

**CORPORATIONS ORDINANCE**

**Siletz Tribal Code § 15.300**

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## CORPORATIONS ORDINANCE

Siletz Tribal Code § 15.300

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**Ordinance Number 15.300.** Adopted by Resolution No. 2006-367, dated October 20, 2006; Amended by Resolution No. 2010-421, dated November 12, 2010; Resolution No. 2025-150, dated April 17, 2025.

Original Date: October 20, 2006  
Subject: Corporations Ordinance

## CORPORATIONS ORDINANCE

Siletz Tribal Code § 15.300

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### CHAPTER A: GENERAL

#### § 15.300 DEFINITIONS

(a) As used in this Chapter, the following terms shall have the following respective meanings:

- (1) Articles of Incorporation means the original or restated articles of incorporation or articles of consolidation and all amendments thereto, including articles of merger.
- (2) Authorized Shares means the shares of all classes, which the corporation is authorized, to issue.
- (3) Capital Surplus means the portions of the surplus of a corporation equal to the balance of its net profits, income, gains and losses from the date of incorporation, or from the latest date when a deficit was eliminated by an application of its capital surplus or stated capital or otherwise, after deducting subsequent distributions to shareholders and transfer to stated capital and capital surplus to the extent such distribution and transfers are made out of earned surplus.
- (4) Corporation or Domestic Corporation means a corporation for profit organized under subchapter B of this Chapter.

- (5) Earned Surplus means the portions of the surplus of a corporation equal to the balance of its net profits, income, gains and losses from the date of incorporation, or from the latest date when a deficit was eliminated by an application of its capital surplus or stated capital or otherwise, after deducting subsequent distributions to shareholders and transfer to stated capital and capital surplus to the extent such distribution and transfers are made out of earned surplus.
- (6) Employee includes persons who work for the corporation in exchange for some form of compensation, and which includes officers, but not directors. However, if a director accepts additional duties in exchange for compensation, then that also makes him an employee.
- (7) Insolvent means inability of a corporation to pay its debts as they become due in the usual course of its business.
- (8) Legal Department means the legal department of the Confederated Tribes of Siletz Indians.
- (9) Net Assets means the total assets of a corporation is authorized to issue.
- (10) Shareholder means one who is a holder of record or shares in a corporation.
- (11) Shares means the units into which the proprietary interests in a corporation are divided.
- (12) Siletz Tribal lands means any land to which title is held by the United States in trust for the Tribe; lands of any Tribal member or groups of Tribal members which is subject to a restriction by the United States against alienation; and any land owned by the Tribe.
- (13) Stated Capital means, at any particular time, the sum of:
- (A) The par value of all shares that have been issued; and
  - (B) Such amounts not included in clause (A) of this subsection as have been transferred to stated capital of the corporation, whether upon the issue of shares as a share dividend or

otherwise, minus all reductions from such sums as have been affected in a manner permitted by law.

- (14) Subscriber means one who subscribes for shares in a corporation, whether before or after incorporation.
- (15) Surplus means the excess of the net assets of a corporation over its stated capital.

**§ 15.301 TAXATION**

All activities of corporations created under this Chapter shall be subject to taxation by the CTSI pursuant to duly enacted tribal resolution, ordinances, and Codes.

**CHAPTER B: CORPORATIONS OR DOMESTIC CORPORATIONS**

**§ 15.302 PURPOSES**

Corporations may be organized under this subchapter for any lawful purpose or purposes, except for the purpose of banking or insurance.

**§ 15.303 GENERAL POWERS**

- (a) Each corporation shall have the power:
  - (1) To have perpetual succession by its corporate name unless a limited period of duration is stated in its articles of incorporation;
  - (2) To sue and be sued, complain and defend, in its corporate name;
  - (3) To have a corporate seal which may be altered at pleasure, and use the same by causing it, or a facsimile thereof, to be impressed or affixed in any other manner reproduced;
  - (4) To purchase, take, receive, lease, or otherwise acquire, own, hold, improve, use, and otherwise deal in and with, real or personal property, or any interest therein, wherever situated, provided decisions regarding the trust status of any real property shall be subject to the approval of the Siletz Tribal Council;
  - (5) To sell, convey, mortgage, pledge, lease, exchange, transfer, and otherwise dispose of all or any part of its property and assets, subject to the trust status of the real property;

- (6) To lend money and otherwise use its credit to assist its employees;
- (7) To purchase, take, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise dispose of, and otherwise use and deal in and with, shares or other interests in, obligations of corporations (whether or not incorporated under this Chapter), associations, partnerships, or individuals, or direct or indirect obligation of the United States, or of any other government, state, territory, governmental district, or municipality or of any instrumentality thereof, or of any Indian tribe;
- (8) To make contracts and guarantees and incur liabilities, borrow money at such rates of interest as the corporation may determine, issue its notes, bonds, and other obligations, and secure any of its obligations by mortgage or pledge of all or any of its property, franchise and income;
- (9) To lend money for its corporate purposes, invest and reinvest its funds, and take and hold real and personal property as security for the payment of funds so loaned or invested;
- (10) To conduct its business, carry on its operations, and have offices and exercise the powers granted by this Chapter within or without Siletz Tribal lands;
- (11) To elect or appoint officers and agents of the corporation, and define their duties and fix their compensation;
- (12) To make and alter by-laws, not inconsistent with its Articles of Incorporation or with this Chapter or any other law, ordinance, or regulations of the CTSI for the administration and regulation of the affairs of the corporation;
- (13) To make donations for the public welfare or for charitable, scientific, or educational purposes;
- (14) To pay pensions and establish pension plans, pension trusts, profit sharing plans, stock bonus plans, stock option plans, and other incentive plans for any or all of its directors, officers, and employees;

- (15) To be a promoter, partner, member, associate, or manager of any partnership, joint venture, trust or other enterprise; and
- (16) To have and exercise all powers necessary or convenient to effect its purpose.

**§ 15.304 DEFENSE OF ULTRA VIRES**

(a) No act of a corporation and no conveyance or transfer of real or personal property to or by a corporation shall be invalid by reason of the fact that the corporation was without capacity or power to do such act or to make or receive such conveyance or transfer, but such lack of capacity or power may be asserted:

- (1) In a proceeding by a shareholder against the corporation to enjoin the doing of any act, or the transfer of real or personal property by or to the corporation. If the unauthorized act or transfer sought to be enjoined is being, or is to be, performed or made pursuant to a contract to which the corporation is a party, the court may, if all of the parties to the contract are parties to the proceeding and if it deems the same to be equitable, set aside and enjoin the performance of such contract, and in doing so may allow to the corporation or to the other parties to the contract, as the case may be, compensation for the loss or damages sustained by either of them which may result from the action of the court in setting aside and enjoining the performance of such contract, but anticipated profits to be derived from the performance of the contract shall not be awarded by the court as a loss or damages sustained.
- (2) In a proceeding by the corporation, whether acting directly or through a receiver, trustee, or other legal representative, or through share holders in a representative suit, against the incumbent or former officers or directors of the corporation; and
- (3) In a proceeding by the Legal Department as provided in this Chapter, to dissolve the corporation, or by the Legal Department to enjoin the corporation from the transaction of an authorized business.

**§ 15.305 CORPORATE NAME**

- (a) The corporate name:

- (1) Shall not contain any word or phrase which indicates or implies that it is organized for any purpose other than one or more of the purposes contained in its articles of incorporation; and
- (2) Shall not be the same as, or deceptively similar to the name of any corporation, existing under this Chapter or any other entity authorized to transact business on Siletz tribal lands.

**§ 15.306 REGISTERED OFFICE AND REGISTERED AGENT**

(a) Each corporation shall have and continuously maintain within the Siletz 11 County service area:

- (1) A registered office; or
- (2) A registered agent.

**§ 15.307 SERVICE OF PROCESS ON CORPORATIONS**

(a) The registered agent appointed by a corporation shall be an agent of such corporation upon whom any process, notice or demand required or permitted by law to be served upon the corporation, may be served.

(b) Whenever a corporation shall fail to appoint or maintain a registered agent within the Siletz 11 County Service area, or whenever its registered agent cannot, with reasonable diligence, be found at the registered office, then the Legal Department shall be an agent of such corporation upon whom any such process, notice, or demand shall be served.

(c) Service on the Legal Department of any such process, notice, or demand shall be made by delivering to and leaving with him, or with any clerk having charge of the department or office, duplicate copies of such process, notice or demand. In the event that any such process, notice or demand is served on the Legal Department, the department shall immediately cause one of such copies thereof to be forwarded by registered or certified mail, addressed to the corporation at its registered office. Any service so had on the Legal Department shall be returnable in not less than thirty (30) days.

(d) The Legal Department shall keep a record of all processes, notices, and demands served upon them under this Section, and shall record therein the time of such service and their action with reference thereto.

(e) Nothing contained herein shall limit or affect the right to serve any process, notice or demand required or permitted by law to be served upon a corporation in any other manner now or hereafter permitted by law.

**§ 15.308 AUTHORIZED SHARES**

Each corporation shall have power to create and issue the number of shares stated in its articles of incorporation. Such shares shall be of only one class and shall be shares with par value.

**§ 15.309 CONSIDERATION FOR SHARES**

Shares may be issued for such consideration expressed in dollars, not less than the par value thereof, as shall be fixed from time to time by the Board of Directors.

**§ 15.310 PAYMENT OF SHARES**

(a) The consideration for the issuance of shares may be paid, in whole or in part, in money, in other property, tangible or intangible, or in labor or services actually performed for the corporation; such shares shall be deemed to be fully paid and non-assessable.

(b) Neither promissory notes nor future services shall constitute payment or part-payment for the issuance of shares of a corporation.

(c) In the absence of fraud in the transaction, the judgment of the Board of Directors of the shareholders, as the case may be, as to the value of the consideration received for share will be conclusive.

**§ 15.311 DETERMINATION OF AMOUNT OF STATED CAPITAL**

The consideration received for shares shall constitute stated capital to the extent of the par value of such shares, and the excess, if any, of such consideration shall constitute capital surplus.

**§ 15.312 CERTIFICATE REPRESENTING SHARES**

(a) The shares of a corporation shall be represented by certificates signed by the President or Vice-President and the Secretary or an Assistant Secretary of the corporation, and may be sealed with the seal of the corporation or a facsimile thereof.

(b) Each certificate representing shares shall state upon the face thereof:

- (1) That the corporation is organized under the Corporations Ordinance of the CTSI Tribal Code;
  - (2) The name of the person to whom issued;
  - (3) The number of shares, which such certificate represents; and
  - (4) The par value of each share represented by such certificate.
- (c) No certificate shall be issued for any share until such share is fully paid.

### **§ 15.313 BY-LAWS**

The Board of Directors shall adopt the corporation's initial by-laws. The power to alter, amend, or repeal the by-laws or adopt new by-laws, subject to repeal or change by action of the shareholders, shall be vested in the Board of Directors. The by-laws may contain any provisions for the regulation and management of the affairs of the corporation not inconsistent with this Chapter or the articles of incorporation.

### **§ 15.314 MEETINGS OF SHAREHOLDERS**

(a) Meetings of shareholders may be held at such place on Siletz tribal lands or other location as may be stated in, or fixed in accordance with the by-laws. If no other place is stated in or so fixed, meetings shall be held at the registered office of the corporation.

(b) An annual meeting of shareholders shall be held at such time as may be stated in or fixed in accordance with the by-laws. If the annual meeting is not held within any thirteen (13) month period, the Siletz Tribal Court may, on the application of any shareholder, summarily order a meeting to be held.

(c) Special meetings of the shareholders may be called by the Board of Directors, the holders of not less than one-tenth (1/10) of all the shares entitled to vote at the meeting, or such other persons as may be authorized in the articles of incorporation or the by-laws.

### **§ 15.315 NOTICE OF SHAREHOLDER'S MEETINGS**

Written notice stating the place, day and hour of the meeting, and, in case of a special meeting, shall be delivered not less than ten (10) nor more than fifty (50) days before the date of the meeting, either personally or by mail; or at the direction of the president, secretary, or the officer or persons calling the meeting, to each shareholder of record entitled to vote at such meeting. If mailed, such notice shall be deemed to be

delivered when deposited in the United States mail, addressed to the shareholder at his address as it appears on the stock transfer books of the corporation, with postage thereon prepaid.

#### **§ 15.316 CLOSING OF TRANSFER BOOKS AND FIXING RECORD DATE**

For the purpose of determining shareholders entitled to notice of or to vote at any meeting of shareholders or any adjournment thereof, or entitled to receive payment of any dividend, or in order to make a determination of shareholders for any other proper purpose, the Board of Directors of a corporation may provide that the stock transfer books shall be closed for a stated period but not to exceed, in any case, ten (10) days.

#### **§ 15.317 VOTING RECORD**

(a) The officer or agent having charge of the stock transfer books for shares of a corporation shall make a complete record of the shareholders entitled to vote at such meetings or any adjournment thereof, arranged in alphabetical order, with the address of and the number of shares held by each. Such record shall be produced and kept open at the time and place of the meeting and shall be subject to the inspection of any shareholder during the whole time of the meeting for the purposes thereof.

(b) Failure to comply with the requirements of this Section shall not affect the validity of any action taken at such meeting.

(c) An officer or agent having charge of the stock transfer books who shall fail to prepare the record of shareholders, or produce and keep it open for inspection at the meeting, as provided in this Section, shall be liable to any shareholder suffering damage on account of such failure, to the extent of such damage.

#### **§ 15.318 QUORUM OF SHAREHOLDERS**

Unless otherwise provided in the articles of incorporation, a majority of the shares entitled to vote, represented in person or by proxy, shall constitute a quorum at a meeting of shareholders, but in no event shall a quorum consist of less than one-third of the shares entitled to vote at the meeting. If a quorum is present, affirmative vote of a majority of the shares represented at the meeting and entitled to vote on the subject matter shall be the act of the shareholders, unless the vote of a greater number is required by this Chapter or the articles of incorporation or the by-laws.

#### **§ 15.319 VOTING OF SHARES**

(a) Each outstanding share shall be entitled to one vote on each matter submitted to a vote at the meeting of shareholders, except as may be otherwise provided

in the articles of incorporation. If the articles of incorporation provided for more or less than one vote for any share, on any matter, every reference in this Chapter to a majority or other proportion of votes entitled to be cast.

(b) A shareholder may vote either in person or by proxy executed in writing by the shareholder or by his duly authorized attorney-in-fact. No proxy shall be valid after eleven (11) months from the date of its execution, unless otherwise provided in the proxy.

### **§ 15.320 BOARD OF DIRECTORS**

A Board of Directors shall manage the business and affairs of a corporation, except as may be otherwise provided in the articles of incorporation. The Board of Directors shall have the authority to fix the compensation of directors unless otherwise provided in the articles of incorporation.

### **§ 15.321 NUMBER AND ELECTION OF DIRECTORS**

(a) The Board of Directors of a corporation shall consist of one or more members. The number of directors of a corporation shall be fixed by or in the manner provided in, the articles of incorporation or the by-laws, except as to the number constituting the initial Board of Directors, which number shall be fixed by the articles of incorporation. The number of directors may be increased or decreased from time to time by amendment to, or in the manner provided in the articles of incorporation or the by-laws, but no decrease shall have the effect of shortening the term of any incumbent director.

(b) At least one Director must be a Qualified Entity. Qualified Entities include a member of the Tribe, the Tribe, a Tribal Enterprise, or other entity formed pursuant to Tribal law. Qualified Entities may also include persons or organizations specifically designated as such by Tribal Council resolution. In the event the Qualified Entity or Entities cease to be Directors, the vacancy shall be immediately filled pursuant to Section 15.322 below with another Qualified Entity. If no other Qualified Entity can be appointed or elected within ninety (90) days, then the corporation shall dissolve as pursuant to Section 15.361.

(c) The names and addresses of the members of the Board of Directors shall be stated in the articles of incorporation. Such persons shall hold office until the first annual meeting of shareholders and until their successors shall have been elected and qualified. At the first meeting of shareholders and at each annual meeting thereafter, the shareholders shall elect directors to hold office until the next succeeding annual meeting, except in case of the classification of directors as permitted by this Chapter. Each director shall hold office for the term for which he is elected and qualified.

**§ 15.322 VACANCIES**

Any vacancy occurring in the Board of Directors may be filled by the affirmative vote of a majority of the remaining directors, though less than a quorum of the Board of Directors. A director elected to fill a vacancy shall be elected or appointed for the unexpired term of his predecessor in office. Any directorship to be filled by reason of an increase in the number of directors may be filled by the Board of Directors for a term of office continuing only until the next election of directors by the shareholders.

**§ 15.323 REMOVAL OF DIRECTORS**

At a meeting of shareholders called expressly for that purpose, directors may be removed in the manner provided in this Section. Any director or the entire Board of Directors may be removed, with or without cause, by a vote of the holders of a majority of the shares then entitled to vote at an election of the directors.

**§ 15.324 QUORUM OF DIRECTORS**

A majority of the number of directors fixed by, or in the manner provided in, the by-laws, or in the absence of a by-law fixing or providing for the number of directors, of the number stated in the articles of incorporation shall constitute a quorum for the transaction of business, unless a greater number is required by the articles of incorporation or the by-laws. The act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors, unless the act of a greater number is required by the articles of incorporation or by-laws.

**§ 15.325 NO CONTRACT VOID OR VOIDABLE**

(a) No contract or other transaction between a corporation and one or more of its directors or any other corporation, firm, association or entity in which one or more of its directors are directors or officers, or are financially interested, shall be either void or voidable because of such relationship or interest or because such director or directors are a committee thereof which authorizes, approves, or ratifies such contract or transaction or because his or their votes are counted for such purpose, if:

- (1) The fact of such relationship or interest is disclosed or known to the Board of Directors or a committee thereof which authorizes, approves, or ratifies, the contract or transaction by a vote or consent sufficient for the purpose without counting the votes or consents of such interested directors; or

- (2) The fact of such relationship or interest is disclosed or known to the shareholders entitled to vote and they authorize, approve, or ratify such contract or transaction by vote or written consent; or
- (3) The contract or transaction is fair and reasonable to the corporation. Common or interested directors may be counted in determination of the presence of a quorum at a meeting of the Board of Directors or a committee thereof which authorizes, ratifies, or approves such contract or transaction.

### **§ 15.326 EXECUTIVE AND OTHER COMMITTEES**

If the articles of incorporation or the by-laws so provide, the Board of Directors, by resolution adopted by a majority of the full Board of Directors, may designate from among its members an executive committee and/or other committees, each of which, to the extent provided in such resolution or in the articles of incorporation or the by-laws of the corporation, shall have and may exercise all authority of the Board of Directors, but no such committee shall have the authority of the Board of Directors in reference to amending the articles of incorporation; adopting a plan for merger or consolidation; recommending to the shareholders the sale, lease, exchange, or other disposition of all or substantially all the property and assets of the corporation, otherwise than in the usual and regular course of its business; recommending to the shareholders a voluntary dissolution of the corporation, or a revocation thereof; or amending the by-laws of the corporation. The designation of any such committee and the delegation thereto of authority shall not operate to relieve the Board of Directors, or any members thereof, of any responsibility imposed by law.

### **§ 15.327 PLACE AND NOTICE OF DIRECTOR'S MEETINGS**

(a) Meetings of the Board of Directors, regular or special, may be held within or without Siletz tribal lands.

(b) Regular meetings of the Board of Directors may be held with or without notice as prescribed by the by-laws. Special meetings of the Board of Directors shall be held upon such notices as is prescribed in the by-laws. Attendance of a director at a meeting shall constitute a waiver of notice of such meeting, except where 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. Neither the business to be transacted, nor the purpose of, any regular meeting of the Board of Directors need be specified in the notice or waiver of such notice, of such meeting, unless otherwise provided in the articles of incorporation or the by-laws.

### **§ 15.328 ACTION BY DIRECTORS WITHOUT A MEETING**

Unless otherwise provided by the articles of incorporation or by-laws, any action required by this Chapter to be taken at a meeting of the directors of a corporation, or any action which may be taken at a meeting of the directors or of a committee, may be taken without a meeting, if a consent, in writing, setting forth the action so taken, shall be signed by all the directors, or all of the members of the committee, as the case may be. Such consent shall have the same effect as a unanimous vote.

### **§ 15.329 DIVIDENDS**

The Board of Directors of a corporation may from time to time declare to pay dividends in cash, property, or its own shares, except when the corporation is insolvent or when the payment thereof would render the corporation insolvent, or when the payment thereof would be contrary to any restriction contained in the articles of incorporation.

### **§ 15.330 DISTRIBUTION FROM CAPITAL SURPLUS**

(a) The Board of Directors of a corporation may from time to time distribute to its shareholders out of capital surplus of the corporation, a portion of its assets, in cash or property, subject to the following provisions:

- (1) No such distribution shall be made at the time when the corporation is insolvent or when such distribution would render the corporation insolvent;
- (2) No such distribution shall be made unless the articles of incorporation so provide or such distribution is authorized by the affirmative vote of the holders of a majority of the outstanding shares of each class whether or not entitled to vote thereon by the provisions of the articles of incorporation of the corporation;
- (3) No such distribution shall be made to the holders of any class unless all cumulative dividends accrued on all preferred or special classes or shares entitled to preferential dividends shall have been fully paid;
- (4) No such distribution shall be made to the holders of any class of shares which would reduce the remaining net assets of the corporation below the aggregate preferential amount payable in event of involuntary liquidation to the holders of shares having preferential rights to the assets of the corporation in the event of liquidation; and
- (5) Each such distribution, when made, shall be identified as a distribution from capital surplus and the amount per share is disclosed to the shareholders receiving the same, concurrently with the distribution

thereof. The Board of Directors of a corporation may also, from time to time, distribute to the holders of its outstanding shares having a cumulative preferential right to receive dividends, in discharge of their cumulative dividend rights, dividends payable in cash, out of the capital surplus of the corporation; if at the time the corporation has no earned surplus and is not insolvent and would not thereby be rendered insolvent. Each such distribution, when made, shall be identified as a payment of cumulative dividends out of capital surplus.

**§ 15.331 LOANS TO EMPLOYEES AND DIRECTORS**

A corporation shall not lend money to or use its credit to assist its directors or employees without authorization in the particular case by its shareholders.

**§ 15.332 LIABILITY OF DIRECTORS IN CERTAIN CASES**

(a) In addition to any other liabilities imposed by law upon directors of a corporation:

- (1) Directors of a corporation who vote for an assent to the declaration of any dividend or other distribution of the assets of a corporation to its shareholders contrary to the provisions of this Chapter, or contrary to any restrictions contained in the articles of incorporation, shall be jointly and severally liable to the corporation for the amount of such dividend which is paid or the value of such assets which are distributed in excess of the amount of such dividends or distribution, which could have been paid or distributed without a violation of this act or the restrictions in the articles of incorporation;
- (2) Directors of a corporation who vote for or assent to the purchase of its own shares contrary to the provisions of this Chapter shall be jointly and severally liable to the corporation for the amount of consideration paid for such shares which is in excess of the maximum amount which could have been paid therefore without a violation of the provisions of this Chapter; and
- (3) The directors of a corporation who vote for, or assent to any distribution of assets or a corporation to its shareholders during the liquidation of the corporation, without the payment and discharge of, or making adequate provisions for all known debts, obligations, and liabilities of the corporation shall be jointly and severally liable to the corporation for the value of such assets which are

distributed, to the extent that such debts, obligations, and liabilities of the corporation are not thereafter paid and discharged.

(b) A director of a corporation who is present at a meeting of its Board of Directors at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless his dissent shall be entered in the minutes of the meeting, or unless he shall file his written dissent to such action with the secretary of the meeting before adjournment thereof or shall forward after the adjournment of the meeting. Such right to dissent shall not apply to a director who voted in favor of such action.

(c) A director shall not be liable under (1), (2), or (3) of this Section if he relied and acted in good faith upon financial statements of the corporation represented to him to be correct by: the president of, or the officer of such corporation having charge of its books of account, or stated in a written report by an independent public or certified public accountant or firm of such accountants, which fail to reflect the financial condition of such corporation, nor shall he be so liable if, in good faith in determining the amount available for any such dividend or distribution, he considered the assets to be of their book value.

(d) Any director against whom a claim shall be asserted under or pursuant to this Section for the payment of a dividend or other distribution of assets of a corporation who shall be held liable thereon, shall be entitled to contribution from the shareholders who accepted or received any such dividend or assets, knowing such dividend or distribution to have been made in violation of this Chapter in proportion to the amounts received by them.

(e) Any director against whom a claim shall be asserted under or pursuant to this Section shall be entitled to contribution from the other directors who voted for or assented to the action upon which the claim is asserted.

