Janet Alkire
Chairwoman

TRIBAL COUNCIL
(AT LARGE)

Nola Taken Alive

Charles Walker

Avis Little Eagle

Kory McLaughlin

Warren Hawk

Jesse McLaughlin

Frank Jamerson
Vice Chairman

Susan Agard
Secretary

John Pretty Bear
Cannonball District

Sid Bailey, Jr.
Long Soldier District

Jeff Cadotte, Sr.
Wakpala District

Delray Demery
Kenel District

Joe White Mountain Jr.
Bear Soldier District

Paul Archambault
Rock Creek District

Jessica R. Porras
Running Antelope District

Wilberta Red Tomahawk
Porcupine District

PLEASE POST

NOTICE TO PUBLIC

On February 1, 2022 the Standing Rock Sioux Tribal Council approved to post the **Nonprofit Ordinance** for thirty (30) days. Pursuant to Title XIX of the Code of Justice, any interested persons may submit comments on the **Nonprofit Ordinance** which the person believes should be amended.

Members of the Judicial Committee, In-House Counsel and counsel retained by the Tribal Court for Code of Justice revisions will accept oral, written and electronic comments until March 12, 2022. You may submit your electronic comments to the following:

Spirit Grey Bull – sgreybull@standingrock.org

If you are receiving this notice and attachments in your role as District Officer, please post a copy at your local district offices and ensure it is available to other District Officers and District Members. In addition, please have copies available to distribute upon request.

Please note you can also access the proposed ordinance on the Tribe's website at www.standingrock.org. From the home page, click on Titles, followed by Proposed Changes, and find the link to the **Nonprofit Ordinance**.

Dated this 10th of February.

CONCURRED:

Janet Alkire, Chairwoman
Standing Rock Sioux Tribe

MOTION #31 IS CONTINUED.

DEMERY, Delray	N.V.	LITTLE EAGLE, Avis	YES
PORRAS, Jessica R.	YES	MCLAUGHLIN, Jesse	YES
PRETTY BEAR, John	YES	MCLAUGHLIN, Kory	YES
RED TOMAHWK, Wilberta	YES	TAKEN ALIVE, Nola	YES
WHITE MOUNTAIN, Jr., Joseph	EX.	WALKER, Charles	YES

VOTE: YES – 14 NO – 0 NOT VOTING – 2

MOTION CARRIED 1 – EXCUSED

#32. MOTION WAS MADE BY AVIS LITTLE EAGLE, SECONDED BY SUSAN AGARD, TO APPROVE OF H.E.W. COMMITTEE MINUTES FOR JANUARY 3, JANUARY 10, AND JANUARY 24, 2022 EXCEPT FOR MOTIONS #19, #22, AND #26 OF JANUARY 24, 2022.

ROLL CALL VOTE: ALKIRE, JANET – NOT VOTING

ARCHAMBAULT, Paul	YES	AGARD, Susan	YES
BAILEY, Jr., Sidney	YES	JAMERSON, Frank	YES
CADOTTE, Sr., Jeff	YES	HAWK, Warren	YES
DEMERY, Delray	YES	LITTLE EAGLE, Avis	YES
PORRAS, Jessica R.	YES	MCLAUGHLIN, Jesse	YES
PRETTY BEAR, John	NO	MCLAUGHLIN, Kory	YES
RED TOMAHWK, Wilberta	NO	TAKEN ALIVE, Nola	YES
WHITE MOUNTAIN, Jr., Joseph	EX.	WALKER, Charles	NO

VOTE: YES – 12 NO – 3 NOT VOTING – 1

MOTION CARRIED 1 – EXCUSED

JUDICIAL COMMITTEE – Warren Hawk reporting.
January 18, 2022 [REGULAR]

#33. MOTION WAS MADE BY WARREN HAWK, SECONDED BY NOLA TAKEN ALIVE, TO APPROVE TO POST NON PROFIT ORDINANCE FOR PUBLIC INSPECTION FOR THIRTY [30] DAYS **BY RESOLUTION.**

ROLL CALL VOTE: ALKIRE, JANET – NOT VOTING

ARCHAMBAULT, Paul	N.V.	AGARD, Susan	YES
BAILEY, Jr., Sidney	YES	JAMERSON, Frank	YES

RESOLUTION NO. _____

RESOLUTION TO POST NONPROFIT ORDINANCE FOR PUBLIC INSPECTION

WHEREAS, the Standing Rock Sioux Tribe is an unincorporated Tribe of Indians, having accepted the Indian Reorganization Act of June 18, 1934, with the exception of Section 16, and the recognized governing body of the Tribe is known as the Standing Rock Sioux Tribal Council; and

WHEREAS, the Standing Rock Sioux Tribal Council, pursuant to the amended Constitution of the Standing Rock Sioux Tribe, Article IV, Section 5, shall post all proposed ordinances introduced at a Tribal Council Meeting in each district for not less than ten days prior to final adoption by the Tribal Council for public inspection. All enacted ordinances shall be made available to the Local District Councils; and

WHEREAS, the Standing Rock Sioux Tribal Council, pursuant to the amended Constitution of the Standing Rock Sioux Tribe, Article IV, Section 1[c], is empowered to promote and protect the health, education, and general welfare of the members of the Tribe, and to administer charity and such other services as may contribute to the social and economic advancement of the Tribe and its members; and

WHEREAS, the Tribal Council has received and reviewed a proposed Nonprofit Ordinance and desires to post the Nonprofit Ordinance for ten (10) days in order to allow for public inspection and comment and to be made available to the Local Districts; and

NOW, THEREFORE BE IT RESOLVED, the Tribal Council hereby approves to post the Nonprofit Ordinance for public comment and to be provided to all Local District Councils for ten (10) days pursuant to the Constitution of the Standing Rock Sioux Tribe and Tribal Code; and

BE IT FURTHER RESOLVED, that the Chairman and the Secretary of the Tribal Council are hereby authorized and instructed to sign this resolution for and on behalf of the Standing Rock Sioux Tribe.

CERTIFICATION

We, the undersigned, Chairman and Secretary of the Standing Rock Sioux Tribe, hereby certify that the Tribal Council is composed of 17 members, of whom ___, constituting a quorum, were present at a meeting duly and regularly called, noticed, convened and held on the___ day of ___, 2021, and that the foregoing resolution was duly adopted by the affirmative vote of ___ members, with ___ opposing, and with not voting. THE CHAIRMAN'S VOTE IS NOT REQUIRED EXCEPT IN CASE OF A TIE.

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Dated this___day of___, 2021

Janet Alkire, Chairwoman
Standing Rock Sioux Tribe

ATTEST:

Susan Agard, Secretary
Standing Rock Sioux Tribe

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CHAPTER 1. GENERAL PROVISIONS

1.1. Short Title

This Ordinance shall be known and may be cited as the "Standing Rock Sioux Tribe Nonprofit Corporation Ordinance."

1.2. Purpose and Findings of Fact

A. The purpose of this Ordinance is to permit, pursuant to the laws of the Standing Rock Sioux Tribe, the formation of certain nonprofit corporations, and to regulate such corporations so as to further the exercise of tribal sovereignty over the Standing Rock Sioux Tribe.

B. The Tribe wishes to make it possible for the Tribe, instrumentalities of the Tribe, and its Tribal members to be able to secure nonprofit corporate charters under the laws of the Standing Rock Sioux Tribe.

C. Every corporation incorporated under this Ordinance has the purpose of engaging in any lawful activity unless a more limited purpose is set forth in the articles of incorporation.

D. A corporation engaging in an activity that is subject to regulation under another law of the Standing Rock Sioux Tribe may incorporate under this Ordinance only if incorporation under this Ordinance is not prohibited by the other law. The corporation shall be subject to all limitations of the other law.

1.3. Reservation of Power

The Tribal Council shall have the power to amend, repeal or modify this Ordinance at its pleasure. Such amendments, repeals or modifications shall be of prospective application only and shall not apply retroactively to any nonprofit corporation organized pursuant to this Ordinance.

1.4. Sovereign Immunity

The sovereign immunity of the Standing Rock Sioux Tribe shall not extend to nonprofit corporations formed under this Ordinance unless specifically authorized by the Standing Rock Sioux Tribe via resolution. The Standing Rock Sioux Tribe shall not be liable for the debts or obligations of any description or kind, including pre-filing activities, of corporations formed under this Ordinance.

1.5. Implementation and Administration

A. The Finance Office of the Standing Rock Sioux Tribe shall administer the provisions of this Ordinance. Administration shall include, without limitation, the development and publication of procedures and forms responsive to the requirements of this Ordinance.

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B. Every certificate and other document or paper executed by the Finance Office, in pursuance of any authority conferred upon it by this Ordinance, and sealed with the seal of the Tribe, and all copies of such papers as well as documents and other papers filed in accordance with the provisions of this Title, when certified by it and authenticated by said seal, shall have the same force and effect as evidence as would the originals thereof in any action or proceeding in any court and before a public officer or official body.

C. The Finance Office shall impose fees and charges; provided, however, that the initial fee for filing of articles of incorporation shall be fifty dollars ($50.00).

D. The Finance Office shall not file any articles, statements, certificates, reports, applications, notice or other papers relating to any company organized under the provisions of this Ordinance until all fees and charges provided to be paid in connection therewith shall have been paid to it, or while the company is in default in the payment of any fees, charges or sanctions herein provided to be paid by or assessed against it. Nothing in this Section shall prevent the filing, without the payment of all such fees, charges and sanctions, of a written notice of resignation by a registered agent of a company.

E. No company required to pay a fee, charge or sanction under this Ordinance shall maintain within the Reservation any civil action until all such fees, charges and sanctions have been paid in full.

1.6. Restrictions on Who May File and Operate a Nonprofit Corporation

Authorized officers of the Standing Rock Indian Tribe and instrumentalities of the Tribal government are authorized to act as incorporators and file articles of incorporation for a nonprofit corporation pursuant to the provisions of this Ordinance. Adult members of the Tribe may also act as incorporators and file articles of incorporation for a nonprofit corporation pursuant to the provisions of this Ordinance. Non-Tribal members may not act as incorporators under the provisions of this Ordinance unless specifically authorized to do so by resolution of the Tribal Council.

1.7. Definitions

In this Ordinance, unless the context clearly indicates otherwise:

"Articles" or "articles of incorporation" means the original articles of incorporation, all amendments thereof, and any other records filed with the Finance Office with respect to a domestic nonprofit corporation under any provision of this Ordinance except Section 13.3. If any record filed under this Ordinance restates the articles in their entirety, thenceforth the articles shall not include any prior filings. When used with respect to a foreign nonprofit corporation or a domestic or foreign business corporation, the "articles of incorporation" of the corporation means the document of the corporation that is equivalent to the articles of incorporation of a domestic nonprofit corporation.

"Board" or "board of directors" means the group of individuals responsible for the

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management of the activities and affairs of the nonprofit corporation, regardless of the name used to refer to the group. The term includes a designated body to the extent:

(1) the powers, functions, or authority of the board have been vested in, or are exercised by, the designated body; and

(2) the provision of this Ordinance in which the term appears is relevant to the discharge by the designated body of its powers, functions, or authority.

"Bylaws" means the code or codes of rules (other than the articles of incorporation) adopted for the regulation and governance of the internal affairs of the nonprofit corporation, regardless of the name or names used to refer to those rules.

"Charitable corporation" means a domestic nonprofit corporation that is operated primarily or exclusively for one or more charitable purposes.

"Charitable purpose" means a purpose that:

(1) would make a corporation operated exclusively for that purpose eligible to be exempt from taxation under Section 501(c)(3) or (4) of the Internal Revenue Code; or

(2) is considered charitable under law other than this Ordinance or the Internal Revenue Code.

"Class" refers to a group of memberships which have the same rights with respect to voting, dissolution, redemption and transfer. For the purpose of this Ordinance, rights shall be considered the same if they are determined by a formula applied uniformly.

"Finance Office" means the Finance Office of the Standing Rock Sioux Tribe.

"Corporation," "domestic corporation," "domestic nonprofit corporation," or "nonprofit corporation" means a corporation incorporated under or subject to the provisions of this Ordinance that is not a foreign corporation.

"Court" or "Courts" means tribal court(s) of the Standing Rock Sioux Tribe.

"Delegate" means a person elected or appointed to vote in a representative assembly for the election of directors or on other matters.

"Deliver" or "delivery" means any method of delivery used in conventional commercial practice, including delivery by hand, mail, commercial delivery, and electronic transmission, except that delivery to the Finance Office means actual receipt by the Finance Office.

"Designated body" means a person or group, other than a committee of the board of directors, that has been vested by the articles of incorporation or bylaws with powers that, if not

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vested by the articles or bylaws in that person or group, would be required by this Ordinance to be exercised by the board or the members.

"Director" means an individual designated, elected, or appointed, by that or any other name or title, to act as a member of the board of directors while the individual is holding that position. The term does not include a member of a designated body, as such.

"Effective date" means that:

(a) Except as provided in subsection (b), a document is effective:

(1) at the time of filing on the date it is filed, as evidenced by the Finance Office's placement of a stamp or seal upon the original document; or

(2) at the time specified in the document as its effective time on the date it is filed.

(b) A document may specify a delayed effective time and date, and if it does so the document becomes effective at the time and date specified. If a delayed effective date but no time is specified, the document is effective at the close of business on that date. A delayed effective date for a document may not be later than the 90th day after the date filed.

"Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

"Employee" does not include an individual serving as an officer or director who is not otherwise employed by the corporation. A director or officer may accept duties that make the director also an employee.

"Entitled to vote" means entitled to vote on the matter under consideration pursuant to the articles of incorporation or bylaws of the nonprofit corporation or any applicable controlling provision of law.

"Entity" includes a domestic or foreign business corporation, domestic or foreign nonprofit corporation, estate, trust, domestic or foreign unincorporated entity, and state, tribe, the United States, foreign government, or governmental subdivision.

"Expenses" means reasonable expenses of any kind that are incurred in connection with a matter.

"Foreign," with respect to an entity, means an entity governed as to its internal affairs by an organic law of a jurisdiction other than the Tribe.

"Foreign business corporation" means a corporation for profit incorporated under a law other than the laws of the Tribe that would be a business corporation if incorporated under the law of the Tribe.

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"Foreign corporation" or "foreign nonprofit corporation" means a corporation incorporated under a law other than the law of this Tribe that would be a nonprofit corporation if incorporated under the law of this Tribe.

"Foreign unincorporated entity" means an unincorporated entity whose internal affairs are governed by an organic law of a jurisdiction other than this Tribe.

"Fundamental transaction" means an amendment of the articles of incorporation or bylaws, merger, membership exchange, sale of all or substantially all of the assets, domestication, conversion, or dissolution of a nonprofit corporation.

"Governmental subdivision" includes an authority, county, district, and municipality.

"Includes" and "including" denote a partial definition or a nonexclusive list.

"Individual" means a natural person.

"Internal Revenue Code" means the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.), as amended.

"Jurisdiction of formation" means the jurisdiction the law of which includes the organic law governing a domestic or foreign nonprofit corporation.

"Material interest" means an actual or potential benefit or detriment, other than one that would devolve on the nonprofit corporation or the members generally, that would reasonably be expected to impair the objectivity of an individual's judgment when participating in the action to be taken.

"Material relationship" means a familial, financial, professional, employment, or other relationship that would reasonably be expected to impair the objectivity of an individual's judgment when participating in the action to be taken.

"Means" denotes an exhaustive definition.

"Member" means:

(1) A person who has the right, in accordance with the articles of incorporation or bylaws and not as a delegate, to select or vote for the election of directors or delegates or to vote on any type of fundamental transaction. See Section 4.2 (admission).

