

TITLE 5 – REGULATORY PROVISIONS

CHAPTER 5-6 ENDOWMENT INVESTMENT FUND

5-6-1 Purpose

The purpose of this Chapter of the 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 the long-term investment of profits derived from Tribal Enterprises in a manner designed to provide for the general welfare of the Tribes now and in perpetuity.

5-6-2 Definitions

- (a) “CTCLUSI” – The Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians. It does not mean individual Members of the Tribes.
- (b) “Distribution Value” – The average fair market value of the average annual investment earnings of each endowment, as set forth in CLUSITC 5-6-8 through 5-6-17, as of the close of each of the preceding twelve (12) calendar quarters, minus the rate of inflation for the preceding year.
- (c) “Endowment Investment Fund” – A fund established pursuant to this Chapter of the CTCLUSI Tribal Code to invest and administer funds for the long-term benefit of the Tribes and its Members. The Endowment Investment Fund shall consist of the individual endowments as described in this Chapter of the Code.
- (d) “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.
- (e) “Investment Advisor” – A person or persons experienced in investment management retained by the Tribes to manage the investments of all funds in the Endowment Investment Fund.
- (f) “Investment Policy” – A policy adopted by the Tribal Council and amended from time to time, as needed, governing the general manner in which the Endowment Investment Fund is managed, invested, and reinvested.
- (g) “Members” – Those persons who are duly recognized as enrolled members of the Tribes.
- (h) “Tribal Council” – The legislative body of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians.

(i) “Tribal Enterprise” – 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) “Tribes” – The Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians. It does not mean individual Members of the Tribes.

#### 5-6-3 Establishment of the Endowment Investment Fund

The Tribal Council shall create and fund a series of endowments within an Endowment Investment Fund using Net Tribal Enterprise Revenues, as directed in CLUSITC 5-9-4. The purpose of this Endowment Investment Fund shall be to provide a long-term investment and capital appreciation vehicle for the endowments identified in this Chapter of the Code. The goal for the Endowment Investment Fund shall be to accumulate and grow capital for the long-term economic growth and security and self-sufficiency of the Tribes and its Members. The Tribal Council may contribute to the endowments from other tribal revenues as may be available, and may accept contributions to the endowments from individuals or other third party persons or entities.

#### 5-6-4 Investment Principles for the Endowment Investment Fund

Money deposited in the Endowment Investment Fund shall be invested in a balanced investment portfolio, pursuant to the Investment Policy adopted by the Tribal Council. The Tribal Council or its designee shall have the following powers, to the extent not otherwise in conflict with the terms of the Tribes’ Investment Policy:

(a) To invest and reinvest the principal, and income, and to purchase or acquire and sell, exchange, or dispose of every kind of property, real, personal or mixed, and every kind of investment, specifically including but not by way of limitation, limited partnerships, options, commodities, trust deeds of any priority, common trust funds, mutual funds, money market interests, government and corporate obligations of every kind and preferred or common stocks, which persons of prudence, discretion and intelligence acquire for their own account.

(b) To enter into, make, sign, seal, execute, deliver, acknowledge and perform any contract, agreement, writing, or thing that may, in the opinion of the Tribal Council or its designee, be necessary or proper to fulfill the purposes of this Chapter of the Code.

#### 5-6-5 Adoption of Investment Policy for the Endowment Investment Fund

After consultation with its Investment Advisor, Tribal Council shall adopt an Investment Policy which shall control the manner and scope of investments made by the Endowment Investment Fund. The Investment Policy shall be adopted by Tribal Council resolution. It shall be reviewed annually and may be amended at any time by resolution of the Tribal Council.

#### 5-6-6 Investment Advisor for Endowment Investment Fund

Tribal Council shall appoint an Investment Advisor. The Investment Advisor shall be an individual or group qualified and experienced in investment management. As part of the duties of the Investment Advisor, as set forth in the Investment Policy, the Investment Advisor shall provide information on the performance of all individual portfolio managers to the Tribal Council. The Tribal Council shall delegate to the Investment Advisor such duties and responsibilities as it deems appropriate to provide for the proper management and operation of the Endowment Investment Fund, consistent with the provisions of this Chapter of the Code.

#### 5-6-7 Annual Distributions from Endowments

Commencing the first fiscal year following the date on which each endowment reaches its established principal balance, and for each fiscal year thereafter, the amount available for distribution for use in any fiscal year shall not exceed the Distribution Value. The fair market value of each endowment shall be based upon all assets in that endowment, including principal and retained income, adjusted for all gains and losses, whether realized or unrealized, and determined as of the last business day of the fiscal year. Inflation shall be measured based upon the change in the Consumer Price Index, U.S. City Average for All Urban Consumers, published by the U.S. Department of Labor or other inflation measure selected by the Tribal Council. Distributions from the individual endowments described in this Chapter of the Code into the Tribes' General Fund shall be made at the discretion of the Tribal Council. Expenditure of individual endowment funds deposited into the General Fund shall be made consistent with the purposes for which each endowment was created as set forth in this Chapter of the Code.

