

WHITE EARTH BAND OF OJIBWE
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WHITE EARTH BAND OF OJIBWE

TITLE 18: CORPORATE CODE

CHAPTER 1. SHORT TITLE, PURPOSE AND DEFINITIONS

Section 1. Short Title

Title 18 shall be entitled "Corporate Code"

Section 2. Purpose

- (a) To encourage commerce by providing limitations on the liability of participants in incorporated enterprises;
- (b) To reform the laws of business corporations by allowing greater flexibility in the organization and operation of close corporations;
- (c) To ensure that corporate assets are available for the satisfaction of valid claims of corporate creditors; and
- (d) To simplify, clarify and modernize the laws applicable to businesses created under the sovereign powers of the Tribe.

Section 3. Interpretation of the Code

This Code shall be liberally construed and applied to carry out its purpose and intent.

Section 4. Definitions

The following definitions shall apply for the purposes of this Code unless a different meaning is expressly provided or the context clearly indicates a different meaning:

- (a) "Articles of incorporation" means the original articles of incorporation of a corporation organized under this Title, including amendments thereto.
- (b) "Authorized Shares" means mean the shares of all classes which the corporation is authorized to issue.
- (c) "Board of Directors" means a person or a group of persons vested with management of the affairs of the corporation.
- (d) "Bylaws" means the code of rules adopted for the regulation or management of the affairs of a corporation.
- (e) "Close Corporation" means a corporation, the shares of which are not publicly traded and are subject to restrictions on transfer.
- (f) "Court" means the White Earth Tribal Court.

- (g) "Court Administrator" means the White Earth Court Administrator.
- (h) "Deliver" includes delivery by mail.
- (i) "Distribution" means a direct or indirect transfer of money or other property (except its own shares) or the incurrence of indebtedness by a corporation to or for the benefit of its shareholders in respect of any of its shares. A distribution may be in the form of a declaration or payment of a dividend; a purchase, redemption or other acquisition of shares; or otherwise.
- (j) "Interrogatories" means formal written questions seeking information in the form a written response.
- (k) "Notice" means written notice unless oral notice is reasonable under the circumstances.
- (l) "Quorum" means the number of members of a board or other body which must be present in order to make the board or other body competent to transact business in the absence of other members.
- (m) "Shareholder" means the person in whose name shares are registered in the records of the corporation.
- (n) "Shares" means the units into which the proprietary interest in a for-profit corporation are divided.
- (o) "Tribal Court" means the White Earth Tribal Court.
- (p) "Tribe" means the White Earth Band of Ojibwe.

CHAPTER 2. SCOPE OF TITLE

Section 1. Scope

A corporation may be incorporated or organized under this Code to conduct or promote any lawful business or purposes, except as otherwise provided by the White Earth Band of Ojibwe Tribal Constitution or Code.

Section 2. Incorporators

The incorporators must include one or more Tribal Member(s), living on or off of the White Earth Reservation, who are at least 18 years of age. They may act as incorporators of a corporation by applying to the Court Administrator for the issuance of a certificate of incorporation under this Title, provided that the articles of incorporation shall comply with all relevant portions of this Code.

CHAPTER 3. JURISDICTION

To the maximum extent consistent with the due process of law, all corporations formed pursuant to the sovereign power of the Tribe and all directors, officers, and shareholders of such corporations shall be subject to the jurisdiction of the Tribal Court in all actions which arise out of the acts, omissions, or participation of such persons in connection with the affairs of such corporations; provided, however that this section shall not apply to corporations which are owned in whole or in part by the Tribe or which are controlled by the Tribal Council, or to the directors or officers of such corporations. This section shall not be construed as a waiver of sovereign immunity.

CHAPTER 4. STATUS OF CORPORATIONS

Section 1. Taxation

For the sole purpose of taxation, regulatory jurisdiction and civil jurisdiction, the following corporate entities shall be entitled to all of the privileges and immunities of members of federally recognized Indian tribes:

- (a) All for-profit corporations formed pursuant to the sovereign powers of the White Earth Band of Ojibwe which are managed by members of federally recognized Indian tribes and which are at least fifty-one (51) percent owned by Indians who are members of federally recognized tribes.

Section 2. Precedence

In the case of any corporation having its principal place of business on the White Earth Reservation, which has been incorporated under the laws of any state and also pursuant to the sovereign powers of the White Earth Band of Ojibwe, the ordinances and resolutions of the Tribal Council, the Constitution of the Tribe, and the Tribal Charter documents shall take precedence over any conflicting state laws or charter documents in any dispute concerning the status of the corporation or the rights and obligations of any person with respect to the corporation.

Section 3. Jurisdiction of Tribal Court

The White Earth Band of Ojibwe Tribal Court shall have exclusive jurisdiction to decide all questions with respect to the status of corporations formed pursuant to the sovereign powers of the Tribe.

CHAPTER 5. REPORTING REQUIREMENTS

The office of the tribal attorney may compel any corporation subject to the provisions of this Code, such interrogatories or demand to inspect documents as may be reasonably necessary and proper to enable the office of the tribal attorney to ascertain whether such corporation is complying with all of the provisions of the Code. Such interrogatories or demands for inspection shall be answered within 30 days after the mailing thereof, and the answer thereof shall be full and complete and shall be under oath.

CHAPTER 6. LIABILITY OF SHAREHOLDERS OR MEMBERS

No shareholder or member of any corporation formed pursuant to the sovereign powers of the White Earth Band of Ojibwe, including those formed pursuant to Title 18, shall be liable to any creditor of the corporation by reason of his or her status as a shareholder or member, except insofar as said shareholder or member may be indebted to the corporation for unpaid loans or indebtedness for the purchase of shares.

CHAPTER 7. CORPORATE NAME

Section 1. Corporate Name

- (a) The name of the corporation shall contain one of the following words or abbreviation of such words: "association", "company", "corporation", "club", "foundation", "fund", "incorporated", "limited", "society", "institute", "union", or "syndicate".
- (b) No corporation, which is privately owned or controlled, shall use any name or make any representation that implies that it is a subdivision or enterprise of the Tribe.
- (c) No corporation shall use any corporate name that is the same as or deceptively similar to any other corporation formed pursuant to the sovereign powers of the Tribe.

CHAPTER 8. REGISTERED AGENT

Section 1. Requirement of Registered Agent

All corporations formed pursuant to the sovereign power of the Tribe, shall appoint a registered agent to accept service of judicial process on the corporation. All

corporations shall notify the Court Administrator of any change in the name or address of the corporation's registered agent. All corporations formed pursuant to the sovereign powers of the Tribe are hereby deemed to consent to the appointment of the Court Administrator as their agent for the acceptance of service of process in the event the corporation shall have failed to notify the Court Administrator of any change in the name or address of its registered agent. In such cases, service upon the Court Administrator shall be deemed to be service on such corporation within 10 days thereof, provided, the Court Administrator shall mail notice of such service to any incorporation, director, officer, or shareholder of the corporation at the most recent address noted in the files of the Court Administrator.

Section 2. Residence of Registered Agent

The registered agent must reside within the exterior boundaries of the White Earth Reservation.

CHAPTER 9. FEES

The Court Administrator shall charge:

- (a) For filing and application for incorporation and proposed articles of incorporation, \$50.00;
- (b) Filing an application for amendment to the articles of incorporation, \$25.00;
- (c) Filing a statement of change of name or address of registered agent, \$10.00;
- (d) Filing any other statement or report of a corporation, \$10.00;
- (e) For furnishing a certified copy of any document, instrument report, or other paper relating to a corporation, \$5.00; and
- (f) For furnishing a certificate as to the status of a corporation or as to the existence or nonexistence of facts relating to corporations, \$25.00.

