

Chapter 8.30

FORMATION OF NONPROFIT CORPORATIONS

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8.30.010 **Scope.**

- (a) Unless otherwise provided, the provisions of this chapter apply to all nonprofit corporations formed pursuant to provisions of this Code, except those corporations directly controlled by the Tribal Council.
- (b) Any nonprofit corporation that exists within Yurok Reservation boundaries on the date of enactment of this chapter will not be affected by provisions of this Code, unless such corporation voluntarily elects to operate pursuant to the provisions of this Code.

(c) Any nonprofit corporation that elects not to form under provisions of the Yurok Tribal Business Corporations Code, but that is based within the Yurok Reservation, will not be entitled to any of its protections and benefits, except as may be directed by the Yurok Tribal Council on a case-by-case basis.

(d) The provisions of this chapter do not apply to any nonprofit organization, entity, club, or individual whose annual proceeds are \$5,000.00 or less. [Ord. 18 Part VI § 1, adopted, 10/7/2008.]

8.30.020 General powers of nonprofit corporations.

Any nonprofit corporation formed under this Code has the same general powers of any business corporation formed pursuant to provisions of this Code as set forth in YTC [8.05.030](#). [Ord. 18 Part VI § 2, adopted, 10/7/2008.]

8.30.030 Limitations.

(a) Any nonprofit corporation formed pursuant to this chapter:

- (1) Shall neither possess nor issue shares of stock; and
- (2) Shall not pay dividends, or make any distribution of income to its members, directors or officers; and
- (3) Shall not loan money or credit to its officers or directors; and
- (4) May pay compensation only up to a reasonable amount to its members, directors, officers or agents for services rendered; and
- (5) May confer benefits upon its members only in conformity with its purposes.

(b) Unless otherwise provided in its articles of incorporation or bylaws, a mutual benefit corporation may:

- (1) Following dissolution, make distributions to its members as permitted by this chapter. No such distribution will be deemed to be a dividend or a distribution of income; and
- (2) Periodically pay refunds to members for fees or dues actually paid in excess of the losses, expenses, and debts of the corporation. Such refunds will not be deemed to be a dividend or distribution of income.

(c) A public benefit corporation must, upon dissolution, distribute its assets for one or more purposes listed in the definition of "Public Benefit Corporation" (YTC [8.05.020](#)); or, to the federal government; or, to a Tribal, state, or other local government, for a public purpose; or, by a court of competent jurisdiction to another organization to be used in such manner as, in the judgment of the court, will best accomplish the general purposes for which the dissolved organization was organized. [Ord. 18 Part VI § 3, adopted, 10/7/2008.]

8.30.040 Limitations on I.R.C. 509(a) private foundations.

A corporation which is a private foundation as defined in section [509\(a\)](#) of the Internal Revenue Code of 1954, subject to any and all amendments and/or changes to that Code since 1954:

- (a) Shall distribute such amounts for each taxable year at such time, and in such manner, so as to avoid subjecting the corporation to tax under I.R.C. § [4942](#); and
- (b) Shall not engage in any act of self-dealing as defined in I.R.C. § [4941\(d\)](#); and
- (c) Shall not retain any excess business holdings as defined in I.R.C. § [4943\(c\)](#); and
- (d) Shall not make any taxable expenditures as defined in I.R.C. § [4944](#); and
- (e) Shall not make any taxable expenditure as defined in I.R.C. § [4945\(d\)](#). [Ord. 18 Part VI § 4, adopted, 10/7/2008.]