(2) the powers, functions, or authority of the members have been vested in, or are exercised by, the designated body; and

(3) the provision of this Ordinance in which the term appears is relevant to the discharge by the designated body of its powers, functions, or authority.

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"Membership" means the rights and any obligations of a member in a domestic nonprofit corporation.

"Membership corporation" means a nonprofit corporation whose articles of incorporation or bylaws provide that it shall have members.

"Notice" is provided for in Section 1.8.

"Officer" includes:

(1) a person who is an officer as provided in Section 6.1; and

(2) if a nonprofit corporation is in the hands of a custodian, receiver, trustee or other court-appointed fiduciary, that fiduciary or any person appointed by that fiduciary to act as an officer for any purpose under this Ordinance.

"Organic law" means the law of an entity's jurisdiction of formation governing the internal affairs of the entity.

"Person" includes an individual and an entity.

"Principal office" means the office so designated in the annual report where the principal executive office of a domestic nonprofit corporation is located.

"Proceeding" includes civil suit and criminal, administrative, and investigatory action.

"Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

"Record date" means the date established under Section 4.17 on which a nonprofit corporation determines the identity of its members and the membership interests they hold for purposes of this Ordinance.

"Reservation" means those lands within the exterior boundaries of the Standing Rock Indian Reservation.

"Secretary" means the corporate officer to whom the articles of incorporation, bylaws, or board of directors has delegated responsibility to maintain the minutes of the meetings of the board of directors, any designated body, committees, and the members, and for authenticating records of the nonprofit corporation.

"Sign" means, with present intent to authenticate or adopt a record:

(1) to execute or adopt a tangible symbol; or

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(2) to attach to or logically associate with the record an electronic sound, symbol, or process.

"Tribal Council" means the Standing Rock Sioux Tribal Council.

"Tribe" means the Standing Rock Sioux Tribe.

"Unincorporated entity" means an organization or artificial legal person that either has a separate legal existence or has the power to acquire an estate in real property in its own name and that is not any of the following: a domestic or foreign business or nonprofit corporation, an estate, a trust, a governmental subdivision, a state, a tribe, the United States, or a foreign government. The term includes a general partnership, limited liability company, limited partnership, business or statutory trust, joint stock association, and unincorporated nonprofit association.

"United States" includes a district, authority, bureau, commission, department, and any other agency of the United States.

"Vote," "voting," or "casting a vote" includes the giving of consent in the form of a record without a meeting. The term does not include either recording the fact of abstention or failing to vote for a candidate or for approval or disapproval of a matter, whether or not the person entitled to vote characterizes such conduct as voting or casting a vote.

"Voting group" means one or more classes of members that under the articles of incorporation, bylaws, or this Ordinance are entitled to vote and be counted together collectively on a matter at a meeting of members. All members entitled by the articles of incorporation, bylaws, or this Ordinance to vote generally on the matter are for that purpose a single voting group.

"Voting power" means the current power to vote in the election of directors or delegates, or to vote on approval of any type of fundamental transaction.

1.8. Notice

A. Notice may be oral or written.

B. Notice may be communicated in person; by telephone, telegraph, teletype, or other form of wire or wireless communication; or by mail or private carrier; if these forms of personal notice are impracticable, notice may be communicated by a newspaper of general circulation in the area where published; or by radio, television, or other form of public broadcast communication.

C. Oral notice is effective when communicated if communicated in a comprehensible manner.

D. Written notice, if in a comprehensible form, is effective at the earliest or the following:

1. when received;

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2. five days after its deposit in the United States Mail, as evidenced by the postmark, if mailed correctly addressed and with first class postage affixed;

3. on the date shown on the return receipt, if sent by registered or certified mail, return receipt requested, and the receipt is signed by or on behalf of the addressee;

4. thirty days after its deposit in the United States Mail, as evidenced by the postmark, if mailed correctly addressed and with other than first class, registered or certified postage affixed.

E. Written notice is correctly addressed to a member of a corporation if addressed to the member's address shown in the corporation's current list of members.

F. A written notice or report delivered as part of a newsletter, magazine or other publication regularly sent to members shall constitute a written notice or report if addressed or delivered to the member's address shown in the corporation's current list of members, or in the case of members who are residents of the same household and who have the same address in the corporation's current list of members, if addressed or delivered to one of such members, at the address appearing on the current list of members.

G. Written notice is correctly addressed to a corporation, other than in its capacity as a member, if addressed to its registered agent or to its secretary at its principal office shown in its most recent annual report.

H. If Section 4.15 or any other provision of this Ordinance prescribes notice requirements for particular circumstances, those requirements govern. If articles or bylaws prescribe notice requirements not inconsistent with this section or other provisions of this Ordinance, those requirements govern.

1.9. Religious Corporation

If religious doctrine or canon law governing the affairs of a nonprofit corporation is inconsistent with the provisions of this Ordinance on the same subject, the religious doctrine or canon law shall control to the extent required by the Constitution of the United States or the Constitution of the Tribe, or both.

CHAPTER 2. ORGANIZATION

2.1. Incorporators

One or more persons capable of contracting may act as incorporators of a corporation by signing and delivering to the Finance Office an original and one or more copies of articles of incorporation for such corporation.

2.2. Articles of Incorporation

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A. The articles of incorporation shall include:

1. The name of the corporation;

2. The period of duration, if less than perpetual;

3. The street address of the corporation's initial registered office and the name of its initial registered agent at that office;

4. That the corporation is incorporated under this Ordinance;

5. The purpose or purposes for which the corporation is organized, which may be stated to include conducting any or all lawful affairs for which corporations may be incorporated under this Ordinance;

6. The number of directors constituting the initial board of directors and their names and addresses;

7. The name and address of each incorporator; and

8. Any other provision not inconsistent with law which the incorporators elect to set forth.

B. It is not necessary to state in the articles of incorporation any of the corporate powers enumerated in this Chapter.

2.3. Filing of Articles of Incorporation

A. Before delivering the articles of incorporation or any certificate of amendment to the Finance Office, the articles shall be presented to the Tribal Council for its review. The Tribal Council shall decide whether or not to approve the articles for filing via resolution based on whether:

1. the articles set forth all information required by Section 2.2(A);

2. the articles comply with Section 2.11; and

3. the Tribal Council determines that it is in the best interest of the Tribe to approve the articles for filing.

B. If the Tribal Council approves articles for filing, two (2) copies of the articles of incorporation and of any certificate of amendment, or of any judicial decree of amendment, shall be delivered to the Finance Office. The documents to be filed shall be true copies made by photographic, xerographic, electronic, or other process that provides similar copy accuracy of a document that has been properly executed.

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1. A person who executes articles of organization as an attorney-in-fact or fiduciary need not exhibit evidence of the person's authority as a prerequisite to filing.

C. When the articles of incorporation have been delivered for filing, the Finance Office shall proceed with filing the articles. The Finance Office shall:

1. place a stamp or seal on both copies, indicating the time, day, month, and year of the filing, the name of the Chief Financial Officer, the signature of the Chief Financial Officer director, and the Chief Financial Officer's seal, or facsimiles of them;

2. file one copy in its office; and

3. return the second copy to the person who filed it or as directed by the person who filed it.

D. If a law other than this Ordinance prohibits the disclosure by the Finance Office of information contained in a record delivered for filing, the Finance Office shall file the record if it otherwise complies with this Ordinance but may redact the information so that it is not available to the public.

2.4. Response to Refusal of Finance Office to File Record

If the Tribal Council refuses to approve a document to be delivered to the Finance Office for filing based on lack of compliance with Section 2.2(A) or 2.11, the record may be resubmitted accompanied by an opinion in the form of a record from a licensed attorney stating why the record conforms to law and the authorities upon which the opinion is based. The Tribal Council may rely with respect to any disputed point of law upon the opinion in determining whether the record conforms to law.

2.5. Effect of Filing Articles of Incorporation

Upon the placement of a stamp or seal, as provided in Section 2.3(C)(1), on the Articles of Incorporation, the corporate existence begins, unless a delayed effective date is specified. The filing is conclusive evidence that all conditions precedent required to be performed by the incorporators have been complied with, and that the nonprofit corporation has been incorporated under this Chapter, except as against the Standing Rock Sioux Tribe in a proceeding for involuntary dissolution of the corporation or revocation of the articles of incorporation.

2.6. Liability for Preincorporation Transactions

All persons purporting to act as or on behalf of a nonprofit corporation, knowing there was no incorporation under this Ordinance, are jointly and severally liable for all liabilities created while so acting. Nevertheless, this Section may not be interpreted to invalidate any debts, contracts, or liabilities of the limited liability company incurred on behalf of the company prior to the filing of

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its articles of organization with the Chief Financial Officer.

2.7. Organization of Corporation

A. After incorporation:

1. if initial directors or members of a designated body are named in the articles of incorporation, those persons shall hold an organizational meeting, as appropriate, at the call of a majority of them, to complete the organization of the nonprofit corporation by electing directors (when the organization of the corporation is to be completed by a designated body), appointing officers, adopting bylaws, and carrying on any other business brought before the meeting;

2. if initial directors or members of a designated body are not named in the articles, the incorporator or incorporators shall hold an organizational meeting at the call of a majority of the incorporators:

i. to elect directors and complete the organization of the nonprofit corporation; or

ii. to elect a board of directors who shall complete the organization of the corporation.

B. Action required or permitted by this Ordinance to be taken by incorporators at an organizational meeting may be taken without a meeting if the action taken is evidenced by one or more consents in the form of a record describing the action taken and signed by each incorporator.

C. An organizational meeting may be held within or outside of the boundaries of the Standing Rock Sioux Reservation.

D. A first meeting of the members may be held at the call of a majority of the directors upon at least three days' notice for those purposes as stated in the notice of the meeting.

2.8. General Powers

Unless its articles of incorporation provide otherwise, every nonprofit corporation has perpetual duration and succession in its corporate name and has the same powers as an individual to do all things necessary or convenient to carry out its activities and affairs, including the power:

(1) to sue and be sued, complain and defend in its corporate name;

(2) to have a corporate seal, which may be altered at will, and to use it, or a facsimile of it, by impressing or affixing it or in any other manner reproducing it;

(3) to make and amend bylaws, not inconsistent with its articles of incorporation or with the laws of the Tribe, for managing and regulating the activities and affairs of

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the corporation;

(4) to purchase, receive, lease, or otherwise acquire, and own, hold, improve, use, and otherwise deal with, real or personal property, or any legal or equitable interest in property, wherever located;

(5) to sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of all or any part of its property;

(6) to purchase, receive, subscribe for, or otherwise acquire, own, hold, vote, use, sell, mortgage, lend, pledge, or otherwise dispose of, and deal in and with shares or other interests in, or obligations of, any other entity;

(7) to make contracts and guarantees, incur liabilities, borrow money, issue its notes, bonds, and other securities and obligations (which may be convertible into to include the option to purchase other securities of the corporation), and secure any of its obligations by mortgage or pledge of any of its property, franchises, or income;

(8) to lend money, invest and reinvest its funds, and receive and hold real and personal property as security for repayment;

(9) to be a promoter, partner, member, associate, or manager of any partnership, joint venture, trust, or other entity;

(10) to conduct its activities, locate offices, and exercise the powers granted by this Ordinance within or without the boundaries of the Standing Rock Reservation;

(11) to elect directors and appoint officers, employees, and agents of the corporation, define their duties, fix their compensation, and lend them money and credit;

(12) to pay pensions and establish pension plans, pension trusts, and benefit or incentive plans for any or all of its current or former directors, officers, employees, and agents;

(13) to make donations for charitable purposes;

(14) to impose dues, assessments, admission, and transfer fees on its members;

(15) to establish conditions for admission of members, admit members, and issue memberships;

(16) to carry on a business; and

(17) to make payments or donations, or do any other act, not inconsistent with law, that furthers the purposes, activities, and affairs of the corporation.

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2.9. Ultra Vires

A. Except as provided in subsection B, the validity of corporate action may not be challenged on the ground that the nonprofit corporation lacks or lacked power to act.

B. A corporation's power to act may be challenged in a proceeding against the corporation to enjoin an act where a third party has not acquired rights. The proceeding may be brought by the Standing Rock Tribal Council, a director, or by a member or members in a derivative proceeding.

C. A corporation's power to act may be challenged in a proceeding against an incumbent or former director, officer, employee, or agent of the corporation. The proceeding may be brought by a director, the corporation, directly, derivatively, or through a receiver, a trustee or other legal representative, or in the case of a corporation recognized as exempt under Section 501(c)(3) of the Internal Revenue Code, but that is not a religious corporation or organized primarily for religious purposes, by the Standing Rock Tribal Council.

2.10. Bylaws

The power to make, alter, amend, or repeal the bylaws of the nonprofit corporation shall be vested in the board of directors unless reserved to the members by the articles of incorporation. The bylaws may contain any provisions for the regulation and management of the affairs of the corporation not inconsistent with law, or the articles of incorporation.

2.11. Corporate Name

A. The name of a nonprofit corporation may not contain language stating or implying that the corporation is organized for a purpose other than that permitted by Section 1.2 and its articles of incorporation. The name of a nonprofit corporation shall not contain the words "Standing Rock Sioux Tribe" or "Tribe," nor in any way imply that it is associated with the Tribe, its government, or is an entity of the Tribe, unless authorized by the Standing Rock Tribal Council by resolution.

B. Except as authorized by subsection C or D, the name of a nonprofit corporation must be distinguishable upon the records of the Finance Office from:

1. the name of a nonprofit or business corporation incorporated under the laws of the Tribe that is not dissolved;

2. the name of a foreign business corporation under which it is registered to conduct activities on the Reservation, or an alternate name adopted by a foreign business corporation registered under the laws of the Tribe because its real name is unavailable;

3. the fictitious name of a foreign business corporation authorized to transact business

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on the Reservation because its real name is unavailable;

C. A nonprofit corporation may apply for authorization to use a name that is not distinguishable upon the records of the Finance Office from one or more of the names described in subsection B. The Finance Office shall authorize use of the name applied for if the other corporation consents to the use in writing and submits an undertaking in form satisfactory to the Finance Office to change its name to a name that is distinguishable upon the records of the Finance Office from the name of the applying corporation; or

D. A name is distinguishable upon the records of the Finance Office only if the name differs from every other name of record in a way other than:

1. use of punctuation marks;

2. use of a definite or indefinite article; and

3. use of any of the following terms, or an abbreviation thereof, in any language to designate the status of an entity: corporation, company, incorporated, limited, association, fund, syndicate, limited partnership, limited liability company, limited liability partnership, limited liability limited partnership, trust, statutory trust, or business trust.

2.12. Reserved Name

A. A person may reserve the exclusive use of a corporate name by delivering an application to the Finance Office for filing. Upon finding that the corporate name applied for is available, the Finance Office shall reserve the name for the applicant's exclusive use for a nonrenewable 120-day period.

B. The owner of a reserved name may transfer the reservation to another person by delivering to the Finance Office a signed notice of the transfer that states the name and address of the transferee.

CHAPTER 3. REGISTERED OFFICE AND AGENT

3.1. Requirement of Registered Office and Registered Agent

Each nonprofit corporation must continuously maintain within the boundaries of the Standing Rock Sioux Reservation:

(1) a registered office, which may be the same as any of its places of business; and

(2) a registered agent, which may be:

i. an individual, consenting to the position in writing, who resides on the Standing Rock Sioux Reservation, who is at least eighteen years of age,

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and whose business office is identical with the registered office; or

ii. a domestic corporation or entity whose business office is identical with the registered office. A limited liability company or entity having its usual place of business on the Reservation may serve as its own registered agent.