CHAPTER 10. FORMATION

Section 1. Contents of the Articles of Incorporation

- (a) The Articles of Incorporation shall contain:
 - (1) The name of the corporation;
 - (2) The period of duration, which may be perpetual or for a stated term of years;

- (3) The address of the registered office of the corporation;
 - i. The corporation shall continually maintain a registered office within the exterior boundaries of White Earth Reservation.
 - ii. The registered office may, but need not be the same as the principal place of business.
 - iii. A corporation may change its registered office by delivering a statement in writing of such change with the Court Administrator and a payment of applicable fees.
- (4) The name and address of the registered agent;
 - (i.) A corporation may change its registered agent by delivering a statement in writing of such with the Court Administrator and a payment of applicable fees.
- (5) The purpose for which the corporation is organized, which may include the transaction of any lawful business for which corporations may be incorporated under this Title.
- (6) The aggregate number of shares that the corporation has authority to issue; and
- (7) If the shares are to be divided into classes, the designation of each class and a statement of the preferences, limitations, and relative rights in respect of the shares of each class;
- (8) The name and address of each incorporator;
- (9) If the corporation is to issue the shares of any preferred or special class in series, then the designation of each series and a statement of the variations in the relative rights and preferences as between series insofar as the same are fixed in the articles of incorporation, and a statement of any authority to be vested in the board of directors to establish series and fix and determine the variations in the relative rights and preferences as between series;
- (10) Any provision limiting or denying to shareholders the preemptive right to acquire additional shares of the corporation;
- (11) A description of any election to operate without a board of directors under this Title;
- (12) The number of directors constituting the initial board of directors and the names and addresses of the persons who are to serve as directors until the first annual meeting of shareholders or until their successors be elected and qualify; provided however, that if all of the persons who have agreed to

purchase shares shall enter into a written agreement under this Title to operate the corporation without a board of directors, that fact shall be recited in the Articles of Incorporation and the names and addresses of the persons who are to be voting shareholders shall be listed instead;

(13) Any provision not inconsistent with law which the incorporators elect to set forth in the Articles of Incorporation for the regulation of the internal affairs of the corporation, including any provision restricting the transfer of shares and any provision which under this Title is required or permitted to be set forth in the bylaws.

(14) One or more of the restrictions on the transfer of shares described in this Title and all other restrictions on the transfer of shares; and

(15) The following notice, conspicuously displayed: THIS IS A CLOSED CORPORATION FORMED PURSUANT TO WHITE EARTH BAND OF OJIBWE CORPORATE CODE, THE RIGHTS OF SHAREHOLDERS IN THIS CORPORATION MAY DIFFER MATERIALLY FROM THE RIGHTS OF SHAREHOLDERS IN OTHER CORPORATIONS. COPIES OF DOCUMENTS WHICH RESTRICT TRANSFERS AND AFFECT VOTING AND OTHER RIGHTS MAY BE OBTAINED BY A SHAREHOLDER ON WRITTEN REQUEST TO THE CORPORATION.

(b) The articles of incorporation may also contain provisions not inconsistent with law regarding:

(1) The direction of the management of the business and the regulation of the affairs of the corporation;

(2) The definition, limitation, and regulation of the powers of the corporation, the directors, and the shareholder, or any class of the shareholders;

(3) The par value of any authorized shares or class of shares; and

(4) Any provision which under this Title is required or permitted to set forth in the bylaws.

(c) It shall not be necessary to set forth in the articles of incorporation of the corporate powers enumerated in this Title.

Section 2. Filing of Articles of Incorporation

Duplicate originals of the articles of incorporation shall be delivered to the Court Administrator. If the Court Administrator finds that the articles of incorporation conform to this Title, they shall, when all the fees have been paid as in this Title described:

(a) Endorse on each of such originals the word "Filed" and the effective date of the filing thereof.

(b) File one of such originals.

(c) Issue a certificate of incorporation to which the other original shall be affixed.

(d) The certificate of incorporation together with the original of the articles of incorporation affixed thereto shall be returned to the incorporators or their representative.

Section 3. Effect of Filing the Articles of Incorporation

Upon the filing of the articles of incorporation, the corporate existence shall begin, and 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 corporation has been incorporated under this Title, except as against the Tribe in a proceeding to cancel or revoke the certificate of incorporation or for involuntary dissolution of the corporation.

Section 4. Organization Meeting of Directors

After the issuance of the certificate of incorporation an organization meeting of the board of directors named in the articles of incorporation shall be held at the call of a majority of the directors named in the articles of incorporation, for the purpose of adopting bylaws not inconsistent with this Title, electing officers, and the transaction of such business as may come before the meeting. The directors calling the meeting shall give at least three (3) days notice thereof by mail to each director so named, which notice shall state the time and place of the meeting. Any action permitted to be taken at the organization meeting of the directors may be taken without a meeting if each director signs an instrument which states the action so taken.

Section 5. Bylaws

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

(b) The initial bylaws of a corporation shall be adopted by its board of directors. The powers to alter, amend, or repeal the bylaws or to adopt new bylaws, subject to repeal or change of action of the shareholders shall be vested in the board of directors.

Section 6. Records

- (a) Each corporation shall keep at its registered office a record giving the name and address of those entitled to vote, correct, and complete books and records of account, and correct minutes of all proceedings of shareholders, directors, and committees.
- (b) Copies of the minutes shall be filed with the Court Administrator.
- (c) Any relevant records may be inspected by shareholders, their agents or attorney for any purpose at any reasonable time.
- (d) Any corporation receiving grants, contracts, use of tribal property, or other benefits derived through or by the Tribe shall file with the Court Administrator, quarterly financial statement and narrative of their actions and accomplishments of stated objectives and goals.
- (e) The Tribal Council reserves the right to inspect a corporation's books and records of accounts and reserves the right to perform audits to ensure compliance with applicable law. The White Earth Tribal Attorney may conduct such inspections and audits to ensure compliance with applicable law.

CHAPTER 11. POWERS

Section 1. Powers

Every corporation created under this Code shall have the power to:

- (a) Have perpetual duration, unless a limited period of duration is stated in its articles of incorporation, and succession in its corporate name;
- (b) Sue and be sued, complain and defend its corporate name;
- (c) To have a corporate seal, which may be altered at will, and to use it, or a facsimile of it, by impressing of affixing it or in any other manner reproducing it;
- (d) Purchase, receive, take by grant, devise, bequest or otherwise, lease, or otherwise acquire, own, hold, improve, employ, use and otherwise deal in and with real or personal property, or any interest therein, wherever situated, and to sell, convey, lease, exchange, transfer or otherwise dispose or, or mortgage or pledge, all or any of its property and assets, or any interest therein, wherever situated;
- (e) Appoint such officers and agents as the business of the corporation requires and to pay or otherwise provide for them suitable compensation;
- (f) Adopt, amend, and repeal bylaws, not inconsistent with its articles of incorporation or the Code;

- (g) A corporation may conduct its business, carry on its operations, have offices, and exercise the powers granted by this Title anywhere in the universe.
- (h) Make donations for charitable, scientific, educational purposes, or public welfare;
- (i) Be an incorporator, promoter, manager, member, or associate of any partnership, joint venture, trust or other entity;
- (j) Lend money, invest and reinvest its funds, and receive and hold real and personal property as security for repayment;
- (k) Make contracts and guarantees, incur liabilities, borrow money, issue its notes, bonds, and other obligations, and secure any of its obligations by mortgage or pledge of any of its property, franchises, or income;
- (l) Pay pensions and establish pension plans, pension trusts, profit sharing plans, share bonus plans, share option plans, benefit or incentive plans for any or all of its current or former directors, officers, employees, and agents;
- (m) 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, or on the life of a shareholder for the purpose of acquiring at the death of the shareholder any or all shares in the corporation owned by the shareholder;
- (n) Transact any lawful business which will aid governmental policy; and
- (o) Cease its corporation activities and surrender its corporate franchise

Section 2. Effect of Lack of Power; Ultra Vires

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

- (a) In a proceeding by a stockholder against the corporation to enjoin the doing of any act or the transfer of real or personal property by or to the corporation. If the unauthorized acts or transfer sought to be enjoined are being, or are to be, performed or made pursuant to any contract to which the corporation is a party, the court may, if all of the parties to the contract are parties to the proceeding and if it deems the same to be equitable, set aside and enjoin the performance of such contract, as the case may be, such compensation as may be equitable for the loss or damage sustained by any of them which may result from the action of the court in setting aside and enjoining the performance of such contract, but anticipated profits to be derived from the performance of the contract shall not be awarded by the court as a loss or damages sustained;

(b) In a proceeding by or in the name of the corporation, whether acting directly or through a receiver, trustee, or other legal representative, or through stockholders in a representative suit, against an incumbent or former officer or director of the corporation, for loss or damage due to such incumbent or former officer's or director's unauthorized act;

(c) In a proceeding by the White Earth Tribal Attorney to dissolve the corporation, or to enjoin the corporation from the transaction of unauthorized business.

