

NOTICE OF NEW PROPOSED CODE

The following proposed Code was passed for First Reading by Tribal Council on July 23, 2020.

TITLE: 1 GENERAL PROVISIONS

Chapter 1-17 GENERAL WELFARE ASSISTANCE POLICY AND PROCEDURES

The Tribal Council has determined a need for this General Assistance Policy and Procedures Code; and

The purpose of this Code is to assist Eligible Tribal Members to maintain their health, well-being, independence and quality of life. The Tribe has a responsibility to protect and promote the general welfare interests of its members and to assist in providing support to its members, in alignment with the Tribe's long-standing cultural practices to assist tribal members in need; and

This Code is designed to provide the policies and procedures through which specific General Welfare Programs are administered, in order to provide assistance to Eligible Tribal Members for services, activities and needs including medical expenses, housing, utility and transportation expenses, energy assistance, health and wellness activities expenses, social services expenses, cultural, spiritual and educational expenses, and other related expenses as described herein. It is the Tribe's intent that the assistance provided pursuant to this Code will meet the criteria set forth in Revenue Procedure 2014-35 (including any subsequent Internal Revenue Service guidance) and the Tribal General Welfare Exclusion Act of 2014, for treatment as a tax exempt benefit

Tribal Council hereby approves the establishment of Chapter 1-17 General Welfare Assistance Policy and Procedures Code, as set out in the attached Exhibit A hereto, and hereby approves such draft for first reading and posting for a twenty-eight (28) day period

DATE OF THE TRIBAL COUNCIL MEETING AT WHICH THE PROPOSED CODE IS EXPECTED TO BE CONSIDERED FOR FINAL PASSAGE:

October 11, 2020

The notice of the proposed amendment/creation of Code/Ordinance shall be published in the Tribal Newsletter and the text will be posted for public comment for twenty-eight (28) days in the Administration Building, Tribal Hall, Outreach Offices, on the Tribes' website and at Three Rivers Casino (Office of the Gaming Commission). Written comments should be sent to the Tribal Council in care of Jeannie McNeil, CTCLUSI, 1245 Fulton Avenue, Coos Bay OR 97420 or email: jmcneil@ctclusi.org.

TITLE 1 - GENERAL PROVISIONS

CHAPTER 1-17 GENERAL WELFARE ASSISTANCE POLICY AND PROCEDURES

1-17-1 FINDINGS AND PURPOSE

(a) The purpose of this Code is to assist Eligible Tribal Members to maintain their health, well-being, independence and quality of life. The Tribe has a responsibility to protect and promote the general welfare interests of its members and to assist in providing support to its members, in alignment with the Tribe's long-standing cultural practices to assist tribal members in need.

(b) This Code is designed to provide the policies and procedures through which specific General Welfare Programs are administered, in order to provide assistance to Eligible Tribal Members for services, activities and needs including medical expenses, housing, utility and transportation expenses, energy assistance, health and wellness activities expenses, social services expenses, cultural, spiritual and educational expenses, and other related expenses as described herein. It is the Tribe's intent that the assistance provided pursuant to this Code will meet the criteria set forth in Revenue Procedure 2014-35 (including any subsequent Internal Revenue Service guidance) and the Tribal General Welfare Exclusion Act of 2014, for treatment as a tax exempt benefit.

1-17-2 AUTHORITY

This Code is established pursuant to the authority vested in the Tribal Council by the Constitution of the Tribe, and pursuant to the Tribal General Welfare Exclusion Act of 2014, codified under Internal Revenue Code Section 139E, which excludes from gross income, for income tax purposes, the value of general welfare assistance that may be provided to an Eligible Tribal Member.

1-17-3 DEFINITIONS

(a) "Applicant" means a person who submits an application to qualify as a Beneficiary.

(b) "Application" means written forms completed by the Applicant, including all supporting documentation, submitted to the Chief Executive Officer.

(c) "Assistance" means any benefits or payments made pursuant to a Tribal Council approved General Welfare Assistance Program, which are paid to or on

behalf of a Beneficiary, and which shall be treated as a loan to the Beneficiary in the event of forfeiture, fraud or a determination of non-use per the program's requirements.

(d) "Beneficiary" means a person who is eligible to receive Assistance pursuant to a Tribal Council approved General Welfare Assistance Program.

(e) "Chief Executive Officer" means the Chief Executive Officer appointed by the Tribal Council to execute administrative functions on behalf of the Tribal Government.