3.2. Change of Registered Office or Registered Agent

A. A nonprofit corporation may change its registered office or registered agent by delivering to the Finance Office for filing a statement of change that sets forth:

1. the name of the corporation;

2. the street address of its current registered office;

3. if the current registered office is to be changed, the street address of the new registered office;

4. the name of its current registered agent;

5. if the current registered agent is to be changed, the name of the new registered agent and the new agent's signed consent in the form of a record (either as part of the statement or accompanying it) to the appointment; and

6. that after the change or changes are made, the street addresses of its registered office and the business office of its registered agent will be identical.

B. If the street address of a registered agent's business office is changed, the agent shall change the street address of the registered office of any corporation for which the agent is the registered agent by notifying the corporation in the form of a record of the change and signing and delivering to the Finance Office for filing a statement that complies with the requirements of subsection A and states that the corporation has been notified of the change.

C. Failure to maintain a registered agent or registered office on the Reservation shall be grounds for involuntary dissolution by the Finance Office.

3.3. Resignation of Registered Agent

A. A registered agent may resign as agent for a nonprofit corporation by delivering to the Finance Office for filing a statement of resignation signed by the agent which states:

1. the name of the corporation;

2. the name of the agent;

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3. that the agent resigns from serving as registered agent for the corporation; and

4. the address of the corporation to which the agent will deliver the notice required by subsection C.

B. The Finance Office shall mail a copy of the notice of resignation to the registered office of the corporation at the address set forth in the corporation's articles of incorporation.

C. A statement of resignation takes effect on the earlier of:

1. thirty days after the Finance Office receives notice of the resignation; or

2. the designation of a new registered agent for the corporation.

D. When a statement of resignation takes effect, the person that resigned ceases to have responsibility under this Ordinance for any matter thereafter tendered to it as agent for the nonprofit corporation. The resignation does not affect any contractual rights the corporation has against the agent or that the agent has against the corporation.

E. A registered agent may resign with respect to a nonprofit corporation regardless of whether the corporation is in good standing.

3.4. Service on Corporation

A. The registered agent of a nonprofit corporation is the corporation's agent for service of process, notice, or demand required or permitted by law to be served on the corporation.

B. If a nonprofit corporation has no registered agent, or the agent cannot with reasonable diligence be served, the corporation may be served by delivery of the process in record form to the secretary of the corporation at its principal office. The address of the principal office of the corporation must be as shown in the corporation's most recent annual report filed by the Finance Office. Service is effective under this subsection on the earliest of:

1. the date the corporation receives the mail or delivery by the commercial delivery service;

2. the date shown on the return receipt, if signed by the corporation; or

3. five days after its deposit with the United States Postal Service or commercial delivery service, if correctly addressed and with sufficient postage or payment.

C. If process, notice, or demand cannot be served on a nonprofit corporation pursuant to subsection A or B, the Finance Office shall be an agent of the corporation upon whom process, notice, or demand may be served. Service of any process, notice, or demand on the Finance Office as agent for a corporation may be made by delivering to the Finance Office duplicate copies of the process, notice, or demand. If process, notice, or demand is served on the Finance Office, the

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Finance Office shall forward one of the copies by registered or certified mail, return receipt requested, to the corporation at the last address shown in the records of the Finance Office. Service is effected under this subsection C at the earliest of:

1. the date the corporation receives the process, notice, or demand;

2. the date shown on the return receipt, if signed on behalf of the corporation; or

3. five days after the process, notice, or demand is deposited with the United States Postal Service by the Finance Office.

D. This section does not prescribe the only means, or necessarily the required means, of serving a nonprofit corporation.

CHAPTER 4. MEMBERS AND MEMBERSHIPS

4.1. Members

A. A nonprofit corporation may have one or more classes of members or may have no members. If the corporation has one or more classes of members, the designation of such class or classes and the manner of each class shall be set forth in the articles of incorporation or bylaws. If the corporation has no members, that fact shall be set forth in the articles of incorporation or bylaws. A corporation may issue certificates evidencing membership rights, voting rights, or ownership rights, as authorized in the articles of incorporation or bylaws.

B. All members shall have the same rights and obligations with respect to voting, dissolution, redemption and transfer, unless the articles or bylaws establish classes of membership with different rights or obligations. All members shall have the same rights and obligations with respect to any other matters, except as set forth in or authorized by the articles or bylaws.

4.2. Admission

A. The articles of incorporation or bylaws of a membership corporation may establish criteria or procedures for admission of members.

B. A person may not be admitted as a member without the person's consent.

4.3. Consideration

Except as provided in its articles of incorporation or bylaws, a membership corporation may admit members for no consideration or for such consideration as is determined by the board of directors. The consideration may take any form, including promissory notes, intangible property, or past or future services. Payment of the consideration may be made at such times and upon such terms as are set forth in or authorized by the articles of incorporation, bylaws, or a resolution of the board.

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4.4. Transfers

A. Except as provided in the articles of incorporation or bylaws, a member of a membership corporation may not transfer a membership or any right arising therefrom.

B. Where the right to transfer a membership has been provided, a restriction on that right shall not be binding with respect to a member holding a membership issued prior to the adoption of the restriction unless the restriction is approved by the affected member.

4.5. Member's Liability to Third Parties

A member of a membership corporation is not, as such, personally liable for the acts, debts, liabilities, or obligations of the corporation.

4.6. Member's Liability for Dues, Assessments, and Fees

A. A membership corporation may levy dues, assessments, and fees on its members to the extent authorized in the articles of incorporation or bylaws. Dues, assessments, and fees may be imposed on members of the same class either alike or in different amounts or proportions, and may be imposed on a different basis on different classes of members. Members of a class may be made exempt from dues, assessments, and fees to the extent provided in the articles or bylaws.

B. The amount and method of collection of dues, assessments, and fees may be fixed in the articles of incorporation or bylaws, or the articles or bylaws may authorize the board of directors or members to fix the amount and method of collection.

C. The articles of incorporation or bylaws may provide reasonable means, such as termination and reinstatement of membership, to enforce the collection of dues, assessments, and fees.

4.7. Creditor's Action against Member

A. A proceeding may not be brought by a creditor of a membership corporation to reach the liability, if any, of a member to the corporation unless final judgment has been rendered in favor of the creditor against the corporation and execution has been returned unsatisfied in whole or in part or unless the proceeding would be useless.

4.8. Resignation

A. A member of a membership corporation may resign at any time.

B. The resignation of a member does not relieve the member from any obligations incurred or commitments made prior to resignation.

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4.9. Termination and Suspension

A. A membership in a membership corporation may be terminated or suspended for the reasons and in the manner provided in the articles of incorporation or bylaws.

B. A proceeding challenging a termination or suspension for any reason must be commenced within one year after the effective date of the termination or suspension.

C. The termination or suspension of a member does not relieve the member from any obligations incurred or commitments made prior to the termination or suspension.

4.10. Purchase of Memberships

Except as provided in the articles of incorporation or bylaws, a membership corporation that is not a charitable corporation may not purchase any of its memberships or any right arising therefrom.

4.11. Capital Contributions of Members

A. A membership corporation that is not a charitable corporation may provide in its articles of incorporation or bylaws that members, upon or subsequent to admission, must make capital contributions. The requirement of a capital contribution may apply to all members, or to the members of a single class, or to members of different classes in different amounts or proportions.

B. The adoption or amendment of a capital contribution requirement, whether or not approved by the members, shall not apply to a member who did not vote in favor of the adoption or amendment until 30 days after the member has been given notice of the adoption or amendment.

4.12. Delegates

A. A membership corporation may provide in its articles or bylaws for delegates.

B. The articles or bylaws may set forth provisions relating to:

1. The characteristics, qualifications, rights, limitations and obligations of delegates including their selection and removal;

2. Calling, noticing, holding and conducting meetings of delegates; and

3. Carrying on corporate activities during and between meetings of delegates.

4.13. Meetings of Members

A. Meetings of members may be held at such place within or without the Reservation as stated in or fixed in accordance with the bylaws. If no other place is stated or so fixed, meetings shall be held at the known place of business of the nonprofit corporation.

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B. An annual meeting of the voting members, if any, shall be held at such time as stated in or fixed in accordance with the bylaws. Failure to hold such annual meeting shall not work as a forfeiture of the corporate charter or dissolution of the corporation. At the annual meeting:

1. The president and chief financial officer shall report on the activities and financial condition of the corporation; and

2. The members shall consider and act upon such other matters as may be raised consistent with the notice requirements of Section 4.15.

C. A corporation with members shall hold a special meeting of members:

1. on call of its board or the person or persons authorized to do so by the articles or bylaws; or

2. if the holders of at least five percent of the voting power of any corporation sign, date, and deliver to any corporate officer one or more written demands for the meeting describing the purpose or purposes for which it is to be held.

D. The close of business on the thirtieth day before delivery of the demand or demands for a special meeting to any corporate officer is the record date for the purpose of determining whether the five percent requirement of subsection (C) has been met.

E. If a notice for a special meeting demanded under subsection (C)(2) is not given pursuant to Section 4.15 within thirty days after the date the written demand or demands are delivered to a corporate officer, regardless of the requirements of subsection (D), a person signing the demand or demands may set the time and place of the meeting and give notice pursuant to Section 4.15.

F. Only those matters that are within the purpose or purposes described in the meeting notice required by Section 4.15 may be conducted at a special meeting of members.

4.14. Action without Meeting

A. Except as provided in the articles of incorporation or bylaws, action required or permitted by this Ordinance to be taken at a meeting of the members may be taken without a meeting if the action is taken by all the members entitled to vote on the action. The action must be evidenced by one or more consents in the form of a record bearing the date of signature and describing the action taken, signed by all the members entitled to vote on the action, and delivered to the membership corporation for inclusion in the minutes or filing with the corporate records.

B. If not otherwise fixed under Section 4.17 and if prior action by the board of directors is not required respecting the action to be taken without a meeting, the record date for determining members entitled to take action without a meeting shall be the first date on which a signed consent

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is delivered to the membership corporation. If not otherwise fixed under Section 4.17 and if prior action by the board of directors is required respecting the action to be taken without a meeting, the record date shall be the close of business on the day the resolution of the board of directors taking the prior action is adopted. A consent shall not be effective to take the corporate action referred to therein unless, within 60 days after the earliest date on which a consent delivered to the corporation as required by this section was signed, consents signed by members entitled to cast the required number of votes on the action have been delivered to the corporation. A consent may be revoked by a signed notice in the form of a record to that effect delivered to the corporation before unrevoked consents sufficient in number to take the corporate action have been delivered to the corporation.

C. A consent signed under this section has the effect of a meeting vote and may be described as such.

D. If the articles of incorporation or the bylaws require that notice of proposed corporate action be given to members not entitled to vote on the action and the action is to be taken by consent of the members entitled to vote, the membership corporation must deliver to the members not entitled to vote notice of the proposed action at least 10 days before the action is taken. The notice must contain or be accompanied by the same material that would have been required to be delivered to members not entitled to vote in a notice of meeting at which the proposed action would have been submitted to the members for action.

4.15. Notice of Meeting

A. A membership corporation must deliver notice to the members of the date, time, and place of each annual, regular, or special meeting of the members. If the board of directors has authorized participation by means of remote communication for members of any class, the notice to the members of that class must describe the means of remote communication to be used. Except as provided in the articles of incorporation or the bylaws:

1. the notice must be given no fewer than 10 nor more than 60 days before the meeting date; and

2. the corporation must give notice only to members entitled to vote at the meeting as of the record date for determining the members entitled to notice of the meeting.

B. Unless this Ordinance, the articles of incorporation, or the bylaws require otherwise, notice of an annual or regular meeting need not include a description of the purpose or purposes for which the meeting is called.

C. Notice of a special meeting of members must include a description of the purpose or purposes for which the meeting is called.

D. If not otherwise fixed under Section 4.18 or 4.17, the record date for determining members entitled to notice of and to vote at an annual, regular, or special meeting of the members is the day before the first notice is delivered to members.

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E. Unless the articles of incorporation or bylaws require otherwise, if an annual, regular, or special meeting of the members is adjourned to a different date, time, or place, notice need not be given of the new date, time, or place if the new date, time, or place is announced at the meeting before adjournment. If a new record date for the adjourned meeting is or must be fixed under Section 4.17, notice of the adjourned meeting must be given under this section to the members entitled to vote at the adjourned meeting as of the record date fixed for notice of the adjourned meeting.

F. Except as provided in the articles of incorporation or bylaws, when giving notice of an annual or regular meeting of members, a nonprofit corporation must give notice of a matter a member intends to raise at the meeting if:

1. requested in writing to do so by a person entitled to raise the matter at the meeting; and

2. the request is received by the secretary of the corporation at least ten days before the corporation gives notice of the meeting.

4.16. Waiver of Notice

A. A member may waive any notice required by this Ordinance, the articles of incorporation, or the bylaws before or after the date and time of the meeting or action. The waiver must be in the form of a record, be signed by the member entitled to the notice, and be delivered to the membership corporation for inclusion in filing by the corporation with the minutes or filing with the corporate records.

B. The attendance of a member at a meeting:

1. waives objection to lack of notice or defective notice of the meeting, unless the member at the beginning of the meeting objects to holding the meeting or transacting business at the meeting;

2. waives objection to consideration of a particular matter at the meeting that is not within the purpose described in the meeting notice, unless the member objects at the meeting to considering the matter.

4.17. Record Date—Determining Members Entitled to Notice and Vote

A. The bylaws of a corporation may fix or provide the manner of fixing a date as the record date for determining the members entitled to notice of a members' meeting. If the bylaws do not fix or provide for fixing such a record date, the board may fix a future date as such a record date. If no such record date is fixed, members, at the close of business on the business day preceding the day on which notice is given, or if notice is waived, at the close of business on the business day preceding the day on which the meeting is held, are entitled to notice of the meeting.

B. The bylaws of a corporation may fix or provide the manner of fixing a date as the

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record date for determining the members entitled to vote at a members' meeting. If the bylaws do not fix or provide for fixing such a record date, the board may fix a future date as such a record date. If no such record date is fixed, members on the date of the meeting who are otherwise eligible to vote are entitled to vote at the meeting.

C. The bylaws may fix or provide the manner for determining a date as the record date for the purpose of determining the members entitled to exercise any rights in respect of any other lawful action. If the bylaws do not fix or provide for fixing such a record date, the board may fix in advance such a record date. If no such record date is fixed, members at the close of business on the day on which the board adopts the resolution relating thereto, or the 60th day prior to the date of such other action, whichever is later, are entitled to exercise such rights.

D. A record date fixed under this section may not be more than 70 days before the meeting or action requiring a determination of members occurs.

E. A determination of members entitled to notice of or to vote at a membership meeting is effective for any adjournment of the meeting unless the board fixes a new date for determining the right to notice or the right to vote, which it must do if the meeting is adjourned to a date more than 70 days after the record date for determining members entitled to notice of the original meeting.

F. If a court orders a meeting adjourned to a date more than 120 days after the date fixed for the original meeting, it may provide that the original record date for notice or voting continues in effect or it may fix a new record date for notice or voting.

4.18. Court-Ordered Meeting

A. A tribal court of the Standing Rock Sioux Tribe on the Standing Rock Sioux Reservation may summarily order a meeting to be held:

1. on application of any member or other person entitled to participate in an annual or regular meeting if an annual meeting was not held within the earlier of 6 months after the end of the corporation's fiscal year or 15 months after its last annual meeting; or

2. on application of a member who signed a demand for a special meeting valid under Section 4.13 if:

   i. notice of the special meeting was not given within 30 days after the date the demand was delivered to a corporate officer, or

   ii. the special meeting was not held in accordance with the notice.

