

TITLE V – REGULATORY PROVISIONS
CHAPTER 5-9 ALLOCATION OF NET TRIBAL
ENTERPRISE REVENUES

5-9-1 Purpose

The purpose of this Chapter of the CTCLUSI Tribal Code is to:

- (a) Promote the general welfare of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians (“CTCLUSI” or “Tribes”) and its Members;
- (b) Provide for a plan for the allocation of Net Tribal Enterprise Revenues distributed to the Tribes’ General Fund, for use for general tribal governmental purposes, including establishment of appropriate reserves, and for permanent contributions to the Tribal endowments set forth in Chapter 5-6 of the CTCLUSI Tribal Code; and
- (c) Provide for the long-term investment of Net Tribal Enterprise Revenues in a manner designed to provide for the general welfare of the Tribes now and in perpetuity.

5-9-2 Definitions

For purposes of this Chapter of the CTCLUSI Tribal Code, the following definitions shall apply:

- (a) “CTCLUSI” – The Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians. It does not mean individual Members of the Tribes.
- (b) “Endowment Investment Fund” – A fund established pursuant to Chapter 5-6 of the CTCLUSI Tribal Code to invest and administer funds for the long-term benefit of the Tribes and its Members.
- (c) “General Fund” – The primary governmental operating fund of the Tribes, utilized to account for all assets and liabilities of the Tribes not legally required to be accounted for in another fund.
- (d) “IGRA” – Indian Gaming Regulatory Act, 25 U.S.C. §§ 2701- 2721.
- (e) “Members” – Those persons who are duly recognized as enrolled members of the Tribes.
- (f) “Net Tribal Enterprise Revenues” – Amounts distributed to the General Fund, pursuant to the charters of Tribal Enterprises, after taking into account the amounts needed to properly satisfy obligations of the Tribal Enterprises, for reinvestment, and to assure the adequate capitalization of the Tribal Enterprises.

- (g) "Tribal Budget" – Amounts appropriated by the Tribal Council for expenditures and outlays required to support Tribal Government Operations, or for investment in capital projects, economic ventures, and/or land acquisition.
- (h) "Tribal Council" – The legislative body of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians.
- (i) "Tribal Enterprise(s)" – Any tribal business or economic development entity, agency or department of the Tribes, now in existence or hereafter duly created by the Tribal Council and owned by the Tribes, including, but not limited to, Three Rivers Casino and Hotel and Blue Earth Federal Corporation.
- (j) "Tribal Government Operations" – All governmental programs, including those providing services, operated by the Tribes for the benefit of the Tribes and its Members, including, but not limited to, all branches of tribal government, tribal culture, education, enrollment, family and employment services, health services, housing, human resources, natural resources, police services, tribal court, and the tribal gaming commission.
- (k) "Tribes" – The Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians. It does not mean individual Members of the Tribes.

5-9-3 Allocations and Applications of Net Tribal Enterprise Revenues

- (a) Net Tribal Enterprise Revenues distributed to the Tribe shall be credited to the General Fund.
- (b) The Tribal Council shall consider the amounts available and anticipated from distributions of Net Tribal Enterprise Revenues, in conjunction with other available resources. With consideration of all of the needs of the Tribes, both present and future, the Tribal Council shall allocate through the Tribal Budget those Net Tribal Enterprise Revenues that become available; provided, however, that no Net Gaming Revenues, as defined in Chapter 5-2-3(q) of the CTCLUSI Tribal Code, shall be appropriated or used for purposes other than those permitted under IGRA.

5-9-4 Plan for the Allocation of Net Tribal Enterprise Revenues

Net Tribal Enterprise Revenues shall be allocated for tribal purposes in the following manner:

- (a) Commencing with and for the year beginning January 1, 2010, and for each year thereafter, the Tribal Council shall adopt within the Tribal Budget of the General Fund an allocation of Net Tribal Enterprise Revenues to finance Tribal Government Operations, and for other important purposes, in amounts determined by the Tribal Council to be necessary for the succeeding year's needs. Such Tribal Budget, in the reasonable exercise of discretion by the Tribal Council, may include amounts set aside in the following reserves: (1) a reserve sufficient to allow for no more than one year's

funding of the Tribal Budget of the General Fund; (2) an Economic Development Reserve, as described in § 5-9-5 of this Code; (3) a Land Acquisition Reserve, as described in § 5-9-5 of this Code; and (4) such other reserves as the Tribal Council shall deem prudent to assure the security and continuity of Tribal Government Operations and the provision of services to Members.

