

DISTRIBUTION OF NET REVENUES ORDINANCE

Siletz Tribal Code § 4.200

Table of Contents

§ 4.200 AUTHORITY 1
§ 4.201 PURPOSE 2
§ 4.202 DEFINITIONS..... 2
§ 4.203 PRIORITY FOR DISTRIBUTION OF NET REVENUES..... 3
§ 4.204 PROCEDURES FOR DISTRIBUTION OF EXCESS TRIBAL NET REVENUES 4
§ 4.205 PROCEDURES FOR DISTRIBUTIONS TO THE TRIBAL GOVERNMENT
OPERATIONS AND PROGRAMS CATEGORY 4
§ 4.206 PROCEDURES FOR DISTRIBUTIONS TO THE ECONOMIC DEVELOPMENT
CATEGORY 5
§ 4.207 PROCEDURES FOR DISTRIBUTIONS TO THE GENERAL WELFARE CATEGORY. 5
§ 4.208 PROCEDURES FOR DISTRIBUTIONS TO THE INVESTMENT CATEGORY 5
§ 4.209 PROCEDURES FOR DISTRIBUTIONS TO THE CHARITABLE PURPOSES
CATEGORY 6
§ 4.210 PROCEDURES FOR DISTRIBUTIONS TO TRIBAL MEMBERS 6
§ 4.211 TAXATION 9
§ 4.212 SEVERABILITY 9
§ 4.213 NO WAIVER OF SOVEREIGN IMMUNITY 9
§ 4.214 ENFORCEMENT 9
§ 4.215 AMENDMENT 10

Ordinance No. 4.200. Amended by Resolution No. 01-236, dated July 21, 2001; Resolution No. 2001-335, dated November 2, 2001; Resolution No. 2002-223, dated June 15, 2002; Resolution No. 2002-446, dated December 20, 2002; Resolution No. 2003-531, dated December 19, 2003, Resolution No. 2004-197, dated May 23, 2004; Resolution No. 2004-270, dated June 18, 2004; Resolution No. 2005-361, dated September 16, 2005; Resolution No. 2005-449, dated November 16, 2005; Resolution No. 2007-127, dated March 16, 2007; Resolution No. 2008-474, dated December 30, 2008; Resolution No. 2009-260, dated June 19, 2009; Resolution No. 2024-135, dated April 19, 2024; Resolution No. 2026-119, dated April 17, 2026.

Original Date: July 6, 1999
Subject: Distribution of Net Revenues

DISTRIBUTION OF NET REVENUES ORDINANCE

Siletz Tribal Code § 4.200

§ 4.200 AUTHORITY

The Confederated Tribes of Siletz Indians of Oregon (the “**Siletz Tribe**” or “**Tribe**”) operates a gaming enterprise, established by tribal charter, on reservation trust land, pursuant to the Indian Gaming Regulatory Act (“**IGRA**”), 25 U.S.C. § 2701 *et seq.* IGRA provides a statutory basis for the operation of gaming by Indian tribes as a means of promoting tribal economic development, self-sufficiency and strong tribal government, and requires that net revenues from any tribal gaming operation must be used only for the following purposes:

- (1) to fund tribal government operations or programs;
- (2) to provide for the general welfare of the Indian tribe and its members;
- (3) to promote tribal economic development;
- (4) to donate to charitable organizations; or
- (5) to help fund operations of local government agencies.

See 25 U.S.C. § 2710(b)(2)(B); 25 U.S.C. § 2710(d)(2)(A); 25 U.S.C. § 2702. This requirement is also set out in federal regulations at 25 CFR § 522.4 and 25 CFR § 522.6. The Tribe may also distribute excess net revenues in the form of per capita payments to tribal members pursuant to tribal revenue allocation plan that has been approved by the appropriate official within the U.S. Department of the Interior. 25 C.F.R. Part 290. The U.S. Department of the Interior approved the Tribe's plan on November 20, 2001. The Tribal Council, pursuant to its delegated authority set forth at Article IV, Section 1 of the Siletz Constitution, has authority to carry out the purposes of the Siletz Constitution, one of which is to "acquire, develop and conserve resources to achieve economic and social self-sufficiency for our tribe," and another which is to "help our members achieve their highest potentials in education, physical and mental health and economic development."

