

TITLE 5 - REGULATORY PROVISIONS

CHAPTER 5-2 GAMING

5-2-1 Authority and Purpose

The Tribal Council has authority to adopt this Gaming Code under Article I, Section 1 and Article VI, Section 2 of the Tribes' Constitution. The Gaming Code, and any subsequent amendment(s), shall be subject to approval by the National Indian Gaming Commission under the Indian Gaming Regulatory Act. The purpose of this Gaming Code is to set forth the regulations governing Class II and Class III Gaming on CTCLUSI Indian Lands. 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) is not regulated by this Gaming Code.

5-2-2 Gaming Authorized

- (a) Class II Gaming, as defined in CLUSITC 5-2-3(b), and as authorized by the Indian Gaming Regulatory Act, may be played on CTCLUSI Indian Lands, in accordance with this Gaming Code and applicable regulations of the National Indian Gaming Commission.
- (b) Class III Gaming, as defined in CLUSITC 5-2-3(c), and as authorized by the Indian Gaming Regulatory Act, may be played on CTCLUSI Indian Lands, in accordance with this Gaming Code, the Tribal-State Compact, and applicable regulations of the National Indian Gaming Commission.
- (c) Before authorizing any gaming activity pursuant to this Gaming Code, the Tribes shall ensure that:
 - (1) The gaming activity is located on CTCLUSI Indian Lands;
 - (2) With respect to Class II Gaming, 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); and/or
 - (3) With respect to Class III Gaming, the gaming activity is authorized by the Compact.

5-2-3 Definitions

The following definitions shall apply to this Gaming Code:

- (a) "Chair": the Chair of the National Indian Gaming Commission or his or her designee.
- (b) "Class II Gaming": consists of the following:

- (1) The game of chance commonly known as bingo (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) Including (if played in the same location as bingo) pull-tabs, lotto, 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.
- (c) “Class III Gaming”: all forms of gaming not classified as Class I or II, and authorized by the Compact.
- (d) “CLUSITC”: the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians’ Tribal Code.
- (e) “Commission”: the CTCLUSI Gaming Commission.
- (f) “Commission Staff”: the CTCLUSI Gaming Commission staff, supervised by and including the Executive Director.
- (g) “CTCLUSI” or “Tribes”: the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians.
- (h) “CTCLUSI Indian Lands” or “Indian Lands”:
 - (1) Land within the limits of the CTCLUSI Reservation; or
 - (2) Land over which CTCLUSI exercises governmental power and that is either:
 - (A) Held in trust by the United States for the benefit of the Tribes or any individual member of the Tribes; or
 - (B) Held by the Tribes or any individual member of the Tribes and subject to restriction by the United States against alienation; or

(C) Land on which gaming by CTCLUSI is allowed by IGRA.

- (i) “Executive Director”: the Executive Director of the CTCLUSI Gaming Commission.
- (j) “Gambling Device”: the devices described in 15 U.S.C. § 1171(a), as may be amended from time to time.
- (k) “Gaming Code”: this Chapter 5-2 of the CLUSITC.
- (l) “Gaming Facility”: any building, structure or grounds used by CTCLUSI for gaming purposes, other than Class I Gaming, including any property used to store gaming equipment, supplies or records.
- (m) “Gaming Operation”: Each economic entity authorized by this Gaming Code and licensed by the CTCLUSI Gaming Commission that operates the games, receives the revenues, issues the prizes, and pays the expenses. A Gaming Operation may be operated by the Tribes directly, through a tribally-chartered corporation, or by a Management Contractor.
- (n) “High Security Employee”: shall have the meaning defined in the Compact and shall apply only to a Class III Gaming Operation.
- (o) “Immediate Family”: shall include parents, children, spouses, significant others, brothers, and sisters.
- (p) “IGRA”: the Indian Gaming Regulatory Act, P.L. 100-497; 102 Stat. 2467; codified in part at 25 U.S.C. §§ 2701–2721.
- (q) “Key Employee”:
 - (1) A person performing one or more of the following functions:
 - (A) bingo caller;
 - (B) counting room supervisor;
 - (C) chief of security;
 - (D) custodian of gaming supplies or cash;
 - (E) floor manager;
 - (F) pit boss;
 - (G) dealer;
 - (H) croupier;
 - (I) approver of credit;
 - (J) custodian of Gambling Devices including persons with access to cash and accounting records within such devices;
 - (K) security;
 - (L) information technology;

(2) If not otherwise included, any other natural person whose total cash compensation is in excess of \$50,000 per year; or

(3) If not otherwise included, the four most highly compensated persons in each Gaming Operation.

(4) If not otherwise included, any person in a Class III Gaming Operation who would be considered a Key Employee under the Compact.

(5) Any other person designated by the Commission as a Key Employee.

(r) “Low Security Employee”:

(1) In a Class II Gaming Operation, Low Security Employee means any employee of the Class II Tribal Gaming Operation who is not a Primary Management Official or a Key Employee.

(2) In a Class III Gaming Operation, Low Security Employee shall have the meaning defined in the Compact.

(s) “Management Contract”: any contract, subcontract, or collateral agreement between the Tribes and an outside Management Contractor, not a regular employee of the Tribes, if such contract or agreement provides for the management of all or part of a Gaming Operation.

(t) “Management Contractor”: a natural person or entity (other than the Tribes) that has entered into a Management Contract with the Tribes pursuant to 25 U.S.C. § 2710(d)(9) and 2711.

