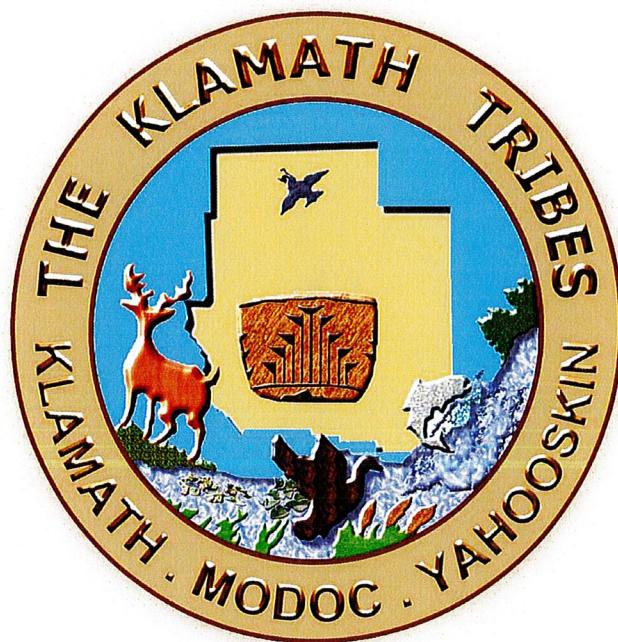


# **GENERAL WELFARE ORDINANCE**

## **KLAMATH TRIBAL CODE**

**Title 5 Chapter 38**



**Adopted October 15<sup>th</sup>, 2021  
by  
General Council Resolution 2021-002**

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### **38.01 Authority.**

This General Welfare Ordinance is adopted pursuant to the authority vested in the Klamath Tribes General Council by virtue of its inherent sovereignty as an Indian tribal government and Article VI of the Constitution of the Klamath Tribes that provides that the General Council has the power to adopt and enforce ordinances providing for the maintenance of law and order, and to exercise all other reserved powers.

### **38.02 Purpose.**

The purpose of this ordinance is to memorialize the procedures used by the Tribe to determine what services or programs are needed to promote public health, safety and other basic need services for the promotion of the general welfare of the Tribe such as sewer, water, electrical service/power, infrastructure, housing, public sanitation services, public education and other such functions that support the long historical and cultural general welfare of the Tribe. The second purpose of this Ordinance is to establish basic guidelines and procedures for programs to follow in ensuring compliance with the general welfare doctrine and Internal Revenue Code Section 139E.

### **38.03 Background and Intent.**

The Klamath Tribes, a federally recognized Indian Tribe, exercises its inherent rights of sovereignty to promote the general welfare of the Tribe, its self-determination, culture, and tradition, by providing general welfare assistance, including Indian general welfare benefits within the meaning of Internal Revenue Code Section 139E. Both the United States Congress, through its enactment of the Tribal General Welfare Exclusion Act of 2014, and the Internal Revenue Service, through its traditional application of the general welfare doctrine, have long recognized the sovereign right of Indian tribal governments to provide financial assistance to individuals under certain circumstances on a non-taxable basis. This Ordinance is intended to affirm the Tribe's inherent sovereign rights to promote the general welfare of the Tribe and provide qualifying assistance and program benefits on a tax free basis. In this regard, the Constitution of the Tribe confirms the sovereign duty and responsibility of the Klamath Tribes to maintain the culture and independence of its members, to encourage the economic well-being of its members, and to promote the rights of its members and their common welfare. The Assistance authorized by this Ordinance is intended to qualify for tax free treatment to the fullest extent permitted at law. Without limitation, the following benefits shall be treated as non-taxable hereunder:

- (1) Benefits that satisfy the requirements for exemption under Code Section 139E;
- (2) Benefits that are provided under and IRS Safe Harbor Program; or
- (3) Benefits that qualify for exclusion under the IRS General Test.

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This ordinance does not limit or replace benefits that meet another express exemption under the Internal Revenue Code, such as the exemption provided for tribal medical expenses under Internal Revenue Code Section 139D, or that meet other recognized exemptions including, for, example, resource or land-based exemptions under 25 U.S.C. Sections 117a-b, 1407 and 1408.

