

COQUILLE INDIAN TRIBAL CODE

Chapter 152

Part 1 – General Governmental Affairs

Elders' General Welfare Assistance Program

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152.010 General

1. The authority for this Ordinance is found in the Constitution of the Coquille Indian Tribe Article VI, Section 1.

2. Purpose

To provide authorization for the funding of a Coquille Tribal Elders' General Welfare Assistance Program to replace the prior Coquille Tribal Elders' Benefit Program and the Coquille Tribal Elders Supplemental Security Income Program, both of which provided for the needs of Tribal Elders. The Coquille Tribal Elders' General Welfare Assistance Program offers support to Tribal Elders by making Indian general welfare benefits available to them in accordance with Internal Revenue Code Section 139E.

3. Community Needs and Intent of Program

The Coquille Indian Tribe (the "Tribe") has an inherent and vital interest in the vitality of its culture, oral tradition, spirituality, history, traditional practices and interdependence. Tribal Elders possess innumerable gifts and wisdom that must be passed on to the younger generations in order for the Tribe to thrive. The Coquille Tribal Council finds that a lack of income or other resources significantly hinders many Elders from having the resources to devote to the Tribe's survival and well-being. The Tribal Council further finds that the establishment of a Tribal Elders' General Welfare Assistance Program would assist not only the Tribal Elders, but all Tribal Members, Native Americans, Oregonians, and United States Citizens, through the preservation of Coquille Tribal Culture.

Ensuring the well-being of Tribal Elders is an important traditional and cultural value of the Coquille Members. The membership has recognized that the Elders may have had fewer opportunities for education, employment, pension plans and personal asset accumulation during years when the Tribe had fewer economic development opportunities. Many Elders also suffer from health conditions stemming from years of underfunding of Indian Health Service care and long periods during which the Tribe had less resources available to address medical needs. The Tribe also has determined that providing general assistance benefits is an effective means to ensure that all Elders are able to overcome minimum financial barriers that may otherwise hinder Elders from engaging in activities that can promote culture and tradition for the benefit of younger generations and the long term self-determination of the Tribe.

Recognizing the importance of supporting Elders, the membership has established long term savings as a priority to help ensure that resources are available to provide Member assistance for future years. The Coquille Indian Tribe retains flexibility to draw from these savings as well as annual budget revenues and other sources to fund Elder assistance.

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The Coquille Indian Tribe intends that all benefits authorized herein shall qualify as Indian general welfare benefits pursuant to Internal Revenue Code Section 139E and the Coquille General Welfare Ordinance, as the same may be amended from time to time, and shall be administered in accordance and compliance therewith. Elder assistance provided in accordance with this ordinance is intended to qualify for favorable tax treatment to the fullest extent permitted at law.

4. Definitions

- (a) "Elder" shall mean an enrolled Member of the Tribe who has attained the age of 62.
- (b) "Federal Supplemental Security Income Program" or "SSI Program" shall mean the programs of the Social Security Administration to provide supplemental security income to low income individuals who have attained age 65 or are blind or otherwise disabled.
- (c) "Income" shall mean both earned and unearned income as defined by the Social Security Administration for purposes of establishing eligibility under the Federal Supplemental Security Income Program in accordance with 42 U.S.C. 1382.
- (d) "Member" shall be an enrolled member of the Coquille Indian Tribe.
- (e) "Pay" shall mean pay or reimburse in whole or in part.
- (f) "Qualified nonmember" shall mean spouse, former spouse, legally recognized domestic partner or former domestic partner, ancestor, descendant, or dependent of a Member of the Tribe.
- (g) "Safe harbor" shall mean benefits or assistance intended to meet the requirements for tax free treatment under Revenue Procedure 2014-35.
- (h) "Reservation" shall mean the reservation of the Coquille Indian Tribe.
- (i) "Service area" shall mean the "service area" as defined in 25 C.F.R. Section 20.100.
- (j) "Service unit area" shall mean an area designated for purposes of administration of Indian Health Service programs under 42 C.F.R. Section 136.21(l).
- (k) "Tribal Supplemental Security" benefits shall mean a living allowance based on individual financial need in accordance with 152.030(3)(c)(5).
- (l) "Tribe" means the Coquille Indian Tribe.