(u) “Tribal Internal Control Standards” (“TICS”) or “Minimum Internal Control Standards” (“MICS”):

(1) For Class II Gaming, means the Tribal Internal Control Standards adopted by the Tribes consistent with 25 CFR Part 543.

(2) For Class III Gaming, means the Tribal/State “Minimum Standards for Internal Controls” attached as the Appendix to the Compact, including revisions made pursuant to § 8(A) of the Compact.

(v) “Net Revenues”: gross gaming revenues of a Gaming Operation less amounts paid out as, or paid for, prizes, and total gaming-related operating expenses, including all those expenses of the Gaming Operation commonly known as operating expenses, non-operating expenses consistent with professional accounting pronouncements, and the cost of interest on debt service, but excluding management fees, if any.

(w) “NIGC”: the National Indian Gaming Commission.

- (x) “Oregon State Police” or “OSP”: the Gaming Enforcement Division, or that administrative unit, of the Department of State Police established under ORS 181.020, charged with gaming enforcement regulatory responsibilities, or its successor agency established by law.
- (y) “Primary Management Official”:
- (1) A person having management responsibility for a Management Contract;
 - (2) A person with authority to hire and fire or set up working policy for a Gaming Operation;
 - (3) A Chief Financial Officer or other person who has financial management responsibility;
 - (4) If not otherwise included, in a Class III Gaming Operation, any other person who would be considered a Primary Management Official under the Compact; or
 - (5) Any other person designated by the Commission as a Primary Management Official.
- (z) “State”: the State of Oregon.
- (aa) “Tribal-State Compact” or “Compact”: the agreement between the Tribes and the State of Oregon, 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 CTCLUSI Indian Lands.
- (bb) “Tribal Council”: the Tribal Council of the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians.
- (cc) “Tribal Court”: the Tribal Court of the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians.
- (dd) “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 Gaming 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 CTCLUSI Indian Lands in the Tribal Court, or if the Tribal Court lacks jurisdiction, in any court of competent jurisdiction.

5-2-6 Use of Net Revenues

Net Revenues 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 CTCLUSI and its members; promoting tribal economic development; donations to charitable organizations; or helping to fund operations of local governmental agencies.

5-2-7 Gaming Commission

(a) The Gaming Commission is hereby established to regulate Class II and Class III Gaming on CTCLUSI Indian Lands. The Commission shall consist of five (5) members appointed by a majority vote of the Tribal Council.

(b) The purpose of the Commission and Commission Staff is regulatory, not managerial. The Commission, Commission Staff, or individuals designated to perform Commission duties shall not participate in any way in the management of a Gaming Operation. The Commission and Commission Staff shall conduct oversight to ensure compliance with the Compact, and with tribal, federal, and, if applicable, State law and regulations. The Commission shall serve as the licensing authority for individuals employed in a Gaming Operation and shall ensure that appropriate background investigations are conducted as part of the licensing process. The Commission and Commission Staff shall also monitor compliance with the MICS or TICS, as appropriate, for a Gaming Operation. In order to carry out its regulatory duties, the Commission and Commission Staff shall have unrestricted access to all areas of a Gaming Operation and to all records. The Commission shall have the authority to take enforcement actions, including suspension or revocation of an individual gaming license when appropriate.

(c) CTCLUSI recognizes the importance of an independent Commission in maintaining a well-regulated Gaming Operation. The Commission shall act independently and autonomously from the Tribal Council in all matters within its purview. No prior or subsequent review by the Tribal Council of any actions of the Commission shall be required or permitted, except as otherwise explicitly provided in this Gaming Code.

(d) Commissioners must meet the following minimum eligibility requirements:

- (1) Commissioners must be at least twenty-one (21) years of age;
- (2) Commissioners must successfully complete a background investigation, as set forth in CLUSITC 5-2-15;
- (3) No member of the Tribal Council may serve as a Commissioner;
- (4) No employee of a Gaming Operation may serve as a Commissioner.

(e) The following restrictions shall apply to Commissioners:

- (1) Commissioners are prohibited from gaming in a Gaming Facility;
- (2) Commissioners shall not have any financial interest in any gaming by any Gaming Facility patron; and
- (3) Commissioners are prohibited from accepting complimentary items from a Gaming Operation, excepting authorized accommodations, meals, and related expenses in connection with official Commission duties.
- (4) Commissioners are prohibited from voting in any matter wherein he or she or a member of his or her Immediate Family has a direct personal and/or financial interest.

(f) The Commission shall exercise all powers necessary to regulate Class II and Class III Gaming on CTCLUSI Indian Lands, consistent with IGRA, this Gaming Code, the Compact and other applicable law. The duties of the Commission include the following without limitation:

- (1). Developing all necessary license application forms;
- (2) Processing all license applications, making determinations regarding the suitability of applicants for licensing, issuing licenses to qualified persons and notifying the NIGC of the issuance or denial of such licenses as required by IGRA and the NIGC implementing regulations;
- (3) Approving, denying, limiting, conditioning, revoking, rescinding or suspending any gaming license or assessing a fine against any person or entity licensed or required to be licensed pursuant to this Gaming Code, IGRA, the Compact and other applicable law and regulations;
- (4) Determining appropriate license fees;
- (5) Promulgating and amending regulations as the Commission deems necessary to implement this Gaming Code and the Tribal-State Compact;
- (6) Imposing civil penalties or other sanctions including seizure of property; and
- (7) Executing all other duties assigned to the Commission in the Compact and/or by the Tribal Council.

