

TITLE 7 – ENROLLMENT, COMMITTEES, ELECTIONS AND REFERENDUMS

CHAPTER 7-6 COMMUNITY BENEFIT FUND

7-6-1 Purpose

Pursuant to the Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians' (Tribes) Tribal Constitution, Article 1 Section 1, and Article VI, Section 2, the Tribal Council has legislative authority to establish Tribal Codes. In order to improve the general welfare of the public at large in the five (5) county service areas of the Tribes, in recognition that the Tribes and its members are an integral part of the greater community, the Tribes hereby establish the Tribes' Community Benefit Fund (hereinafter Fund).

7-6-2 Establishment

Pursuant to the Tribes Amended Tribal-State Compact for Regulation of Class III Gaming with the State of Oregon Section 10.C.2. (Compact), the Tribes agreed to establish the Fund within ninety (90) days of engaging in any of the games listed in Section 4(B)1)(d)-(k) (new games). Beginning in the first calendar quarter after the Tribes implement any of the new games of the Compact, the Tribes will contribute to the Fund, an amount calculated as provided for in 7-6-7. No contribution to the Fund will be made until such new games are implemented as determined by the Tribes' Gaming Commission Director.

7-6-3 Definitions

When used in this Code, the following terms shall be interpreted to mean:

- (a) "Gaming Facility" - the Three Rivers Casino;
- (b) "Gaming Facility Net Income" - net income of the Gaming Facility operations, which means the net income of the casino operations, which includes Class III gaming, restaurant, bar, gift shop, bingo, pull tabs and entertainment. To arrive at Gaming Facility Net Income, all normal operating expenses, including any management contract fees, shall be deducted from net win from gaming and from gross proceeds from goods sold and services provided at the Gaming Facility
- (c) "Governor" - the Governor of the State of Oregon;
- (d) "Person" - includes individuals, associations, partnerships, corporations or any other legal entity.
- (e) "Reservation" - all lands of the Tribes and any lands which may, in the future, come within the jurisdiction of the Tribes by any lawful means.

(f) "State" - the State of Oregon.

7-6-4 Fund Administration

(a) The assets of the Fund shall be expended for the benefit of the public primarily within Coos, Curry, Lane, Douglas and Lincoln Counties and secondarily elsewhere within the State of Oregon. Grants from the Fund may be made to charitable organizations in the above counties, or to local government bodies within the county or counties within whose boundaries the Tribes' reservation is located for any of the following purposes: education; health; public safety; gambling addiction prevention, education and treatment; the arts; the environment; cultural activities; historic preservation and such other charitable purposes as may be provided in the by-laws of the Fund.

(b) The Fund will be administered by a board of eight (8) trustees. Each trustee shall have an equal vote on actions of the board.

(c) The trustees of the Fund shall establish by-laws governing the conduct and discharge of their responsibilities not inconsistent with the terms of this subsection.

(d) The Tribes shall submit proposals for grants from the Fund to the trustees, who shall make the final determination of the proposals to be funded in accordance with the by-laws. Grants shall be made on the basis of merit. The trustees may reserve a portion of the Fund in a single year to fund a multi-year grant or grants.

7-6-5 Qualifications, Term and Selection of Trustees

(a) The membership of the Board of Trustees shall be:

(1) Three (3) members of the Tribal Council of the Tribes, appointed by the Tribal Council;

(2) One (1) representative of the Tribal Gaming Operation, appointed by the Tribal Council;

(3) Three (3) members from the public at large, who are not affiliated with the Tribes, appointed by the Tribal Council from a list of candidates nominated by the Tribal Council in consultation with the Governor.

(4) One (1) member of the public at large, appointed by the Governor of the State.

(b) Except for the initial board, trustees shall serve two- (2) year terms and may be removed before the end of their terms only for cause by the appointing authority. The following members of the initial board shall serve one- (1) year terms:

- (1) One (1) of the three (3) Tribal Council members.
- (2) One (1) of the three (3) members from the public at large appointed by the Tribal Council.
- (3) The member of the public at large appointed by the Governor.

(c) Any trustee whose term has expired shall continue to serve until a successor has been appointed.

7-6-6 Eligibility to Serve

Natural persons twenty-one (21) years of age or older, who meet any applicable residency and status requirement of Section 7-6-5 shall be eligible to serve on the Fund Board of Trustees.