CHAPTER 12. AMENDMENT OF ARTICLES OF INCORPORATION

Section 1. Resolution of Proposed Amendment

The board of directors shall adopt a resolution setting forth a proposed amendment to the articles of incorporation and directing that it be submitted to a vote at a meeting of the shareholders, which may be either an annual or a special meeting. Any number of amendments may be submitted to shareholders, and voted upon by them, at one meeting.

Section 2. Notice of Proposed Amendment

Written notice setting forth a proposed amendment to the articles of incorporation or a summary of the changes to be effected thereby shall be given to each shareholder of record entitled to vote thereon. If the meeting is an annual meeting, the proposed amendment or such summary may be included in the notice of such annual meeting.

Section 3. Vote of Shareholders Meeting

At the meeting described in Section 2 of this chapter, a vote of the shareholders entitled to vote thereon shall be taken on the proposed amendment. Except as otherwise provided in this Title, the proposed amendment shall be adopted upon receiving the affirmative vote of the holders of two-thirds of the shares entitled to vote thereon. If any class of shares is entitled to vote thereon as a class, the proposed amendment shall be adopted upon receiving the affirmative vote of the holders of two-thirds of the shares of each class of shares entitled to vote thereon as a class and of the total shares entitled to vote thereon, unless a greater majority is required by the provisions of this Title.

Section 4. Articles of Amendment

(a) Articles of amendment shall be executed in duplicate by the corporation by its chief executive officer and shall be verified by the officer who has been delegated responsibility under this Title for authenticating corporate records, and shall set forth:

- (1) The name of the corporation;
- (2) The amendment so adopted;
- (3) The date of the adoption of the amendment by shareholders;
- (4) The number of shares outstanding, and the number of shares entitled to vote thereon, and if the shares of any class are entitled to vote thereon as a class, the designation and number of outstanding shares entitled to vote thereon on each such class;
- (5) The number of shares voted for and against such amendment, respectively, and, if the shares of any class are entitled to vote thereon as a class, the number of shares of each such class voted for and against such amendment, respectively;
- (6) If such amendment provides for an exchange, reclassification or cancellation of issued shares, and if the manner in which the same shall be effected is not set forth in the amendment, then a statement of the manner in which the same shall be effected;
- (7) If such amendment effects a change in the amount of stated capital, then a statement of the manner in which the same is affected and a statement expressed in dollars, of the amount of stated capital as changed by the amendment.

(b) The articles of amendment shall be sent to the Court Administrator with fees as provided in this Title.

(c) If the Court Administrator determines the amendments conform to tribal law, the Court Administrator shall:

- (1) Endorse on each duplicate original the word "files" and the month, day, and year of such filing thereof.
- (2) Register and maintain one such duplicate original in the Court Administrator office.
- (3) Issue a certificate of amendment to which the Secretary shall affix the other duplicate original and return to the corporation

(d) Upon the issuance of the certificate of amendment by the Secretary, the amendment shall become effective and is conclusive proof that all conditions precedent for amendment of the articles of incorporation has been satisfied.

CHAPTER 13. SHARES, SHAREHOLDERS, AND DISTRIBUTIONS

Section 1. Authorized Shares

(a) Each corporation shall have the power to create and issue the number of shares stated in its articles of incorporation. Shares may be divided into one or more classes, any or all of which may consist of shares with or without par value, and with the designation, preferences, limitations, and relative rights stated in the articles of incorporation. The articles of incorporation may limit or deny voting rights or provide special voting rights for the shares of any class to the extent not inconsistent with the provisions of this Ordinance.

(b) Without limiting the authority herein contained, a corporation whose articles of incorporation permit may issue shares of preferred or special classes that:

- (1) Subject to the right of the corporation to redeem the shares at the price fixed by the articles of incorporation.
- (2) Entitle the holders to cumulative, non-cumulative, or partially cumulative dividends
- (3) Have preference over any other class of shares as to the payment of dividends
- (4) Have preference in assets of the corporation over any other class of shares upon liquidation of the corporation.
- (5) Convertible into shares of any other class of series, except a class having prior or superior rights and preferences as to dividends or distribution of assets upon liquidation. Shares without par value shall not be converted into shares with par value unless that part of the stated capital of the corporation represented by such values without par value is, at the time of conversion, at least equal to the aggregate par value of the shares into which the shares without par value are to be converted or the amount of any such deficiencies is transferred from surplus to stated capital.

Section 2. Payment for Shares

(a) Consideration for the issuance of shares may be paid, in whole or in part, in cash, in other property, tangible or intangible, or in labor or services actually performed for the corporation.

(b) Neither promissory notes nor future services shall constitute payment.

(c) If shares are issued for other than cash, the board of directors shall determine the value of the consideration. A good faith judgment of the board of directors as to the value of the consideration received for shares is conclusive.

Section 3. Subscription for Shares

A subscription for shares of a corporation to be organized shall be in writing and shall be irrevocable for a period of six (6) months, unless otherwise provided by the terms of the subscription agreements or unless all subscribers consent to the revocation of such subscription.

Section 4. Expenses of Organization, Reorganization and Financing

The reasonable charges and expenses of organization of a corporation, and the reasonable expenses of and compensation for the sale or underwriting of its shares, may be paid or allowed for such corporation out of the consideration received by it in the payment for its shares without thereby rendering such shares assessable.

Section 5. Liability

(a) A holder of or subscriber of a corporation shall be under no obligation to the corporation or its creditors with respect to such shares other than the obligation to pay to the corporation the full consideration for which such shares were issued or were to be issued, except that he or she may be personally liable by reason of his or her own acts or conduct.

(b) The White Earth Band of Ojibwe shall be under no obligation to the corporation or the creditors of any corporation which the Tribe incorporates, owns or operates, in whole or in part, and the Tribe shall not be deemed to have waived any of the Tribe's privileges or immunities if the Tribe incorporates, owns or operates a corporation, in whole or in part.

Section 6. Stated Capital; Determination of Amount

(a) The consideration received by a corporation for its shares shall constitute stated capital. If the shares have been assigned a par value, the consideration received shall constitute stated capital to the extent of the par value of such shares, and the excess, if any, of such consideration shall constitute capital surplus.

(b) The stated capital of a corporation may be increase from time to time by resolution of the board of directors directing that all or part of the surplus of the corporation be transferred to stated capital. The board of directors may direct that the amount of the surplus so transferred shall be deemed to be stated capital in respect of any designated class of shares.

(c) Dividends shall not be paid out of stated capital.

Section 7. Payment of Deficits Out of Capital Surplus or Earned Surplus

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

Section 8. Insolvent Corporation Prohibited From Purchasing Own Shares

No purchase of or payment for its own shares shall be made by a corporation at a time when the corporation is insolvent or when such purchase or payment would make it insolvent.

Section 9. Shares Transfer Restrictions

Except as otherwise provided in the Articles of Incorporation, no interest in shares of a corporation formed under this Title may be transferred, by operation of law or otherwise, whether voluntary or involuntary, except:

(a) To the corporation or to any other holder of the same class of shares;

(b) To the members of the holder's immediate family, or to a trust, all of whose beneficiaries are members of the holder's immediate family. A holder's immediate family shall include his or her spouse, parents, lineal descendants (including adopted children and stepchildren) and spouses of any lineal descendant, and brother and sisters;

- (c) Which has been consented to in writing by all of the holders of the corporation's common shares having voting rights;
- (d) To an executor or administrator upon the death of a shareholder or to a trustee or receiver as a result of a bankruptcy, insolvency, dissolution, or similar proceeding brought by or against a shareholder;
- (e) By merger, consolidation or s share exchange of existing shares for other shares of a different class or series in the corporation;
- (f) By a pledge as collateral for a loan that does not grant the pledgee any voting rights possessed by the pledgor.