(g) Terms of office for Commissioners shall be three (3) years or until a successor is appointed. Upon NIGC approval of amendments to this Gaming Code expanding the size of the Gaming Commission from three (3) to five (5) members, the initial terms of Commissioners will be staggered as follows: one member shall serve an initial term of one (1) year; two members shall serve an initial term of two (2) years; and two

members, including the Chair, shall serve an initial term of three (3) years. Subsequent to the initial term, each Commissioner may be appointed to additional three-year terms, at the discretion of the Tribal Council. Upon approval of this Gaming Code by the NIGC, the Tribal Council shall appoint a Chair and a Vice-Chair, who shall thereafter serve their initial terms.

(h) Commissioners may be removed from office prior to the expiration of their respective terms only for cause by a majority vote of the Tribal Council. Neglect of duty, misconduct, malfeasance, or other acts that would render a Commissioner unqualified for his/her position shall be cause for removal. Commissioners will be given an opportunity to provide evidence rebutting the grounds for their proposed removal. A vote of the Tribal Council on the decision to remove a Commissioner shall be final and not subject to appeal.

(i) The Tribal Council shall promptly fill Commission vacancies. Newly appointed Commissioners shall fill the term of the Commissioner whom they are replacing.

(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.

(k) As set forth in CLUSITC 5-2-8(a), nothing in this Gaming Code prohibits the Executive Director from simultaneously serving on the Commission. In the event that the Executive Director serves on the Commission and his or her employment is terminated for any reason, he or she shall also immediately vacate his or her seat on the Commission. Thereafter, the Tribal Council may in its sole discretion choose to appoint the former Executive Director to the vacant Commission seat if the former Executive Director is qualified for the position.

(l) The Tribal Council shall establish compensation rates for Commissioners. Commissioner compensation shall not be based on a percentage of gaming revenue.

(m) Any regulations promulgated by the Commission to implement this Gaming Code and the Tribal-State Compact shall be subject to the following requirements:

(10) The Commission shall provide a minimum of thirty (30) days' notice of proposed regulations.

(2) Notice of the proposed regulation(s) shall be posted at the Gaming Facility, the tribal offices, and the tribal community center, and provided to the Tribal Council and the management of all Gaming Facilities.

(3) The notice shall specify the purpose of the proposed regulation, the proposed language, 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.

- (4) During the notice period, the Commission shall receive comments regarding the proposed regulation at the Commission offices, or at a designated mailing address.
- (5) After the notice period has ended, the Commission shall consider comments on the proposed regulation at a public meeting.
- (6) Thereafter, the Commission shall determine whether any changes should be made to the proposed regulation based on comments received and whether to adopt the proposed regulation.
- (7) The validity of any Commission regulation may be determined by the Tribal Court in the following manner:
 - (a) The CTCLUSI Chief Executive Officer may file a petition for Tribal Court review of a Commission regulation at any time.
 - (b) Any person or entity that commented on a proposed Commission regulation as provided in CLUSITC 5-2-7(m)(4) may file a petition for Tribal Court review of the regulation within ten (10) days of the Commission's adoption of the regulation.
 - (c) The validity of any Commission regulation may be determined by Tribal Court upon enforcement of such regulation or order in the manner provided by Tribal law, except that Tribal Court shall not declare a Commission regulation invalid as to any licensee that agreed to be bound by the regulation as a condition of the licensee's license.
 - (d) Tribal Court shall declare a Commission regulation invalid only if it finds that the regulation:
 - (i) Violates constitutional provisions;
 - (ii) Exceeds the authority of the Commission; or
 - (iii) Was adopted without compliance with applicable rulemaking procedures, provided, however, that any such challenge must be brought within ninety days of the adoption of the regulation.
- (n) The Commission shall meet as often as required to discharge its responsibilities and duties under this Gaming Code.
- (o) A quorum of the Commission shall consist of three (3) members. All decisions shall be made by a majority vote of the Commission.
- (p) The Commission, through the Executive Director, shall make quarterly reports to the Tribal Council within thirty (30) days of the end of each quarter. The reports shall

include, at a minimum, a description of the work performed by the Commission during the previous quarter, as well as a summary of all licensing and enforcement actions.

(q) In all decisions, the Commission and Commission Staff shall act to promote and ensure integrity, security, honesty and fairness of operation and administration of all gaming activities.

(r) The Commission Staff shall prepare an annual budget, which shall be timely submitted to the Tribal Council for approval and published with the Tribes' annual budget. At the end of the budget year, any unexpended funds may be applied to the following year's budget at the Tribal Council's discretion.

(s) Subject to the annual budget approved by the Tribal Council, the Executive Director may organize the Commission Staff into divisions and employ such staff as necessary to implement this Gaming Code. All Commission Staff must satisfy all of the minimum eligibility requirements applicable to Commissioners, as set forth in CLUSITC 5-2-7(d), and are subject to the restrictions set forth in CLUSITC 5-2-7(e).

(t) The Commission Staff shall maintain files and records of the Commission and shall make such records available for inspection, as required by the Compact, this Gaming Code and applicable law. All files and records maintained by the Commission Staff shall be open for inspection by the Tribal Council, unless otherwise restricted by applicable law.