(b) Commencing with and for the year beginning on January 1, 2010, and each year thereafter, all Net Tribal Enterprise Revenues not appropriated or reserved pursuant to the Tribal Budget, as set forth in § 5-9-4(a), shall be contributed to the Endowment Investment Fund, as provided for in Chapter 5-6 of the CTCLUSI Tribal Code. Such payments to said Endowment Investment Fund shall be made promptly after annual audit of the General Fund has been concluded and accepted by the Tribal Council.

(c) Deposits into the Endowment Investment Fund shall be made annually for the previous calendar year, and shall be divided equally among the authorized endowments until such time as an endowment or endowments reaches its established target principal level as set forth in Chapter 5-6 of the CTCLUSI Tribal Code. Thereafter, deposits into the Endowment Investment Fund shall be divided equally among the remaining endowments that have not reached their established target principal levels. After all target principal levels have been met in each endowment set forth in Chapter 5-6 of the CTCLUSI Tribal Code, the obligation to fund such endowments shall cease, and the Tribal Council may continue to allocate Net Tribal Enterprise Revenues to the Endowment Investment Fund or for other purposes consistent with applicable tribal and federal laws.

5-9-5 Repeal of Former §§ 5-9-16 and 5-9-17

Sections 5-9-16 and 5-9-17 of the former version of this Chapter 5-9, enacted by the Tribes on August 13, 2006, which established the Economic Development Endowment and the Land Acquisition Endowment, are hereby repealed. The funds from those two endowments are hereby transferred to an Economic Development Reserve and a Land Acquisition Reserve, as described in § 5-9-4(a) of this amended Chapter.

5-9-6 Severability

If any provision of this Chapter of the CTCLUSI Tribal 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

ALLOCATION OF NET TRIBAL ENTERPRISE REVENUES

LEGISLATIVE HISTORY AND EDITORIAL CHANGES

The Tribal Council of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians enacted the amendments at a regular Tribal Council meeting on August 8, 2010, Resolution 10-054, Ordinance No.074B. Vote was 6 (for), 0 (against), and 0 (abstaining). Public Hearings took place on May 14, 2010, 6 p.m., Outreach Office, Springfield; May 15, 2010, 11 a.m., Windward Inn, Florence; and May 15, 2010, 5 p.m., Tribal Hall, Coos Bay.

The Tribal Council of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians approved the amendments at a regular Tribal Council meeting on April 11, 2010, Resolution 10-043, Ordinance No.074B. Vote was 7 (for), 0 (against), and 0 (abstaining). Public Hearing will be held

The approved amendments are described as follows.

The title of the Code was changed to "Allocation of Net Tribal Enterprise Revenues." A new Code Chapter, Chapter 5-6, Endowment Investment Fund, was created, replacing §§ 5-9-5 through 5-9-21 of the former Code. Two of the endowments set forth in the former Code, the Economic Development Endowment (former § 5-9-16) and the Land Acquisition Endowment (former § 5-9-17), were repealed, and the funds transferred to an Economic Development Reserve and a Land Acquisition Reserve. See § 5-9-5 of the amended Code. The purpose of this amendment was to give the Tribal Council greater flexibility with respect to these endowments and reserves.

The definition of "Net Gaming Revenues" that appeared at former § 5-9-2(k) was deleted. The amended Code now refers to the definition of Net Gaming Revenues as it appears in § 5-2-3(q) of the CTCLUSI Tribal Code. The purpose of this amendment was to ensure that the definition of "Net Gaming Revenues" was consistent throughout the CTCLUSI Tribal Code and to use the definition of "Net Gaming Revenues" that appears in the Indian Gaming Regulatory Act, 25 U.S.C. §§ 2701- 2721. A new definition of "Net Tribal Enterprise Revenues" now appears at 5-9-2(f) of the amended Code. These revisions are not intended to subordinate or otherwise impair the Tribes' obligations to pay debt service on bonds and other financing or to otherwise satisfy other contractual obligations relating to indebtedness under existing or future borrowing arrangements.

