

TITLE 5 – REGULATORY PROVISIONS

CHAPTER 5-10 TRIBAL ELDERS’ PENSION AND TRIBAL ELDERS’ SUPPLEMENTAL SECURITY INCOME PROGRAM

5-10-1 Purpose

The purpose of this Code is to establish a Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians Elders’ Pension and an alternative Tribal Elders’ Supplemental Security Income Program, both of which provide for the needs of tribal Elders. Qualifying Elders may participate in either, but not both, of these programs.

5-10-2 Findings

The Tribes find that in order to provide for the general health and welfare of the Tribes, it is important to recognize and honor the contributions of their tribal Elders. Tribal Elders have worked hard and contributed to the existing success of the Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians.

5-10-3 Authority

Article 1, Section 1 and Article VI, Section 2 of the Tribes’ Constitution authorizes the Tribal Council to exercise legislative authority.

5-10-4 Establishment

The Tribes hereby establish the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians Elders’ Pension and an alternative Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians Elders’ Supplemental Security Income Program.

5-10-5 Definitions

(a) “CTCLUSI” or “Tribes” – The Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians.

(b) “Commencement Date” – shall be January 1, 2007, for any Member of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians, who is sixty-five years of age or older. The Commencement Date for all other Elders shall be the first day of the month following his or her sixty-fifth (65th) birthday.

(c) “Elder(s)” – an enrolled Member of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians who is sixty-five (65) years of age or older.

(d) “Federal Supplemental Security Income Program” or “Federal SSI Program” – the program(s) of the Social Security Administration to provide supplemental security income to individuals who have attained age 65 or are blind or otherwise disabled.

- (e) “Income” – both earned and unearned income as defined in the Act establishing the Federal Supplemental Security Income Program at 42 U.S.C. 1382.
- (f) “Member(s)” – Those persons who are duly recognized as enrolled members of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians.
- (g) “Pension” – a monthly amount paid to qualifying Elders as more specifically defined in Section 5-10-7.
- (h) “Tribal Council” – The legislative body of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians.
- (i) “Tribal SSI” – the supplemental security income benefits established for qualifying Elders pursuant to this Chapter 5-10, and more fully described in 5-10-13.

5-10-6 Programs Discretionary

The Pension and the Tribal SSI benefits shall be discretionary and subject to the amount appropriated by the Tribal Council. The authorization of the Pension and the Tribal SSI benefits does not create any liability on the part of the Tribes for any future payment, nor shall any Member have any vested right in future benefit payments.

5-10-7 Monthly Amount of Pension and Supplemental Security Income

Tribal Council shall set the monthly amount of the Pension and of the Tribal SSI benefits subject to the availability of tribal funds. The monthly amount shall be the same for all Elders, regardless of whether the Elder receives a Pension or a Tribal SSI benefit. To the extent that any or all of the Pension or Tribal SSI benefits to Elders are funded using Net Gaming Revenues as defined in Chapter 5-2-3(q) of this Code, the Tribes shall comply with all applicable requirements of the Indian Gaming Regulatory Act, 25 U.S.C. §§ 2701-2721, its implementing regulations and the CTCLUSI Revenue Allocation Plan.

5-10-8 Method

At the discretion of the Tribal Council, the method of payment of the Pension or the Tribal SSI benefit shall be either by check, direct deposit to Elders’ accounts, or such other method as may be beneficial and consistent with the desires of the Elders. The Tribal Accounting Department shall disburse payments, keep records of distributed funds and maintain a list of eligible Elders.

5-10-9 Waiver of Benefit

Elders may, upon written, notarized request, waive the benefit of the Pension or the Tribal SSI.

5-10-10 Benefits Not to Reduce Other Resources

The benefits paid under this Chapter 5-10 are not intended to offset, reduce or otherwise interfere with any other resources or benefits to which an Elder shall be entitled.

5-10-11 Death of Elder

Pension and Tribal SSI eligibility shall cease upon the death of the Elder. A Pension or Tribal SSI payment made to an Elder living on the first (1st) day of the month in which the payment was made shall be considered to have been earned and need not be repaid upon the death of an Elder during that calendar month.