**38.04 Definitions.**

- (1) **“Assistance”** Any Program benefits or payments that qualify for tax free treatment under the General Welfare Exclusion.
- (2) **“Beneficiary”** Any person or persons entitled to receive Assistance in accordance with specific Program guidelines. Programs designed to qualify for exemption under Code Section 139E may benefit Members, spouses of a Member, and/or Dependents of a Member. Programs designed to meet the Safe Harbor may benefit any Member or Qualified Nonmember.
- (3) **“Code”** the Internal Revenue Code of 1986, as amended.
- (4) **“Compensation”** for services should reflect that qualifying Programs are not disguised employment. However, this shall not prevent the Tribe from structuring Programs with community service ties so long as such ties are consistent with the General Welfare Exclusion. For example, Programs similar to the Workforce Investment Act may include tax free Assistance.
- (5) **“Constitution”** means the Constitution of the Klamath Tribes.
- (6) **“Disability” or "Disabled"** The term disability or disabled as used for purposes of Programs covered by this Ordinance shall refer to the inability of an individual to care for himself / herself due to physical or mental limitations and shall be determined in accordance with the tribal law.
- (7) **“Dependent”** The term “Dependent”, for purposes of Code Section 139E, has the meaning given such term by Code Section 152, determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B).
- (8) **“General Welfare Exclusion”** Assistance shall be treated as non-taxable so long as it satisfies the requirements for exclusion under Code Section 139E, it is provided under a Safe Harbor Program, or it meets the General Test.
- (9) **“Lavish” or “Extravagant”** Except as otherwise required for compliance with final guidance issued under Code Section 139E following consultation, lavish and extravagant shall be determined by the Tribal Council in its sole discretion based on all facts and circumstances, taking into account needs unique to the Tribe as well as the social purpose being served by the particular Assistance at hand.

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(10) **“Member”** The term “Member” shall mean enrolled members of the Tribe and such other individuals who may be treated as members for Assistance as determined by the Tribal Council in accordance with the laws, customs, culture and traditions of the Tribe.

(11) **“Ordinance”** means the General Welfare Ordinance.

(12) **“Pay” or “paid” or “payment”** means pay or reimburse in whole or in part.

(13) **“Program” or “Approved Program”** means any program established by or under authority of the Tribal Council, including any program authorized through the annual budget process, to provide Assistance hereunder. A program shall not fail to be treated as an Indian tribal government Program solely by reason of the Program being established by tribal custom or government practice.

(14) **“Promotion of the general welfare” or “Social benefit”** should reflect a goal or goals established by and in the sole discretion of the Tribal Council for the promotion of the general welfare of the Tribe, for example, in furtherance of tribal self-determination, culture and tradition.

(15) **“Qualified Nonmember”** means a spouse, former spouse, legally recognized domestic partner or former domestic partner, ancestor, descendant, or Dependent of a member of the Tribe. Individual Tribal Programs may, but are not required to, cover Qualified nonmembers.

(16) **“Reservation”** means the Tribe’s reservation or, if the context so permits, any other Indian reservation as defined in Internal Revenue Code Section 162(j).

(17) **“Safe Harbor Program”** shall refer to a Program that meets the safe harbor requirements set forth herein and in IRS Revenue Procedure 2014-35, as the same may hereafter be amended. Need shall be presumed for Assistance provided under a Safe Harbor Program.

(18) **“Service Area”** has the same meaning as in 25 C.F.R. Section 20.100.

(19) **“Service Unit Area”** means an area designated for purposes of administration of Indian Health Service programs under 42 C.F.R. Section 136.21(l).

(20) **“Self-determination”** should be construed broadly to reflect traditional health, education and welfare programs as well as unique cultural and traditional based programs and economic development.

(21) **“Spouse”** shall be determined in accordance with Tribal laws, customs and traditions.

(22) **“Tribal Council” or “Council”** means the Tribal Council of the Tribe.

### **38.05 Ratification of Prior Acts.**

This Ordinance does not establish a new program or programs. This Ordinance is intended to memorialize and confirm existing procedures used in the administration of general welfare assistance programs and services and is not to be construed as the creation of new general welfare assistance rights that previously did not exist. Assistance provided prior to the enactment of this Ordinance is hereby ratified and confirmed as general welfare assistance pursuant to the authority of the Tribal Constitution. It is intended to establish a framework to improve the coordination of general welfare doctrine compliance. Programs and services referred to herein must be authorized by independent action of the Council or its designees.

