

TITLE 11. COMMERCE

Chapter 11.9

NONPROFIT CORPORATIONS

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11.9.1. Title. This chapter shall be known as the “Suquamish Tribe Nonprofit Corporation Ordinance.” (Res. 2014-033, passed Mar. 24, 2014)

11.9.2. Findings. The Suquamish Tribal Council finds, as a matter of tribal public policy, the following:

(a) The Tribe has a primary interest in exercising its inherent sovereign authority to provide for the establishment of a statutory framework for the creation of nonprofit corporations subject to the statutory and regulatory jurisdiction of the Suquamish Tribe of the Port Madison Indian Reservation.

(b) As a sovereign government, the Suquamish Tribal Council finds that it is in its own best interest to charter corporations independent of the State of Washington.

(c) The Tribe wishes to make it possible for the Tribe, instrumentalities of the Tribe, and its tribal members to be able to secure nonprofit corporate charters under tribal law which are eligible to be recognized by the Internal Revenue Service as exempt pursuant to 26 USC 501(c)(3), (4), and (6) of the Internal Revenue Code, as amended.

(d) Chartering of nonprofit corporations promotes tribal governmental sovereign authority and provides access to some of the benefits made available to Indian tribes under the Indian Tax Status Act, 26 USC §7871. (Res. 2014-033, passed Mar. 24, 2014)

11.9.3. Purpose. The purpose of this chapter is to permit the Suquamish tribal government and its members to create nonprofit corporations subject to tribal jurisdiction for the benefit of the tribal government or its members. (Res. 2014-033, passed Mar. 24, 2014)

11.9.4. Authority. The Tribal Council of the Suquamish Tribe of the Port Madison Indian Reservation has the inherent sovereign and constitutional power, pursuant to Article III (h) and (i), to regulate and manage the affairs of the Tribe and all those who are subject to the jurisdiction of the Tribe. (Res. 2014-033, passed Mar. 24, 2014)

11.9.5. Definitions. For the purposes of this chapter, the following definitions apply unless the context requires otherwise.

(a) “Articles of incorporation” or “articles” mean the original articles of incorporation and any amendments thereto of the corporation organized hereunder and includes articles of merger and articles of consolidation.

(b) “Board of directors” means the group of persons vested with the management of the corporation’s affairs, regardless of the name by which the group is designated.

(c) “Bylaws” mean the statement of rules adopted for the regulation or management of the corporation’s affairs irrespective of the name or names by which the rules are designated.

(d) “Corporation” means a nonprofit corporation, except a foreign corporation, subject to the provisions of this chapter.

(e) “Courts” mean the Suquamish Tribal Court and the Suquamish Tribal Court of Appeals.

(f) “Foreign corporation” means a nonprofit corporation organized under laws other than the laws of the Suquamish Tribe.

(g) “Member” means an individual having rights in a corporation in accordance with the corporation’s articles or bylaws.

(h) “Nonprofit corporation” means a corporation, no part of the income of which is distributable to its members, directors, or officers.

(i) “Reservation” means the territory within the exterior boundaries of the Port Madison Indian Reservation and such other lands without those boundaries as may

hereafter be added to the reservation or held in trust for the Tribe under any law of the United States or otherwise.

(j) “Tribal Council” means the Tribal Council of the Suquamish Tribe as defined by the Constitution and Bylaws of the Suquamish Tribe of the Port Madison Indian Reservation.

(k) “Tribe” means the Suquamish Tribe of the Port Madison Indian Reservation. (Res. 2014-033, passed Mar. 24, 2014)

11.9.6. Incorporators. (a) Officers of the Suquamish tribal government and instrumentalities of the Suquamish tribal government are authorized to create and file nonprofit corporations pursuant to the provisions of this chapter. Adult Suquamish tribal members may create and file nonprofit corporations pursuant to the provisions of this chapter. The Tribal Council is authorized to review and approve or deny corporate filings pursuant to the provisions of this chapter. The decision of the Tribal Council is the final decision of the Suquamish Tribe.