(f) "Code" means this General Welfare Assistance Policies and Procedures Code.

(g) "Dependent" means a child or individual who is legally dependent for the fiscal year, within the meaning of Internal Revenue Code §152.

(h) "Educational Costs" means costs associated with preschool, primary, secondary and post-secondary educational programs and related expenses such as: rooms and board, transportation costs, tuition, books, computers, software, supplies and equipment, uniforms and other items reasonably necessary for completion of the course work or participation in the program.

(i) "Eligible Cost Documentation" means documentation that substantiates the expenditure of Program funds to a Third Party for purposes of direct payment or reimbursement pursuant to Section 1-17-8.

(j) "Eligible Tribal Member" means an Eligible Tribal Member as defined by a Tribal Council approved Program.

(k) "Essential Services to the Public" means medical facilities, pharmacies, public library, post office, and grocery stores.

(l) "Fiscal Year" means the calendar year commencing January 1st and ending December 31st each year.

(m) "Health and Wellness" means nutritional support and counseling (nutritionists) related to weight loss, diabetes prevention, heart disease and other health risks, including for families; fitness training including facility membership fees and coaching fees, including for families; therapeutic massage, wellness programs and counseling for diabetes, heart disease and other health risks, including for families; substance abuse programs and counseling, including for families; mental health programs and counseling, including for families.

(n) "Housing" means the cost for a Principal Residence up to the amounts that must be paid each month for rent or mortgage payments, including principal,

property taxes, private mortgage insurance and/or hazard insurance, and homeowner's association dues, capped at thirty percent (30%) of the Beneficiary's annual income.

(o) "Incapacitated Member" means any Beneficiary who has been declared legally incompetent by any tribal, state or federal court with the legal authority to do so.

(p) "In-Home Services" means assistance provided by a family member or licensed, third-party care provider that includes, but is not limited to, preparation of meals, housekeeping, shopping, assistance with personal care, assistance with bookkeeping and bill paying, and handyman services.

(q) "Non-Covered Medical" includes assistance for medical expenses and needs that are not otherwise covered by insurance or covered through other tribal, state or federal benefits, including but not limited to, in-home professional care from nurses, therapists or licensed care givers; extended nursing home stays; day care; hospice care; vision care; dental care; durable medical equipment; non-prescription drugs; transportation, meals and lodging for medical care away from home; and insurance co-pays and deductibles.

(r) "Pay" means payment directly to a third-party service provider or reimbursement in whole or in part to the Beneficiary.

(s) "Principal Residence" means a primary residence which is occupied by the Beneficiary for more than a majority of the time during a fiscal year, and is used exclusively as his/her principal residence. Principal residence may also be determined based also on the location of the Beneficiary's spouse and children, the Beneficiary's driver's license, the address used for federal and state income tax purposes, where the Beneficiary is registered to vote, and other legal indicia of residency. The residence may be real estate property in which the Beneficiary has right, title or interest held by fee simple, by leasehold, by tenancy in common, by tenancy in entirety, by joint tenancy, by fractional interest, or other certified legal right of use and occupancy. Qualifying residences include but are not limited to, a single family home, apartment, condominium, townhome, or other cooperative or fractional-ownership unit. "Housing" and "residence" shall have the same meaning as Principal Residence.

(t) "Program" means a General Welfare Assistance Program enacted by the Tribal Council.

(u) "Reservation" means all land within the exterior boundaries of the CTCLUSI Reservation, and all lands that may be added from time to time to the CTCLUSI Reservation after the date of enactment of this Policy.

(v) "Service Area" means a geographic area designated by the Assistant Secretary of Interior where financial assistance and social services Policies are provided, as defined by 25 C.F.R. § 20.100.

(w) "Service Unit Area" means the area designated for purposes of administration of Indian Health Service Policy pursuant to 42 C.F.R. 136.21 (1).

(x) "Shelter Costs" include costs associated exclusively with living in the Beneficiary's Principal Residence, including but not limited to, rent payments, damage or advance deposits on rental property, payments on mortgages secured by the Beneficiary's Principal Residence, payments related to reverse mortgages secured by the Beneficiary's Principal Residence, payments on trailers or mobile homes (including the property upon which they rest) if utilized as the Beneficiary's Principal Residence, utility payments, mortgage insurance and related fees, homeowner's insurance, rental insurance, personal property insurance for property located with and about the Principal Residence, property taxes, condominium and homeowner's association fees, charges for regular maintenance and repair to make the Principal Residence habitable, unexpected or emergency repairs which are not reimbursed by insurance, costs for replacing or repairing essential items of property for maintaining a habitable home, and other costs which may be allowed as determined by the CEO on a case by case basis.