8.30.050 Defense of ultra vires acts by nonprofit corporation.

- (a) Neither any act by, nor conveyance or transfer of real or personal property by or to, a nonprofit corporation will be deemed invalid per se where lack of capacity is alleged as the basis for the conveyance or transfer.
- (b) Such lack of capacity or power may be asserted:
 - (1) In a proceeding by a member or director opposing the act, or transfer of real or personal property.
 - (A) If the act or transfer sought to be enjoined is being or will be performed, or made, pursuant to any contract to which the corporation is a party, the Court may, if all parties to the contract are parties to the proceeding, and the Court deems it equitable:
 - (i) Enjoin the performance of the contract; and/or
 - (ii) Award the corporation and/or other parties, as the case may be, compensation for loss or damage sustained by either as a result of enjoining the performance.
 - (B) Anticipated profits to be derived from the performance of the contract cannot be awarded by the Court as a loss or damage sustained.
 - (2) In a proceeding by the corporation, whether acting directly or through a receiver, trustee, or other legal representative, or through members in a representative suit, against the incumbent or former officers or directors.
 - (3) In a proceeding by the Tribal Council to dissolve the corporation, or enjoin the corporation from the transaction of unauthorized business. [Ord. 18 Part VI § 5, adopted, 10/7/2008.]

8.30.060 Articles of incorporation.

- (a) The articles of incorporation shall set forth:
- (1) A name for the corporation that satisfies the requirements of this chapter; and
 - (2) A statement that states either:
 - (A) "This corporation is a public benefit corporation"; or
 - (B) "This corporation is a mutual benefit corporation"; and
 - (3) The purpose(s) for which the corporation is organized, so long as the proposed activity is lawful; and
 - (4) The names and addresses of individuals who are to serve as the initial board of directors; and
 - (5) The street address of the corporation's registered office; and
 - (6) The name of its initial registered agent at that office; and
 - (7) The name and address of each incorporator; and
 - (8) A statement disclosing whether the corporation will have members; and
 - (9) Provisions regarding the distribution of assets upon dissolution.
- (b) The articles of incorporation may set forth provisions:
- (1) Defining management and regulation of corporate affairs; and
 - (2) Defining, limiting, and regulating the powers of the corporation, its board of directors, and members, or class of members; and
 - (3) Describing, with specificity, the characteristics, qualifications, rights, limitations and obligations attaching to each class of members;
 - (4) That are required or permitted to be set forth in the bylaws.
- (c) Each incorporator and director named in the articles of incorporation must sign the articles. [Ord. 18 Part VI § 6, adopted, 10/7/2008.]

8.30.070 Filing articles of incorporation.

- (a) Duplicate originals of the articles of incorporation shall be delivered to the Clerk of the Tribal Council, or his/her designee.
- (b) If the Clerk of the Tribal Council, or his/her designee deems the articles of incorporation complete as to form and content, he/she will:

- (1) Collect all necessary filing fees; and
- (2) Endorse each original with the word, "Filed"; and
- (3) Write the effective date of filing on the face of the certificate of incorporation; and
- (4) Retain one original; and
- (5) Issue a certificate of incorporation; and
- (6) Affix the certificate of incorporation to the other original; and
- (7) Return the certificate and articles to either the incorporators, or their representative. [Ord. 18 Part VI § 7, adopted, 10/7/2008.]

8.30.080 Effect of filing the articles of incorporation.

The effect of filing the articles of incorporation for a nonprofit corporation shall be the same as those set forth in YTC [8.05.050](#). [Ord. 18 Part VI § 8, adopted, 10/7/2008.]

8.30.090 Initial meeting of directors.

(a) After the certificate of incorporation has been issued, an initial meeting of the board of directors named in the articles of incorporation must be held at the call of a majority of directors named in the articles of incorporation for the purpose of:

- (1) Adopting bylaws; and
- (2) Electing officers; and
- (3) Transacting such corporate business as may arise prior to the meeting.

(b) Unless all directors waive notice, the directors who called the meeting must provide at least three days' notice thereof, by mail, to each director. Said notice must state the time and place of meeting.

(c) Any action permitted to be taken at the initial directors' meeting may be taken without a meeting only if each director signs an instrument stating the action so taken, and indicating their assent thereto. [Ord. 18 Part VI § 9, adopted, 10/7/2008.]

8.30.100 Admission of members.

(a) A nonprofit corporation is not required to have members.