7-6-7 Calculation of Fund Contribution

The Tribes' annual contribution to the Fund shall be based upon the Gaming Facility Net Income as shown in the audited financial statement of the Gaming Facility for the calendar year ending before the contribution is made. The contribution shall be calculated as follows:

(a) The Tribes' annual charitable contribution amount will be calculated by multiplying the Gaming Facility Net Income for each calendar year by six percent (6%). However, that amount shall be calculated initially as follows:

- (1) two percent (2%) for each of the first two (2) years of the Fund's operation, and
- (2) four percent (4%) for each of the next two (2) years of the Fund's operation.

(b) Funds identified for charitable contribution under this section will be deposited in a segregated account or accounts. Any and all interest earned on such funds or increase in assets of the fund will be allocated to future charitable contributions as set out in this section.

7-6-8 Compensation and Expenses

Board of Trustees members shall not receive compensation for their services but shall be entitled to reimbursement of expenses incurred in the discharge of their duties as Trustees. Compensation will be in accord with policies adopted in the by-laws of the Fund.

7-6-9 Insurance

The Fund shall have power to purchase and maintain insurance on behalf of any person who is or was director, officer, employee, fiduciary or agent of the Fund against any liability asserted against him or her and incurred by him or her in any such capacity or arising out of his or her status as such, whether or not the Fund would have the power to indemnify him or her against such liability under the provisions of this code.

7-6-10 Statement of Tribal Sovereign Immunity; Tribes' Denial of Any Waiver of Sovereign Immunity

As an instrumentality of the Tribes, the Tribes hereby confers on the Fund all of the Tribes' rights, privileges and immunities concerning federal, state and local taxes, regulation and jurisdiction, to the same extent that the Tribes would have such rights, privileges and immunities, if it engaged in the activities undertaken by the Fund. The Fund shall be clothed by federal and tribal law with all the privileges and immunities of the Tribes, except as specifically limited by this Code, including sovereign immunity from suit. Nothing contained in this Code shall be deemed or construed to be a waiver of sovereign immunity by the Fund from suit; the Fund may consent to be sued only in accordance with this Code.

7-6-11 No Waiver of Sovereign Immunity Implied

Nothing in this Section or any other Section or provision of this Code shall be deemed or construed to be:

- (a) a waiver of sovereign immunity by the Fund, the Tribal Council, the Tribes or any of their members, agents and employees; or,
- (b) a consent to the jurisdiction of any court over the Fund, its Trustees, the Tribal Council, the Tribes or any of their members, agents and employees; or,
- (c) a consent to the levy of any judgment, lien or attachment upon any property or income of the Fund, the Tribal Council, the Tribes or any of their members, agents or employees.

7-6-12 Restrictions Under which Fund May Consent to be Sued

The Fund may consent to be sued only by formal resolution unanimously approved by the full Fund Board. Consents to suit are disfavored and shall be granted only when necessary to secure a substantial advantage or benefit to the Fund or the Tribes. Any consent to suit shall be specific and limited as to:

- (a) duration;
- (b) the grantee;

- (c) the particular transaction;
- (d) definite property or funds, if any, of the Fund;
- (e) a particular court having jurisdiction pursuant thereto; and,
- (f) the law that shall be applicable thereto.

7-6-13 Fund's Consent to Suit Shall Not Be Deemed a Waiver of Tribal Sovereign Immunity

Any express consent to suit by resolution of the Fund Board of Trustees shall not be deemed a waiver of the sovereign immunity of the Tribes, a consent to the jurisdiction of any court over the Tribes, or a consent to the levy of any judgment, lien or attachment upon any property or income of the Fund, the Tribes or any other organization or instrumentality of the Tribes other than that specifically pledged or assigned.

7-6-14 Severability

If any provision of this Code, shall in the future, be declared invalid by a court of competent jurisdiction, the invalid portion shall be severed and the remaining provisions shall continue in full force and effect.

APPENDIX A

LEGISLATIVE HISTORY AND EDITORIAL CHANGES

COMMUNITY FUND

LEGISLATIVE HISTORY AND EDITORIAL CHANGES

The Tribal Council of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians enacted the "Commodity Fund" Ordinance, Resolution 06-099, Ordinance No. 075, at a Regular Tribal Council meeting on August 13, 2006. The vote was 6 (for), 0 (against), and 0 (abstaining).

The Tribal Council of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians approved the first reading of the "Commodity Fund" Ordinance, Resolution No. 06-094, Ordinance No. 075, at a regular Tribal Council meeting on July 9, 2006. The Vote was 6 (for), 0 (against) and 0 (abstaining).