The Tribal Council of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians enacted the amendment of "Allocation of Gaming Net Revenue and Establishment of Endowment Fund", Resolution No. 10-041, Ordinance No. 074A, in a Regular Tribal Council meeting on April 11, 2010. Section 5-9-22 was repealed. Vote was 5 (for), 2 (against), and 0 (abstaining). Public Hearing on this Resolution was held on March 6, 2010, 2:30 p.m.

The Tribal Council of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians approved the amended "Allocation of Gaming Net Revenue and Establishment of Endowment Fund", Resolution No. 10-011, Ordinance No. 074A, in a Regular Tribal Council meeting on February 14, 2010. Vote was 6 (for), 0 (against), and 0 (abstaining). Public Hearing will be held.

The Tribal Council of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians enacted the "Allocation of Gaming Net Revenue and Establishment of Endowment Fund" Code, Resolution No. 06-095, Ordinance No. 074, in a Regular Tribal Council meeting on August 9, 2006. 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 "Allocation of Gaming Net Revenue and Establishment of Endowment Fund" Code, Resolution No. 06-093, Ordinance No. 074 in a Regular Tribal Council meeting on July 9, 2006. Vote was 6 (for), 0 (against) and 0 (abstaining).



**CONFEDERATED TRIBES OF
COOS, LOWER UMPQUA AND SIUSLAW INDIANS
TRIBAL GOVERNMENT OFFICES**

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RESOLUTION NO: 10-054
Date of Passage: August 8, 2010
Subject (title): Amendment to 'Allocation of Gaming Net Revenue and Establishment of Endowment Fund' Ordinance (CLUSITC 5-9) - 'Allocation of Net Tribal Enterprise Revenues' Amendment - (2nd Reading)

- WHEREAS:** This Council is the Governing Body of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians and is authorized to act on behalf of said Tribes;
- WHEREAS:** The Tribal Constitution requires all final decisions of the Tribal Council on matters of general and permanent interest of the members of the Tribes be embodied in Ordinances;
- WHEREAS:** The authority for this Ordinance is found in the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians Constitution, Article 1, Section 1, and Article VI, Section 2;
- WHEREAS:** By Tribal Council Resolution No. 06-093, the Allocation of Net Gaming Revenue Code was enacted. The Code provides for the allocation of net gaming revenues, in part. Upon review, Tribal Council determined that the Code was unworkable in its current form and contained internal inconsistencies.
- WHEREAS:** These proposed changes were made by Bruce Greene of the Law Offices of Bruce R. Greene & Associates, LLC, in consultation with the Tribal Council, tribal staff, the Tribes' accountant, and other legal and investment consultants to the Tribes. The resulting amendment and creation of a separate Code provides for the: (1) Amendment of CLUSITC 5-9 – Allocation of Gaming Net Revenue and Establishment of Endowment Fund; and (2) Creation of a separate code for the Endowment Investment Fund which by separate resolution is proposed to be codified at CLUSITC 5-6;
- WHEREAS:** The purpose of the 'Allocation of Net Tribal Enterprise Revenues' Code is to provide for the allocation of Net Tribal Enterprise Revenues to the Tribes' general fund, for use for general tribal governmental purposes, including the establishment of appropriate reserves, and for contributions to the tribal endowments set forth in CLUSITC 5-6, as determined by the Tribal Council;
- WHEREAS:** The revisions to CLUSITC 5-9 are not intended to subordinate or otherwise impair the Tribes' obligations to pay debt service on bonds or other financing or to otherwise satisfy contractual obligations relating to indebtedness under existing or future borrowing arrangements;
- WHEREAS:** The changes to CLUSITC 5-9 (Exhibit A – clean copy and redline) was approved at the first reading by the Tribal Council on April 11, 2010, Resolution 10-043, and has been posted for a thirty- (30) day comment period with additional changes by Attorney Bruce Greene (Exhibit B – clean copy and blue line).
- WHEREAS:** The Tribal Council conducted a Public Hearing on this Resolution on May 14, 2010, at 6 p.m., at the Outreach Office, Springfield; May 15, 2010, at 11 a.m., at Windward Inn, Florence; and May 15, 2010, at 5 p.m. at the Tribal Hall, Coos Bay. (See Exhibit C for comments.)
- WHEREAS:** The Tribal Council met June 5, 2010, to discuss final changes to the Code which are reflected in the Exhibit A.
- WHEREAS:** The Council has reviewed the changes of CLUSITC 5-9 and the Council has assigned the 'Allocation of Gaming Net Revenue and Establishment of Endowment Fund' Ordinance No. 074B.

