

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 CLUSI Const. Art. I, Section 1 and Art. 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 the jurisdiction of the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians to the fullest extent permitted by law over all lands, waters, property, airspace, minerals, wildlife, and other resources, and any interest therein, located within the exterior boundaries of the tribal reservation, over any tribal land or land held by individual members in trust status.
- 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, employees’ 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 apartment

designed for actual residence, 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 twenty-five (25) feet of the following parts of Public Places or Places of Employment:
 - (1) Entrances;
 - (2) Exits;
 - (3) Windows that open;
 - (4) Ventilation intakes that serve an enclosed area; and
 - (5) Boundaries of parks, playgrounds, community gardens, places of amusement, and designated non-smoking events.

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 is 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; and

- (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 or the Department of Natural Resources.

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 of Natural Resources and/or their designee may institute an action in Tribal Court for violations of this Code in accordance with CLUSITC 3-3 within their respective areas or responsibility.

5-5-7 Penalties

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

5-5-8 Exception

Use of tobacco for ceremonial purposes is permitted. Ceremonial purposes are defined by the Chief.

APPENDIX A
LEGISLATIVE HISTORY AND EDITORIAL CHANGES

INDOOR AIR QUALITY

LEGISLATIVE HISTORY AND EDITORIAL CHANGES

The Tribal Council of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians enacted the revisions to Chapter 5-5 Indoor Air Quality by Ordinance No. 088A in a Tribal Council meeting on July 8, 2012, 2012. Vote was 7 (for), 0 (against), 0 (absent) and 0 (abstaining).

The Confederated Tribes of 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).

S0022399.DOC;2