### **§ 15.333 OFFICERS**

(a) The officers of a corporation shall consist of a president, one or more vice-presidents as may be prescribed by the by-laws, 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 by-laws. Such other officers and assistant 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 by-laws. Any two or more offices may be held by the same person, except the offices of president and secretary.

(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

corporation as may be provided in the by-laws, or as may be determined by resolution of the Board of Directors not inconsistent with the by-laws.

#### **§ 15.334 REMOVAL OF OFFICERS**

Any officer or agent may be removed by the Board of Directors whenever, in its judgment, the best interests of the corporation will be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Election or appointment of an officer or agent shall not, of itself, create contract rights.

#### **§ 15.335 BOOKS AND RECORDS**

(a) Each corporation shall keep correct and complete books and records of each account and shall keep minutes of the proceedings of its shareholders and Board of Directors, and shall keep at its registered office or principal place of business, or at the office of its transfer agent or registrar, a record of its shareholders, giving the names and addresses of all shareholders and the number and class of shares held by each. Any books, records and minutes may be in written form or in any other form capable of being converted into written form within a reasonable time.

(b) Any person who shall have been a holder of record of shares or of voting trust certificates thereof at least six (6) months immediately preceding his demand, or shall be the holder of record of, or the holder of record of voting trust certificates for, at least five percent (5%) of all the outstanding shares of the corporation, upon written demand stating the purpose thereof, shall have the right to examine, in person, or by agent or attorney, at any reasonable time or times, for any proper purpose, its relevant books and records of account, minutes and record of shareholders and to make transactions therefrom.

(c) Any officer or agent who, or a corporation which, shall refuse to allow any such shareholder or holder of voting trust certificates, or his agent or attorney, to examine and make extracts from its books and records of accounts, minutes, and record of shareholders, for any proper purpose, shall be liable to such shareholder or holder of voting trust certificates in a penalty of ten percent (10%) of the value of the shares owned by such shareholders, or in respect of which such voting trust certificates are issued, in addition to any other damages or remedy afforded him by law. It shall be a defense to any action for penalties under this section that the person suing, has, within two (2) years sold or offered for sale any list of shareholders or of holders of voting trust certificates for shares of such corporation, or any other corporation or has aided or abetted any person in procuring any list of shareholders or of holders of voting trust certificates for any such purpose; or has improperly used any information secured through any prior examination of the books and records of accounts, or minutes or record of shareholders or of holders of voting trust certificates for shares of such corporation, or any other corporation; or was

not acting in good faith or for a proper purpose in making his demand. Nothing contained in this section shall impair the power of any court of competent jurisdiction, upon proof by a shareholder or holder of voting trust certificates, of proper purpose, irrespective of the period of time during which such shareholder or holder of voting trust certificates shall have been a shareholder of record or holder of voting trust certificates and irrespective of the number of shares held by him or represented by voting trust certificates held by him to compel the production for examination by such shareholder or holder of voting trust certificates of the books and accounts, minutes and record of shareholders of a corporation.

(d) Upon written request of any shareholder or holder of voting trust certificates for shares of a corporation, the corporation shall mail to such shareholders or holders of voting trust certificates its most recent financial statement showing, in reasonable detail, its assets and liabilities and the result of its operations.

### **§ 15.336 INCORPORATORS**

One or more members of the CTSI may act as incorporator or incorporators of a corporation by signing, certifying, and delivering in duplicate to the Legal Department, Articles of Incorporation of such corporation.

### **§ 15.337 ARTICLES OF INCORPORATION**

- (a) The Articles of incorporation shall set forth:
- (1) The name of the corporation;
  - (2) The period of duration, which may be perpetual;
  - (3) The purpose or purposes for which the corporation is organized which may be stated to be, or to include, the transaction of any or all lawful business for which corporations may be incorporated under this Chapter;
  - (4) The aggregate number of shares which the corporation shall have the authority to issue and a statement of the par value of the shares;
  - (5) Any provision, not inconsistent with law, for the regulation of the internal affairs of the corporation, including any provision for restricting the transfer of shares and any provisions which, under this Chapter, is required or permitted to be set forth in the by-laws;

- (6) The address of its initial registered office, and the name of its initial registered agent at such address;
- (7) The number of directors constituting the initial Board of Directors, and the names and addresses of the persons who are to serve as directors until the first annual meeting of shareholders or until their successors are elected and qualify;
- (8) The name and address of at least one Director who is a Qualified Entity; and
- (9) The name and address of each incorporator. It shall not be necessary to set forth in the articles of incorporation of any of the corporate powers enumerated in this Chapter.

**§ 15.338 FILING OF ARTICLES OF INCORPORATION**

(a) Duplicate originals of the articles of incorporation shall be delivered to the Legal Department. If the Legal Department finds that the articles of incorporation conform to law, the department shall, when all fees and charges have been paid as under this Chapter prescribed:

- (1) Endorse on each of such duplicate originals the word "Filed" and the month, day, and year of filing thereof;
- (2) File one of each such duplicate original in the Legal Department's Corporations files; and
- (3) Prepare the Certificate of Incorporation and refer it to the Tribal General Manager for signature.

(b) The certificate of incorporation, together with the duplicate original of the articles of incorporation affixed thereto by the Legal Department, shall be returned to the incorporators or their representative.

**§ 15.339 EFFECT OF ISSUANCE OF CERTIFICATE OF INCORPORATION**

Upon the issuance of certificate of incorporation, the corporate existence shall begin, and such certificate of incorporation shall be conclusive evidence that all conditions precedent required to be performed by the incorporators have been complied

with and that the corporation has been incorporated under this Chapter, except as against the Legal Department in a proceeding to cancel or revoke the certificate of incorporation or for involuntary dissolution of the corporation.

**§ 15.340 ORGANIZATION MEETING OF DIRECTORS**

After the issuance of the certificate of incorporation, an organization meeting of the Board of Directors named in the articles of incorporation shall be held at the call of a majority of the directors named in the articles, for the purpose of adopting by-laws, electing officers, and the transacting of such other business as may come before the meeting. The directors calling the meeting shall give at least three (3) days notice thereof, by mail to each director so named, stating the time and place of the meeting.

**§ 15.341 RIGHT TO AMEND ARTICLES OF INCORPORATION**

A corporation may amend its articles of incorporation, from time to time.

**§ 15.342 PROCEDURE TO AMEND ARTICLES OF INCORPORATION**

(a) Amendment to the articles of incorporation shall be made in the following manner:

- (1) The Board of Directors shall adopt a resolution setting forth the proposed amendment and, directing that it is to be submitted to a vote, at a meeting of shareholders, which may be either an annual or a special meeting. If no shares have been issued, the amendment shall be adopted by resolution of the Board of Directors and the provisions for adoption by the shareholders shall not apply. The resolution may incorporate the proposed amendment in restated articles of incorporation which contain a statement that, except for the designated amendment, the restated articles of incorporation correctly set forth without change the corresponding provisions of the articles of incorporation as theretofore amended, and that the restated articles of incorporation together with the designated amendment supersede the original articles of incorporation and all amendments thereto;
- (2) Written or printed notice setting forth the proposed amendment or a summary of the changes to be affected thereby shall be given to each shareholder of record entitled to vote thereon within the time and in the manner provided in this Chapter for the giving of notice of meetings of shareholders. If the meeting is an annual meeting,

the proposed amendment or such summary may be included in the notice of such annual meeting; and

- (3) At such meeting, a vote of the shareholders entitled to vote thereon shall be taken on the proposed amendment. The proposed amendment shall be adopted upon receiving the affirmative vote of the holders of a majority of the shares entitled to vote thereon, unless any class of shares is entitled to vote thereon as a class, in which event the proposed amendment shall be adopted upon receiving the affirmative vote of the holders of a majority of the shares of each class of shares entitled to vote thereon as a class and of the total shares entitled to vote thereon;

(b) Any number of amendments may be submitted to the shareholders and voted upon by them at one meeting.

#### **§ 15.343 ARTICLES OF AMENDMENT**

(a) The articles of amendment shall be executed in duplicate by its president or vice-president, and by its secretary or an assistant secretary, and verified by one of the officers signing such articles and shall set forth:

- (1) The name of the corporation;
- (2) The amendments so adopted;
- (3) The date of the adoption of the amendment by the shareholders; or by the Board of Directors where no shares have been issued;
- (4) The number of shares outstanding and the number of shares entitled to vote thereon;
- (5) The number of shares voted for and against such amendment respectively, or if no shares have been issued, a statement to that effect;
- (6) If such amendment provides for an exchange, cancellation of issued shares, and if the manner in which the name shall be affected is not set forth in the amendment, then a statement of the manner in which the name shall be affected; and
- (7) If such amendment effects a change in the amount of stated capital, then a statement of the manner in which the same is affected and a

statement, expressed in dollars, of the amount of stated capital as changed by such amendment.

**§ 15.344 FILING OF ARTICLES OF AMENDMENT**

(a) Duplicate originals of the articles of amendment shall be delivered to the Legal Department. If the Legal Department finds that the articles of amendment conform to law, the department shall, when all fees and franchise taxes have been paid, as in this Chapter prescribed:

- (1) Endorse on each of such duplicate originals the word "Filed", and the month, day, and year of the filing thereof;
- (2) File one of such duplicate originals in the Legal Department's Corporations files;
- (3) Prepare the certificate of amendment and refer it to the Tribal Chief Executive Officer (CEO) for issuance.

(b) The certificate of amendment, together with the duplicate original of the articles of amendment affixed thereto by the Legal Department, shall be returned to the corporation or its representative.

**§ 15.345 EFFECT OF CERTIFICATE OF AMENDMENT**

(a) Upon the issuance of the certificate of amendment by the Legal Department, the amendment shall become effective and the articles of incorporation shall be deemed accordingly.

(b) No amendment shall affect any existing cause of action in favor of or against such corporation, or any pending suit to which such corporation shall be a party, or existing rights of persons other than shareholders; and, in the event the corporate name shall be changed by amendment, no suit brought by or against such corporation under its former name shall abate for that reason.

**§ 15.346 RESTATED ARTICLES OF INCORPORATION**

(a) A domestic corporation may, at any time, restate its articles of incorporation as theretofore amended, by a resolution adopted by the Board of Directors.

(b) Upon the adoption of such a resolution, restated articles of incorporation shall be executed in duplicate by the corporation; by its president, vice-president, and by its secretary, and verified by one of the officers signing such articles; and shall set forth

all of the operative provisions of the articles of incorporation as theretofore amended, together with a statement that the restated articles correctly set forth, without change, the corresponding provisions of the articles of incorporation as theretofore amended, and that the restated articles supersede the original articles of incorporation and all amendments thereto.

(c) Duplicate originals of the restated articles of incorporation shall be delivered to the Legal Department. If the Legal Department finds that such restated articles of incorporation conform to law, the department shall, when all fees and franchise taxes have been paid, as in this Chapter prescribed:

- (1) Endorse on each of such duplicate originals the word "Filed" and the month, day, and year of the filing thereof;
- (2) File one of such duplicate originals in the Legal Department's Corporations files;
- (3) Refer the restated certificate of incorporation to the Tribal General Manager for issuance, to which the other duplicate original shall be affixed.

(d) The restated certificate of incorporation, together with the duplicate original together with the duplicate original of the restated articles of incorporation affixed thereto by the Legal Department, shall be returned to the corporation or its representative.

(e) Upon the issuance of the restated certificate of incorporation by the Legal Department, the restated articles of incorporation shall become effective and shall supersede the original articles of incorporation and all amendments thereto.

#### **§ 15.347 REDUCTION OF STATED CAPITAL IN CERTAIN CASES**

(a) A reduction of the stated capital of a corporation, where such reduction is not accompanied by any action requiring amendment of the articles of incorporation, and not accompanied by a cancellation of shares, may be made in the following manner:

- (1) The Board of Directors shall adopt a resolution setting forth the amount of the proposed reduction and the manner in which the reduction shall be effected, and directing that the question of such reduction be submitted to a vote at a meeting of shareholders, which may be either an annual or a special meeting;

- (2) Written notice, stating that the purpose or one of the purposes of such meeting is to consider the question of reducing the stated capital of the corporation in the amount and manner proposed by the Board of Directors, shall be given to each shareholder of record entitled to vote thereon within the time and in the manner provided in this Chapter for the giving of notice of meetings of shareholders; and
- (3) At such meeting a vote of the shareholders entitled to vote thereon shall be taken on the question of approving the proposed reduction of stated capital, which shall be required for its adoption, the affirmative vote of the holders of a majority of the shares entitled to vote thereon.

(b) Where a reduction of the stated capital of a corporation has been approved as provided in this Section, a statement shall be executed in duplicate by the corporation; by its president, vice-president, and by its secretary or assistant secretary, and certified by one of its officers signing such statement and shall set forth:

- (1) The name of the corporation;
- (2) A copy of the resolution of the shareholders approving such reduction and the date of its adoption;
- (3) The number of shares outstanding and the number of shares entitled to vote thereon;
- (4) The number of shares voted for and against such reduction, respectively; and
- (5) A statement of the manner in which such reduction is effected, and a statement, expressed in dollars, of the amount of stated capital of the corporation after giving effect to such reduction.

(c) Duplicate originals of such statement shall be delivered to the Legal Department. If the Legal Department finds that such statement conforms to law, the department shall, when all fees and franchise taxes have been paid, as in this Chapter prescribed:

- (1) Endorse on each of such duplicate originals the word "Filed" and the month, day and year of the filing thereof;

- (2) File one of such duplicate originals in the Legal Department's Corporations files;
- (3) Return the other duplicate original to the corporation or its representative.

(d) Upon the filing of such statement, the stated capital of the corporation shall be reduced as therein set forth.

(e) No reduction of the stated capital shall be made under the provisions of this Section which would reduce the amount of the aggregate stated capital of the corporation to an amount equal to or less than the aggregate preferential amounts payable upon all issued shares having a preferential right in the assets of the corporation in the event of involuntary liquidation, plus the aggregated par value of all issued shares having a par value but no preferential right in the assets of the corporation in the event of involuntary liquidation.

#### **§ 15.348 SPECIAL PROVISIONS RELATING TO SURPLUS**

(a) The surplus, if any, created by or arising out of a reduction of the stated capital of a corporation shall be capital surplus.

(b) The capital surplus of a corporation may be increased from time to time by resolution of the Board of Directors directing that all or a part of the earned surplus of the corporation be transferred to capital surplus.

(c) A corporation may, by resolution of its Board of Directors, apply any part or all of its capital surplus to the reduction or elimination of any deficit arising from losses, however incurred, but only after first eliminating the earned surplus if any, of the corporation by applying such losses against earned surplus and only to the extent that such losses exceed the earned surplus, if any. Each such application of capital surplus shall, to the extent thereof, effect a reduction of capital surplus.

(d) A corporation may, by resolution of its Board of Directors, create a fund out of its earned surplus for any proper purposes, and may abolish any such fund in the same manner. Earned surplus of the corporation, to the extent so funded, shall not be available for the payment of dividends or other distributions by the corporation except as expressly permitted by this Chapter.

#### **§ 15.349 SALE OF ASSETS IN REGULAR COURSE OF BUSINESS AND MORTGAGE OR PLEDGE OF ASSETS**

(a) The sale, lease, exchange, or other disposition of all, or substantially all, the property and assets of a corporation in the usual and regular course of its business and the mortgage or pledge of any or all property and assets of a corporation whether or not in the usual and regular course of business may be made upon such terms and conditions and for such consideration, which may consist in whole or in part of cash or other property, including shares, obligations or other securities of any other corporation, domestic or foreign, as shall be authorized by its Board of Directors; and in any such case, no authorization or consent of the shareholders shall be required.

**§ 15.350 SALE OF ASSETS OTHER THAN IN REGULAR COURSE OF BUSINESS**

(a) A sale, lease, exchange, or other disposition of all, or substantially all, the property and assets with or without the good will, of a corporation, if not in the usual and regular course of its business, may be made upon such terms and conditions and for such consideration, which may consist in whole or in part of cash or other property, including shares, obligations, or other securities of any other corporation, domestic or foreign, as may be authorized, in the following manner:

- (1) The Board of Directors shall adopt a resolution recommending such sale, lease, exchange or other disposition and directing the submission thereof to a vote at a meeting of shareholders, which may be either an annual or special meeting;
- (2) Written notice shall be given to each shareholder of record, whether or not entitled to vote at such meeting not less than twenty (20) days before such meeting, in the manner provided in this Chapter for the giving of notice of meetings of shareholders and, whether the meeting be an annual or a special meeting, shall state that the purpose, or one of the purposes is to consider the proposed sale, lease, exchange, or other disposition;
- (3) At such meeting the shareholders may authorize such sale, lease, exchange, or other disposition and may fix, or may authorize the Board of Directors to fix, any or all of the terms and conditions thereof, and the consideration to be received by the corporation therefor. Such authorization shall require the affirmative vote of the holders of a majority of the shares of the corporation entitled to vote thereon, unless any class of shares is entitled to vote thereon as a class, in which event such authorization shall require the affirmative vote of the holders of a majority of the shares of each class of shares entitled to vote as a class thereon and of the total shares entitled to vote thereon; and

- (4) After such authorization by a vote of shareholders, the Board of Directors, nevertheless, in its discretion, may abandon such sale, lease, exchange or other disposition of assets, subject to the rights of third parties under any contracts relating thereto, without further action or approval by shareholders.

**§ 15.351 VOLUNTARY DISSOLUTION BY INCORPORATORS**

A corporation which has not commenced business and which has not issued any shares, may be voluntarily dissolved by its incorporators pursuant to regulations promulgated by the Legal Department in accordance with the Tribal Administrative Procedures Ordinance (and approved by Tribal Council).

**§ 15.352 VOLUNTARY DISSOLUTION BY CONSENT OF SHAREHOLDERS**

(a) A corporation may be voluntarily dissolved by the written consent of all its shareholders.

(b) Upon the execution of such written consent, a statement of intent to dissolve shall be executed in duplicate by the corporation; by its president or vice-president and by its secretary or assistant secretary and verified by one of the officers signing such statement, which statement shall set forth:

- (1) The name of the corporation;
- (2) The names and respective addresses of its officers;
- (3) The names and respective addresses of its directors;
- (4) A copy of the written consent signed by all shareholders of the corporation; and
- (5) A statement that such written consent has been signed by all shareholders of the corporation or signed in their names by their attorneys as duly authorized.

(c) A voluntary dissolution shall comply with the regulations promulgated by the Legal Department in accordance with the Tribal Administrative Procedures Ordinance (and approved by Tribal Council).

**§ 15.353 VOLUNTARY DISSOLUTION BY ACT OF CORPORATION**

(a) A corporation may be dissolved by the act of the corporation, when authorized in the following manner:

- (1) The Board of Directors shall adopt a resolution recommending that the corporation be dissolved and directing that the question of such dissolution be submitted to a vote at a meeting of shareholders, which may be either an annual meeting or a special meeting;
- (2) Written notice shall be given to each shareholder of record entitled to vote at such meeting, within the time and in the manner provided in this Chapter for the giving of notice of meetings to shareholders, and whether the meeting be an annual or special meeting, shall state that the purpose, or one of the purposes, of such meeting is to consider the advisability of dissolving the corporation;
- (3) At such meeting a vote of shareholders entitled to vote shall be taken on a resolution to dissolve the corporation. Such resolution shall be adopted upon receiving the affirmative vote of the holders of a majority of the shares of the corporation entitled to vote thereon; and
- (4) Upon the adoption of such resolution by the members, the corporation shall execute a statement of intent to dissolve pursuant to regulations promulgated by the Legal Department in accordance with the Tribal Administrative Procedures Ordinance (and approved by Tribal Council).

**§ 15.354 EFFECT OF STATEMENT OF INTENT TO DISSOLVE**

Upon the filing by the corporation's secretary of a statement of intent to dissolve, whether by consent of shareholders or by act of the corporation, the corporation shall cease to carry on its business except insofar as may be necessary for the winding up thereof, but its corporate existence shall continue until a certificate of dissolution has been issued by the Legal Department or until a decree dissolving the corporation has been entered by a court of competent jurisdiction as provided in this Chapter.

**§ 15.355 REVOCATION OF VOLUNTARY DISSOLUTION PROCEEDINGS**

(a) By the written consent of all its shareholders, or by an act of the corporation, a corporation may, at any time prior to the issuance of a certificate of dissolution by the CEO, revoke voluntary dissolution proceedings theretofore taken, in a

manner pursuant to regulations promulgated by the Legal Department in accordance with the Tribal Administrative Procedures Ordinance (and approved by Tribal Council).

**§ 15.356 ARTICLES OF DISSOLUTION**

(a) If voluntary dissolution proceedings have not been revoked; when all debts, liabilities, and obligations of the corporation shall have been paid and discharged, or adequate provision has been made for such, and all of the remaining property and assets of the corporation have been distributed to its shareholders, articles of dissolution shall be executed in duplicate by the corporation; by its president or a vice-president, and by its secretary or an assistant secretary, and verified by one of the officers signing such statement, which such statement shall set forth:

- (1) The name of the corporation;
- (2) That the Legal Department filed a statement of intent to dissolve the corporation, and the date on which such statement was filed;
- (3) That all debts, obligations, and liabilities of the corporation have been paid and discharged or that adequate provisions have been made therefore;
- (4) That all the remaining property and assets of the corporation have been distributed among its shareholders in accordance with their respective rights and interests; and
- (5) That there are no suits pending against the corporation in any court, or that adequate provisions have been made for the satisfaction of any judgment, order, or decree which may be entered against it in any pending suit.

**§ 15.357 FILING OF ARTICLES OF DISSOLUTION**

(a) Duplicate originals of such articles of dissolution shall be delivered to the Legal Department.

(b) If the Legal Department finds that such articles of dissolution conform to law, the department shall, when all fees and franchise taxes have been paid as in this Chapter prescribed:

- (1) Endorse on each of such duplicate originals the word "Filed", and the month, day, and year of such filing thereof;
- (2) File one of such duplicate original in the Legal Department's Corporations files; and

- (3) Prepare the recommended certificate of dissolution and refer it to the Tribal CEO for issuance.

(c) The certificate of dissolution, together with the duplicate original of the articles of dissolution affixed thereto by the Legal Department shall be returned to the representative of the dissolved corporation. Upon the issuance of such certificate of dissolution, the existence of the corporation shall cease, except for the purpose of suits, other proceedings, and appropriate corporate action by shareholders, directors and officers as provided in this Chapter.

### **§ 15.358 INVOLUNTARY DISSOLUTION**

(a) A corporation may be dissolved involuntarily by a decree of the Siletz Tribal Court in an action instituted by the Tribal Legal Department when it is established that:

- (1) The corporation has failed to file its annual report within the time required by this Chapter, or has failed to pay its franchise tax on or before the first day of August of the year in which such franchise tax becomes due and payable; or
- (2) The corporation procured its articles of incorporation through fraud; or
- (3) The corporation has continued to exceed or abuse the authority conferred upon it by law; or
- (4) The corporation has failed for thirty (30) days to appoint and maintain a registered office or registered agent within the Siletz 11 County Service Area; or
- (5) The corporation has failed for thirty (30) days, after change of its registered office or registered agent to file in the Legal Department, a statement of such change.

### **§ 15.359 NOTIFICATION TO THE LEGAL DEPARTMENT**

(a) If on or before the last day of December, a corporation shall have failed to file its annual reports or to pay franchise taxes in accordance with the provisions of this Chapter or shall have given cause for dissolution as provided in this Chapter, the Legal Department shall file an action in the name of the CTSI against such corporation for its dissolution.

(b) If, after such action has been filed, the corporation shall file its annual report or pay its franchise tax, together with all penalties thereon, or shall appoint or maintain a registered agent as provided in this Chapter, or shall file with the Legal Department the required statement of change of registered agent, and shall pay the costs of such action, the action for such cause shall abate.

**§ 15.360 JURISDICTION OF COURT TO LIQUIDATE ASSETS AND AFFAIRS OF CORPORATION**

(a) The Siletz Tribal Court shall have full power to liquidate the assets and business of a corporation:

- (1) In any action by a shareholder when it is established:
  - (A) That the Directors are deadlocked in the management of the corporation affairs and that the shareholders are unable to break the deadlock; and that irreparable injury to the corporation is being suffered or is threatened by reason thereof; or
  - (B) That the acts of the Directors or those in control of the corporation are illegal, oppressive or fraudulent; or
  - (C) That the shareholders are deadlocked in voting power, and have failed, for a period which includes at least two (2) consecutive annual meeting dates, to elect successors to Directors whose terms have expired or would have expired upon the election of their successors; or
  - (D) That the corporation assets are being misapplied or wasted.
- (2) In an action by a creditor when the claim of the creditor has been reduced to judgment and an execution thereon returned unsatisfied and it is established that the corporation is insolvent;
- (3) Upon application by a corporation which has filed a statement of intent to dissolve, as provided in this Chapter, to have its liquidation continued under the supervision of the Court; and
- (4) When an action has been commenced by the Legal Department to dissolve a corporation and it is established that liquidation of its business and affairs should precede the entry of a decree of dissolution.