5-2-8 Commission Executive Director

(a) The Tribal Council shall appoint an Executive Director. The Executive Director and all Commission Staff must satisfy all of the minimum eligibility requirements applicable to Commissioners, as set forth in CLUSITC 5-2-7(d) of this Gaming Code.

(b) The Executive Director shall be responsible for the hiring and firing of Commission Staff and for the day-to-day monitoring of gaming activities, including the implementation and enforcement of the regulations promulgated by the Commission.

(c) The Executive Director shall attend and be permitted to participate actively in all meetings of the Commission.

(d) Removal of the Executive Director:

(1) The Executive Director shall be immediately and automatically removed if at any point during his/her employment the Executive Director fails to meet the minimum eligibility standards for Commissioners set forth in CLUSITC 5-2-7(d), engages in conduct prohibited by CLUSITC 5-2-7(e), or is convicted of any felony or any misdemeanor related to illegal gambling or bribery.

(2) Subject to the provisions of subsection (1) above, the Executive Director shall serve at the pleasure of the Tribal Council.

(3) Notwithstanding the provisions of CLUSITC Chapter 9-4, if the Executive Director is removed for any reason, there shall be no right of appeal.

(e) The Executive Director, supported by Commission Staff, shall carry out all duties and responsibilities assigned to the Executive Director under this Gaming Code. The Executive Director shall at all times act to promote and ensure the integrity, security, honesty and fairness of the operation and administration of all gaming activity. The duties of the Executive Director include, but are not limited to, the following:

- (1) Overseeing the Gaming Operations to ensure compliance with this Gaming Code and the Compact;
- (2) Communicating with the NIGC and agencies of the State of Oregon, including the Oregon State Police, as necessary and appropriate to ensure compliance with applicable NIGC regulations, the Tribal-State Compact and this Gaming Code;
- (3) Ensuring there is an adequate system for background investigations of license applicants and licensees, and that oversight of licensees is conducted on an ongoing basis;
- (4) Conducting or causing to be conducted background investigations as set forth in this Gaming Code;
- (5) Submitting a notice of results of the background investigation of any Key Employee or Primary Management Official to the NIGC, as set forth in 25 CFR Parts 556 and 558;
- (6) Submitting a complete copy of the background investigation report on any High Security or Primary Management Official to the Oregon State Police as required by the Compact;
- (7) Conducting or causing to be conducted testing for illegal drug use as set forth in this Gaming Code;
- (8) Inspecting and examining all premises where gaming is conducted or Gambling Devices and/or equipment are stored, sold or distributed, and inspecting and examining all Gambling Devices, equipment and supplies to ensure compliance with this Gaming Code and any other applicable law;
- (9) Inspecting and reviewing all gaming contracts to ensure compliance with this Gaming Code and any other applicable law; and inspecting and reviewing records, books and financial documents relating to the conduct of gaming to determine compliance by the licensee with this Gaming Code and any other applicable law;
- (10) Establishing a list of persons not permitted by the Executive Director to game in a Gaming Facility;

- (11) Safeguarding the assets transported to, from and within a Gaming Facility;
and
- (12) Investigating possible violations of this Gaming Code or the Compact, and recommending to the Commission whether sanctions should be imposed on any person subject to the jurisdiction of this Gaming Code.

5-2-9 Audit

- (a) The Tribes, in conjunction with the Commission and Commission Staff, shall cause to be conducted an annual independent audit of each Class II and Class III Gaming Operation on CTCLUSI Indian Lands and, if required, shall cause the results of that audit to be timely submitted to the NIGC.
- (b) All gaming related contracts that result in purchases of supplies, services, or concessions for more than \$25,000 in any year, except contracts for legal and accounting services, shall be specifically included within the scope of the audit.

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

Each Gaming Facility shall be constructed, maintained and operated in a manner that adequately protects the environment and the health and safety of the public. This shall include compliance with the Tribes' Building Code, CLUSITC Chapter 8-4, as may be amended.

5-2-11 Individuals Required to Be Licensed By the Commission

- (a) Class II Gaming Operations: Primary Management Officials, Key Employees and Low Security Employees of Class II Gaming Operations shall be licensed by the Commission in accordance with the provisions of this Gaming Code and any applicable NIGC regulations.
- (b) Class III Gaming Operations: Primary Management Officials, Key Employees, High Security Employees and Low Security Employees of Class III Gaming Operations shall be licensed by the Commission in accordance with the provisions of this Gaming Code, the Compact, and any applicable NIGC regulations.

5-2-12 License Applications

- (a) The Commission shall adopt license application forms for all prospective employees of Class II or Class III Gaming Operations required by the Tribes to be licensed.
- (b) The following notice shall be placed on the Tribe's license application form for a Key Employee or a Primary Management Official before it is filled out by an applicant:

In compliance with the Privacy Act of 1974, the following information is provided:
Solicitation of the information on this form is authorized by 25 U.S.C. §§ 2701 et

seq. The purpose of the requested information is to determine the eligibility of individuals to be granted a gaming license. The information will be used by the Tribal gaming regulatory authorities and by the National Indian Gaming Commission members and staff who have need for the information in the performance of their official duties. The information may be disclosed by the Tribe or the NIGC to appropriate Federal, Tribal, State, local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions or when pursuant to a requirement by a tribe or the NIGC in connection with the issuance, denial, or revocation of a gaming license, or investigations of activities while associated with a tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in a tribe being unable to license you for a Primary Management Official or Key Employee position.