- (b) A nonprofit corporation may admit any person as a member based on criteria and/or procedures set forth in the articles of incorporation and/or bylaws.
- (c) No member may be admitted without his/her express and voluntary consent.
- (d) Members can be admitted either for no consideration, or for such consideration as determined by the board of directors, so long as not inconsistent with the articles of incorporation and/or bylaws. [Ord. 18 Part VI § 10, adopted, 10/7/2008.]

8.30.110 Differences in rights and obligations of members.

All members will have the same rights and obligations with respect to voting, dissolution, redemption and transfer, unless the articles of incorporation and/or bylaws establish classes of membership with different rights or obligations. [Ord. 18 Part VI § 11, adopted, 10/7/2008.]

8.30.120 Transfers.

- (a) Except as authorized by the articles of incorporation or bylaws, no member of a mutual benefit corporation can transfer his/her membership or rights.
- (b) No member of a public benefit corporation is allowed to transfer his/her membership or rights.
- (c) If the articles of incorporation or bylaws allow a right of transfer, no restriction will be binding on a member holding a membership issued prior to adoption of the restriction, unless the restriction is approved by all members, including the member affected. [Ord. 18 Part VI § 12, adopted, 10/7/2008.]

8.30.130 Resignation.

- (a) A member may resign at any time.
- (b) Resignation does not relieve the member from any previously incurred obligations to the corporation. [Ord. 18 Part VI § 13, adopted, 10/7/2008.]

8.30.140 Termination.

- (a) No member may be expelled or suspended, and no membership(s) may be terminated or suspended, until the member has been afforded rights to a procedure that is fair and reasonable under the circumstances, and that is carried out in good faith by those seeking expulsion, termination, or suspension.
- (b) A procedure is fair and reasonable when:

- (1) It provides for written notice to the member setting forth, with specificity, the reasons for the proposed expulsion, suspension or termination; and
 - (2) It provides a reasonable opportunity for the member to be heard by the person(s) authorized to decide the matter prior to the proposed action.
- (c) A procedure deviating from any procedure(s) set forth in the bylaws for the expulsion, termination or suspension of members, or membership rights, is per se not fair and reasonable, unless special circumstances warrant such a deviation.
- (d) Any proceeding challenging an expulsion, suspension or termination, including one where defective notice is alleged, must be commenced within one year following the effective date of the expulsion, suspension or termination. [Ord. 18 Part VI § 14, adopted, 10/7/2008.]

8.30.150 Purchase of memberships.

- (a) A public benefit corporation cannot purchase either its memberships or any right arising therefrom.
- (b) A mutual benefit corporation may purchase the membership of a member who resigns, or whose membership is terminated, for the amount, and subject to conditions set forth in or authorized by its articles of incorporation or bylaws.
- (c) A mutual benefit corporation can only purchase its memberships if, after the purchase is completed:
- (1) The corporation will be able to pay debts as they become due in the usual course of business; and
 - (2) The corporation's total assets would at least equal the sum of its total liabilities. [Ord. 18 Part VI § 15, adopted, 10/7/2008.]

8.30.160 Annual members' meeting.

- (a) A corporation with members shall establish a date on which an annual meeting of members shall be held, if called. The date must be set forth in the articles of incorporation. If no date is established, the date will be the second business day after May 31st.
- (b) Unless otherwise provided in the articles of incorporation, no annual meeting need be held unless a written request therefor is delivered to the corporation by any voting member no fewer than 30 days prior to the date specified for the meeting. [Ord. 18 Part VI § 16, adopted, 10/7/2008.]

8.30.170 Special meetings of members.

- (a) A corporation shall hold a special meeting of members:

- (1) At the call of the board of directors, or the person(s) authorized to do so by the articles of incorporation or bylaws; or
 - (2) If at least 10 percent of all members entitled to vote on any issue raised for consideration at the proposed special meeting sign, date and deliver one or more written demands for the meeting to the corporation's secretary, describing the purposes for which it is to be held.
- (b) Special meetings of members may be held on or off the Reservation, at the location stated in the bylaws. If no place is stated in the bylaws, special meetings shall be held at the corporation's principal place of business.
- (c) Only business specifically disclosed in the notice sent to members may be conducted at a special meeting of members. [Ord. 18 Part VI § 17, adopted, 10/7/2008.]

