

Ordinance No. 6.001. Amended by Resolution No. 2005-361, dated September 16, 2005; Amended by Resolution No. 2015-311, dated October 16, 2015; amended by Resolution No. 2016-069, dated March 4, 2016; Amended by Resolution No. 2016-162, dated May 20, 2016.

Original Date: August 20, 1994
Subject: Gaming Ordinance

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§ 6.001 PURPOSE

(a) The Siletz Tribal Council, hereinafter "Tribe," empowered by the Tribe's Constitution to enact ordinances, hereby adopts this Ordinance in order to set the terms for and to regulate all gaming activities on Siletz tribal lands.

(b) The Tribe shall conduct gaming operations to obtain revenues for tribal purposes, to employ tribal members, and to prevent the infiltration of criminal elements into such operations.

(c) The Tribe shall conduct all gaming operations in accordance with the Indian Gaming Regulatory Act, all applicable federal regulations and guidelines, and consistent with the Tribe's sovereign authority over its affairs.

(d) This Ordinance is an exercise of the policy and general welfare powers of the Confederated Tribes of Siletz Indians of Oregon, acting in the best interests of the tribal membership. All provisions of this ordinance shall be liberally construed to achieve their purposes.

§ 6.002 GAMING AUTHORIZED

Class II and Class III gaming as defined in the Indian Gaming Regulatory Act, P.L. 100-447, 25 U.S.C. § 2703(7)(a) and 25 U.S.C. § 2703(8) ("IGRA") and by the regulations promulgated by the National Indian Gaming Commission ("NIGC") at 25 C.F.R. § 502(3) (as published in the Federal Register at 57 FR 12382-12393, April 9, 1992) is hereby authorized.

§ 6.003 OWNERSHIP OF GAMING

Adopted 8/20/94, Reso. No. 94-188

Amended: 9/16/05;
10/16/15; 03/04/16;
5/20/16

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The Tribe shall have the sole proprietary interest in and responsibility for the conduct of any gaming operation authorized by this ordinance.

§ 6.004 USE OF GAMING REVENUE

(a) Net revenues from Class II and Class III gaming shall be used only for the following purposes: to fund tribal government operations and programs; to provide for the general welfare of the Tribe and its members; promote tribal economic development; donate to charitable organizations; or help fund operations of local government agencies.

(b) The Tribe has elected to make per capita payments to tribal members under a plan submitted to the Secretary of the Interior and approved under 25 U.S.C. § 2710(b)(3) and 25 C.F.R. Part 290, as that plan may be amended from time-to-time.

§ 6.005 AUDIT

(a) The Tribe shall cause to be conducted annually an independent audit of gaming operations and shall submit the resulting audit reports to the National Indian Gaming Commission.

(b) All Gaming related contracts that result in the purchase of supplies, services, or concessions in excess of \$25,000.00 annually, except contracts for professional legal and accounting services, shall be specifically included within the scope of the audit that is described in subsection A above.

§ 6.006 PROTECTION OF THE ENVIRONMENT AND PUBLIC HEALTH AND SAFETY

Class II and Class III gaming facilities shall be constructed, maintained and operated in a manner that adequately protects the environment and the public health and safety.

§ 6.007 BACKGROUND INVESTIGATIONS: LICENSING OF KEY EMPLOYEES AND PRIMARY MANAGEMENT OFFICIALS

(a) The Confederated Tribes of Siletz Indians shall ensure that the policies and procedures set out in this section are implemented with respect to key employees and primary management officials and employed at any Class II and Class III enterprises operated on tribal lands; *provided*, that this Section does not apply to any license that is intended to expire within 90 days of issuance (temporary license):

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(b) Definitions:

For purposes of this section, the following definitions apply:

(1) Key employee:

A person who performs 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; or
- (J) Custodian of gaming devices including persons with access to cash and accounting records within such devices

If not otherwise included, any other person whose total cash compensation is in excess of \$50,000 per year.

If not otherwise included, the four most highly compensated persons in the gaming operation.