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5. General Restrictions

- (a) Benefits must be provided to or on behalf of a Member of the Tribe (or any spouse or dependent of such Member) pursuant to the specific program requirements set forth herein;
- (b) Benefits must be administered under the specific guidelines set forth herein and may not discriminate in favor of members of the governing body of the Tribe;
- (c) Benefits provided under the program must be made available to any tribal Member who meets the program guidelines;
- (d) Benefits provided under the program must be for the promotion of general welfare;
- (e) Benefits provided under the program cannot be lavish or extravagant under the facts and circumstances;
- (f) Benefits provided under the program cannot consist of compensation for services;
- (g) The program must be administered in accordance with the Coquille Indian Tribe General Welfare Ordinance, other laws of the Tribe, and Internal Revenue Code Section 139E; and
- (h) To the extent that benefits are restricted to specific purposes or expenditures, they must be substantiated in accordance with program guidelines.

All programs are subject to funding and budget limitations.

152.030 Elders' General Welfare Assistance Program

1. Program Authorization

There is hereby authorized to be expended from available Tribal appropriations, for the benefit of Tribal Elders, benefit payments, which shall be paid in such amounts as are set by this ordinance.

2. General Assistance Benefits - Purpose

The Elders' General Welfare Assistance Program provides Indian general welfare benefits in the form of monthly assistance payments limited to qualified Elders in an amount that the Tribe has determined will promote the general welfare by addressing community needs set forth in Section 152.010(3). While the amount of Elder benefits under this program is determined by looking in part to unmet "safe harbor" needs of the Tribe's Elder population (per Sections 152.030(3) and (5)), the purpose of the assistance called for in this program is not limited to specific safe harbor needs or specific safe harbor expenditures.

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3. Determination of Community Needs

The Tribal Council determines in the exercise of its unique knowledge and experience with regard to the Tribe's culture, traditions, activities and practices, the amount of monthly Indian general welfare benefits that are thought to encourage conduct that will help to promote the Tribe's self-determination interests set forth in Section 152.010 as well as help to reverse historic barriers unique to the Tribe's Elder population. As a guideline, but not as a binding rule or limitation, the Tribal Council looks to the average monthly unmet needs of its Elder population for basic needs and services based primarily on expenses that would otherwise qualify for IRS "safe harbor" assistance under IRS Revenue Procedure 2014-35. In this regard, the Tribal Council looks to the following unmet needs of the Tribe's Elder population when establishing the amount of monthly assistance hereunder:

- (a) Housing Assistance. Benefits that relate to principal residences and ancillary structures that are not used in any trade or business, or for investment purposes to --
 - (1) Pay mortgage payments, down payments, or rent payments (including but not limited to security deposits) for principal residences;
 - (2) Enhance habitability of housing, such as by remedying water, sewage, or sanitation service, safety issues (including but not limited to mold remediation), or heating or cooling issues;
 - (3) Provide basic housing repairs or rehabilitation (including but not limited to roof repair and replacement);
 - (4) Pay utility bills and charges (including but not limited to water, electricity, gas, and basic communications services such as phone, internet, and cable);
 - (5) Pay property taxes or payments in lieu of taxes (PILOTs).

