeal.

5-2-23 Appeals of Rule Making Decisions

Should a licensee disagree with a rule-making decision of the Commission, the licensee may file an appeal with the Tribal Court within ten (10) days of the decision, but only if the licensee commented on such rule or regulation in accordance with section 5-2-7 (i)(8) of this Code and only on the grounds that the

Commission exceeded its authority granted under this Code in promulgating such rule or regulation.

5-2-24 Player Disputes

(a) Should the Gaming Operation be unable to resolve a player dispute involving winnings equal to or greater than \$500, the Gaming Operation shall immediately contact the Director, who shall perform an investigation and render a written decision within thirty (30) days of the contact.

(b) Should the Gaming Operation be unable to resolve a player dispute involving winnings less than \$500, the Gaming Operation shall inform the player that a complaint may be filed with the Director within five (5) days of the dispute, and provide the player with the Director's address, telephone number and regular office hours. Upon receipt of a complaint, the Director shall perform an investigation and render a written decision within thirty (30) days of the receipt of the complaint.

(c) Should the player or the Gaming Operation disagree with the Director's decision, either may file a petition for review with the Commission within fourteen (14) days of the receipt of the Director's decision. The Commission shall provide notice to the parties which shall include the date, time and place for a hearing on the petition. The date for the hearing shall be the next regularly scheduled Commission meeting which is at least ten (10) days after the time for a written response to the petition has expired, provided, however, that the Commission may extend the time at the request of one of the parties.

(d) After the hearing, the Commission shall render a written decision which shall contain findings of fact and conclusions of the law.

(e) A party may appeal the decision of the Commission in accordance with section 5-2-22(c) of this Code.

5-2-25 Effective Date

Upon approval of the Code or any amendment thereof by NIGC, the Code or amendment will be effective on the date specified in the Council resolution adopting the Code or amendment. If no effective date is specified in such resolution, the Code or amendment will be effective in accordance with Tribal law.

APPENDIX A
LEGISLATIVE HISTORY AND EDITORIAL CHANGES

GAMING

LEGISLATIVE HISTORY AND EDITORIAL CHANGES

The Tribal Council of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians at a special meeting on December 8, 2003, through Resolution 03-066, affirmed that the Gaming Ordinance No. 30, is authentic.

The Tribal Council of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians at a special meeting of the Tribal Council approved and enacted the revision of the "Gaming" Code, No. 030A, on December 8, 2003, Resolution 03-065. Revision was to modify the definition of the term "Primary Management Official" in Section 5-2-3(r), to add the term "Key Employee" to the definitions as Section 5-2-3(m), and to include the term "Key Employee" in Sections 5-2-11, 5-2-12, 5-2-13, 5-2-14, 5-2-15, 5-2-18 and 5-2-21. The Gaming Ordinance was renumbered 30B.

The Tribal Council of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians at a business Tribal Council meeting approved the revision of the "Gaming" Code, No. 030, on August 25, 2003, Resolution 03-045. Revision was: '*where necessary*' was dropped from the end of paragraph 5-2-12(n) and renumbered "Gaming" Ordinance 030A.

The Tribal Council of the Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians at a regular Council meeting approved the revisions of the "Gaming" Code, No. 030, on January 12, 2003, Resolution 03-007.

The Tribal Council of the Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians enacted the Gaming" Code, Resolution 01.090, Ordinance 030, in a regular Tribal Council meeting on December 9, 2001. Vote was 7 (for), 0 (against) and 0 (abstaining).