

TITLE 5 - REGULATORY PROVISIONS

CHAPTER 5-5 INDOOR AIR QUALITY

5-5-1 Authority and Purpose

(a) The authority for this Code is found in the Constitution of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians (Tribes) under Article I - Section 1 and Article VI - Section 2.

(b) The purpose of this Code is to regulate the smoking of tobacco to confined places by (1) requiring nonsmoking areas in certain places; and (2) limiting employee exposure to air contaminants found in Environmental Tobacco Smoke.

5-5-2 Definitions

Unless defined elsewhere in this Code or the context clearly requires otherwise, the following definitions shall apply throughout this Code:

(a) "Council" shall mean the Tribal Council of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians.

(b) "Employer" means any employer licensed or authorized to do business on Indian Lands.

(c) "Enclosed Area" means all space between a floor and a ceiling that is enclosed on all sides by solid walls or windows, exclusive of doors or passageways, that extend from the floor to the ceiling, including all space therein screened by partitions that do not extend to the ceiling.

(d) "Environmental Tobacco Smoke" (ETS) results from (1) being exposed to someone else's cigarette, cigar, or pipe smoke; or (2) material in indoor air that originates from tobacco smoke. Breathing in ETS is known as passive smoking, second-hand smoke, or involuntary smoking.

(e) "Indian Lands" shall mean all lands held in trust by the United States for the benefit of the Tribes or its members.

(f) "Place of Employment" means every enclosed area under the control of a Tribal employer that employees frequent during the course of employment, including but not limited to, work areas, employee lounges, rest rooms, conference rooms, classrooms, cafeterias and hallways. "Place of employment" does not include a private residence.

(g) "Public or Public Place" means a place to which the general public has access and includes, but is not limited to, hallways, lobbies, and other parts of apartments designed

for actual residence and highways, streets, schools, places of amusement, parks, playgrounds and premises used in connection with public passenger transportation.

(h) "Smoking Instrument" means any cigar, cigarette, pipe or other smoking equipment.

(i) "Tribes" or "Tribal" shall mean the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians of Oregon.

5-5-3 Smoking Prohibited in Nonsmoking Areas

(a) A person may not smoke or carry any lighted smoking instrument in a Public Place or Place of Employment in areas designated as nonsmoking .

(b) A person may not smoke or carry any lighted smoking instrument within ten (10) feet of the following parts of Public Places or Places of Employment:

- (1) Entrances;
- (2) Exits;
- (3) Windows that open; and
- (4) Ventilation intakes that serve an enclosed area.

5-5-4 Smoke Free Place of Employment Required; Exceptions; Posting Signs

(a) Except as provided in subsection (b) of this section, an Employer shall provide a Place of Employment that is free of tobacco smoke for all employees.

(b) Smoking is allowed in the following areas and are not subject to the smoking restrictions in subsection (a) of this section:

- (1) Places where the Tribes are authorized to engage in Class II and/or Class III gaming activities as those terms are defined under the Indian Gaming Regulatory Act.
- (2) Retail businesses primarily engaged in the sale of tobacco or tobacco products on Indian lands.
- (3) Restaurants posted as off-limits to minors or areas of restaurants posted as off-limits to minors.
- (4) Bars or taverns posted as off-limits to minors.
- (5) Any other place as designated by Tribal Resolution and/or Code.

(c) An employer, except in those places described in subsection (b) of this section, shall post nonsmoking signs approved by the Tribal Gaming Commission.

5-5-5 Duties of the Confederated Tribes' Gaming Commission

(a) The Tribal Gaming Commission for any gaming facility, and the Tribal Administration's Natural Resources Department for all other Indian Lands except when another Tribal department is so designated by Tribal Council resolution, in accordance with the provisions of this Code:

- (1) Shall adopt rules necessary to implement and enforce the provisions of this Code;
- (2) Shall be responsible for compliance with such rules;
- (3) Shall establish by rule exposure limits for toxic and hazardous substance air contaminants commonly contained in ETS. Established limits must meet or exceed current limits set by the United States Environmental Protection Agency and the Oregon Occupational Safety and Health Division. Contaminants will include, but not be limited, to the following substances:

- (a) Ammonia
- (b) Arsenic
- (c) Benzene
- (d) Butane
- (e) Carbon dioxide
- (f) Carbon monoxide
- (g) Cadmium
- (h) Cyanide
- (i) DDT
- (j) Formaldehyde
- (k) Lead
- (l) Methyl isocyanate

5-5-6 Enforcement

As provided for under this Code, the Tribes Gaming Commission and/or their designee, or the Tribal Administration's Department or Natural Resources and/or their designee may institute an action in Tribal Court for violations of this Code in accordance with CLUSITC 3-3.

5-5-7 Penalties

Unless otherwise provided, a violation of this Code shall be a Class E, as provided CLUSITC 3-3-6.

APPENDIX A
LEGISLATIVE HISTORY AND EDITORIAL CHANGES

REGULATORY PROVISIONS

INDOOR AIR QUALITY

The Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians approved and enacted the "Indoor Air Quality" Code, Resolution 08-115, Ordinance No. 088, on December 14, 2008, at a regular Tribal Council meeting. Vote was 6 (for), 0 (against), and 1 (abstaining).



**CONFEDERATED TRIBES OF
COOS, LOWER UMPQUA AND SIUSLAW INDIANS
TRIBAL GOVERNMENT OFFICES**

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RESOLUTION NO: 08-115
Date of Passage: December 14, 2008
Subject (title): "Tribal Indoor Air Quality" Ordinance

- WHEREAS:** This Council is the Governing Body of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians (Tribes) and is authorized to act on behalf of said Tribes;
- WHEREAS:** The Tribal Constitution requires all final decisions of the Tribal Council on matters of general and permanent interest of the members of the Tribes be embodied in Ordinances;
- WHEREAS:** The authority for this Ordinance is found in the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians Constitution, Article 1, Section 1 and Article VI, Section 2;
- WHEREAS:** The purpose of this Ordinance is to establish a Tribal Indoor Air Quality Code which will regulate the smoking of tobacco to confined places by (1) requiring nonsmoking areas in certain places; and (2) limiting employee exposure to air contaminants found in Environmental Tobacco Smoke; and
- WHEREAS:** This Council has reviewed the Ordinance entitled, "Tribal Indoor Air Quality" and has determined that an emergency exists and by this determination waives the thirty (30) day comment period.

THEREFORE BE IT RESOLVED, that the Tribal Council hereby determines that an emergency exists which shall waive the thirty (30) day comment period.

BE IT FURTHER RESOLVED, that the Tribal Council of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians hereby approves and enacts this Ordinance entitled, "Tribal Indoor Air Quality" effective January 1, 2009.

CERTIFICATION:
On December 14, 2008, this Resolution recommendation was approved at a Regular Council Meeting held this date, and the vote was:

6 FOR
0 AGAINST
1 ABSTAIN

Bob Garcia
Bob Garcia, Chair

Mark Ingereoll
Mark Ingereoll, Vice-Chair

CONFEDERATED TRIBES OF COOS,
LOWER UMPQUA & SIUSLAW INDIANS

Councilman

Departments to CC: Gaming Commission