(y) "Third Party" means the contractor, vendor, service or care provider in a contractual relationship with a Beneficiary.

(z) "Tribe" means the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians.

(aa) "Tribal Council" means the Tribal Council for the Tribe.

(bb) "Transportation" means transport by bus, taxi, shuttle, hired car, rental car, substantiated mileage use of a private automobile, and other forms of public transportation.

(cc) "Tribal Member" means an enrolled member of the Tribe.

1-17-4 TRIBAL COUNCIL ESTABLISHMENT OF PROGRAMS, PROGRAM REQUIREMENTS

(a) Tribal Council is authorized to establish written General Welfare Assistance Programs from time to time, depending on availability of funds and other considerations.

(1) Each Program shall set forth:

- (A) Eligibility requirements;
- (B) Authorized assistance/costs, and;
- (C) The amount of Assistance or services to be provided.

(2) Each Program shall:

- (A) Not discriminate in favor of members of the Tribal Council;
- (B) Be available to any Beneficiary who meets the program eligibility requirements;
- (C) Promote the general welfare;
- (D) Not be lavish or extravagant under the circumstances, and;
- (E) Not be compensation for services.

1-17-5 through 1-17-9 Reserved for expansion

1-17-10 ASSISTANCE LIMITS

(a) All Assistance provided pursuant to this Code is subject to the availability of funds, and are not guaranteed payments. Assistance is provided on the basis of need and shall not be treated as a resource of the Beneficiary for any purpose.

(b) Assistance under a Program will be distributed only upon approval of an Application from an Applicant.

(c) Limitation on Liability. Any agreement or contract for work performed in connection with this Policy is solely between the Beneficiary and a Third Party. The Tribe shall not be liable for any loss or damages whatsoever resulting from services performed in connection with assistance provided to a Beneficiary under this Code, and no legal relationship shall be created between the Tribe and a Third Party on behalf of a Beneficiary, satisfaction of any monetary duty or obligation to a Third Party shall be owed and remain at all times with the Beneficiary.

1-17-11 ELIGIBLE PROGRAM ASSISTANCE

Assistance is limited to costs actually incurred by the Beneficiary for the types of assistance authorized in each Program. Typical examples of authorized assistance include: Transportation Assistance; Non-Covered Medical Assistance; In-Home Services; Shelter Costs, and; Educational Costs.

1-17-12 APPLICATION PROCESS

(a) Applicant Responsibility.

- (1) Application Requirement. If required by a Program, an Applicant must submit a written Application in accordance with the requirements established by each Program. All Applications must be signed and dated by the Applicant. Completed Applications will be accepted in person, by mail, or facsimile. Authenticated digital signatures are allowable.
 - (2) Eligible Cost Documentation. If permitted by the applicable Program, for requests for reimbursement or direct payment to a Third Party, the Applicant must submit receipts, contracts, invoices, bills or other documentation which substantiates the actual expense incurred by the Applicant, or payment due from the Applicant to a Third Party.
 - (3) Voluntary Release of Information. If required by the Tribal Council, the Applicant must complete all forms to permit release of information from a Third Party as may be necessary, including HIPAA-related releases.
 - (4) Chief Executive Officer Requests. If required by the Tribal Council, the Applicant shall timely submit any other documents or information deemed necessary by the Chief Executive Officer.
- (b) Chief Executive Officer Responsibility.
- (1) Eligibility Determination. The Chief Executive Officer shall confirm the eligibility of each Beneficiary who receives assistance under this Code through enrollment records or other pertinent records of the Tribe as stated in each approved Program. If an Application is required pursuant to Subsection 1-17-12(a)(1), of this Code, the Chief Executive Officer shall notify the Applicant of his/her determination of ineligibility for Assistance, in writing, within five (5) business days of the determination.

1-17-13 DOCUMENTATION

- a) The CEO shall verify eligibility for Assistance made to Beneficiaries pursuant to Programs and maintain Eligible Cost Documentation to substantiate distributions made under each Program.
- (b) The CEO shall confirm the eligibility for each Beneficiary who receives Assistance pursuant to Programs through enrollment records or other pertinent records of the Tribe.
- (c) For purposes of periodically testing the propriety of Assistance provided under Programs, the CEO shall conduct due diligence research into the average annual

costs, supported by public, reliable data, which a Beneficiary may expect to incur for the types of eligible Assistance costs.

