

TITLE 6 - CORPORATIONS

CHAPTER 6-1 GOVERNMENTAL CORPORATIONS ACT

6-1-1 Governmental Corporations Act - Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians Corporations Authorized

This Ordinance shall be known as the Confederated Tribal Governmental Corporations Act. There are hereby authorized to be created by duly adopted resolutions of the Tribal Council (Council) of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians (Tribes), corporations, which will be agencies and instrumentalities of the Tribes' Tribal Government. The corporations organized and created under this Act shall be subject to Tribal law, this Act and, to the extent consistent with this Act and other Tribal law, Chapters ID, 2, 3, 4, 5, 6, 7, 8, 12, 13, 14 and 16 of the Revised Model Business Corporation Act, Annotated, as adopted by the American Bar Foundation as hereafter amended. The right to repeal, alter or amend this Act at any time is expressly reserved to the Council.

6-1-2 Purpose, Constitutional Authority

(a) Indian tribes have been consistently recognized throughout the history of the United States of America to retain as their governmental powers, where consistent with the trusteeship of the United States, all powers necessary to commercially utilize their undivided resources for the economic benefit of the Tribes and have organized corporations to do so. This Ordinance is intended to exercise and implement Tribal governmental, corporate, economic and commercial powers, which are hereby declared by the Tribes to be of the same nature as all other Tribal powers, pursuant to the provision of the Constitution of the Tribes.

(b) The Constitution of the Tribes, in its Preamble, in Article I and Article IV, Sec. 2, provides for the exercise of governmental, corporate, economic and commercial powers by the Tribes and its Board of Directors to further the economic advancement of the Confederated Tribes' Indian people.

(c) The Tribes and their members have endured a century of economic deprivation and oppression. This fact has been recognized by the Congress of the United States through numerous Acts intended to assist in the development of Indian resources. There is now a need and an opportunity to develop the Tribes' natural resources and human resources to provide a standard of living and education to all Tribal members equal to that of all citizens of the United States. The Tribes adopt this Act in order to meet the following independent goals:

- (1) carry out a constitutional mandate;

(2) develop and manufacture Tribal natural resources to obtain the highest value possible for those resources;

(3) to raise the standard of living and education for all Tribal members;

(4) to enter into and take advantage of governmental, business and commercial opportunities available to the Tribes.

(d) To accomplish the goals set out in (c) above, this Code is designed to further the development of all of the Tribal resources including but not limited to:

(1) The Tribal labor force on or near the Tribes' Reservation;

(2) Timber;

(3) Minerals, oil and gas;

(4) Waters;

(5) Lands;

(6) Fish and wildlife;

(7) Agricultural products and livestock;

(8) Electric power.

(e) To accomplish the goals set out in (c) and (d) above, the Council hereby finds that for purposes of efficiency and wise stewardship, it is necessary for the management of the economic development of Tribal resources to be separated from other governmental functions of the Tribes and placed within the responsibility of persons or entities different from the Council, so that commercial development may take place within and be based upon the sphere of the economic marketplace rather than within the sphere of Tribal, political concerns.

(f) The Tribes have operated governmental programs to protect the economic and social welfare of Tribal members and to protect the health and security of all persons on and near the Reservation. To support these programs, the Tribes have depended upon government funding and surplus revenues from the sale and utilization of Tribal natural resources and from Tribal enterprises. It is intended that the corporations created under this Act will increase the revenues to the Tribes from the sale and utilization of Tribal natural and other resources by adding value to those resources through manufacturing, processing, exporting services, education and other means. Such surplus and additional revenues may be used to fund governmental programs and for the protection and security of Tribal members and residents of the Reservation.

### 6-1-3 Privileges and Immunities

The corporations established under this Act shall be considered to be governmental arms, agencies and instrumentalities of the Tribes; and their officers and employees considered officers and employees of the Tribes, notwithstanding the fact that their work rules and conditions may differ from those of other Tribal employees; carrying out responsibilities imposed upon the Council for economic advancement of the Tribes and their members by the Constitution and Bylaws of the Tribes. Such corporations, their officers and employees, shall, therefore, be entitled to all of the privileges and immunities enjoyed by the Tribes; including but not limited to, immunities from suit in Tribal, federal and state courts, and federal and state taxation, or regulation, except as specifically set out in the corporate charters granted pursuant to this Act.

### 6-1-4 Tribal Taxation

All activities of corporations created under this Act shall be subject to taxation by the Tribes.

### 6-1-5 Subsidiary Corporation

Any corporation created pursuant to this act may, by obtaining a charter from the Council pursuant to this Act, establish a subsidiary corporation in which the Tribes or the parent corporation retain not less than fifty percent (50%) of the voting stock of the subsidiary corporation. A subsidiary corporation and its officers and employees shall have all the same purposes, powers, privileges and immunities, as those of any other corporation established pursuant to this Act.

### 6-1-6 Ownership

Every corporation created pursuant to this Act shall have at all times at least fifty percent (50%) of its voting stock owned by the Tribes or a Tribal corporation created pursuant to this Act unless some other percentage is specifically stated in the charter of the corporation.

