

SISSETON-WAHPETON OYATE OF THE LAKE TRAVERSE RESERVATION

**CHAPTER 80C
NONPROFIT CORPORATIONS ORDINANCE**

PART 1 GENERAL.....	1
PART 2 APPLICATION	2
PART 3 INCORPORATION.....	3
PART 4 ARTICLES OF INCORPORATION	5
PART 5 POWERS	8
PART 6 ORGANIZATION.....	12
PART 7 BOARD OF DIRECTORS.....	12
PART 8 MEMBERS.....	17
PART 9 OFFICERS.....	19
PART 10 INDEMNIFICATION	21
PART 11 DISSOLUTION.....	23
PART 12 EXTENSION.....	30
PART 13 RECORDS AND REPORTING.....	31
PART 14 FORMS AND FILING.....	34
PART 15 FOREIGN NONPROFIT CORPORATIONS.....	37
PART 16 EFFECTIVE DATE AND AUTHORITY.....	40
FEES ADDENDUM.....	42

SISSETON-WAHPETON OYATE

CHAPTER 80C NONPROFIT CORPORATIONS ORDINANCE

PART 1 GENERAL

80C-1-1. 80C-1-1. Citation.

This Chapter shall be known and may be cited as the Sisseton-Wahpeton Oyate Nonprofit Corporations Ordinance. This Ordinance supersedes Chapter 9, the Sisseton-Wahpeton Sioux Tribe Nonprofit Corporation Ordinance enacted May 4, 1982.

80C-1-2. 80C-1-2. Definitions.

For the purpose of this Chapter, unless the language or context clearly indicates that a different meaning is intended, the words, terms and phrases (and their plurals) defined in this Section have the meanings given to them.

- (A) **“Articles of Incorporation”** means the original and restated Articles of Incorporation or Articles of Consolidation and all amendments thereto including Articles of Merger.
- (B) **“Board of Directors”** means the group of persons vested with the management of the affairs of a nonprofit corporation irrespective of the name by which such group is designated.
- (C) **“By-Laws”** means the Code or Codes of Rules adopted for the regulation or management of the affairs of a nonprofit corporation irrespective of the names or names by which such rules are designated.
- (D) **“Foreign Nonprofit Corporation”** means a nonprofit corporation organized not for profit that is incorporated under laws other than the laws of the Tribe.
- (E) **“Insolvent”** means that a nonprofit corporation is unable to pay its debts as they become due in the usual course of its affairs.
- (F) **“Member”** means one having membership rights in a nonprofit corporation in accordance with the provisions of its Articles of Incorporation or By-Laws.
- (G) **“Nonprofit Corporation”** means a corporation, other than a foreign nonprofit corporation, chartered not for profit under and subject to the provisions of this Ordinance.
- (H) **“Person”** means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental

subdivision, agency, or instrumentality, public corporation, or any other legal or commercial entity.

- (I) **“Reservation; Tribal Lands”** means all lands under the jurisdiction of the Tribe pursuant to the Revised Constitution and Bylaws of the Sisseton-Wahpeton Oyate of the Lake Traverse Reservation (the “Tribal Constitution”), individual tribal member allotments, and all lands held in trust by the United States of America for the benefit of the Tribe or its members.
- (J) **“Tribal Court”** means, except where otherwise specified, the Sisseton Wahpeton Oyate Tribal Court.
- (K) **“Tribal Vice Chairman”** means the Tribal Vice Chairman of the Tribal Council as established by Article III, Section 1 of the Tribal Constitution, and Article I, Section 3(f) of the By-Laws. The Tribal Vice Chairman may delegate any responsibilities and/or duties designated under this Ordinance to an officer of the Tribe any other tribal office as determined by the Tribal Vice Chairman.
- (L) **“Tribe”** means the Sisseton Wahpeton Oyate including any of its political subdivisions, or any of its departments, agencies, instrumentalities, governmental entities or commercial entities.

PART 2 APPLICATION

80C-2-1. Reservation of Right.

The Tribe reserves the right to amend or repeal the provisions of this Chapter. A nonprofit corporation incorporated under or governed by this Chapter is subject to this reserved right.

80C-2-2. Applicability.

The provisions of this Chapter shall apply to all nonprofit corporations organized hereunder or which elect to accept the provisions of this Chapter.

80C-2-3. Sovereign Immunity of the Tribe Not Waived.

By the adoption of this Chapter, the Tribe does not waive its sovereign immunity or consent to suit in any court, and neither the adoption of this Chapter, nor the incorporation of any nonprofit corporation hereunder, shall be construed to be a waiver of the sovereign immunity of the Tribe or a consent to suit against the Tribe in any such court.

PART 3 INCORPORATION

80C-3-1. Purpose.

The purpose of this Chapter is to develop a nonprofit corporations code for the Sisseton Wahpeton Oyate and incorporate nonprofit corporations for the purpose of performing charitable functions and enabling such nonprofit corporations to achieve tax-exempt status pursuant to the Internal Revenue Code, 26 U.S.C. § 501(c).

80C-3-2. Incorporators.

One or more enrolled members of the Tribe of twenty-one (21) years of age or more may act as incorporators of a nonprofit corporation by signing, certifying, and delivering in duplicate to the Tribal Vice Chairman Articles of Incorporation for the nonprofit corporation.

80C-3-3. Nonprofit Corporate Name.

(A) **Requirements; Prohibitions.** The nonprofit corporate name:

- (1) Shall be in the Dakota or English language or in any other language expressed in English letters or characters;
- (2) Shall contain the word "corporation," "incorporated," or "limited," or shall contain an abbreviation of one (1) or more of these words, or the word "company" or the abbreviation "Co." if that word or abbreviation is not immediately preceded by the word "and" or the character "&"
- (3) Shall not contain a word or phrase that indicates or implies that it is incorporated for a purpose other than a legal business purpose;
- (4) Shall be distinguishable upon the records in the office of the Tribal Vice Chairman from the name of a tribal corporation or other legal entity, whether tribal or foreign, authorized or registered to do business on the Reservation

(B) **Names Continued.** Section 80C-3-3 (A), paragraph (4) does not affect the right of a tribal corporation, whether for profit or nonprofit, existing on the effective date of this Ordinance, or a foreign corporation authorized to do business on the Reservation on that date, to continue the use of its name.

(C) **Determination.** The Tribal Vice Chairman shall determine whether a name is distinguishable from another name for purposes of this Section and Section 80C-3-4.

(D) **Injunction.** The use of a name by a nonprofit corporation in violation of this Section does not affect or vitiate its corporate existence. The Tribal Court may, upon application

of the Tribe or of a person interested or affected, enjoin the nonprofit corporation from doing business under a name assumed in violation of this Section, even though its Articles may have been filed with the Tribal Vice Chairman and a certificate of incorporation issued.

80C-3-4. Reserved Name.

(A) **Who May Reserve.** The exclusive right to the use of a nonprofit corporate name otherwise permitted by Section 80C-3-3 may be reserved by:

- (1) A person doing business on the Reservation under that name;
- (2) A person intending to incorporate under this Ordinance;
- (3) A tribal nonprofit corporation intending to change its name;
- (4) A foreign nonprofit corporation authorized to transact business on the Reservation and intending to change its name;

(B) **Method of Reservation.** The reservation shall be made by filing a request with the Tribal Vice Chairman that the name be reserved. If the name is available for use by the applicant, the Tribal Vice Chairman shall reserve the name for the exclusive use of the applicant for a period of twelve (12) months. The reservation may be renewed for successive twelve (12) month periods.

(C) **Transfer of Reservation.** The right to the exclusive use of a corporate name reserved pursuant to this Section may be transferred to another person by or on behalf of the applicant for whom the name was reserved by filing with the Tribal Vice Chairman a notice of the transfer and specifying the name and address of the transferee.

80C-3-5. Registered Office; Registered Agent.

(A) **Registered Office.** Every nonprofit corporation shall have and maintain on the Reservation a registered office, which may, but need not be, the same as its place of business.

- (1) **Registered Reservation Agent.** A nonprofit corporation shall designate in its Articles a registered agent. Every registered agent shall, if an entity, maintain a business office on the Reservation which is generally open, or if an individual, be generally present at a designated location on the Reservation, at sufficiently frequent times to accept service of process and otherwise perform the functions of a registered agent.

- (B) **Registered Office and Agent Listing.** The Tribal Vice Chairman is authorized to make a list of registered offices and agents available to the public

80C-3-6. Change of Registered Office or Registered Agent; Change of Name of Registered Agent.

- (A) **Statement.** A nonprofit corporation may change its registered office, designate or change its registered agent, or state a change in the name of its registered agent, by filing with the Tribal Vice Chairman a statement containing:
- (1) The name of the nonprofit corporation;
 - (2) The new address of its registered office;
 - (3) The name of its new registered agent;
 - (4) A statement that the change of registered office or registered agent was authorized by resolution approved by the affirmative vote of a majority of the Directors present.
- (B) **Resignation of Agent.** A registered agent of a nonprofit corporation may resign by filing with the Tribal Vice Chairman a signed written notice of resignation, including a statement that a signed copy of the notice has been given to the nonprofit corporation at its principal executive office or to a legal representative of the nonprofit corporation. The appointment of the agent terminates thirty (30) days after the notice is filed with the Tribal Vice Chairman.

**PART 4
ARTICLES OF INCORPORATION**

80C-4-1. Articles of Incorporation.