§ 4.201 PURPOSE

The Siletz Tribe established and operates a gaming enterprise, the net revenues from which shall be allocated to the purposes set forth in this Distribution of Net Revenues Ordinance (this "**Ordinance**"), which shall also serve as the Tribe's Revenue Allocation Plan. The purpose of this Ordinance is to establish a plan and procedure for the disbursement and use of net revenues from the Tribe's gaming operation consistent with IGRA, with the Siletz Constitution, and with tribal law.

§ 4.202 DEFINITIONS

Except as specifically defined herein, the terms used in this ordinance shall have the meaning given them in the Indian Gaming Regulatory Act, or in federal regulations and policies implementing said Act.

"Charitable Purposes" shall mean distributions to charitable organizations or local governments within the Tribe's Service Area for any of the following purposes: education; health; public safety; gambling addiction; prevention; drug and alcohol treatment; housing; the arts; the environment and natural resource preservation; cultural activities; historic preservation; and other charitable purposes.

"Enrolled Minor Tribal Member" shall mean an individual who in any calendar year is an Enrolled Tribal Member, except that he or she has not reached the age of eighteen (18) as of the last date of the last period for which a membership distribution is made.

"Enrolled Tribal Member" shall mean an individual who is duly enrolled in the Tribe.

"Excess Tribal Net Revenues" shall mean those net revenues of the Tribe's gaming operation, less amortized payment of the gaming operation's capital, construction, and equipment costs.

"Gaming Operation" shall mean the Siletz Tribe's gaming enterprise conducted in the Gaming Facility known as the "Chinook Winds Casino and Convention Center" or the "Chinook Winds Casino" ("**Chinook Winds**"), located on trust land within the Siletz Tribe's reservation in Lincoln City, Oregon. Both gaming and non-gaming activities take place within Chinook Winds.

Chinook Winds Casino is the subject of a Tribal-State Compact (“**Compact**”) negotiated with the State of Oregon and approved by the Secretary of the Interior, pursuant to IGRA, as amended. The Siletz Tribe operates a non-profit bingo operation on trust lands of the Siletz Reservation in Siletz, Oregon. To the extent additional gaming operations are authorized by the Siletz Tribe pursuant to IGRA, such gaming operations shall be included within the definition of Gaming Operation under this Ordinance.

“**Legally Incompetent**” shall mean an individual who is eligible to receive a distribution and who has been declared to be under a legal disability, other than being a minor, by a court of competent jurisdiction, including tribal justice systems or as established by the Tribe.

“**Net Revenues**” shall mean gross revenues of an Indian gaming operation less (i) amounts paid out as, or paid for, prizes; and (ii) total operating expenses of the Indian gaming operation, excluding management fees. *See* 25 U.S.C. § 2703(9).

“**Per Capita Payment**” shall mean an amount of money paid to an enrolled tribal member out of excess net gaming revenue funds when approved by the Tribal Council in accordance with this Ordinance. This definition does not apply to payments that have been set aside by the Tribe for special purposes or programs, such as payments made for social welfare, medical assistance, education, housing or other similar, specifically identified needs.

“**Qualifying Disability**” shall mean a medically determinable physical or mental impairment, which results in marked and severe functional limitations that can be expected to result in death or which have lasted or can be expected to last for a continuous period of not less than twelve (12) months.

“**Service Area**” shall mean the eleven-county geographic territory which the Siletz Restoration Act, 25 U.S.C. § 711 *et seq.*, its legislative history and technical amendments, define as the territory which is deemed equivalent to a reservation for the Tribe, for purposes of federal services and benefits.