(b) It shall not be necessary to make shareholders parties to any such action or proceeding, unless relief is sought against them personally.

**§ 15.361 PROCEDURE IN LIQUIDATION OF CORPORATION BY THE SILETZ TRIBAL COURT**

(a) In proceedings to liquidate the assets and business of a corporation, the Siletz Tribal Court shall have the power to issue injunctions and to appoint a receiver or receivers pendente lite, with such powers and duties as the Siletz Tribal Court, from time to time, may direct and to take such other proceedings as may be requested to preserve the corporate assets wherever situated and carry on business of the corporation until a full hearing can be held.

(b) After a hearing had upon such notice as the Siletz Tribal Court may direct to be given to all parties to the proceedings and to any other parties in interest designated by the Siletz Tribal Court, the Siletz Tribal Court may appoint a liquidating receiver or receivers with authority to collect the assets of the corporation, including all amounts owing to the corporation by subscribers on account of any unpaid portion of the consideration for the issuance of shares. Such liquidating receiver shall have authority, subject to the order of the Siletz Tribal Court, to sell, convey and dispose of all or any part of the assets of the corporation wherever situated, either at public or private sale. The assets of the corporation of the proceeds resulting from a sale, conveyance, or other disposition thereof shall be applied to the expenses of such liquidation and to the payment of the liabilities and obligations of the corporation, and any remaining assets or proceeds shall be distributed among its shareholders according to their respective rights and interests. The order appointing such liquidating receiver shall state their powers and duties. Such power and duties may be increased or diminished at any time during the proceedings.

(c) The Siletz Tribal Court shall have power to allow, from time to time, as expenses of the liquidation compensation to the receiver or receivers and to attorneys in the proceedings, and to direct the payment thereof out of the assets of the corporation or the proceeds of any sale or disposition of such assets.

(d) A receiver of a corporation appointed under the provisions of this Section shall have authority to sue and defend in all courts in his own name as receiver of such corporation. The court appointing such receiver(s) shall have exclusive jurisdiction of the corporation and its property, wherever situated.

**§ 15.362 QUALIFICATION OF RECEIVERS**

A receiver shall in all cases be a natural person or a corporation authorized to act as receiver, domestic, and shall in all cases give such bond as the Court may direct with such sureties as the Court may require.

**§ 15.363 FILING OF CLAIMS IN LIQUIDATION PROCEEDINGS**

In proceedings to liquidate the assets and business of a corporation, the Siletz Tribal Court may require all creditors of the corporation to file with the Clerk of Court, or with the receiver, in such form as the Court may prescribe, proof under oath of their respective claims. If the Court requires the filing of claims it shall fix a date, which shall be not less than four (4) months from the date of the order, as the last day for the filing of claims, and shall prescribe the notice that shall be given to creditors and claimants of the date so fixed. Notice shall be published in the Siletz Tribal Newsletter. Prior to the date so fixed, the Court may extend the time for the filing of claims. Creditors and claimants failing to file proofs or claims on or before the date so fixed may be barred, by order of the Court, from participating in the distribution of the assets of the Corporation.

**§ 15.364 DISCONTINUANCE OF LIQUIDATION PROCEEDINGS**

The liquidation of the assets and business of a corporation may be discontinued at any time during the liquidation proceedings when it is made to appear that cause for liquidation no longer exists. In such event the Court shall dismiss the proceedings and direct the receiver to redeliver to the corporation all its remaining property and assets.

**§ 15.365 DECREE OF INVOLUNTARY DISSOLUTION**

In proceedings to liquidate the assets and affairs of a corporation, when the costs and expenses of such proceedings and all debts, obligations, and liabilities of the corporation shall have been paid and discharged and all of its remaining property and assets distributed to its shareholders; or in the case its property and assets are not sufficient to satisfy and discharge such costs, expenses, debts, and obligations, all the property and assets have been applied so far as they will go to their payment, the Court shall enter a decree dissolving the corporation, whereupon the existence of the corporation shall cease.

**§ 15.366 FILING OF DECREE OF DISSOLUTION**

In case the Court shall enter a decree dissolving a corporation, it shall be the duty of the Clerk of such Court to cause a certified copy of the decree to be filed with the Legal Department. No fee shall be charged by the Legal Department for the filing thereof.

**§ 15.367 DEPOSITS WITH LEGAL DEPARTMENT**

Upon the voluntary or involuntary dissolution of a corporation, the portion of the assets distributable to a creditor or a shareholder who is unknown or cannot be found, or who are under disability and there is no person legally competent to receive such distributive portion, shall be reduced to cash and be deposited with the Legal Department for deposit with the Siletz Tribal Trust Officer for administration. Such funds shall be paid over to such creditor or shareholder or his legal representative upon proof satisfactory to the Legal Department and the Trust Officer of the creditor or shareholder's rights thereto.

**§ 15.368 SURVIVAL OF REMEDY AFTER DISSOLUTION**

The dissolution of a corporation either (1) by the issuance of a certificate of dissolution by CTSI, or (2) by a decree of the Court when the Court has not liquidated the assets and business of the corporation as provided in this Chapter, or (3) by expiration of its period of duration, shall not take away or impair any remedy available to or against such corporation, its directors, officers, or shareholders, for any right or claim existing; or any liability incurred, prior to such dissolution action or other proceeding thereon if commenced within two (2) years after the date of such dissolution, any action or proceeding by or against the corporation in its corporate name. The shareholders, directors, and officers shall have the power to take such corporate or other action as shall be appropriate to protect such remedy, right, or claim. If such corporation was dissolved at the expiration of its period of duration, such corporation may amend its articles of incorporation at any time during such period of two (2) years so as to extend its period of duration.

**§ 15.369 ANNUAL REPORT OF DOMESTIC AND FOREIGN CORPORATIONS**

(a) Each domestic corporation shall prepare, within the time prescribed by this Chapter, an annual report setting forth:

- (1) The name of the corporation;
- (2) The address of its registered office and the name of its registered agent;
- (3) A brief statement of the character of the business in which the corporation is actually engaged;
- (4) The names and respective addresses of the directors and officers of the corporation.

- (5) A statement of the aggregate number of shares which the corporation has authority to issue and par value of the shares;
- (6) A statement of the aggregate number of issued shares;
- (7) A statement, expressed in dollars, of the amount of stated capital of the corporation, as defined in this Chapter;
- (8) A statement, expressed in dollars, of the value of all the property owned by the corporation, wherever located, and the value of the property of the corporation located within Siletz Tribal lands, and a statement, expressed in dollars, of the gross amount of business transacted by the corporation for the twelve (12) months ended on the thirty-first (31st) day of December preceding the date herein provided for the filing of such report and the gross amount thereof transacted by the corporation at or from places of business on Siletz Tribal lands.
- (9) If all the property of the corporation is located on Siletz Tribal lands and all of its business is transacted at or from places of business on Siletz Tribal lands, or if the corporation elects to pay the annual franchise tax on the basis of its entire stated capital, then the information required by this subparagraph need not be set forth in such report.
- (10) Such additional information as may be necessary or appropriate in order to enable the Legal Department to determine and assess the proper amount of taxes payable by such corporation shall be made on forms prescribed and furnished by the Legal Department and the information therein contained shall be given as of the date of the execution of the report, except as to the information required by subparagraphs (7), (8), and (9) which shall be given as of the close of business on the thirty-first (31st) day of December next preceding the date herein provided for the filing of such report.
- (11) The report shall be executed for the corporation by its president, a vice-president, secretary, or treasurer, and verified by the officer executing the report, or, if the corporation is in the hands of a receiver or trustee, it shall be executed on behalf of the corporation and certified by such receiver or trustee.

**§ 15.370 FILING OF ANNUAL REPORT OF CORPORATION**

(a) Such annual report of a corporation shall be delivered to the Legal Department, between the first day of January and the first day of March of each year, except that the first annual report of a corporation shall be filed between the first day of January and the first day of March in the calendar year following the year in which its certificate of incorporation was issued by CTSI.

(b) If the Legal Department finds that such report conforms to law, the department shall file the same. If the department finds that it does not so conform, the department shall promptly return the same to the corporation for any necessary correction, in which event the penalties hereinafter prescribed for failure to file such report within the time hereinabove provided shall not apply, if such report is corrected to conform to the requirements of this Chapter and returned to the Legal Department within thirty (30) days from the date on which it was mailed to the corporation by the Legal Department.

**§ 15.371 FEES, TAXES AND CHARGES TO BE COLLECTED BY THE LEGAL DEPARTMENT**

(a) The Legal Department shall charge corporations and collect from corporations in accordance with the provisions of this Chapter and any subsequent Taxation resolution, ordinance, and/or Chapter to the Commercial Code:

- (1) Fees for filing documents and issuing certificates;
- (2) Miscellaneous charges;
- (3) License fees; and
- (4) Duly-enacted taxes.

(b) Such funds shall be deposited into the Tribal General fund or as specifically directed by resolution, ordinance, and/or Code.

**§ 15.372 FEES FOR FILING DOCUMENTS AND ISSUING CERTIFICATES**

(a) The Legal Department shall charge and collect for:

- (1) Filing articles of incorporation and issuing a certificate of incorporation: \$25.00;
- (2) Filing articles of amendment and issuing a certificate of amendment: \$10.00;
- (3) Filing restated articles of incorporation: \$5.00;

- (4) Filing a statement of change of address of registered office or change of registered agent, or both: \$0.00;
- (5) Filing a statement of reduction of stated capital: \$0.00;
- (6) Filing a statement of intent to dissolve: \$5.00;
- (7) Filing a statement of revocation of voluntary dissolution proceedings: \$0.00;
- (8) Filing articles of dissolution: \$5.00;

**§ 15.373 MISCELLANEOUS CHARGES**

- (a) The Legal Department shall charge and collect:
  - (1) For furnishing a certified copy of any document, instrument, or paper relating to a corporation: .05 cents per page; and: \$5.00 for the certificate and affixing the seal thereto; and
  - (2) At the time of service of process on him or her as resident agent of a corporation: \$5.00 which amount may be recovered as taxable costs by the party to the suit or action causing such service to be made if such party prevails in the suit or action.

**§ 15.374 LICENSE FEES PAYABLE BY DOMESTIC CORPORATIONS**

- (a) The Legal Department shall charge and collect from each domestic corporation license fees, based on the number of shares which it will have authority to issue or the increase in the number shares it will have authority to issue, at the time of:
  - (1) Filing articles of incorporation;
  - (2) Filing articles of amendment increasing the number of authorized shares; and
  - (3) Filing articles of merger or consolidation increasing the number of authorized shares which the surviving or new corporation, if a domestic corporation, will have the authority to issue above the aggregate number of shares which the constituent domestic corporations authorized to transact business on Siletz Tribal lands had authority to issue.

(b) The license fees shall be at the rate of five cents (\$0.05) per share up to and including the first 10,000 authorized shares and ten cents (\$0.10) per share for each authorized share in excess of 10,000 shares, whether the shares are of par value or without par value.

(c) The license fees payable on an increase in the number of authorized shares shall be imposed only on the increased number of shares, and the number of previously authorized shares shall be taken into account in determining the rate applicable to the increased number of authorized shares.

### **§ 15.375 PENALTIES IMPOSED UPON CORPORATIONS**

(a) Each corporation that fails or refuses to file its annual report for any year within the time prescribed by this Chapter shall be subject to a penalty equal to one-half the license fee most recently assessed against it.

(b) Each corporation that fails to or refuses to answer truthfully and fully within the time prescribed by this Chapter interrogatories propounded by the Legal Department in accordance with the provisions of this Chapter, shall be guilty of a Civil Offense against the Tribe; following a Tribal Court hearing, and upon a Tribal Court order finding that the Civil Offense was committed, shall be fined in an amount not to exceed Five Thousand and No/100 (\$5,000.00) dollars.

### **§ 15.376 PENALTIES IMPOSED UPON OFFICERS AND DIRECTORS**

Each officer and director of a corporation, who fails or refuses within the time prescribed by this Chapter, to answer truthfully and fully interrogatories propounded to him by the Legal Department in accordance with the provisions of this Chapter, or who signs any articles, statements, report, application, or other document filed with the Legal Department which is known to such officer or director to be false in any material aspect, shall be deemed guilty of a Civil Offense against the Tribe, and upon a Court order finding that the Civil Offense was committed, shall be fined in any amount not exceeding Five Thousand and No/100 (\$5,000.00) dollars.

### **§ 15.377 INTERROGATORIES BY THE LEGAL DEPARTMENT**

The Legal Department may propound to any corporation, domestic or foreign, subject to the provisions of this Chapter and to any officer or director thereof, such interrogatories as may be reasonably necessary and proper to enable him to ascertain whether such corporation has complied with all the provisions of this Chapter applicable to such corporation. Such interrogatories shall be answered within thirty (30) days after the mailing thereof, or within such additional time as shall be fixed by the Legal Department, and the answers thereto shall be full and complete and shall be made in

writing and under oath. If such interrogatories be directed to an individual they shall be answered by him, and if directed to a corporation they shall be answered by the president, vice-president, secretary, or treasurer thereof. The Legal Department need not file any document to which such interrogatories relate until such interrogatories be answered as herein provided, and then only if the answers disclose that such document is not in conformity with the provisions of this Chapter.

**§ 15.378 INFORMATION DISCLOSED BY INTERROGATORIES**

(a) Interrogatories propounded by the Legal Department and the answers thereto shall not be open to public inspection nor shall the Legal Department disclose any facts or information obtained therefrom except insofar as his or her official duty may require the same to be made public or in the event such interrogatory or the answers thereto are required for evidence in any civil or criminal proceedings or in any other action by the CTSI.

(b) Appeals from all final orders and judgments entered by the Siletz Tribal Court under this Section in review of any ruling or decisions of the Legal Department may be taken as in other civil actions.

**§ 15.379 CERTIFICATES AND CERTIFIED COPIES TO BE RECEIVED IN EVIDENCE**

All certificates issued by CTSI in accordance with the provisions of this Chapter and all copies of documents filed in the Legal Department in accordance with the provisions of this Chapter, when certified by that department, shall be taken and received in all courts, public offices, and official bodies as prima facie evidence of the facts therein stated. A certificate by the Legal Department under the Seal of the CTSI, as to the existence or non-existence of the facts relating to corporations shall be taken and received in all courts, public offices and official bodies as prima facie evidence of the existence or non-existence of the facts therein stated.

**§ 15.380 FORMS TO BE FURNISHED BY THE LEGAL DEPARTMENT**

All reports required by this Chapter to be filed in the Legal Department shall be made on forms that shall be prescribed and furnished by the department. Forms for all other documents to be filed in the Legal Department shall be furnished by the department on request, but the use thereof, unless otherwise specifically prescribed in this Chapter, shall not be mandatory.

**§ 15.381 GREATER VOTING REQUIREMENTS**

Whenever, with respect to any action to be taken by the shareholders of a corporation, the corporation's articles of incorporation require the vote or concurrence of a greater proportion of the shares than required by this Chapter, with respect to such action, the provisions of the articles of incorporation shall control.

**§ 15.382 WAIVER OF NOTICE**

Whenever any notice is required to be given to any shareholder or director of a corporation under the provisions of this Chapter or under the provisions of the articles of incorporation or by-laws of the corporation, a waiver thereof shall be in writing signed by the person or persons entitled to such notice.

**§ 15.383 ACTION BY MEMBERS OR DIRECTORS WITHOUT A MEETING**

(a) Any action required by this Chapter to be taken at a meeting of the shareholders of a corporation, or any action which may be taken at a meeting of the shareholders, may be taken without a meeting, if consent in writing, setting forth the action so taken, shall be signed by all of the shareholders entitled to vote with respect to the subject matter thereof

(b) Such consent shall have the same effect as a unanimous vote of shareholders, and may be stated as such in any articles or document filed with the Legal Department under this Chapter.

**§ 15.384 EFFECT OF INVALIDITY OF PART OF THIS CHAPTER**

If any court shall adjudge to be invalid or unconstitutional any clause, sentence, paragraph, section, or part of this Chapter, such judgment or decree shall not affect, impair, invalidate, or nullify the remainder of this Chapter, but the effect thereof shall be confined to the clause, sentence, paragraph, section, or part of this Chapter so adjudged to be invalid or unconstitutional.

**§ 15.385 JURISDICTION OF SILETZ TRIBAL COURT**

The Siletz Tribal Court shall have jurisdiction over any corporation, its directors, officers or employees, organized under this Chapter for enforcement of this Chapter or for any matter having to do with the administration, operations or business of the Corporation.

**CHAPTER C: NON-PROFIT CORPORATIONS**

**GENERAL PROVISIONS**

**§ 15.400** This Chapter of the Corporations Ordinance may be referred to as the “Siletz Tribal Non-Profit Corporations Ordinance.

**§ 15.401** **DEFINITIONS**

- (a) As used in this chapter, unless otherwise specifically provided:
- (1) “Anniversary” means that day each year exactly one or more years after the date of filing by the CTSI Legal Department of the articles of incorporation.
  - (2) “Approved by the members” or “approval by the members” means approved or ratified by the members entitled to vote on the issue through either:
    - (A) The affirmative vote of a majority of the votes of such members represented and voting at a duly held meeting at which a quorum is present or the affirmative vote of such greater proportion including the votes of any required proportion of the members of any class as the articles, bylaws or this chapter may provide for specified types of member action; or
    - (B) A written ballot or written consent in conformity with this chapter.
  - (3) “Articles of incorporation” or “articles” include amended and restated articles of incorporation and articles of merger, and corrections thereto.
  - (4) “Board” or “board of directors” means the individual or individuals vested with overall management of the affairs of the domestic or foreign corporation, irrespective of the name by which the individual or individuals are designated, except that no individual or group of individuals are the board of directors because of powers delegated to that individual or group pursuant to STCC 15.500.
  - (5) “Bylaws” means the code or codes of rules, other than the articles adopted pursuant to this chapter or the laws governing a foreign corporation, for the regulation or management of the affairs of the

domestic or foreign corporation, irrespective of the name or names by which such rules are designated.

- (6) “Class” means a group of memberships that have the same rights with respect to voting, dissolution, redemption and transfer. For the purpose of this section, rights are the same if the rights are determined by a formula applied uniformly.
- (7) “Contact address” means a mailing address at which a person affiliated with the organization will receive and transmit to the organization notices intended for the foreign or domestic corporation either when sending such notices to the registered agent is not practical or when a duplicate notice is desirable. The contact address may be the principal place of business, if any, or the business or residence address of any person associated with the corporation or foreign corporation who has consented to serve, but shall not be the address of the registered agent.
- (8) “Corporation” or “domestic corporation” means a nonprofit corporation that is not a foreign corporation, and that is incorporated under or subject to the provisions of this chapter.
- (9) “CTSI” means the Confederated Tribes of Siletz Indians and includes all departments and entities.
- (10) “Delegates” means those persons elected or appointed to vote in a representative assembly for the election of a director or directors or on other matters.
- (11) “Deliver” includes mail.
- (12) “Directors” means individuals designated in the articles or bylaws or elected by the incorporators to act as members of the board, and their successors.
- (13) “Distribution” means the payment of a dividend or any part of the income or profit of a corporation to the corporation’s members, directors or officers, other than payment of value for property received or services performed or payment of benefits in furtherance of the corporation’s purposes.
- (14) “Domestic business corporation” means a for profit corporation incorporated under CTSI Corporations Code §15.300.

- (15) “Domestic limited liability company” means an entity that is an unincorporated association having one or more members and that is organized under CTSI Resolution 2007-208.
- (16) “Employee” includes an officer or director who is employed by the corporation with compensation for services beyond those encompassed by board membership.
- (17) “Entity” includes a corporation, foreign corporation, business corporation and foreign business corporation, profit and nonprofit unincorporated association, business trust, partnership, two or more persons having a joint or common economic interest, any state, the United States, a federally recognized Native American or American Indian tribal government and any foreign government.
- (18) “File,” “filed” or “filing” means reviewed, accepted and entered in the CTSI Legal Department.
- (19) “Foreign business corporation” means a for profit corporation incorporated under laws other than the laws of the Confederated Tribes of Siletz Indians.
- (20) “Foreign corporation” means a corporation organized under laws other than the laws of Confederated Tribes of Siletz Indians that would be a nonprofit corporation if formed under this code.
- (21) “Foreign limited liability company” means an entity that is an unincorporated association organized under laws other than the laws of CTSI and that is organized under a statute under which an association may be formed that affords to each of the entity’s members limited liability with respect to liabilities of the entity.
- (22) “Foreign professional corporation” means a professional corporation organized under laws other than the laws of CTSI.
- (23) “Governmental subdivision” includes an authority, county, district, municipality, and any Tribe or state, federal or Tribal governmental entity.
- (24) “Includes” denotes a partial definition.

- (25) “Individual” means a natural person and includes the guardian of an incompetent individual.
- (26) “Means” denotes an exhaustive definition.
- (27)
- (A) “Member” means a person or persons entitled, pursuant to a domestic or foreign corporation’s articles or bylaws, without regard to what the person is called in the articles or bylaws, to vote on more than one occasion for the election of a director or directors.
- (B) A person is not a member by virtue of any of the following rights the person has:
- (i) As a delegate;
  - (ii) To designate or appoint a director or directors;
  - (iii) As a director; or
  - (iv) As a holder of an evidence of indebtedness issued or to be issued by the corporation.
- (C) Notwithstanding the provisions of paragraph (A) of this subsection, a person is not a member if the person’s membership rights have been eliminated.
- (28) “Membership” refers to the rights and obligations a member has under this chapter.
- (29) “Mutual benefit corporation” means a domestic corporation that is formed as a mutual benefit corporation is designated a mutual benefit corporation by a statute or does not come within the definition of public benefit or religious corporation.
- (30) “Nonprofit corporation” means mutual benefit corporations, public benefit corporations and religious corporations.
- (31) “Notice” has the meaning given that term in §15.421.
- (32) “Person” includes any individual or entity.

- (33) “Principal office” means the place so designated in the most recent annual report or, if no annual report is on file, as designated in the articles of incorporation, that is the place where the principal executive offices of a domestic or foreign corporation are located or, if none, the contact address.
- (34) “Proceeding” includes civil, criminal, administrative and investigatory action.
- (35) “Public benefit corporation” means a domestic corporation that:
- (A) Is formed as a public benefit corporation pursuant, is designated as a public benefit corporation by ordinance, is recognized as tax exempt under section 501 (c) (3) of the Internal Revenue Code of 1986 or is otherwise organized for a public or charitable purpose;
  - (B) Is restricted so that on dissolution the corporation must distribute the corporation’s assets to an organization organized for a public or charitable purpose, a religious corporation, the United States, the Confederated Tribes of Siletz Indians, a state or a person that is recognized as exempt under section 501 (c) (3) of the Internal Revenue Code of 1986; and
  - (C) Does not come within the definition of “religious corporation.”
- (36) “Record date” means the date on which a corporation determines the identity of the corporation’s members and their membership rights for the purposes of this chapter. The determinations shall be made as of the time of close of transactions on the record date unless another time for doing so is specified at the time the record date is fixed.
- (37) “Religious corporation” means a domestic corporation that is formed as a religious corporation or is organized primarily or exclusively for religious purposes.
- (38) “Secretary,” when used in the context of a corporate official, means the corporate officer to whom the board of directors has delegated responsibility for preparing the minutes of the directors’

and members' meetings and for authenticating the records of the corporation.

- (39) "State" when referring to a part of the United States, includes a state, commonwealth, territory and insular possession of the United States and the agencies and governmental subdivisions of the state, commonwealth, territory or insular possession.
- (40) "Tribe" means a federally recognized Indian Tribe.
- (41) "Uncompensated officer" means an individual who serves in an office without compensation for personal service. For purposes of this subsection, payment solely for actual expenses in performing duties of the officer or a stipend that is paid only to compensate the average expenses the individual incurs over the course of a year is not compensation.
- (42) "United States" includes district, authority, bureau, commission, department and any other agency of the United States.
- (43) "Vote" includes authorization by written ballot and written consent, where permitted.
- (44) "Voting power" means the total number of votes entitled to be cast on the issue at the time the determination of voting power is made, excluding a vote that is contingent upon the happening of a condition or event that has not occurred at the time. When a class is entitled to vote as a class for directors, the determination of voting power of the class shall be based on the percentage of the number of directors the class is entitled to elect out of the total number of authorized directors.