- (A) Each nonprofit corporation authorized under this Chapter shall be established by Articles of Incorporation signed and acknowledged by each of the incorporators and shall be approved by resolution of the Board of Directors of the nonprofit corporation.
- (B) **Contents.** The Articles of Incorporation of the nonprofit corporation organized under this Chapter shall provide:
- (1) The name of the nonprofit corporation;

- (2) The purpose of the nonprofit corporation or purposes for which the nonprofit corporation is organized;
 - (3) That the nonprofit corporation does not afford pecuniary gain, incidentally or otherwise, to its members;
 - (4) The period of the duration of corporate existence, which may be perpetual;
 - (5) The location of the nonprofit corporation's principal office, which shall be located within the Reservation, and its registered office(s);
 - (6) The name and address of its registered agent;
 - (7) The name and address of each incorporator;
 - (8) The number of Directors constituting the first Board of Directors, the name, address, and tenure in office of each Director;
 - (9) The authority of the Board of Directors to appoint and remove such Directors and to fill Director vacancies; and
 - (10) Any other provision, consistent with Sisseton-Wahpeton Oyate law for regulating the business of the nonprofit corporation or the conduct of its corporate affairs.
- (C) **Filing the Articles of Incorporation.** The Articles of Incorporation shall be filed in duplicate originals with the Tribal Vice Chairman. If the Articles of Incorporation are adequate under this Chapter and when all the fees have been paid as described in this Chapter, then the Tribal Vice Chairman shall:
- (1) Endorse on each of such originals the word "Filed," and the effective date of the filing;
 - (2) Retain and file one of the originals;
 - (3) Assign each filed Articles of Incorporation an identification number; and
 - (4) Issue a Certificate of Incorporation to which the other original Articles of Incorporation shall be affixed and return to the incorporators or their representative.
- (D) **Effect of Issuance of Certificate of Incorporation.** Upon the filing of the Articles of Incorporation, the corporate existence shall begin. The 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 nonprofit corporation has been

incorporated under this Chapter. The Tribe retains the right to cancel or revoke the certificate of incorporation or for involuntary dissolution of the nonprofit corporation.

80C-4-2. Right to Amend Articles of Incorporation.

The Articles of Incorporation may be amended at any time to include, omit, or modify any provision that is required or permitted to appear in the Articles of Incorporation

80C-4-3. Procedure to Amend Articles of Incorporation.

Amendments to the Articles of Incorporation shall be made in the following manner:

- (A) Amended and restated Articles of Incorporation are not required to include the name and address of each incorporator;
- (B) Where there are members having voting rights, the Board of Directors shall adopt a resolution setting forth the proposed amendment and direct that it is to be submitted to a vote at a meeting of members having voting rights;
- (C) Where there are no members having voting rights, an amendment shall be adopted at a meeting of the Board of Directors upon receiving the vote of a majority of the Directors in office; and
- (D) Any number of amendments may be submitted and voted upon at any one meeting.

80C-4-4. Articles of Amendment.

- (A) Articles of Amendment shall be executed in duplicate and approved by the Board of Directors and shall include:
 - (1) The name of the nonprofit corporation;
 - (2) The amendment adopted;
 - (3) A statement indicating the date of the voting meeting; that a quorum was present, and the results of any vote, whether by members or the Board of Directors; and
 - (4) A statement that the amendment has been adopted pursuant to this Ordinance.
- (B) **Filing Articles of Amendment.** Duplicate originals of the Articles of Amendment shall be delivered to the Tribal Vice Chairman. If the Tribal Vice Chairman finds the Articles of Amendment to conform to law, upon the payment of the required fee, if any, the Tribal Vice Chairman shall:
 - (1) Stamp, endorse, and file each duplicate;

- (2) Retain and file one duplicate with their office; and
 - (3) Issue a Certificate of Amendment attached to the second duplicate original to the nonprofit corporation or its representative.
- (C) **Certificate of Amendment.** The Articles of Incorporation shall be deemed effective upon issuance of the Certificate of Incorporation, and shall be deemed amended upon issuance of a Certificate of Amendment by the Tribal Vice Chairman. No amendment shall affect any existing or pending cause of action in favor of or against such nonprofit corporation.

80C-4-5. Effect of Amendment.

- (A) **Effect on Cause of Action.** An amendment does not affect an existing cause of action in favor of or against the nonprofit corporation, nor a pending suit to which the nonprofit corporation is a party, nor the existing rights of persons other than members.
- (B) **Effect of Change of Name.** If the nonprofit corporate name is changed by the amendment, a suit brought by or against the nonprofit corporation under its former name does not abate for that reason.
- (C) **Effect of Amendments Restating Articles.** When effective under Section 80C-4-4(C), an amendment restating the Articles in their entirety supersedes the original Articles and all amendments to the original Articles.

80C-4-6. Revocation.

The Tribal Council retains the authority to revoke any Articles of Incorporation issued pursuant to this Chapter or revoke the right to conduct business within the Reservation. Revocation shall only be for cause, which shall require a finding by the Tribal Council that the nonprofit corporation has engaged in conduct, operations or activities that violate this Ordinance, the Articles of Incorporation of the nonprofit corporation, the law or regulations relevant to the 501(c) status, or that involve financial impropriety by or on behalf of the nonprofit corporation. Revocation of the Articles of Incorporation of a nonprofit corporation shall be by resolution and approved by an affirmative vote of at least two-thirds (2/3) of the Tribal Council.

**PART 5
POWERS**

80C-5-1. Nonprofit Corporation Powers.

- (A) **Generally, limitations.** A nonprofit corporation has the powers set forth in this Section, subject to any limitations provided in any other law of the Tribe or in its Articles.
- (B) **Duration.** A nonprofit corporation has perpetual duration, unless otherwise specified in the Articles.

- (C) **Legal Capacity.** A nonprofit corporation may sue and be sued, complain and defend and participate as a party or otherwise in any legal, administrative, or arbitration proceeding, in its corporate name.
- (D) **Property Ownership.** A nonprofit corporation may purchase, lease, or otherwise acquire, own, hold, improve, use, and otherwise deal in and with, real or personal property, or any interest therein, wherever situated.
- (E) **Property Disposition.** A nonprofit corporation may sell, convey, mortgage, create a security interest in, lease, exchange, transfer, or otherwise dispose of all or any part of its real or personal property, or any interest therein, wherever situated.
- (F) **Trading in Securities; Obligations.** A nonprofit corporation may purchase, subscribe for, or otherwise acquire, own, hold, vote, use, employ, sell, exchange, mortgage, lend, create a security interest in, or otherwise dispose of and otherwise use and deal in and with, securities or other interests in, or obligations of, a person or direct or indirect obligations of any tribal or foreign government or instrumentality thereof.
- (G) **Contracts; Mortgages.** A nonprofit corporation may make contracts and incur liabilities, borrow money, issue its securities, and secure any of its obligations by mortgage of or creation of a security interest in all or any of its property, franchises and income.
- (H) **Investment.** A nonprofit corporation may invest and reinvest its funds.
- (I) **Holding property as Security.** A nonprofit corporation may take and hold real and personal property, whether or not a kind sold or otherwise dealt in by the nonprofit corporation, as security for the payment of money loaned, advanced, or invested.
- (J) **Location.** A nonprofit corporation may conduct its business, carry on its operations, have offices, and exercise the powers granted by this Ordinance anywhere in the Lake Traverse Reservation.
- (K) **Donations.** A nonprofit corporation may make donations for the public welfare; for social, community, charitable, religious, educational, scientific, civic, literary, and for similar or related purposes.
- (L) **Pensions; Benefits.** A nonprofit corporation may pay pensions, retirement allowances, and compensation for the benefit of corporate officers, directors, employees, and agents and the families, dependents, and beneficiaries of any of them.
- (M) **Participating in Management.** A nonprofit corporation may participate in any capacity in the promotion, organization, ownership, management, and operation of an organization or in any transaction, undertaking, or arrangement that the participating nonprofit

corporation would have power to conduct by itself, whether or not the participation involves sharing or delegation of control with or to others.

- (N) **Insurance.** A nonprofit corporation may provide for its benefit life insurance and other insurance with respect to the services of any or all of its officers, directors, employees, and agents.
- (O) **Corporate Seal.** A nonprofit corporation may have, alter at pleasure, and use a corporate seal as provided in Section 80C-5-3.
- (P) **By-laws.** A nonprofit corporation may adopt, amend, and repeal By-laws relating to the management of the business or the regulation of the affairs of the nonprofit corporation as provided in Section 80C-6-3.
- (Q) **Committees.** A nonprofit corporation may establish committees of the Board of Directors, elect or appoint persons to the committees, and define their duties as provided in Section 80C-7-10 and fix their compensation.
- (R) **Officers; Employees; Agents.** A nonprofit corporation may elect or appoint officers, and define their duties as provided in Sections 80C-9-1 to 80C-9-8, and appoint other employees, and agents of the nonprofit corporation, and fix their compensation.
- (S) **Securities; Obligations.** A nonprofit corporation may purchase, subscribe for, or otherwise acquire, own, hold, vote, use, employ, sell, exchange, mortgage, lend, create a security interest in, or otherwise dispose of and otherwise use and deal in and with, securities or other interests in, or obligations of, a person or direct or indirect obligations of any tribal or foreign government or instrumentality thereof.
- (T) **Loans; Guarantees; Sureties.** A nonprofit corporation may lend money to, guarantee an obligation of, become a surety for, or otherwise financially assist persons, subject to the limitations of this Chapter and the Articles and by-laws.
- (U) **Assumed Names.** A nonprofit corporation may conduct all or part of its business under one (1) or more assumed names, provided each assumed name is registered with the Tribal Vice Chairman.
- (V) **Other Powers.** A nonprofit corporation may have and exercise all other powers necessary or convenient to affect any or all of the business purposes for which the nonprofit corporation is incorporated.

80C-5-2. Limitations.

A nonprofit corporation:

- (A) Shall not have or issue shares of stock;

- (B) Shall not pay dividends or make any disbursement of income to its members, Directors, or officers;
- (C) Shall not loan or advance money or credit to its officers or Directors;
- (D) May pay compensation only up to a reasonable amount to its members, Directors, officers, or agents for services rendered; and
- (E) May confer benefits upon its members only in conformity with its purposes.
- (F) **Trust Land.** Any nonprofit corporation which holds an interest in trust land may not encumber that interest without the prior approval of the Tribal Council and the appropriate official of the Bureau of Indian Affairs, if such federal approval is required by federal law
- (G) **Sovereign Immunity of the Tribe.** Consent to suit by a nonprofit corporation shall in no way extend to the Tribe, nor shall consent to suit by a nonprofit corporation in any way be deemed a waiver of any of the rights, privileges, and immunities of the Tribe.
- (H)

80C-5-3. Corporate Seal.

- (A) **Seal Not Required.** A nonprofit corporation may, but need not, have a corporate seal. The use or nonuse of a corporate seal does not affect the validity, recordability, or enforceability of a document or act. If a nonprofit corporation has a corporate seal, the use of the seal by the nonprofit corporation on a document is not necessary.

