

COQUILLE INDIAN TRIBAL CODE

Chapter 177

Part 1 – General Governmental Affairs

Economic Development Revolving Loan Fund Ordinance

Coquille Indian Tribal Code
Chapter 177
Economic Development Revolving Loan Fund Ordinance

Table of Contents

	<u>Page</u>
177.010 General	2
177.050 Fund Name	2
177.070 Fund Description	2
177.080 Fund Authorization	2
177.090 Fund Contributions	3
177.100 Fund Custody	3
177.150 Fund Uses	3
177.180 Delegation of Powers / Duties	4
177.200 Required Elements of Requests for EDRLF Funding	4
177.300 Loan Agreements	4
177.400 Disbursement Administration	5
177.500 Security	5
177.600 Reporting Requirements	5
177.700 Minimum Target Fund Balance	5
177.750 Bonding Fee Authorization	6
177.800 Non-Funded; No Alienation	6
177.999 Severability	6

Coquille Indian Tribal Code
Chapter 177
Economic Development Revolving Loan Fund Ordinance

177.010 General:

1. Purpose – Pursuant to the Coquille Indian Tribal Constitution, Article VI, Section 1, the Tribal Council has legislative authority to establish Tribal codes. In order to promote the social and economic welfare of Coquille Indians, and for other purposes, the Tribal Council adopts this Ordinance establishing an Economic Development Revolving Loan Fund. This Ordinance is intended to make the Economic Development Revolving Loan Fund a qualifying fund under CITC Chapter 160.

2. Background and Intent. The Coquille Indian Tribe (“Tribe”) is a sovereign Native American government that is forever dedicated to providing services to its members. The Tribe has a goal of achieving long-term economic self-sufficiency (“Self-Sufficiency”) so that it can provide these services with the highest level of autonomy and security. Control over long-term sources of funding also allows Tribal services and investments to adapt to Tribal member needs as they evolve over time. The intent of the Economic Development Revolving Loan Fund (the “EDRLF”) is to advance the Self-Sufficiency of the Tribe through increased business diversification, infrastructure development and revenue generation. EDRLF funds may be disbursed only to:

- (a) The Tribe;
- (b) An economic or community development entity that is majority-owned or Controlled by the Tribe (a “Tribal Affiliate”). As used here “Controlled” means either that the Tribal Council in its sole discretion may at all times appoint and remove a majority of the governing directors of such entity, or that the Tribal Council otherwise exercises a majority of the total shareholder voting authority for such entity; or
- (c) A qualifying joint venture between a third party and the Tribe or a Tribal Affiliate, as further described below,

--collectively referred to below as a “Qualified Recipient”

3. Jurisdiction [Reserved].

177.050 Fund Name

Economic Development Revolving Loan Fund (EDRLF)

177.070 Fund Description

The EDRLF is intended to be a revolving fund that will be replenished with returns generated by the businesses, projects and initiatives that receive capital from the EDRLF. Capital from the EDRLF may be disbursed to qualifying projects with repayment terms acceptable to the Tribal Council.

177.080 Fund Authorization

Coquille Indian Tribal Code
Chapter 177
Economic Development Revolving Loan Fund Ordinance

The Tribal Council authorizes the EDRLF pursuant to CITC 160.200 (3) for the specific fund purpose and permitted fund uses established by this Ordinance. The EDRLF shall be accounted for as an internal service fund type in accordance with Generally Accepted Accounting Principles as promulgated by the Government Accounting Standards Board.

177.090 Fund Contributions

The Tribe shall establish the EDRLF with an initial contribution of \$2 million. Subsequent contributions shall come from EDRLF depository investment earnings and interest, as well as repayments from projects that receive EDRLF funding. At its discretion, the Tribal Council may appropriate additional contributions to the EDRLF. The Tribe may accept private or other donations to the EDRLF, provided that such donations create no duties or obligations on the part of the Tribe other than to be used for the purpose authorized by this Ordinance.

177.100 Fund Custody

Contributions, assets and earnings of the EDRLF shall be held in a bank account, brokerage account, or trust account of an institutional trust company, or any combination thereof, selected by the Tribal Chief Financial Officer and approved by the Tribal Council subject to the depository account requirements of CITC 160.200. To the extent EDRLF assets are not held in depositories for immediate disbursement, such 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, and provided EDRLF assets can be accounted for separately from any other comingled assets. The EDRLF shall pay an appropriate share of any fees charged by the fund custodian.

177.150 Fund Uses

1. A EDRLF Fund Disbursement may be made to a Qualified Recipient only as follows:
 - (a) A direct loan from the EDRLF to a qualifying project;
 - (b) As leverage for a Qualified Recipient to obtain or guarantee other funding for a qualifying project;
 - (c) Reserved to guarantee or self-bond projects benefitting the Tribe or a Tribal Affiliate or
 - (c) To the Tribe, to acquire an income-generating asset for the Tribe if the Tribe commits to replenish the Fund and any associated service fees within a pre-determined period of time.

2. As used elsewhere in this Ordinance, “Fund Disbursement” means a EDRLF use made in accordance with this Section.

3. The Tribal Council may approve EDRLF Fund Disbursements only by resolution and only after completion of a review of business plans or proposals as described in this Ordinance. The Tribal Council may refuse to consider any business plan or proposal that it determines in its sole

Coquille Indian Tribal Code
Chapter 177
Economic Development Revolving Loan Fund Ordinance

discretion to be incomplete or inadequate, or for a proposal that does not coincide with its business values or diversification goals. A project sponsor may be required to revise or supplement a business plan before the Tribal Council will consider an EDRLF Fund Disbursement. Total disbursements from the EDRLF must not exceed the balance of the EDRLF. A Qualified Recipient may request EDRLF Fund Disbursements only through the authorized, formal action of the entity's governing body. All approved disbursements from the EDRLF will remain subject to the negotiation and execution of related agreements and legal instruments.