(b) One or more persons may serve as incorporators of a nonprofit corporation under this chapter. When the corporation paperwork is filed by the Suquamish tribal government on its own behalf, such acts shall be accompanied by an authorizing resolution of the Suquamish Tribal Council. The incorporator of record for the Suquamish Tribe shall be the tribal chairman, vice chairman, or treasurer.

(c) When the incorporation is submitted by or on behalf of Suquamish tribal members, one or more incorporators must be members of the Suquamish Tribe. Tribal member(s) may authorize an attorney licensed in any state or an agent of an incorporating company to file for a nonprofit corporate charter under this chapter. (Res. 2014-033, passed Mar. 24, 2014)

11.9.7. Articles of Incorporation. (a) Execution and Approval. The articles shall be signed by each incorporator and acknowledged and approved by resolution of the Suquamish Tribal Council.

(b) Content of the Articles. The articles of nonprofit corporations organized under this chapter shall state:

- (1) The name of the nonprofit corporation;
- (2) The purpose of the nonprofit corporation;
- (3) That the nonprofit corporation does not afford pecuniary gain, incidentally or otherwise to its officers, directors, or members;
- (4) The period of duration of the corporate existence, which may be perpetual;

- (5) The location by city, town, or other community;
- (6) The name of its registered agent and registered office within the Suquamish Indian Tribe's jurisdiction;
- (7) The name and address of each incorporator;
- (8) The number of directors constituting the initial board of directors together with their names, addresses, and initial tenure of office; and
- (9) Any other provision or information consistent with this chapter or the laws of the Suquamish Tribe regulating the business of nonprofit corporations and the conduct of corporate affairs encompassed by this chapter or by regulation of the Suquamish Tribe. (Res. 2014-033, passed Mar. 24, 2014)

11.9.8. Number of Directors and Officers. The number of directors governing a nonprofit corporation created under this chapter shall not be less than three (3) or more than eleven (11). Directors may also be officers. Every nonprofit corporation formed under this chapter shall have a president, vice president, secretary, and treasurer as officers of the corporation, except that the offices of secretary and treasurer may be combined if the articles of incorporation so provide. (Res. 2014-033, passed Mar. 24, 2014)

11.9.9. Corporate Name. A nonprofit corporation organized pursuant to this chapter may use any corporate name authorized by the Tribal Council Secretary or his or her designee. It shall not be necessary for a nonprofit corporation to use the words "corporation," "company," "incorporated," "limited," or an abbreviation of these words in its corporate name. (Res. 2014-033, passed Mar. 24, 2014)

11.9.10. Corporate Power and Capacity. A nonprofit corporation incorporated under this chapter shall have general corporate capacity and shall have and possess all of the general powers of a domestic corporation. (Res. 2014-033, passed Mar. 24, 2014)

11.9.11. Filing of Articles. The articles of incorporation shall be filed with the legislative secretary of the Tribe. If the articles conform to law, the legislative secretary shall submit the articles and a certificate of incorporation to the Tribal Council for approval. The certificate shall state the name of the nonprofit corporation and the fact and date of incorporation. Corporate existence shall begin upon the issuance of a resolution of the Tribal Council approving the articles and issuing the certificate of incorporation. (Res. 2014-033, passed Mar. 24, 2014)

11.9.12. Amendment of Articles. Every nonprofit corporation wishing to change its name or otherwise amend its articles shall make such change or amendment subject to the approval of the Tribal Council, which approval shall be granted as long as the amendment conforms to the requirements of this chapter and is consistent with the

purposes for which the nonprofit corporation was established. The articles shall be deemed amended upon issuance of a resolution of the Tribal Council approving a certificate of amendment. (Res. 2014-033, passed Mar. 24, 2014)