80C-5-4. Effect of Lack of Power; Ultra Vires.

The doing, continuing, or performing by a nonprofit corporation of an act, or an executed or wholly or partially executory contract, conveyance, or transfer to or by the nonprofit corporation, if otherwise lawful, is not invalid because the nonprofit corporation was without the power to do, continue, or perform the act, contract, conveyance, or transfer, unless the lack of power is established by the Tribal Court:

- (A) In a proceeding by a Member or a Director against the nonprofit corporation to enjoin the doing, continuing, or performing of any act, contract conveyance, or transfer. If the unauthorized act, continuation, or performance sought to be enjoined is being, or will be, performed or made pursuant to a contract to which the nonprofit corporation is a party, the Tribal Court may, if just and reasonable in the circumstances, set aside and enjoin the performance of the contract and in so doing may allow to the nonprofit corporation or to the other parties to the contract compensation for the loss or damage sustained as a result of the action of the Tribal Court in setting aside and enjoining the performance of the contract;

- (B) In a proceeding by or in the name of the nonprofit corporation, whether acting directly or through a receiver, trustee, or other legal representative, or through members in a representative or derivative suit, against the incumbent or former Officers or trustees of the nonprofit corporation for exceeding or otherwise violating their authority, or against a person having actual knowledge of the lack of power; or
- (C) In a proceeding by the Tribal Vice Chairman as provided in this Chapter, to dissolve the nonprofit corporation or in a proceeding by the Tribal Vice Chairman to enjoin the nonprofit corporation from the transaction of unauthorized acts.

PART 6 ORGANIZATION

80C-6-1. Role of Incorporators.

If the first Board of Directors is not named in the Articles of Incorporation, the incorporators may elect the first Board of Directors or may act as the first Board of Directors with all of the powers, rights, duties, and liabilities of Directors, until Directors are elected.

80C-6-2. Organizational Meeting.

After commencement of corporate existence, the first meeting of the Board of Directors shall be held at the call of the incorporators or the Directors, after notice, for the purpose of adopting the initial By-Laws, electing officers, performing other acts in the internal organization of the nonprofit corporation, and for such other purposes as shall be stated in the notice of the meeting. Such meeting shall be held within thirty (30) days after the issuance of a Certificate of Incorporation by the Tribal Vice Chairman.

80C-6-3. By-Laws.

A nonprofit corporation may, but need not, have By-Laws. By-Laws may contain any provision relating to the management of the business or the regulation of the affairs of the nonprofit corporation not inconsistent with law or the Articles of Incorporation. The initial By-Laws of a nonprofit corporation shall be adopted by its Board of Directors. The power to alter, amend, or repeal the By-Laws or adopt new By-Laws shall be vested in the Board of Directors unless otherwise provided in the Articles of Incorporation or the By-Laws. The initially adopted By-Laws shall remain effective until legally amended or repealed.

PART 7 BOARD OF DIRECTORS

80C-7-1. Board of Directors.

The affairs of a nonprofit corporation shall be managed by a Board of Directors. Directors need not be residents of the Reservation or members of the nonprofit corporation

unless the Articles of Incorporation or the By-Laws so require. The Articles of Incorporation or the By-Laws may prescribe other qualifications for Directors.

80C-7-2. Number, Election, Classification, and Removal of Directors.

- (A) The number of Directors of a nonprofit corporation shall be not less than three (3). The number of Directors may be increased or decreased from time to time by amendment to the By-Laws or the Articles of Incorporation. In the absence of a By-Law fixing the number of Directors, the number shall be the same as that stated in the Articles of Incorporation.
- (B) The first Board of Directors shall hold office until the first annual election of Directors or for such period as may be specified in the Articles of Incorporation or the By-Laws. Thereafter, Directors shall be elected or appointed in the manner and for the terms provided in the Articles of Incorporation or the By-Laws. In the absence of a provision fixing the term of office, the term of office of a Director shall be one (1) year.
- (C) Directors may be divided into classes; the terms of office of the several classes need not be uniform. Each Director shall hold office for the term for which he is elected or appointed until his successor has been elected or appointed.
- (D) A Director may resign at any time by giving written notice to the nonprofit corporation. The resignation is effective without acceptance when the notice is given to the nonprofit corporation, unless a later effective time is specified in the notice.
- (E) A Director may be removed at any time, with or without cause, pursuant to any procedure provided for in the Articles of Incorporation or the By-Laws, and if no procedure is provided, a Director may be removed, with or without cause, at any meeting given proper notice, where a quorum is present, and upon a simple affirmative majority vote.

80C-7-3. Vacancies.

Any vacancy occurring in the Board of Directors and any directorship to be filled by reason of an increase in the number of Directors may be filled by the affirmative vote of a majority of the then members of the Board of Directors, though less than a quorum of the Board of Directors, unless the Articles of Incorporation or the By-Laws provide for some other manner, in which case such provision shall control. A Director elected or appointed to fill a vacancy shall be elected or appointed for the unexpired term of his predecessor in office.

80C-7-4. Quorum of Directors.

Unless otherwise provided in the Articles of Incorporation, or the By-Laws, a majority of the number of Directors fixed by the By-Laws or the Articles of Incorporation shall constitute a quorum for the transaction of business by the Board of Directors. In the absence of a quorum, a majority of the Directors present may adjourn a meeting from time to time until a quorum is present. If a quorum is present when a duly called or held meeting is convened, the Directors present may continue to transact business until adjournment, even though the withdrawal of a

number of Directors originally present leaves less than the proportion or number otherwise required for a quorum

80C-7-5. Directors' Meetings.

- (A) **Time, Place.** Meetings of the Board of Directors, regular or special, may be held from time to time and at such place not inconsistent with the Articles of Incorporation or By-Laws.
- (B) **Notice for Meetings of Directors.** In the absence of a provision in the Articles of Incorporation or By-Laws specifying a different period of notice, written or printed notice stating the place, day, and hour of the meeting, and, in case of a special meeting, the purpose for which the meeting is called, shall be delivered not less than five (5) or more than fifty (50) days before the date of the meeting, either personally or by U.S. mail, or email to each Director 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 Director at his address as it appears on the records of the nonprofit corporation, with postage thereon prepaid.
- (C) Whenever, with respect to any action to be taken by the Board of Directors of a nonprofit corporation, the Articles of Incorporation require the vote or concurrence of a greater proportion of the members or Directors than is required by this Chapter, the provisions of the Articles of Incorporation shall control.

80C-7-6. Director Voting.

Director voting rights and procedures shall be determined by the Articles of Incorporation.

80C-7-7. Absent Directors.

If the Articles or By-laws so provide, a Director may give advance written consent or opposition to a proposal to be acted on a Board of Directors meeting. If the Director is not present at the meeting, consent or opposition to a proposal does not constitute presence for purposes of determining the existence of a quorum. But consent or opposition shall be counted as a vote in favor of or against the proposal and shall be entered in the minutes or other record of action at the meeting, if the proposal acted on at the meeting is substantially the same or has substantially the same effect as the proposal to which the Director has consented or objected.

80C-7-8. Waiver of Notice.

Whenever any notice is required to be given to any Director of a nonprofit corporation under the provisions of this Chapter, under the provisions of the Articles of Incorporation or By-Laws, a written waiver signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be equivalent to the giving of such notice. Presence at a meeting of the Board of Directors without objection also waives notice.

80C-7-9. Action by Directors without a Meeting.

- (A) **Method.** Unless otherwise provided for in the Articles of Incorporation or By-laws, an action required or permitted to be taken at a Board of Directors meeting may be taken by written action signed by all of the Directors. Such consent shall have the same effect as a unanimous vote.
- (B) **Effective time.** The written action is effective when signed by the all of Directors, unless a different effective time is provided in the written action.

80C-7-10. Committees.

- (A) **Generally.** Unless otherwise provided in the Articles of Incorporation or By-laws, a resolution approved by the affirmative vote of a majority of the Board of Directors may establish committees.
- (B) **Membership.** Committee members shall be natural persons. Unless the Articles of Incorporation or By-laws provide for a different membership or manner of appointment, a committee shall consist of one (1) or more persons, who need not be Directors, appointed by affirmative vote of a majority of the Directors present.
- (C) **Minutes.** Minutes, if any, of committee meetings shall be made available upon request to members of the committee and to any Director.
- (D) **Standard of Conduct.** The establishment of, delegation of authority to, and action by a committee does not alone constitute compliance by a Director with the standard of conduct set forth in Section 80C-7-11.
- (E) **Committee Members Deemed Directors.** Committee members are deemed to be Directors for purposes of Sections 80C-7-11 and 80C-7-12.

80C-7-11. Standard of Conduct.

- (A) **Standard; Liability.** A Director shall discharge the duties of the position of Director in good faith, in a manner the Director reasonably believes to be in the best interests of the nonprofit corporation, and with the care an ordinarily prudent person in a like position would exercise under similar circumstances. A person who so performs those duties is not liable by reason of being or having been a Director of the nonprofit corporation.
- (B) **Reliance.** A Director is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, in each case prepared or presented by:
 - (1) One (1) or more Officers or employees of the nonprofit 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 that the Director reasonably believes are within the person's professional or expert competence; or
 - (3) A committee of the Board of Directors upon which the Director does not serve, duly established in accordance with Section 80C-7-10, as to matters within its designated authority, if the Director reasonably believes the committee to merit confidence.
- (C) **Unwarranted Reliance.** Section 80C-7-11 (B)(1) does not apply to a Director who has knowledge concerning the matter in question that makes the reliance otherwise permitted by paragraph (1) unwarranted.
- (D) **Presumption of Assent; Dissent.** A Director who is present at a meeting of the Board of Directors when an action is approved by the affirmative vote of a majority of the Directors present is presumed to have assented to the action approved, unless the Director:
- (1) Objects at the beginning of the meeting to the transaction of business because the meeting is not lawfully called or convened and does not participate thereafter in the meeting, in which case the Director shall not be considered to be present at the meeting for any purpose of this Code;
 - (2) Votes against the action at the meeting; or
 - (3) Is prohibited by Section 80C-7-12 from voting on the action.
- (E) **Limitation of Liability.** A Director's personal liability to the nonprofit corporation monetary damages for breach of fiduciary duty as a Director may be limited in the Articles of Incorporation. The Articles of Incorporation shall not eliminate or limit the liability of a Director:
- (1) For any breach of the director's duty of loyalty to the nonprofit corporation;
 - (2) For acts or omissions not in good faith or that involve intentional misconduct or a knowing violation of law;
 - (3) For any transaction from which the Director derived an improper personal benefit; or
 - (4) For any act or omission occurring prior to the date when the Articles of Incorporation limiting liability becomes effective.