#### 5-6-8 Tribal Government Endowment

Tribal Council hereby creates the Tribal Government Endowment, which shall receive the allocation established in CLUSITC 5-9-4. This endowment shall accumulate annually, without distribution, until the principal of the endowment has reached forty-two million dollars (\$42,000,000.00). At the discretion of the Tribal Council, the Distribution Value may be appropriated to provide for the basic essential direct and indirect functions and services of Tribal Government Operations, including, but not limited to: Tribal Council, tribal chief, tribal administration, and the tribal court.

#### 5-6-9 Health and Human Services Endowment

The Tribal Council hereby creates the Health and Human Services Endowment, which shall receive the allocation established in CLUSITC 5-9-4. This endowment shall accumulate annually without distribution until the principal of the endowment has reached fifty-eight million, three hundred fifty thousand dollars (\$58,350,000.00). At the discretion of the Tribal Council, the Distribution Value may be appropriated to provide for the basic essential direct and indirect functions and services of tribal health and human services, including, but not limited to: health administration, community

outreach, family services, contract health care services, dental clinic and various tribal preventive health programs.

#### 5-6-10 Housing Endowment

The Tribal Council hereby creates the Housing Endowment, which shall receive the allocation established in CLUSITC 5-9-4. This endowment shall accumulate annually without distribution until the principal of the endowment has reached thirty-four million dollars (\$34,000,000.00). At the discretion of the Tribal Council, the Distribution Value may be appropriated to provide for the basic essential direct and indirect functions of tribal housing, including, but not limited to: housing administration, new construction, land acquisitions, remodeling and renovation, manufactured home purchases, financing and refinancing of tribal Member homes, down payment assistance and rental assistance.

#### 5-6-11 Education Endowment

The Tribal Council hereby creates the Education Endowment, which shall receive the allocation established in CLUSITC 5-9-4. This endowment shall accumulate annually without distribution until the principal of the endowment has reached twenty-five million dollars (\$25,000,000.00). At the discretion of the Tribal Council, the Distribution Value may be appropriated to provide for the basic essential direct and indirect functions and services of tribal education, including, but not limited to: the administration of the education department, tribal scholarships, early childhood education, summer school, after school program, adult vocational training and partnerships with public and private schools, which shall mean K-12 and higher education institutions.

#### 5-6-12 Cultural Endowment

The Tribal Council hereby creates the Cultural Endowment, which shall receive the allocation established in CLUSITC 5-9-4. This endowment shall accumulate annually without distribution until the principal of the endowment has reached five million dollars (\$5,000,000.00). At the discretion of the Tribal Council, the Distribution Value may be appropriated to provide for the restoration, development and protection of the cultural resources of the Tribes, including, but not limited to: the essential direct and indirect functions and services of cultural administration, cultural development and cultural protection.

#### 5-6-13 Tribal Rights Protection Endowment

The Tribal Council hereby creates the Tribal Rights Protection Endowment, which shall receive the allocation established in CLUSITC 5-9-4. This endowment shall accumulate annually without distribution until the principal of the endowment has reached eight million dollars (\$8,000,000.00). At the discretion of the Tribal Council, the Distribution Value may be appropriated to provide for the protection of tribal rights, including, but not limited to: tribal sovereignty, jurisdictional issues, state, county, city and federal taxation, hunting, fishing and water and mineral rights, treaty rights, ancestral land restoration

rights, adverse political threats, and actions and movements affecting tribal right to self-governance.

#### 5-6-14 Elders Endowment

The Tribal Council hereby creates the Elders Endowment, which shall receive the allocation established in CLUSITC 5-9-4. This endowment shall accumulate annually without distribution until the principal of the endowment has reached a minimum of five million dollars (\$5,000,000.00). At the discretion of the Tribal Council, the Distribution Value may be appropriated to provide for the direct and indirect costs associated with the special needs of tribal elders, including, but not limited to, the Elder's Pension, nutrition and respite care and the administration of such programs.