11.9.13. Organizational Meeting. After commencement of corporate existence, the first meeting of the board of directors shall be held by the call of the incorporators or the directors for the purpose of adopting the initial bylaws, 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 meeting. Such meeting shall be held within thirty (30) days after the issuance of the certificate of incorporation by the Tribal Council. The initial bylaws adopted by the board of directors shall remain effective until legally amended or repealed at a board of directors' meeting duly called for the specific purpose of amending or repealing the bylaws. (Res. 2014-033, passed Mar. 24, 2014)

11.9.14. Disposition of Assets. Notwithstanding any provision of Suquamish tribal law or in the articles of incorporation to the contrary, the articles of every nonprofit corporation organized under this chapter shall be conclusively deemed to contain the following provision concerning disposition of assets.

Upon dissolution of the nonprofit corporation, the board of directors shall, after paying or making provisions for the payment of all of the liabilities of the nonprofit corporation, dispose of all of the assets of the nonprofit corporation exclusively for the purposes of the nonprofit corporation in such manner or to such organization or organizations organized and operated exclusively for charitable, educational, literary, or scientific purposes as shall at the time qualify as exempt organizations under section 501(c)(3) of Title 26 of the Internal Revenue Code as amended, or the corresponding provision of any future US Internal Revenue Law, as the board of directors shall determine. Any such assets not so disposed of shall be disposed of by the Courts of the Suquamish Tribe exclusively to organizations organized for charitable, educational, literary, or scientific purposes under section 501(c)(3) of Title 26 of the Internal Revenue Code as amended, or the corresponding provision of any future US Internal Revenue Law.

(Res. 2014-033, passed Mar. 24, 2014)

11.9.15. Special Provisions related to Charitable 501(c)(3) Organizations. Nonprofit corporations formed and organized under this chapter as exclusively for charitable, literary, educational, or scientific purposes which qualify as exempt from taxation pursuant to 26 USC §501(c)(3) of the Internal Revenue Code, as amended, or any successor provision to that section, shall be exempt from payment of filing fees, franchise fees, or license fees. At its discretion, the Suquamish Tribe may impose filing fees, franchise fees, or license fees for the organizing of other nonprofit corporations.

Notwithstanding any provision of Suquamish tribal law or in the articles of incorporation to the contrary, the articles of every nonprofit corporation organized under this chapter shall be conclusively deemed to contain the following provision concerning private benefit, political activities, and devotion to charitable purposes.

No part of the net earnings of the corporation shall inure to the benefit of or be distributable to its members, trustees, officers, or other private persons, except that the corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of its exempt purposes. No substantial part of the activities of the corporation shall be the carrying on of propaganda or otherwise attempting to influence legislation, and the corporation shall not participate in or intervene in any political campaign on behalf of or in opposition to any candidate for public office, including the publishing or distribution of statements. The corporation shall not carry on any other activities not permitted to be carried on (a) by a corporation exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code or the corresponding provision of any future federal tax code, or (b) by a corporation, contributions to which are deductible under section 170(c)(2) of the Internal Revenue Code or the corresponding provision of any future federal tax code.

(Res. 2014-033, passed Mar. 24, 2014)

11.9.16. Revocation. The Tribal Council retains the authority to revoke any articles of incorporation issued pursuant to this chapter or to revoke the right to conduct business within the Port Madison Indian 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 chapter, the articles of incorporation, or the law or regulations relevant to the 501(c) status of such nonprofit corporation; that involve financial impropriety by or on behalf of the nonprofit corporation; or that are contrary to tribal values. Revocation of the articles of incorporation of a nonprofit corporation by the Tribal Council shall be by resolution, approved by a majority of the Tribal Council. (Res. 2014-033, passed Mar. 24, 2014)

11.9.17. Severability. If any phrase, clause, part, sentence, provision, or section of this chapter is found to be invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected and shall remain in full force and effect and continue in effect as if the invalid provisions(s) were not a part hereof. (Res. 2014-033, passed Mar. 24, 2014)