80C-7-12. Director Conflicts of Interest.

- (A) **Conflict; Procedure When Conflict Arises.** A contract or other transaction between a nonprofit corporation and one (1) or more of its Directors, or between a nonprofit

corporation and an organization in or of which one (1) or more of its Directors are directors, officers, or legal representatives or have a material financial interest, is not void or voidable, if:

- (1) The contract or transaction was, and the person asserting the validity of the contract or transaction sustains the burden of establishing that the contract or transaction was, fair and reasonable as to the nonprofit corporation at the time it was authorized, approved, or ratified;
- (2) The material facts as to the contract or transaction and as to the Director or Directors' interest are fully disclosed or known to the Board of Directors and the contract or transaction is approved in good faith by 1) the holders of two-thirds of the voting power of those entitled to vote other than the interested Director or Directors, or 2) the unanimous affirmative vote of all outstanding Directors, whether or not entitled to vote;
- (3) The material facts as to the contract or transaction and as to the Director or Directors' interest are fully disclosed or known to the Board of Directors or a committee, and the Board of Directors or committee authorizes, approves, or ratifies the contract or transaction in good faith by a majority of the Board of Directors or committee, but the interested Director or Directors shall not be counted in determining the presence of a quorum and shall not vote; or

(B) Material Financial Interest. For purposes of this Section:

- (1) A Director does not have a material financial interest in a resolution fixing the compensation of the Director or fixing, the compensation of another Director as a Director, officer, employee, or agent of the nonprofit corporation, even though the first Director is also receiving compensation from the nonprofit corporation; and
- (2) A Director has a material financial interest in each organization in which the Director, or the spouse, parents, children and spouses of children, brothers and sisters and spouses of brothers and sisters of the Director, or any combination of them have a material financial interest.

**PART 8
MEMBERS**

80C-8-1. Members.

- (A) Members.** A nonprofit corporation may have members or may have no members. If the nonprofit corporation has members, the manner of election or appointment and the qualifications and rights of the members shall be set forth in the Articles of Incorporation or the By-Laws. If the nonprofit corporation has no members, that fact shall be set forth in the Articles of Incorporation. A nonprofit corporation may issue certificates evidencing membership.

(B) Meetings of Members.

- (1) Meetings of members may be held at such place as provided for in the Articles of Incorporation or By-Laws or, where not inconsistent with the Articles of Incorporation or By-Laws, in the notice of the meeting.
- (2) An annual meeting of the members shall be held at such time as may be provided in the Articles of Incorporation or By-Laws. Failure to hold the annual meeting at the designated time shall not forfeit or dissolve the nonprofit corporation.
- (3) Special meetings of the members may be called by the President, the Secretary, the Board of Directors, or by such other officers or persons or number or proportion of members as may be provided in the Articles of Incorporation or the By-Laws. In the absence of a provision fixing the number or proportion of members entitled to call a meeting, a special meeting of members may be called by members having at least one-twentieth (1/20) of the votes to cast at such meeting.

(C) Notice for Meetings of Members. In the absence of a provision in the Articles of Incorporation or By-Laws specifying a different period of notice, written or printed notice stating the place, day, and hour of the meeting. In case of a special meeting, the purpose for which the meeting is called, shall be delivered not less than ten (10) or more than fifty (50) days before the date of the meeting, either personally or by mail to each Member 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 Member at his address as it appears on the records of the nonprofit corporation, with postage thereon prepaid.

(D) Member Voting.

- (1) Member voting rights and procedures shall be determined by the Articles of Incorporation.
- (2) If a nonprofit corporation has no members or if the members have no right to vote, the Directors shall have the sole voting power and shall have all of the authority and may take any action herein permitted by members.
- (3) Whenever, with respect to any action to be taken by the members of a nonprofit corporation, the Articles of Incorporation require the vote or concurrence of a greater proportion of the members or Directors than is required by this Chapter, the provisions of the Articles of Incorporation shall control.

(1)

80C-8-2. Action by Members without a Meeting.

Any action required or permitted by this Chapter to be taken at a meeting of the members of a nonprofit corporation may be taken without meeting if consent in writing, setting forth the action so taken, is signed by all of the members entitled to vote with respect to the subject matter thereof. Such consent shall have the same force and effect as a unanimous vote.

80C-8-3. Waiver of Notice.

Whenever any notice is required to be given to any Member of a nonprofit corporation under the provisions of this Chapter, under the provisions of the Articles of Incorporation, or By-Laws of the nonprofit corporation, a written waiver signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be equivalent to the giving of such notice. Presence at a meeting of the Members without objection also waives notice.

**PART 9
OFFICERS**

80C-9-1. Officers Required.

A nonprofit corporation shall have one (1) or more natural persons exercising the functions of the offices, however designated, of chief executive officer and chief financial officer.

80C-9-2. Duties of Required Officers.

(A) **Presumption; Modifications.** Unless the Articles, the By-laws, or a resolution adopted by the Board of Directors and not inconsistent with the Articles or By-laws, provide otherwise, the chief executive officer and chief financial officer have the duties specified in this Section.

(B) **Chief Executive Officer.** The chief executive officer shall:

- (1) Have general active management of the business of the nonprofit corporation;
- (2) When present, preside at all meetings of the Board of Directors;
- (3) See that all orders and resolutions of the Board of Directors are carried into effect;
- (4) Sign and deliver in the name of the nonprofit corporation any deeds, mortgages, bonds, contracts or other instruments pertaining to the business of the nonprofit corporation;
- (5) Maintain records of and whenever necessary, certify all proceedings of the Board of Directors; and
- (6) Perform other duties prescribed by the Board of Directors.

(C) Chief Financial Officer. The chief financial officer shall:

- (1) Keep accurate financial records for the nonprofit corporation;
- (2) Deposit all money, drafts, and checks in the name of and to the credit of the nonprofit corporation in the banks and depositories designated by the Board of Directors;
- (3) Endorse for deposit all notes, checks, and drafts received by the nonprofit corporation as ordered by the Board of Directors, making proper vouchers ;
- (4) Disburse corporate funds and issue checks and drafts in the name of the nonprofit corporation, as ordered by the Board of Directors;
- (5) Render to the chief executive officer and the Board of Directors, whenever requested, an account of all transactions by the chief financial officer and of the financial condition of the nonprofit corporation; and
- (6) Perform other duties prescribed by the Board of Directors or by the chief executive officer.

80C-9-3. Other Officers.

- (A) Other officers of a nonprofit corporation may consist of a President, a Secretary, and a Treasurer, and may include one or more Vice-Presidents, each of whom shall be elected or appointed at such time, in such manner, and for such terms as may be prescribed in the Articles of Incorporation or the By-Laws. In the absence of any such provision, all officers shall be elected or appointed annually by the Board of Directors.
- (B) The Articles of Incorporation or the By-Laws may provide that any one or more officers of the nonprofit corporation or other organizations shall be ex officio members of the Board of Directors.
- (C) The officers of a nonprofit corporation may be designated by such other titles as may be provided in the Articles of Incorporation or the By-Laws.
- (D) All officers and agents of the nonprofit corporation, as between themselves and the nonprofit corporation, shall have such authority and perform such duties in the management of the property and affairs of the nonprofit corporation as may be determined by resolution of the Board of Directors not inconsistent with the By-Laws.

80C-9-4. 80C-9-6. Resignation; Removal; Vacancies.

- (1) **Resignation.** An Officer may resign at any time by giving written notice to the nonprofit corporation. The resignation is effective without acceptance when the

notice is given to the nonprofit corporation, unless a later effective date is specified in the notice.

- (2) **Removal.** An Officer may be removed at any time, with or without cause, by a resolution approved by the affirmative vote of a majority of the Directors present. The removal is without prejudice to any contractual rights of the Officer.
- (3) **Vacancy.** A vacancy in an office because of death, resignation, removal, disqualification, or other cause may, or in the case of a vacancy in the office shall be filled for the unexpired portion of the term in the manner provided in the Articles of Incorporation or By-laws, or determined by the Board of Directors.

80C-9-5. Standard of Conduct.

An Officer shall discharge the duties of an office in good faith, in a manner the Officer reasonably believes to be in the best interests of the nonprofit corporation, and with the care an ordinarily prudent person in a like position would exercise under similar circumstances.

PART 10 INDEMNIFICATION

80C-10-1. Indemnification.

(A) Definitions.

- (1) For purposes of this Part, the terms defined in this subdivision have the meanings given them.
- (2) "Official capacity" means (a) with respect to a Director, the position of Director in a nonprofit corporation, (b) with respect to a person other than a Director, the elective or appointive office or position held by an Officer, member of a committee of the Board of Directors, or the employment relationship undertaken by an employee of the nonprofit corporation, and (c) with respect to a Director, Officer, or employee of the nonprofit corporation who, while a Director, Officer, or employee of the nonprofit corporation, is or was serving at the request of the nonprofit corporation.
- (3) "Proceeding" means a threatened, pending, or completed civil, criminal, administrative, arbitration, or investigative proceeding, including a proceeding by or in the right of the nonprofit corporation.
- (4) "Special legal counsel" means counsel who has not represented the nonprofit corporation or a related nonprofit corporation, or a Director, Officer, member of a committee of the Board of Directors, or employee, whose indemnification is in issue.