Section 10. Sale of Assets

Unless otherwise provided in the Articles of Incorporation, a sale, lease, exchange, or other disposition of all, or substantially all, the property and assets, with or without the good will, of a corporation formed under this Title, if not made in the usual and regular course of its business, shall require the affirmative vote of all of the holders of outstanding shares of each class of shares of the corporation, whether or not otherwise entitled to vote thereon.

Section 11. Election Not to Have a Board of Directors

(a) A corporation formed under this Title may operate without a board of directors if the articles of incorporation contain a statement to that effect. While this statement is effective:

(1) All corporate powers shall be exercised by or under his/her authority of and the business affairs of the corporation shall be managed under the direction of the shareholders of the corporation, and all powers and duties conferred or imposed upon the board or directors by this Title shall be exercised by the shareholders.

(2) No liability that would otherwise be imposed on the directors shall be imposed on a shareholder by virtue of any act or failure to act unless the shareholder was entitled to vote on the action.

(3) Any requirement that an instrument filed with any government agency contain a statement that a specified action has been taken by the board of directors shall be satisfied by a statement that the corporation is formed under this Title having no board of directors and that the action was duly approved by the shareholders.

(4) The shareholders by resolution may appoint one or more shareholders to sign any documents as "Designated Directors".

(5) Unless the Articles of Incorporation otherwise provide, any action requiring director approval or both director and shareholder approval shall be sufficiently authorized by shareholder approval and any action otherwise requiring vote of a majority or greater percentage of the board of directors shall require the affirmative vote of the holder of a majority, of such greater percentage, if the shares entitled to vote thereon.

(b) Any amendment to the Articles of Incorporation to include provisions authorized by subsection (a) must be approved by the holders of all the shares of the corporation whether or not they are otherwise entitled to vote thereon, or all the subscribers to such shares, or the incorporators, as the case may be. Any amendment to the Articles of Incorporation to delete the election must be approved by the affirmative vote of the holders of all of the shares of the corporation whether or not they are otherwise entitled to vote thereon.

Section 12. Agreements Among Shareholders

(a) The shareholders of a corporation formed under this Title may by unanimous action enter into one or more written agreements to regulate the exercise of the corporate powers and the management of the business and affairs of the corporation or the relations among the shareholders of the corporation.

(b) Any agreement authorized by this section shall be valid and enforceable according to its terms notwithstanding the elimination of the board of directors, any restriction on the discretion or powers of the board of directors, or any proxy or weighted voting rights given to directors and notwithstanding that the effect of the agreement is to treat the corporation as if it were a partnership of that the arrangement of the relations among the shareholders or between the shareholders and the corporation would otherwise be appropriate only among partners.

(c) If the corporation has a board of directors, the effect of an agreement authorized by this section restricting the discretionary powers of the directors shall be to relieve the directors of, and impose upon the person or persons on whom such discretion or powers are vested, the liability for acts or omissions imposed by law upon directors to the extent that the discretion of powers of the directors are controlled by the agreement.

- (d) Any election not to have a board of directors is an agreement authorized by this section shall not be valid unless the articles of incorporation contain a statement to that effect in accordance with Section 11 of this Title.
- (e) A shareholder agreement authorized by this section shall not be amended except by the unanimous written consent of the shareholders unless otherwise provided in the agreement.
- (f) Any action permitted by this section to be taken by shareholders may be taken by the subscribers to shares of the corporation if no shares have been issued at the time of the agreement authorized by the section.
- (g) Provisions otherwise required to be stated in corporate bylaws may be contained with equal effect in a shareholder's agreement.
- (h) This section shall not prohibit any other agreement among two or more shareholders not otherwise prohibited by law.

Section 13. Shareholders Right to Inspect Records

- (a) A corporation shall keep at least the following records:
 - (1) Minutes of all shareholders, meeting and board of director's meetings;
 - (2) Appropriate accounting records;
 - (3) Names and addresses of all shareholders and the number and class of of shares held;
 - (4) Current Articles of Incorporation, bylaws, and shareholder's agreements described in Section 15.
- (b) Upon five (5) days written notice, a shareholder of the corporation is entitled to inspect and copy records referred to in subsection (a) above, subject to the following requirements:
 - (1) The shareholder's demand must be made in good faith and for a proper purpose;
 - (2) The shareholder must describe with reasonable particularity his or her purpose and the records he or she desires to inspect;
 - (3) The records must be directly connected with his or her purpose; and
 - (4) The corporation may impose a reasonable charge covering the costs of labor and materials for copies of documents made for the shareholder; provided, however, that the charge may not exceed any estimates of such costs provided top the shareholder.

(c) A shareholder's agent or attorney has the same inspection and copying rights as the shareholder he or she represents.

(d) A corporation may take reasonable steps to prevent the dissemination of trade secrets, propriety information, or other commercially-sensitive information to persons other than shareholders.

Section 14. Annual Meeting

A corporation formed under this Title may establish in its Articles of Incorporation or bylaws, or in shareholder's agreement authorized under Chapter 13, Section 12 of this Title, a date at which an annual meeting of shareholders shall be held, if called, and if not so established the date shall be the first business day after May 31st.

Unless otherwise provided in the articles of incorporation, no annual meeting need be held unless a written request thereof is delivered to the corporation by any shareholder not less than 30 days before the date specified for the meeting.

Section 15. Special Meetings of Shareholders

(a) A corporation shall hold a special meeting of shareholders:

(1) on call of its board of directors or the person or person authorized to do so by the Articles of Incorporation or bylaws; or

(2) if the holders of at least 10 percent of all the votes entitled to be cast on any issue proposed to be considered at the proposed special meeting sign, date and deliver to the corporation's secretary one or more written demands for the meeting describing the purposes for which it is to be held.

(b) Special shareholder's meetings may be held on or off of the Reservation, at the place stated in accordance with the bylaws, special meetings shall be held at the corporation's principal office.

(c) Only business within the purposes described in the notice sent to shareholders may be conducted at a special shareholder's meeting.

Section 16. Notice of Shareholders Meetings

(a) A corporation shall notify shareholders of the date, time, and place of each annual or special shareholders meeting at least ten (10) days before the meeting.

(b) A shareholder may waive notice and a shareholder may be deemed to have waived notice if the shareholder attends the meeting unless the shareholder objects at the beginning of the meeting.

(c) If an annual or special shareholders meeting is adjourned to a different date, time, and place, notice need not be given of the new date, time or place if that information is announced before meeting adjournment.

(d) Notice shall be given by mail or telephone, using the most recent address or telephone number supplied to the corporation by each shareholder.

Section 17. Action by Shareholders of Close Corporations

(a) Any shareholder of record, the beneficial owner of share held by a nominee, or the holder of voting trust certificates of a corporation formed under this Title may file a petition in the Tribal Court for relief on the grounds that:

(1) The directors of those in control of the corporation have or will have conducted the business and affairs of the corporation in a manner which is not in good faith and which is unfair or oppressive as to the petitioner. Such conduct shall include, but shall not be limited to unfairly depriving the shareholder of the benefit of his or her investment in preference to other shareholders by failing to pay dividends which in good faith ought to be paid, or using the payment of wages as an unfair device to divert income from the petitioner.

(2) Conditions exist that would be grounds for judicial dissolution of the corporation.

(b) In determining whether one or more of the conditions specified in subsection (a) above exist, the court shall give due consideration to the strict fiduciary duty which shareholders of corporations formed under this Title owe to one another, with is the duty of good faith, fairness and loyalty.