(2) Primary management official:

- (A) The person having management responsibility for a management contract;
- (B) Any person who has authority to hire and fire employees, or to set up working policy for the gaming operation; or
- (C) The chief financial officer or other person who has financial management responsibility.

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(c) Application Forms

- (1) The following notice shall be placed on the application form for a key employee or a primary management official before that form 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 National Indian Gaming Commission (NIGC) 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 the Tribe's 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.

- (2) Existing key employees and primary management officials shall be notified in writing that they shall either:
- (A) Complete a new application form that contains this Privacy Act notice; or
- (B) Sign a statement that contains the Privacy Act notice and consent to the routine uses described in that notice.

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- (3) The following notice shall be placed on the application form for a key employee or a primary management official before that form 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, § 1001.)

- (4) The Confederated Tribes of Siletz Indians shall notify in writing, existing key employees and primary management officials that they shall either:
- (A) Complete a new application form that contains this notice; or
 - (B) Sign a statement that contains the notice regarding false statements.

(d) Background Investigations

The Confederated Tribes of Siletz Indians shall request from each primary management official and from each key employee, all of the following information:

- (1) Full name, other names used (oral or written), social security number(s), birth date, place of birth, citizenship, gender, all languages (spoken or written);
- (2) Currently and for the previous five (5) years: Business and employment positions held, ownership interests in those businesses, business and residence addresses, and driver's license numbers;
- (3) The names and current addresses of at least three (3) personal references, including one personal reference who was acquainted with the applicant during each period of residence listed under paragraph (B2) of this section;
- (4) Current business and resident telephone numbers;

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- (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 generally, including ownership interests in those businesses;
- (7) The names and addresses of any licensing or regulatory agency with which the person has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;
- (8) 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;
- (9) For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations), within ten (10) years of the date of the application, the name and address of the court involved and the date and disposition;
- (10) For each criminal charge (excluding minor traffic charges), whether or not there is a conviction, if such criminal charge is within ten (10) years of the date of the application and is not otherwise listed pursuant to paragraph (8) or (9) of this section, the criminal charge, the name and address of the court involved and the date and disposition;
- (11) The name and address of any licensing or regulatory agency with which the person has filed an application for an occupational license or permit, whether or not such license or permit was granted;
- (12) A photograph;
- (13) Any other information the Tribe deems relevant; and
- (14) Fingerprints consistent with procedures adopted by the Tribe according to 25 C.F.R. § 522(2)(h).

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(e) Investigation.

(1) The Confederated Tribes of Siletz Indians shall conduct an investigation sufficient to make a determination under subsection (f) of this section.

(2) If, in the course of a background investigation, the Tribal Gaming Commission discovers that the applicant has a notice of results on file with the NIGC from a prior investigation and the Tribal Gaming Commission has access to the earlier investigative materials (either through the NIGC or the previous tribal investigative body), the Tribal Gaming Commission may rely on those materials and update the investigation and investigative reports under this subsection.

(3) In conducting a background investigation, the Tribe or its agents shall keep confidential the identity of each person interviewed in the course of the investigation.

(f) Eligibility Determination.

The Tribal Gaming Commission shall review

- (1) a person's prior activities;
- (2) criminal record, if any; and
- (3) reputation, habits and associations

to make a finding concerning the eligibility of a key employee or primary management official for granting of a gaming license. If the Tribe determines that licensing of the person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming, the Tribal Gaming Commission shall not license that person in a key employee or primary management official position.

(g) Reports of Key Employees and Primary Management Officials to the National Indian Gaming Commission; Background Investigations.