8.30.180 Notice of members' meetings.

- (a) The corporation shall notify its members entitled to vote of the date, time and place of each annual and special meeting neither less than 15 nor more than 60 days prior to the meeting.
- (b) Notice of members' meetings shall be given by mail or telephone, using the most recent address or telephone number supplied to the corporation. If consistent with the articles of incorporation and/or bylaws, notice may also be given by posting and publishing rather than mailing and telephoning if the directors determine such notice is reasonably calculated to actually inform all voting members of the meeting. If the date, time, or place of the annual or special members' meetings is changed, new notice is not required so long as it is announced prior to adjournment.
- (c) A member may waive any notice required by this chapter, the articles of incorporation, or bylaws either before, or after, the date and time stated in the notice. The waiver must be:
- (1) In writing; and
 - (2) Signed by the member entitled to the notice; and
 - (3) Delivered to the corporation.
- (d) A member's attendance at a meeting:
- (1) Waives his/her objection to lack of notice, or defective notice, unless the member objects, at the beginning of the meeting, to either holding the meeting or transacting business at the meeting;
 - (2) Waives his/her objection to consideration of a particular matter that is not within the stated purpose(s) described in the notice, unless the member objects to considering the matter when it is presented.
- (e) Unless prohibited, or limited, by the articles of incorporation or bylaws, any action that may be taken at any annual or special meeting may be taken by vote without a meeting, if the corporation delivers a written ballot to every member entitled to vote. [Ord. 18 Part VI § 18, adopted, 10/7/2008.]

8.30.190 Amendments to bylaws and articles of corporations without members.

- (a) If a corporation has no members, its board of directors may adopt amendments to the bylaws and articles of incorporation, subject to any approvals required thereby.
- (b) The corporation will provide notice of any meeting at which an amendment is to be voted on. The notice must disclose that a purpose of the meeting is to consider a proposed amendment to the articles of incorporation or bylaws; and must either contain, or be accompanied by, a copy or summary of the amendment; or state the general nature of the amendment.
- (c) All amendments must be approved by a majority of the directors in office at the time the amendment is adopted.
- (d) If the corporation has members, an amendment must be approved:
 - (1) By the board of directors if the corporation is a public benefit corporation, and the amendment does not relate to the number of directors, the composition of the board of directors, the term of office of directors, or the method or way in which directors are elected or selected; and/or
 - (2) By two-thirds of the votes cast from members entitled to vote; and
 - (3) By a writing by any person(s) whose approval is required by the articles of incorporation or bylaws. [Ord. 18 Part VI § 19, adopted, 10/7/2008.]

8.30.200 Distributions by public benefit corporations.

- (a) A public benefit corporation must give the Clerk of the Tribal Council, or his/her designee, written notice that it intends to dissolve. Said notice must be delivered 10 days before the date it delivers articles of dissolution to the Clerk, or his/her designee. The notice shall include a copy or summary of the plan of dissolution.
- (b) Under no circumstances can the corporation transfer assets until 20 days after the date it has either complied with subsection [\(a\)](#) of this section, or the Clerk of the Tribal Council or his/her designee has consented thereto in writing, or otherwise has indicated, in writing, that it will take no action with respect to the transfer, whichever is earlier.
- (c) Prior to the expiration of the 20-day period described in subsection [\(b\)](#) of this section, the Clerk of the Tribal Council, or his/her designee, may bring an action in Tribal Court to enjoin the planned distribution of assets. Any injunction issued by the Tribal Court will be binding on the corporation.
- (d) When all, or substantially all, of the assets of a public benefit corporation have been transferred or conveyed following approval of dissolution, the board of directors shall deliver to the Clerk of the Tribal Council, or his/her designee, a list of those to whom the assets were transferred or conveyed. The list must contain the addresses of

each person, other than creditors, who received assets; and describe with specificity what assets each received. [Ord. 18 Part VI § 20, adopted, 10/7/2008.]