(b) **[RESERVED]**

## **§ 15.402 FILING REQUIREMENTS**

(a) A document must satisfy the requirements of this section, except as any other provision of this chapter modifies these requirements, to be entitled to filing by the CTSI Legal Department under authority of this chapter.

(b) The document must be one required or permitted to be filed in the CTSI Legal Department.

(c) The document shall contain the information required by this chapter. It may contain other information as well.

(d) The document must be legible.

(e) The document must be written in the alphabet used to write the English language, but may include Arabic or Roman numerals and incidental punctuation.

(f) The document must be executed:

- (1) By a fiduciary, receiver or trustee, if the corporation is in the hands of a receiver, trustee or other court-appointed fiduciary;
- (2) By an incorporator, if directors have not been selected or its execution is before the organizational meeting;
- (3) By the person specified in any section of this chapter that required the document be filed; or
- (4) By the chairperson of the board of directors of a domestic or foreign corporation, its president or otherwise by another of its officers.

(g) The document shall state beneath or opposite the signature the name of the person and the capacity in which the person signs. The document may, but is not required to, contain:

- (1) The corporate seal;
- (2) An attestation by the secretary or an assistant secretary; or
- (3) An acknowledgment, verification or proof.

(h) If the CTSI Legal Department has prescribed a mandatory form for a document under §15.407, the document must be in or on the prescribed form.

(i) The document must be delivered to the CTSI Legal Department for filing and must be accompanied by the correct filing fee.

(j) A document is deemed filed or effective only as provided herein.

**§ 15.403 FILING, SERVICE, COPYING AND CERTIFICATION FEES**

The CTSI Legal Department shall collect the fees described in Siletz Tribal Corporations ordinance §15.372 for each document delivered for filing under this chapter and for process served on the Legal Department under this chapter. The Legal Department may collect the fees described in §15.373 for copying any public record under this chapter, certifying the copy or certifying to other facts of record under this chapter.

**§ 15.404 [RESERVED]**

**§ 15.405 EFFECTIVE TIME AND DATE OF DOCUMENT**

(a) Except as provided in subsection (b) of this section, a document accepted for filing after review is effective:

- (1) On the date it is filed by the CTSI Legal Department; and
- (2) At the time, if any, specified in the document as its effective time or at 12:01 a.m. on that date if no effective time is specified.

(b) If a document specifies a delayed effective time and date, the document becomes effective at the time and date specified. If a document specifies a delayed effective date but no time, the document becomes effective at 12:01 a.m. on that date. A delayed effective date for a document may not be later than the 90th day after the date it is filed.

**§ 15.406 CORRECTING FILED DOCUMENT**

(a) A domestic or foreign corporation may correct a document filed by the CTSI Legal Department other than an annual report, if the document:

- (1) Contains an incorrect statement; or
- (2) Was defectively executed, attested, sealed, verified or acknowledged.

(b) Errors in annual reports may be corrected as provided in §15.626.

(c) A domestic or foreign corporation seeking to correct a document shall deliver the articles of correction to the CTSI Legal Department for filing. The articles shall include the following:

- (1) A description of the incorrect document, including its filing date or a copy of the document;
- (2) A description of the incorrect statement and the reason it is incorrect or a description of the manner in which the execution, attestation, seal, verification or acknowledgment is defective; and
- (3) A correction of the incorrect statement or defective execution, attestation, seal, verification or acknowledgment.

(d) Articles of correction are effective on the effective date of the document they correct except as to persons relying on the uncorrected document and adversely affected by the correction. As to those persons, articles of correction are effective when filed by the CTSI Legal Department.

(e) An incorrect document with a delayed effective date may also be corrected by withdrawal and new filing.

#### **§ 15.407 FORMS; RULES**

Upon request, the CTSI Legal Department may furnish forms for documents required or permitted to be filed by this chapter. The CTSI Legal Department may by rule require the use of the forms.

#### **§ 15.408 FILING DUTY OF CTSI LEGAL DEPARTMENT**

(a) If a document delivered to the CTSI Legal Department for filing satisfies the requirements of §15.402 the CTSI Legal Department shall file it.

(b) The CTSI Legal Department files a document by indicating thereon that it has been filed by the CTSI Legal Department and the date of filing. The time of filing shall be deemed to be 12:01 a.m. on that date. After filing a document, except those referred to in STCC 15.446, 15.609, 15.615, 15.626 and 15.626, the CTSI Legal Department shall return an acknowledgment of filing to the domestic or foreign corporation or its representative.

(c) If the CTSI Legal Department refuses to file a document, the CTSI Legal Department shall return it to the domestic or foreign corporation or its representative within 10 business days after the document was received by the CTSI Legal Department, together with a brief written explanation of the reason or reasons for the refusal.

(d) The CTSI Legal Department's duty to file documents under this section is ministerial. The CTSI Legal Department is not required to verify or inquire into the

legality or truth of any matter included in any document delivered to the CTSI Legal Department for filing. Except as provided elsewhere in this chapter, the CTSI Legal Department's filing or refusing to file a document does not:

- (1) Affect the validity or invalidity of the document in whole or in part except as provided in STCC 15.427; or
- (2) Relate to the correctness or incorrectness of information contained in the document.

(e) The CTSI Legal Department's refusal to file a document does not create a presumption that the document is invalid or that information contained in the document is incorrect.

#### **§ 15.409 APPEAL FROM CTSI LEGAL DEPARTMENT'S REFUSAL TO FILE DOCUMENT**

If the CTSI Legal Department refuses to file a document, the domestic or foreign corporation, in addition to any other legal remedy which may be available, shall have the right to appeal from such final order pursuant to the provisions of the CTSI Tribal Administrative Procedures Ordinance.

#### **§ 15.410 EVIDENTIARY EFFECT OF CERTIFIED COPY OF FILED DOCUMENT OR CERTIFICATE**

(a) A certificate bearing the signature of the CTSI CEO, which may be in facsimile, and attached to a copy of a document is conclusive evidence that the original document or a facsimile thereof is on file with the CTSI Legal Department.

(b) The following shall be received in all courts, public offices and official bodies of this state as prima facie evidence of the facts stated therein, unless a greater evidentiary effect is provided in STCC 15.411 and 15.427 or elsewhere in this chapter or it is shown that the document was thereafter corrected or withdrawn from the files of the CTSI Legal Department:

- (1) All facts stated in certificates issued by the CTSI Legal Department with respect to its business registry functions including a certificate of compliance or noncompliance of a document with filing requirements or other provisions of law administered by the CTSI Legal Department, or a certificate as to the existence or nonexistence of facts which would appear from presence or absence of documents in the files of the CTSI Legal Department; and

- (2) All facts stated in documents certified as filed by the CTSI Legal Department, but only to the extent the specific items were required to be included in the document by this chapter.

**§ 15.411 CERTIFICATE OF EXISTENCE OR AUTHORIZATION**

(a) Anyone may apply to the CTSI Legal Department to furnish a certificate of existence for a domestic corporation or a certificate of authorization for a foreign corporation.

(b) A certificate of existence or authorization, when issued, means that:

- (1) The domestic corporation's corporate name or the foreign corporation's corporate name is of active record in the Tribe's jurisdiction;
- (2) The domestic corporation is duly incorporated under the law of the Tribe or the foreign corporation is authorized to transact business in the Tribe's jurisdiction;
- (3) All fees payable to the CTSI Legal Department under this chapter have been paid, if nonpayment affects the existence or authorization of the domestic or foreign corporation;
- (4) An annual report if required by STCC 15.626 has been filed with the CTSI Legal Department within the preceding 14 months; and
- (5) Articles of dissolution or an application for withdrawal have not been filed with the CTSI Legal Department.

(c) A person may apply to the CTSI Legal Department to issue a certificate covering any fact of record.

(d) Subject to any qualification stated in the certificate, a certificate of existence or authorization issued by CTSI may be relied upon as conclusive evidence that the domestic corporation is in existence.

**§ 15.412 [RESERVED]**

**§ 15.413 [RESERVED]**

§ 15.414 [RESERVED]

§ 15.415 [RESERVED]

§ 15.416 [RESERVED]

§ 15.417 [RESERVED]

§ 15.418 [RESERVED]

§ 15.419 [RESERVED]

(CTSI LEGAL DEPARTMENT)

§ 15.420 POWERS

The CTSI Legal Department has the power reasonably necessary to perform the duties required by this chapter.

(Notice)

§ 15.421 NOTICE

(a) Notice may be oral or written unless otherwise specified for a particular kind of notice.

(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, including publication in a newsletter or similar document mailed to a member's or director's address. If these forms of personal notice are impracticable, notice may be communicated by a newspaper of general circulation in the area where the meeting is to be held, or by radio, television or other form of public broadcast communication.

(c) Written notice by a domestic or foreign corporation to its members, if in a comprehensible form, is effective when mailed if it is mailed postpaid and is correctly addressed to the member's address shown in the corporation's current records of members.

(d) Oral notice is effective when communicated if communicated in a comprehensible manner.

(e) Except as provided in subsection (c) of this section, personal written notice, if in a comprehensible form, is effective at the earliest of the following:

- (1) When received;
- (2) Five days after its postmark, if mailed by United States mail 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 if mailed correctly addressed and with other than first class, registered or certified postage affixed; or
- (5) The date specified by the articles of incorporation or bylaws with respect to notice to directors.

(f) Written notice is correctly addressed to a member of a domestic or foreign corporation if addressed to the member's address shown in the corporation's current list of members.

A written notice or report delivered as part of a newsletter, magazine or other publication 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.

Written notice is correctly addressed to a domestic or foreign corporation, other than in its capacity as a member, if addressed to its registered agent or, if none is of record, to its principal office shown in its most recent annual report or, if none, in the articles of incorporation or its application for a certificate of authority to do business.

(g) If STCC 15.474 or any other provision of this chapter prescribes different notice requirements for particular circumstances, those requirements govern. If articles or bylaws prescribe different notice requirements, not less stringent than the provisions of this section or other provisions of this chapter, those requirements govern.

## **§ 15.422 JUDICIAL RELIEF**

(a) If for any reason it is impractical or impossible for any corporation to call or conduct a meeting of its members, delegates or directors, or otherwise obtain their consent in the manner prescribed by its articles, bylaws or this chapter, then upon petition

of a director, officer, delegate, member or the CTSI Legal Department, the Siletz Tribal Court may order that such a meeting be called. The court may also order that a written ballot or other form of obtaining the vote of members, delegates or directors be authorized, in such a manner as the court finds fair and equitable under the circumstances.

(b) The Siletz Tribal Court shall, in an order issued pursuant to this section, provide for a method of notice reasonably designed to give actual notice to all persons who would be entitled to notice of a meeting held pursuant to the articles, bylaws and this chapter, whether or not the method results in actual notice to all such persons or conforms to the notice requirements that would otherwise apply. In a proceeding under this section, the court may determine who are the members or directors.

(c) The order issued pursuant to this section may for good cause shown dispense with any requirement relating to the holding of or voting at meetings or obtaining votes, including any requirement that would otherwise be imposed by the articles, bylaws or this chapter as to quorum or as to the number or percentage of votes needed for approval of an act.

(d) Whenever practical, any order issued pursuant to this section shall limit the subject matter of meetings or other forms of consent judicially authorized to those items, including amendments to the articles or bylaws, the resolution of which will or may enable the corporation to continue managing its affairs without further resort to this section. An order under this section may also authorize the obtaining of whatever votes and approvals are necessary for the dissolution, merger or sale of assets.

(e) Any meeting or other method of obtaining the vote of members, delegates or directors conducted pursuant to an order issued under this section, and which complies with all the provisions of such order, is for all purposes a valid meeting or vote, as the case may be, and shall have the same force and effect as if it complied with every requirement imposed by the articles, bylaws and this chapter.

**§ 15.423 NOTICE TO CTSI LEGAL DEPARTMENT; EFFECT OF FAILURE TO NOTIFY**

(a) The CTSI Legal Department shall be given notice of the commencement of any proceeding which this Code authorizes the CTSI Legal Department to bring but which has been commenced by another person.

(b) Whenever any provision of this chapter requires that notice be given to the CTSI Legal Department before or after commencing a proceeding or permits the CTSI Legal Department to commence a proceeding:

- (1) If no proceeding has been commenced, the CTSI Legal Department may take appropriate action including, but not limited to, seeking injunctive relief; or
- (2) If a proceeding has been commenced by a person other than the CTSI Legal Department, the CTSI Legal Department, as of right, may intervene in such proceeding.

**§ 15.424 [RESERVED]**

**INCORPORATION**

**§ 15.425 INCORPORATORS**

One or more individuals 18 years of age or older, a domestic or foreign corporation, a federally recognized Indian Tribe and/or any of such federally recognized Tribe's entities, a partnership or an association may act as incorporators of a corporation by delivering articles of incorporation to the CTSI Legal Department for filing.

**§ 15.426 ARTICLES OF INCORPORATION**

(a) The articles of incorporation formed pursuant to this chapter shall set forth:

- (1) A corporate name for the corporation that satisfies the requirements of §15.440;
- (2) One of the following statements or words of similar import:
  - (A) This corporation is a public benefit corporation;
  - (B) This corporation is a mutual benefit corporation; or
  - (C) This corporation is a religious corporation;
- (3) The address, including street and number, of the corporation's initial registered office and the name of its initial registered agent at that location and in compliance with §15.445;
- (4) The name and address of each incorporator;
- (5) An alternate corporate mailing address which shall be that of the principal office.

- (6) Whether or not the corporation will have members as that term is defined in this chapter; and
  - (7) Provisions regarding the distribution of assets on dissolution.
- (b) The articles of incorporation may set forth:
- (1) The names and addresses of the initial directors;
  - (2) Provisions regarding:
    - (A) The purpose or purposes for which the corporation is organized;
    - (B) Managing and regulating the affairs of the corporation;
    - (C) Defining, limiting and regulating the powers of the corporation, its board of directors, and members or any class of members; and
    - (D) The characteristics, qualifications, rights, limitations and obligations attaching to each or any class of members;
  - (3) A provision eliminating or limiting the personal liability of a director or uncompensated officer to the corporation or its members for monetary damages for conduct as a director or officer, provided that no such provision shall eliminate or limit the liability of a director or officer for any act or omission occurring prior to the date when such provision becomes effective, and such provision shall not eliminate or limit the liability of a director or officer for:
    - (A) Any breach of the director's or officer's duty of loyalty to the corporation or its members;
    - (B) Acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law;
    - (C) Any unlawful distribution;
    - (D) Any transaction from which the director or officer derived an improper personal benefit; and

(E) Any act or omission in violation of STCC 15.529 - 531;  
and

(4) Any provision that under this chapter is required or permitted to be set forth in the bylaws.

(c) The incorporator or incorporators must sign the articles and before including the name of any individual as a director shall state that they have obtained the consent of each director named to serve.

(d) The articles of incorporation need not set forth any of the corporate powers enumerated in this chapter but may restrict them in order to meet federal or tribal tax code requirements or other purposes.

#### **§ 15.427 INCORPORATION**

(a) Unless a delayed effective date is specified, the corporate existence begins when the articles of incorporation are reviewed, accepted and filed by the CTSI Legal Department.

(b) The CTSI Legal Department's filing of the articles of incorporation is conclusive proof that the incorporators satisfied all conditions precedent to incorporation applicable at the time of incorporation except in a proceeding by the Tribe to cancel or revoke the incorporation or involuntarily dissolve the corporation.

#### **§ 15.428 LIABILITY FOR PREINCORPORATION TRANSACTIONS**

All persons purporting to act as or on behalf of a corporation organized or subject to the authority of this chapter, knowing there was no incorporation under this chapter at the relevant time, may be held to be jointly and severally liable for all liabilities created while so acting if, under the circumstances, it is equitable to do so.

#### **§ 15.429 ORGANIZATION OF CORPORATION**

(a) After incorporation:

(1) If initial directors are named in the articles of incorporation, the initial directors shall hold an organizational meeting at the call of a majority of the directors, with notice as provided in STCC 15.517, to complete the organization of the corporation by appointing officers, adopting bylaws and carrying on any other business brought before the meeting.

- (2) If initial directors are not named in the articles, the incorporator or incorporators shall hold an organizational meeting at the call of a majority of the incorporators with equivalent notice to that specified in STCC 15.517:
  - (A) To complete the organization of the corporation and to elect directors; or
  - (B) To elect a board of directors, which shall complete the organization of the corporation.

(b) Action required or permitted by this chapter to be taken by incorporators or directors at an organizational meeting may be taken without a meeting if the action taken is evidenced by one or more written consents describing the action taken and signed by each incorporator or director, in accordance with the procedures of STCC 15.516.

(c) An organizational meeting shall be held upon Tribal lands.

#### **§ 15.430 BYLAWS**

(a) The incorporators or board of directors of a corporation, whichever completes the organization of the corporation at its organizational meeting, shall adopt initial bylaws for the corporation.

(b) The bylaws may contain any provision for managing and regulating the affairs of the corporation that is not inconsistent with law or the articles of incorporation.

#### **§ 15.431 EMERGENCY BYLAWS AND POWERS**

(a) Unless the articles provide otherwise, the board of directors of a corporation may adopt, amend or repeal bylaws to be effective only in an emergency as defined in subsection (d) of this section. The emergency bylaws, which are subject to amendment or repeal by the members, may provide special procedures necessary for managing the corporation during the emergency, including:

- (1) Procedures for calling a meeting of the board of directors;
- (2) Quorum requirements for the meeting; and
- (3) Designation of additional or substitute directors.

(b) All provisions of the regular bylaws consistent with the emergency bylaws remain effective during the emergency. The emergency bylaws are not effective after the emergency ends.

(c) Corporate action taken in good faith in accordance with the emergency bylaws binds the corporation. A corporate director, officer, employee or agent shall not be liable for deviation from normal procedures if the conduct was authorized by emergency bylaws adopted as provided in this section.

(d) An emergency exists for purposes of this section if a quorum of the corporation's directors cannot readily be assembled because of some present or imminent catastrophic event.

**§ 15.432 [RESERVED]**

**§ 15.433 [RESERVED]**

**§ 15.434 [RESERVED]**

**§ 15.435 PURPOSES**

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

(b) A corporation that is subject to regulation Siletz Tribal Corporations Ordinance §15.300*et seq.* may not be incorporated under this chapter if such organization is required to be organized under such other law.

**§ 15.436 GENERAL POWERS**

(a) Unless its articles of incorporation provide otherwise, every 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 affairs, including, without limitation, power to:

- (1) Sue and be sued, complain and defend in its corporate name.
- (2) Have a corporate seal, which may be altered at will, and to use it, or a facsimile of it, by impressing or affixing or reproducing it in any other manner.

- (3) Make and amend bylaws not inconsistent with its articles of incorporation or with Tribal law, for regulating and managing the affairs of the corporation.
- (4) Purchase, take by gift, devise or bequest, receive, lease or otherwise acquire, and own, hold, improve, use and otherwise deal with, real or personal property or any interest in property, wherever located.
- (5) Sell, convey, mortgage, pledge, lease, exchange, transfer and otherwise dispose of all or any part of its property.
- (6) Purchase, receive, subscribe for or otherwise acquire, own, hold, vote, use, sell, mortgage, lend, pledge or otherwise dispose of and deal in or with shares or other interests in or obligations of any other entity.
- (7) Make contracts and guarantees, incur liabilities, borrow money, issue notes, bonds and other obligations, and secure any of its obligations by mortgage or pledge of any of its property, franchises or income.
- (8) Lend money, invest and reinvest its funds, and receive and hold real and personal property as security for repayment, except as limited by STCC 15.530.
- (9) Be a promoter, partner, member, associate or manager of any partnership, joint venture, trust or other entity.
- (10) Conduct its activities, locate offices and exercise the powers granted by this chapter within or without Tribal lands.
- (11) Elect or appoint directors, officers, employees, and agents of the corporation, define their duties and fix their compensation, if any.
- (12) Pay pensions and establish pension plans, pension trusts and other benefit and incentive plans for any or all of its current or former directors, officers, employees and agents.
- (13) Unless otherwise provided in the articles of incorporation, make donations not inconsistent with law for the public welfare or for charitable, benevolent, religious, scientific or educational purposes and for other purposes that further the corporate interest.

- (14) Impose dues, assessments, admission and transfer fees upon its members.
- (15) Establish conditions for admission of members, admit members and issue memberships.
- (16) Carry on a business.
- (17) Do any other act, not inconsistent with law, that furthers the activities and affairs of the corporation.
- (18) Dissolve, merge or reorganize as provided in this chapter.

(b) **[RESERVED]**

#### **§ 15.437 EMERGENCY POWERS**

(a) During an emergency defined in subsection (d) of this section, the board of directors or a corporation may:

- (1) Modify lines of succession to accommodate the incapacity of any director, officer, employee or agent; or
- (2) Relocate the principal office, designate alternative principal offices or regional offices or authorize the officers to do so.

(b) During an emergency defined in subsection (d) of this section, unless emergency bylaws provide otherwise:

- (1) Notice of a meeting of the board of directors need be given only to those directors whom it is practicable to reach and may be given in any practicable manner, including by publication or radio; and
- (2) One or more officers of the corporation present at a meeting of the board of directors may be deemed to be directors for purposes of the meeting, in order of the officer's rank, and within the same rank in order of seniority, as necessary to achieve a quorum.

(c) Corporate action taken in good faith under this section to further the affairs of the corporation during an emergency binds the corporation. A corporate director, officer, employee or agent shall not be liable for deviation from normal procedures if the conduct was authorized by emergency powers provided in this chapter.

(d) An emergency exists for purposes of this section if a quorum of the corporation's directors cannot readily be assembled because of some present or imminent catastrophic event.

**§ 15.438 CHALLENGE OF CORPORATE AUTHORITY; REMEDY**

(a) Except as provided in subsection (b) of this section, the validity of corporate action may not be challenged on the ground that the corporation lacks or lacked power to act.

(b) A corporation's power to act may be challenged:

- (1) In a proceeding by a member or members, a director or the CTSI Legal Department against the corporation to enjoin the act;
- (2) In a proceeding by the corporation, directly, derivatively or through a receiver, a trustee or other legal representative, including the CTSI Legal Department in the case of a public benefit corporation, against an incumbent or former director, officer, employee or agent of the corporation; or
- (3) In a proceeding under STCC 15.607.

(c) In a proceeding under subsection (b)(1) of this section to enjoin an unauthorized corporate act, the Siletz Tribal court may enjoin or set aside the act, if equitable and if all affected persons are parties to the proceeding, and may award damages for loss other than anticipated profits suffered by the corporation or another party because of enjoining the unauthorized act.

**§ 15.439 [RESERVED]**

**§ 15.440 CORPORATE NAME**

(a) A corporate name may not contain language stating or implying that the corporation is organized for a purpose other than that permitted by STCC 15.435 and the articles of incorporation.

(b) A corporate name shall not contain the word "cooperative" or the phrase "limited partnership."

(c) A corporate name shall be written in the alphabet used to write the English language but may include Arabic and Roman numerals and incidental punctuation.

(d) Except as authorized by subsection (e) of this section, a corporate name shall be distinguishable upon the records of the CTSI Legal Department from any other corporate name, professional corporate name, business corporate name, cooperative name, limited partnership name, business trust name, reserved name, registered corporate name or assumed business name of active record with the CTSI Legal Department.

(e) The corporate name need not satisfy the requirement of subsection (d) of this section if the applicant delivers to the CTSI Legal Department a certified copy of a final judgment of a court of competent jurisdiction that finds that the applicant has a prior or concurrent right to use the corporate name.

(f) The provisions of this section do not prohibit a corporation from transacting business under an assumed business name.

(g) The provisions of this section do not:

- (1) Abrogate or limit the law governing unfair competition or unfair trade practices; or
- (2) Derogate from the common law, the principles of equity or the tribal law or of the law of the United States with respect to the right to acquire and protect trade names.

**§ 15.441 RESERVED NAME**

(a) A person may apply to the CTSI Legal Department to reserve a corporate name. The application must set forth the name and address of the applicant and the name proposed to be reserved.

(b) If the CTSI Legal Department finds that the corporate name applied for conforms to STCC 15.440, the CTSI Legal Department shall reserve the name for the applicant for a 120-day period, following which the applicant may reapply for it on the same basis as other applicants.