The disclosure of your Social Security Number (SSN) is voluntary. However, failure to supply a SSN may result in errors in processing your application.

(c) The following additional notice shall be placed on the application form for a Key Employee or a Primary Management Official before it is filled out by an applicant:

A false statement on any part of your license application may be grounds for denying a license or the suspension or revocation of a license. Also, you may be punished by fine or imprisonment (U.S. Code, title 18, section 1001).

(d) The Commission Staff shall notify in writing existing Key Employees and Primary Management Officials who have not completed an application containing the notices set forth above that they shall either:

- (1) Complete a new application form that contains the Privacy Act, false statement, and disclosure notices; or
- (2) Sign a statement that contains the Privacy Act, false statement and disclosure notices and consent to the routine uses described in those notices.

(e) In accordance with the Compact, the application form to be signed by an applicant for a tribal gaming license in a Class III Gaming Operation shall include a notice that the applicant consents to disclosure to the State of relevant tribal records.

5-2-13 Background Investigations of Applicants for Positions in the Class II and Class III Gaming Operations

(a) Each applicant for a position as a Primary Management Official, Key Employee or Low Security Employee shall provide all of the following information, which shall be used to conduct a background investigation:

- (1) Full name, other names used (oral or written) including nicknames and aliases, social security number(s), birth date, place of birth, citizenship, gender, all languages (spoken or written);
- (2) All the following information currently and for at least the previous five (5) years: business and employment positions held, ownership interests in those businesses, business and residence addresses, and driver's license number(s) or state-issued identification card(s);
- (3) Names and current addresses of at least three (3) personal references, including at least one personal reference who was acquainted with the applicant during each period of residence listed under paragraph (a)(2) of this section;
- (4) Current business, residence and mobile telephone numbers;
- (5) A description of any existing and previous business relationships with Indian tribes, including ownership interests in those businesses;
- (6) A description of any existing and previous business relationships with the gaming industry in general, including ownership interests in those businesses;
- (7) The name and address of any licensing or regulatory agency with which the applicant has filed an application for a license or permit related to gaming, whether or not such license or permit was granted, and, if any disciplinary actions were taken by any such licensing or regulatory agency, a description of such disciplinary actions;
- (8) The name and address of any licensing or regulatory agency with which the applicant has filed an application for an occupational license or permit, whether or not such license or permit was granted;
- (9) For each felony for which there is an ongoing prosecution or a conviction: the charge, the name and address of the court involved, and the date and disposition, if any;
- (10) For each misdemeanor or infraction conviction or ongoing prosecution (except minor traffic violations): the charge, the name and address of the court involved, and the date and disposition, if any;
- (11) For each criminal charge (except minor traffic charges), whether or not convicted, and not otherwise listed: the charge, the name and address of the court involved, and the date and disposition, if any;
- (12) Current photograph or photo identification;
- (13) Any other information the Commission may deem relevant; and

(14) Fingerprints consistent with procedures adopted by CTCLUSI according to CLUSITC 5-2-14.

(b) In addition to the requirements set forth in subsection (a), each applicant for a position as a Primary Management Official, Key Employee, High Security Employee or Low Security Employee of a Class III Gaming Operation shall also provide full and complete information regarding all criminal proceedings, except for minor traffic offenses, to which the applicant has been a party, regardless of when such criminal proceedings occurred, as required by the Compact.

(c) In conducting a background investigation, the Commission and Commission Staff shall keep confidential the identity of each person interviewed in the course of the investigation.

(d) When a Primary Management Official or Key Employee is employed by the Tribes, a complete application file, containing all of the information listed in CLUSITC 5-2-13(a), shall be maintained.

5-2-14 Fingerprinting of Certain Applicants for Positions in the Class II or Class III Gaming Operation

(a) Fingerprinting of Primary Management Officials, Key Employees and Low Security Employees of a Class II Gaming Operation. In addition to the requirements set forth in CLUSITC 5-2-13 of this Gaming Code, applicants for a position as a Primary Management Official, Key Employee or Low Security Employee of a Class II Gaming Operation shall have fingerprints taken consistent with procedures adopted by the Commission according to 25 CFR § 522.2(h). Fingerprints shall be taken, processed and reviewed by an official of the Gaming Commission Licensing Section or Tribal Police Department using state and federal data banks, including the criminal history records maintained by the Federal Bureau of Investigation. The Commission Staff may submit fingerprint cards of applicants for a position as a Primary Management Official or Key Employee to the NIGC for processing, as provided in 25 CFR § 514.15.

(b) Fingerprinting of Primary Management Officials, Key Employees and High Security Employees of a Class III Gaming Operation. In addition to the requirements set forth in CLUSITC 5-2-13 of this Gaming Code, applicants for a position as a Primary Management Official, Key Employee, or High Security Employee of a Class III Gaming Operation shall provide fingerprints. Fingerprints shall be taken, processed and reviewed by an official of the Gaming Commission Licensing Section or Tribal Police Department using state and federal data banks, including the criminal history records maintained by the Federal Bureau of Investigation. The Commission Staff may, in the alternative, choose to have the fingerprints taken, processed and reviewed by an official of the Oregon State Police in accordance with the Compact, or may submit fingerprint cards of applicants for a position as a Primary Management Officials or Key Employee to the NIGC for processing, as provided in 25 CFR § 514.15.