If an Elder dies after the first (1st) day of the month, but prior to receipt of that month's Pension or Tribal SSI payment, the final payment shall be made to the beneficiary designated in writing by the Elder. If no beneficiary has been designated, the final payment shall be made to the Elder's estate.

5-10-12 Tax Withholding

Elders who receive funds under this Chapter 5-10 shall be responsible for payment of all applicable state and federal taxes. Elders shall be notified at the time payments are made that the payments may be subject to taxation, and that the Tribes shall withhold federal income tax from the payments and pay such tax to the Internal Revenue Service (IRS) if required to do so under the Internal Revenue Code and IRS regulations (26 CFR Part 31, as amended). The Tribes shall comply with applicable IRS rules and regulations for the reporting of payments made pursuant to this Chapter 5-10 and for the deposits of taxes withheld. The Tribes shall provide statements to Elders by the end of January following the tax year in which the payments were made.

5-10-13 Tribal Elders' Supplemental Security Income Program

An Elder who meets the eligibility requirements set forth in section 5-10-13(b) may request that his or her monthly Elder payment be designated as Tribal SSI and be governed by this section 5-10-13.

(a) Purpose. The Tribal SSI program is designed to provide assistance to supplement benefits paid under the Federal SSI Program and other similar programs. The Tribes intend Tribal SSI payments to qualify for exclusion as income under the rules and regulations of the federal Social Security Administration. By allowing qualifying Elders to designate the monthly Elder benefit payment as Tribal SSI, the Tribes intend to ensure that the payments are recognized by the federal Social Security Administration and other agencies in such a manner as to avoid any offset or reduction of Social Security, Federal SSI or other benefits to which the Elder may be entitled.

(b) Eligibility.

(1) Designation as Tribal SSI shall be made only for eligible Elders who have submitted an application for such benefits. The Tribes will make application forms available to any eligible Elder who desires to apply for such benefits.

(2) Tribal SSI benefits shall be paid only to such Elders who are eligible for payments or are receiving payments under the Federal SSI Program or similar program, or to Elders who would be eligible upon filing an application for such payments with the Social Security Administration or other agencies.

(c) Notification to Social Security Administration. In recognition of the fact that this plan for the payment of supplemental benefits is designed to provide assistance based on need in supplementation of the benefits paid under the Federal SSI Program and to therefore qualify for exclusion as income under the rules and regulations of the Social Security Administration, if required by the Social Security Administration to do so, the Tribes shall advise the Social Security Administration of any amendments to this Ordinance that change the conditions for eligibility or change the provisions for method of payment and shall seek a determination by said amendment on the Tribal SSI program's status as an excluded income payment under the appropriate law and regulations governing the Federal SSI Program.

5-10-14 Severability

If any section or sections of this Code shall be declared invalid, the remaining sections shall continue in full force and effect.

APPENDIX A

LEGISLATIVE HISTORY AND EDITORIAL CHANGES

ELDERS' PENSION

LEGISLATIVE HISTORY AND EDITORIAL CHANGES

The Tribal Council of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians adopted Ordinance No. 068B revising the Elders' Pension Code, Adopting a Tribal Elders' Supplemental Security Income Program, and Amending and Renaming Tribal Code Chapter 5-10, in a regular Tribal Council meeting on February 13, 2011. Vote was 6 (for), 0 (against) and 1 (absent).

The Tribal Council of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians approved and enacted the "Elders' Pension" Ordinance, Resolution No. 09-089, Ordinance No. 068A, in a Tribal Council Business meeting on September 30, 2009. Vote was 6 (for), 0 (against), and 0 (abstaining).

The Tribal Council of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians enacted the "Elders' Pension" Ordinance, Resolution No. 06-091, Ordinance No. 068, in a regular Tribal Council meeting on July 9, 2006. Vote was 6 (for), 0 (against), and 0 (abstaining).

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