### **38.06 General Welfare Doctrine.**

The Internal Revenue Service has historically recognized that payments by a Tribal government to Tribal Members under a legislatively provided social benefit program for the promotion of the general welfare of the Tribe are excludable from the gross income of those Tribal Members who receive said payments. The Tribal General Welfare Exclusion Act of 2014 was signed into law on September 26, 2014. The assistance payments and services authorized by this Ordinance are intended to qualify for favorable tax treatment under the general welfare doctrine to the fullest extent permitted by law and shall be construed accordingly. Self-determination should be construed broadly to reflect traditional health, education and welfare programs, as well as unique cultural and traditional based programs and economic development.

### **38.07 Non-Resource Designation.**

General welfare services and payments thereunder are paid from assets of Tribal government; all payments are based on budget availability of the Tribal government, and the Tribal government does not guarantee any payments hereunder. Benefits paid hereunder on the basis of need shall not be treated as a resource of the Member for any purpose.

### **38.08 Federal Trust Obligations; Executive Orders.**

The Tribe reserves the right to provide Assistance including circumstances where federal funding is insufficient to operate federal programs designed to benefit Tribal Members and when federal funding is insufficient to adequately and consistently fulfill federal trust obligations. The Tribe's adoption of Approved Programs is not intended to relieve or diminish the federal government of its funding and trust responsibilities. Nothing herein shall waive the Tribe's right to seek funding shortfalls or to enforce the trust rights of the Tribe and its members. The Tribe shall be entitled to government-to-government consultation and coordination rights in regard to this Ordinance.

### **38.09 Indian General Welfare Benefits (Code Section 139E).**

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Programs that meet the following criteria for exemption under Code Section 139E shall be treated as non-taxable Assistance under the General Welfare Exclusion without the applicant having to demonstrate individual need.

- (1) Each payment made or service provided to or on behalf of a Member (or any Spouse or Dependent of the Member) pursuant to a Program under this Ordinance shall be treated as non-taxable Assistance under the General Welfare Exclusion so long as the following criteria are met:
  - (a) The Program is administered under specified guidelines and does not discriminate in favor of the members of the governing body of the Tribe;
  - (b) Program benefits are available to any Tribal Member who meets such guidelines;
  - (c) Program benefits are for the “promotion of the general welfare;”
  - (d) Program benefits are not Lavish or Extravagant; and
  - (e) Program benefits are not Compensation for services.
- (2) Ceremonial Activities. Any items of cultural significance, reimbursement of costs, or cash honorarium for participation in cultural or ceremonial activities for the transmission of Tribal culture shall not be treated as Compensation for services.

### **38.10 Safe Harbor Programs.**

Programs that meet the following general criterial for safe harbor treatment, and provide qualifying safe harbor benefits, shall be treated as non-taxable Assistance under the General Welfare Exclusion without the applicant having to demonstrate individual need:

- (1) General Criterial for Safe Harbor Treatment:
  - (a) The benefit is provided under a specific approved program of the Tribe;
  - (b) The program has written guidelines specifying how individuals may qualify for the benefit;
  - (c) The benefit is available to any Tribal citizen, identified group of Tribal citizens, or qualified non-citizen who satisfy the program guidelines, subject to budgetary restraints;

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- (d) The distribution of benefits from the program does not discriminate in favor of the governing body of the Tribe;
- (e) The benefit is not compensation for goods or services; and
- (f) The benefit is not lavish or extravagant under the facts and circumstances, as determined by the Tribal Council.

(2) Specific Safe Harbors: The following benefits may be provided under a Safe Harbor program (Note: the benefits listed in the parenthetical language herein are for example purposes only, and are not an exhaustive list):

- (a) Housing programs. Programs relating to principal residences and ancillary structures that are not used in any trade or business, or for investment purposes that—
  - (i) Pay mortgage payments, down payments, or rent payments (including but not limited to security deposits) for principal residences;
  - (ii) 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;
  - (iii) Provide basic housing repairs or rehabilitation (including, but not limited to, roof repair and replacement);
  - (iv) Pay utility bills and charges (including, but not limited to, water, electricity, gas, and basic communications services such as phone, internet, and cable); or
  - (v) Pay property taxes or make payments in lieu of taxes (PILOTs).
- (b) Educational programs. Programs to –
  - (i) Provide students (including, but not limited to, post-secondary students) 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;
  - (ii) Provide tuition payments for students (including, but not limited to, allowances for room and board on or off campus for the student, spouse, domestic partner, and dependents) to attend preschool, school, college or university, online school, educational seminars, vocational education, technical education, adult education, continuing education, or alternative education;