(c) The Commission Staff may, in its discretion, require any other prospective or current employee in a Class II or Class III Gaming Operation to provide fingerprints as part of the background investigation.

5-2-15 Background Investigations of Commissioners and the Executive Director

(a) The Commission Staff shall conduct a background investigation on each prospective Commissioner and on the Executive Director prior to his/her appointment. Each prospective Commissioner and the Executive Director shall provide all of the information required by CLUSITC 5-2-13(a)(1-14), as well as any other information the Commission Staff may deem relevant, which shall be used to conduct the background investigation.

(b) Each prospective Commissioner, the Executive Director and Commission Staff shall have fingerprints taken, processed and reviewed by an official of the Tribal Police Department or Gaming Commission Licensing Section using federal data banks, including the criminal history records maintained by the Federal Bureau of Investigation. The Commission Staff may, in the alternative, request to have fingerprints taken, processed and reviewed by an official of the Oregon State Police.

(c) In conducting a background investigation of a prospective Commissioner or Executive Director, the Commission Staff shall keep confidential the identity of each person interviewed in the course of the investigation.

(d) The Commission shall, by separate regulation, establish minimum criteria for the eligibility of Commissioners, the Executive Director and Commission Staff, which shall be at least as stringent as the eligibility requirements for issuance of a gaming license to a High Security Employee or Primary Management Official in a Class III Gaming Operation, as set forth in § 7(A)(5) of the Compact.

5-2-16 Eligibility Determinations and Issuance of Licenses to Officials and Employees of the Class II and Class III Gaming Operations

(a) Prior to granting a gaming license to any individual required by the Commission to be licensed in a Class II or Class III Gaming Operation, the Commission Staff shall verify the information provided by the applicant, interview applicant's references, and review the results of the applicant's background investigation, prior activities, criminal records (if any), reputation, habits and associations, and any other information deemed relevant to make a finding concerning the eligibility of the applicant for employment in a Class II or Class III Gaming Operation. The Commission Staff shall prepare an investigative report that includes, at a minimum, the steps taken in conducting a background investigation, any results obtained, the conclusions reached, and the bases for those conclusions.

(b) If, on the basis of the investigative report, the Commission determines that employment or licensure of the individual in a Class II or Class III Gaming Operation would pose a threat to the public or Tribal interest or to the effective regulation of

gaming, or would create or enhance the danger of unsuitable, unfair or illegal practices or activities in the conduct of gaming, the Tribes, the Commission, or a Class II or Class III Gaming Operation, whichever is appropriate, shall not employ or license the individual. The decision of the Commission shall be final and not subject to appeal.

(c) The Commission shall not issue a license to any prospective Primary Management Official, Key Employee, High Security Employee or Low Security Employee of a Class III Gaming Operation if the Commission determines that employment or licensure of the individual in the Class III Gaming Operation is prohibited by the Tribal-State Compact.

(d) The Tribe shall not employ an individual in a Primary Management Official or Key Employee position who does not have a gaming license after ninety (90) days of beginning work at a Gaming Operation. The Commission may temporarily license a gaming employee to work in a Class II or Class III Gaming Operation; provided however, that such temporary licenses may not be issued for a period exceeding ninety (90) days, and employees shall remain on probation until the background investigation set forth in CLUSITC 5-2-13 of this Gaming Code is completed. In addition, where the temporary license is being issued to an employee in a Class III Gaming Operation, the Commission shall comply with the applicable provisions of the Compact.

(e) Employee Gaming Licenses subject to this Code may not be granted for a period exceeding three (3) years.

(f) The Commission may license a Primary Management Official or Key Employee applicant after submitting a notice of results of the applicant's background investigation to the NIGC, as required by CLUSITC 5-2-19.

5-2-17 Request for Hearing on Denial or Nonrenewal of License.

(a) If an applicant for employment at the Class II or Class III Gaming Operation disagrees with an initial licensing decision of the Commission, or a decision by the Commission not to renew a license, she or he may request a hearing before the Commission not later than seven (7) days after receipt of notification of the Commission's decision. The Commission may, in its discretion, hold a hearing to review its decision.

(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 shall be final. There shall be no right of appeal.

5-2-18 Procedures for Forwarding Applications of Primary Management Officials, and High Security Employees of the Class III Gaming Operation to OSP

- (a) The Commission Staff shall forward copies of the applicant information for Primary Management Officials and High Security Employees to the OSP, as provided in the Compact.
- (b) If the Commission Staff conducts a background investigation on a Primary Management Official or a High Security Employee of a Class III Gaming Operation, the Commission Staff shall submit the completed investigative report to the OSP within sixty (60) days, as set forth in the Compact.

5-2-19 Reporting to the NIGC

- (a) Before issuing a license to a Primary Management Official or Key Employee, the Commission shall prepare a notice of results of the applicant's background investigation to submit to the NIGC.
 - (1) The notice of results must be submitted to NIGC no later than sixty (60) days after the applicant begins working for the Tribes.
 - (2) The notice of results shall include the following information:
 - (A) The applicant's name, date of birth, and social security number;
 - (B) The date on which the applicant began, or will begin, working as a Primary Management Official or Key Employee;
 - (C) A summary of the information presented in the investigative report, including:
 - (i) licenses that have previously been denied;
 - (ii) gaming licenses that have been revoked, even if subsequently reinstated;
 - (iii) every known criminal charge brought against the applicant within the last ten (10) years of the date of the application; and
 - (iv) every felony offense of which the applicant has been convicted or any ongoing prosecution; and
 - (D) A copy of the eligibility determination made in accordance with CLUSITC 5-2-16.
- (b) The Commission shall notify the NIGC of the issuance of a license to a Primary Management Official or Key Employee within thirty (30) days of issuance.