- (B) Except as otherwise provided in this section, a nonprofit corporation may indemnify a person made or threatened to be made a party to a proceeding by reason of the former or present official capacity of the person against judgments, penalties, fines, including, without limitation, excise taxes assessed against the person with respect to an employee benefit plan, settlements, and reasonable expenses, including attorney's fees and disbursements, incurred by the person in connection with the proceeding, if, with respect to the acts or omissions of the person complained of in the proceeding, the person:
- (1) Has not been indemnified by another organization or employee benefit plan for the same judgments, penalties, fines, including, without limitation, excise taxes assessed against the person with respect to an employee benefit plan, settlements, and reasonable expenses, including attorneys' fees and disbursements, incurred by the person in connection with the proceeding with respect to the same acts or omissions;
 - (2) Acted in good faith;
 - (3) Received no improper personal benefit;
 - (4) In the case of a criminal proceeding, had no reasonable cause to believe the conduct was unlawful; and
 - (5) reasonably believed that the conduct was in the best interests of the nonprofit corporation.
- (C) Unless ordered by a court, a nonprofit corporation may not indemnify a Director:
- (1) in connection with a proceeding by or in the right of the nonprofit corporation, except for reasonable expenses incurred in connection with the proceeding if it is determined that the Director has met the relevant standard of conduct under subsection (A); or
 - (2) in connection with any proceeding with respect to conduct for which the Director was adjudged liable on the basis that the Director received a financial benefit to which the Director was not entitled, whether or not involving action in an official capacity.

80C-10-2. Prohibition or Limit on Indemnification or Advances.

The Articles or By-laws either may prohibit indemnification of expenses otherwise required by this Section or may impose conditions on indemnification or advances of expenses in addition to the conditions contained in this Part.

80C-10-3. Insurance.

A nonprofit corporation may purchase and maintain insurance on behalf of a person in that person's official capacity against any liability asserted against and incurred by the person in or arising from that capacity, whether or not the nonprofit corporation seeks to indemnify the person against the liability under the provisions of this Part.

80C-10-4. Indemnification of Other Persons.

Nothing in this Section shall be construed to limit the power of the nonprofit corporation to indemnify other persons by contract or otherwise.

**PART 11
DISSOLUTION**

80C-11-1. Methods of Dissolution.

A nonprofit corporation may be dissolved:

- (1) By the Board of Directors pursuant to Section 80C-11-2;
- (2) By the Members pursuant to Section 80C-11-2; or
- (3) By order of the Tribal Court pursuant to Section 80C-11-13.

80C-11-2. Voluntary Dissolution.

A nonprofit corporation may dissolve and wind up its affairs in the following manner:

(A) Action by the Board of Directors. A nonprofit corporation without members, or that has only members without voting rights, may be voluntarily dissolved by an affirmative majority vote of its Board of Directors, unless a greater proportion is required by the nonprofit corporation's Articles of Incorporation or By-Laws.

(B) Action by Members. If the nonprofit corporation has members with voting rights:

- (1) The Board of Directors shall adopt a resolution recommending the nonprofit corporation be dissolved and directing that the question be submitted to a vote at a meeting of the members of the nonprofit corporation. Dissolution shall proceed if a dissolution recommended by the Board of Directors is approved at a meeting of the membership by an affirmative vote of two-thirds (2/3) of all members entitled to vote; or
- (2) Membership of the nonprofit corporation may propose dissolution of the nonprofit corporation without the Board of Directors' recommendation to the extent and in

the manner provided by the Articles of Incorporation or By-Laws of the nonprofit corporation. To proceed, a resolution of dissolution must be approved at a meeting of the membership by an affirmative vote of two-thirds (2/3) of all members entitled to vote.

- (C) **Notice.** Written notice shall be given to each Director and/or Members, as the case may be, whether or not entitled to vote, within the time and in the manner provided in Section 80C-7-5 for notice of meetings of the Board of Directors and whether the meeting is a regular or special meeting shall state that a purpose of the meeting is to consider dissolving the nonprofit corporation.
- (D) **Approval.** If the proposed dissolution is approved as provided in Section 80C-11-2, the dissolution shall be commenced.

80C-11-3. Filing Notice of Intent to Dissolve; Effect.

- (A) **Contents.** If dissolution of the nonprofit corporation is approved, the nonprofit corporation shall file with the Tribal Vice Chairman a notice of intent to dissolve. The notice shall contain:
- (1) The name of the nonprofit corporation;
 - (2) The date and place of the meeting at which the resolution was approved; and
 - (3) A statement that the requisite vote of Directors or Members was received, or that all Directors or Members entitled to vote signed a written action.
- (B) **Winding up.** When the notice of intent to dissolve has been filed with the Tribal Vice Chairman, the nonprofit corporation shall cease to carry on its business, except to the extent necessary for the winding up of the nonprofit corporation. The Board of Directors and/or Members shall retain the right to revoke the dissolution proceedings in accordance with Section 80C-11-8 and the right to remove Directors or fill vacancies on the Board of Directors. The corporate existence continues to the extent necessary to wind up the affairs of the nonprofit corporation until the dissolution proceedings are revoked or Articles of Dissolution are filed with the Tribal Vice Chairman.
- (C) **Remedies continued.** The filing with the Tribal Vice Chairman of a notice of intent to dissolve does not affect any remedy in favor of the nonprofit corporation or any remedy against it or its Directors, or Officers in those capacities, except as provided in Sections 80C-11-6, 80C-11-7, and 80C-11-11.

80C-11-4. Disposition of Assets.

Notwithstanding any other provision of Sisseton-Wahpeton Oyate law, the Articles of Incorporation, or By-Laws of a nonprofit corporation established pursuant to this Chapter, the assets of a nonprofit corporation in the process of dissolution shall be distributed as follows:

- (A) All liabilities and obligations of the nonprofit corporation shall be paid, satisfied, and discharged, or adequate provisions shall be made therefor;
- (B) Assets held by the nonprofit corporation requiring return, transfer, or conveyance upon condition, and which condition occurs by reason of the dissolution, shall be returned, transferred, or conveyed in accordance with such requirements;
- (C) Assets received and held by the nonprofit corporation subject to limitations, permitting their use only for charitable, religious, missionary, benevolent, educational, literary, or scientific purposes, but not held upon a condition requiring return, transfer, or conveyance by reason of the dissolution, shall be transferred or conveyed to one or more nonprofit corporations, societies, or organizations engaged in activities substantially similar to those of the dissolving nonprofit corporation, pursuant to a plan of distribution adopted as provided in this Chapter;
- (D) Other assets, if any, shall be distributed in accordance with the provisions of the Articles of Incorporation and/or By-Laws of the nonprofit corporation; and
- (E) The Sisseton Wahpeton Oyate Tribal Court shall have full power to liquidate the assets and affairs of a nonprofit corporation including the power to dispose of such assets not otherwise disposed of pursuant to this Section.

80C-11-5. Plan for Distribution.

A plan providing for the distribution of assets, not inconsistent with the provision of this Chapter, may be adopted by a nonprofit corporation in the process of dissolution and shall be adopted by a nonprofit corporation for the purpose of authorizing any transfer or conveyance of assets for which this Chapter requires a plan for distribution, in the following manner:

- (A) Where there are members having voting rights, the Board of Directors shall adopt a resolution recommending a plan of distribution and directing that the plan be submitted to a vote at an annual or special meeting of members. Members shall be given written notice per 80C-8-1(C) setting forth the plan of distribution or a summary thereof. Such plan of distribution shall be adopted upon receiving at least two-thirds (2/3) of the votes entitled to be cast by members present at such meeting; or
- (B) Where there are no members, or no members having voting rights, a plan of distribution shall be adopted at a regular or special meeting of the Board of Directors upon receiving an affirmative vote of a majority of the Directors holding office.

80C-11-6. Dissolution Procedure for Nonprofit Corporations that Give Notice to Creditors and Claimants.

- (A) **When Permitted; How Given.** When a notice of intent to dissolve has been filed with the Tribal Vice Chairman, the nonprofit corporation may give notice of the filing to each

creditor of and claimant against the nonprofit corporation known or unknown, present or future, and contingent or non-contingent. If notice to creditors and claimants is given, it must be given by publishing the notice once each week for four (4) successive weeks in a legal newspaper on the Reservation and by giving written notice to known creditors and claimants.

(B) Contents. The Notice to Creditors and Claimants Shall Contain:

- (1) A statement that the nonprofit corporation is in the process of dissolving;
- (2) A statement that the nonprofit corporation has filed with the Tribal Vice Chairman a notice of intent to dissolve;
- (3) The date of filing the notice of intent to dissolve;
- (4) The address of the office to which written claims against the nonprofit corporation must be presented; and
- (5) The date by which all the claims must be received, which shall be the later of ninety (90) days after published notice or, with respect to a particular known creditor or claimant, ninety (90) days after the date on which written notice was given to that creditor or claimant. Published notice is deemed given on the date of first publication for the purpose of determining this date.

(C) Claims against Nonprofit Corporations that Give Notice.

- (1) A nonprofit corporation that gives notice to creditors and claimants has thirty (30) days from the receipt of each claim filed according to the procedures set forth by the nonprofit corporation on or before the date set forth in the notice to accept or reject the claim by giving written notice to the person submitting it. A claim not expressly rejected in this manner is deemed accepted.
- (2) A creditor or claimant to whom notice is given and whose claim is rejected by the nonprofit corporation has sixty (60) days from the date of rejection, one hundred and eighty (180) days from the date the nonprofit corporation filed with the Tribal Vice Chairman the notice of intent to dissolve, or ninety (90) days after the date on which notice was given to the creditor or claimant, whichever is longer, to pursue any other remedies with respect to the claim.
- (3) A creditor or claimant to whom notice is given who fails to file a claim according to the procedures set forth by the nonprofit corporation on or before the date set forth in the notice is barred from suing on that claim or otherwise realizing upon or enforcing it.
- (4) A creditor or claimant whose claim is rejected by the nonprofit corporation under paragraph (2) is barred from suing on that claim or otherwise realizing upon or

enforcing it, if the creditor or claimant does not initiate legal, administrative, or arbitration proceedings with respect to the claim within the time provided in paragraph (2).

(D) Articles of Dissolution; When Filed. Articles of Dissolution for a nonprofit corporation that has given notice to creditors and claimants under this Section must be filed with the Tribal Vice Chairman after:

- (1) The ninety (90) day period in Section 80C-11-6 (B)(5) has expired and the payment of claims of all creditors and claimants filing a claim within that period has been made or provided for; or
- (2) The longest of the periods described in Section 80C-11-6 (C)(2) has expired and there are no pending legal, administrative, or arbitration proceedings by or against the nonprofit corporation commenced within the time provided in Section 80C-11-6 (C)(2).