§4.203 PRIORITY FOR DISTRIBUTION OF NET REVENUES

Net Revenues from the Siletz Tribe’s gaming operations shall be dedicated exclusively, as a first priority, to repayment of capital, construction, and equipment costs (repayment of principal) of the Gaming Operation known as Chinook Winds and which are the subject of written contracts or agreements. To the extent such costs are amortized or other arrangements exist for repayment of principal amounts over time or pursuant to a formula, the priority established in this Section for use of Net Revenues shall be satisfied when monthly principal payments specified in the contracts or agreements have been made and sufficient operating reserves, according to prudent business standards or set forth in such contracts or agreements, are in place to make future operational and principal payments.

§4.204 PROCEDURES FOR DISTRIBUTION OF EXCESS TRIBAL NET REVENUES

(a) Priority for Distribution of Excess Tribal Net Revenues. Excess tribal Net Revenues shall be disbursed after disbursement of Net Revenues as set out in STC § 4.203 has been satisfied.

(b) Categories and Formula for Distribution of Excess Tribal Net Revenues. Annual excess tribal Net Revenues shall be disbursed in the following categories and amounts; provided, that the percentage breakdown of uses within the following percentage ranges shall total 100% of the allocation of excess tribal Net Revenues for the fiscal year pursuant to 20 C.F.R. § 290.12:

(1)	Tribal government operations and programs	10-15%
(2)	Tribal Economic Development	10-15%
(3)	General Welfare	10-25%
(4)	Investment:	10-15%
(5)	Local Government and Charitable Purposes:	5%
(6)	Distributions to Enrolled Tribal Members:	40%

(c) General Procedure for Distribution of Excess Tribal Net Revenues. Excess tribal net revenues for a particular fiscal year for the Gaming Operation shall be certified to the Tribal Council by an independent auditor within (90) days after the end of each fiscal year, as part of the independent annual audit conducted of the Gaming Operation pursuant to the Compact and IGRA. The certified annual excess tribal net revenues amount shall be allocated as set forth in subsection (b) of this Section, and expenditure of those funds, except for funds allocated pursuant to §§ 4.205 through 4.211, shall be accomplished pursuant to the Siletz Budget Ordinance. The Tribal Council may establish procedures or advisory bodies, as necessary and appropriate, to recommend how and for what purpose excess tribal net revenues should be expended in the various categories.

§ 4.205 PROCEDURES FOR DISTRIBUTIONS TO THE TRIBAL GOVERNMENT OPERATIONS AND PROGRAMS CATEGORY

Tribal governmental operations and programs funded under this Section may include, but are not limited to: the Tribal Council, tribal administration, and legal and justice support. Additional funding may be provided for other tribal governmental operations and programs hereafter developed.

§ 4.206 PROCEDURES FOR DISTRIBUTIONS TO THE ECONOMIC DEVELOPMENT CATEGORY

The Tribal Council may further use funds allocated under this category to foster the Tribe's financial independence, self-sufficiency, and support for the long-term spending needs of the Tribe. For instance, the Tribal Council shall invest funds, retaining sufficient liquidity to satisfy current needs. All interest, profits, or dividends earned shall remain in that respective account and be carried forward from year to year.

§ 4.207 PROCEDURES FOR DISTRIBUTIONS TO THE GENERAL WELFARE CATEGORY

In addition to the set-aside for distributions to members described in STC § 4.210, the Tribal Council may establish additional programs for the general welfare of the Tribe and its members to be funded from the allocation of net gaming revenues for tribal operations. General welfare programs may include, but not be limited to, tribal housing programs, tribal elder assistance programs, education benefits, individual member emergency assistance for childcare, utilities, flood and fire, emergency travel and the like. Funds in this category may also be used to supplement tribal governmental and program operations budgets and to provide support for existing program facilities for those programs designed to promote the general welfare of tribal members. Each program authorized under this category shall be established through written guidelines and shall satisfy the requirements of the Tribal General Welfare Exclusion Act of 2014 and Internal Revenue Service (“IRS”) guidance issued thereunder.