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- (1) When the Tribe employs a primary management official or a key employee, the Tribe shall maintain a complete application file containing the information listed under subsection (d) of this section.
- (2) Before issuing a license to a primary management official or to a key employee, the Tribe shall:
 - (A) Create and maintain an investigative report on each background investigation. An investigative report shall include all of the following:
 - (i) Steps taken in conducting the background investigation;
 - (ii) Results obtained;
 - (iii) Conclusions reached; and
 - (iv) The basis for those conclusions.
 - (B) Submit a notice of results of the applicant's background investigation to the NIGC, through the Regional NIGC office, no later than sixty (60) days after the applicant begins work. The notice of results shall contain:
 - (i) Applicant's name, date of birth, and social security number;
 - (ii) Date on which applicant began or will begin work as key employee or primary management official;
 - (iii) A summary of the information presented in the investigative report, which shall at a minimum include a listing of:
 - (a) Licenses that have previously been denied;
 - (b) Gaming licenses that have been revoked, even if subsequently reinstated;

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- (c) Every known criminal charge brought against the applicant within the last ten (10) years of the date of application; and
- (d) Every felony of which the applicant has been convicted or any ongoing prosecution.
- (iv) A copy of the eligibility determination made under subsection (f) of this section.
- (h) A tribal gaming operation shall not employ a key employee or primary management official who does not have a license after ninety (90) days.
- (i) Notice if License Not Issued to Applicant.

If a license is not issued to an applicant, the Tribe:

 - (1) Shall notify the National Indian Gaming Commission; and
 - (2) Shall forward copies of its eligibility determination and notice of results, under subsection (g) of this section, to the National Indian Gaming Commission for inclusion in the Indian Gaming Individual Records System.
- (j) Granting a Gaming License.
 - (1) Providing Information to the NIGC.
 - (A) Upon receipt of a complete notice of results for a key employee or primary management official as required by subsection (g) of this section, the Chair of the NIGC has thirty (30) days to request additional information from the Tribe concerning the applicant or licensee and to object.
 - (B) If, within the thirty (30) day period after the National Indian Gaming Commission receives the complete notice of results required by subsection (g) of this section, the National Indian Gaming Commission has no objection to the issuance of a license a key employee or primary management official, the National Indian

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Gaming Commission shall notify the Tribe, and the Tribe may issue a license to such applicant.

- (C) If, within the thirty (30) day period described above, the NIGC provides the Tribe with a statement itemizing objections to the issuance of a license to a key employee or to a primary management official for whom the Tribe has provided notice of results to the NIGC, the Tribe shall reconsider the application, taking into account the objections itemized by the NIGC. The Tribe shall make the final decision whether to issue a license to such applicant.
- (D) If the Tribe has issued a license to an applicant for a license as a key employee or primary management official before receiving the NIGC's statement of objections, notice and a hearing shall be provided to the licensee as provided for by subsection (1) of this section.

(2) Notice of Issuance of License.

Within thirty (30) days after the issuance of the license, the Tribe shall notify the NIGC of its issuance.

(k) Retention of records.

With respect to key employees and primary management officials, the Tribe shall retain

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

for inspection by the Chair of the National Indian Gaming Commission or his or her designee for no less than three (3) years from the date of termination of employment.

(l) License Suspension; Hearing.

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- (1) If, after the issuance of a gaming license, the Tribe receives from the NIGC reliable information indicating that a key employee or a primary management official is not eligible for employment under subsection (f) of this section, the Tribe shall immediately suspend such license and shall notify in writing the licensee of the suspension and the proposed revocation.
- (2) The Tribe shall notify the licensee of a time and a place for a hearing on the proposed revocation of his or her license.
- (3) A right to a hearing under this section shall vest only upon receipt of a license granted under this ordinance, upon the ordinance's approval by the Chair of the NIGC.
- (4) After a revocation hearing, the Tribe shall decide to revoke or to reinstate a gaming license. The Tribe shall notify the NIGC of its decision within 45 days after receiving notice from the NIGC pursuant to subsection 1 of this section.

§ 6.008 LICENSE LOCATIONS

The Tribe shall issue a separate license to each place, facility, or location on Indian lands where gaming is conducted under this ordinance.

§ 6.009 REPEAL

To the extent that they are inconsistent with this ordinance, all prior gaming ordinances are hereby repealed.