(E) Contents of Articles. The Articles of Dissolution must state:

- (1) The last date on which the notice was given and:
 - (a) That the payment of all creditors and claimants filing a claim within the ninety (90) day period in Section 80C-11-6 (B)(5) has been made or provided for; or
 - (b) The date on which the longest of the periods described in Section 80C-11-6 (C)(2) expired;
- (2) That the remaining property, assets, and claims of the nonprofit corporation have been distributed in accordance with this Chapter, or that adequate provision has been made for that distribution; and
- (3) That there are no pending legal, administrative, or arbitration proceedings by or against the nonprofit corporation commenced within the time provided in Section 80C-11-6 (C)(2) or that adequate provision has been made for the satisfaction of any judgment, order, or decree that may be entered against it in a pending proceeding.

80C-11-7. Dissolution Procedure for Nonprofit Corporations that Do Not Give Notice.

(A) Articles of Dissolution When Filed. Articles of Dissolution for a nonprofit corporation that has not given notice to creditors and claimants in the manner provided in this Chapter must be filed with the Tribal Vice Chairman after:

- (1) The payment of claims of all known creditors and claimants has been made or provided for; or

- (2) At least two (2) years have elapsed from the date of filing the notice of intent to dissolve.
- (B) **Contents of Articles.** The Articles of Dissolution must state:
- (1) If Articles of Dissolution are being filed pursuant to Section 80C-11-7 (A)(1) that all known debts, obligations, and liabilities of the nonprofit corporation have been paid and discharged or that adequate provision has been made for payment or discharge;
- (2) That the remaining property, assets, and claims of the nonprofit corporation have been distributed in accordance with this Chapter, or that adequate provision has been made for that distribution; and
- (3) That there are no pending legal, administrative, or arbitration proceedings by or against the nonprofit corporation, or that adequate provision has been made for the satisfaction of any judgment, order, or decree that may be entered against it in a pending proceeding.
- (C) **Claims against Nonprofit Corporations that Do Not Give Notice.**
- (1) If the nonprofit corporation has paid or provided for all known creditors or claimants at the time Articles of Dissolution are filed. A creditor or claimant who does not file a claim or pursue a remedy in a legal, administrative, or arbitration proceeding within two (2) years after the date of filing the notice of intent to dissolve is barred from suing on that claim or otherwise realizing upon or enforcing it.
- (2) If the nonprofit corporation has not paid or provided for all known creditors and claimants at the time Articles of Dissolution are filed, a person who does not file a claim or pursue a remedy in a legal, administrative, or arbitration proceeding within two (2) years after the date of filing the notice of intent to dissolve is barred from suing on that claim or otherwise realizing upon or enforcing it, except as provided in Section 80C-11-21.

80C-11-8. Articles of Dissolution.

After payment of all debts and obligations of the nonprofit corporation have been satisfied, and all of the remaining property and assets have been distributed as provided herein, the nonprofit corporation shall file Articles of Dissolution with the Tribal Vice Chairman. The Articles of Dissolution shall be signed by a majority of the Directors or Members and shall state:

- (A) The name of the nonprofit corporation;

- (B) The date of incorporation;
- (C) A written statement setting forth the date of the meeting of the Members or Board of Directors at which the action to dissolve the nonprofit corporation was passed by an affirmative vote;
- (D) A written statement that no debts remain unpaid;
- (E) A written statement that all remaining property and assets of the nonprofit corporation have been distributed in accordance with this Chapter; and
- (F) A written statement that there are no pending legal, administrative, or arbitration proceedings by or against the nonprofit corporation or that adequate provision has been made for the satisfaction of any judgment, order, or decree that may be entered against the nonprofit corporation in any such proceedings.

80C-11-9. Filing Articles of Dissolution.

- (A) Duplicate originals of Articles of Dissolution shall be delivered to the Tribal Vice Chairman.
- (B) If the Tribal Vice Chairman finds that the Articles of Dissolution conform to law and after all fees and charges have been paid as prescribed in this Chapter, the Tribal Vice Chairman shall:
 - (1) Endorse on each of the duplicate originals the word "filed," and the month, day, and year of such filing;
 - (2) File one duplicate original in the Tribal Vice Chairman's office;
 - (3) Issue a Certificate of Dissolution to which the Tribal Vice Chairman shall affix the other duplicate original; and
 - (4) Deliver the Certificate of Dissolution, together with the duplicate original of the Articles of Dissolution affixed, to the representative of the dissolved nonprofit corporation.
- (C) **Effective Date.** Upon filing the Articles of Dissolution with the Tribal Vice Chairman, the existence of the nonprofit corporation shall cease, except for the purpose of suits, other proceedings, and appropriate corporate action by members and officers as provided for in this Chapter for winding up the nonprofit corporation.
- (D) **Certificate.** The Tribal Vice Chairman shall issue to the dissolved nonprofit corporation or its legal representative a certificate of dissolution that contains:
 - (1) The name of the nonprofit corporation;

- (2) The date and time the Articles of Dissolution were filed with the Tribal Vice Chairman; and
- (3) A statement that the nonprofit corporation is dissolved.

80C-11-10. Claims Barred; Exceptions.

- (A) **Claims Barred.** Except as provided in this section, a creditor or claimant whose claims are barred under Section 80C-11-6 or 80C-11-7 includes a person who is or becomes a creditor or claimant at any time before, during, or following the conclusion of dissolution proceedings, and all those claiming through or under the creditor or claimant.
- (B) **Claims Reopened.** At any time within one (1) year after Articles of Dissolution have been filed with the Tribal Vice Chairman or a decree of dissolution has been entered, a creditor or claimant who shows good cause for not having previously filed the claim may apply to the Tribal Court to allow a claim against the nonprofit corporation to the extent of undistributed assets.
- (C) **Obligations Incurred During Dissolution Proceedings.** All known contractual debts, obligations, and liabilities incurred in the course of winding up the nonprofit corporation's affairs shall be paid or provided for by the nonprofit corporation before the distribution of assets. A person to whom this kind of debt, obligation, or liability is owed but not paid may pursue any remedy before the expiration of the applicable statute of limitations against the Directors or other management of the nonprofit corporation who are responsible for, but who fail to cause the nonprofit corporation to pay or make provision for payment of the debts, obligations, and liabilities. This subdivision does not apply to dissolution under the supervision or order of the Tribal Court.

80C-11-11. Right to Sue or Defend After Dissolution.

After a nonprofit corporation has been dissolved, any of its former Directors, Members or Officers may assert or defend, in the name of the nonprofit corporation, any claim by or against the nonprofit corporation.

**PART 12
EXTENSION**

80C-12-1. Extension after Duration Expired.

- (A) **Extension by Amendment.** A nonprofit corporation whose period of duration as provided in the Articles has expired and which has continued to do business despite that expiration may reinstate its Articles and extend the period of corporate duration, including making the duration perpetual, at any time after the date of expiration by filing an amendment to the Articles as set forth in this section.

- (B) **Contents of Amendment.** An amendment to the Articles shall be approved by the affirmative vote of a majority of the Directors present and shall include:
- (1) The date the period of duration expired under the Articles;
 - (2) A statement that the period of duration will be perpetual or, if some shorter period is to be provided, the date to which the period of duration is extended; and
 - (3) A statement that the nonprofit corporation has been in continuous operation since before the date of expiration of its original period of duration.
- (C) **Filing.** Articles of Amendment conforming to Section 80C-4-4 shall be filed with the Tribal Vice Chairman.

80C-12-2. Effect of Extension.

Filing with the Tribal Vice Chairman of Articles of Amendment extending the period of duration of a nonprofit corporation:

- (A) Relates back to the date of expiration of the original period of duration of the nonprofit corporation as provided in the Articles;
- (B) Validates contracts or other acts within the authority of the Articles, and the nonprofit corporation is liable for those contracts or acts; and
- (C) Restores to the nonprofit corporation all the assets and rights of the nonprofit corporation to the extent they were held by the nonprofit corporation before expiration of its original period of duration, except those sold or otherwise distributed after that time.

**PART 13
RECORDS AND REPORTING**

80C-13-1. Books and Records.

- (A) A nonprofit corporation shall keep at least the following records at its registered office:
- (1) Minutes of all members' meetings and Board of Directors' meetings;
 - (2) Actions of members or of the Board of Directors without a meeting;
 - (3) Complete and accurate accounting records including all donations, income, and expenditures;
 - (4) Detailed records of the use of any money donated;
 - (5) Names and addresses of all members and the voting rights held by each;

- (6) Current Articles of Incorporation and By-Laws; and
 - (7) Resolutions adopted by the Board of Directors.
- (B) All books and records of a nonprofit corporation may be inspected by any Member having voting rights, or his agent or attorney for any proper purpose at any reasonable time.

80C-13-2. Filing of Annual Report.

- (A) **Information Required.** A nonprofit corporation shall once each calendar year file with the Tribal Vice Chairman an annual report containing:
- (1) The name of the nonprofit corporation;
 - (2) The address of its registered office and the name of its registered agent;
 - (3) The address of its principal executive office, if different from the registered office address;
 - (4) A brief statement of the nonprofit corporation's character of the affairs that it is actually conducting;
 - (5) The names and respective addresses, including street and number, if any, of the Directors and Officers of the nonprofit corporation; and
 - (6) The signature of a person authorized to sign on behalf of the nonprofit corporation.
- (B) The information required by Section 80C-13-2 is public data.
- (C) Each report shall be executed by the nonprofit corporation's President, a Vice-President, Secretary, or assistant Secretary, Treasurer, or assistant Treasurer, or if the nonprofit corporation is in the hands of a receiver or receivers, or trustee, it shall be executed by such receiver, receivers, or trustee. If provided, the annual report shall be made on forms prescribed and furnished by the Tribal Vice Chairman
- (D) Each nonprofit corporation shall deliver its annual report to the Tribal Vice Chairman between January 1st and March 1st of each year.
- (1) Such report shall include the annual filing fee of one hundred dollars (\$100.00) and incorporate information that meets or exceeds the reporting requirements imposed by the Internal Revenue Service on nonprofit corporations exempt from federal taxation pursuant to 26 U.S.C. § 501(c), as amended. The annual report shall be made available to the public upon request.