(c) The jurisdiction of the court shall be plenary and exclusive. If the court finds that one or more of the conditions specified in subsection (a) exist, it shall grant such relief as in its discretion it deems appropriate, including, without limitation, orders granting one or more of the following types of relief:

(1) Canceling, altering or enjoining any resolution or other act of the corporation;

(2) Directing or prohibiting any act of the corporation or of shareholders, directors, officers, or other persons party to the action;

(3) Canceling or altering any provision contained in the Articles of Incorporation or bylaws of the corporation;

- (4) Removing from office any director or officer, or ordering that a person be appointed a director or officer;
 - (5) Requiring an accounting with respect to any matters in dispute;
 - (6) Appointing a custodian to manage the business and affairs of the corporation;
 - (7) Appointing a provisional director who shall have all the rights, powers, and duties of a duly elected director and shall serve for the term and under conditions established by the court;
 - (8) Ordering the payment of dividends;
 - (9) If the court finds the relief specified in paragraph (1) through (8) is or would be inadequate or inappropriate, ordering that the corporation is liquidated and dissolved unless either the corporation or one or more of the remaining shareholders has purchased all of the shares of another shareholder at their fair value by a designated date, with the fair value and terms of the purchase to be determined as provided by subsection (e). In the event the share purchase is not consummated and the corporation is dissolved and liquidated, any shareholder whose shares were to be purchased shall have the same rights and priorities in the assets of the corporation as would have been the case had no purchase been ordered by the court;
 - (10) Awarding damages to any aggrieved party in addition to or in lieu of any other relief granted. In determining whether to enter a judgment under paragraph (9), the court shall take into consideration the financial condition of the corporation but shall not refuse to order liquidation solely on the grounds that the corporation has earned surplus or current operating profits.
- (d) If the court determines that any party to a proceeding brought under this section has acted arbitrarily, capricious, or otherwise not in good faith, it may award reasonable expenses, including attorneys, fees and the costs of any appraisers of other experts, to one or more of the other parties.
- (e) If the court orders relief pursuant to subsection (c)(9), the court shall:
- (1) Proceed to determine the fair value of the shares to be purchased, considering the going concern values of the corporation, any agreement among the same or all of the shareholders fixing a price or specifying a formula for determining the value of the corporation's shares for any purpose, the recommendations of any appraiser appointed by the court, any legal

constraints on the ability of the corporation to acquire the shares to be purchased, and other relevant evidence.

(2) Enter a decree specifying the identity of the purchaser and the terms of the purchase found to be proper under the circumstances, including such provisions as are deemed proper concerning payment of the purchase price in two or more installments, payment of interest on the installments, subordination of the obligation to the rights of other creditors of the corporation, security for the deferred purchase price, and a covenant not to complete or other restriction on the selling shareholder.

(3) Order that the selling shareholder shall, concurrently with the payment of the purchase price, or in the event of an installment purchase concurrently with the payment of the initial payment called for in the order make delivery of all his or her shares and from that date have no rights or claims against the corporation or its directors, officers, or shareholders by reason of his or her having been a director, officer, or shareholder of the corporation, except the right to receive the unpaid balance of the amount awarded under this section and any amounts due under any agreement with the corporation for the remaining shareholders that are not terminated by the court's order.

(4) Order that if the purchase is not completed in accordance with the court's decree, the corporation shall be liquidated.

(f) Except as otherwise provided in subsection (g), the rights of a shareholder to file a proceeding under this section are in addition to and not in lieu of any other rights or remedies the shareholder may have.

(g) No shareholder shall be eligible to file an action under this section until he or she shall have exhausted any non-judicial remedy for resolution of the issues in disputed to which the shareholder has agreed in writing.

Section 18. Limited Liability

The failure of a corporation to observe usual corporate formalities or requirements relating to the exercise of its corporate powers or the management of its business and affairs shall not be grounds for imposing personal liability on the shareholders for obligations of the corporation.

Section 19. Voting Entitlement of Shares

(a) Unless the Articles of Incorporation provide otherwise, each outstanding share is entitled to one vote on each matter voted on at a shareholders meeting. A shareholder may vote a share in person or by proxy provided that shareholder has appointed a proxy by signing an appointment and filed the appointment with the corporation.

(b) If a corporation is owned and operated in part by the White Earth Band of Ojibwe, the Tribal Council shall vote the Tribe's shares. If a corporation is wholly owned and operated by the White Earth Band of Ojibwe, the Tribal Council shall exercise the powers authorized for shareholders.

Section 20. Voting Trusts and Agreements

(a) One or more shareholders may create a voting trust, conferring on a trustee the right to vote or otherwise act for them, by signing an agreement setting out the trust's provisions and transferring the shares to the trustee. When a voting trust agreement is signed, the trustee shall deliver to the corporation the names and address of all owners of beneficial interests in the trust, together with the number and class of shares transferred to the trust

(b) Two or more shareholders may also provide for the manner in which they will vote their shares by signing an agreement for that purpose.

Section 21. Challenges to Corporate Actions

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

(b) A corporation's power to act may be challenged in a proceeding before White Earth Band of Ojibwe Trial Court by any of the following:

(1) Twenty-five percent (25%) of the shareholders or a director against the corporation to enjoin the act.

(2) The corporation, directly, derivatively, or through a receiver, trustee, or other legal representative, against an incumbent or former director, officer, employee, or agent of the corporation to enjoin the act.

(3) The White Earth Band of Ojibwe Trial Court, as provided in this Ordinance, to dissolve the corporation or to enjoin the corporation from performing unauthorized acts.

Section 22. Corporations Owned and Operated by the Tribe

- (a) In the event the Tribe owns and operates a corporation, in whole or in part, the Tribe's share of the corporation's net earnings may be transferred to the Tribe. The net earnings shall be the sum remaining after provisions have been made for payment of all debts, operating expenses, payment of amortized indebtedness, depreciation, contingencies and such costs as are necessary for managing and conducting business of the corporation.
- (b) Corporations wholly owned and operated by the Tribe shall not be required to issue shares for the purposes of delineating ownership in the corporation.
- (c) The Tribal Council shall exercise the powers authorized for shareholders under this Code for corporations that it owns and operates, in whole or in part, whether or not shares are authorized

CHAPTER 14. BOARD OF DIRECTORS AND OFFICERS

Section 1. Duties of Board of Directors

Unless the election under Chapter 13, Section 11 of this Title to operate without a board of directors has been made, all corporate powers shall be exercised by or under the authority of, and the business and affairs of the corporation managed under the direction of, its board of directors, subject to any limitations set forth in the articles of incorporation.

Section 2. Board of Directors; General

- (a) The business and affairs of the corporation shall be managed by a board of directors, subject to any limitations set forth in the articles of incorporation. The articles of incorporation or bylaws may prescribe qualifications for directors. A director need not be a member of the White Earth Band of Ojibwe unless the articles of incorporation or bylaws so prescribe.
- (b) If a corporation is wholly or partially owned and operated by the White Earth Band of Ojibwe, at least one director shall be a member of the White Earth Band of Ojibwe Tribal Council or a designee assigned by them.
- (c) Corporations wholly or partially owned and operated by the White Earth Band of Ojibwe and any corporation receiving grants, program contracts, use of tribal property, or other benefits derived through or by the tribe, shall have no more than two (2) members of the same immediate family on the board of directors. Immediate

family shall include grandparents, parents, children, brothers and sisters, grandchildren, aunts, uncles, cousins, and all step variations thereof of the family.

Section 3. Qualifications of Directors

The articles of incorporation or bylaws may prescribe qualifications for directors. A director need not be a resident of the state or a shareholder of the corporation unless the articles of incorporation or bylaws so prescribe. A director shall be at least 18 years of age.

Section 4. Number and Election

- (a) A board of directors must consist of one or more individuals with the number to be established in the articles of incorporation or bylaws.
- (b) If the articles of incorporation authorize dividing the shares into classes, the articles may also authorize the election of directors of authorized classes of shares.
- (c) Initial directors shall be named in the articles of incorporation and thereafter directors shall be elected at the annual shareholders meeting.

Section 5. Terms of Directors

- (a) The terms of the initial directors of the corporations expire at the first shareholders' meeting at which directors are elected.
- (b) The terms of all other directors expire at the next annual shareholders' meeting following their election unless the articles of incorporation or bylaws provide that their terms be staggered.
- (c) A decrease in the number of directors does not shorten an incumbent director's term.
- (d) The term of a director elected to fill a vacancy expires at the next shareholders' meeting at which directors are elected.
- (e) Despite the expiration of a director's term, he or she continues to serve until his or her successor is elected and qualifies or until there is a decrease in the number of directors.