(c) A person may transfer the reservation of a corporate name to another person by delivering to the CTSI Legal Department a notice of the transfer executed by the person for whom the name was reserved and specifying the name and address of the transferee.

**§ 15.442 [RESERVED]**

**§ 15.443 [RESERVED]**

**§ 15.444 [RESERVED]**

**§ 15.445 REGISTERED OFFICE AND REGISTERED AGENT**

(a) Each corporation shall have and continuously maintain within the Siletz 11 County service area:

- (1) A registered office; or
- (2) A registered agent.

**§ 15.446 CHANGE OF REGISTERED OFFICE OR REGISTERED AGENT**

(a) A corporation may change its registered office or registered agent by delivering to the CTSI Legal Department for filing a statement of change that sets forth:

- (1) The name of the corporation;
- (2) If the current registered office is to be changed, the address, including the street and number, of the new registered office;
- (3) If the current registered agent is to be changed, the name of the new registered agent and a statement that the new agent has consented to the appointment.

(b) The filing by the CTSI Legal Department of a statement submitted under this section shall terminate the existing registered office or agent, or both, on the effective date of the filing and establish the newly appointed registered office or agent, or both, as that of the corporation.

**§ 15.447 RESIGNATION OF REGISTERED AGENT**

(a) A registered agent may resign as registered agent upon delivering a signed statement to the CTSI Legal Department and giving notice in the form of a copy of the statement to the corporation for filing. The statement may include a statement that the registered office is also discontinued.

(b) Upon delivery of the signed statement, the CTSI Legal Department shall file the resignation statement. The copy of the statement given to the corporation under subsection (a) of this section shall be addressed to the corporation at its principal office as shown in the most recent annual report filed pursuant to STCC 15.626 or if none, the address specified in the articles of incorporation.

(c) The agency appointment is terminated, and the registered office discontinued if so provided, on the 31st day after the date on which the statement was filed by the CTSI Legal Department, unless the corporation shall sooner appoint a successor registered agent.

§15.448 [RESERVED]

§15.449 [RESERVED]

## MEMBERS AND MEMBERSHIPS

### § 15.450 ADMISSION

(a) The articles or bylaws may establish criteria or procedures for admission of members.

(b) No person shall be admitted as a member without consent of the person, express or implied.

### § 15.451 CONSIDERATION

Except as provided in its articles or bylaws, a corporation may admit members for no consideration or for such consideration as is determined by the board.

### § 15.452 NO REQUIREMENT FOR MEMBERS

A corporation is not required to have members. A corporation shall have no members if its articles of incorporation or bylaws include a statement that “the corporation shall have no members” or words of similar import.

### § 15.453 DIFFERENCES IN RIGHTS AND OBLIGATIONS OF MEMBERS

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.

### § 15.454 TRANSFERS

(a) Except as provided in STCC 15.480 pertaining to proxies or as set forth in or authorized by the articles or bylaws, no member may transfer a membership or any right arising therefrom.

(b) No member of a public benefit or religious corporation may transfer for value a membership or any right arising therefrom, unless the transferring member is a public benefit or religious corporation.

(c) Where transfer rights have been provided, no restriction on them shall 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 members and the affected member.

#### **§ 15.455 MEMBER'S LIABILITY TO THIRD PARTIES**

A member of a corporation is not personally liable for the acts, debts, liabilities or obligations of the corporation merely by reason of being a member.

#### **§ 15.456 MEMBER'S LIABILITY FOR DUES, ASSESSMENTS AND FEES**

A member may become liable to the corporation for dues, assessments or fees. An article or bylaw provision or a resolution adopted by the board authorizing or imposing dues, assessments or fees does not, of itself, create liability to pay the obligation, but nonpayment may constitute grounds for expelling or suspending the member or suspending or terminating the membership.

#### **§ 15.457 CREDITOR'S ACTION AGAINST MEMBER**

(a) No proceeding may be brought by a creditor to reach the liability, if any, of a member to the corporation arising from membership 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 obtaining such judgment and execution would be useless.

(b) All creditors of the corporation, with or without reducing their claims to judgment, may intervene in any creditor's proceeding brought under subsection (a) of this section to reach and apply unpaid amounts due the corporation. Any or all members who owe amounts to the corporation arising from membership may be joined in such proceeding.

#### **§ 15.458 RESIGNATION**

(a) A member may resign at any time.

(b) The resignation of a member does not relieve the member from any obligations the member may have to the corporation as a result of obligations incurred or commitments made prior to resignation.

#### **§ 15.459 TERMINATION, EXPULSION OR SUSPENSION**

(a) No member of a public benefit or mutual benefit corporation may be expelled or suspended, and no membership or memberships in such corporations may be terminated or suspended, except pursuant to a procedure that is fair and reasonable and is carried out in good faith.

(b) A procedure is fair and reasonable when either:

(1) The articles or bylaws set forth a procedure that provides:

(A) Not less than 15 days' prior written notice of the expulsion, suspension or termination and the reasons therefor; and

(B) An opportunity for the member to be heard, orally or in writing, not less than five days before the effective date of the expulsion, suspension or termination by a person or persons authorized to decide that the proposed expulsion, termination or suspension not take place; or

(2) It is fair and reasonable taking into consideration all of the relevant facts and circumstances.

(c) Any written notice given by mail must be given by first class or certified mail sent to the last address of the member shown on the corporation's records.

(d) Any proceeding challenging an expulsion, suspension or termination, including a proceeding in which defective notice is alleged, must be commenced within one year after the effective date of the expulsion, suspension or termination.

(e) A member who has been expelled or suspended, or whose membership has been suspended or terminated, may be liable to the corporation for dues, assessments or fees as a result of obligations incurred by the member prior to expulsion, suspension or termination.

#### **§ 15.460 ACQUIRING MEMBERSHIPS**

(a) A public benefit or religious corporation may not acquire for value any of its memberships or any right arising therefrom, unless the member is a public benefit or religious corporation.

(b) A mutual benefit corporation may acquire the membership of a member who resigns or whose membership is terminated for the amount and pursuant to the conditions set forth in or authorized by its articles or bylaws.

(c) No acquisition of memberships shall be made in violation of STCC 15.590.

**§ 15.461 [RESERVED]**

**§ 15.462 [RESERVED]**

**§ 15.463 [RESERVED]**

**§ 15.464 [RESERVED]**

**§ 15.465 DERIVATIVE SUITS**

(a) A proceeding may be brought in the right of a domestic or foreign corporation to procure a judgment in its favor by:

- (1) Any member or members having two percent or more of the voting power or by 20 members, whichever is less; or
- (2) Any director.

(b) In any such proceeding, each member complainant shall have been a member when the transaction complained of occurred.

(c) A complaint in a proceeding brought in the right of a corporation must allege with particularity the demand made, if any, to obtain action by the board of directors and either that the demand was refused or ignored or why a demand was not made. Whether or not a demand for action was made, if the corporation commences an investigation of the charges made in the demand or complaint, the court may stay any proceeding until the investigation is completed.

(d) The complainants shall notify the CTSI Legal Department within 10 days after commencing any proceeding under this section if the proceeding involves a public benefit corporation or assets held in charitable trust by a mutual benefit corporation.

(e) A proceeding commenced under this section may not be discontinued or settled without the court's approval. If the court determines that a proposed discontinuance or settlement will substantially affect the interest of the corporation's members or a class of members, the court shall direct that notice be given the members affected.

**§ 15.466      DELEGATES**

(a) A corporation may provide in its articles or bylaws for delegates having some or all of the authority of members.

(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) Providing notice to and calling, holding and conducting meetings of delegates; and
- (3) Carrying on corporate activities during and between meetings of delegates.

**§ 15.467      [RESERVED]**

**§ 15.468      [RESERVED]**

**§ 15.469      [RESERVED]**

**MEMBERSHIP MEETINGS AND VOTING**

**§ 15.470      ANNUAL AND REGULAR MEETINGS**

(a) A corporation with members shall hold a membership meeting annually at a time stated in or fixed in accordance with the bylaws.

(b) A corporation with members may hold regular membership meetings at the times stated in or fixed in accordance with the bylaws.

(c) Annual and regular membership meetings may be held in or out of this state at the place stated in or fixed in accordance with the bylaws. If no place is stated in or fixed in accordance with the bylaws, annual and regular meetings shall be held at the corporation's principal office.

- (d) At the annual meeting:
  - (1) The president, and any other officer the board of directors or the president may designate, 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 STCC 15.474.

(e) At regular meetings the members shall consider and act upon such matters as may be raised consistent with the notice requirements of STCC 15.474.

(f) The failure to hold an annual or regular meeting at a time stated in or fixed in accordance with a corporation's bylaws does not affect the validity of any corporate action.

**§ 15.471 SPECIAL MEETING**

- (a) A corporation with members shall hold a special meeting of members:
  - (1) On call of its board of directors or the person or persons authorized to do so by the articles of incorporation or bylaws; or
  - (2) Except as provided in the articles or bylaws, if the holders of at least five percent of the voting power of any corporation sign, date and deliver to the corporation's secretary one or more written demands for the meeting describing the purpose or purposes for which it is to be held.

(b) If not otherwise fixed under STCC 15.472 or 15.476, the record date for members entitled to demand a special meeting is the date the first member signs the demand.

(c) If a notice for a special meeting demanded under subsection (A)(b) of this section is not given pursuant to STCC 15.474 within 30 days after the date the written demand or demands are delivered to the corporation's secretary then, regardless of the requirements of subsection (d) of this section, a person signing the demand or demands may set the time and place of the meeting and give notice pursuant to STCC 15.474.

(d) Special meetings of members may be held in or out of this state at the place stated in or fixed in accordance with the bylaws. If no place is stated or fixed in

accordance with the bylaws, special meetings shall be held at the corporation's principal office.

(e) Only matters within the purpose or purposes described in the meeting notice required by STCC 15.474 may be conducted at a special meeting of members.

**§ 15.472 COURT-ORDERED MEETING; ATTORNEY FEES**

- (a) The Siletz Tribal Court 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 or, in the case of a public benefit corporation, the CTSI Legal Department, if an annual meeting was not held within the earlier of six months after the end of the corporation's fiscal year or 15 months after its last annual meeting;
  - (2) On application of any member or other person entitled to participate in a regular meeting or, in the case of a public benefit corporation, the CTSI Legal Department, if a regular meeting is not held within 40 days after the date it was required to be held; or
  - (3) On application of a member who signed a demand for a special meeting valid under STCC 15.471, a person or persons entitled to call a special meeting or, in the case of a public benefit corporation, the CTSI Legal Department, if notice of the special meeting was not given within 30 days after the date the demand was delivered to the corporation's secretary or the special meeting was not held in accordance with the notice.

(b) The court may fix the time and place of the meeting, determine the members entitled to participate in 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 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) Except as provided in paragraph (a)(2) of this subsection, the court may award reasonable attorney fees to the prevailing party in an action under this section.

**§ 15.473 ACTION WITHOUT MEETING**

(a) Unless the articles of incorporation or bylaws provide otherwise, action required or permitted by this chapter to be taken at a members' meeting 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 written consents describing the action taken, signed by all the members entitled to vote on the action, and delivered to the corporation for inclusion in the minutes or filing with the corporate records. Action taken under this section is effective when the last member signs the consent, unless the consent specifies an earlier or later effective date.

(b) If not otherwise determined under STCC 15.472 or 15.476, the record date for determining members entitled to take action without a meeting is the date the first member signs the consent under subsection (a) of this section.

(c) A consent signed under this section has the effect of a meeting vote and may be described as such in any document.

#### **§ 15.474 NOTICE OF MEETING**

(a) A corporation shall give notice consistent with its bylaws of meetings of members in a fair and reasonable manner. The corporation is required to give notice to members entitled to vote at the meeting and to any other person specified in this chapter, the articles of incorporation or the bylaws.

(b) Any notice which conforms to the requirements of subsection (c) of this section is fair and reasonable, but other means of giving notice may also be fair and reasonable when all the circumstances are considered, provided, however, that notice of matters referred to in subsection (c)(2) of this section must be given as provided in subsection (c) of this section.

(c) Notice is fair and reasonable if:

- (1) The corporation notifies its members of the place, date and time of each annual, regular and special meeting of members no fewer than seven days, or if notice is mailed by other than first class or registered mail, no fewer than 30 nor more than 60 days before the meeting;
- (2) Notice of an annual or regular meeting includes a description of any matter or matters which must be approved by the members; and
- (3) Notice of a special meeting includes a description of the purpose or purposes for which the meeting is called.

(d) Unless the bylaws require otherwise, if an annual, regular or special meeting of 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 STCC 15.476, however, notice of the adjourned meeting must be given under this section to the persons who are members as of the new record date.

#### **§ 15.475 WAIVER OF NOTICE**

(a) A member may at any time waive any notice required by this chapter, the articles or bylaws. The waiver must be in writing, be signed by the member entitled to the notice and be delivered to the corporation for inclusion in the minutes or filing with the corporate records.

(b) A member's attendance at a meeting waives objection to:

- (1) 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; and
- (2) Consideration of a particular matter at the meeting that is not within the purpose or purposes described in the meeting notice, unless the member objects to considering the matter when it is presented.

#### **§ 15.476 RECORD DATE**

(a) The bylaws may fix or provide the manner of fixing the record date in order to determine the members entitled to notice of a members' meeting, to demand a special meeting, to vote or to take any other lawful action. If the bylaws do not fix or provide for fixing such a record date, the board of directors may fix a future date as the record date. If no such record date is fixed, then:

- (1) To determine the members entitled to notice of a members' meeting, the record date shall be the day before the day on which first notice is mailed or otherwise transmitted to members in accordance with STCC 15.421, or if notice is waived, the day preceding the day on which the meeting is held.
- (2) To determine the members entitled to demand a special meeting, the record date shall be as set forth in STCC 15.471 (b).

- (3) To determine the members entitled to take action without a meeting, the record date shall be as set forth in STCC 15.473 (b).
- (4) To determine the members entitled to vote at a members' meeting, the record date shall be the date of the meeting.
- (5) To determine the members entitled to exercise any rights in respect to any other lawful action, the record date shall be 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.

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

(c) 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 record date, which it must do if the meeting is adjourned to a date more than 120 days after the date fixed for the original meeting.

(d) 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 continues in effect or it may fix a new record date.

#### **§ 15.477 ACTION BY WRITTEN BALLOT**

(a) Unless prohibited or limited by the articles or bylaws, any action which may be taken at any annual, regular or special meeting of members may be taken without a meeting if the corporation delivers a written ballot to every member entitled to vote on the matter.

(b) A written ballot shall:

- (1) Set forth each proposed action; and
- (2) Provide an opportunity to vote for or against each proposed action.

(c) Approval by written ballot pursuant to this section shall be valid only when the number of votes cast by ballot equals or exceeds any quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot.

(d) All solicitations for votes by written ballot shall:

- (1) Indicate the number of responses needed to meet the quorum requirements;
- (2) State the percentage of approvals necessary to approve each matter other than election of directors; and
- (3) Specify a reasonable time by which a ballot must be received by the corporation in order to be counted.

(e) Except as otherwise provided in the articles or bylaws, a written ballot may not be revoked.

**§ 15.478 MEMBERS' LIST FOR MEETING; ATTORNEY FEES**

(a) A corporation shall prepare an alphabetical list of the names, addresses and membership dates of all its members. If there are classes of members, 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 are not part of the main 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 of the meeting is given 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 or other location where the meeting will be held. A member, the member's agent or the member's attorney is entitled, on written demand setting forth a proper purpose, to inspect and, subject to the requirements of STCC 15.621 and 15.624, 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, the member's agent or the member's attorney is entitled to inspect the list for any proper purpose at any time during the meeting or any adjournment.

(d) If the corporation refuses to allow a member, the member's agent or the member's attorney to inspect the list of members before or at the meeting or copy the list as permitted by subsection (b) of this section, on application of the member, the Siletz Tribal Court may enter a temporary restraining order or preliminary injunction ordering 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. The court may award reasonable attorney fees to the prevailing party in an action under this subsection.

(e) Refusal or failure to prepare or make available the membership list does not affect the validity of action taken at the meeting.

(f) The articles or bylaws of a religious corporation may limit or abolish the rights of a member under this section to inspect and copy any corporate record.

(g) The articles of a public benefit corporation organized primarily for political or social action, including but not limited to political or social advocacy, education, litigation or a combination thereof, may limit or abolish the right of a member or the member's agent or attorney to inspect or copy the membership list if the corporation provides a reasonable means to mail communications to the other members through the corporation at the expense of the member making the request.

#### **§ 15.479 VOTING ENTITLEMENT OF MEMBERS**

(a) Unless the articles or bylaws provide otherwise, each member is entitled to one vote on each matter voted on by the members, including each matter on which a member is entitled to vote under this chapter or the articles or bylaws. Except as expressly prohibited in this chapter, the articles or bylaws may provide for different allocations of votes among member classes or exclude the members or some or all member classes from voting on any issue on which they would otherwise be entitled to vote under this chapter. Persons not retaining a right to vote on more than one occasion for the election of a director or directors shall not be deemed members.

(b) Unless the articles or bylaws provide otherwise, if a membership stands of record in the names of two or more persons, their acts with respect to voting shall have the following effect:

- (1) If only one votes, such act binds all; and
- (2) If more than one votes, the vote shall be divided on a pro rata basis.

#### **§ 15.480 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 the member's 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.

(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:

(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 STCC 15.482 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.

#### **§ 15.481 ADJOURNMENT**

Unless otherwise provided in the articles of incorporation or bylaws, a majority of votes represented at a meeting of members, whether or not a quorum, may adjourn the meeting from time to time to a different time and place without further notice to any member of any adjournment, except as such notice may be required by STCC 15.474 (d). At the adjourned meeting at which a quorum is present, any business may be transacted that might have been transacted at the meeting originally held.

#### **§ 15.482 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 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 vote, consent, waiver or proxy appointment;
- (3) Two or more persons hold the membership as cotenants or fiduciaries and the name signed purports to be the name of at least one of the coholders and the person signing appears to be acting on behalf of all the coholders; or
- (4) In the case of a mutual benefit corporation:
  - (A) 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 vote, consent, waiver or proxy appointment; or
  - (B) The name signed purports to be that of a receiver or trustee in bankruptcy of the member, and, if the corporation requests, evidence of this status acceptable to the corporation has been presented with respect to the vote, consent, waiver or proxy appointment.

(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.

**§ 15.483 QUORUM REQUIREMENTS**

(a) Unless the articles or bylaws provide for a higher quorum, those votes represented at a meeting of members shall constitute a quorum.

(b) An amendment to the articles or bylaws to decrease the quorum for any member action may be approved by the members, or, unless prohibited by the articles or bylaws, by the board.

(c) An amendment to the articles or bylaws to increase the quorum required for any member action must be approved by the members.

**§ 15.484 VOTING REQUIREMENTS**

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

(b) An amendment to the articles or bylaws to add to, change or delete the vote required for any member action must be approved by the members.

**§ 15.485 CUMULATIVE VOTING FOR DIRECTORS**

(a) If the articles or bylaws provide for cumulative voting by members, members may so vote, by multiplying the number of votes the members are entitled to cast by the number of directors for whom they are entitled to vote, and cast the product for a single candidate or distribute the product among two or more candidates.

(b) Cumulative voting is not authorized at a particular meeting unless:

- (1) The meeting notice or statement accompanying the notice states that cumulative voting will take place; or
- (2) A member gives notice during the meeting and before the vote is taken of the member's intent to cumulate votes, and if one member gives this notice all other members participating in the election are entitled to cumulate their votes without giving further notice.

(c) A director elected by cumulative voting may be removed by the members without cause if the requirements of STCC 15.508 are met unless the votes cast against removal, or not consenting in writing to such removal, would be sufficient to elect such director if voted cumulatively at an election at which the same total number of votes were cast or, if such action is taken by written ballot, all memberships entitled to vote were voted and the entire number of directors authorized at the time of the director's most recent election were then being elected.

(d) Members may not cumulatively vote if the directors and members are identical.

**§ 15.486 OTHER 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.

**(Voting Agreements)**

**§ 15.487 VOTING AGREEMENTS**

(a) Two or more members may provide for the manner in which they will vote by signing an agreement for that purpose. Such agreements may be valid for a period of up to 10 years. For public benefit corporations such agreements must have a reasonable purpose not inconsistent with the corporation's public or charitable purposes.

(b) A voting agreement created under this section is specifically enforceable.

**§ 15.488 [RESERVED]**

**§ 15.489 [RESERVED]**

**§ 15.490 [RESERVED]**

**§ 15.491 [RESERVED]**

- § 15.492 [RESERVED]
- § 15.493 [RESERVED]
- § 15.494 [RESERVED]
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- § 15.496 [RESERVED]
- § 15.497 [RESERVED]
- § 15.498 [RESERVED]
- § 15.499 [RESERVED]

## **DIRECTORS AND OFFICERS**

### **§ 15.500 REQUIREMENT FOR AND DUTIES OF BOARD**

- (a) Each corporation shall have a board of directors.
- (b) At least one Director must be a Qualified Entity. Qualified Entities include a member of the Tribe, the Tribe, a Tribal Enterprise, or other entity formed pursuant to Tribal law. Qualified Entities may also include persons or organizations specifically designated as such by Tribal Council resolution. In the event the Qualified Entity or Entities cease to be Directors, the vacancy shall be immediately filled below with another Qualified Entity. If no other Qualified Entity can be appointed or elected within ninety (90) days, then the corporation shall dissolve as pursuant to Section 15.593.
- (c) All corporate powers shall be exercised by or under the authority of, and the affairs of the corporation managed under the direction of, the board of directors, subject to any limitation set forth in the articles of incorporation and except as provided in subsection (3) of this section.
- (d) The articles of incorporation may authorize a person or persons, or the manner of designating a person or persons, authorized to exercise some or all of the powers which would otherwise be exercised by a board. To the extent so authorized any such person or persons shall have the duties and responsibilities of the directors, and the directors shall be relieved to that extent from such duties and responsibilities.

### **§ 15.501 QUALIFICATION OF DIRECTORS**

All directors must be individuals. The articles of incorporation or bylaws may prescribe other qualifications for directors.

**§ 15.502 NUMBER OF DIRECTORS**

(a) A board of directors must consist of three or more individuals for a public benefit corporation, with the number specified or fixed in accordance with the articles of incorporation or bylaws.

(b) The articles of incorporation or bylaws may establish a variable range for the size of the board of directors by fixing a minimum and maximum number of directors. If a variable range is established, the number of directors may be fixed or changed periodically, within the minimum and maximum, by the members or the board of directors. If the articles of incorporation establish a fixed or a variable range for the size of the board of directors and the corporation has members entitled to vote for directors, then only the members may change the range for the size of the board or change from a fixed or a variable-range size board.

**§ 15.503 1 ELECTION, DESIGNATION AND APPOINTMENT OF DIRECTORS**

(a) If the corporation has members entitled to vote for directors, 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 are designated.

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

**§ 15.504 TERMS OF DIRECTORS GENERALLY**

(a) The articles or bylaws may specify the terms of directors. Except for designated or appointed directors, the terms of directors may not exceed five years. In the absence of any term specified in the articles or bylaws, the term of each director shall be one year. Directors may be elected for successive terms.

(b) A decrease in the number of directors or term of office does not shorten an incumbent director's term.

- (c) Except as provided in the articles or bylaws:
  - (1) The term of a director filling a vacancy in the office of an elected director expires at the next election of directors; and
  - (2) The term of a director filling any other vacancy expires at the end of the unexpired term which 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.

**§ 15.505 [RESERVED]**

**§ 15.506 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.

**§ 15.507 RESIGNATION OF DIRECTORS**

(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 under STCC 15.421 unless the notice specifies a later effective date.

(c) Once delivered, a notice of resignation is irrevocable unless revocation is permitted by the board of directors.

**§ 15.508 REMOVAL OF DIRECTORS ELECTED BY MEMBERS OR DIRECTORS**

(a) The members may remove one or more directors elected by them with or without cause unless the articles of incorporation provide that directors may be removed only for cause.

(b) If a director is elected by a class, chapter or other organizational unit or by region or other geographic grouping, only the members of that class, chapter, unit or grouping entitled to vote may participate in the vote to remove the director.

(c) Except as provided in subsection (i) of this section, a director may be removed under subsection (a) or (b) of this section 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) If cumulative voting is authorized, a director may not be removed if the number of votes, or if the director was elected by a class, chapter, unit or grouping of members, the number of votes of that class, chapter, unit or grouping, sufficient to elect the director under cumulative voting is voted against the director's removal.

(e) An elected director 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.