B. The Court may fix the time and place of the meeting, specify a record date for determining members entitled to notice of and to vote at the meeting, prescribe the form and content of the meeting notice, fix the quorum required for specific matters to be considered at the

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meeting (or direct that the votes represented at the meeting constitute a quorum for action on those matters), and enter other orders necessary to accomplish the purpose or purposes of the meeting.

C. If the Court orders a meeting, it may also order the corporation to pay the member's costs (including reasonable counsel fees) incurred to obtain the order.

4.19. Members' List for Meeting

A. After fixing a record date for a notice of a meeting, a corporation shall prepare an alphabetical list of the names of all its members who are entitled to notice of the meeting. The list must show the address and number of votes each member is entitled to vote at the meeting. The corporation shall prepare on a current basis through the time of the membership meeting a list of members, if any, who are entitled to vote at the meeting, but not entitled to notice of the meeting. This list shall be prepared on the same basis and be part of the list of members.

B. The list of members must be available for inspection by any member for the purpose of communication with other members concerning the meeting, beginning two business days after notice is given of the meeting for which the list was prepared and continuing through the meeting, at the corporation's principal office or at a reasonable place identified in the meeting notice in the city where the meeting will be held. A member, a member's agent, or attorney is entitled on written demand to inspect and, subject to the limitations of Section 13.1(F), to copy the list, at a reasonable time and at the member's expense, during the period it is available for inspection.

C. The corporation shall make the list of members available at the meeting, and any member, a member's agent, or attorney is entitled to inspect the list at any time during the meeting or any adjournment.

D. If the corporation refuses to allow a member, a member's agent, or attorney to inspect the list of members before or at the meeting (or copy the list as permitted by subsection B), a Court of Standing Rock Sioux Tribe , on application of the member, may summarily order the inspection or copying at the corporation's expense and may postpone the meeting for which the list was prepared until the inspection or copying is complete and may order the corporation to pay the member's costs (including reasonable counsel fees) incurred to obtain the order.

E. Unless a written demand to inspect and copy a membership list has been made under subsection B prior to the membership meeting and a corporation improperly refuses to comply with the demand, refusal or failure to comply with this section does not affect the validity of action taken at the meeting.

4.20. Voting Entitlement Generally

Unless the articles or bylaws provide otherwise, each member is entitled to one vote on each matter voted on by the members.

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4.21. Quorum Requirements

A. Unless this Act, the articles, or bylaws provide for a higher or lower quorum, ten percent of the votes entitled to be cast on a matter must be represented at a meeting of members to constitute a quorum on that matter.

B. A bylaw amendment to decrease the quorum for any member action may be approved by the members or, unless prohibited by the bylaws, by the board.

C. A bylaw amendment to increase the quorum required for any member action must be approved by the members.

D. Unless one-third or more of the voting power is present in person or by proxy, the only matters that may be voted upon at an annual or regular meeting of members are those matters that are described in the meeting notice.

4.22. Voting Requirements

A. Unless this Ordinance, the articles, or the bylaws require a greater vote or voting by class, if a quorum is present, the affirmative vote of the votes represented and voting (which affirmative votes also constitute a majority of the required quorum) is the act of the members.

B. A bylaw amendment to increase or decrease the vote required for any member action must be approved by the members.

4.23. Proxies

A. Unless the articles or bylaws prohibit or limit proxy voting, a member may appoint a proxy to vote or otherwise act for the member by signing an appointment form either personally or by an attorney-in-fact.

B. An appointment of a proxy is effective when received by the secretary or other officer or agent authorized to tabulate votes. An appointment is valid for 11 months unless a different period is expressly provided in the appointment form; provided, however, that no proxy shall be valid for more than three years from its date of execution.

C. An appointment of a proxy is revocable by the member.

D. The death or incapacity of the member appointing a proxy does not affect the right of the corporation to accept the proxy's authority unless notice of the death or incapacity is received by the secretary or other officer or agent authorized to tabulate votes before the proxy exercises authority under the appointment.

E. Appointment of a proxy is revoked by the person appointing the proxy:

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1. attending any meeting and voting in person; or

2. signing and delivering to the secretary or other officer or agent authorized to tabulate proxy votes either a writing stating that the appointment of the proxy is revoked or a subsequent appointment form.

F. Subject to Section 4.26 and any express limitation on the proxy's authority appearing on the face of the appointment form, a corporation is entitled to accept the proxy's vote or other action as that of the member making the appointment.

4.24. Methods of Electing Directors

A. A corporation may provide in its articles or bylaws for election of directors by members or delegates:

1. on the basis of chapter or other organizational unit;

2. by region or other geographic unit;

3. by preferential voting; or

4. by any other reasonable method.

4.25. Corporation's Acceptance of Votes

A. If the name signed on a vote, consent, waiver, or proxy appointment corresponds to the name of a member, the corporation if acting in good faith is entitled to accept the vote, consent, waiver, or proxy appointment and give it effect as the act of the member.

B. If the name signed on a vote, consent, waiver, or proxy appointment does not correspond to the record name of a member, the corporation if acting in good faith is nevertheless entitled to accept the vote, consent, waiver, or proxy appointment and give it effect as the act of the member if:

1. the member is an entity and the name signed purports to be that of an officer or agent of the entity;

2. the name signed purports to be that of an administrator, executor, guardian, or conservator representing the member and, if the corporation requests, evidence of fiduciary status acceptable to the corporation has been presented with respect to the ballot, consent, waiver, demand, or proxy appointment;

3. the name signed purports to be that of a receiver or trustee in bankruptcy of the

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member and, if the corporation requests, evidence of this status acceptable to the corporation has been presented with respect to the ballot, consent, waiver, demand, or proxy appointment;

4. the name signed purports to be that of a beneficial owner or attorney-in- fact of the member and, if the corporation requests, evidence acceptable to the corporation of the signatory's authority to sign for the member has been presented with respect to the ballot, consent, waiver, demand, or proxy appointment;

5. two or more persons are the member as co-tenants or fiduciaries and the name signed purports to be the name of at least one of the co-owners and the person signing appears to be acting on behalf of all the co-owners.

C. The corporation is entitled to reject a vote, consent, waiver, or proxy appointment if the secretary or other officer or agent authorized to tabulate votes, acting in good faith, has reasonable basis for doubt about the validity of the signature on it or about the signatory's authority to sign for the member.

D. The corporation and its officer or agent who accepts or rejects a vote, consent, waiver, or proxy appointment in good faith and in accordance with the standards of this section are not liable in damages to the member for the consequences of the acceptance or rejection.

E. Corporate action based on the acceptance or rejection of a vote, consent, waiver, or proxy appointment under this section is valid unless a Court of competent jurisdiction determines otherwise.

4.26. Voting Agreements

A. Except as provided in the articles of incorporation or bylaws, two or more members may provide for the manner in which they will vote by signing an agreement in the form of a record for that purpose. A voting agreement shall be valid for the period provided in the agreement.

B. A voting agreement created under this section is specifically enforceable, except that a voting agreement is not enforceable to the extent that enforcement of the agreement would violate the purposes of the membership corporation.

CHAPTER 5. DIRECTORS

5.1. Board of Directors

A. The affairs of a nonprofit corporation shall be managed by a board of directors except as may be otherwise provided in subsection B. Directors need not be members of the corporation unless the articles of incorporation or bylaws so require. The articles of incorporation or bylaws may prescribe other qualifications for directors.

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B. The articles of incorporation may vest the management of the affairs of the corporation in its members or may limit the authority of the board of directors to whatever extent is set forth in the articles of incorporation or bylaws.

C. A director shall serve for a term specified in the articles of incorporation or bylaws. Except as provided in the articles or bylaws:

1. the term of a director filling a vacancy in the office of a director elected by members expires at the next election of directors by members; and

2. the term of a director filling any other vacancy expires at the end of the unexpired term that such director is filling.

D. Despite the expiration of a director's term, the director continues to serve until the director's successor is elected, designated or appointed and qualifies, or until there is a decrease in the number of directors.

5.2. Number of Directors

A. A nonprofit corporation must have a board of directors of three or more individuals. The number of directors shall be fixed by or in the manner provided in the articles of incorporation or bylaws. The number of directors may be increased or decreased (but to no fewer than 3) by amendment to, or in the manner provided, in the articles of incorporation or bylaws, but no decrease in number may have the effect of shortening the term of any incumbent director. If the number of directors has not been fixed by, or in the manner provided, in the articles of incorporation or bylaws, the number shall be the same as the number of initial directors.

5.3. Election, Designation and Appointment of Directors

A. If the corporation has members, all the directors (except the initial directors) shall be elected at the first annual meeting of members, and at each annual meeting thereafter, unless the articles or bylaws provide some other time or method of election, or provide that some of the directors are appointed by some other person or designated.

B. If the corporation does not have members, all the directors (except the initial directors) shall be elected, appointed or designated as provided in the articles or bylaws. If no method of designation or appointment is set forth in the articles or bylaws, the directors (other than the initial directors) shall be elected by the board.

5.4. Staggered Terms for Directors

The articles or bylaws may provide for staggering the terms of directors by dividing the total number of directors into groups. The terms of office of the several groups need not be uniform.

5.5. Resignation of Directors

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A. A director may resign at any time by delivering written notice to the board of directors, its presiding officer or to the president or secretary.

B. A resignation is effective when the notice is effective unless the notice specifies a later date. If a resignation is made effective at a later date, the board may fill the pending vacancy before that date if the board provides that the successor does not take office until that date.

5.6. Removal of Directors Elected by Members or Directors

A. The members may remove one or more directors elected by them without cause.

B. If a director is elected by a class, chapter or other organizational unit or by region or other geographic grouping, the director may be removed only by the members of that class, chapter, unit or grouping.

C. A director may be removed under subsection A or B only if the number of votes cast to remove the director would be sufficient to elect the director at a meeting to elect directors.

D. A director elected by members may be removed by the members only at a meeting called for the purpose of removing the director, and the meeting notice must state that the purpose, or one of the purposes, of the meeting is removal of the director.

E. In computing whether a director is protected from removal under subsection B, it should be assumed that the votes against removal are cast in an election for the number of directors of the class to which the director to be removed belonged on the date of that director's election.

F. An entire board of directors may be removed under subsections A or D.

G. A director elected by the board may be removed without cause by the vote of the directors then in office, as set forth in the articles or bylaws.

H. If, at the beginning of a director's term on the board, the articles or bylaws provide that the director may be removed for missing a specified number of board meetings, the board may remove the director for failing to attend the specified number of meetings. The director may be removed only if a majority of the directors then in office votes for the removal.

5.7. Removal of Directors by Judicial Proceeding

A. The Standing Rock Sioux Tribal Court may remove a director from office in a proceeding commenced by or in the right of the corporation if the Court finds that:

1. the director engaged in fraudulent conduct with respect to the corporation or its members, grossly abused the position of director, or intentionally inflicted harm on the corporation; and

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2. considering the director's course of conduct and the inadequacy of other available remedies, removal would be in the best interest of the corporation.

B. A member, individual director, or member of a designated body proceeding on behalf of the nonprofit corporation under subsection A shall comply with all of the requirements of Chapter 11.

C. The Court, in addition to removing the director, may bar the director from being reelected, redesignated, or reappointed for a period prescribed by the Court.

D. Nothing in this section limits the equitable powers of the Court to order other relief.

E. If a proceeding is commenced under this section to remove a director of a charitable corporation, the plaintiff must give the Standing Rock Tribal Council notice in record form of the commencement of the proceeding.

5.8. Financially Disinterested Majority

A. No more than 49 percent of the individuals serving on the board of any corporation may be financially interested persons.

B. For the purposes of this section "financially interested persons" means:

1. Individuals who have received or are entitled to receive compensation, directly or indirectly, from the corporation for services rendered to it within the previous 12 months, whether as full- or part-time employees, independent contractors, consultants or otherwise, excluding any reasonable payments made to directors for serving as directors; or

2. Any spouse, brother, sister, parent or child of any such individual.

C. The failure to comply with the provisions of this section shall not affect the validity or enforceability of any transactions entered into by a corporation.

5.9. Vacancies

A. Unless the articles or bylaws provide otherwise, if a vacancy occurs on a board of directors, including a vacancy resulting from an increase in the number of directors:

1. the members, if any, may fill the vacancy; if the vacant office was held by a director elected by a class, chapter or other organizational unit or by region or other geographic grouping, only members of the class, chapter, unit or grouping are entitled to vote to fill the vacancy if it is filled by the members;

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2. the board of directors may fill the vacancy; or

3. if the directors remaining in office constitute fewer than a quorum of the board, they may fill the vacancy by the affirmative vote of a majority of all the directors remaining in office.

B. A vacancy that will occur at a specific later date (by reason of a resignation effective at a later date under section 5.5(B) or otherwise) may be filled before the vacancy occurs but the new director may not take office until the vacancy occurs.

5.10. Quorum and Voting of Directors

A. A majority of the number of directors fixed pursuant to the articles of incorporation or bylaws constitutes a quorum unless otherwise provided in the articles of incorporation or bylaws, but in no event may a quorum consist of less than one-third of the total number of directors.

B. If a quorum is present when a vote is taken, the affirmative vote of a majority of directors present is the act of the board unless this Ordinance, the articles or bylaws require the vote of a greater number of directors.

5.11. Committees of the Board of Directors

A. A majority of the full board of directors may designate from among the directors one or more committees each of which, to the extent provided in the articles of incorporation or bylaws, may be given all the authority of the board of directors, except no such committee may exercise the authority of the board of directors in reference to the following matters:

1. Submission to the members of any matter that requires an act of the members;

2. Filling vacancies on the board of directors or on any committee of the board of directors;

3. Adoption, amendment or repeal of bylaws; or

4. Fixing compensation of directors.

B. The board of directors, with or without cause, may dissolve any such committee or remove any director from the committee at any time. The designation of any such committee and the delegation of authority shall not operate to relieve the board of directors or any director of any responsibility imposed by law.

5.12. Place and Notice of Director's Meeting

A. Meetings of the board of directors, regular or special, shall be held at least annually either within or without the Reservation, and may be held by means of conference telephone or similar communication equipment by means of which all persons participating in the meeting can

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hear each other. Participation in a meeting pursuant to this section shall constitute presence in person at such meeting.

B. Regular meetings of the board of directors may be held with or without notice as prescribed in the bylaws. Special meetings of the board of directors shall be held upon such notice as is prescribed in the bylaws. Attendance of a director at any meeting shall constitute a waiver of notice of such meeting except when a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. The business to be transacted at any regular or special meeting of the board of directors need not be specified in the notice or waiver of notice of such meeting unless required by the articles of incorporation or bylaws.

C. In corporations without members, any board action to remove a director or to approve a matter that would require approval by the members if the corporation had members, shall not be valid unless each director is given at least seven days' written notice that the matter will be voted upon at a directors' meeting or unless notice is waived in writing and filed with the minutes or the corporate records or waived pursuant to subsection B.

5.13. Standards of Conduct For Directors

A. Each member of the board of directors, when discharging the duties of a director, shall act:

1. in good faith,

2. with the care an ordinarily prudent person in a like position would exercise under similar circumstances, and

3. in a manner the director reasonably believes to be in the best interests of the nonprofit corporation.

B. In discharging his or her duties, a director is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

1. one or more officers or employees of the corporation whom the director reasonably believes to be reliable and competent in the matters presented;

2. legal counsel, public accountants, or other persons as to matters the director reasonably believes are within the person's professional or expert competence;

3. a committee of the board of which the director is not a member, as to matters within its jurisdiction, if the director reasonably believes the committee merits confidence; or

4. in the case of religious corporations, religious authorities and ministers, priests,

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rabbis or other persons whose position or duties in the religious organization the director believes justify reliance and confidence and whom the director believes to be reliable and competent in the matters presented.