Section 6. Resignation

A director or officer may resign at any time by delivering written notice to the board of directors or its chairman

Section 7. Removal of Directors

- (a) The shareholders may remove one or more directors with or without cause unless the articles of incorporation provide that directors may be removed only for cause.
- (b) If a director is elected by a voting group of shareholders, only the shareholders of that voting group may participate in the vote to remove him or her.
- (c) A director may be removed by the shareholders only at a meeting called for that purpose and the meeting notice must state that the purpose or one of the purposes, of the meeting is removal of the director.
- (d) The Tribal Court may remove a director of the corporation from office in a proceeding commenced either by the corporation or by its shareholders holding at least 10 percent of the outstanding shares of any class if the court finds that:
 - (1) the director engaged in fraudulent or dishonest conduct, or gross abuse of authority or discretion, with respect to the corporation; and
 - (2) removal is in the best interest of the corporation.
- (e) If the court removes the director it may bar the director from reelection for a period prescribed by the court.

Section 8. Vacancies

Unless the articles of incorporation provide otherwise, a vacancy on the board may be filled by the board of directors, though less than a quorum.

Section 9. Compensation

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

Section 10. Meetings

- (a) The board of directors may hold regular or special meetings on or off the Reservation.
- (b) Unless the articles of incorporation or bylaws provide otherwise, the board of directors may permit any or all directors to participate in a regular or special meeting by, or conduct the meeting through the use of, any means of communication by which all directors participating may simultaneously hear each other during the meeting. A director participating in a meeting by this means is deemed to be present in person at the meeting.

Section 11. Action Without a Meeting

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

(b) Action taken under this section is effective when the last director signs the consent, unless the consent specifies a different effective date.

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

Section 12. Notice of Meeting

(a) Unless the articles of incorporation or bylaws provide otherwise, regular meetings of the board of directors may be held as provided in the bylaws without notice to directors of the date, time, place, or purpose of the meeting.

(b) Unless the articles of incorporation or bylaws provide for a longer or shorter period, special meeting of the board or directors must be preceded by at least two (2) days' notice of the date, time, and place of the meeting.

Section 13. Waiver of Notice

(a) A director may waive any notice required by this Title, the articles of incorporation or the bylaws before or after the date and time stated in the notice. Except as provided by Subsection (b), the waiver must be in writing, signed by the director entitled to the notice, and filed with the minutes or corporate records

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

Section 14. Quorum and Voting

(a) Unless the articles of incorporation or bylaws require a greater number, a quorum of the board of directors consists of a majority of the number of directors.

(b) The articles of incorporation or bylaws may authority a quorum of a board of directors to consist of no fewer than one-third of the number of directors.

(c) If a quorum is present when a vote is taken, the affirmative majority of directors present is the act of the board of directors unless the articles of incorporation or bylaws require the vote of a greater number of directors.

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

(1) he or she objects at the beginning of the meeting (or promptly upon his or her arrival) to holding it or transacting business at the meeting;

(2) his or her dissent or abstention from the action is taken in the minutes of the meeting; or

(3) he or she delivers written notice of his or her dissent or abstention to the presiding officer of the meeting before its adjournment or to the corporation immediately after adjournment of the meeting. The right of dissent or abstention is not available to a director who votes in favor of the action taken.

Section 15. General Standards for Directors

(a) A director shall discharge his or her duties as a director, including duties as a member of a committee;

(1) in good faith;

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

(3) in a manner he or she reasonably believes to be in the best interests of the corporation.

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

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

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

(3) a committee of the board of directors of which he or she is not a member if the director reasonably believes to committee merits confidence.

(c) A director is not acting in good faith if he or she has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (b) unwarranted.

(d) A director is not liable for any action taken as a director, of any failure to take any action, if he or she performed the duties of office in conjunction with this section. A director is not liable for any action taken as a director, of any failure to take any action, if he or she performed the duties of office in conjunction with this section.

Section 16. General Standards for Officers

(a) An officer with discretionary authority shall discharge his or her duties under that authority:

- (1) in good faith;
- (2) with the care an ordinarily prudent person in a like position would exercise under similar circumstances; and
- (3) in a manner he or she reasonably believes to be in the best interests of the corporation.

(b) In discharging his or her duties an officer is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

- (1) one or more officers or employees of the corporation whom the director believes to be reliable and competent in the matters presented; or
- (2) legal counsel, public accountants, or other persons as to matters the director reasonably believes are within the person's professional or expert competence

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

(d) An officer is not liable for any action taken as a director, of any failure to take any action, if he or she performed the duties of office in conjunction with this section.

Section 17. Conflicts of Interest

(a) A conflict of interest transaction is a transaction with the corporation in which a director of the corporation has a direct or indirect interest. Any conflict of interest transaction is voidable by the corporation because of the director's interest in the transaction unless any one of the following is true:

(1) the material facts of the transaction and the director's interest were disclosed or known to the board of directors or a committee of the board of directors and the board of directors or committee authorized, approved, or ratified the transaction;

(2) the material facts of the transaction and the director's interest were disclosed or known to the shareholders entitled to vote and they authorized, approved, or ratified the transaction; or

(3) the transaction was fair to the corporation.

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

(1) another entity in which he or she has a material financial interest or in which he or she is a general partner is a party to the transaction; or

(2) another entity of which he or she is a director, officer, or trustee is a party to the transaction and the transaction is or should be considered by the board of directors of the corporation.

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

(d) For the purposes of subsection (a)(2), a conflict of interest transaction is authorized, approved or ratified if it receives the vote of a majority of the shares entitled to be counted under this subsection. Shares owned by or voted under the control of a director who has a direct or indirect interest in the transaction, and shares owned by or voted under the control of an entity described in subsection (b)(1), may not be counted in a vote of shareholders to determine whether to authorize, approve or ratify a conflict of interest transaction under subsection (a)(2). The vote of those shares, however, is counted in determining whether a transaction is approved under other sections of this Title. A majority of shares, whether or not

present, that are entitled to be counted in a vote on the transaction under this subsection constitutes a quorum for the purpose of taking action under this section.

Section 18. Loans to Directors

A corporation may not lend money to nor guarantee the obligation of a director of the corporation unless the loan or guarantee benefits the corporation and either the shareholders or the board of directors approves the loan or guarantee.

Section 19. Liability for Unlawful Distributions

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

(b) A director held liable for an unlawful distribution under subsection (a) is entitled to contributions:

- (1) from every other director who voted for or assented to the distribution without complying with the applicable standards of conduct described in Section 15; and
- (2) from each shareholder for the amount the shareholder accepted knowing the distribution was made in violation of this Title or the articles of incorporation.

Section 20. Officers

(a) A corporation has the officers described in its bylaws or appointed by the board of directors in accordance with the bylaws.

(b) A duly appointed officer may appoint one or more officers or assistant officers it authorized by the bylaws or the board of directors.

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

(d) The same individual may simultaneously hold more than one office in the corporation.

(e) The appointment of an officer does not itself create contract rights nor does the resignation or removal of an officer affect the contract rights, if any, of the officer or corporation.

(f) A board of directors may remove any officer at any time with or without cause.

Section 21. Committees

(a) The board of directors may create one or more committees and appoint members of the board of directors to serve on them. Each committee must have two or more directors who serve at the pleasure of the board of directors.

(b) Each committee, to the extent provided by the board of directors or in the articles of incorporation or in the bylaws, may exercise the authority of the board of directors.

Section 22. Indemnification of Corporate Agents

(a) A corporation may indemnify any person who was a party or is threatened to be made a party to any threatened pending or completed action, suit, or proceeding, whether civil, criminal, administrative or investigative by reason of the fact that he or she is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partner, joint venture, trust, or other enterprise, against expenses including attorneys' fees, judgments, fines and amounts paid in settlement actually or reasonably incurred in connection with the action, suit or proceeding if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interest of the corporation or, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful.

(b) No indemnification shall be made pursuant to this section in respect of any proceeding in which such person shall have been adjudged to be liable to the corporation.