§ 4.208 PROCEDURES FOR DISTRIBUTIONS TO THE INVESTMENT CATEGORY

(a) Policy. It shall be the policy of the Siletz Tribe to use and invest a percentage of excess tribal Net Revenues to address the long-term needs of the Tribe. This policy shall be accomplished in part, as set out in STC § 4.204(b)(4), by using 40-60% of the excess tribal Net Revenues allocated to the Investment category for the acquisition of real property. The remaining excess tribal Net Revenues allocated to the Investment category (40-60%) shall be invested, as set out in STC § 4.204(b)(4).

(b) Procedure. Excess tribal Net Revenues distributed to the Investments sub-category pursuant to STC § 4.204(b)(4) shall be invested pursuant to the formal investment policy of the Tribe. Each year the Tribe shall, in its budget procedure, allocate the earnings earned in the previous year from said investments to Government Operations, General Welfare, and Economic Development, in percentage amounts approved by the Tribal Council. The Tribe shall authorize use of funds from the investment fund principal only for a specific stated purpose and only by a two-thirds (2/3) vote of the seated members of the Tribal Council.

§ 4.209 PROCEDURES FOR DISTRIBUTIONS TO THE CHARITABLE PURPOSES CATEGORY

(a) Policy. The Siletz Tribe is a permanent and important component of the local community. The Tribe is an active participant in local governmental and community affairs. The Tribe has affirmed its participation as a member of the community in part through its long-standing financial commitment to and support of local governments and charitable causes. The Siletz Tribe hereby reaffirms that its support of local government and the local community is of an on-going and permanent nature.

(b) Disbursements to Local Governments; Tribal Expenditures. The Tribe may enter into inter-governmental agreements with local governments to fund costs associated with the presence of gaming operations in the community, or to fund requests from local governments.

Inter-governmental agreements involving the funding of infrastructure costs associated with the presence of gaming operations in the community shall be funded as an operating cost of gaming operations. Charitable activities sponsored by or operated by local governments may be funded pursuant to this Section.

The Tribe funds tribal programs which include those for Charitable Purposes as defined at STC § 4.202. Regular tribal programs shall not be funded from the Charitable Purposes category.

(c) Disbursements to Charitable Organizations. The Tribal Council may make grants of funds from this account to charitable entities who request funding from the Tribe for Charitable Purposes, after review and upon the recommendation of a body such as an Advisory Board designated by the Tribal Council.

§ 4.210 PROCEDURES FOR DISTRIBUTIONS TO TRIBAL MEMBERS

(a) General Provisions. The Siletz Tribe will make distributions to Enrolled Tribal Members consisting of one or both of two categories: first, the Tribe will set aside funds for distributions to Enrolled Tribal Members for special purposes or programs to promote the general welfare of the Tribe, such as payments made for social welfare, medical assistance, education, housing or other similar, specifically identified needs; the Tribe will identify these distributions as “general welfare payments.” Second, remaining funds available for member distributions will be distributed to Enrolled Tribal Members as Per Capita Payments.

(b) Set-Aside for Special Purposes and Programs.

(1) Enrolled Tribal Members have significant general welfare needs, including but not limited to, social welfare, medical assistance, education, housing or other similar needs. The Tribal Council shall annually determine, based on an evaluation of community needs, the portion of the amount allocated to member distributions that will be set aside for these purposes and distributed to Enrolled Tribal Members as general welfare payments. In evaluating the needs of the community, the Tribal Council shall take into account the needs addressed by the Tribe’s general welfare programs described in § 4.207.