- (b) Educational Assistance. Benefits to—
 - (1) Provide Elders who choose to pursue a course of education with transportation to and from school, tutors, and supplies (including but not limited to clothing, backpacks, laptop computers, musical instruments, and sports equipment) for use in school activities and extracurricular activities;
 - (2) Provide tuition payments for Elders who choose to pursue a course of education (including but not limited to allowances for room and board on or off campus for the Elders, and the Elder's spouse, domestic partner, and dependents);

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- (3) Provide for the care of children away from their homes to help an Elder (who is responsible for their care) to be gainfully employed or to pursue education; and
 - (4) Provide job counseling and programs to Elders for which the primary objective is job placement or training, including but not limited to allowances for—
 - a. Expenses for interviewing or training away from home (including but not limited to travel, auto expenses, lodging, and food);
 - b. Tutoring; and
 - c. Appropriate clothing for a job interview or training (including but not limited to an interview suit or a uniform required during a period of training).
- (c) Elder and Disabled Assistance. Benefits for Elders to provide --
- (1) Meals through home-delivered meals programs or at a community center or similar facility;
 - (2) Home care such as assistance with preparing meals or doing chores, or day care outside the home;
 - (3) Local transportation assistance; and
 - (4) Improvements to adapt housing to special needs (including but not limited to grab bars and ramps).
 - (5) A supplemental living allowance to help low income Elders who are enrolled in Supplemental Security Income (SSI) or otherwise demonstrate individual financial need per Section 152.200, below.
- (d) Cultural and Religious Assistance. Benefits to—
- (1) Pay expenses (including but not limited to admission fees, transportation, food, and lodging) to attend or participate in an Indian tribe's cultural, social, religious, or community activities, such as pow-wows, ceremonies, and traditional dances;
 - (2) Pay expenses (including but not limited to admission fees, transportation, food, and lodging) to visit sites that are culturally or historically significant for the Tribe, including but not limited to other Indian reservations;
 - (3) Pay the costs of receiving instruction about an Indian tribe's culture, history, and traditions (including but not limited to traditional language, music, and dances);
 - (4) Pay funeral and burial expenses and expenses of hosting or attending wakes, funerals, burials, other bereavement events, and subsequent honoring events; and
 - (5) Pay transportation costs and admission fees to attend educational, social, or cultural programs offered or supported by the Tribe or another tribe.

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(e) Miscellaneous Safe Harbor Assistance. Benefits to--

- (1) Pay transportation costs such as rental cars, substantiated mileage, and fares for bus, taxi, and public transportation between an Indian reservation, service area, or service unit area and facilities that provide essential services to the public (such as medical facilities and grocery stores);
- (2) Pay for the cost of transportation, temporary meals, and lodging of an Elder or qualified nonmember while the individual is receiving medical care away from home;
- (3) Provide assistance to individuals in exigent circumstances (including but not limited to victims of abuse), including but not limited to the costs of food, clothing, shelter, transportation, auto repair bills, and similar expenses;
- (4) Pay costs for temporary relocation and shelter for individuals involuntarily displaced from their homes (including but not limited to situations in which a home is destroyed by a fire or natural disaster);
- (5) Provide assistance for transportation emergencies (for example, when stranded away from home) in the form of transportation costs, a hotel room, and meals; and
- (6) Pay the cost of nonprescription drugs (including but not limited to traditional Indian tribal medicines).

(f) Other Assistance.

Other programs or benefits not expressly identified in (a) – (e) above but that (1) the Tribal Council approves as a safe harbor program/benefit, and (2) that otherwise meets the general principals and is consistent with the requirements of Revenue Procedure 2014-35.

4. The Tribe's Discretion

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

5. Amount

The Tribal Council appropriates benefit amounts under the Elders' General Welfare Assistance Program in accordance with the following review.

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- (a) The Tribal Council will periodically review information regarding the average or median unmet safe harbor needs with regard to its Elder population. The Tribal Council may also consider broader cost of living and standard of care issues for the Tribe's Elder population in order to enable the Tribal Council to assess the appropriate level of benefits. Such information may be gathered by use of published statistics and surveys.
- (b) The reviews called for herein shall take into account other available Tribal and non-Tribal programs that an Elder may have access to and that would meet the needs addressed by the Elders' General Welfare Assistance Program.
- (c) The annual or monthly benefit shall be established at an amount that is not lavish or extravagant and is projected to be at or below the average anticipated needs of eligible Elders based on the periodic reviews set forth in (a) and (b) above.