### 6-1-7 Voting Stock - Alienation

No voting stock in any corporation created pursuant to this Act and owned by a corporation created pursuant to this Act may be alienated without written approval by the Council.

### 6-1-8 Organization

The Council may, by resolution, appoint the initial, incorporating directors of corporations created pursuant to this Act. The election or appointment of corporate officers and the election of subsequent directors shall be governed by the provisions of the charter of the corporation.

#### 6-1-9 Powers, Duration

The powers of corporations created pursuant to this Act shall be set out in the charters of the corporations and may include all standard powers of commercial corporations, sovereign powers and the sovereign power of eminent domain. The duration of corporations created under this Act shall be perpetual unless a different duration is stated in the charter.

#### 6-1-10 Lands

Real property acquired by a corporation created pursuant to this Act may be transferred, where permitted by the federal law governing the ability of the Tribes to make such a transfer to the ownership of the United States in trust for the Tribes; and shall be by appropriate, lawful transfer placed into the control of the corporation by the Tribes.

#### 6-1-11 Tribal Courts - Jurisdiction, Enforcement of Act

Notwithstanding the immunity from suit conveyed upon corporations created pursuant to this Act, the provisions of this Act, the Revised Model Business Corporations Act, Tribal regulatory acts, or Tribal enactments pursuant to this Act; may be enforced against any corporation created under this Act, parent or subsidiary, its directors or officers; by an action in law or equity in the Tribal Courts of the Tribes, when brought by any member of the Council or a director of a parent corporation.

#### 6-1-12 Agent

All corporations created under this Act shall publicly designate and maintain a registered agent for service of documents on the Tribes' Reservation.

#### 6-1-13 Assets

The assets of each and every corporation created under this Act when specifically granted to the corporation by the Tribes, or when obtained through a standard acquisition by the corporation shall be separate and distinct from those of the Tribes. In no case shall Tribal assets not specifically pledged in a manner permitted by law be considered assets of a corporation created under this Act for any purpose.

#### 6-1-14 Audits

The governing body of every corporation chartered under this Act shall require that an annual audit of the corporation by an outside independent-auditor be conducted and made available to shareholders within a reasonable time of completion. The Council, by duly adopted resolution, may require that any corporation created under this Act be audited by an independent auditor hired by the Council at any time and shall have the absolute right to require access to all Corporate documents necessary for such an audit.

6-1-15 Annual Meeting, Annual Report

The governing body and management of each corporation created pursuant to this Act shall hold at least one (1) open meeting per year, on ten (10) days public notice, within the boundaries of the Tribes' Reservation, at which the corporate governing body shall answer any questions asked of them by shareholders. Each governing body shall also file a full report of the financial and production activities of the corporation with the Council on an annual basis.

6-1-16 Contracts with Officers

Notwithstanding any other provision of this Act or charters or articles of incorporation granted pursuant to provisions of this Act, all directors or officers of any governmental corporation chartered or licensed under this Act, and any firm in which said directors or officers hold office, or are shareholders or owners, shall be disqualified from dealing or contracting with Tribal governmental corporations chartered under this Act, or subsidiaries thereof, as either a vendor, purchaser, or otherwise; and such contracts or transactions shall be void, unless such contract or transaction has been fully disclosed to, and approved by, the Council; provided, this section shall not apply to the employment contracts of persons employed in fulltime, management positions, by a governmental corporation or a subsidiary thereof.

6-1-17 Bonding

(a) Notwithstanding any other provision of this Act, or charters or articles of incorporation (and supplementing bylaws) granted pursuant to provisions of this Act; all directors, officers, contractors and employees of any governmental corporation chartered or licensed under this Act who are: (i) authorized, either individually or in conjunction with others, to expend funds on behalf of the governmental corporation or any of its subsidiaries or agencies; or (ii) responsible for accounting for the funds of a governmental corporation or any of its subsidiaries or agencies; shall at all times be bonded or insured by the corporation to protect the assets of the corporation in an amount consistent with the financial responsibilities of the director, officer, contractor or employee. Such bonds or policies of insurance shall be obtained at the expense of the governmental corporation or the contractor and must be approved by the Council before the director, officer, contractor or employee is permitted to expend or account for funds.

(b) No director, officer, contractor, or employee of a governmental corporation shall have authority under this Code, or a charter granted under this Code, to expend or account for corporate funds unless bonded or insured in compliance with this section. Any signature of a corporate director, officer, contractor or employee purporting to authorize expenditure of corporate funds shall be void if at the time the signature is given the director, officer, contractor, or employee is not bonded or insured as required by this section.

APPENDIX A

LEGISLATIVE HISTORY AND EDITORIAL CHANGES

GOVERNMENTAL CORPORATIONS ACT

**LEGISLATIVE HISTORY AND EDITORIAL CHANGES**

The Tribal Council of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians enacted the "Governmental Corporations Act", Resolution No. 00-079, Ordinance No. 026, in a regular Tribal Council meeting on September 26, 2000. Vote was 7 (for), 0 (against), and 0 (abstaining).