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- (iii) Provide for the care of children away from their homes to help their parents or other relatives responsible for their care to be gainfully employed or to pursue education; and
- (iv) Provide job counseling and programs for which the primary objective is job placement or training, including, but not limited to, allowances for expenses for interviewing or training away from home (including, but not limited to, travel, auto expenses, lodging, and food); tutoring; and 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 programs. Programs for individuals who have reached age 55 or are mentally or physically disabled (as defined under applicable law, including, but not limited to, tribal government disability codes or laws) that provide –

- (i) Meals through home-delivered meal programs or at a community center or similar facility;
- (ii) Home care such as assistance with preparing meals or doing chores, or day care outside the home;
- (iii) Local transportation assistance; and
- (iv) Improvements to adapt housing to special needs (including but not limited to grab bars and ramps).

(d) Other qualifying assistance programs. Programs to –

- (i) 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);
- (ii) Pay for the cost of transportation, temporary meals, and lodging of a Tribal Member or Qualified Nonmember while the individual is receiving medical care away from home;
- (iii) 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;
- (iv) Pay costs for temporary relocation and shelter for individuals displaced from their homes (including but not limited to situations in which a home is destroyed by a fire or natural disaster);
- (v) Provide assistance for transportation emergencies (for example, when stranded away from home) in the form of transportation costs, a hotel room, and meals; and

(vi) Pay the cost of nonprescription drugs (including but not limited to traditional Indian tribal medicines).

(3) Compensation Safe Harbor. For Safe Harbor Programs the Tribe will presume that individual need is met for religious leaders or spiritual officials or leaders (including but not limited to medicine men, medicine women, and shamans) receiving the following benefits, and that the benefits do not represent Compensation for services: benefits provided under an Indian tribal governmental Program that are items of cultural significance that are not Lavish or Extravagant under the facts and circumstances or nominal cash honoraria provided to religious or spiritual officials or leaders (including but not limited to medicine men, medicine women, and shamans) to recognize their participation in cultural, religious, and social events (including but not limited to powwows, rite of passage ceremonies, funerals, wakes, burials, other bereavement events, and subsequent honoring events).

(4) Non-Safe Harbor Programs. Nothing in this Ordinance or the IRS safe harbor guidance shall limit the Tribe's right to provide Assistance outside of the safe harbor rules.

### **38.11 Program Disbursement Requirements.**

All Assistance disbursed pursuant to this Ordinance shall be designed to promote the general welfare, self-determination, culture and tradition of the Tribe. The Tribal Council shall establish objectives for the furtherance of the general welfare, self-determination, culture and tradition of the Tribe and assess progress on said objectives in connection with its budgeting and/or strategic planning process. Approved Programs shall be renewed, established, modified, or terminated based upon the needs of the Tribe as compared to the objectives set by the Council from time to time hereunder. All Programs hereunder shall provide a social benefit for the promotion of the general welfare of the Tribe and be limited to purposes consistent with this Ordinance. Such purposes may include, for example, and not by way of limitation, assistance for medical care, food, shelter, health, education, subsistence, housing, Elder and disabled care, assistance to meet cultural, traditional and religious needs of the Tribe and its membership, and assistance to promote self-sufficiency, self-determination, Tribal image, entrepreneurship, and the employment of Tribal Members. Designation by the Tribal Council of a Program as falling under this Ordinance shall be conclusive evidence that the Tribal Council, following a good faith review of Tribal needs and goals, has determined that said Program is established to achieve a social benefit and to promote the general welfare of the Tribe.

### **38.12 Eligibility and Application Procedures.**

Each approved Program shall set forth the specific eligibility rules and limitations applied to that Program. Each designated department shall present program descriptions, which include eligibility rules and limitations, along with application forms and procedures, for approval by the Tribal Council or its designee. Only those descriptions, application forms and procedures which are

approved by the Tribal Council or its designee shall be in force and effect. Program guidelines may limit benefits to an identified group of Members or Qualified Nonmembers, as applicable. All Programs may be limited by budget availability. In the absence of specific Program guidelines to the contrary, all Programs shall be deemed to incorporate eligibility criteria necessary for compliance with Code Section 139E.