6. Eligibility and Application Process

(a) General Rule: Enrolled Tribal Members shall become eligible for benefit payments on the first day of the month immediately following their 62nd birthday. Effective January 1, 2017, a completed application will be required prior to receiving the initial benefit payment. As part of the application process, the Enrollment Officer shall provide Elders with information about the program including any obligations and responsibilities under this Ordinance. The Enrollment Officer will provide Elders with applications and program information at least 90 days prior to the applicant's 62nd birthday. Elders should return their completed applications to the Enrollment Officer at least 30 days prior to their 62nd birthday to ensure that benefit payments are not delayed or forfeited.

(b) No Retroactive Benefits: No benefits shall be paid to a Tribal Member for periods prior to his/her becoming an enrolled Member and satisfying the applicable eligibility and application criteria set forth above.

7. Source

Benefit payments shall be made from appropriations by the Tribal Council, subject to monies appropriated in the Tribal budget and appropriations process.

8. Method

The method of payment shall be by check, or, at the discretion of the Tribal Council, direct deposit to Elders' accounts or other method as may be beneficial and consistent with the desires of the Elders. The Tribal Accounting Department will disburse payments and keep

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records of distributed funds. The Tribal Enrollment Officer shall maintain a list of eligible Elders.

9. Payment Date

(a) General Rule: Payments shall be made by the first day of each month to all Elders who are eligible for the benefit on the first day of that month.

(b) Unclaimed Amounts: Any benefits that remain unclaimed for more than three months shall be forfeited.

10. Waiver of Benefit

Elders may, upon written, notarized request, waive general welfare benefits. An election to waive benefits may be made indefinitely, or for a certain period of time, not less than six months. Notarization shall be waived if the request is signed in the presence of the Tribal Enrollment Officer or Executive Director. A waiver shall be executed before an individual is in actual or constructive receipt of any benefits to be waived.

11. Benefits Not to Reduce Other Resources

The benefits paid under this program shall not be available to offset, reduce or otherwise interfere with any other resources or benefits to which an Elder shall be entitled.

12. Disputes as to Eligibility

All issues as to the eligibility of a Member for benefits under this Ordinance or any disputes about the amount of said benefits shall be resolved by the Executive Director.

13. Payments to Spouse of Deceased Tribal Elder

If a Tribal Member dies after becoming an Elder, his or her spouse at the time of his or her death shall be eligible for benefits payable up to the date of death, plus an additional three months of benefits; *provided*, that this spousal benefit is not available to surviving spouses who were legally separated from a Tribal Elder when he or she passed away. These benefits are deemed to promote the general welfare based on needs of the family in coping with the loss of a Tribal Member.

14. Benefits Not an Entitlement.

(a) No entitlements intended. The programs authorized pursuant to this ordinance are not entitlement programs. The Tribe has made provision to fund the program by establishing the funds for the program within the Tribal budget, but the program may be changed or eliminated as determined to be necessary

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or appropriate. No Tribal Member or his or her estate has any vested interest in potential or unused benefits available under the programs. Neither approval of applications nor receipt of benefits of program resources creates a vested right in the applicant, the members of the applicant's household, their estate or their heirs at law.