(c) When the Commission does not license a license to an applicant for a Primary Management Official or Key Employee position, or revokes a previously issued license after reconsideration, it shall:

- (1) Notify the NIGC; and
- (2) Forward copies of its eligibility determination and notice of results of the applicant's background investigation to the NIGC for inclusion in the Indian Gaming Individuals Record System.

5-2-20 Recurring Background Investigations

(a) If, after issuance of a gaming license to a Primary Management Official, Key Employee, or other person required by the Commission to be licensed in a Class II Gaming Operation, the Commission Staff may conduct additional background investigations, at any time during the term of their employment, to determine whether the license should be suspended or revoked in accordance with CLUSITC 5-2-25 of this Gaming Code.

(b) As provided in the Compact, the Commission Staff or the State may conduct additional background investigations of any Class III Gaming employee at any time during the term of employment.

(c) The Commission Staff may conduct additional background investigations of a Commissioner if, at any point during that Commissioner's term, the Commission receives information indicating that the Commissioner may not meet the eligibility requirements for Commissioners set forth in this Gaming Code.

5-2-21 Drug Testing

(a) Each Commissioner, Commission Staff member, Primary Management Official, Key Employee, High Security Employee and Low Security Employee, upon selection or hire and prior to appointment or licensure, or upon renewal of a license, may be required to undergo testing for illegal drug use, the results of which may be used in appointment and licensing determinations.

(b) The Commission may condition a license on the licensee's periodic, random testing for illegal drug use if the results of the background investigation indicate that such drug testing is warranted.

(c) The Commission may adopt regulations relating to drug testing of licensed employees during their employment.

(d) Commissioners and Commission Staff shall be subject to the Tribe's policies and procedures for employee drug testing. Employees of a Class III Gaming Operation shall be subject to the Class III Gaming Operation's policies and procedures for employee drug testing.

5-2-22 Records Retention

(a) The Commission shall retain, for no less than three years from the date a Primary Management Official or Key Employee is terminated from employment with the Tribe, the following documentation:

- (1) Applications for licensing;
- (2) Investigative reports; and
- (3) Eligibility determinations.

5-2-23 Licensing of Vendors

(a) The Commission shall promulgate regulations for licensing of Vendors and ensure that a background investigation is conducted in accordance with such regulations and the Compact.

(b) The Commission shall adopt license application forms for Vendors.

(c) All applicants for a Vendor license shall provide all financial and operating data requested by the Commission Staff and/or the State.

(d) Vendor licenses may not be granted for a period exceeding seven (7) years in duration.

5-2-24 Gaming Facility Licenses

The Commission shall issue a separate license to each place, facility or location on Indian Lands where Class II and/or Class III Gaming is conducted under this Gaming Code, and shall provide NIGC with all required notices regarding such licenses as set forth in 25 CFR Part 559.

5-2-25 License Suspension and Revocation

(a) If, after issuance of a gaming license to any employee of a Class II or Class III Gaming Operation, the Commission receives notification from the NIGC, or reliable information from any other source, that a licensee may be ineligible for licensure, or may have violated this Gaming Code or regulations promulgated by the Commission, the Commission Staff shall immediately suspend such license, initiate an investigation and prepare a recommendation to the Commission.

(b) The Executive Director shall provide notice to the licensee, all Gaming Operations, the Human Resources Department and the Commission of the suspension and any proposed fine and/or revocation. The notice shall include the date, time and place for a hearing on the fine and/or revocation, as well as a written statement of the charges, setting forth the acts or omissions with which the licensee is charged and specifying the sections of this Gaming Code, the Compact, Commission regulations or

any other applicable law alleged to have been violated. The hearing shall not take place less than ten (10) days after the licensee has received notice of the charges, in order to provide the licensee with an opportunity to file a written response. The Commission may grant an extension of time for the hearing upon request by the Executive Director or the licensee.

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

(d) In the case of a Primary Management Official or a Key Employee, the Commission shall notify the NIGC within forty-five (45) days of the decision to revoke or reinstate the license. In the case of all other licensees, the Commission shall notify the Oregon State Police of the decision when required to do so under the Tribal-State Compact.

(e) The decision of the Commission shall be final. There shall be no right of appeal.

5-2-26 Reconsideration of Licensing Applications

(a) If, within thirty (30) days of receiving a notice of results of an application for a Primary Management Official or Key Employee, the NIGC provides Commission with a statement itemizing objections to the issuance of the license, the Commission shall reconsider the application, taking into account the objections itemized by the NIGC. The Commission shall make the final decision whether to issue a license to such applicant.

(b) If the Commission has issued a license before receiving the NIGC's statement of objections, the Commission shall immediately suspend the license and shall provide the licensee with written notice of suspension, and shall notify the licensee of a time and place for a hearing to consider the itemized statement of objections; provided, however, that the requirement to provide notice and a hearing shall not apply to a temporary license issued in accordance with CLUSITC 5-2-16(d), which is intended to expire within ninety (90) days of issuance.