### **38.13 Limited Use of Assistance; Substantiation.**

All Assistance disbursed or provided pursuant to this Ordinance must be used for the purpose stated in the approved Program description, and any application for the applicable Assistance. The Tribe or its designee shall keep books or records deemed appropriate to demonstrate compliance with this Ordinance. Recipients of benefits hereunder are responsible for maintaining books or records as may be required for substantiation to the IRS for individual income tax purposes. In the event that Assistance payments and/or services are used or pledged for a purpose inconsistent with the purpose set forth in the applicable approved Program or the Member's application, the Tribal Council or designee may require the repayment of the welfare assistance payment. The Tribal Council or designee is authorized to offset any other Tribal payments to a Tribal Member if such an offset is necessary to secure repayment of a welfare assistance payment in accordance with this Section.

### **38.14 Limitation on Payments; Annual Budgeting.**

(1) Limitations on Welfare Assistance Payments. The Tribal Council, within its annual budgets, by resolution or by motion, may adopt guidelines establishing the maximum assistance payments to be made to Tribal Members for certain specified purposes or programs or may delegate the establishment of such limitations to the program level. Such guidelines may also include, by way of example, factors to be considered in determining whether deviations from the general payment limitations should be permitted. Departments charged with administering particular programs may be delegated authority to adopt program guidelines to the extent not contrary to the overall guidelines and limitations established by the Tribal Council hereunder. In no event shall Assistance be Lavish or Extravagant.

(2) Annual Budgeting; Unfunded Program. The Tribal Council, through its annual budgeting process, by resolution or by motion, shall designate those funding sources that are available for the payment of Assistance benefits. Notwithstanding anything to the contrary, the Assistance payments authorized hereunder shall be "unfunded" for tax purposes and no Beneficiary shall have an interest in or right to any funds budgeted for or set aside for Assistance payments until actually paid. Assistance benefits shall remain assets of the Tribe until distributed, and the Approved Programs shall be administered to avoid premature taxation through the doctrines of constructive receipt and/or economic benefit.

### **38.15 Forfeiture of General Welfare Assistance.**

- (1) Forfeiture. Notwithstanding anything herein to the contrary, Assistance benefits may be revoked or forfeited for any Beneficiary who is found to have misappropriated Program funds or to have made any misrepresentations during the application process. Assistance may also be forfeited should said benefits be treated as a resource to the detriment of the Tribe or a Beneficiary. The Tribe shall have a right of recovery with regard to any excess or improper payments hereunder.
- (2) Due Process. Each Program shall offer procedures that afford a Beneficiary an opportunity to address forfeiture issues or concerns with the Program director or designee.
- (3) Anti Alienation. A Tribal Member's rights to apply for General Welfare assistance payments and/or services under this Ordinance are not subject to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, levy, attachment or garnishment by creditors.

### **38.16 Programs not Limited Means Testing.**

Programs that qualify under Code Section 139E or the IRS Safe Harbor shall not require a showing of individual need or means testing in order to achieve non-taxable treatment under the General Welfare Exclusion. The Tribe also reserves the right to provide community-based Programs and Programs based on non-financial need under the General Test that are not individually means tested. The Tribe recognizes that means testing can distort certain Tribal cultural and community values. The Tribe has participated in consultation with the United States Treasury Department and IRS and will evaluate Programs periodically as guidance is further developed through consultation with the Tribe.

### **38.17 Privacy and Information Sharing.**

The Tribe will maintain records regarding sensitive Tribal and Tribal Member matters, including Tribal customs, religion and traditions, confidential from third party disclosures to the fullest extent permitted at law. If information is requested by the IRS or other government agencies or third parties during a compliance review or examination, disclosures shall be limited to the extent necessary and required by law pending an effort to address such request through consultation and other rights under Executive Order 13175 on a government-to-government basis. Confidential Tribal information shall not be shared in a manner that would open up additional disclosure, for example, under information sharing agreements where the recipient may be subject to or under the Freedom of Information Act.