- (b) This program shall be unfunded for tax purposes. The program will be administered in a manner to avoid premature taxation through the IRS doctrines of constructive receipt and economic benefit.
- (c) A Tribal Member's rights and eligibility to receive assistance payments under this ordinance are not subject to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, attachment or garnishment by creditors of the Tribal Member or his or her beneficiaries.
- (d) Amounts authorized pursuant to this ordinance on a per member or per person basis are based in part on estimates of the total costs typically incurred in the provision of a household, and are expected to be less than the recipient would have to provide for such costs as described in this ordinance. Benefits are not, however, limited to use for specific household needs.
- (e) Amounts provided under this ordinance shall be limited to the amounts appropriated for the programs and to such limitations as shall be set forth within the Tribal budget.
- (f) Taxes. This program is approved under the provisions of, and intended to qualify for treatment under, the Coquille General Welfare Ordinance, as the same may be amended from time to time, and Internal Revenue Code Section 139E. The Tribe intends that the services and or benefits derived from the programs shall qualify for favorable tax treatment to the fullest extent permitted under law.
- (g) Although the Tribe intends the most favorable income tax treatment available under federal and state tax laws, the Tribe will not provide or pay for professional assistance to complete tax returns if participants are audited or reviewed by federal or state taxing authorities. The Tribe will not be responsible for or pay any tax penalties or interest incurred by participants in connection with their participation in the program. It is the responsibility of each participant to consult his or her own tax advisor regarding the taxability or reporting obligations of program benefits.
- (h) Tax Reporting. To the extent that a Member is in material breach of this ordinance, or a determination is made that services or benefits provided do not constitute assistance that qualifies for favorable tax treatment under the general

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welfare doctrine or Internal Revenue Code Section 139E, then the Tribe shall file any required report(s) to the appropriate taxing authorities regarding all such amounts unless said benefits are otherwise reimbursed within the tax year.

- (i) No waiver of tribal sovereign immunity. In establishing the programs authorized pursuant to this ordinance, the Tribe has not waived its tribal sovereign immunity from unconsented suit and has not consented to suit or the jurisdiction of any state or federal court or administrative body.
- (j) The Coquille Indian Tribe shall not be liable for continuation of this program beyond budgetary resources appropriated by the Tribal Council.

15. Non-Duplication with Other Tribal Program Benefits

To the extent an Elder receives general assistance benefits and benefits under another tribal program(s), the Elder may not use general assistance benefits for any purpose that duplicates or overlaps with the use of other tribal program benefits.

16. Substantiation Guidelines/Proof of Compliance

The Tribe shall administer this program in a manner designed to ensure that benefits are used for the promotion of general welfare by ensuring that benefits are paid only to qualified Elders and that amounts are limited to those deemed by the Tribal Council to be consistent with the designated program purpose and to meet program goals. The Tribe shall retain "books and records" to substantiate compliance as follows:

- (a). The Tribe shall conduct and retain surveys specific to the Elder population to ensure that benefits are based in part on an average of the unmet safe harbor needs unique to the Tribe's Elder population.
- (b). The Tribe shall reassess the program periodically to determine whether the community needs identified in Section 152.010 are resolved or whether program continuation is deemed by the Tribal Council as a necessary or appropriate means to promote the Tribe's general welfare and long term self-determination.
- (c). All Elders will be provided individual substantiation forms to retain for their personal records confirming their eligibility for benefits as well as their use of program benefits for the promotion of the general welfare consistent with program guidelines.

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152.100 Tribal Elders' Fund Authorized

1. Fund Name

There is hereby authorized by the Coquille Indian Tribe the Tribal Elders' Fund (the Elders' Fund).

2. Fund Purpose

The Tribal Council establishes the Elders' Fund to provide resources to support the Elders' General Welfare Assistance Program as authorized by this Ordinance.

3. Fund Description

During the Tribe's visioning and strategic planning processes, Tribal Members identified as a priority the establishment of programs and services to provide assistance to Tribal Elders. In 2000, the Tribal Council approved an ordinance to create a self-sustaining fund to finance a pension program that would support and assist Tribal Elders. The Tribal Council established the Tribal Elders' Fund with the intent that it will provide resources in perpetuity that help support Tribal Elders.

4. Fund Authorization

The Tribal Council authorizes the Elders' Fund pursuant to CITC 160.200 for the specific purpose and uses established by this Ordinance. The Elders' Fund shall be accounted for as permanent fund type in accordance with Generally Accepted Accounting Principles as promulgated by the Government Accounting Standards Board.

5. Fund Contributions

The contributions to the Elders' Fund shall be by appropriation of resources available from Tribal revenues and thereafter will grow through further Tribal contributions and the addition of unexpended annual investment earnings. The Tribe may accept private donations to the Fund, provided that such donations require no specific actions on the part of the Tribe other than to be used for the program.