#### 5-6-15 Natural Resources Endowment

The Tribal Council hereby creates the Natural Resources Endowment, which shall receive the allocation established in CLUSITC 5-9-4. This endowment shall accumulate annually without distribution until the principal of the endowment has reached forty-two million dollars, (\$42,000,000.00). At the discretion of the Tribal Council, the Distribution Value may be appropriated to provide for the basic essential direct and indirect functions and services of the Natural Resources Department, including, but not limited to: natural resources administration, tribal forest management and timber sale programs, reforestation and silviculture programs, environmental protection, water resource management, real estate management, leasing and mineral resource management, and fish and wildlife management.

#### 5-6-16 Tribal Member Benefits Endowment

The Tribal Council hereby creates the Tribal Member Benefits Endowment, which shall receive the allocation established in CLUSITC 5-9-4. This endowment shall accumulate annually without distribution until the principal of the endowment has reached seventeen million dollars (\$17,000,000.00). At the discretion of the Tribal Council, the Distribution Value may be appropriated to provide a funding source for the direct and indirect costs associated with new programs, including, but not limited to: a self-insurance program designed to meet the health care need of tribal members outside of the service area, an emergency fund designed to provide minimal assistance, and a funeral expense fund designed to provide limited assistance to defray the cost of burial.

#### 5-6-17 Community Development Endowment

The Tribal Council hereby creates the Community Development Endowment, which shall receive the allocation established in CLUSITC 5-9-4. This endowment shall accumulate annually without distribution until the principal of the endowment has reached seventeen million dollars (\$17,000,000.00). At the discretion of the Tribal Council, the Distribution Value may be appropriated to provide for the basic essential direct and indirect functions and services of community development projects, including, but not limited to: any specific project identified and approved by Tribal Council,

administration and management of the project, construction and/or operational costs associated with the project, infrastructure, including transportation.

#### 5-6-18 Loans From and Collateralization of Endowment Funds

(a) Loans from Endowment Investment Fund. Loans from the Endowment Investment Fund to the Tribes, at the direction of the Tribal Council, shall be considered authorized investments and shall not be considered distributions. Loans from the Endowment Investment Fund shall be memorialized by a promissory note for a reasonable term and bearing interest at a reasonable commercial rate, and shall be subject to the Tribes' Investment Policy. Loans shall not exceed eighty percent (80%) of the Endowment Investment Fund's value.

(b) Collateralization of Endowment Investment Fund. Consistent with applicable federal law, the Tribal Council is hereby authorized to pledge funds in the Endowment Investment Fund as collateral to secure loans from third parties to the Tribes.

#### 5-6-19 Margin Borrowing and Leverage of Fund Assets

(a) Provided each individual endowment fund, as described in this Chapter of the Code, is custodied in an institutional brokerage account governed by the limits on margin borrowing, as set forth in Fed. Res. Board, Reg. T, 12 C.F.R. § 220, the Tribal Council may authorize margin borrowing in the fund for the following purposes:

- (1) For funds needed for immediate liquidity and current investments are not sufficiently liquid to clear a required wire or transfer;
- (2) In order to invest in short term secure instruments that have a yield two percent (2%) or greater above the margin borrowing rate; and
- (3) In order to provide short term loans to tribal entities or projects awaiting other assured funding or having assured sources of revenues to support repayment.

(b) The Tribal Council may assign or pledge fund assets to tribal creditors in order to secure bridge loans for tribal projects or programs at competitive rates or to provide debt reserves to assure issuance of a required loan while awaiting other assured funding.

#### 5-6-20 Amendment Process

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

5-6-21 Severability

If any provision of this Chapter of the 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

APPENDIX A

CHAPTER 5-6, ENDOWMENT INVESTMENT FUND

**LEGISLATIVE HISTORY AND EDITORIAL CHANGES**

The Tribal Council of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians amended sections 5-6-18 and 5-6-19 of this chapter by Ordinance 090A on January 9, 2011, effective on that same date. Vote was 5 (for), 0 (against), and 2 (absent).

The Tribal Council of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians, by Resolution 10-053, in a regular Tribal Council meeting on August 8, 2010, divided former CLUSITC 5-9 into two separate chapters: 5-6 (Endowment Investment Fund) and 5-9 (Allocation of Net Tribal Enterprise Revenues), adopting this chapter 5-6 in Ordinance 090 and the new chapter 5-9 as Ordinance 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 repealed CLUSITC 5-9-22 by Resolution No. 10-041, Ordinance No. 074A, in a Regular Tribal Council meeting on April 11, 2010. Vote was 5 (for), 2 (against) and 0 (abstaining). Public Hearing on this Resolution was held March 6, 2010.

The Tribal Council of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians approved "Chapter 5-9, Allocation of Gaming Net Revenue and Establishment of Endowment Fund" Code by 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).

The Tribal Council of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians enacted "Chapter 5-9, Allocation of Gaming Net Revenue and Establishment of Endowment Fund" Code by 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).

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