C. A director is not acting in good faith if the director has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection B unwarranted.

D. A director is not liable to the corporation, any member, or any other person for any action taken or not taken as a director, if the director acted in compliance with this section.

E. A director shall not be deemed to be a trustee with respect to the corporation or with respect to any property held or administered by the corporation, including without limit, property that may be subject to restrictions imposed by the donor or transferor of such property.

5.14. Standards of Liability For Directors

A. A director shall not be liable to the nonprofit corporation or its members for any decision to take or not to take action, or any failure to take any action, as a director, unless the party asserting liability in a proceeding establishes that:

1. the challenged conduct consisted or was the result of:

   i. action not in good faith; or

   ii. a decision:

      (a) which the director did not reasonably believe to be in the best interests of the corporation, or

      (b) as to which the director was not informed to an extent the director reasonably believed appropriate in the circumstances; or

   iii. a lack of objectivity due to the director's familial, financial or business relationship with, or a lack of independence due to the director's domination or control by, another person having a material interest in the challenged conduct:

      (a) which relationship or which domination or control could reasonably be expected to have affected the director's judgment respecting the challenged conduct in a manner adverse to the corporation, and

      (b) after a reasonable expectation to such effect has been established, the director shall not have established that the challenged conduct was reasonably believed by the director to be in the best interests of the corporation; or

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iv. a sustained failure of the director to devote attention to ongoing oversight of the activities and affairs of the corporation, or a failure to devote timely attention, by making (or causing to be made) appropriate inquiry, when particular facts and circumstances of significant concern materialize that would alert a reasonably attentive director to the need for such inquiry; or

v. receipt of a financial benefit to which the director was not entitled or any other breach of the director's duties to deal fairly with the corporation and its members that is actionable under applicable law.

B. The party seeking to hold the director liable:

1. for money damages, shall also have the burden of establishing that:

   i. harm to the nonprofit corporation or its members has been suffered, and

   ii. the harm suffered was proximately caused by the director's challenged conduct; or

2. for other money payment under a legal remedy, such as compensation for the unauthorized use of corporate assets, shall also have whatever persuasion burden may be called for to establish that the payment sought is appropriate in the circumstances; or

3. for other money payment under an equitable remedy, such as profit recovery by or disgorgement to the corporation, shall also have whatever persuasion burden may be called for to establish that the equitable remedy sought is appropriate in the circumstances.

C. Nothing contained in this section shall:

1. in any instance where fairness is at issue alters the burden of proving the fact or lack of fairness otherwise applicable,

2. alters the fact or lack of liability of a director under another section of this Ordinance, such as the provisions governing the consequences of an unlawful distribution under Section 5.15; or

3. affects any rights to which the corporation or a director or member may be entitled under another statute of the Tribe or the United States.

D. Notwithstanding any other provision of this section, a director of a charitable corporation shall not be liable to the corporation or its members for money damages for any action taken, or any failure to take any action, as a director, except liability for:

1. the amount of a financial benefit received by the director to which the director is

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not entitled;

2. an intentional infliction of harm;

3. a violation of Section 5.15; or

4. an intentional violation of criminal law.

5.15. Directors' Liability for Unlawful Distributions

A. A director who votes for or assents to a distribution made in violation of this Ordinance is personally liable to the nonprofit corporation for the amount of the distribution that exceeds what could have been distributed without violating this Ordinance if the party asserting liability establishes that, when taking the action, the director did not comply with Section 5.13.

B. A director held liable under subsection A for an unlawful distribution is entitled to:

1. contribution from every other director who could be held liable under subsection A for the unlawful distribution; and

2. recoupment from each person of the pro-rata portion of the amount of the unlawful distribution the person received, whether or not the person knew the distribution was made in violation of this Ordinance.

C. A proceeding to enforce:

1. the liability of a director under subsection A is barred unless it is commenced within two years after the date on which the distribution was made; or

2. contribution or recoupment under subsection B is barred unless it is commenced within one year after the liability of the claimant has been finally adjudicated under subsection A.

5.16. Designated Body

A. Some, but less than all, of the powers, authority or functions of the board of directors of a nonprofit corporation under this Ordinance may be vested by the articles of incorporation or bylaws in a designated body. If such a designated body is created:

1. The provisions of this Chapter and other provisions of law on the rights, duties, and liabilities of the board of directors or directors individually also apply to the designated body and to the members of the designated body individually. The provisions of this Chapter and other provisions of law on meetings, notice, and the manner of acting of the board of directors also apply to the designated body in the absence of an applicable rule in the articles of incorporation, bylaws or internal operating rules of the designated body.

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2. To the extent the powers, authority, or functions of the board of directors have been vested in the designated body, the directors are relieved from their duties and liabilities with respect to those powers, authority, and functions.

3. A provision of the articles of incorporation regarding indemnification of directors or limiting the liability of directors applies to members of the designated body, except as otherwise provided in the articles.

B. Some, but less than all, of the rights or obligations of the members of a nonprofit corporation under this Ordinance may be vested by the articles of incorporation or bylaws in a designated body. If such a designated body is created:

1. The provisions of this Chapter and other provisions of law on the rights and obligations of members also apply to the designated body and to the members of the designated body individually. The provisions of this Chapter and other provisions of law on meetings, notice, and the manner of acting of members also apply to the designated body in the absence of an applicable provision in the articles of incorporation, bylaws or internal operating rules of the designated body.

2. To the extent the rights or obligations of the members have been vested in the designated body, the members are relieved from responsibility with respect to those rights and obligations.

C. The articles of incorporation or bylaws may prescribe qualifications for members of a designated body. Except as otherwise provided by the articles or bylaws, a member of a designated body does not need to be:

1. an individual,

2. a director, officer, or member of the nonprofit corporation, or

3. a member of the Tribe.

CHAPTER 6. OFFICERS

6.1. Officers

A. The officers of a nonprofit corporation shall consist of a president, a secretary and a treasurer, each of whom shall be elected by the board of directors at such time and in such manner as may be prescribed by the bylaws. Other officers and agents as may be deemed necessary may be elected or appointed by the board of directors or chosen in such other manner as may be prescribed by the bylaws.

B. All officers and agents of the corporation, as between themselves and the corporation, shall have such authority and perform such duties in the management of the

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corporation as provided in the bylaws or determined by resolution of the board of directors not inconsistent with the bylaws.

C. The articles of incorporation or bylaws may provide that any one or more officers of the corporation shall be ex officio members of the board of directors.

D. The officers of a corporation may be designated by such additional titles as may be provided in the articles of incorporation or bylaws.

6.2. Standards of Conduct for Officers

A. An officer, when performing in that capacity, has the duty to act:

1. in good faith;

2. with the care an ordinarily prudent person in a like position would reasonably exercise under similar circumstances; and

3. in a manner the officer reasonably believes to be in the best interests of the corporation.

B. The duty of an officer includes the obligation:

1. to inform the superior officer to whom, or the board of directors or the board committee to which, the officer reports, of information about the affairs of the nonprofit corporation known to the officer, within the scope of the officer's functions, and known to the officer to be material to the superior officer, board, or committee; and

2. to inform his or her superior officer, or another appropriate person within the nonprofit corporation, or the board of directors, or a board committee, of any actual or probable material violation of law involving the corporation or material breach of duty to the corporation by an officer, employee, or agent of the corporation, that the officer believes has occurred or is likely to occur.

C. In discharging his or her duties, an officer who does not have knowledge that makes reliance unwarranted is entitled to rely on:

1. the performance of properly delegated responsibilities by one or more employees of the nonprofit corporation whom the officer reasonably believes to be reliable and competent in performing the responsibilities delegated;

2. information, opinions, reports, or statements, including financial statements and other financial data, prepared or presented by one or more officers or employees of the corporation whom the officer reasonably believes to be reliable and competent in the matters presented, or legal counsel, public accountants, or other persons

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retained by the corporation as to matters involving skills or expertise the officer reasonably believes are matters:

i. within the particular person's professional or expert competence, or

ii. as to which the particular person merits confidence; or

3. in the case of a corporation engaged in religious activity, religious authorities and ministers, priests, rabbis, imams, or other persons whose positions or duties the officer reasonably believes justify reliance and confidence and whom the officer believes to be reliable and competent in the matters presented.

D. An officer shall not be liable to the corporation or its members for any decision to take or not to take action, or any failure to take any action, as an officer, if the duties of the office are performed in compliance with this section. Whether an officer who does not comply with this section shall have liability will depend in such instance on applicable law, including those principles of Section 5.14 that have relevance.

6.3. Resignation and Removal of Officers

A. An officer may resign at any time by delivering notice to the corporation. A resignation is effective when the notice is effective unless the notice specifies a future date. If a resignation is made effective at a future date and the corporation accepts the future date, its board of directors may fill the pending vacancy before that date if the board provides that the successor does not take office until that date.

B. Any officer or agent elected or appointed may be removed by the persons authorized to elect or appoint such officer or agent whenever in their judgment the best interests of the nonprofit corporation will be served by the removal, but such removal shall be without prejudice to the contract rights, if any, of the person removed. Election or appointment of an officer or agent shall not in itself create contract rights.

CHAPTER 7. INDEMNIFICATION

7.1. Subchapter Definitions

In this Chapter:

"Corporation" includes any predecessor nonprofit of a nonprofit corporation in a merger.

"Director" or "officer" means an individual who is or was a director or officer, respectively, of a nonprofit corporation or who, while a director or officer of the corporation, is or was serving at the corporation's request as a director, officer, manager, partner, trustee, employee, or agent of another domestic or foreign corporation, partnership, joint venture, trust, or employee benefit plan, or other entity. A director or officer is considered to be serving as an employee benefit plan at the corporation's request if the individual's duties to the corporation also impose duties on, or

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otherwise involve services by, the individual to the plan or to participants in or beneficiaries of the plan. "Director" includes a member of a designated body. "Director" or "officer" includes, unless the context requires otherwise, the estate or personal representative of a director or officer.

"Disinterested director" means a director who, at the time of a vote or selection referred to in Section 7.4(B) or (C), is not:

i. a party to the proceeding; or

ii. an individual having a familial, financial, professional, or employment relationship with the director whose indemnification is the subject of the decision being made, which relationship would, in the circumstances, reasonably be expected to exert an influence on the director's judgment when voting on the decision being made.

"Liability" means the obligation to pay a judgment, settlement, penalty, fine (including an excise tax assessed with respect to an employee benefit plan), or reasonable expenses incurred with respect to a proceeding.

"Official capacity" means the office of director in a nonprofit corporation.

"Party" means an individual who was, is, or is threatened to be made, a defendant or respondent in a proceeding.

"Proceeding" means any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, arbitrative, or investigative, and whether formal or informal.

7.2. Permissible Indemnification

A. Except as otherwise provided in this section, a nonprofit corporation may indemnify an individual who is a party to a proceeding because the individual is or was a director against liability incurred in the proceeding if the individual:

1. conducted himself or herself in good faith; and

2. reasonably believed:

   i. in the case of conduct in an official capacity, that the conduct was in the best interests of the corporation; and

   ii. in all other cases, that his or her conduct was at least not opposed to the best interests of the corporation; and

3. in the case of any criminal proceeding, had no reasonable cause to believe his or her conduct was unlawful; or

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4. the director engaged in conduct for which broader indemnification has been made permissible or obligatory under a provision of the articles of incorporation.

B. A director's conduct with respect to an employee benefit plan for a purpose the director reasonably believed to be in the interests of the participants in and the beneficiaries of the plan is conduct that satisfies the requirement of subsection (A)(2)(b).

C. The termination of a proceeding by judgment, order, settlement, or conviction, or upon a plea of nolo contendere or its equivalent, is not, of itself, determinative that the director did not meet the relevant standard of conduct described in this section.

D. A nonprofit corporation may not indemnify a director:

1. in connection with a proceeding by or in the right of the corporation, except for reasonable expenses incurred in connection with the proceeding if it is determined that the director has met the relevant standard of conduct under subsection A; or

2. in connection with any other proceeding charging improper personal benefit to the director, whether or not involving action in his or her official capacity, in which the director was adjudged liable on the basis that personal benefit was improperly received by the director.

7.3. Mandatory Indemnification

A nonprofit corporation must indemnify a director to the extent the director was successful, on the merits or otherwise, in the defense of any proceeding to which the director was a party because the director was a director of the corporation against reasonable expenses incurred by the director in connection with the proceeding.

7.4. Determination and Authorization of Indemnification

A. A nonprofit corporation may not indemnify a director under Section 7.2 unless authorized for a specific proceeding after a determination has been made that indemnification is permissible because the director has met the relevant standard of conduct set forth in Section 7.2.

B. The determination shall be made:

1. if there are two or more disinterested directors, by the board of directors by a majority vote of all the disinterested directors (a majority of whom shall constitute for this purpose a quorum), or by a majority of the members of a committee of two or more disinterested directors appointed by such a vote;

2. by special legal counsel:

i. selected in the manner prescribed in subsection (B)(1); or

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ii. if there are fewer than two disinterested directors, selected by the board of directors (in which selection directors who are not disinterested directors may participate); or

3. by the members.

C. Authorization of indemnification shall be made in the same manner as the determination that indemnification is permissible, except that if there are fewer than two disinterested directors or if the determination is made by special legal counsel, authorization of indemnification shall be made by those entitled to select special legal counsel under subsection (B)(2)(ii).

7.5. Indemnification of Officers

Unless limited by a corporation's articles of incorporation:

(1) an officer of the corporation who is not a director is entitled to mandatory indemnification under Section 7.3 to the same extent as a director;

(2) the corporation may indemnify and advance expenses under this Chapter to an officer, employee, or agent of the corporation who is not a director to the same extent as to a director; and

(3) a corporation may also indemnify and advance expenses to an officer, employee, or agent who is not a director to the extent, consistent with public policy, that may be provided by its articles of incorporation, bylaws, general or specific action of its board of directors, or contract.

CHAPTER 8. DISTRIBUTIONS

8.1. Shares of Stock and Dividends Prohibited

A. A nonprofit corporation shall not have or issue shares of stock. No dividend may be paid and no part of the income or profit of such corporation may be distributed to its members, directors or officers, except that distributions can be made upon dissolution of final liquidation in conformity with Chapter 12 of this Ordinance. A corporation may pay compensation in a reasonable amount of its members, directors or officers for services rendered and may confer benefits upon its members in conformity with its purposes, except when:

1. the corporation is currently insolvent or would thereby be made insolvent or rendered unable to carry on its purposes; or

2. the fair value of the assets of the corporation remaining after the conferring of benefits, contribution, repurchase, or repayment would be insufficient to meet its liabilities.

8.2. Loans to Directors and Officers Prohibited

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A nonprofit corporation shall not lend money to or use its credit to assist its directors, officers or employees. Any director, officer or employees who assents to or participates in the making of any such loan shall be personally liable to the corporation for the amount of such loan.

CHAPTER 9. AMENDMENT OF ARTICLES OF INCORPORATION AND BYLAWS

9.1. Right to Amend Articles of Incorporation

A corporation may amend its articles of incorporation in any lawful respect.

9.2. Amendment Before Issuance of Memberships

If a membership corporation has not yet issued memberships, its board of directors, or its incorporators if it has no board of directors, may adopt one or more amendments to the articles of incorporation.