### **38.18 Government to Government Relationship; Executive Order 13175.**

Coordination with the IRS and the United States Treasury Department on General Welfare matters shall be grounded on a government-to-government relationship that recognizes the unique relationship between the federal government and the Tribal government. The federal government, as a result of its treaty obligations and trust responsibility, has committed to providing education, housing, clean water, and many other basic needs for Indian people. Through a conscientious shift in policy in recent decades, the federal government has encouraged the Tribe itself to provide for such needs in partnership with the federal government and, increasingly in recent years, instead of the federal government. Essential to the government-to government relationship is mutual respect and deference to Tribal governance decisions. Future consultations on General Welfare matters should reflect these concerns and the fact that the Tribal government, through its own policy setting process, is best situated to determine the needs of the Tribe and its Members and the appropriate policy solutions. All references to Executive Order 13175 shall include any future amendments thereto.

**38.19 Governing Law.**

All rights and liabilities associated with the enactment of this Ordinance, or the welfare assistance payments made hereunder, shall be construed and enforced according to the laws of the Tribe.

**38.20 Severability.**

If any provision of this Ordinance is held to be invalid, the remainder of this Ordinance shall not be affected

**38.21 No Waiver of Sovereign Immunity.**

No provision in this ordinance expressly or impliedly waives the sovereign immunity of the Klamath Tribes or its officials or employees or is intended to operate as a consent to suit.

**38.22 Effective Date.**

This ordinance becomes effective October 15<sup>th</sup>, 2021 upon adoption by Referendum of the General Council.

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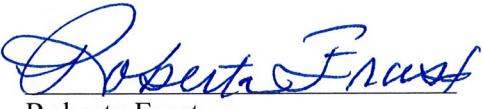
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**Certification**

We, the undersigned, Tribal Council Chairman and Secretary of the Klamath Tribes, do hereby certify that by a Referendum vote of the General Council held on the 15th day of October, 2021, with a quorum present, the General Council took action and duly adopted this Ordinance by a vote of 438 for, 68 opposed, by General Council Resolution 2021-002.



Donald C. Gentry  
Chairman  
The Klamath Tribes

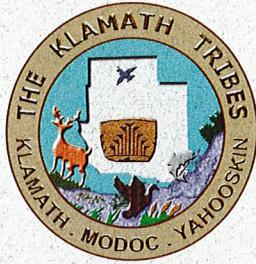


Roberta Frost  
Secretary  
The Klamath Tribes

**Legislative History:**

Originally adopted by the Klamath Tribal Council on December 9, 2020 pursuant to Tribal Council Resolution 2020-040.

Originally adopted by the Klamath Tribes General Council on October 15th, 2021 pursuant to General Council Resolution 2021-002.



# The Klamath Tribes

## Tribal Council

**GENERAL COUNCIL RESOLUTION #2021-002**

**GENERAL COUNCIL RESOLUTION APPROVING THE  
GENERAL WELFARE ORDINANCE, TITLE 5,  
CHAPTER 38 OF THE KLAMATH TRIBAL CODE**

**Whereas**, The Klamath and Modoc Tribes and the Yahooskin Band of Snake Indians signed the Treaty of 1864 establishing the Klamath Reservation; and

**Whereas**, The General Council of the Klamath membership is the governing body of the Tribes, by the authority of the Constitution of the Klamath Tribes (Article VI, & VII, Section IV E) as approved and/or adopted by the General Council amended on November 19, 2011; and

**Whereas**, The Klamath Indian Tribes Restoration Act of August 27, 1986 (P.L. 99-398) restored to federal recognition the Sovereign Government of the Tribes' Constitution and By-laws; and

**Whereas**, The Klamath Tribes have the inherent sovereign authority to enact laws that provide for a fair and productive working environment for employers and employees within the territorial jurisdiction of the Klamath Tribes; and

**Whereas**, The Klamath Tribes have prepared a General Welfare Ordinance to memorialize the procedures used by the Tribe to determine what services or programs are needed to promote public health, safety and other basic need services, public education and other such functions that support the long historical and cultural general welfare of the Tribe; and

**Whereas**, The Klamath Tribes General Council has determined that the General Welfare Ordinance as drafted best meets the needs of the Klamath Tribes to establish basic guidelines and procedures for programs to follow in ensuring compliance with the

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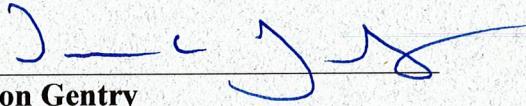


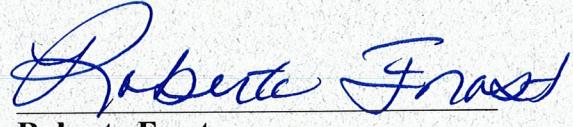
general welfare doctrine and Internal Revenue Code Section 139E.