- (2) . Anyone may make a written request and include a fifty dollar (\$50.00) processing fee to the office of the Tribal Vice Chairman to furnish a certificate of good standing and existence for a nonprofit corporation.
- (3) If the Tribal Vice Chairman, between the first day of January and the first day of March of each year, finds that such report conforms to law, the Tribal Vice Chairman shall file the same. If the Tribal Vice Chairman finds that it does not conform, he or she shall promptly return the report to the nonprofit corporation for any necessary corrections, in which event the penalties hereinafter prescribed for failure to file such report on time shall not apply if the report is corrected and returned to the Tribal Vice Chairman in sufficient time to be filed prior to the first day of July of the year in which it is due.
- (4) By July 30th of each year, the Tribal Vice Chairman shall create a certified list of each nonprofit corporation and indicate if the nonprofit corporation is in good standing and authorized to conduct business activities within the Reservation.

80C-13-3. Penalties Imposed Upon Nonprofit Corporations.

- (A) Each nonprofit corporation that fails or refuses to file its annual report for any year within the time prescribed by this Chapter shall lose its good standing and be subject to a penalty of fifty dollars (\$50.00), to be assessed by the Tribal Vice Chairman. The nonprofit corporation may regain its good standing by filing the annual report and paying the annual filing fee of one hundred dollars (\$100.00).
- (B) If any nonprofit corporation fails to file an annual report and pay the annual filing fee for three (3) consecutive years, the Tribal Vice Chairman shall give notice by first class mail to the nonprofit corporation at its registered office that it has violated this Section and is subject to dissolution by the office of the Tribal Vice Chairman if the delinquent annual report is not filed and the one hundred dollar (\$100.00) fee is not paid within sixty (60) days after the mailing of the notice. For purposes of this subdivision, delinquent annual report means a single annual report.
- (C) A nonprofit corporation that has failed for three (3) consecutive years to file an annual report and has been notified of the failure pursuant to 80C-13-3 (B), and has failed to file the delinquent annual report and filing fee during the sixty (60) day period described in this Section shall be dissolved by the Tribal Vice Chairman.
- (D) Immediately after the expiration of the sixty (60) day period described in paragraph (a), if the nonprofit corporation has not filed the delinquent annual report and fee, the Tribal Vice Chairman shall issue a certificate of involuntary dissolution, and a copy of the certificate shall be filed in the office of the Tribal Vice Chairman. The original certificate shall be sent to the registered office of the nonprofit corporation. The Tribal Vice Chairman shall annually inform the Tribal Council of the names of nonprofit corporations dissolved under this section during the preceding year.

80C-13-4. Reinstatement.

A nonprofit corporation may retroactively reinstate its corporate existence after statutory dissolution by filing a single annual report and paying a \$10.00 fee. Filing the annual report with the Tribal Vice Chairman:

- (A) Returns the nonprofit corporation to active status as of the date of the statutory dissolution;
- (B) Validates contracts or other acts within the authority of the Articles, and the nonprofit corporation is liable for those contracts or acts; and
- (C) Restores to the nonprofit corporation all assets and rights of the nonprofit corporation to the extent they were held by the nonprofit corporation before the statutory dissolution occurred, except to the extent that assets or rights were affected by acts occurring after the dissolution or sold or otherwise distributed after that time.

**PART 14
FORMS AND FILING**

80C-14-1. Forms.

- (A) The Tribal Vice Chairman shall have the authority to prescribe certain forms for documents required by this Ordinance to be filed in the office of the Tribal Vice Chairman.
- (B) In the event that the Tribal Vice Chairman shall prescribe certain forms or documents required by this Ordinance to be filed in the office of the Tribal Vice Chairman, such forms shall be furnished by the Tribal Vice Chairman and used by the nonprofit corporation for such filing.
- (C) The Tribal Vice Chairman may prescribe and furnish on request forms for other documents required or permitted to be filed by this Ordinance.
- (D) If the Tribal Vice Chairman has prescribed a mandatory form for a document, the document must conform to the prescribed form.

80C-14-2. Execution of Documents.

- (A) Except as otherwise provided in this Ordinance, any document required or permitted by this Ordinance to be delivered for filing must be executed:
 - (1) By the presiding officer of the Board of Directors of the nonprofit corporation, its President, or by another of its officers;

- (2) If Directors have not been selected or the nonprofit corporation has not been formed, then by an incorporator; or
 - (3) If the nonprofit corporation is in the hands of a receiver, trustee, or other court-appointed fiduciary, then by that fiduciary.
- (B) The person executing a document shall sign it and state, beneath or opposite the signature, his or her name and the capacity in which he or she signs. The document may, but need not, contain:
- (1) The corporate seal;
 - (2) An attestation by the nonprofit corporation's Secretary or an Assistant Secretary; or
 - (3) An acknowledgement, verification, or proof.
- (C) The person executing the document may do so as an attorney-in-fact. Powers-of-attorney relating to the execution of the document need not be shown to nor filed with the Tribal Vice Chairman.

80C-14-3. Filing.

- (A) The Tribal Vice Chairman shall receive all filings required under this Ordinance and maintain the records of such filings pursuant to this Section, including but not limited to, the Articles of Incorporation, amended or restated Articles, annual reports, names and addresses of registered offices and agents, and, any other documents required by this Ordinance.
- (B) Upon receipt of a document for filing under this Ordinance, the Tribal Vice Chairman shall ensure it meets the requirements herein and then shall stamp or otherwise endorse the date and time of receipt of the original, the duplicate copy, and, upon request, any additional copy received.
- (C) To file documents for a nonprofit corporation under this Chapter, the nonprofit corporation must be formed for the exclusive operation of one or more charitable purposes established under 26 U.S.C. § 501(c).
- (D) If the Tribal Vice Chairman refuses to file a document, the Tribal Vice Chairman shall return it to the person tendering the document for filing within five (5) business days after the date on which the document is received for filing, together with a brief written explanation of the reason for refusal.
- (E) Any document accepted by the Tribal Vice Chairman and accompanied by the correct fee shall be effective when filed unless a delayed effective date and/or time not more than ninety (90) days after receipt is specified in the document.

80C-14-4. Execution by Judicial Act.

Any person who is adversely affected by the failure or refusal of the Tribal Vice Chairman to execute and file any Articles of Incorporation or other document required to be filed under this Chapter may petition the Tribal Court solely for the purpose of requesting an order that directs the execution and filing of the Articles of Incorporation or other document. Review by the Tribal Court shall be limited to a determination of whether the articles or document comply with the requirements for the Articles of Incorporation or document set forth in this Chapter. Nothing in this Chapter, however, serves to waive any aspect of the Tribe's sovereign immunity. Nothing in this Code authorizes lawsuits against the Tribal Vice Chairman for damages or any relief other than the order described in this section.

80C-14-5. Correcting Filed Documents.

- (A) A nonprofit corporation may correct a document filed by the Tribal Vice Chairman if the document:
- (1) Contains an incorrect statement; or
 - (2) Was defectively executed, attested, sealed, verified, or acknowledged.
- (B) A document is corrected by preparing Articles of Correction that:
- (1) Describe the document, including its filing date, or attach a copy of it to the Articles of Correction;
 - (2) Specify the incorrect statement and the reason it is incorrect or the manner in which the execution was defective;
 - (3) Correct the incorrect statement or defective execution; and
 - (4) By delivering the Articles of Correction to the Tribal Vice Chairman.
- (C) Articles of Correction are effective on the date of correction 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.

80C-14-6. Fees for Filing Documents and Issuing Certificates.

- (A) The Tribal Vice Chairman shall impose a reasonable filing fee for each document filed, and an annual renewal fee, subject to any uniform schedule of fees as may hereafter be adopted by the Tribal Vice Chairman, with approval of the Tribal Council, from time to time.
- (B) The Tribal Council is authorized to make regulations providing for reasonable fees for other services not specifically stated in the title of this Chapter or to make changes in any

and all fees for services set out in this Chapter. These changes shall be available through the Tribal Vice Chairman.

80C-14-7. Certificate of Good Standing

Any person may obtain from the Tribal Vice Chairman, upon request, a certificate of status for either a domestic or a foreign nonprofit corporation.

**PART 15
FOREIGN NONPROFIT CORPORATIONS**

80C-15-1. Governing Law.

- (A) The laws of the jurisdiction under which a foreign nonprofit corporation is incorporated shall govern its organization and internal affairs and the liability and authority of its managers and owners, regardless of whether the foreign nonprofit corporation obtained or should have obtained a certificate of registration under this Part.
- (B) A foreign nonprofit corporation may not be denied a certificate of registration by reason of any difference between the laws of the other jurisdiction under which it is incorporated and the laws of the Tribe.
- (C) A foreign nonprofit corporation holding a valid certificate of registration under this Part shall have no greater rights and privileges than a nonprofit corporation organized under this Chapter. Registration may not be considered to authorize a foreign nonprofit corporation to exercise any powers or purposes that a nonprofit corporation organized under this Chapter is forbidden by law to exercise.

80C-15-2. Registration Required.

- (A) A foreign nonprofit corporation may not transact business on Tribal Lands until it obtains a certificate of registration from the Tribal Vice Chairman.

(A)

80C-15-3. Application for Certificate of Registration.

A foreign nonprofit corporation may apply for a certificate of registration to transact business on Tribal Lands by delivering an application to the Tribal Vice Chairman for filing signed by a person with authority to do so under the laws of the State or other jurisdiction of its organization. The application shall include all of the following:

- (A) The name of the foreign nonprofit corporation and, if different, the name under which it proposes to transact business on Tribal Lands.
- (B) The name of the State or other jurisdiction under whose laws it is incorporated.

- (C) The date of its incorporation.
- (D) The street address of its registered office on Tribal Lands and the name of its registered agent at that office.
- (E) The street address of the office required to be maintained in the State or other jurisdiction of its organization by the laws of that State or jurisdiction or, if no office is required, its principal office.
- (F) A statement that the applicant is a foreign nonprofit corporation.
- (G) A statement that the foreign nonprofit corporation is in good standing in the State or other jurisdiction under whose laws it is incorporated.

80C-15-4. Name.