177.180 Delegation of Powers / Duties

The Tribal Council may, by resolution or by adoption or amendment to committee bylaws, authorize a duly formed Tribal committee to provide advice regarding the matters governed by this Ordinance.

177.200 Required Elements of Requests for EDRLF Funding

Requests for EDRLF Funding must be in writing, and include a business plan or proposal that adequately addresses the following items:

1. An overview of the business or project, including a description of the goods/services to be provided and an explanation of how the business/project will make a profit;
2. A description of any Tribal member employment opportunities that the business/project will create;
3. Resumes of the management team and description of team member's roles and responsibilities;
4. A market analysis showing sales potential, including an analysis of any existing competition;
5. A frank and thorough discussion of any potential threats or roadblocks that could negatively impact the business/project;
6. A capitalization schedule showing all investors, lenders and grantors providing funding to or having an interest in the project/business and the total initial funding necessary to make the project successful;
7. A recommended EDRLF repayment schedule and recommended terms; and
8. Pro-forma financial statements for at least the life of the EDRLF disbursement and, if applicable, repayment obligation, clearly showing EDRLF repayment and operating cash balances.

Additional, relevant information, as appropriate, may be included in or required for requests for EDRLF Funding.

177.300 Loan Agreements

The Tribal Council must approve in advance all EDRLF Fund Disbursements. Each EDRLF loan shall be governed by a Note and Loan Agreement approved by the Tribal Council by

Coquille Indian Tribal Code
Chapter 177
Economic Development Revolving Loan Fund Ordinance

Resolution and the qualified debtor prior to the disbursement of any EDRLF loan proceeds. Each Loan Agreement shall specify interest rate(s), repayment schedule, default provisions and other terms deemed appropriate for the particular project and loan. There is no penalty for early repayment of EDRLF loans. The Tribal Chief Financial Officer shall promptly report to the Tribal Council any failure to repay the EDRLF according to the approved Loan Agreement and repayment timeline. The Tribal Chief Financial Officer's report may include recommendations to Tribal Council. The Tribal Council may direct the Tribal Chief Financial Officer, and / or other Tribal representatives, to renegotiate the Loan Agreement and develop an alternate repayment plan proposal that clearly explains the circumstances and reasons for the delay. In addition to exercising any rights under the Loan Agreement or Note, the Tribal Council may suspend a Qualified Recipient's eligibility to receive future EDRLF loans or installments until any defaulted loan is made current.

177.400 Disbursement Administration

The Tribal Chief Financial Officer will be primary point of contact for EDRLF Fund Disbursement recipients, *provided*, that the Tribal Chief Financial Officer's authority is subject to the authority of the Tribal Council.

177.500 Security

Unless the Tribal Council provides otherwise by resolution, the Tribe will require security for a EDRLF Fund Disbursement to a joint venture between the Tribe (or a Tribal Affiliate) and a third party, when the third party, or its affiliate, manages or supervises management of any aspect of that project. At its sole discretion, the Tribal Council may require security in any EDRLF Fund Disbursement.

177.600 Reporting Requirements

Unless the Tribal Council directs otherwise, the Tribal Chief Financial Officer shall provide the Tribal Council with an accounting for the Fund, including its receipts, disbursements, contributions and fund balance, within 45 days following the end of each calendar quarter. These reports shall also include detailed information by each project loan, including total principal amount loaned, principal repaid to date, principal amount outstanding, total interest payments anticipated over the term of the loan, total interest paid to date, and total anticipated interest remaining. Quarterly reports shall also highlight any failure by projects to repay loans in accordance with loan terms.

177.700 Minimum Target Fund Balance

The initial minimum target EDRLF balance is \$2 million. As a revolving fund, the EDRLF shall be replenished with principal and interest payments from the projects receiving EDRF Disbursements according to the respective repayment commitments and timelines. From time to time, the fund balance may fall below the minimum as the Tribal Council approves EDRLF Disbursements. If the fund balance exceeds the minimum target, the Tribal Council may authorize, by motion or resolution, the transfer of a portion or all of the excess to the Tribal

Coquille Indian Tribal Code
Chapter 177
Economic Development Revolving Loan Fund Ordinance

general fund. The Tribal Council may amend the EDRLF minimum target fund balance at any time by resolution.

177.750 Bonding Fee Authorization

The EDRLF may impose a reasonable fee at rates comparable to third party bonding agencies when an EDRLF Fund Disbursement is made for self-bonding. Such fees will be credited to the balance of the EDRLF.

177.800 Non-Funded; No Alienation

The EDRLF established under this Ordinance is not to be treated as a trust. The establishment of the EDRLF called for herein does not create any rights directly or indirectly to any members of the Tribe or other individuals. The EDRLF 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 EDRLF 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 EDRLF. Assets in the fund are not subject to levy, attachment or garnishment by any creditor of the Tribe.

177.999 Severability

If a court determines any provision of this Ordinance, or its application, to be invalid, the remainder of this Ordinance will continue to be effective.

Coquille Indian Tribal Code
Chapter 177
Economic Development Revolving Loan Fund Ordinance

History of Amendments to Chapter 177 Economic Development Revolving Loan Fund Ordinance:

Approved September 10, 2015, Resolution CY1581

Adopted November 5, 2015, Resolution CY15101