**Now therefore be it resolved**, The Klamath Tribes General Council hereby adopts the Klamath Tribes General Welfare Ordinance, Klamath Tribal Code Title 5, Chapter 38 as presented to the General Council via referendum ballot;

### **Certification**

We, the undersigned, Tribal Council Chairman and Secretary of the Klamath Tribes, do hereby certify that by a duly held referendum vote of the General Council held on the 15<sup>th</sup> day of October, 2021, the General Council duly adopted this resolution by a vote of 438 for, 63 opposed.

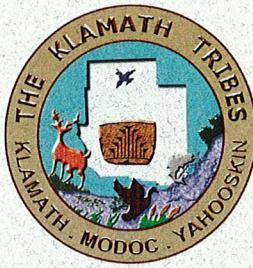
  
**Don Gentry**  
**Chairman**  
**The Klamath Tribes**

  
**Roberta Frost**  
**Secretary**  
**The Klamath Tribes**

GCR 2021-002







# The Klamath Tribes Tribal Council

## Resolution TC-2020-040

### RESOLUTION ADOPTING THE KLAMATH TRIBES GENERAL WELFARE POLICY

**WHEREAS**, The Klamath and Modoc Tribes and the Yahooskin Band of Snake Indians signed the Treaty of 1864 establishing the Klamath Reservation; and

**WHEREAS**, The General Council of the Klamath membership is the governing body of the Tribes, by the authority of the Constitution of the Klamath Tribes (Article VI & VII section IV E) as approved by the General Council and most recently amended on November 25, 2000; and

**WHEREAS**, The Klamath Indian Tribes Restoration Act of August 27, 1986 (P.L. 99-398) restored to Federal recognition of the Sovereign Government of the Klamath Tribes; and

**WHEREAS**, The Klamath Tribes' Tribal Council is the elected governmental body of the Klamath Tribes and has been delegated the authority to direct the day-to-day business and governmental affairs of the Klamath Tribes under the general guidance of the General Council (Constitution, Article VII, section I; Tribal Council by-laws, Article I); and

**WHEREAS**, The Klamath Tribal Council has declared a Tribal State of Emergency in response to the novel coronavirus. This pandemic has had detrimental effects on the membership of the Klamath Tribes which include not only adverse health outcomes but economic instability among our members. The pandemic has had devastating effects on our tribal businesses which the Tribes rely on to fund programs to assist our members. In response to this the Tribal Council felt it was imperative to develop policies to govern assistance to promote the general welfare of our members during this pandemic as well as going forward after the state of emergency has been lifted; and

**WHEREAS**, The General Welfare Policy is to memorialize the policy and procedures used by the Tribes to determine what services or programs are needed to promote public health, safety and other basic need services for the promotion of the general welfare of



the Tribes such as sewer, water, electrical service/power, infrastructure, housing, public sanitation services, public education and other such functions that support the long historical and cultural general welfare of the Tribes. The second purpose of this Policy is to establish basic guidelines and procedures for programs to follow in ensuring compliance with the general welfare doctrine and Internal Revenue Code Section 139E., and

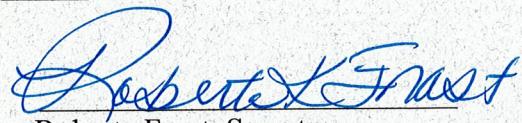
**NOW, THEREFORE BE IT RESOLVED**, The Klamath Tribal Council adopts the General Welfare Policy of the Klamath Tribes by this resolution.

**CERTIFICATION**

We, the undersigned, Tribal Council Chairman and Secretary of the Klamath Tribes do hereby certify that at a "Regular" Tribal Council meeting held on the 9th day of December, 2020 where a quorum was present, the Tribal Council duly adopted this Resolution by a vote of 9 for, 0 opposed, and 1 abstention/s.



Donald C. Gentry, Chairman  
The Klamath Tribes



Roberta Frost, Secretary  
The Klamath Tribes