A certificate of registration may not be issued to a foreign nonprofit corporation unless its name satisfies Section 80C-3-3. If the name under which a foreign nonprofit corporation is registered in the jurisdiction of its formation does not satisfy Section 80C-3-3, the foreign nonprofit corporation may obtain a certificate of registration to transact business on Tribal Lands under a trade name registered pursuant to this Part that is available and that satisfies Section 80C-3-3.

(A)

80C-15-5. Registered Office and Registered Agent of a Foreign Nonprofit Corporation.

- (A) A foreign nonprofit corporation authorized to transact business on Tribal Lands shall continuously maintain on Tribal Lands a registered office and registered agent. The registered office may, but need not, be the same as any of its places of business on Tribal Lands, if any.
- (B) A foreign nonprofit corporation may change its registered office or registered agent, or both, by filing a written notice of change containing the name of its registered agent and the street address of its registered office, as changed with the Tribal Vice Chairman and paying the filing fee.
- (C) The registered agent of a foreign nonprofit corporation may resign as a registered agent by delivering to the Tribal Vice Chairman for filing a written statement of resignation and the appointment by the foreign nonprofit corporation of another registered agent.

80C-15-6. Service of Foreign Nonprofit Corporation.

- (A) Except as otherwise provided in subsection (B) and (C), the registered agent of a foreign nonprofit corporation authorized to transact business on Tribal Lands is the foreign

nonprofit corporation's agent for service of process, notice, or demand required or permitted by law to be served on the foreign nonprofit corporation.

- (B) A foreign nonprofit corporation authorized to transact business on Tribal Lands may be served in the manner provided in subsection (D) if the foreign nonprofit corporation has no registered agent or its registered agent cannot with reasonable diligence be served.
- (C) A foreign nonprofit corporation formerly authorized to transact business on Tribal Lands may be served in the manner provided in subsection (D) in any civil, criminal, administrative or investigatory proceeding based on a cause of action arising while it was authorized to transact business on Tribal Lands, if the foreign nonprofit corporation has withdrawn its registration under 80C-15-9.
- (D) With respect to a foreign nonprofit corporation described in subsection (B) or (C), the foreign nonprofit corporation may be served by registered or certified mail, return receipt requested, addressed to the foreign nonprofit corporation at its principal office as shown on the records of the Tribal Vice Chairman. Service is perfected under this paragraph at the earliest of the following:
 - (1) The date on which the foreign nonprofit corporation receives the mail.
 - (2) The date shown on the return receipt, if signed on behalf of the foreign nonprofit corporation.
 - (3) Five (5) days after the mail is deposited in the U.S. mail, if mailed postpaid and correctly addressed.
- (E) This Section does not limit or affect the right to serve any process, notice, or demand required or permitted by law to be served upon a foreign nonprofit corporation in any other manner permitted by law.

(1)

80C-15-7. Grounds for Revocation.

- (A) Except as provided in subsection (B), the Tribal Vice Chairman may revoke the certificate of registration of a foreign nonprofit corporation registered to transact business on Tribal Lands in accordance with 80C-15-11 if any of the following applies:
 - (1) The foreign nonprofit corporation failed to file its annual report with the Tribal Vice Chairman within four (4) months after it was due.
 - (2) The foreign nonprofit corporation does not pay, within four (4) months after they are due, any fees or penalties due the Tribal Vice Chairman under this Chapter.
 - (3) The foreign nonprofit corporation is without a registered agent or registered office on Tribal Lands for at least six (6) months.

- (4) The foreign nonprofit corporation obtained a certificate of registration through fraud.
 - (5) The Tribal Vice Chairman receives an authenticated certificate from the Secretary of State or other official having custody of nonprofit business corporation records in the State or country under whose law the foreign nonprofit corporation is incorporated stating that it has been dissolved or no longer exists as the result of a merger.
- (B) The Tribal Court may revoke the certificate of registration of the foreign nonprofit corporation registered to transact business on Tribal Lands. The Tribal Court shall notify the Tribal Vice Chairman of the action, and the Tribal Vice Chairman shall revoke the foreign nonprofit corporation's certificate of registration under 80C-15-11 (B)(2).

80C-15-8. Appeal from Revocation.

- (A) A foreign nonprofit corporation may appeal the Tribal Vice Chairman's revocation of its certificate of registration to the Tribal Court. The foreign nonprofit corporation shall appeal by petitioning the Tribal Court to set aside the revocation and attaching to the petition copies of its certificate of registration and the Tribal Vice Chairman's notice of revocation.
- (B) The Tribal Court may order the reinstatement of the certificate of registration only if the foreign nonprofit corporation demonstrates that the Tribal Vice Chairman's revocation was a violation of this Part or otherwise arbitrary or unauthorized.
- (C) The Tribal Court's final decision may be appealed as in other civil proceedings.

**PART 16
EFFECTIVE DATE AND AUTHORITY**

80C-16-1. Severability; Effect of Invalidity of Part of this Ordinance.

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

80C-16-2. Effective Date.

This Chapter shall be in full force and effect according to its terms upon adoption by the Tribal Council.

80C-16-3. Authority.

This Ordinance is enacted by the Sisseton Wahpeton Oyate Tribal Council under the authority vested in the Tribal Council by the Tribe pursuant to its inherent governmental power, fiscal authority and tribal sovereignty as recognized in the Tribe's Constitution. The Tribal Council reserves the right to repeal or amend the provisions of this Chapter.

80C-16-4. No Impairment of Contracts.

Otherwise lawful contracts and other obligations of any nonprofit corporation shall not be impaired by any subsequent action of the Tribe or the Tribal Council. Actions to restrain any attempts to impair contracts of tribal nonprofit corporations, or to declare such actions null and void, shall be available to any interested party before the Tribal Court. Nothing in this Section shall be construed to restrict the general application of law or of this Ordinance to the acts and contracts of tribal nonprofit corporations.

80C-16-5. Certificates and Certified Copies to be Received in Evidence.

All certificates issued by the Tribal Vice Chairman in accordance with the provisions of this Ordinance and all copies of documents filed in his or her office in accordance with the provisions of this Ordinance, when certified by him or her, 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 Tribal Vice Chairman under the seal of his or her office, as to the existence or non-existence of the facts relating to nonprofit corporations which would not appear from a certified copy of any of the foregoing documents or certificates 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.

80C-16-6. Repealer.

All prior Codes, Ordinances, or Resolutions generally authorizing and regulating the organization of nonprofit corporations under the laws of the Tribe are hereby repealed.

FEES ADDENDUM

The Tribal Vice Chairman shall charge and collect for:

- (1) Filing Articles of Incorporation and issuing a Certificate of Incorporation \$30.00
- (2) Filing Articles of Amendment and issuing a Certificate of Amendment \$15.00;
- (3) Filing a statement of change of address of registered office or change of registered agent, or both \$10.00
- (4) Filing Articles of Dissolution \$10.00
- (5) Filing a statement of election to accept this Chapter and issuing Certificate of Acceptance \$25.00
- (6) Filing any other statement or report, including an annual report of a domestic or foreign nonprofit corporation \$10.00
- (7) Indexing each document filed, except an annual report \$10.00
- (8) Furnishing a certified copy of any document, instrument, or paper relating to a nonprofit corporation \$35.00 and
- (9) Furnishing a Certificate of Existence as to the fact that a nonprofit corporation has been formed \$0.00

WEIGHTED VOTE ON MOTION NO. 88: 14 For: Kevin Roberts (3); Jerry Eastman (2); Edmund Johnson Jr. (2); Francis Crawford (2); Kenneth Johnson (1); Virginia Max (2); Tribal Vice-Chairman (1); Tribal Secretary (1). 3 Opposed: Marc Beaudreau (3). 0 Abstained. 0 Absent From Vote. 1 Not Voting: Tribal Chairman.
MOTION PASSED.
Resolution No. SWO-16-134

MOTION NO. 89: made by Jerry Eastman, second by Francis Crawford, question by Edmund Johnson Jr., in resolution form, to approve and adopt Chapter 80C – Nonprofit Corporations Ordinance into the SWO Codes of Law, effective immediately, as presented by the Judicial Committee.

WEIGHTED VOTE ON MOTION NO. 89: 14 For: Kevin Roberts (3); Jerry Eastman (2); Edmund Johnson Jr. (2); Francis Crawford (2); Kenneth Johnson (1); Virginia Max (2); Tribal Vice-Chairman (1); Tribal Secretary (1). 3 Opposed: Marc Beaudreau (3). 0 Abstained. 0 Absent From Vote. 1 Not Voting: Tribal Chairman.
MOTION PASSED.
Resolution No. SWO-16-135

MOTION NO. 90: made by Kevin Roberts, second by Jerry Eastman, question by Francis Crawford, in resolution form, to amend Chapter 67 – Tax Code, to raise the tax rate in section 67-02-02 Tangible Property and section 67-02-07 Taxable Services, from 5% to 5.5%, effective immediately, as recommended by the Tax Commission.

WEIGHTED VOTE ON MOTION NO. 90: 13 For: Kevin Roberts (3); Jerry Eastman (2); Edmund Johnson Jr. (2); Francis Crawford (2); Virginia Max (2); Tribal Vice-Chairman (1); Tribal Secretary (1). 4 Opposed: Marc Beaudreau (3); Kenneth Johnson (1). 0 Abstained. 0 Absent From Vote. 1 Not Voting: Tribal Chairman.
MOTION PASSED.
Resolution No. SWO-16-136

MOTION NO. 91: made by Virginia Max, second by Edmund Johnson Jr., question by Kenneth Johnson, to approve the Dakota Western Corporation and SWO Plastics, Inc. report, as presented by General Manager Robert Huff.

WEIGHTED VOTE ON MOTION NO. 91: 14 For: Kevin Roberts (3); Jerry Eastman (2); Edmund Johnson Jr. (2); Francis Crawford (2); Kenneth Johnson (1); Virginia Max (2); Tribal Vice-Chairman (1); Tribal Secretary (1). 3 Opposed: Marc Beaudreau (3). 0 Abstained. 0 Absent From Vote. 1 Not Voting: Tribal Chairman.
MOTION PASSED.

MOTION NO. 92: made by Francis Crawford, second by Jerry Eastman, question by Edmund Johnson Jr., to approve the SWO Fuel, Inc. and Agency C-Store report, as presented by General Manager Tanya LaFromboise.