9.3. Amendment of Articles of Membership Corporation

A. An amendment to the articles of incorporation of a membership corporation shall be adopted in the following manner:

1. Except as provided in subsection (A)(4), the proposed amendment must first be adopted by the board of directors.

2. Except as provided in Section 9.5, the amendment must then be approved by the members entitled to vote on the amendment. In submitting the proposed amendment to the members for approval, the board of directors must recommend that the members approve the amendment, unless the board of directors makes a determination that because of conflicts of interest or other special circumstances it should not make such a recommendation, in which case the board of directors must inform the members the basis of the basis for its so proceeding.

3. The board of directors may set conditions for the approval of the amendment by the members or the effectiveness of the amendment.

4. If the amendment is required to be approved by the members, and the approval is to be given at a meeting, the corporation must notify each member entitled to vote on the amendment of the meeting of members at which the amendment is to be submitted for approval. The notice must state that the purpose, or one of the purposes, of the meeting is to consider the amendment. The notice must contain or be accompanied by a copy of the amendment.

5. Unless the articles of incorporation or bylaws, or the board of directors acting pursuant to paragraph (3), requires a greater vote or a greater number of members to be present, the approval of an amendment requires the approval of the members

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at a meeting at which a quorum exists, and, if any class of members is entitled to vote as a separate group on the amendment, the approval of each such separate voting group at a meeting at which a quorum of the voting group exists.

6. In addition to the adoption and approval of an amendment by the board of directors and members as required by this section, an amendment must also be approved by a designated body whose approval is required by the articles of incorporation or bylaws.

B. Unless the articles of incorporation provide otherwise, the board of directors of a membership corporation may adopt amendments to the corporation's articles of incorporation without approval of the members to:

1. extend the duration of the corporation if it was incorporated at a time when limited duration was required by law;

2. delete the names and addresses of the initial directors or members of a designated body;

3. delete the name and address of the initial registered agent or registered office, if a statement of change is on file with the Finance Office;

4. change the corporation name by substituting or deleting the word "corporation," "incorporated," "company," "limited," or the abbreviation "corp.," "inc.," "co.," or "ltd.," for a similar word or abbreviation in the name;

5. restate without change all of the then operative provisions of the articles.

9.4. Voting on Amendments by Voting Groups

A. Except as provided in the articles of incorporation or bylaws, if a nonprofit corporation has more than one class of members, the members of each class are entitled to vote as a separate voting group (if member voting is otherwise required by this Ordinance) on a proposed amendment to the articles of incorporation if the amendment would:

1. effect an exchange or reclassification of all or part of the memberships of the class into memberships of another class;

2. effect an exchange or reclassification, or create the right of exchange, of all or part of the memberships of another class into memberships of the class;

3. change the rights, preferences, or limitations of all or part of the memberships of the class in a manner different than the amendment would affect another class;

4. change the rights, preferences, or limitations of all or part of the memberships of the class by changing the rights, preferences, or limitations of another class;

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5. increase or decrease the number of memberships authorized for that class;

6. increase the number of memberships authorized for another class; or

7. authorize a new class of memberships.

B. If a class of members will be divided into two or more classes by an amendment to the articles of incorporation, the amendment must be approved by a majority of the members of each class that will be created.

C. If a proposed amendment would affect less than all of the members of a class in one or more of the ways described in subsection A, the members so affected are entitled to vote as a separate voting group on the proposed amendment.

9.5. Amendment of Articles of Nonmembership Corporation

Except as otherwise provided in the articles of incorporation, the board of directors of a nonmembership corporation may adopt amendments to the corporation's articles. An amendment adopted by the board of directors under this subsection must also be approved:

1. by a designated body whose approval is required by the articles of incorporation or bylaws;

2. if the amendment changes or deletes a provision regarding the appointment of a director by persons other than the board, by those persons as if they constituted a voting group; and

3. if the amendment changes or deletes a provision regarding the designation of a director, by the individual designated at the time as that director.

9.6. Articles of Amendment

The articles of amendment shall be executed by the nonprofit corporation in duplicate and shall state:

1. The name of the corporation;

2. The amendments adopted;

3. The date of the adoption of the amendments; and

4. That the amendments were duly adopted by act of the members or of the board of directors.

5. If approval by members was required:

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i. the designation, number of memberships outstanding, number of votes entitled to be cast by each class entitled to vote separately on the amendment, and number of votes of each class indisputably voting on the amendment, and

ii. either the total number of votes cast for and against the amendment by each class entitled to vote separately on the amendment or the total number of undisputed votes cast for the amendment by each class and a statement that the number cast for the amendment by each class was sufficient for approval by that class; and

6. if approval of the amendment by some person or persons other than the members, the board or the incorporators is required pursuant to Section 9.12, a statement that the approval was obtained.

9.7. Filing of Articles of Amendment; Effect of Amendment

A. When the articles of amendment have been delivered for filing, after the Standing Rock Tribal Council has approved the amendments as required by Section 2.3, the Finance Office shall determine that the articles set forth the information required by Section 9.6.

B. Upon making such determination, the Finance Office shall proceed with the filing of the articles.

C. Upon the delivery of the articles of amendment to the Finance Office, the amendment shall become effective and the articles of incorporation shall be deemed to be amended, except that, if the determination of the requirements of this Chapter for filing are not satisfied completely, the articles of amendment shall not be filed, the amendment shall not become effective, and the articles of incorporation shall not be deemed to have been amended.

D. No amendment may affect any existing claim in favor of or against the nonprofit corporation or any pending action or proceeding to which the corporation is a party or the existing rights of persons other than members. If the corporate name is changed by amendment, no action or proceeding brought by or against the corporation under its former name may abate for that reason.

9.8. Amendment Pursuant to Judicial Reorganization

A. A corporation's articles may be amended without board approval or approval by the members or approval required pursuant to Section 9.12 to carry out a plan of reorganization ordered or decreed by a court of competent jurisdiction under federal statute if the articles after amendment contain only provisions required or permitted by Section 2.2.

B. The individual or individuals designated by the court shall deliver to the Finance Office articles of amendment setting forth:

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1. the name of the corporation;

2. the text of each amendment approved by the court;

3. the date of the court's order or decree approving the articles of amendment;

4. the title of the reorganization proceeding in which the order or decree was entered; and

5. a statement that the court had jurisdiction of the proceeding under federal statute.

C. This section does not apply after entry of a final decree in the reorganization proceeding even though the court retains jurisdiction of the proceeding for limited purposes unrelated to consummation of the reorganization plan.

9.9. Authority to Amend

A. Except as provided in the articles of incorporation or bylaws, the members of a membership corporation may amend or repeal the corporation's bylaws.

B. The board of directors of a membership corporation or nonmembership corporation may amend or repeal the corporation's bylaws, unless the articles of incorporation or bylaws or Sections 9.10 or 9.11 reserve that power exclusively to the members or a designated body in whole or part.

C. A member of a membership corporation does not have a vested property right resulting from any provision of the bylaws.

9.10. Bylaw Increasing Quorum or Voting Requirement for Board of Directors or Designated Body

A. A bylaw that increases a quorum or voting requirement for the board of directors or a designated body may be amended or repealed:

1. if originally adopted by the members, only by the members, unless the bylaws otherwise provide;

2. if adopted by the board of directors or designated body, either by the members or by the board of directors or designated body.

B. A bylaw adopted or amended by the members that increases a quorum or voting requirement for the board of directors or a designated body may provide that it can be amended or repealed only by a specified vote of either the members or the board of directors or designated body.

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C. Action by the board of directors or a designated body under subsection A to amend or repeal a bylaw that changes the quorum or voting requirement for the board of directors or a designated body must meet the same quorum requirement and be adopted by the same vote required to take action under the quorum and voting requirement then in effect or proposed to be adopted, whichever is greater.

9.11. Bylaw Amendments Requiring Member Approval

A. Except as provided in the articles of incorporation or bylaws, the board of directors or designated body of a membership corporation that has one or more members at the time may not adopt or amend a bylaw under:

1. Section 4.1(C) providing that some of the members shall have different rights or obligations than other members with respect to voting, dissolution, transfer of memberships or other matters;

2. Section 4.6 levying dues, assessments, or fees on some or all of the members;

3. Section 4.9 relating to the termination or suspension of members;

4. Section 4.10 authorizing the purchase of memberships;

5. Section 5.6(A):

   i. requiring cause to remove a director; or

   ii. specifying what constitutes cause to remove a director;

6. Section 5.6(E) relating to the removal of a director who is designated in a manner other than election or appointment; or

7. Section 5.16.

B. The board of directors or designated body of a membership corporation may not amend the articles of incorporation or bylaws to vary the application of subsection A to the corporation.

C. If a nonprofit corporation has more than one class of members, the members of a class are entitled to vote as a separate voting group on an amendment to the bylaws that:

1. is described in subsection A if the amendment would affect the members of that class differently than the members of another class; or

2. has any of the effects described in Section 9.4.

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D. If a class of members will be divided into two or more classes by an amendment to the bylaws, the amendment must be approved by a majority of the members of each class that will be created.

9.12. Approval by Third Persons

The Articles of Incorporation may require an amendment to the articles or bylaws to be approved in writing by a specified person or persons other than the board. Such a provision may only be amended with the approval in writing of such person or persons.

CHAPTER 10. MERGER

10.1. Approval of Plan of Merger

A. Subject to the limitations set forth in Section 10.2, one or more nonprofit corporations may merge into a nonprofit corporation, if the plan of merger is approved.

B. The plan of merger must set forth:

1. the name of each corporation planning to merge and the name of the surviving corporation into which each plans to merge;

2. the terms and conditions of the planned merger;

3. the manner and basis, if any, of converting the memberships of each corporation into memberships of the surviving corporation; and

4. the manner of converting the interests in each party to the merger into interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing.

C. The plan of merger may set forth:

1. any amendments to the articles of incorporation or bylaws of the surviving corporation to be effected by the planned merger; and

2. other provisions relating to the planned merger.

10.2. Limitations on Mergers

A. A corporation organized under this Ordinance may merge only with another nonprofit corporation organized under this Ordinance.

10.3. Action on Plan by Board, Members and Third Persons

A. Unless this Ordinance, the articles, bylaws or the board of directors or members

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(acting pursuant to subsection C) require a greater vote or voting by class, a plan of merger to be adopted must be approved:

1. by the board;

2. by the members, if any, by two-thirds of the votes cast or a majority of the voting power, whichever is less; and

3. in writing by any person or persons whose approval is required by a provision of the articles authorized by Section 9.12 for an amendment to the articles or bylaws.

B. If the corporation does not have members, the merger must be approved by a majority of the directors in office at the time the merger is approved. In addition, the corporation shall provide notice of any directors' meeting at which such approval is to be obtained in accordance with Section 5.12(C). The notice must also state that the purpose, or one of the purposes, of the meeting is to consider the proposed merger.

C. The board may condition its submission of the proposed merger, and the members may condition their approval of the merger, on receipt of a higher percentage of affirmative votes or on any other basis.

D. If the board seeks to have the plan approved by the members at a membership meeting, the corporation shall give notice to its members of the proposed membership meeting in accordance with Section 4.15. The notice must also state that the purpose, or one of the purposes, of the meeting is to consider the plan of merger and contain or be accompanied by a copy or summary of the plan. The copy or summary of the plan for members of the surviving corporation shall include any provision that, if contained in a proposed amendment to the articles of incorporation or bylaws, would entitle members to vote on the provision. The copy or summary of the plan for members of the disappearing corporation shall include a copy or summary of the articles and bylaws that will be in effect immediately after the merger takes effect.

E. If the board seeks to have the plan approved by the members by written consent or written ballot, the material soliciting the approval shall contain or be accompanied by a copy or summary of the plan. The copy or summary of the plan for members of the surviving corporation shall include any provision that, if contained in a proposed amendment to the articles of incorporation or bylaws, would entitle members to vote on the provision. The copy or summary of the plan for members of the disappearing corporation shall include a copy or summary of the articles and bylaws that will be in effect immediately after the merger takes effect.

F. Voting by a class of members is required on a plan of merger if the plan contains a provision that, if contained in a proposed amendment to articles of incorporation or bylaws, would entitle the class of members to vote as a class on the proposed amendment under Section 9.4 or 9.11. The plan is approved by a class of members by two-thirds of the votes cast by the class or a majority of the voting power of the class, whichever is less.

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G. After a merger is adopted, and at any time before articles of merger are filed, the planned merger may be abandoned (subject to any contractual rights) without further action by members or other persons who approved the plan in accordance with the procedure set forth in the plan of merger or, if none is set forth, in the manner determined by the board of directors.

10.4. Articles of Merger

After a plan of merger is approved by the board of directors, and if required by Section 10.3, by the members and any other persons, the surviving or acquiring corporation shall deliver to the Finance Office articles of merger setting forth:

1. the plan of merger;

2. if approval of members was not required, a statement to that effect and a statement that the plan was approved by a sufficient vote of the board of directors;

3. if approval by members was required,

   i. the designation, number of memberships outstanding, number of votes entitled to be cast by each class entitled to vote separately on the plan, and number of votes of each class indisputably voting on the plan, and

   ii. either the total number of votes cast for and against the plan by each class entitled to vote separately on the plan or the total number of undisputed votes cast for the plan by each class and a statement that the number cast for the plan by each class was sufficient for approval by that class;

4. if approval of the plan by some person or persons other than the members or the board is required pursuant to section 10.3(A)(3), a statement that the approval was obtained.

10.5. Effect of Merger

When a merger takes effect:

1. every other corporation party to the merger merges into the surviving corporation and the separate existence of every corporation except the surviving corporation ceases;

2. the title to all real estate and other property owned by each corporation party to the merger is vested in the surviving corporation without reversion or impairment subject to any and all conditions to which the property was subject prior to the merger;

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3. the surviving corporation has all liabilities and obligations of each corporation party to the merger;

4. a proceeding pending against any corporation party to the merger may be continued as if the merger did not occur or the surviving corporation may be substituted in the proceeding for the corporation whose existence ceased; and

5. the articles of incorporation and bylaws of the surviving corporation are amended to the extent provided in the plan of merger.

10.6. Bequests, Devises and Gifts

Any bequest, devise, gift, grant, or promise contained in a will or other instrument of donation, subscription, or conveyance, that is made to a constituent corporation and that takes effect or remains payable after the merger, inures to the surviving corporation unless the will or other instrument otherwise specifically provides.

CHAPTER 11. DERIVATIVE ACTION

11.1. Scope of Chapter

In this Chapter, "derivative proceeding" means a civil suit in the right of a domestic nonprofit corporation.

11.2. Standing

A. A derivative proceeding may be brought by:

1. a member or members that can fairly and adequately represent the interests of the nonprofit corporation in enforcing the rights of the corporation; or

2. any director or member of a designated body

B. The plaintiff in a derivative proceeding must be a member, director, or member of a designated body at the time of bringing the proceeding. A plaintiff who is a member must also have been a member at the time of any action complained of in the derivative proceeding.

11.3. Demand

No person may commence a derivative proceeding until:

1. a demand in the form of a record has been made upon the nonprofit corporation to take suitable action; and

2. 90 days have expired from the date delivery of the demand was made unless the

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person has earlier been notified that the demand has been rejected by the corporation or unless irreparable injury to the corporation would result by waiting for the expiration of the 90-day period.

11.4. Stay of Proceedings

If the nonprofit corporation commences an inquiry into the allegations made in the demand or complaint, the Court may stay any derivative proceeding for such period as the Court deems appropriate.

11.5. Dismissal

A. A derivative proceeding shall be dismissed by the Court on motion by the nonprofit corporation if one of the groups specified in subsection B or E has determined in good faith after conducting a reasonable inquiry upon which its conclusions are based that the maintenance of the derivative proceeding is not in the best interests of the corporation.