(c) No person shall be indemnified under this section in respect to any proceeding charging improper personal benefit to him or her, whether or not involving action in his or her capacity, in which he or she have been adjudged to be liable on the basis that personal benefit was improperly received by him or her.

Section 23. Mandatory Indemnification

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

Section 24. Insurance

A corporation may purchase and maintain insurance on behalf of an individual who is or was a director, officer, employee, or agent of the corporation, or who, while a director, officer, employee, or agent of the corporation, is or was serving at the request of the corporation as a director, officer, partner, trustee, employee, or agent of another foreign or domestic corporation, partnership, joint venture, trust, employee benefit plan, of other enterprise, against liability asserted against or incurred by him or her in that capacity or arising from his or her status as a director, officer, employee, or agent, whether or not the corporation would have power to indemnify him or her against the same liability under this Title,

CHAPTER 15. VOLUNTARY DISSOLUTION

Section 1. Voluntary Dissolution by Incorporations

A corporation which has not commenced business and which has not issued any shares may be voluntarily dissolved by its incorporators at any time in the following manner:

(a) Articles of dissolution shall be executed in duplicate by a majority of the incorporators, and verified by the, and shall set forth:

- (1) The name of the corporation;
- (2) The date of issuance of its certificate of incorporation;
- (3) That none of its shares have been issued;
- (4) That the corporation has not commenced business;
- (5) That the amount, if any, actually paid in on subscriptions for its shares, less any part thereof disbursed for necessary expenses, has been returned to those entitled thereto;
- (6) That no debts of the corporation remain unpaid; and
- (7) That a majority of the incorporators elect that the corporation be dissolved.

(b) Duplicate originals of such articles of dissolution shall be delivered to the Court Administrator. If the Court Administrator finds that such articles of dissolution conform to law, he/she shall, when all fees have been paid as in this Chapter prescribed:

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

- (2) File one of such duplicate original in his/her office; and
- (3) Issue a certificate of dissolution to which he/she shall affix the other duplicate original.

(c) The certificate of dissolution, together with the duplicate original of the articles of dissolution affixed thereto by the Tribal Secretary, shall be returned to the incorporators or their representative. Upon the issuance of such certificate of dissolution, the existence of the corporation shall cease.

Section 2. Voluntary Dissolution by Consent of Shareholder

- (a) A corporation may be voluntarily dissolved by the written consent of all its shareholders.
- (b) If the corporation is wholly owned and operated by the White Earth Band of Ojibwe, the Tribal Council shall consent to dissolve the corporation.
- (c) Upon the execution of such written consent, a statement of intent to dissolve shall be executed in duplicate by the corporation; by its president or vice-president and by its secretary or assistance secretary and verified by one of the officers signing such statement, which statement shall set forth:
 - (1) The name of the corporation;
 - (2) The names and respective addresses of its officers;
 - (3) The names and respective addresses of its directors;
 - (4) A copy of the written consent signed by all shareholders of the corporation; and
 - (5) A statement that such written consent has been signed by all shareholders of the corporation or signed in their names by their attorneys thereunto duly authorized.

Section 3. Voluntary Dissolution by Act of Corporation

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

- (a) The Board of Directors shall adopt a resolution recommending that the corporation be dissolved and directing that the question of such dissolution be submitted to a vote at a meeting of shareholders, which may be either an annual meeting or a special meeting. If the corporation is partially owned and operated by the White Earth Band of Ojibwe, the Tribal Council shall consent for its shares. If the

corporation is wholly owned and operated by the White Earth Band of Ojibwe, the Tribal Council shall consent to dissolve the corporation. ;

(b) Written notice shall be given to each shareholder of record entitled to vote at such meeting, within the time and in the manner provided in this Chapter for the giving of notice of meetings to shareholders, and whether the meeting be an annual or special meeting, shall state that the purpose, or one of the purposes, of such meeting is to consider the advisability of dissolving the corporation;

(c) At such meeting a vote of shareholders entitled to vote thereat shall be taken on a resolution to dissolve the corporation. Such resolution shall be adopted upon receiving the affirmative vote of the holders of a majority of the shares of the corporation entitled to vote thereon; and

(d) Upon the adoption of such resolution by the members, a statement of intent to dissolve shall be executed in duplicate by the corporation; by its president or vice-president and by its secretary or assistance secretary, and verified by one of the officers signing such statement, which statement shall set forth:

- (1) The name of the corporation;
- (2) The names and respective addresses of its officers;
- (3) The names and respective addresses of its directors;
- (4) A copy of the resolution adopted by all shareholders authorizing the dissolution of the corporation;
- (5) The number of shares outstanding, and if the shares of any class are entitled to vote as a class, the designation and number of outstanding shares of each such class; and
- (6) The number of shares voted for and against the resolution, respectively.

Section 4. Filing a Statement of Intent to Dissolve

Duplicate originals of the statement of intent to dissolve, whether by consent of shareholders or by act of the corporation, shall be delivered to the Court Administrator. If the Court Administrator finds that such articles of dissolution conform to law, the Court Administrator shall:

- (a) Endorse on each of such duplicate original the word "filed", and the month, day, and year of the filing thereof;
- (b) File one of such duplicate original in his or her office; and
- (c) Return the other duplicate original to the corporation or its representative.

Section 5. Effect of Statement of Intent to Dissolve

Upon the filing with the Court Administrator the statement of intent to dissolve, the corporation shall cease to carry on its business, except insofar as may be necessary for the winding up thereof. Its corporate existence shall continue until a certificate of dissolution has been issued by the Court Administrator.

Section 6. Procedure After Filing of Statement of Intent to Dissolve

After filing with the Court Administrator the statement of intent to dissolve, the corporation shall:

- (a) Immediately cause notice to be mailed to each known creditor of the corporation.
- (b) Proceed to collect its assets, convey, and dispose of its properties as are not to be distributed to its shareholders or the Tribe as provided in this Code.

Section 7. Distribution of Assets

The assets of a corporation in the process of dissolution shall be applied and distributed as follows:

- (1) All liabilities and obligations of the corporation shall be paid, satisfied, and discharged, or adequate provision shall be made therefore.
- (2) Assets held by the corporation upon condition requiring return, transfer, or conveyance, which condition occurs by reason of the dissolution, shall be returned, transferred, or conveyed in accordance with such requirements.
- (3) Remaining assets shall be distributed, either in cash or in kind, among its shareholders according to their respective rights and interests, unless the corporation is owned and operated, in whole or in part, by the White Earth Band of Ojibwe. In that event, the remainder of its assets shall be conveyed to the Tribal Council according to its respective rights and interest. The Tribal Council shall hold them or their proceeds in trust for two (2) years or until the resolution of any legal action involving them. Under no circumstances shall the Tribal Council assume any liability not covered by the assets so held. Upon the trust's expiration, the Tribal Council may distribute the assets in accordance with federal and tribal law
- (4) Other assets, if any, shall be distributed in accordance with the provisions of the articles of incorporation or the bylaws to the extent that the articles of incorporation or bylaws determine the distribution rights of shareholders or provide for distribution to others.

Section 8. Plan of Distribution

(a) A plan providing for the distribution of assets may be adopted by a corporation in the process of dissolution for the purpose of authorizing any transfer or conveyance of assets in the following manner:

(1) Where a corporation has issued shares of stock, the board of directors shall adopt a resolution recommending a plan of distribution and directing that the plan be submitted to a vote at a meeting of shareholders. Written notice setting forth the proposed plan of distribution shall be given to each shareholder entitled to vote as provided in this Ordinance. The plan of distribution shall be adopted upon receiving at least two-thirds of the votes entitled to be cast. If any of the shares are held by the White Earth Band of Ojibwe, the Tribal Council shall vote the Tribe's shares;

(2) Where a corporation is wholly owned and operated by the White Earth Band of Ojibwe, a plan of distribution shall be adopted at a meeting of the board of directors upon receiving the vote of a majority of the directors in office and must be approved by a two-third vote of the Tribal Council.

(b) Any plan of distribution adopted according to subsection (a) or (b) of this section shall reflect the rights and preference of all outstanding shares.