Page Two

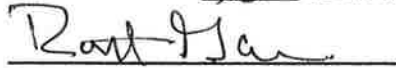
RESOLUTION NO: 10-054

Subject (title): Amendment to 'Allocation of Gaming Net Revenue and Establishment of Endowment Fund' Ordinance (CLUSITC 5-9) - 'Allocation of Net Tribal Enterprise Revenues' Amendment - (2nd Reading)

THEREFORE BE IT RESOLVED, that the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians hereby approves and enacts the proposed amendments to 'Allocation of Net Tribal Enterprise Revenues and Establishment of Endowment Fund'.

CERTIFICATION: On August 8, this Resolution was adopted at a Regular Council Meeting, held this date and the vote was:

6 FOR
0 AGAINST
0 ABSTAIN


Bob Garcia, Chair


Mark Ingersoll, Vice-Chair

CONFEDERATED TRIBES OF COOS,
LOWER UMPQUA & SIUSLAW INDIANS

Councilman

Departments to CC: _____



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RESOLUTION NO: 10-043
Date of Passage: April 11, 2010
Subject (title): Amendment to 'Allocation of Gaming Net Revenue and Establishment of Endowment Fund' Ordinance (CLUSITC 5-9) - 'Allocation of Net Tribal Enterprise Revenues' Amendment (1st Reading) and Thirty (30) Day Comment

- WHEREAS:** This Council is the Governing Body of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians and is authorized to act on behalf of said Tribes;
- WHEREAS:** The Tribal Constitution requires all final decisions of the Tribal Council on matters of general and permanent interest of the members of the Tribes be embodied in Ordinances;
- WHEREAS:** The authority for this Ordinance is found in the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians Constitution, Article 1, Section 1, and Article VI, Section 2;
- WHEREAS:** By Tribal Council Resolution No. 06-093, the Allocation of Net Gaming Revenue Code was enacted. The Code proves for the allocation of net gaming revenues, in part. Upon review, Tribal Council determined that legal impossibilities are within the Code.
- WHEREAS:** The 'Allocation of Gaming Net Revenue and Establishment of Endowment Fund' Code has been under legal review with Bruce Green & Associates who has met with the Tribal Council on March 6, 2010. The resulting amendment and creation of a separate Code provides for the: (1) Amendment of CLUSITC 5-9 – Allocation of Gaming Net Revenue and Establishment of Endowment Fund; and (2) Creation of a separate code for the Endowment Investment Fund which by separate resolution is proposed to be codified at CLUSITC 5-6;
- WHEREAS:** The purpose of the 'Allocation of Net Tribal Enterprise Revenues' Code (Exhibit A – redline and clean copy) is to provide for an allocation of specified amounts to the Tribes' general fund, to be used in the current operating budget of the Tribes in each fiscal year, and to allow for an amount to be set aside in a reserve sufficient to allow for Tribal Government Operations, as determined by the Tribal Council;
- WHEREAS:** This Council has reviewed this Amended Ordinance entitled, "Allocation of Net Tribal Enterprise Revenues" and the Ordinance has been renumbered to 074A.

THEREFORE BE IT RESOLVED, that the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians hereby approves this Amended Ordinance entitled "Allocation of Net Tribal Enterprise Revenues" for posting and a thirty-day comment period and Public Hearing(s) to be set by the Tribal Council.

CERTIFICATION: On April 11, 2010, this Resolution was approved at a Regular Tribal Council Meeting held this date, and the vote was:

7 FOR

0 AGAINST

0 ABSTAIN

Robert Garcia
Bob Garcia, Chair

Mark Ingersoll, Vice-Chair

CONFEDERATED TRIBES OF COOS,
LOWER UMPQUA & SIUSLAW INDIANS

Cornalyn R. Slyter
Councilman

Departments to CC: _____