B. Unless a panel is appointed pursuant to subsection E, the determination in subsection A shall be made by:

1. a majority vote of independent directors present at a meeting of the board of directors if the independent directors constitute a quorum; or

2. a majority vote of a committee consisting of two or more independent directors appointed by majority vote of independent directors present at a meeting of the board of directors, regardless of whether the independent directors present at the meeting constituted a quorum.

C. If a derivative proceeding is commenced after a determination has been made rejecting a demand by a member, the complaint shall allege with particularity facts establishing either:

1. that a majority of the board of directors did not consist of independent directors at the time the determination was made; or

2. that the requirements of subsection A have not been met.

D. If a majority of the board of directors consisted of independent directors at the time the determination was made, the plaintiff shall have the burden of proving that the requirements of subsection A have not been met; if not, the nonprofit corporation shall have the burden of proving that the requirements of subsection A have been met.

E. Upon motion by the corporation, the Court may appoint a panel of one or more individuals to make a determination whether the maintenance of the derivative proceeding is in the best interests of the corporation. In such case, the plaintiff shall have the burden of proving that the requirements of subsection A have not been met.

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F. A person is independent for purposes of this section if the person does not have:

1. a material interest in the outcome of the proceeding, or

2. a material relationship with a person who has such an interest.

G. None of the following shall by itself cause a director to be considered not independent for purposes of this section:

1. the nomination, election, or appointment of the director by persons who are defendants in the derivative proceeding or against whom action is demanded;

2. the naming of the director as a defendant in the derivative proceeding or as a person against whom action is demanded; or

3. the approval by the director of the act being challenged in the derivative proceeding or demand if the act resulted in no personal benefit to the director.

11.6. Security for Costs: Payment of Expenses

A. In any derivative proceeding brought under Section 11.2(A)(1), the nonprofit corporation shall be entitled at any stage of the proceeding to seek an order requiring the plaintiffs to give security for reasonable expenses, including attorney fees and expenses, that may be incurred by the corporation in connection with the proceeding, to which security the corporation may have recourse in such amount as the Court determines upon termination of the proceeding. The amount of security may be increased or decreased in the discretion of the Court upon a showing that the security provided has or may become inadequate or excessive. Security may be denied or limited in the discretion of the Court upon a preliminary showing, by application and upon such types of proof as may be required by the Court, establishing prima facie that the requirement of full or partial security would impose undue hardship on plaintiffs and serious injustice would result.

B. On termination of the derivative proceeding, the Court may:

1. order the nonprofit corporation to pay the plaintiff's expenses (including counsel fees) incurred in the proceeding if it finds that the proceeding has resulted in a substantial benefit to the corporation;

2. order the plaintiff to pay any defendant's expenses (including counsel fees) incurred in defending the proceeding if it finds that the proceeding was commenced or maintained without reasonable cause or for an improper purpose; or

3. order a party to pay an opposing party's expenses (including counsel fees) incurred because of the filing of a pleading, motion, or other paper, if it finds that the pleading, motion, or other paper was not well grounded in fact, after reasonable

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inquiry, or warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law and was interposed for an improper purpose, such as to harass or cause unnecessary delay or needless increase in the cost of litigation.

11.7. Notice to Standing Rock Tribal Council

The plaintiff in a derivative proceeding must notify the Standing Rock Tribal Council within ten days after commencing the proceeding if it involves a charitable corporation.

CHAPTER 12. DISSOLUTION

12.1. Dissolution by Incorporators or Directors

A majority of the incorporators or directors of a nonprofit corporation that has not commenced activity, or of a membership corporation that has not admitted any members, may dissolve the corporation by delivering to the Finance Office for filing articles of dissolution that set forth:

(1) the name of the corporation;

(2) the date of its incorporation;

(3) either:

i. that the corporation has not commenced activity; or

ii. that the corporation is a membership corporation and has not admitted any members;

(4) that no debt of the corporation remains unpaid;

(5) that, except as provided in the articles of incorporation or bylaws, the net assets of the corporation remaining after winding up have been distributed to the members, if members were admitted; and

(6) that a majority of the incorporators or directors authorized the dissolution.

12.2. Approval of Dissolution

A. The board of directors of a membership corporation may propose dissolution for submission to the members by first adopting a resolution authorizing the dissolution.

B. For a proposal to dissolve to be adopted:

1. the board of directors must recommend dissolution to the members, unless the board of directors determines that because of conflict of interest or other special

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circumstances it should make no recommendation and communicates the basis for its determination to the members; and

2. the members entitled to vote must approve the proposal to dissolve as provided in subsection E.

C. The board of directors may set conditions for the approval of the proposal for dissolution by the members or the effectiveness of the dissolution.

D. The nonprofit corporation must give notice to each member, whether or not entitled to vote, of the proposed meeting of members. The notice must also state:

1. that the purpose, or one of the purposes, of the meeting is to consider dissolving the corporation; and

2. how the assets of the corporation will be distributed after all creditors have been paid, or how the distribution of assets will be determined.

E. Unless the articles of incorporation, the bylaws, or the board of directors acting pursuant to subsection C, requires a greater vote or a greater number of members to be present, the adoption of the proposal to dissolve by the members requires the approval of the members at a meeting at which a quorum exists, and, if any class of members is entitled to vote as a separate group on the proposal, the approval of each such separate voting group at a meeting at which a quorum of the voting group exists.

F. If the nonprofit corporation does not have any members entitled to vote on its dissolution, a proposal to dissolve shall be deemed adopted by the corporation when it has been adopted by the board of directors.

G. A charitable corporation must give the Standing Rock Tribal Council notice in the form of a record that it intends to dissolve before the time it delivers articles of dissolution to the Finance Office.

12.3. Articles of Dissolution

A. At any time after dissolution is authorized, the nonprofit corporation may dissolve by delivering to the Finance Office for filing articles of dissolution setting forth:

1. the name of the corporation;

2. the date that dissolution was authorized; and

3. if dissolution was approved by the members, a statement that the proposal to dissolve was duly approved by the members in the manner required by this Ordinance and by the articles of incorporation and bylaws.

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B. The articles of dissolution shall take effect at the effective date. A nonprofit corporation is dissolved upon the effective date of its articles of dissolution.

C. For purposes of this Chapter, "dissolved corporation" means:

1. a nonprofit corporation whose articles of dissolution have become effective and includes a successor entity to which the remaining assets of the corporation are transferred subject to its liabilities for purposes of liquidation; or

2. a corporation whose period of duration stated in its articles of incorporation has expired.

12.4. Revocation of Dissolution

A. A nonprofit corporation may revoke its dissolution after:

1. the effective date of its articles of dissolution; or

2. the date stated in its articles of incorporation as the end of its period of duration.

B. Revocation of dissolution under subsection (A)(1) must be authorized in the same manner as the dissolution was authorized unless that authorization permitted revocation by action of the board of directors alone, in which event the board of directors may revoke the dissolution without action by the members.

C. After the revocation of dissolution is authorized, the nonprofit corporation may revoke the dissolution by delivering to the Finance Office for filing articles of revocation of dissolution, together with a copy of its articles of dissolution, that set forth:

1. the name of the corporation at the time of dissolution;

2. a new name of the corporation if its prior name is not available at the time of the filing of the articles of revocation of dissolution;

3. the effective date of the dissolution that was revoked;

4. the date that the revocation of dissolution was authorized;

5. if the corporation was dissolved under Section 12.1 or the corporation did not have any members at the time of dissolution, a statement that revocation of dissolution was authorized by action of the corporation's board of directors or incorporators;

6. if the corporation's board of directors revoked the dissolution as authorized by the members, a statement that revocation was permitted by action of the board of directors alone pursuant to that authorization; and

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7. if member action was required to revoke the dissolution, a statement that the revocation was duly approved by the members in the manner required by this Ordinance and the articles of incorporation and bylaws.

D. A nonprofit corporation may revoke its dissolution under subsection (A)(2) by adopting an amendment to its articles of incorporation to delete or change its stated period of duration and delivering articles of amendment to the Finance Office for filing.

E. Articles of revocation of dissolution shall take effect at the effective date.

F. Revocation of dissolution is effective upon the effective date of the articles of amendment under subsection D or the articles of revocation of dissolution under subsection E.

G. When the revocation of dissolution is effective, it relates back to and takes effect as of the effective date of the dissolution and the nonprofit corporation resumes carrying on its activities as if dissolution had never occurred, except for the rights of a person arising out of an action or omission in reliance on the dissolution before the person knew or had reason to know of the revocation.

12.5. Effect of Dissolution

A. A dissolved nonprofit corporation continues its corporate existence but the dissolved corporation may not carry on any activities except those appropriate to wind up and liquidate its affairs, including:

1. collecting its assets;

2. disposing of its properties that will not be distributed in kind;

3. discharging or making provision for discharging its liabilities;

4. distributing its remaining property as required by law and its articles of incorporation and bylaws; and otherwise as approved when the dissolution was approved or among the members per capita; and

5. doing every other act necessary to wind up and liquidate its activities and affairs.

B. Dissolution of a nonprofit corporation does not:

1. transfer title to the corporation's property;

2. subject its directors, members of a designated body, or officers to standards of conduct different from those prescribed in Chapter 8;

3. change

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i. quorum or voting requirements for its board of directors or members;

ii. provisions for selection, resignation, or removal of its directors or officers, or both; or

iii. provisions for amending its articles of incorporation or bylaws;

4. prevent commencement of a proceeding by or against the corporation in its corporate name;

5. abate or suspend a proceeding pending by or against the corporation on the effective date of dissolution; or

6. terminate the authority of the registered agent of the corporation.

C. Property held in trust or otherwise dedicated to a charitable purpose may not be diverted from its purpose by the dissolution of a nonprofit corporation unless and until the corporation obtains an order of the Court to the extent required by and pursuant to the law of the Tribe on *cy pres* or otherwise dealing with the nondiversion of charitable assets.

D. A person who is a member or otherwise affiliated with a charitable corporation may not receive a direct or indirect financial benefit in connection with the dissolution of the corporation unless the person is a charitable corporation or an unincorporated entity that has a charitable purpose. This subsection does not apply to the receipt of reasonable compensation for services rendered.

12.6. Known Claims against Dissolved Corporation

A. A dissolved nonprofit corporation may dispose of the known claims against it by notifying its known claimants of the dissolution at any time after its effective date.

B. The notice must be in the form of a record and:

1. describe the information that must be included in a claim;

2. state that the claim must be in writing and be mailed to the address provided in the notice for receipt of claims;

3. state the deadline, which may not be fewer than 120 days from the date of the notice, by which the dissolved nonprofit corporation must receive the claim; and

4. state that the claim will be barred if not received by the deadline.

C. A claim against the dissolved nonprofit corporation is barred:

1. if a claimant who was given notice under subsection B does not deliver the claim

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to the dissolved corporation by the deadline; or

2. if a claimant whose claim was rejected by the dissolved corporation does not commence a proceeding to enforce the claim within 90 days after the rejection notice is effective.

D. For purposes of this section, "claim" does not include a contingent liability or a claim based on an event occurring after the effective date of dissolution.

12.7. Other Claims against Dissolved Corporation

A. A dissolved nonprofit corporation may publish notice of its dissolution and request that persons with claims against the dissolved corporation present them in accordance with the notice.

B. The notice must:

1. be published one time in a newspaper of general circulation on the Reservation;

2. be posted conspicuously for at least 30 days on the dissolved corporation's website, if any;

3. describe the information that must be included in a claim;

4. state that the claim must be in writing and be mailed to the address provided in the notice for receipt of claims; and

5. state that a claim against the dissolved corporation will be barred unless a proceeding to enforce the claim is commenced by a stated date which must be at least three years after the later of the date the notice is published and, if applicable, the 30-day period stated in subsection (B)(2) has expired.

C. If the dissolved nonprofit corporation complies with subsection B, the claim of each of the following claimants is barred unless the claimant commences a proceeding to enforce the claim against the dissolved corporation within five years after publication of the notice:

1. a claimant who was not given notice under Section 12.6;

2. a claimant whose claim was timely sent to the dissolved corporation but not acted on by the corporation; or

3. a claimant whose claim is contingent or based on an event occurring after the effective date of dissolution.

D. A claim that is not barred by Section 12.6(B) or Section 12.7(C) may be enforced:

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1. against the dissolved nonprofit corporation, to the extent of its undistributed assets; or

2. if the assets have been distributed in liquidation, against any person, other than a creditor of the dissolved corporation, to whom the corporation distributed its property to the extent of the distributee's pro rata share of the claim or the corporate assets distributed to the distributee in liquidation, whichever is less, but a distributee's total liability for all claims under this section may not exceed the total amount of assets distributed to the distributee.

12.8. Deposit with Standing Rock Sioux Tribe Treasurer

Assets of a dissolved corporation that should be transferred to a creditor, claimant, or member of the corporation who cannot be found or who is not competent to receive them, shall be reduced to cash subject to known trust restrictions and deposited with the Standing Rock Sioux Tribe Treasurer for safekeeping; provided, however, that in the Treasurer's discretion property may be received and held in kind. When the creditor, claimant, or member furnishes satisfactory proof of entitlement to the amount deposited or property held in kind, the Standing Rock Sioux Tribe Treasurer shall deliver to the creditor, member or other person or his or her representative that amount or property.

CHAPTER 13. RECORDS AND REPORTS

13.1. Books and Records

A. A corporation shall keep as permanent records minutes of all meetings of its members and board of directors, a record of all actions taken by the members or directors without a meeting, and a record of all actions taken by committees of the board of directors as authorized by Section 5.11.

B. A corporation shall maintain appropriate accounting records.

C. A corporation or its agent shall maintain a record of its members in a form that permits preparation of a list of the name and address of all members, in alphabetical order by class, showing the number of votes each member is entitled to cast.

D. A corporation shall maintain its records in written form or in another form capable of conversion into written form within a reasonable time.

E. A corporation shall keep a copy of the following records at its principal office:

1. its articles or restated articles of incorporation and all amendments to them currently in effect;

2. its bylaws or restated bylaws and all amendments to them currently in effect;

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3. resolutions adopted by its board of directors relating to the characteristics, qualifications, rights, limitations and obligations of members or any class or category of members;

4. the minutes of all meetings of members and records of all actions approved by the members for the past three years;

5. all written communications to members generally within the past three years, including the financial statements furnished for the past three years under Section 13.2;

6. a list of the names and business or home addresses of its current directors and officers; and

7. its most recent annual report delivered to the Finance Office under Section 13.3.

F. Each member entitled to vote, upon written demand stating the purpose of the examination, may examine, in person or by agent or attorney, at any reasonable time for any proper purpose, the corporation's relevant books and records of account, minutes and record of members and may make copies of or extracts from the books, records or minutes.

G. Nothing contained in this section shall impair the power of any court of competent jurisdiction, upon proof by a member of proper purpose, to compel the production for examination or copying by such member of the books and records of account, minutes and record of members of a corporation.

13.2. Financial Statements for Members

A. Except as provided in the articles or bylaws of a religious corporation, a corporation, upon written demand from a member, shall furnish that member its latest annual financial statements, which may be consolidated or combined statements of the corporation and one or more of its subsidiaries or affiliates, as appropriate, that include a balance sheet as of the end of the fiscal year and statement of operations for that year. If financial statements are prepared for the corporation on the basis of generally accepted accounting principles, the annual financial statements must also be prepared on that basis.

B. If annual financial statements are reported upon by a public accountant, the accountant's report must accompany them. If not, the statements must be accompanied by the statement of the president or the person responsible for the corporation's financial accounting records:

1. stating the president's or other person's reasonable belief as to whether the statements were prepared on the basis of generally accepted accounting principles

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and, if not, describing the basis of preparation; and

2. describing any respects in which the statements were not prepared on a basis of accounting consistent with the statements prepared for the preceding year.