(c) Any such hearing shall follow the procedures described in CLUSITC 5-2-25.

5-2-27 Player Disputes

(a) A Gaming Operation shall immediately notify the Executive Director and the Executive Director shall investigate all unresolved patron disputes equal to or over \$500 and shall render a written decision within thirty (30) days of being notified of the player dispute.

(b) If a Gaming Operation is 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 Executive Director within five (5) days of the dispute, and provide the player with the Executive Director's address, telephone number and regular office hours. Upon receipt of a complaint, the Executive Director shall perform an

investigation and render a written decision within thirty (30) days of the receipt of the complaint.

(c) If the player or a Gaming Operation disagrees with the Executive Director's decision, either may file a petition for review with the Commission within fourteen (14) days of the receipt of the Executive Director's decision. The Commission shall provide notice to the parties which shall include the date, time and place for a hearing on the decision. The hearing shall not take place less than ten (10) days after the parties have received notification of the Executive Director's decision in order to provide the parties with an opportunity to submit written responses to the decision. The Commission may grant an extension of time for the hearing upon request by either party.

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

(e) The decision of the Commission shall be final. There shall be no right of appeal.

5-2-28 Tribal Internal Control Standards

(a) The Executive Director shall prepare proposed Tribal Internal Control Standards (TICS) for the Class II Gaming Operation in accordance with applicable law, including 25 CFR Part 543, and shall submit the proposed TICS to the Commission for adoption and implementation.

(b) The Tribal/State "Minimum Standards for Internal Controls" attached as the Appendix to the Compact, including revisions made pursuant to § 8(A) of the Compact, shall apply to all Class III Gaming on CTCLUSI Indian Lands; provided, however, that the level of control established under the Compact meets or exceeds the level of control set forth in 25 CFR Part 242, as amended from time to time, to the extent that the regulations set forth in Part 242 are valid and enforceable as a matter of law.

5-2-29 Violations of this Gaming Code

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

(b) It shall be a violation of this Gaming Code for a Tribal Council member, Commissioner, the Executive Director, Commission Staff member and/or his or her Immediate Family to receive personal compensation, gift(s), reimbursement or payment(s) of any kind from any person doing or wishing to do business with the Tribes relating to gaming, or 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 person(s) 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.

(c) The Commission shall have the authority to establish by regulation additional violations of this Gaming Code.

5-2-30 Applicable Law

(a) To the extent that any provision of this Gaming Code as it relates to the Class III Gaming Operation is inconsistent with the Compact, the Compact shall govern.

(b) The Tribes shall comply with applicable NIGC regulations to the extent those regulations are binding, valid and enforceable as a matter of law.

5-2-31 Effective Date

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

APPENDIX A

LEGISLATIVE HISTORY AND EDITORIAL CHANGES

The Tribal Court Clerk at the direction of the Chief Executive Officer and with the consent of the Tribes' General Counsel is authorized to administratively correct any reference to Tribal Administrator to Chief Executive Officer on October 11, 2020. These changes are technical in nature and do not effect a substantive change to the Code.

The Tribal Council of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians adopted the revisions to Chapter 5-2 (Gaming) by Ordinance No. 030E on April 27, 2016. Vote was 5 (for), 0 (against), 2 (absent) and 0 (abstaining). The Tribes submitted the amended Gaming Code to the NIGC for review and approval on May 12, 2016. Because 90 days have elapsed since the submission of the amended Gaming Code to the NIGC, the amended Gaming Code is now considered to have been approved but only to the extent that such ordinance is consistent with the provisions of IGRA and the NIGC regulations. The amended Gaming Code is effective as of August 10, 2016.

The Tribal Council of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians adopted the revisions to Chapter 5-2 (Gaming) by Ordinance No. 030D on December 13, 2015. Vote was 6 (for), 0 (against), 0 (absent) and 1 (abstaining).

The Tribal Council of the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians adopted Ordinance No. 030C revising Gaming Code Section 5-2-6, in a Tribal Council meeting on February 23, 2011. Vote was 6 (for), 0 (against) and 1 (absent).

The NIGC approved the Tribes' Gaming Ordinance No. 030B by letter from Chairman Philip N. Hogan on January 5, 2004, under the Indian Gaming Regulatory Act (IGRA). The Gaming Ordinance was approved for gaming only on Indian Lands, as defined in IGRA and the NIGC regulations, over which CTCLUSI exercises jurisdiction.

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 the authenticity of Gaming Ordinance No. 030B.

The Tribal Council of the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians enacted amendments to Gaming Ordinance 030B by Resolution 03-065 at a special Tribal Council meeting on December 8, 2003. Vote was 7 (for), 0 (against) and 0 (abstaining).

The Tribal Council of the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians enacted amendments to Gaming Ordinance 030A by Resolution 03-045 at a Tribal Council meeting on August 25, 2003. Vote was 6 (for), 0 (against) and 0 (abstaining).

The Tribal Council of the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians enacted Gaming Ordinance 030A by Resolution 03-007 at a Tribal Council meeting on January 12, 2003. Vote was 6 (for), 0 (against) and 0 (abstaining).

The Tribal Council of the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians enacted Gaming Ordinance 030 by Resolution 01-090 at a Tribal Council meeting on December 9, 2001. Vote was 7 (for), 0 (against) and 0 (abstaining).