(f) In computing whether a director is protected from removal under subsections (b) to (d) of this section, 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.

(g) An entire board of directors may be removed under subsections (a) to (e) of this section.

(h) A director elected by the board of directors may be removed with or without cause, unless the articles of incorporation or bylaws provide that directors may be removed only for cause, by the vote of two-thirds of the directors then in office or such greater number as is set forth in the articles or bylaws. However, a director elected by the board to fill the vacancy of a director elected by the members may be removed by the members, but not the board.

(i) If at the beginning of a director's term on the board, the articles or bylaws provide that the director may be removed for reasons set forth in the articles or bylaws, the board may remove the director for such reasons. The director may be removed only if a majority of the directors then in office vote for the removal.

(j) The articles or bylaws of a religious corporation may:

(1) Limit the application of this section; and

(2) Set forth the vote and procedures by which the board or any person may remove with or without cause a director elected by the members or the board.

## **§ 15.509 REMOVAL OF DIRECTORS BY JUDICIAL PROCEEDING**

(a) The Siletz Tribal Court may remove any director of the corporation from office in a proceeding commenced either by the corporation, at least 10 percent of the members of any class entitled to vote for directors, or the CTSI Legal Department in the case of a public benefit corporation if the court finds that:

- (1) The director engaged in fraudulent or dishonest conduct, or gross abuse of authority or discretion, with respect to the corporation, or the director has violated a duty set forth in STCC 15.528 to 15.531; and
- (2) Removal is in the best interest of the corporation.

(b) The court that removes a director may bar the director from serving on the board for a period prescribed by the court.

(c) If members or the CTSI Legal Department commence a proceeding under subsection (a) of this section, the corporation shall be made a party defendant.

(d) A public benefit corporation or its members who commence a proceeding under subsection (a) of this section shall give the CTSI Legal Department written notice of the proceeding.

#### **§ 15.510 REMOVAL OF DESIGNATED OR APPOINTED DIRECTORS**

(a) A designated director may be removed by an amendment to the articles or bylaws deleting or changing the designation.

(b) If a director is appointed:

- (1) Except as otherwise provided in the articles or bylaws, the director may be removed with or without cause by the person appointing the director;
- (2) The person removing the director shall do so by giving written notice of the removal to the director and either the presiding officer of the board or the corporation's president or secretary; and
- (3) A removal is effective when the notice is effective unless the notice specifies a future effective date.

#### **§ 15.511 VACANCY ON BOARD**

(a) Unless the articles or bylaws provide otherwise, and except as provided in subsections (b) and (c) of this section, if a vacancy occurs on a board of directors, including a vacancy resulting from an increase in the number of directors:

- (1) The members entitled to vote for directors, 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;
- (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 of directors, they may fill the vacancy by the affirmative vote of a majority of all the directors remaining in office.

(b) Unless the articles or bylaws provide otherwise, if a vacant office was held by an appointed director, only the person who appointed the director may fill the vacancy.

(c) If a vacant office was held by a designated director, the vacancy shall be filled as provided in the articles or bylaws. In the absence of an applicable article or bylaw provision, the vacancy may not be filled by the board.

(d) A vacancy that will occur at a specific later date, by reason of a resignation effective at a later date under STCC 15.507 (b) or otherwise, may be filled before the vacancy occurs but the new director may not take office until the vacancy occurs.

#### **§ 15.512 COMPENSATION OF DIRECTORS**

Unless the articles or bylaws provide otherwise, the board of directors may fix the compensation of directors.

**§ 15.513 [RESERVED]**

**§ 15.514 [RESERVED]**

#### **§ 15.515 REGULAR AND SPECIAL MEETINGS**

(a) If the time and place of a director's meeting is fixed by the bylaws or is regularly scheduled by the board of directors, the meeting is a regular meeting. All other meetings are special meetings.

(b) The board of directors may hold regular or special meetings in or out of this state.

(c) Unless the articles or bylaws provide otherwise, the board of directors may permit any or all directors to participate in a regular or special meeting by, or conduct the meeting through, use of any means of communication by which either of the following occurs:

- (1) All directors participating may simultaneously hear or read each other's communications during the meeting; or
- (2) All communications during the meeting are immediately transmitted to each participating director, and each participating director is able to immediately send messages to all other participating directors.

(d) If a meeting is conducted through the use of any means described in subsection (c) of this section:

- (1) All participating directors shall be informed that a meeting is taking place at which official business may be transacted; and
- (2) A director participating in the meeting by this means is deemed to be present in person at the meeting.

#### **§ 15.516 ACTION WITHOUT MEETING**

(a) Unless the articles or bylaws provide otherwise, action required or permitted by this chapter to be taken at the board of directors' meeting may be taken without a meeting if the action is taken by all members of the board of directors. The action shall be evidenced by one or more written consents describing the action taken, signed by each director, and included in the minutes or filed with the corporate records reflecting the action taken.

(b) Action taken under this section is effective when the last director signs the consent, unless the consent specifies an earlier or later effective date.

(c) A consent signed under this section has the effect of a meeting vote and may be described as such in any document.

**§ 15.517 CALL AND NOTICE OF MEETINGS**

(a) Unless the articles, bylaws or this chapter provide otherwise, regular meetings of the board may be held without notice of the date, time, place or purpose of the meeting.

(b) Unless the articles of incorporation or bylaws provide for a longer or shorter period, special meetings of the board must be preceded by at least two days' notice to each director of the date, time and place of the meeting. Unless this chapter provides otherwise, the notice need not describe the purposes of the special meeting unless required by the articles of incorporation or bylaws.

(c) Unless the articles or bylaws provide otherwise, the presiding officer of the board, the president or 20 percent of the directors then in office may call and give notice of a meeting of the board.

**§ 15.518 [RESERVED]**

**§ 15.519 WAIVER OF NOTICE**

(a) A director may at any time waive any notice required by this chapter, the articles of incorporation or bylaws. Except as provided in subsection (b) of this section, the waiver must be in writing, must be signed by the director entitled to the notice, must specify the meeting for which notice is waived and must be filed with the minutes or the corporate records.

(b) A director's attendance at or participation in a meeting waives any required notice to the director of the meeting unless the director, at the beginning of the meeting, or promptly upon the director's arrival, objects to holding the meeting or transacting business at the meeting and does not thereafter vote for or assent to any action taken at the meeting.

**§ 15.520 [RESERVED]**

**§ 15.521 QUORUM AND VOTING**

(a) Unless the articles of incorporation or bylaws require a greater number or a lesser number as authorized under subsection (b) of this section, a quorum of a board of directors consists of:

- (1) If the corporation has a fixed board size, a majority of the fixed number of directors; or

- (2) If the corporation has a variable-range size board, a majority of the number of directors prescribed, or if no number is prescribed, a majority of the number in office immediately before the meeting begins.

(b) The articles of incorporation or bylaws may authorize a quorum of a board of directors to consist of no fewer than one-third of the fixed or prescribed number of directors determined under subsection (a) of this section.

(c) If a quorum is present when a vote is taken, the affirmative vote of a majority of directors present when the act is taken is the act of the board of directors unless the articles of incorporation or bylaws require the vote of a greater number of directors. A director is considered present regardless of whether the director votes or abstains from voting.

(d) A director who is present at a meeting of the board of directors or a committee of the board of directors when corporate action is taken is deemed to have assented to the action taken unless:

- (1) The director objects at the beginning of the meeting, or promptly upon the director's arrival, to holding the meeting or transacting the business at the meeting;
- (2) The director's dissent or abstention from the action taken is entered in the minutes of the meeting; or
- (3) The director delivers written notice of dissent or abstention to the presiding officer of the meeting before its adjournment or to the corporation immediately after adjournment of the meeting. The right of dissent or abstention is not available to a director who votes in favor of the action taken.

§ 15.522 [RESERVED]

§ 15.523 [RESERVED]

§ 15.524 [RESERVED]

§ 15.525 COMMITTEES

(a) Unless the articles or bylaws provide otherwise, a board of directors may create one or more committees of the board of directors which exercise the authority of

the board of directors and appoint members of the board to serve on them or designate the method of selecting committee members. Each committee shall consist of two or more directors, who serve at the pleasure of the board of directors.

(b) The creation of a committee and appointment of directors to the committee or designation of a method of selecting committee members must be approved by the greater of:

- (1) A majority of all the directors in office when the action is taken; or
- (2) The number of directors required by the articles or bylaws to take action under STCC 15.521.

(c) Except as provided in subsection (d) of this section, to the extent specified by the board of directors or in the articles or bylaws, each committee of the board may exercise the authority of the board of directors.

(d) A committee of the board may not:

- (1) Authorize distributions;
- (2) Approve or recommend to members dissolution, merger or the sale, pledge or transfer of all or substantially all of the corporation's assets;
- (3) Elect, appoint or remove directors or fill vacancies on the board or on any of its committees; or
- (4) Adopt, amend or repeal the articles or bylaws.

(e) The creation of, delegation of authority to, or action by a committee does not alone constitute compliance by a director with the standards of conduct described in STCC 15.528.

**§ 15.526 [RESERVED]**

**§ 15.527 [RESERVED]**

**§ 15.528 GENERAL STANDARDS FOR DIRECTORS**

(a) A director shall discharge the duties of a director, including the director's duties as a member of a committee:

- (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 corporation.

(b) In discharging the duties of a director, 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, 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) of this section 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. The liability of a director for monetary damages to the corporation and its members may be eliminated or limited in the corporation's articles to the extent provided in STCC 15.426 (b)(3).

(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.

**§ 15.529 DIRECTOR CONFLICT OF INTEREST**

(a) A conflict of interest transaction is a transaction with the corporation in which a director of the corporation has a direct or indirect interest. A conflict of interest transaction is not voidable or the basis for imposing liability on the director if the transaction is fair to the corporation at the time it was entered into or is approved as provided in subsection (b) or (c) of this section.

(b) A transaction in which a director of a public benefit or religious corporation has a conflict of interest may be approved:

- (1) By the vote of the board of directors or a committee of the board of directors if the material facts of the transaction and the director's interest are disclosed or known to the board of directors or committee of the board of directors; or

(c) A transaction in which a director of a mutual benefit corporation has a conflict of interest may be approved:

- (1) In advance by the vote of the board of directors or a committee of the board of directors if the material facts of the transaction and the director's interest were disclosed or known to the board of directors or a committee of the board of directors; or
- (2) If the material facts of the transactions and the director's interest were disclosed or known to the members and they authorized, approved or ratified the transaction.

(d) For the purposes of this section, a director of the corporation has an indirect interest in a transaction if:

- (1) Another entity in which the director has a material interest or in which the director is a general partner is a party to the transaction; or
- (2) Another entity of which the director is a director, officer or trustee is a party to the transaction, and the transaction is or should be considered by the board of directors of the corporation.

(e) For purposes of subsections (b) and (c) of this section, a conflict of interest transaction is authorized, approved or ratified if it receives the affirmative vote of a majority of the directors on the board of directors or on the committee who have no direct

or indirect interest in the transaction. A transaction may not be authorized, approved or ratified under this section by a single director. If a majority of the directors who have no direct or indirect interest in the transaction votes to authorize, approve or ratify the transaction, a quorum is present for the purpose of taking action under this section. The presence of, or a vote cast by, a director with a direct or indirect interest in the transaction does not affect the validity of any action taken under subsection (b)(1) or (c)(1) of this section if the transaction is otherwise approved as provided in subsection (b) or (c) of this section.

(f) For purposes of subsection (c)(2) of this section, a conflict of interest transaction is authorized, approved or ratified by the members if it receives a majority of the votes entitled to be counted under this subsection. Votes cast by or voted under the control of a director who has a direct or indirect interest in the transaction, and votes cast by or voted under the control of an entity described in subsection (d) of this section may be counted in a vote of members to determine whether to authorize, approve or ratify a conflict of interest transaction under subsection (c)(2) of this section. A majority of the members, whether or not present, that are entitled to be counted in a vote on the transaction under this subsection constitutes a quorum for the purpose of taking action under this section.

(g) The articles, bylaws or a resolution of the board may impose additional requirements on conflict of interest transactions.

#### **§ 15.530 LOANS TO OR GUARANTEES FOR DIRECTORS AND OFFICERS**

(a) Public benefit corporations may not make a loan, guarantee an obligation or modify a preexisting loan or guarantee to or for the benefit of a director or officer of the corporation, except as stated in this section. Unless prohibited by its articles or bylaws, a public benefit may make a loan, guarantee an obligation or modify a preexisting loan or guarantee to or for the benefit of a director or officer as part of a recruitment package, for a total period not to exceed three years, provided that:

- (1) Approval of the loan, guarantee or modification is obtained in the manner provided in STCC 15.529 (b) and (e) for approval of issues involving director conflicts of interest;
- (2) Notice of the loan, guarantee or modification is given to the members of the corporation in the manner provided in STCC 15.625 for notice of certain acts of indemnification; and
- (3) Twenty or more days before the loan, guarantee or modification is to become binding on the corporation, written notice has been given to the CTSI Legal Department of the proposed recruitment

package for the director or officer, including identification of the amount and character of all items of compensation and a separate statement of the amount and terms of any such loan, guarantee or modification.

(b) A mutual benefit corporation may not lend money to or guarantee the obligation of a director of the corporation unless:

- (1) The particular loan or guarantee is approved by a majority of the votes of members entitled to vote, excluding the votes of members under the control of the benefited director; or
- (2) The corporation's board of directors determines that the loan or guarantee benefits the corporation and either approves the specific loan or guarantee or a general plan authorizing the loans and guarantees.

(c) The fact that a loan or guarantee is made in violation of this section does not affect the borrower's liability on the loan.

#### **§ 15.531 LIABILITY FOR UNLAWFUL DISTRIBUTIONS**

(a) Unless a director complies with the applicable standards of conduct described in STCC 15.528, a director who votes for or assents to a distribution made in violation of this chapter or the articles of incorporation is personally liable to the corporation for the amount of the distribution that exceeds what could have been distributed without violating this chapter.

(b) A director held liable for an unlawful distribution under subsection (a) of this section is entitled to contribution:

- (1) From every other director who voted for or assented to the distribution without complying with the applicable standards of conduct described in STCC 15.528; and
- (2) From each person who received an unlawful distribution for the amount of the distribution whether or not the person receiving the distribution knew it was made in violation of this chapter or the articles of incorporation.

#### **§ 15.532 LIABILITY OF QUALIFIED DIRECTORS**

(a) The civil liability of a qualified director for the performance or nonperformance of the director's duties shall be limited to gross negligence or intentional misconduct.

(b) This section does not affect the civil liability of the entity which a qualified director serves.

(c) For the purposes of this section, "qualified director" means a person who serves without compensation for personal services as:

- (1) An officer, director or member of an executive board for the purpose of setting policy and controlling or otherwise overseeing the activities or functional responsibilities of a nonprofit corporation, unincorporated association or nonprofit cooperative corporation that has as its primary purpose:
  - (A) Religion;
  - (B) Charity;
  - (C) Benevolence;
  - (D) Providing goods or services at no charge to the general public;
  - (E) Education;
  - (F) Scientific activity;
  - (G) Medical or hospital services at reduced costs; or
  - (H) Engaging in activities of the nature specified in section 501 of the Internal Revenue Code of 1986, as amended;
- (2) A director for the purpose of setting policy and controlling or otherwise overseeing the activities or functional responsibilities of an organization which acts as an advocate for its members and which has as its members individuals or organizations that are members of a particular trade or industry.

(d) An otherwise qualified director shall not be considered to be compensated for personal services if the director receives payment only for actual expenses incurred in

attending meetings or performing a director's duties or receives a stipend which is paid only to compensate the director for average expenses incurred over the course of a year.

**§ 15.533 [RESERVED]**

**§ 15.534 [RESERVED]**

**§ 15.535 REQUIRED OFFICERS**

(a) A corporation shall have a president, a secretary and such other officers as are elected or appointed by the board or by any other person as may be authorized in the articles or bylaws, provided that the articles of incorporation or bylaws may designate other titles in lieu of president and secretary.

(b) The bylaws or the board shall delegate to one of the officers responsibility for preparing minutes of the directors' and members' meetings and for authenticating records of the corporation.

(c) The same individual may simultaneously hold more than one office in a corporation.

**§ 15.536 DUTIES AND AUTHORITY OF OFFICERS**

Each officer has the authority and shall perform the duties set forth in the bylaws or, to the extent consistent with the bylaws, the duties and authority prescribed by the board of directors or by direction of an officer authorized by the board of directors to prescribe the duties of other officers.

**§ 15.537 STANDARDS OF CONDUCT FOR OFFICERS**

(a) An officer shall discharge the officer's duties:

- (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 officer reasonably believes to be in the best interests of the corporation.

(b) In discharging the duties of an officer, an officer 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 officer reasonably believes to be reliable and competent in the matters presented;
- (2) Legal counsel, public accountants or other persons as to matters the officer reasonably believes are within the person's professional or expert competence; or
- (3) In the case of religious corporations, religious authorities and ministers, priests, rabbis or other persons whose position or duties in the religious organization the officer believes justify reliance and confidence and whom the officer believes to be reliable and competent in the matters presented.

(c) An officer is not acting in good faith if the officer has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (b) of this section unwarranted.

(d) An officer is not liable to the corporation, any member or other person for any action taken or not taken as an officer if the officer acted in compliance with this section. The liability of the officer for monetary damages to the corporation and its members may be eliminated or limited in the corporation's articles to the extent provided in STCC 15.426 (b)(3).

#### **§ 15.538 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 under STCC 15.421 unless the notice specifies a later effective date. If a resignation is made effective at a later date and the corporation accepts the later effective date, its board of directors or any other person as authorized under the articles or bylaws may fill the pending vacancy before the effective date if the board or any other person provides that the successor does not take office until the effective date.

(b) A board of directors or any other person authorized under the articles or bylaws to elect or appoint an officer may remove any officer the board or any other person is entitled to elect or appoint, at any time with or without cause.

(c) Once delivered, a notice of resignation is irrevocable unless revocation is permitted by the board of directors.

#### **§ 15.539 CONTRACT RIGHTS OF OFFICERS**

(a) The appointment of an officer does not itself create contract rights.

(b) Removal or resignation of an officer does not affect the contract rights, if any, of the corporation or the officer.

**§ 15.540 DEFINITIONS FOR STCC 15.540 TO 15.550**

(a) “Corporation” includes any domestic or foreign predecessor entity of a corporation in a merger or other transaction in which the predecessor’s existence ceased upon consummation of the transaction.

(b) “Director” means an individual who is or was a director of a corporation or an individual who, while a director of a corporation, is or was serving at the corporation’s request as a director, officer, partner, trustee, employee, or agent of another foreign or domestic business or nonprofit corporation, partnership, joint venture, trust, employee benefit plan or other enterprise. A director is considered to be serving an employee benefit plan at the corporation’s request if the director’s duties to the corporation also impose duties on, or otherwise involve services by, the director to the plan or to participants in or beneficiaries of the plan. “Director” includes, unless the context requires otherwise, the estate or personal representative of a director.

(c) “Expenses” include attorney fees.

(d) “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 actually incurred with respect to a proceeding.

(e) “Officer” means an individual who is or was an officer of a corporation or an individual who, while an officer of a corporation, is or was serving at the corporation’s request as a director, officer, partner, trustee, employee or agent of another foreign or domestic corporation, partnership, joint venture, trust, employee benefit plan or other enterprise. An officer is considered to be serving an employee benefit plan at the corporation’s request if the officer’s duties to the corporation also impose duties on or include services by the officer to the employee benefit plan or to participants in or beneficiaries of the plan. “Officer” includes, unless the context requires otherwise, the estate or personal representative of an officer.

(f) “Party” includes an individual who was, is or is threatened to be made a named defendant or respondent in a proceeding.

(g) “Proceeding” means any threatened, pending or completed action, suit or proceeding whether civil, criminal, administrative or investigative and whether formal or informal.

**§ 15.541 AUTHORITY TO INDEMNIFY**

(a) Except as provided in subsection (d) of this section, a corporation may indemnify an individual made a party to a proceeding because the individual is or was a director against liability incurred in the proceeding if:

- (1) The conduct of the individual was in good faith;
- (2) The individual reasonably believed that the individual’s conduct was in the best interests of the corporation, or at least not opposed to its best interests; and
- (3) In the case of any criminal proceeding, the individual had no reasonable cause to believe the conduct of the individual was unlawful.

(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 beneficiaries of the plan is conduct that satisfies the requirements of subsection (a)(2) of this section.

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

(d) A corporation may not indemnify a director under this section:

- (1) In connection with a proceeding by or in the right of the corporation in which the director was adjudged liable to the corporation; or
- (2) In connection with any other proceeding charging improper personal benefit to the director in which the director was adjudged liable on the basis that personal benefit was improperly received by the director.

(e) Indemnification permitted under this section in connection with a proceeding by or in the right of the corporation is limited to reasonable expenses incurred in connection with the proceeding.

**§ 15.542 MANDATORY INDEMNIFICATION**

Unless limited by its articles of incorporation, a corporation shall indemnify a director who was wholly successful, on the merits or otherwise, in the defense of any proceeding to which the director was a party because of being a director of the corporation, against reasonable expenses actually incurred by the director in connection with the proceeding.

**§ 15.543 ADVANCE FOR EXPENSES**

(a) A corporation may pay for or reimburse the reasonable expenses incurred by a director who is a party to a proceeding in advance of final disposition of the proceeding if:

- (1) The director furnishes the corporation a written affirmation of the director's good faith belief that the director has met the standard of conduct described in STCC 15.541; and
- (2) The director furnishes the corporation a written undertaking, executed personally or on the director's behalf, to repay the advance if it is ultimately determined that the director did not meet the standard of conduct.

(b) The undertaking required by subsection (a)(2) of this section must be an unlimited general obligation of the director but need not be secured and may be accepted without reference to financial ability to make repayment.

(c) Any authorization of payments under this section may be made by provision in the articles of incorporation or bylaws, by a resolution of the members or board of directors or by contract.

**§ 15.544 COURT-ORDERED INDEMNIFICATION**

(a) Unless the corporation's articles of incorporation provide otherwise, a director of the corporation who is a party to a proceeding may apply for indemnification to the Siletz Tribal Court. On receipt of an application, the court after giving any notice the court considers necessary may order indemnification in the amount it considers proper if it determines:

- (1) The director is entitled to mandatory indemnification under STCC 15.542, in which case the court shall also order the corporation to pay the director's reasonable expenses incurred to obtain court-ordered indemnification; or
- (2) The director is fairly and reasonably entitled to indemnification in view of all the relevant circumstances, whether or not the director met the standard of conduct set forth in STCC 15.391(a) or was adjudged liable as described in STCC 15.541(d), whether the liability is based on a judgment, settlement or proposed settlement or otherwise.

**§ 15.545 DETERMINATION AND AUTHORIZATION OF INDEMNIFICATION**

(a) A corporation may not indemnify a director under STCC 15.541 unless authorized in the specific case after a determination has been made that indemnification of the director is permissible in the circumstances because the director has met the standard of conduct set forth in STCC 15.541.

(b) A determination that indemnification of a director is permissible shall be made:

- (1) By the board of directors by majority vote of a quorum consisting of directors not at the time parties to the proceeding;
- (2) If a quorum cannot be obtained under paragraph (1) of this subsection, by a majority vote of a committee duly designated by the board of directors, consisting solely of two or more directors not at the time parties to the proceeding;
- (3) By special legal counsel selected by the board of directors or its committee in the manner prescribed in paragraph (1) or (2) of this subsection or, if a quorum of the board cannot be obtained under paragraph (1) of this subsection and a committee cannot be designated under paragraph (2) of this subsection, the special legal counsel shall be selected by majority vote of the full board of directors including directors who are parties to the proceeding; or
- (4) By the members of a mutual benefit corporation, but directors who are at the time parties to the proceeding may not vote on the determination.

(c) Authorization of indemnification and evaluation as to reasonableness of expenses shall be made in the same manner as the determination that indemnification is permissible, except that if the determination is made by special legal counsel, authorization of indemnification and evaluation as to reasonableness of expenses shall be made by those entitled under subsection (b)(3) of this section to select counsel.

(d) A director of a public benefit corporation may not be indemnified until 20 days after the effective date of written notice to the CTSI Legal Department of the proposed indemnification.

**§ 15.546 INDEMNIFICATION OF OFFICERS, EMPLOYEES AND AGENTS**

- (a) Unless a corporation's articles of incorporation provide otherwise:
- (1) An officer of the corporation is entitled to mandatory indemnification under STCC 15.542, and is entitled to apply for court-ordered indemnification under STCC 15.401 in each case, to the same extent as a director under STCC 15.542 and 15.544.
  - (2) The corporation may indemnify and advance expenses under STCC 15.540 to 15.548 an officer, employee or agent of the corporation who is not a director to the same extent as to a director.