1-17-14 FUNDS DISBURSMENT PROCESS

- (a) Subject to Section 1-17-10, a Beneficiary is eligible to receive up to the maximum assistance limit as determined by the applicable Program.
- (b) Payment in the form of a negotiable check or electronic funds transfer will be disbursed to or on behalf of the Beneficiary as determined by the applicable Program.
- (c) Payment Directly to a Third Party. If permitted by the applicable Program, upon the request of the Beneficiary, the Tribe may make payment directly to a Third Party on behalf of a Beneficiary. A Beneficiary must present the Eligible Cost Documentation to the Chief Executive Officer fourteen (14) days before the due date of payment to the Third Party.
- (d) Reimbursement to Beneficiary for Payments to a Third Party. If permitted by the applicable Program, upon the request of the Beneficiary, the Tribe may reimburse the Beneficiary for eligible costs. A Beneficiary must present the Eligible Cost Documentation to the Chief Executive Officer fourteen (14) days before the due date of payment to the Beneficiary.

1-17-15 GENERAL ADMINSTRAIVE PROCEDURES

- (a) Record Maintenance. The Chief Executive Officer shall maintain the following files:
 - (1) For each Beneficiary, documentation establishing eligibility, including all information and documentation supplied in connection with his or her Application and Eligible Cost Documentation, if required, and all proof of disbursement of Policy funds.
 - (2) For each Beneficiary determined to be ineligible, including all information provided by the Applicant and documentation of the decision making process to disapprove eligibility.
 - (3) For Applications which are incomplete and pending determination of eligibility. Applicants submitting incomplete Applications will be notified in writing and given an opportunity to submit the missing information within a reasonable period of time.

(4) An annual ledger recording each and every form of General Welfare Program assistance provided to a Beneficiary during the applicable Fiscal Year. All ledgers shall be retained for a period of no less than seven (7) years.

(5) For each General Welfare Program, record of all due diligence research conducted to support the assistance limit, including but not limited to surveys, cost samplings and other research.

(b) Audit. Beneficiaries are required to use General Welfare Program assistance exclusively for the purposes stated in each applicable Program. If the Tribe becomes aware that Assistance payments are used or pledged for a purpose inconsistent with the purposes set forth in the applicable Program or the Beneficiary's Application, the Chief Executive Officer shall require the immediate repayment of the Assistance payment.

(c) Appeal Procedure. Should the Chief Executive Officer disapprove any Application or demands repayment of an Assistance payment, the Applicant or Beneficiary may appeal the decision by filing a written notice with the Tribal Council within fourteen (14) working days following the certified mailing of notice of disapproval or demand for repayment. The Applicant or Beneficiary shall be entitled to be present at a meeting of the Tribal Council and shall have the right to present oral or written communication with regard to the reconsideration. The decision of the Tribal Council shall be final.

1-17-16 through 1-17-18 Reserved for expansion

1-17-19 SEVERABILITY

If any provision of this Code, or the application thereof to any person or circumstance, shall be held unconstitutional or invalid, only the invalid provision shall be severed and the remaining provision and language of this Code shall remain in full force and effect.

1-17-20 NO WAIVER OF SOVEREIGN IMMUNITY

All inherent sovereign rights of the Tribe as a federally recognized Indian tribe with respect to provisions authorized in this Code and are hereby expressly reserved, including sovereign immunity from unconsented suit. Nothing in this Code or Programs established thereunder shall be deemed or construed to be a waiver of the Tribe's sovereign immunity from unconsented suit.

1-17-21 AMENDMENT

This Chapter of the Code may be amend utilizing the process set forth in CLUSITC 1-7-2

APPENDIX A
LEGISLATIVE HISTORY AND EDITORIAL CHANGES

DRAFT

GENERAL WELFARE ASSISTANCE POLICY AND PROCEEDURES

LEGISLATIVE HISTORY AND EDITORIAL CHANGES

The Tribal Council of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians approved the establishment of Chapter 1-17 GENERAL WELFARE ASSISTANCE POLICY AND PROCEEDURES Cod by Resolution 20-057 for First Reading, Ordinance No. 101, in a Special Tribal Council meeting on July 23, 2020. Posting requirement to begin September 1, 2020 for 28 days. Vote was 6 (for), 0 (against) and 0 (pending).

DRAFT