8.30.210 Voluntary dissolution.

- (a) A nonprofit corporation may dissolve its affairs in the following manner:
- (1) If the corporation has members with voting rights, the board of directors shall adopt a resolution recommending that the corporation be dissolved; and
 - (2) Submit the issue of dissolution to members for a vote at either the annual or a special meeting; and
 - (3) Provide written or published notice to each member entitled to vote, pursuant to the notice section of this chapter, YTC [8.30.180](#). Notice must disclose that dissolution will be considered; and
 - (4) A resolution to dissolve the corporation shall be adopted upon an affirmative vote of at least two-thirds of the votes entitled to be cast by members present or represented by proxy at such meetings;
 - (5) If the corporation either has no members with voting rights, or has no members, dissolution must be authorized by resolution at a meeting of the board of directors following an affirmative vote by the majority of directors in office.
- (b) Once dissolution is authorized by either the board of directors or members entitled to vote, if any, the corporation shall:
- (1) Cease to conduct business, except insofar as may be necessary for the winding up of corporate affairs; and
 - (2) Immediately dispatch, via certified or registered mail, notice of the proposed dissolution to each known creditor of the corporation; and
 - (3) Commence collection and distribution of assets as directed in this chapter.
- (c) 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 arrangements to do so within a reasonable time shall be made; then
 - (2) Assets held by the corporation upon condition of return, transfer, or conveyance in the event of dissolution shall be returned, transferred, or conveyed in accordance with such requirements, with assets belonging to the Yurok Tribe being afforded first preference; then
 - (3) Assets received, and held, by the corporation subject to conditions that their use be exclusively for charitable, religious, benevolent, educational, or similar purposes, but not held upon a condition under subsection [\(c\)\(2\)](#) of this section, shall be transferred, or conveyed to one or more domestic or foreign

corporations, societies, or organizations engaged in activities substantially similar to those of the dissolving corporation, pursuant to a plan of distribution adopted as provided in this chapter; then

(4) Other assets, if any, shall be distributed in accordance with the provisions of the articles of incorporation or bylaws to the extent the articles or bylaws determine the distributive rights of members, or any class, or classes, of members, or provide for distribution to others; then

(5) Any remaining assets may be distributed to such persons, societies, organizations, or domestic or foreign corporations, whether for-profit or nonprofit, as may be specified if a plan of distribution is adopted as provided in this chapter.

(d) A plan for distribution of assets not inconsistent with the provisions of this chapter may be adopted by a corporation in the process of dissolution, and must be adopted for the purpose of authorizing any transfer or conveyance of assets for which this chapter requires a plan for distribution. The plan shall be executed in the following manner:

(1) If the corporation has members with voting rights, the board of directors shall adopt a resolution recommending that the voluntary dissolution proceedings be revoked; and

(2) Submit the issue of revocation of dissolution to members for a vote at either the annual or a special meeting; and

(3) Provide written or published notice to each member entitled to vote, pursuant to the notice section, [YTC 8.30.180](#). The notice must disclose that revocation of the dissolution will be considered; and

(4) A resolution to revoke the voluntary dissolution proceedings shall be adopted upon an affirmative vote of at least two-thirds of the votes entitled to be cast by members present or represented by proxy at such meeting; and

(5) If the corporation either has no members with voting rights, or no members, revocation of the voluntary dissolution must be authorized by resolution at a meeting of the board of directors following an affirmative vote by the majority of directors in office; and

(e) Once revocation of dissolution has been authorized by the board of directors and members entitled to vote, if any, the corporation may again conduct its affairs. If articles of dissolution were previously delivered to the Clerk of the Tribal Council, or his/her designee, notice of revocation of dissolution must be provided to the Clerk or his/her designee, in writing, within 20 days after the date the revocation was authorized.