Section 9. Articles of Dissolution

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

(a) The name of the corporation;

(b) That all debts, obligations and liabilities of the corporation have been paid and discharged or that adequate provision has been made therefore.

(c) That all remaining property and assets of the corporation have been distributed among its shareholders in accordance with their respective rights and interests.

(d) That there are not suits pending against the corporation in any court, or that adequate provision has been made for the satisfaction of any judgment, order or decree which may be entered against it in any pending suit.

Section 10. Filing of Articles of Dissolution

(a) Duplicate originals of such articles of dissolution shall be delivered to the Court Administrator. If the Court Administrator finds that such articles of dissolution conform to tribal law, the Court Administrator shall:

- (1) Endorse on each of such duplicate originals the word "filed" and the month, day and year of the filing thereof.
- (2) Maintain one of such duplicate originals with the Court Administrator.
- (3) Issue a certificate of dissolution to which the Court Administrator shall affix the other duplicate original

(b) The certificate of dissolution, together with the duplicate original of the articles of dissolution affixed thereto by the Court Administrator, shall be returned to the representative of the dissolved corporation. Upon the issuance of such certificate of dissolution the existence of the corporation shall cease, except for the purpose of suits, other proceedings and appropriate corporate action by shareholders, directors and officers.

CHAPTER 16. INVOLUNTARY DISSOLUTION AND LIQUIDATION

Section 1. Involuntary Dissolution of a Corporation

(a) A corporation may be dissolved involuntarily by the White Earth Tribal Court as provided in this Chapter.

(b) The White Earth Tribal Court may order the corporation to appear before it and show cause why it should not be dissolved when one or more of the following is established:

- (1) The corporation has continued to exceed or abuse the authority conferred upon it by law.
- (2) The corporation has failed for thirty (30) days to appoint and maintain a registered agent or registered office on the White Earth reservation.
- (3) The corporation has failed for thirty (30) days after change of its registered officer or registered agent to file with the Court Administrator a statement of such change
- (4) The corporation procured its articles of incorporation through fraud
- (5) The corporation is found by the Court to be in violation of this Code or any other law of the Tribe.

Section 2. Jurisdiction of White Earth Tribal Court to Liquidate Assets and Affairs of Corporation

The White Earth tribal Court shall have full jurisdiction to liquidate the assets and affairs of a corporation:

(a) In any action by a shareholder when one or more of the following is established:

(1) That the Directors are deadlocked in the management of the corporation affairs and that the shareholders are unable to break the deadlock; and that irreparable injury to the corporation is being suffered or is threatened by reason thereof; or

(2) That the acts of the Director or those in control of the corporation are illegal, oppressive or fraudulent; or

(3) That the shareholders are deadlocked in voting power, and have failed, for a period which includes at least two (2) consecutive annual meeting dates, to elect successors to Directors whose terms have expired or would have expired upon the election of their successors; or

(4) That the corporation assets are being misapplied or wasted; or

(5) That the corporation has consistently failed to use accepted accounting practices in the maintenance of its books and records; or

(6) That the corporation does or omits any act which amounts to a surrender of its corporate rights, privileges, or franchises.

(b) Upon petition to the Court of a creditor, when one or more of the following are established:

(1) The claim of the creditor has been reduced to judgment and an execution thereon returned unsatisfied and it is established that the corporation is insolvent.

(2) The corporation has admitted in writing that the claim of the creditor is due and owing and it is established that the corporation is insolvent.

(c) Upon application by a corporation which has filed a statement of intent to dissolve, as provided in this Code, to have its liquidation continued under the supervision of the Court; and

(d) When an action has been commenced by the White Earth tribal attorney to dissolve a corporation and it is established that liquidation of its business and affairs should precede the entry of a decree of dissolution

Section 3. Procedure in Involuntary Dissolution and Liquidation by the Court

- (a) Where there are grounds for issuing an order to show cause why a corporation shall not be dissolved or when the Court receives a petition for liquidation, the Court shall send an order to appear and show cause why the corporation should not be dissolved or liquidated to the president and secretary of the corporation. The hearing shall be scheduled by the Court no less than 30 days from the date of said order.
- (b) If the Court finds that the officers of the corporation have shown sufficient cause why the corporation should not be dissolved or liquidated, the decision of the Court shall be final.
- (c) If the officers of the corporation fail to appear as ordered, or if, in the opinion of the Court, the officers have failed to show sufficient cause why the corporation should not be dissolved or liquidated, the Court may revoke the corporation's certificate of incorporation.
- (d) If the Court revokes the corporation's certificate, it shall assume trusteeship over the corporation's assets and liquidate its assets in accordance with this section.
- (e) If prior to the revocation of the corporation's certificate, the corporation cures all defaults complained of and pays all penalties and costs, the action shall abate.

Section 4. Liquidation of Corporation by the Court

If the Court revokes a corporation's certificate of incorporation, it shall proceed to liquidate the assets and business of a corporation as follows:

- (a) The Court shall have power to issue injunctions, and to appoint a liquidating receiver with any powers and duties the Trial court may direct. The Court may also take any other actions necessary to preserve the corporate assets wherever situated, and carry on the business of the corporation until final dissolution.
- (b) The liquidating receiver shall give notice to all parties in interest and creditors and allow each a proper hearing with sworn statements.
- (c) The liquidating receiver shall then collect the assets of the corporation, and shall have authority to sell, convey and dispose of the assets of the corporation wherever situated, either at public or private sale.
- (d) The assets of the corporation or the proceeds resulting from a sale, conveyance or other disposition thereof shall be applied to the expenses of the liquidation and to the payment of the liabilities and obligations of the corporation according to this Code. Any remaining assets or proceeds shall be distributed according to this Code.

(e) The Court shall have power to allow compensation to the receiver and any attorneys in the proceeding out of the assets of the corporation or the proceeds of any sale or disposition of such assets.

(f) A receiver of a corporation appointed under the provisions of this section shall have authority to sue and defend in all courts in his own name as receiver of such corporation.

Section 5. Order of Dissolution

(a) The Court shall issue an order dissolving the corporation, when:

(1) The costs and expense of the liquidation have been satisfied.

(2) All debts, obligations and liabilities of the corporation have been paid and discharged.

(3) All of its remaining property and assets have been distributed. In case the corporation's property and assets are not sufficient to satisfy and discharge such costs, expenses, debts, and obligations, but all the property and assets have been applied so far as they will go to their payment, the Court shall issue an order dissolving the corporation.

(b) Upon of an order, the existence of the corporation shall cease.

Section 6. Filing of Order of Dissolution

When the Court issues an order dissolving a corporation, it shall file a certified copy of the resolution with the Court Administrator.

CHAPTER 17. POST DISSOLUTION

Section 1. Deposit with the White Earth Tribal Court of Amount Due Certain Shareholders

Upon the voluntary or involuntary dissolution or liquidation of a corporation, the portion of the assets distributable to a creditor or shareholder who is unknown or cannot be found, or who is under disability and there is no person legally competent to receive such distributive portion, shall be reduced to cash and deposited with the Court and shall be paid over to the creditor or shareholder or to his legal representative upon proof satisfactory to the Court of his rights thereto.

Section 2. Survival of Remedy After Dissolution

(a) The dissolution of a corporation by:

(1) the issuance of a certificate of dissolution by the Legislative Secretary,
(2) an order issued by the Court before the corporation's assets have been liquidated as provided in this Ordinance, or
(3) upon expiration of its period of duration, shall not take away or impair any remedy available to or against a corporation, its directors, officers, or shareholders, for any right or claim existing or any liability incurred, prior to dissolution if an action or other proceeding is commenced within two years after the date of dissolution.

(b) Any such action or proceeding by or against the corporation may be prosecuted or defended by the corporation in its corporate name.

(c) The shareholders, directors, and officers shall have power to take corporate or other action as shall be appropriate to protect a remedy, right or claim. If a corporation was dissolved by the expiration of its period of duration, it may amend its articles of incorporation at any time during the period of two years so as to extend its period of duration.

CHAPTER 18. SAVINGS CLAUSE

In the event that any provision of the title shall be found or declared to be invalid, the remaining provisions of this Title shall be unaffected thereby, and shall remain in full force and effect.