(2) Because every Enrolled Tribal Member has significant general welfare needs, but each member’s specific needs may vary, the Tribal Council will establish general welfare programs that provide flexibility for Enrolled Tribal Members to determine, within certain limits, how to utilize the general welfare payments they receive. These programs shall be established in accordance with the Tribe’s laws and this § 4.210, and shall be in compliance with the requirements of the general welfare doctrine, including the Tribal General Welfare Exclusion Act of 2014 and IRS guidance issued thereunder.

(c) Method of Distributions.

(1) Distributions will be made directly to Enrolled Tribal Members who are not Enrolled Minor Tribal Members or Legally Incompetent except as otherwise provided in this Ordinance.

(2) Enrolled Tribal Members for whom a Disabled Adult Trust has been established may have distributions deposited directly into such trust.

(3) Distributions for each Legally Incompetent member and each Enrolled Minor Tribal Member shall be made on the same schedule and at the same time as distributions to all other Enrolled Tribal Members except that such distributions shall be placed in trust, as set forth in this Ordinance.

(d) Requirements and Procedures for Receiving Distributions. The Tribal Council may establish requirements and procedures for receiving distributions, so long as such requirements and procedures are consistent with this Ordinance and applicable federal and tribal law.

(e) Reallocation of Funds. The Tribal Council has the discretion to reallocate contributions of net gaming revenues and trust assets for the purpose of providing general welfare payments in lieu of Per Capita Payments to the extent consistent with the Tribe's general welfare laws and programs, resolutions of the Tribal Council, and requirements of the general welfare doctrine, including the Tribal General Welfare Exclusion Act of 2014 and IRS guidance issued thereunder.

(f) Garnishment. Attachment of member distributions may be accomplished in accordance with tribal law.

(g) Deferment of Distributions to Enrolled Tribal Members. In its discretion, the Tribal Council may offer trust arrangements pursuant to which an Enrolled Tribal Member may elect to defer all or a portion of their distribution.

(h) Distributions to Enrolled Minor Tribal Members, Legally Incompetent Members and Enrolled Tribal Members with a Qualifying Disability, and Deceased Enrolled Tribal Members.

(1) Enrolled Minor Tribal Members and Legally Incompetent Members.

i. The Tribe shall establish one or more grantor trusts owned by the Tribe to provide for the future health, education, and welfare of the Enrolled Minor Tribal Members and Legally Incompetent members of the Tribe, for whom the Tribe has not established a separate Disabled Adult Trust in accordance with STC § 4.210(h)(2). Any trust established pursuant to this subsection 4(g) may contain additional terms, so long as such terms are consistent with this Ordinance and are intended to protect and preserve the interests of the beneficiaries.

ii. Monies held in trust pursuant to this section on behalf of an Enrolled Minor Tribal Member or Legally Incompetent member are not available to or for the benefit of the

beneficiary until the beneficiary ceases to be a minor or Legally Incompetent, except for disbursements that may be made only at times and in such amounts as are necessary for the health, education, or welfare of the Enrolled Minor Tribal Member or Legally Incompetent member, as determined for extraordinary purposes by the Trust Officer based on the criteria established in the Tribal Council-approved trust instrument or in a separate ordinance, to a parent, guardian, conservator, or other person or entity with legal custody of the Enrolled Minor Tribal Member or Legally Incompetent member to meet specific needs of the Enrolled Minor Tribal Member or Legally Incompetent member. Such trust instrument or ordinance shall further set forth accountability requirements for any parent, guardian, conservator, or other person or entity who has received funds on behalf of an Enrolled Minor Tribal Member or Legally Incompetent member to document the use of funds for the health, education, or welfare of the Enrolled Minor Tribal Member or Legally Incompetent member.

iii. Upon reaching the age of eighteen (18) years or upon a court of competent jurisdiction determining that an adult is no longer Legally Incompetent, an Enrolled Tribal Member shall be eligible to request distributions of account funds as set forth in this Ordinance and in accordance with other procedures and requirements that Tribal Council may establish.