6. Fund Custody

Contributions, assets and earnings of the Fund shall be held in a bank account, brokerage account, or an account of an institutional trust company, or any combination thereof, selected by the Chief Financial Officer and approved by the Tribal Council. Elders'

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Fund assets shall be invested in accordance with CITC 160.300 and may be invested in common with other Tribal fund assets to facilitate efficient management, provided they have similar duration, liquidity and risk constraints.

7. Fund Uses

The Elders' Fund may only be used to provide assistance to Elders and their families as authorized by the Tribal Council. Amounts shall not be appropriated from the Elders' Fund until it reaches its minimum target fund balance. Thereafter, in accordance with its intent as a permanent non-expendable fund, the Tribal Council intends to expend only a portion of the earnings each year so that the principle of the fund shall not be less than an amount needed to finance benefits in perpetuity. Such amounts shall be appropriated annually pursuant to the Tribal budget. The Tribal Council anticipates that resources other than from the Fund shall be utilized in early years of the program while the fund is built to a desired level. Except as otherwise provided within Tribal budgets, any unused amounts appropriated to provide benefits during any calendar year shall be returned to the Elders' Fund.

8. Reporting Requirements

Unless the Tribal Council directs otherwise, the Chief Financial Officer shall provide the Tribal Council with an accounting for the Fund, including its receipts, disbursements, cumulative principal contributions and fund balance, within 45 days following the end of each calendar quarter.

9. Target Fund Balance

The minimum target fund balance shall be an actuarially established amount needed to finance authorized benefits in perpetuity, based on Tribal enrollment, life expectancies and reasonable estimates for annual rates of investment return.

10. Non-Funded; No Alienation

The Fund established under this Ordinance is not to be treated as a trust. The establishment of a fund called for herein does not create any rights directly in an Elder or any person or entity claiming any right through an Elder. The Fund is not separate from the general assets of the Tribe except to the extent it is accounted for through appropriate bookkeeping entities for compliance with this Ordinance. All assets in the fund are and shall remain solely assets of the Coquille Indian Tribe. No individual or entity shall have any right to alienate, pledge, liquidate, hypothecate or assert any other rights of ownership of the fund. Assets in the fund are not subject to levy, attachment or garnishment by any creditor of an Elder or any claimant asserting a right through an Elder.

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152.200 Designation as Supplemental Security Benefit

An Elder (or qualifying surviving spouse as provided in Section 152.030(13) above), that applies and qualifies for the Elders' General Welfare Assistance Program may have their payment designated as "Tribal Supplemental Security benefit" to help 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 or Supplemental Security payments or other benefits to which the member may be entitled.

An Elder (or qualifying surviving spouse as provided in Section 152.030(13)) who satisfies the general eligibility and application requirements of Section 152.030(6) above, may apply for Tribal Supplemental Security benefits, in lieu of safe harbor benefits; provided that the Elder submits evidence of enrollment in Supplemental Security Income (SSI) or a similar state or federal needs based program with their initial application as provided in Section 152.030(6). An individual approved for Tribal Supplemental Security benefits shall have a duty to update his/her application information as material changes occur in his/her eligibility for SSI or other similar state or federal needs based programs.

152.800 Implementation and Review

1. The Executive Director will develop regulations to carry out the provisions of this Ordinance.

2. The Executive Director will provide for periodic reviews of the programs authorized by this Ordinance and shall make recommendations for such changes as are consistent with the intent of the this ordinance. Reviews may include a limited or informal actuarial analysis to determine the amount needed in the Elders' Fund for future annual expenditures.

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History of Amendments to Chapter 152 Elders Benefit Program and Elders Supplemental Security Income Program Ordinance:

Adopted 09/23/2000

Adopted 02/02/2006

Approved 10/28/2006, CY0686

Approved 12/16/2010, CY10120

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