13.3. Annual Report for Finance Office

A. Each domestic corporation shall deliver to the Finance Office an annual report on a form prescribed and furnished by the Finance Office that sets forth:

1. the name of the corporation;

2. the address of its registered office and the name of its registered agent at the office on the Reservation;

3. the address of its principal office;

4. the names and business or residence addresses of its directors and principal officers;

5. a brief description of the nature of its activities; and

6. whether or not it has members.

B. The information in the annual report must be current on the date the annual report is executed on behalf of the corporation.

C. The first annual report must be delivered to the Finance Office between January 1 and April 1 of the year following the calendar year in which a domestic corporation was incorporated. Subsequent annual reports must be delivered to the Finance Office between January 1 and April 1 of the following calendar years.

D. If an annual report does not contain the information required by this section, the Finance Office shall promptly notify the reporting domestic corporation in writing and return the report to it for correction. If the report is corrected to contain the information required by this section and delivered to the Finance Office within 30 days after notice, it is deemed to be timely filed.

CHAPTER 14. SALE OF ASSETS

14.1. Sale of Assets in Regular Course of Activities and Mortgage of Assets

A. A corporation may on the terms and conditions and for the consideration determined by the board of directors:

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1. sell, lease, exchange, or otherwise dispose of all, or substantially all, of its property in the usual and regular course of its activities; or

2. mortgage, pledge, dedicate to the repayment of indebtedness (whether with or without recourse), or otherwise encumber any or all of its property whether or not in the usual and regular course of its activities.

B. Unless the articles require it, approval of the members or any other person of a transaction described in subsection A is not required.

14.2. Sale of Assets Other Than in Regular Course of Activities

A. A corporation may sell, lease, exchange, or otherwise dispose of all, or substantially all, of its property (with or without the goodwill) other than in the usual and regular course of its activities on the terms and conditions and for the consideration determined by the corporation's board if the proposed transaction is authorized by subsection B.

B. Unless this Act, the articles, bylaws, or the board of directors or members (acting pursuant to subsection D) require a greater vote or voting by class, the proposed transaction to be authorized must be approved:

1. by the board;

2. by the members by two-thirds of the votes cast or a majority of the voting power, whichever is less; and

3. in writing by any person or persons whose approval is required by a provision of the articles authorized by Section 9.12 for an amendment to the articles or bylaws.

C. If the corporation does not have members, the transaction must be approved by a vote of a majority of the directors in office at the time the transaction is approved. In addition, the corporation shall provide notice of any directors' meeting at which such approval is to be obtained in accordance with Section 5.14(C). The notice must also state that the purpose, or one of the purposes, of the meeting is to consider the sale, lease, exchange, or other disposition of all, or substantially all, of the property or assets of the corporation and contain or be accompanied by a copy or summary of a description of the transaction.

D. The board may condition its submission of the proposed transaction, and the members may condition their approval of the transaction, on receipt of a higher percentage of affirmative votes or on any other basis.

E. If the corporation seeks to have the transaction approved by the members at a membership meeting, the corporation shall give notice to its members of the proposed membership meeting in accordance with Section 4.15. The notice must also state that the purpose, or one of

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the purposes, of the meeting is to consider the sale, lease, exchange, or other disposition of all, or substantially all, of the property or assets of the corporation and contain or be accompanied by a copy or summary of a description of the transaction.

F. If the board needs to have the transaction approved by the members by written consent or written ballot, the material soliciting the approval shall contain or be accompanied by a copy or summary of a description of the transaction.

G. A corporation must give written notice to the Standing Rock Tribal Council twenty days before it sells, leases, exchanges, or otherwise disposes of all, or substantially all, of its property if the transaction is not in the usual and regular course of its activities unless the Standing Rock Tribal Council has given the corporation a written waiver of this subsection.

H. After a sale, lease, exchange, or other disposition of property is authorized, the transaction may be abandoned (subject to any contractual rights), without further action by the members or any other person who approved the transaction in accordance with the procedure set forth in the resolution proposing the transaction or, if none is set forth, in the manner determined by the board of directors.

CHAPTER 15. COURT AUTHORITY.

15.1. Administrative Appeals

A. Any person aggrieved by a decision of the Finance Office may appeal in writing for a full hearing before the Standing Rock Tribal Court.

B. Any appeal as provided for under this Section must be begun by filing a written request for a hearing with the Finance Office within thirty (30) days of the decision being appealed.

C. In no event shall the Court award or order the payment of damages, costs or attorney's fees against the Finance Office or Tribe or direct any other remedy except to enjoin or overturn the action of the Finance Office being appealed.

15.2. Court Review

A. The Court shall have jurisdiction to review final decisions of the Finance Office, subject to the limitations set forth in this Section, if the appellant has exhausted all administrative remedies provided by the Finance Office. An appellant shall be deemed to have exhausted the administrative remedies of the Finance Office if the Finance Office shall fail:

1. to schedule and hold a hearing on the merits of the administrative appeal within forty-five (45) days after receipt of a written request for a hearing, unless such delay is requested or agreed to by the appellant, or

2. to issue a written decision on the matter appealed within thirty (30) days of the hearing on the merits of the administrative appeal.

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B. The Finance Office shall be immune from any suit in law or equity while performing its lawful duties within the scope of its authority. The Court shall have jurisdiction, however, to review any final decision of the Finance Office; provided that decisions of the Finance Office shall only be reversed by the court if found to be arbitrary and capricious; and provided further that the Court shall not exercise *de novo* review of a decision of the Finance Office.

15.3. Grounds for Administrative Dissolution

The Standing Rock Tribal Council may commence a proceeding under Section 15.4 to administratively dissolve a nonprofit corporation if:

1. the corporation does not pay within 120 days after they are due any fees, taxes, interest, or penalties imposed by this Ordinance or other law which are collected by the Finance Office;

2. the corporation does not deliver its annual report to the Finance Office within 120 days after it is due;

3. the corporation is without a registered agent or registered office within the boundaries of the Standing Rock Sioux Reservation for 120 days or more;

4. the corporation does not give notice to the Finance Office within 120 days that its registered agent or registered office has been changed, that its registered agent has resigned, or that its registered office has been discontinued; or

5. the corporation's period of duration, if any, stated in its articles of incorporation expires.

15.4. Procedure for Administrative Dissolution

A. If the Standing Rock Tribal Council determines that one or more grounds exist under Section 15.3 for dissolving a nonprofit corporation, the Business Committee shall serve the corporation with notice in the form of a record of that determination under Section 3.4.

B. If the nonprofit corporation does not correct each ground for dissolution or demonstrate to the reasonable satisfaction of the Standing Rock Tribal Council that each ground determined by the Standing Rock Tribal Council does not exist within 60 days after service of the notice under Section 3.4, the Standing Rock Tribal Council may administratively dissolve the corporation by signing a certificate of dissolution that recites the ground or grounds for dissolution and its effective date. The Standing Rock Tribal Council shall file the original of the certificate and serve a copy on the corporation under Section 3.4.

C. A nonprofit corporation that is administratively dissolved continues its corporate existence but may not carry on any activities except those necessary to:

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1. wind up and liquidate its activities and affairs under Section 12.5 and notify claimants under Sections 12.6 and 12.7; or

2. apply for reinstatement under Section 15.5.

D. The administrative dissolution of a nonprofit corporation does not terminate the authority of its registered agent.

E. A person is not liable in contract, tort, or otherwise solely by reason of being a director, member of a designated body, officer, or member of a nonprofit corporation that was dissolved under this Chapter, with respect to the activities or affairs of the corporation that have been continued, with or without knowledge of the dissolution.

15.5. Reinstatement Following Administrative Dissolution

A. A nonprofit corporation administratively dissolved under Section 15.4 may apply to the Finance Office for reinstatement. The application must state:

1. the name of the corporation at the time of its administrative dissolution;

2. a new name of the corporation if its prior name is not available at the time of the filing of the application for reinstatement;

3. the effective date of its administrative dissolution; and

4. that the grounds for dissolution either did not exist or have been eliminated.

B. If the Finance Office determines that the application contains the information required by subsection A and that the information is correct, the Finance Office shall cancel the certificate of dissolution and prepare a certificate of reinstatement that recites that determination and the effective date of reinstatement, file the original of the certificate, and serve a copy on the nonprofit corporation under Section 3.4.

C. When the reinstatement is effective, it relates back to and takes effect as of the effective date of the administrative dissolution, and the nonprofit corporation resumes carrying on its activities as if the administrative dissolution had never occurred, except for the rights of a person arising out of an act or omission in reliance on the dissolution before the person knew or had reason to know of the reinstatement.

15.6. Appeal from Denial of Reinstatement

A. If the Finance Office denies a nonprofit corporation's application for reinstatement following administrative dissolution, the Finance Office shall serve the corporation under Section 3.4 with a notice in the form of a record that explains the reason for denial.

B. The nonprofit corporation may appeal the denial of reinstatement to the Court in accordance with Sections 15.1 and 15.2. The corporation appeals by petitioning the Court to set

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aside the dissolution and attaching to the petition copies of the Finance Office's certificate of dissolution, the corporation's application for reinstatement, and the Finance Office's notice of denial.

C. The Court may summarily order the Finance Office to reinstate the dissolved nonprofit corporation or may take other action the Court considers appropriate.

D. The Court's final decision may be appealed as in other civil proceedings.

15.7. Grounds for Judicial Dissolution

The Court may dissolve a nonprofit corporation:

(1) in a proceeding filed by the Standing Rock Tribal Council, if it is established that:

i. the corporation obtained its articles of incorporation through fraud; or

ii. the corporation has exceeded or abused, and is continuing to exceed or abuse, the authority conferred upon it by law;

(2) except as provided in the articles of incorporation or bylaws, in a proceeding by 50 members or members holding at least 5% of the voting power, whichever is less, or by a director or member of a designated body, if it is established that:

i. the directors or a designated body are deadlocked in the management of the corporate affairs, the members, if any, are unable to break the deadlock, and irreparable injury to the corporation or its mission is threatened or being suffered because of the deadlock;

ii. the directors or those in control of the corporation have acted, are acting, or will act in a manner that is illegal, oppressive, or fraudulent;

iii. the members are deadlocked in voting power and have failed, for a period that includes at least two consecutive annual meeting dates, to elect successors to directors whose terms have, or otherwise would have, expired; or

iv. the corporate assets are being misapplied or wasted;

(3) in a proceeding by a creditor, if it is established that:

i. the creditor's claim has been reduced to judgment, the execution on the judgment returned unsatisfied, and the corporation is insolvent; or

ii. the corporation has admitted in a record that the creditor's claim is due and owing and the corporation is insolvent; or

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(4) in a proceeding by the corporation to have its voluntary dissolution continued under court supervision.

15.8. Procedure for Judicial Dissolution

A. Venue for a proceeding by the Standing Rock Tribal Council to dissolve a nonprofit corporation lies in the Courts of the Standing Rock Sioux Tribe of the Standing Rock Sioux Reservation. Venue for a proceeding brought by any other party named in Section 15.7 also lies in the Courts of the Standing Rock Sioux Tribe of the Standing Rock Sioux Reservation.

B. It is not necessary to make members, directors, or members of a designated body parties to a proceeding to dissolve a nonprofit corporation unless relief is sought against them individually.

C. The Court in a proceeding brought to dissolve a nonprofit corporation may issue injunctions, appoint a receiver or custodian with all powers and duties the Court directs, take other action required to preserve the corporate assets wherever located, and carry on the activities of the corporation until a full hearing can be held.

15.9. Receivership or Custodianship

A. A Court in a judicial proceeding brought to dissolve a nonprofit corporation may appoint one or more receivers to wind up and liquidate, or one or more custodians to manage, the affairs of the corporation. The Court shall hold a hearing, after notifying all parties to the proceeding and any interested persons designated by the Court, before appointing a receiver or custodian. The Court appointing a receiver or custodian has exclusive jurisdiction over the corporation and all of its property wherever located.

B. The Court may appoint an individual or a domestic or foreign business (authorized to transact business on the Reservation) or nonprofit corporation as a receiver or custodian. The Court may require the receiver or custodian to post bond, with or without sureties, in an amount the Court directs.

C. The Court shall describe the duties of the receiver or custodian in its appointing order. The appointing order may be amended from time to time in any manner the Court considers appropriate. The receiver or custodian shall have the power:

1. in the case of a receiver to:

   i. dispose of all or any part of the assets of the nonprofit corporation wherever located, at a public or private sale, if authorized by the Court; and

   ii. sue and defend in the receiver's own name as receiver of the corporation in the Standing Rock Tribal Court of the Standing Rock Sioux Reservation;

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2. in the case of a custodian, to exercise all of the powers of the corporation, through or in place of its board of directors and any designated body, to the extent necessary to manage the affairs of the corporation consistent with its mission and in the best interests of its members, if any, and creditors; and

3. to exercise such other powers as the Court may direct in the appointing order.

D. During a receivership, the Court may redesignate the receiver a custodian, and during a custodianship may redesignate the custodian a receiver, if doing so is consistent with the mission of the nonprofit corporation and in the best interests of the corporation, its members, and creditors.

E. The Court, from time to time during the receivership or custodianship, may order compensation paid and expenses paid or reimbursed to the receiver or custodian and counsel from the assets of the nonprofit corporation or proceeds from the sale of the assets.

F. This section does not apply to a nonprofit corporation that is a religious organization.

15.10. Decree of Dissolution

A. If, after a hearing, the Court determines that one or more grounds for judicial dissolution described in Section 15.7 exist, it may enter a decree dissolving the nonprofit corporation and specifying the effective date of the dissolution, and the clerk of the court shall deliver a certified copy of the decree to the Finance Office for filing.

B. After entering the decree of dissolution, the Court shall direct the winding-up and liquidation of the nonprofit corporation's affairs in accordance with Section 12.5 and the notification of claimants in accordance with Sections 12.6 and 12.7.

CHAPTER 16. MISCELLANEOUS

16.1 Debt and Security Interests

A. A nonprofit corporation shall not issue bonds or other evidences of indebtedness except for money or other property, tangible or intangible, or labor or services actually received by or performed for the corporation or for its benefit or in its formation or reorganization, or a combination thereof. In the absence of fraud, the judgment of the board of directors as to the value of the consideration received by the corporation is conclusive.

B. The board of directors may authorize a mortgage or pledge of, or the creation of a security interest in, all or any part of the property of the nonprofit corporation, or any interest therein. Unless otherwise restricted in the articles of incorporation or bylaws, the vote or consent of the members shall not be required to make effective such action by the board.

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16.2. Private Foundations

A. Except as provided in subsection B, a nonprofit corporation that is a private foundation as defined in Section 509(a) of the Internal Revenue Code shall:

1. distribute such amounts for each taxable year at such time and in such manner as not to subject the corporation to tax under Section 4942 of the Internal Revenue Code;

2. not engage in any act of self-dealing as defined in Section 4941(d) of the Internal Revenue Code;

3. not retain any excess business holdings as defined in Section 4943(c) of the Internal Revenue Code;

4. not make any investments in such manner as to subject the corporation to tax under Section 4944 of the Internal Revenue Code; and

5. not make any taxable expenditures as defined in Section 4945(d) of the Internal Revenue Code.

16.3. Taxation of Nonprofit Corporations

For purposes of taxation by the Tribe, if any, a nonprofit corporation organized under this Ordinance shall be classified in the same manner as it is classified for federal income tax purposes.

16.4. Severability

If any provision of this Ordinance or its application to any person or circumstance is held invalid by a court of competent jurisdiction, the invalidity does not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable.

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