**§ 15.547 [RESERVED]**

**§ 15.548 INSURANCE**

A corporation may purchase and maintain insurance on behalf of an individual against liability asserted against or incurred by the individual who is or was a director, officer, employee or agent of the corporation, or who, while a director, officer, employee or agent of the corporation, is or was serving at the request of the corporation as a director, officer, partner, trustee, employee or agent of another foreign or domestic business or nonprofit corporation, partnership, joint venture, trust, employee benefit plan or other enterprise. The corporation may purchase and maintain the insurance even if the corporation has no power to indemnify the individual against the same liability under STCC 15.541 or 15.542.

**§ 15.549 [RESERVED]**

**§ 15.550 APPLICATION OF STCC 15.540 TO 15.548**

(a) The indemnification and provisions for advancement of expenses provided by STCC 15.540 to 15.548 shall not be deemed exclusive of any other rights to which directors, officers, employees or agents may be entitled under the corporation's articles of incorporation or bylaws, any agreement, general or specific action of its board of directors, vote of members or otherwise, and shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person. Specifically and not by way of limitation, a corporation shall have the power to make or agree to make any further indemnification, including advancement of expenses, of:

- (1) Any director as authorized by the articles of incorporation, any bylaws approved, adopted or ratified by the members or any resolution or agreement approved, adopted or ratified, before or after such indemnification or agreement is made, by the members, provided that no such indemnification shall indemnify any director from or on account of acts or omissions for which liability could not be eliminated under STCC 15.426 (b)(3); and
- (2) Any officer, employee or agent who is not a director as authorized by its articles of incorporation or bylaws, general or specific action of its board of directors or agreement. Unless the articles of incorporation, or any such bylaws, agreement or resolution provide otherwise, any determination as to any further indemnity under this paragraph shall be made in accordance with STCC 15.545.

(b) If articles of incorporation limit indemnification or advance of expenses, any indemnification and advance of expenses are valid only to the extent consistent with the articles of incorporation.

(c) STCC 15.540 to 15.548 do not limit a corporation's power to pay or reimburse expenses incurred by a director in connection with the director's appearance as a witness in a proceeding at a time when the director has not been made a named defendant or respondent to a proceeding.

(d) A report of indemnification must be made in accordance with STCC 15.625.

**§ 15.551 [RESERVED]**

**§ 15.552 [RESERVED]**

**§ 15.553 [RESERVED]**

**§ 15.554 [RESERVED]**

**AMENDMENT OF ARTICLES OF INCORPORATION AND BYLAWS**

**§ 15.555 AUTHORITY**

(a) A corporation may amend its articles of incorporation at any time to add, change or delete any provision.

(b) A corporation designated on the records of the CTSI Legal Department as a public benefit or religious corporation may amend or restate its articles of incorporation so that it becomes designated as a mutual benefit corporation only if notice, including a copy of the proposed amendment or restatement, has been delivered to the CTSI Legal Department at least 20 days before consummation of the amendment or restatement.

**§ 15.556 AMENDMENT BY DIRECTORS**

(a) Unless the articles provide otherwise, a corporation's board of directors may adopt one or more amendments to the corporation's articles without member approval:

- (1) To extend the duration of the corporation if it was incorporated at a time when limited duration was required by law;
- (2) To delete the names and addresses of the initial directors and incorporators;
- (3) To delete the name and address of the initial registered agent or registered office, if a statement of change is on file with the CTSI Legal Department;
- (4) To delete the mailing address if an annual report has been filed with the CTSI Legal Department;
- (5) To change the corporate name by adding, changing 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, or by adding, deleting or changing a geographical attribution to the name;

- (6) To include a statement of whether the corporation is a public benefit or mutual benefit corporation; or
- (7) To make any other change expressly permitted by this chapter to be made by director action.

(b) If a corporation has no members entitled to vote on articles, its incorporators, until directors have been chosen, and thereafter its board of directors, may adopt one or more amendments to the corporation's articles subject to any approval required pursuant to STCC 15.572. The corporation shall provide notice of any meeting at which an amendment is to be voted upon. The notice shall be in accordance with STCC 15.517 (b). The notice must also state that the purpose, or one of the purposes, of the meeting is to consider a proposed amendment to the articles and contain or be accompanied by a copy or summary of the amendment or state the general nature of the amendment. Unless the articles or bylaws require a greater vote or the board of directors requires a greater vote, the amendment must be approved by a majority of the directors in office at the time the amendment is adopted. Any number of amendments may be submitted and voted upon at any one meeting.

#### **§ 15.557 AMENDMENT BY BOARD OF DIRECTORS AND MEMBERS**

(a) Unless this chapter, the articles, bylaws, the members, acting pursuant to subsection (b) of this section, or the board of directors acting pursuant to subsection (c) of this section, require a greater vote or voting by class, an amendment to a corporation's articles to be adopted must be approved:

- (1) By the board if the corporation is a public benefit or religious corporation and the amendment does not relate to the number of directors, the composition of the board, the term of office of directors or the method or way in which directors are elected or selected;
- (2) Except as provided in STCC 15.556 (a), by the members entitled to vote on articles by at least 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 for an amendment to the articles as authorized by STCC 15.572.

(b) The members entitled to vote on articles may condition the amendment's adoption on receipt of a higher percentage of affirmative votes or on any other basis.

(c) If the board initiates an amendment to the articles or board approval is required by subsection (a) of this section to adopt an amendment to the articles, the board may condition the amendment's adoption on receipt of a higher percentage of affirmative votes or on any other basis. For the amendment to be adopted, the board of directors shall, except in those cases described in subsection (a)(1) of this section, adopt a resolution setting forth the proposed amendment and directing that it be submitted to a vote at a meeting of members, which may be either an annual or special meeting.

(d) If the board or the members entitled to vote on articles seek to have the amendment approved by such members at a membership meeting, the corporation shall give notice to such members of the proposed membership meeting in writing in accordance with STCC 15.474. The notice must state that the purpose, or one of the purposes, of the meeting is to consider the proposed amendment and contain or be accompanied by a copy or summary of the amendment.

(e) If the board or the members entitled to vote on articles seek to have the amendment approved by such members by written consent or written ballot, the material soliciting the approval shall contain or be accompanied by a copy or summary of the amendment.

#### **§ 15.558 CLASS VOTING BY MEMBERS ON AMENDMENTS**

(a) In a public benefit corporation the members of a class entitled to vote on articles are entitled to vote as a class on a proposed amendment to the articles if the amendment would affect the rights of that class as to voting in a manner different than the amendment would affect another class or members of another class.

(b) In a mutual benefit corporation the members of a class entitled to vote on articles are entitled to vote as a class on a proposed amendment to the articles if the amendment would:

- (1) Affect the rights, privileges, preferences, restrictions or conditions of that class as to voting, dissolution, redemption or transfer of memberships in a manner different than such amendment would affect another class;
- (2) Change the rights, privileges, preferences, restrictions or conditions of that class as to voting, dissolution, redemption or transfer by changing the rights, privileges, preferences, restrictions or conditions of another class;
- (3) Increase or decrease the number of memberships authorized for that class;

- (4) Increase the number of memberships authorized for another class;
- (5) Effect an exchange, reclassification or termination of the memberships of that class; or
- (6) Authorize a new class of memberships.

(c) In a religious corporation the members of a class entitled to vote on articles are entitled to vote as a class on a proposed amendment to the articles only if a class vote is provided for in the articles or bylaws.

(d) If a class is to be divided into two or more classes as a result of an amendment to the articles of a public benefit or mutual benefit corporation, the amendment must be approved by the members of each class entitled to vote on articles that would be created by the amendment.

(e) Except as provided in the articles or bylaws of a religious corporation, if a class vote is required to approve an amendment to the articles of a corporation, the amendment must be approved by the members of the class entitled to vote on articles by two-thirds of the votes cast by the class or a majority of the voting power of the class, whichever is less.

(f) A class of members of a public benefit or mutual benefit corporation is entitled to the voting rights granted by this section although the articles and bylaws provide that the class may not vote on the proposed amendment.

#### **§ 15.559 ARTICLES OF AMENDMENT**

(a) A corporation amending its articles shall deliver for filing to the CTSI Legal Department articles of amendment setting forth:

- (1) The name of the corporation.
- (2) The text of each amendment adopted.
- (3) The date of each amendment's adoption.
- (4) If approval of members was not required, a statement to that effect and a statement that the amendment was approved by a sufficient vote of the board of directors or incorporators.

(b) If approval by members entitled to vote on articles was required:

- (1) The designation and number of members of, and number of votes entitled to be cast by, each class entitled to vote separately on the amendment; and
- (2) The total number of votes cast for and against the amendment by each class entitled to vote separately on the amendment.

(c) If approval of the amendment by some person or persons other than the members entitled to vote on articles, the board or the incorporators is required pursuant to STCC 15.572, a statement that the approval was obtained.

#### **§ 15.560 RESTATED ARTICLES OF INCORPORATION**

(a) A corporation's board of directors may restate its articles of incorporation at any time with or without approval by the members entitled to vote on articles or any other person.

(b) The restatement may include one or more amendments to the articles. If the restatement includes an amendment requiring approval by the members entitled to vote on articles or any other person, it must be adopted as provided in STCC 15.572.

(c) If the board seeks to have the restatement approved by the members entitled to vote on articles at a membership meeting, the corporation shall give written notice to the members entitled to vote on articles of the proposed membership meeting in accordance with STCC 15.474. The notice must also state that the purpose, or one of the purposes, of the meeting is to consider the proposed restatement and contain or be accompanied by a copy or summary of the restatement that identifies any amendments or other change it would make in the articles.

(d) If the board seeks to have the restatement approved by the members entitled to vote on articles by written ballot or written consent, the material soliciting the approval shall contain or be accompanied by a copy or summary of the restatement that identifies any amendments or other change it would make in the articles.

(e) A restatement requiring approval by the members entitled to vote on articles must be approved by the same vote as an amendment to articles under STCC 15.557.

(f) A corporation restating its articles of incorporation shall deliver to the CTSI Legal Department for filing articles of restatement setting forth the name of the corporation and the text of the restated articles of incorporation together with a certificate setting forth:

- (1) Whether the restatement contains an amendment to the articles requiring approval by the members entitled to vote on articles or any other person other than the board of directors and, if it does not, that the board of directors adopted the restatement, or if the restatement contains an amendment to the articles requiring approval by the members entitled to vote on articles, the information required by STCC 15.559; and
- (2) If the restatement contains an amendment to the articles requiring approval by a person whose approval is required pursuant to STCC 15.572, a statement that such approval was obtained.

(g) Restated articles of incorporation shall include all statements required to be included in original articles of incorporation except that no statement is required to be made with respect to:

- (1) The names and addresses of the incorporators or the initial or present registered office or agent; or
- (2) The mailing address of the corporation if an annual report has been filed with the CTSI Legal Department.

(h) Duly adopted restated articles of incorporation supersede the original articles of incorporation and all amendments to them.

(i) The CTSI Legal Department may certify restated articles of incorporation, as the articles of incorporation currently in effect, without including the certificate information required by subsection (f) of this section.

#### **§ 15.561 AMENDMENT PURSUANT TO COURT ORDER**

(a) A corporation's articles may be amended without board approval or approval by the members entitled to vote on articles, or approval required pursuant to STCC 15.572:

- (1) To carry out a plan of reorganization ordered or decreed by a court of competent jurisdiction under federal statute; or
- (2) In a proceeding brought by the CTSI Legal Department to correct the statement in the articles of incorporation or the annual report with regard to whether the corporation is a public benefit or mutual benefit corporation or a religious corporation.

(b) The articles after amendment shall contain only provisions required or permitted by STCC 15.402.

(c) The individual or individuals designated by the court in a reorganization proceeding, or the CTSI Legal Department where it has brought the proceeding, shall deliver to the CTSI Legal Department for filing articles of amendment setting forth:

- (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 proceeding in which the order or decree was entered; and
- (5) A statement whether the court had jurisdiction of the proceeding under federal statute or under subsection (a)(2) of this section.

(d) 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.

**§ 15.562 [RESERVED]**

**§ 15.563 EFFECT OF AMENDMENT AND RESTATEMENT**

An amendment to articles of incorporation does not affect a cause of action existing against or in favor of the corporation, a proceeding to which the corporation is a party, any requirement or limitation imposed upon the corporation or any property held by it by virtue of any trust upon which such property is held by the corporation or the existing rights of persons other than members of the corporation. An amendment changing a corporation's name does not abate a proceeding brought by or against the corporation in its former name.

**§ 15.564 [RESERVED]**

**§ 15.565 [RESERVED]**

**§ 15.566 [RESERVED]**

**§ 15.567 [RESERVED]**

**§ 15.568 [RESERVED]**

**§ 15.569 [RESERVED]**

**§ 15.570 AMENDMENT BY DIRECTORS**

Unless otherwise provided in its articles or bylaws, a corporation with no members with the power to vote on bylaws shall amend its bylaws as provided in this section. The corporation's incorporators, until directors have been chosen, and thereafter its board of directors may adopt one or more amendments to the corporation's bylaws subject to any approval required pursuant to STCC 15.572. The corporation shall provide notice of any meeting of directors at which an amendment is to be approved. The notice shall be in accordance with STCC 15.517 (b). The notice must also state that the purpose, or one of the purposes, of the meeting is to consider a proposed amendment to the bylaws and contain or be accompanied by a copy or summary of the amendment or state the general nature of the amendment.

**§15.571 AMENDMENT BY DIRECTORS AND MEMBERS**

(a) A corporation's board of directors may amend or repeal the corporation's bylaws unless:

- (1) The articles of incorporation or this chapter reserve this power exclusively to the members, or to a party authorized under STCC 15.572, or both, in whole or in part; or
- (2) The members entitled to vote on bylaws, in amending or repealing a particular bylaw, provide expressly that the board of directors may not amend or repeal that bylaw.

(b) A corporation's members entitled to vote on bylaws, subject to STCC 15.572, may amend or repeal the corporation's bylaws even though the bylaws may also be amended or repealed by its board of directors.

**§ 15.572 APPROVAL BY THIRD PERSONS**

The articles 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 an article provision may not be amended without the approval in writing of such person or persons.

**§ 15.573 [RESERVED]**

**§ 15.574 [RESERVED]**

**§ 15.575 APPROVAL OF PLAN OF MERGER**

(a) Subject to the limitations set forth in STCC 15.576, one or more nonprofit corporations may merge with a business or nonprofit corporation, if the plan of merger is approved as provided in STCC 15.577.

(b) The plan of merger must set forth:

- (1) The name of each business or nonprofit corporation planning to merge and the name of the surviving corporation into which each other corporation plans to merge;
- (2) The terms and conditions of the merger;
- (3) The manner and basis, if any, of converting the memberships of each public benefit or religious corporation into memberships of the surviving corporation; and
- (4) If the merger involves a mutual benefit or business corporation, the manner and basis, if any, of converting the memberships or shares of each merging corporation into memberships, obligations, shares or other securities of the surviving or any other corporation or into cash or other property in whole or part.

(c) The plan of merger may set forth:

- (1) Amendments to the articles of incorporation of the surviving corporation; and
- (2) Other provisions relating to the merger.

**§ 15.576 LIMITATIONS ON MERGERS BY PUBLIC BENEFIT CORPORATIONS**

(a) Without the prior written consent of the Siletz Tribal Court, in a proceeding in which the CTSI Legal Department has been given written notice, a public benefit corporation may merge only with:

- (1) A public benefit corporation;

- (2) A foreign corporation which would qualify under this chapter as a public benefit corporation;
- (3) A wholly owned foreign or domestic business or mutual benefit corporation, provided the public benefit corporation is the surviving corporation and continues to be a public benefit corporation after the merger; or
- (4) A foreign or domestic business or mutual benefit corporation, provided that:
  - (A) On or prior to the effective date of the merger, assets with a value equal to the greater of the fair market value of the net tangible and intangible assets, including goodwill, of the public benefit or religious corporation or the fair market value of the public benefit or religious corporation if it were to be operated as a business concern are transferred or conveyed to one or more persons who would have received its assets under STCC 15.597(a)(5) and (6) had it dissolved;
  - (B) It shall return, transfer or convey any assets held by it upon condition requiring return, transfer or conveyance, which condition occurs by reason of the merger, in accordance with such condition; and
  - (C) The merger is approved by a majority of directors of the public benefit or religious corporation who are not and will not become members or shareholders in, or officers, employees, agents or consultants of, the surviving corporation.

(b) Notice, including a copy of the proposed plan of merger, must be delivered to the CTSI Legal Department at least 20 days before consummation of any merger of a public benefit corporation or a religious corporation pursuant to subsection (a)(4) of this section.

(c) Without the prior written consent of the CTSI Legal Department or the prior approval of the court specified in subsection (a) of this section in a proceeding in which the CTSI Legal Department has been given written notice, no member of a public benefit or religious corporation may receive or keep anything as a result of a merger other than a membership in the surviving public benefit or religious corporation. Where approval or consent is required by this section, it shall be given if the transaction is

consistent with the purposes of the public benefit or religious corporation or is otherwise in the public interest.

**§ 15.577 ACTION ON PLAN BY BOARD, MEMBERS AND THIRD PERSONS**

(a) Unless this chapter, the articles, bylaws or the board of directors or members, acting pursuant to subsection (c) of this section, require a greater vote or voting by class, adoption of a plan of merger requires, with respect to each corporation party to the merger, approval:

- (1) By the board;
- (2) By the members entitled to vote on the merger, if any, by at least 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 for an amendment to the articles or bylaws by a provision of the articles, as authorized by STCC 15.572.

(b) If the corporation does not have members entitled to vote on the merger, 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 STCC 15.517 (b). 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 of directors may condition its submission of the proposed merger to a vote of members, and the members entitled to vote on the merger 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 STCC 15.474. 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 each disappearing corporation shall include a copy or summary of the articles and bylaws which 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 each disappearing corporation shall include a copy or summary of the articles and bylaws which 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 the articles of incorporation, would entitle the class of members to vote as a class on the proposed amendment under STCC 15.538. 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.

(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.

## **§ 15.578 ARTICLES OF MERGER**

(a) After a plan of merger is approved by the board of directors of each merging corporation and, if required by STCC 15.577, by the members and any other persons, the surviving corporation shall deliver to the CTSI Legal Department for filing 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 of each corporation.
- (3) If approval by the members of one or more corporations was required:
  - (A) The designation and number of members of, and number of votes entitled to be cast by, each class entitled to vote separately on the plan; and

(B) The total number of votes cast for and against the plan by each class entitled to vote separately on the plan.

(4) If approval of the plan by some person or persons other than the members or the board is required pursuant to STCC 15.577 (a)(3), a statement that the approval was obtained.

(b) Unless a delayed effective date is specified, a merger takes effect when the articles of merger are filed.

#### **§ 15.579 EFFECT OF MERGER**

(a) 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;
- (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;
- (5) The articles of incorporation and bylaws of the surviving corporation are amended to the extent provided in the plan of merger; and
- (6) The memberships or shares of each nonprofit or business corporation party to the merger that are to be converted into memberships, obligations, shares or other securities of the surviving or any other corporation or into cash or other property are converted and the former holders of the memberships or shares are entitled only to the rights provided in the articles of merger.

#### **§ 15.580 MERGER WITH FOREIGN CORPORATION**

(a) Except as provided in STCC 15.576, one or more foreign business or nonprofit corporations may merge with one or more domestic nonprofit corporations if:

- (1) The merger is permitted by the law of the state or country under whose law each foreign business or nonprofit corporation is incorporated and each foreign business or nonprofit corporation complies with that law in effecting the merger;
- (2) The foreign business or nonprofit corporation complies with STCC 15.578 if it is the surviving corporation of the merger; and
- (3) Each domestic nonprofit corporation complies with the applicable provisions of STCC 15.575 to 15.577 and, if it is the surviving corporation of the merger, with STCC 15.578.

(b) Upon the merger taking effect, a surviving foreign business or nonprofit corporation is deemed to have irrevocably appointed the CTSI Legal Department as its agent for service of process in any proceeding brought against it.

**§ 15.581 EFFECT OF MERGER ON BEQUESTS, DEVICES AND GIFTS**

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

**§ 15.582 MERGER WITH BUSINESS CORPORATION**

Any domestic business corporation which is a party to a merger with a nonprofit corporation pursuant to this chapter shall comply with all applicable requirements of the CTSI Corporations ordinance relating to mergers except when inconsistent with this chapter. If a domestic business corporation is the survivor of a merger with a nonprofit corporation, following the merger it shall be subject to Chapters A&B of the Siletz Tribal Corporations Ordinance.

**§ 15.583 [RESERVED]**

**§ 15.584 [RESERVED]**

**§ 15.585 SALE OF ASSETS IN REGULAR COURSE OF ACTIVITIES;  
MORTGAGE OF ASSETS**

(a) A corporation may, on the terms and conditions and for the consideration determined by the board of directors:

- (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 required by the articles of incorporation, approval by the members or any other person of a transaction described in subsection (a) of this section is not required.

**§ 15.586 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 of directors if the proposed transaction is authorized by subsection (b) of this section.

(b) Unless this chapter, the articles, bylaws or the board of directors or members, acting pursuant to subsection (d) of this section, 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 entitled to vote on the transaction by at least 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 for an amendment to the articles or bylaws by a provision of the articles as authorized by STCC 15.572.

(c) If the corporation does not have members entitled to vote on the transaction, the transaction must be approved by 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 STCC 15.517 (b). 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 of the corporation and contain or be accompanied by a description of the transaction.

(d) The board of directors may condition its submission of the proposed transaction to a vote of members, and the members entitled to vote on the transaction may condition their approval of the transaction, on receipt of a higher percentage of affirmative votes or on any other basis.

(e) If the board 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 STCC 15.474. 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 of the corporation and contain or be accompanied by a description of the transaction.

(f) If the board seeks 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 description of the transaction.

(g) A public benefit or religious corporation must give written notice to the CTSI Legal Department 20 days before it sells, leases, exchanges or otherwise disposes of all or substantially all of its property unless the transaction is in the usual and regular course of its activities or the CTSI Legal Department has given the corporation a written waiver of this notice requirement.

(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.

**§ 15.587 [RESERVED]**

**§ 15.588 [RESERVED]**

**§ 15.589 [RESERVED]**

**§ 15.590 PROHIBITED DISTRIBUTIONS**

Except as authorized by STCC 15.591, a corporation shall not make any distributions.

**§ 15.591 AUTHORIZED DISTRIBUTIONS**

- (a) Unless prohibited by its articles or bylaws:
  - (1) A mutual benefit corporation may purchase its memberships and, under the circumstances indicated in STCC 15.454 and 15.160, a public benefit or religious corporation may purchase its memberships, if after the purchase is completed:
    - (A) The corporation would be able to pay its debts as they become due in the usual course of its activities; and
    - (B) The corporation's total assets would at least equal the sum of its total liabilities.
- (b) A corporation may make distributions upon dissolution in conformity with STCC 15.592 to 15.615.
- (c) A corporation may make distributions to a member which is a religious or public benefit corporation or a foreign nonprofit corporation which, if incorporated under the laws of the CTSI, would qualify as a religious or public benefit corporation.

**DISSOLUTION**

**§ 15.592 DISSOLUTION BY INCORPORATORS**

- (a) A majority of the incorporators of a corporation that has no members and that does not yet have initial directors may, subject to any approval required by the articles or bylaws, dissolve the corporation by delivering articles of dissolution to the CTSI Legal Department for filing.
- (b) The corporation shall give the incorporators notice equivalent to that specified in STCC 15.517 (b), of any meeting at which dissolution will be considered. The notice must also state that the purpose, or one of the purposes, of the meeting is to consider dissolution of the corporation.
- (c) The incorporators in approving dissolution shall adopt a plan of dissolution indicating to whom the assets owned or held by the corporation will be distributed after all creditors have been paid.

**§ 15.593 DISSOLUTION BY DIRECTORS, MEMBERS AND THIRD PERSONS**

(a) Unless this chapter, the articles, bylaws or the board of directors or members, acting pursuant to subsection (c) of this section, require a greater vote or voting by class, dissolution is authorized if it is approved:

- (1) By the board;
- (2) By the members entitled to vote on dissolution, if any, by at least 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 for an amendment of the articles or bylaws, as authorized by STCC 15.572, or for dissolution.