(2) Disabled Adult Trust. A presumption shall exist for any adult Enrolled Tribal Member eligible for a distribution that such member is entitled to receive a distribution on the distribution date. In its discretion, the Tribal Council may establish a Disabled Adult Trust for any Legally Incompetent member or Enrolled Tribal Member who has a Qualifying Disability. After the formation of a Disabled Adult Trust, the Tribe shall place all member distributions allocable to the beneficiary into such Disabled Adult Trust.

(3) Deceased Individuals.

i. Any Enrolled Tribal Member who is alive on the cut-off date for a tribal distribution asset set out in a resolution as required in this STC § 4.210 is entitled to disbursement of the distribution amount. In the event an Enrolled Tribal Member dies between the distribution cut-off date and the date when the distribution funds are to be disbursed, that member's distribution monies shall be disbursed to the member's legal heirs according to applicable probate law, or if all the legal heirs agree in writing on some alternative disbursement, then as agreed.

ii. Upon the death of a beneficiary of a trust established pursuant to this section, the beneficiary's share of the trust assets shall be paid to the beneficiary's legal heirs according to applicable tribal or state probate laws, or to the Tribe if the beneficiary has no legal heirs. If funds are paid to the Tribe under this section, such funds shall be redistributed to the general revenue distribution pool.

iii. It shall be the responsibility of the heirs to provide sufficient proof to the Trust Officer for the Trust Officer to prepare a petition to Tribal Court to determine who should receive the deceased tribal member's distribution monies. The Trust Officer may issue regulations, subject to Tribal Council approval, setting out the documentation necessary to release funds under this subsection.

iv. The Trust Officer shall petition the Tribal Court for a determination of this issue, and shall disburse the deceased member's distribution monies to the person or persons identified in the Tribal Court's order.

v. In the event a deceased tribal member's estate is subject to a probate proceeding or other legal proceedings have been initiated by creditors or other persons or entities seeking to obtain the deceased member's assets, the Trust Officer may pay the distribution monies which would have been disbursed to that member into the court for disbursement as the court determines.

§ 4.211 TAXATION

If the Tribal Council determines to make Per Capita Payments, the Tribal Council or its appointed agent shall furnish a notice to each Enrolled Tribal Member stating that Per Capita Payments are subject to federal income tax. The notice shall state that the Tribe shall withhold federal income tax from the Per Capita Payments if the annual payment exceeds such amount as the IRS may require. The Tribe will calculate federal withholding using the "Tables for Withhold on Distributions of Indian Gaming Profits to Tribal Members" provided by the IRS and/or as otherwise required by federal law.

§ 4.212 SEVERABILITY

If any section, or any part thereof, of this Ordinance or the application thereof to any party, person, or entity or, in any circumstances, shall be held invalid for any reason whatsoever by a court of competent jurisdiction, or by the Department of the Interior, the remainder of such section or part of this Ordinance shall not be affected thereby and shall remain in full force and effect as though no section, or part thereof, has been declared to be invalid.

§ 4.213 NO WAIVER OF SOVEREIGN IMMUNITY

No provision in this Ordinance expressly or impliedly waives the sovereign immunity of the Tribe, its officials, or employees or operates as consent to suit.

§ 4.214 ENFORCEMENT

The Trust Officer shall have authority to petition the Tribal Court to determine any dispute or issue which may arise under this Ordinance, in his or her discretion, and the Tribal Court shall have original jurisdiction over such petitions.

Except as otherwise specified in this Ordinance, the Siletz Tribal Court shall have exclusive jurisdiction to resolve disputes concerning the allocation of net gaming revenues and the distribution of per capita funds. The Tribal Court may overturn a decision only if it finds that the decision was arbitrary and capricious or an abuse of discretion.

§ 4.215 AMENDMENT

This Ordinance shall not be amended or revoked except by a two-thirds vote of seated members of the Tribal Council, subject to approval by the Secretary of the Interior or his delegate.