(b) If the corporation does not have members entitled to vote on dissolution, dissolution 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 meeting of the board of directors at which such approval is to be considered in accordance with STCC 15.517 (b). The notice must also state that the purpose, or one of the purposes, of the meeting is to consider dissolution of the corporation and contain or be accompanied by a copy or summary of the plan of dissolution.

(c) The board may condition its submission of the proposed dissolution to a vote of members, and the members may condition their approval of the dissolution on receipt of a higher percentage of affirmative votes or on any other basis.

(d) If the board seeks to have dissolution approved by the members at a membership meeting, the corporation shall give all members, whether or not entitled to vote, notice of the proposed membership meeting in accordance with STCC 15.474. The notice must also state that the purpose, or one of the purposes, of the meeting is to consider dissolving the corporation and contain or be accompanied by a copy or summary of the plan of dissolution.

(e) If the board seeks to have dissolution 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 of dissolution.

(f) The plan of dissolution shall indicate to whom the assets owned or held by the corporation will be distributed after all creditors have been paid.

**§ 15.594 NOTICES TO CTSI LEGAL DEPARTMENT**

(a) A public benefit or religious corporation shall give the CTSI Legal Department written notice that it intends to dissolve at or before the time it delivers articles of dissolution to the CTSI Legal Department. The notice shall include a copy or summary of the plan of dissolution.

(b) No assets shall be transferred or conveyed by a public benefit or religious corporation as part of the dissolution process until 20 days after it has given the written notice required by subsection (a) of this section to the CTSI Legal Department or until the CTSI Legal Department has consented in writing, or indicated in writing, that the CTSI Legal Department will take no action in respect to the transfer or conveyance, whichever is earlier.

(c) When all or substantially all of the assets of a public benefit corporation have been transferred or conveyed following approval of dissolution, the board shall deliver to the CTSI Legal Department a list showing those, other than creditors, to whom the assets were transferred or conveyed. The list shall indicate the addresses of each person, other than creditors, who received assets and indicate what assets each received.

#### **§ 15.595 ARTICLES OF DISSOLUTION**

(a) At any time after dissolution is authorized, the corporation may dissolve by delivering to the CTSI Legal Department for filing, articles of dissolution setting forth:

- (1) The name of the corporation;
- (2) The date dissolution was authorized;
- (3) A statement that dissolution was approved by a sufficient vote of the board;
- (4) If approval of members was not required, a statement to that effect and a statement that dissolution was approved by a sufficient vote of the board of directors or incorporators;
- (5) If approval by members entitled to vote was required:
  - (A) The designation and number of members of, and number of votes entitled to be cast by, each class entitled to vote separately on dissolution; and
  - (B) The total number of votes cast for and against dissolution by each class entitled to vote separately on dissolution;

- (6) If approval of dissolution by some person or persons other than the members entitled to vote on dissolution, the board or the incorporators is required pursuant to STCC 15.593 (a)(3), a statement that the approval was obtained; and
- (7) If the corporation is a public benefit or religious corporation, that the notice to the CTSI Legal Department required by STCC 15.594 (a) has been given.

(b) A corporation is dissolved upon the effective date of its articles of dissolution.

### **§ 15.596 REVOCATION OF DISSOLUTION**

(a) A corporation may revoke its dissolution within 120 days of its effective date.

(b) Revocation of dissolution must be authorized in the same manner as the dissolution was authorized unless that authorization of dissolution permits revocation by action of the board of directors alone. If the authorization of dissolution permits revocation by action of the board of directors alone, the board of directors may revoke the dissolution without action by the members or any other person.

(c) After the revocation of dissolution is authorized, the corporation may revoke the dissolution by delivering to the Office of CTSI Legal Department for filing, articles of revocation of dissolution that set forth:

- (1) The name of the corporation;
- (2) The effective date of the dissolution that was revoked;
- (3) The date that the revocation of dissolution was authorized;
- (4) If the corporation's board of directors or incorporators revoked the dissolution, a statement to that effect;
- (5) If the corporation's board of directors revoked a dissolution authorized by the members alone or in conjunction with another person or persons, a statement that revocation was permitted by action by the board of directors alone pursuant to that authorization; and

- (6) If member or third-person action was required to revoke the dissolution, the information required by STCC 15.595 (a)(5) and (6).

(d) Unless a delayed effective date is specified, revocation of dissolution is effective when articles of revocation of dissolution are filed.

(e) When the revocation of dissolution is effective, it relates back to and takes effect as of the effective date of the dissolution and the corporation resumes carrying on its activities as if dissolution had never occurred.

#### **§ 15.597 EFFECT OF DISSOLUTION**

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

- (1) Preserving and protecting its assets and minimizing its liabilities;
- (2) Discharging or making provision for discharging its liabilities and obligations;
- (3) Disposing of its properties that will not be distributed in kind;
- (4) Returning, transferring or conveying assets held by the corporation upon a condition requiring return, transfer or conveyance, which condition occurs by reason of the dissolution, in accordance with such condition;
- (5) Transferring, subject to any contractual or legal requirements, its assets as provided in or authorized by its articles of incorporation or bylaws;
- (6) If the corporation is a public benefit or religious corporation, and no provision has been made in its articles or bylaws for distribution of assets on dissolution, transferring, subject to any contractual or legal requirement, its assets to one or more persons described in STCC 15.401(a)(35)(B);
- (7) If the corporation is a mutual benefit corporation and no provision has been made in its articles or bylaws for distribution of assets on dissolution, transferring, subject to any contractual or legal requirements, its assets to its members or, if it has no members, to

those persons whom the corporation holds itself out as benefiting or serving; and

- (8) Doing every other act necessary to liquidate its assets and wind up its affairs.
- (b) Dissolution of a corporation does not:
- (1) Transfer title to the corporation's property;
  - (2) Subject its directors or officers to standards of conduct different from those prescribed herein;
  - (3) Change quorum or voting requirements for its board or members, change provisions for selection, resignation or removal of its directors or officers, or both, or change provisions for amending its 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.

**§ 15.598 KNOWN CLAIMS AGAINST DISSOLVED CORPORATION**

(a) A corporation electing to dispose of known claims pursuant to this section shall notify its known claimants in writing of the dissolution at any time after its effective date. The written notice must:

- (1) Describe information that must be included in a claim;
- (2) Provide a mailing address where a claim may be sent;
- (3) State the deadline, which may not be fewer than 120 days from the effective date of the written notice, by which the dissolved corporation must receive the claim; and
- (4) State that the claim will be barred if not received by the deadline.

- (b) A claim against the dissolved corporation is barred:
  - (1) If a claimant who was given written notice under subsection (a) of this section does not deliver the claim to the dissolved corporation by the deadline; and
  - (2) If a claimant whose claim was rejected by the dissolved corporation does not commence a proceeding to enforce the claim within 90 days from the effective date of the rejection notice.
- (c) 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.

**§ 15.599 UNKNOWN CLAIMS AGAINST DISSOLVED CORPORATION**

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

- (b) The notice must:
  - (1) Be published at least one time in a newspaper of general circulation in Lincoln county;
  - (2) Describe the information that must be included in a claim and provide a mailing address where the claim may be sent; and
  - (3) State that a claim against the corporation will be barred unless a proceeding to enforce the claim is commenced within five years after publication of the notice.

(c) If the dissolved corporation publishes a newspaper notice in accordance with subsection (b) of this section, 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 the publication date of the newspaper notice:

- (1) A claimant who did not receive written notice under STCC 15.598;
- (2) A claimant whose claim was sent in a timely manner to the dissolved corporation but not acted on; or

- (3) A claimant whose claim is contingent or based on an event occurring after the effective date of dissolution.
- (d) A claim may be enforced under this section:
  - (1) Against the dissolved corporation, to the extent of its undistributed assets; or
  - (2) Against any person, other than a creditor of the corporation, to whom the corporation distributed its property in liquidation subject to the following:
    - (A) If the distributee received a pro rata share of a distribution, the distributee's liability will not exceed the same pro rata share of the claim; and
    - (B) The distributee's total liability for all claims under this section may not exceed the total amount of assets distributed to the distributee, less any liability of the corporation paid on behalf of the corporation by that distributee after the date of distribution.

**§ 15.600            GROUNDS FOR ADMINISTRATIVE DISSOLUTION**

- (a) The CTSI Legal Department may commence a proceeding under STCC 15.601 to administratively dissolve a corporation if:
  - (1) The corporation does not pay when due any fees imposed by this chapter;
  - (2) The corporation does not deliver its annual report to the CTSI Legal Department when due;
  - (3) The corporation is without a registered agent or registered office in this state;
  - (4) The corporation does not notify the CTSI Legal Department 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.

**§ 15.601 PROCEDURE FOR AND EFFECT OF ADMINISTRATIVE DISSOLUTION**

(a) If the CTSI Legal Department determines that one or more grounds exist under STCC 15.600 for dissolving a corporation, the CTSI Legal Department shall give the corporation written notice of that determination.

(b) If the corporation does not correct each ground for dissolution or demonstrate to the reasonable satisfaction of the CTSI Legal Department, within 45 days after notice is given that each ground determined by the CTSI Legal Department does not exist, the CTSI Legal Department shall administratively dissolve the corporation, and in the case of a public benefit corporation shall notify the CTSI Legal Department in writing.

(c) A corporation administratively dissolved continues its corporate existence but may not carry on any activities except those necessary to wind up and liquidate its affairs and notify its claimants.

(d) The administrative dissolution of a corporation does not terminate the authority of its registered agent.

**§ 15.602 REINSTATEMENT FOLLOWING ADMINISTRATIVE DISSOLUTION**

(a) A corporation administratively dissolved under STCC 15.601 may apply to the CTSI Legal Department for reinstatement within five years from the date of dissolution. The application must:

- (1) State the name of the corporation and the effective date of its administrative dissolution; and
- (2) State that the ground or grounds for dissolution either did not exist or have been eliminated.

(b) If the CTSI Legal Department determines that the application contains the information required by subsection (a) of this section, that the information is correct, and that the corporation's name satisfies the requirements of STCC 15.440, the CTSI Legal Department shall reinstate the corporation.

(c) When reinstatement is effective, it relates back to and takes effect as of the effective date of the administrative dissolution and the corporation resumes carrying on its activities as if the administrative dissolution had never occurred.

(d) The CTSI Legal Department may waive the requirement under subsection (a) of this section that the corporation apply for reinstatement within five years after the date of dissolution if the corporation requests the waiver and shows good cause for the corporation's failure to apply for reinstatement as provided in subsection (a) of this section.

**§ 15.603 APPEAL FROM DENIAL OF REINSTATEMENT**

(a) If the CTSI Legal Department denies a corporation's application for reinstatement following administrative dissolution, the CTSI Legal Department shall give written notice to the corporation that explains the reason or reasons for denial.

(b) Such denial of reinstatement shall be reviewable pursuant to the Tribal Administrative Procedures ordinance.

**§ 15.604 [RESERVED]**

**§ 15.605 GROUNDS FOR JUDICIAL DISSOLUTION**

(a) The Siletz Tribal Court may dissolve a corporation:

- (1) In a proceeding by the CTSI Legal Department if it is established that:
  - (A) The corporation obtained its articles of incorporation through fraud;
  - (B) The corporation has exceeded or abused the authority conferred upon it by law;
  - (C) The corporation has fraudulently solicited money or has fraudulently used the money solicited;
  - (D) The corporation is a public benefit corporation and the corporate assets are being misapplied or wasted; or
  - (E) The corporation is a public benefit corporation and is no longer able to carry out its purposes;
- (2) Except as provided in the articles or bylaws of a religious corporation, in a proceeding by 50 members or members holding five percent or more of the voting power, whichever is less, or by a

director or any person specified in the articles, if it is established that:

- (A) The directors are deadlocked in the management of the corporate affairs, and the members, if any, are unable to break the deadlock;
  - (B) 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;
  - (C) 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 expired;
  - (D) The corporate assets are being misapplied or wasted; or
  - (E) The corporation is a public benefit or religious corporation and is no longer able to carry out its purposes;
- (3) In a proceeding by a creditor if it is established that:
- (A) The creditor's claim has been reduced to judgment, the execution on the judgment has been returned unsatisfied and the corporation is insolvent; or
  - (B) The corporation has admitted in writing that the creditor's claim is due and owing and the corporation is insolvent; or
  - (C) In a proceeding by the corporation to have its voluntary dissolution continued under court supervision.
- (b) Prior to dissolving a corporation, the court shall consider whether:
- (1) There are reasonable alternatives to dissolution;
  - (2) Dissolution is in the public interest, if the corporation is a public benefit corporation; or
  - (3) Dissolution is the best way of protecting the interests of members, if the corporation is a mutual benefit corporation.

**§ 15.606 [RESERVED]**

**§ 15.607 PROCEDURE FOR JUDICIAL DISSOLUTION**

(a) It is not necessary to make directors or members parties to a proceeding to dissolve a corporation unless relief is sought against them individually.

(b) The court in a proceeding brought to dissolve a corporation may issue injunctions, appoint a receiver or custodian pendente lite 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.

(c) A person other than the CTSI Legal Department who brings an involuntary dissolution proceeding for a public benefit or religious corporation shall forthwith give written notice of the proceeding to the CTSI Legal Department who may intervene.

**§ 15.608 RECEIVERSHIP OR CUSTODIANSHIP**

(a) A court in a judicial proceeding brought to dissolve a public benefit or mutual benefit corporation may appoint one or more receivers to wind up and liquidate the affairs of the corporation, 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 its property wherever located.

(b) The court may appoint an individual or a domestic or foreign business or nonprofit corporation, authorized to transact business in this state, 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 powers and duties of the receiver or custodian in its appointing order, which may be amended periodically. Among other powers:

(1) The receiver:

(A) May dispose of all or any part of the assets of the corporation wherever located, at a public or private sale, if authorized by the court, provided, however, that the receiver's power to dispose of the assets of the corporation is subject to any trust and other restrictions that would be applicable to the corporation; and

(B) May sue and defend in the receiver's own name as receiver of the corporation in all courts of this state.

(2) The custodian may exercise all of the powers of the corporation, through or in place of its board of directors or officers, to the extent necessary to manage the affairs of the corporation in the best interests of its members and creditors.

(d) The court during a receivership may redesignate the receiver a custodian, and during a custodianship may redesignate the custodian a receiver, if doing so is in the best interest of the corporation, its members and creditors.

(e) The court periodically during the receivership or custodianship may order compensation paid and expense disbursements or reimbursements made to the receiver or custodian and the receiver's or custodian's attorney from the assets of the corporation or proceeds from the sale of the assets.

**§ 15.609 JUDGMENT OF DISSOLUTION**

(a) If after a hearing the court determines that one or more grounds for judicial dissolution described in STCC 15.605 exist, it may enter a judgment dissolving the corporation and specifying the effective date of the dissolution. The clerk of the court shall deliver a certified copy of the judgment to the CTSI Legal Department for filing.

(b) After entering the judgment of dissolution, the court shall direct the winding up and liquidation of the corporation's affairs in accordance with STCC 15.596 and the notification of claimants in accordance with STCC 15.598 - 599.

**§ 15.610 [RESERVED]**

**§ 15.611 [RESERVED]**

**§ 15.612 [RESERVED]**

**§ 15.613 [RESERVED]**

**§ 15.614 [RESERVED]**

**§ 15.615 DEPOSIT OF ASSETS WITH CTSI ACCOUNTING**

Assets of a dissolved corporation which 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 unless they are subject to known trust restrictions and deposited with CTSI Accounting for safekeeping. However, in the discretion of the CTSI CEO, property of unusual historic or aesthetic interest may be received and held in kind. The receiver or other liquidating agent shall prepare in duplicate and under oath a statement containing the names and last-known addresses of the persons entitled to such funds. One of the statements shall be filed with the CTSI Accounting Department and another shall be delivered to the CTSI Legal Department for filing. The funds shall then escheat to and become the property of CTSI and shall become part of the CTSI General Fund. The owner, heirs or personal representatives of the owner, may reclaim any funds so deposited, if contact is made by with the CEO within two years, and if, in the CEO's opinion the claim is proven, with a right to appeal an adverse administrative decision pursuant to the Tribal Administrative Procedures Ordinance and Siletz Tribal Court Rules of Procedure.

§ 15.616 [RESERVED]

§ 15.617 [RESERVED]

§ 15.618 [RESERVED]

§ 15.619 [RESERVED]

## RECORDS AND REPORTS

### § 15.620 CORPORATE RECORDS

(a) A corporation shall keep as permanent records minutes of all meetings of its members and board of directors, a record of all corporate action taken by the members or directors without a meeting, and a record of all actions taken by committees of the board of directors in place of the board of directors on behalf of the corporation.

(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 vote.

(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 for inspection:

- (1) Articles or restated articles of incorporation and all amendments to them currently in effect;
- (2) Bylaws or restated bylaws and all amendments to them currently in effect;
- (3) Resolutions adopted by its board of directors relating to the characteristics, qualifications, rights, limitations and obligations of members of 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) Written communications required by this chapter and those regarding general membership matters made to members within the past three years;
- (6) A list of the names and business or home addresses of its current directors and officers;
- (7) The last three annual financial statements, if any. The statements may be consolidated or combined statements of the corporation and one or more of its subsidiaries or affiliates, as appropriate, including a balance sheet and statement of operations, if any, 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;
- (8) The last three accountant's reports if annual financial statements are reported upon by a public accountant; and
- (9) The most recent annual report delivered to the CTSI Legal Department.

**§ 15.621 INSPECTION OF RECORDS BY MEMBERS**

(a) Subject to subsection (e) of this section and STCC 15.622 (c), a member is entitled to inspect and copy, at a reasonable time and location specified by the corporation, any of the records of the corporation described in STCC 15.620 (e) if the member gives the corporation written notice of the member's demand at least five business days before the date on which the member wishes to inspect and copy.

(b) Subject to subsection (e) of this section, a member is entitled to inspect and copy, at a reasonable time and reasonable location specified by the corporation, any of the following records of the corporation if the member meets the requirements of subsection (c) of this section and gives the corporation written notice of the member's demand at least five business days before the date on which the member wishes to inspect and copy:

- (1) Excerpts from any records required to be maintained under STCC 15.620 (a), to the extent not subject to inspection under subsection (a) of this section;
- (2) Accounting records of the corporation; and
- (3) Subject to STCC 15.624, the membership list.

(c) A member may inspect and copy the records identified in subsection (b) of this section only if:

- (1) The member's demand is made in good faith and for a proper purpose;
- (2) The member describes with reasonable particularity the purpose and the records the member desires to inspect; and
- (3) The records are directly connected with this purpose.

(d) This section does not affect:

- (1) The right of a member to inspect records under STCC 15.478 or, if the member is in litigation with the corporation, to the same extent as any other litigant; or
- (2) The power of the court, independently of this chapter, to compel the production of corporate records for examination.

(e) The articles or bylaws of a religious corporation may limit or abolish the right of a member under this section to inspect and copy any corporate record.

(f) The articles of a public benefit corporation organized primarily for political or social action, including but not limited to political or social advocacy, education, litigation or a combination thereof, may limit or abolish:

- (1) The right of a member to obtain from the corporation information as to the identity of contributors to the corporation; and
- (2) The right of a member or the member's agent or attorney to inspect or copy the membership list if the corporation provides a reasonable means to mail communications to other members through the corporation at the expense of the member making the request.

**§ 15.622 SCOPE OF INSPECTION RIGHT**

(a) A member's agent or attorney has the same inspection and copying rights as the member the agent or attorney represents.

(b) The right to copy records includes, if reasonable, the right to receive copies made by photographic, xerographic or other means.

(c) The corporation may impose a reasonable charge, covering the costs of labor and material, for copies of any documents provided to the member. The charge may not exceed the estimated cost of production or reproduction of the records.

(d) The corporation may comply with a member's demand to inspect the record of members under STCC 15.621 (b)(3) by providing the member with a list of its members that was compiled no earlier than the date of the member's demand.

**§ 15.623 COURT-ORDERED INSPECTION; ATTORNEY FEES**

(a) If a corporation does not allow a member who complies with STCC 15.621 (a) to inspect and copy any records required by STCC 15.774 (a) to be available for inspection, the Siletz Tribal Court may summarily order inspection and copying of the records demanded at the corporation's expense upon application of the member.

(b) If a corporation does not within a reasonable time allow a member to inspect and copy any other record, the member who complies with STCC 15.621 (b) and (c) may apply to the Siletz Tribal court for an order to permit inspection and copying of the records demanded.

(c) The court may award reasonable attorney fees to the prevailing party in an action under this section.

(d) If the court orders inspection and copying of the records demanded, it may impose reasonable restrictions on the use or distribution of the records by the demanding member.

(e) No order shall be issued under this section without notice to the corporation at least five days in advance of the time specified for the hearing unless a different period is fixed by the court. The member's request shall be set for hearing at the earliest possible time.

**§ 15.624      LIMITATIONS ON USE OF MEMBERSHIP LIST**

(a) Without consent of the board, a membership list or any part of a membership list may not be obtained or used by any person for any purpose unrelated to a member's interest as a member. Without limiting the generality of this section, without the consent of the board, a membership list or any part thereof may not be:

- (1) Used to solicit money or property unless such money or property will be used solely to solicit the votes of the members in an election to be held by the corporation;
- (2) Used for any commercial purpose; or
- (3) Sold or purchased by any person.

**§ 15.625      REPORT TO MEMBERS AND OTHER PERSONS OF INDEMNIFICATION**

(a) If a corporation indemnifies or advances expenses to a director under STCC 15.391 to 15.401 in connection with a proceeding by or in the right of the corporation, the corporation shall report the indemnification or advance in writing to:

- (1) The members with or before the notice of the next meeting of members; and
- (2) Any person having the right to designate or appoint the director no later than 90 days after the first indemnification or advance.

**§ 15.626      ANNUAL REPORT**

(a) Each domestic corporation, and each foreign corporation authorized to transact business in this state, shall by its anniversary deliver to the CTSI Legal Department for filing an annual report that sets forth:

- (1) The name of the corporation and the state or country under whose law it is incorporated;

- (2) The street address of the registered office and the name of the registered agent at that office in this state;
- (3) If the registered agent is changed, that the new registered agent has consented to the appointment;
- (4) The address including street and number and mailing address if different from its principal office;
- (5) The names and addresses of the president and secretary of the corporation;
- (6) A brief description of the nature of the activities of the corporation;
- (7) Whether or not it has members;
- (8) If it is a domestic corporation, whether it is a public benefit, mutual benefit or religious corporation;
- (9) If it is a foreign corporation, whether it would be public benefit, mutual benefit or religious corporation had it been incorporated in this state; and
- (10) Additional identifying information that the CTSI Legal Department may require by rule.

(b) The information contained on the annual report shall be current as of 30 days before the anniversary of the corporation.

(c) The CTSI Legal Department shall mail the annual report form to any address shown for the corporation in the current records of the office. The failure of the corporation to receive the annual report form from the CTSI Legal Department shall not relieve the corporation of its duty to deliver an annual report to the office as required by this section.

(d) If an annual report does not contain the information required by this section, the CTSI Legal Department shall promptly notify the reporting domestic or foreign corporation in writing and return the report to it for correction. The domestic or foreign corporation must correct the error within 45 days after the CTSI Legal Department gives such notice.

(e) A domestic or foreign corporation may deliver to the CTSI Legal Department for filing an amendment to the annual report if a change in the information set forth in the annual report occurs after the report is delivered to the CTSI Legal Department for filing and before the next anniversary. This subsection applies only to a change that is not required to be made by an amendment to the articles of incorporation. The amendment to the annual report must set forth:

(1) The name of the corporation as shown on the records of the CTSI Legal Department; and

(2) The information as changed.

(f) The CTSI Legal Department may not charge a nonprofit corporation a fee to file an annual report under if the nonprofit corporation provides evidence to the CTSI Legal Department that the purpose of the nonprofit corporation as set forth in the articles of incorporation is to maintain a historic cemetery.

#### **§ 15.627 RESERVATION OF POWER TO AMEND OR REPEAL**

All or part of this chapter may be amended, repealed or modified at any time and all domestic and foreign corporations subject to this chapter are governed by the amendment, repeal or modification.

#### **§ 15.628 SEVERABILITY**

If any provision of this chapter 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 chapter that can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

#### **§ 15.629 [RESERVED]**

#### **PENALTY**

#### **§ 15.630 PENALTY FOR SIGNING FALSE DOCUMENT**

(a) A person commits the civil offense of falsely signing a document for filing if the person signs a document knowing it is false in any material respect with intent that the document be delivered to the CTSI Legal Department for filing.

(b) Violation of subsection (a) of this section is a civil offense subject to the Siletz Tribal Civil Offenses Ordinance §12.103(a).