(f) If voluntary dissolution proceedings have not been revoked, and the corporation has complied with subsections [\(c\)\(1\)](#) through [\(c\)\(5\)](#) of this section, articles of dissolution shall be executed, in duplicate, by the corporation through its president or vice-president, and the corporate seal affixed thereto, and attested by its secretary or an assistant secretary. The articles of dissolution shall expressly state:

(1) The name of the corporation; and

(2) If the corporation has members with voting rights:

- (A) A statement setting forth the date of the meeting of members at which the resolution to dissolve was adopted; and
 - (B) That a quorum was present at such meeting; and
 - (C) That the resolution to dissolve received at least two-thirds of the votes entitled to be cast by members or represented by proxy at such meetings; or
 - (D) That such resolution was adopted by consent, in writing, and signed by all members entitled to vote.
- (3) If the corporation has either no members with voting rights, or no members:
- (A) That there are either no members with voting rights, or no members; and
 - (B) The date of the meeting of the board of directors at which the resolution to dissolve received the vote of a majority of the directors in office;
- (4) That all debts, liabilities, and obligations of the corporation have been paid and discharged, or arrangements have been made to do so within a reasonable time; and
- (5) That all remaining property and assets of the corporation have been transferred, conveyed, or distributed in accordance with the provisions of this chapter; and
- (6) That there are no suits pending against the corporation in any Court; or that adequate provisions have been made for the satisfaction of any judgment, order, or decree which may be entered against it in any pending suit.
- (g) Articles of dissolution shall be filed with the Clerk of the Tribal Council, or his/her designee, as follows:
- (1) Duplicate originals of the articles of dissolution shall be delivered to the Clerk of the Tribal Council, or his/her designee.
 - (2) If the Clerk, or his/her designee, determines that the articles of dissolution conform to law, he/she shall, after all fees under this chapter have been paid:
 - (A) Endorse each original with the word "Filed," and the month, day, and year; and
 - (B) Retain one original in the Tribal Council file; and
 - (C) Issue a certificate of dissolution and affix it to the second original; and
 - (D) Deliver the certificate of dissolution and second original to the registered representative of the dissolved corporation.
- (h) Upon issuance of the certificate of dissolution, the existence of the corporation shall cease, except for the purpose of suits, other proceedings, and appropriate corporate action by members, directors, and officers as provided in this chapter.

- (i) A nonprofit corporation may be dissolved involuntarily by a decree of the Yurok Tribal Court, in an action instituted by the Yurok Tribal Council, when it is proven to the Court that:
- (1) The franchise of the corporation was procured through fraud; or
 - (2) The corporation has exceeded, or abused, the authority conferred upon it by this chapter; or
 - (3) The corporation has failed to appoint and maintain a registered agent for a period of 90 days; or
 - (4) The corporation has failed to deliver to the Clerk of the Tribal Council, or his/her designee, a statement of change of registered agent and/or principal place of business within 90 days after the date such information changed.
- (j) At least 30 days before any action for the involuntary dissolution of a corporation shall be filed by the Clerk of the Tribal Council, he/she shall notify the corporation, by certified or registered mail addressed to the corporation at its registered principal place of business, a notice of their intention to file such suit, including the reasons therefor.
- (k) If the nonprofit corporation submits satisfactory evidence that it did not commit an act in violation of subsection [\(i\)](#) of this section, the Clerk of the Tribal Council, or his/her designee, shall not file an action against the corporation.
- (l) If an action has been filed against a nonprofit corporation for violation of subsections [\(i\)\(3\)](#) or [\(i\)\(4\)](#) of this section, and the corporation subsequently complies with the relevant subsection, and the corporation will pay the costs of the action already incurred, such as filing fees, the Clerk or his/her designee will withdraw the action. [Ord. 18 Part VI § 21, adopted, 10/7/2008.]

8.30.220 Jurisdiction of the Yurok Tribal Court.

- (a) The Yurok Tribal Court shall have full power to liquidate the assets and affairs of a nonprofit corporation in any action by a member or director when:
- (1) The directors are deadlocked in the management of the corporate affairs, and irreparable injury to the corporation is either being suffered or is threatened thereby; and either:
 - (A) The members are unable to break the deadlock; or
 - (B) There are no members having voting rights;
 - (2) The acts of the directors, or those in control of the corporation, are proven to be illegal, oppressive or fraudulent; or
 - (3) Corporate assets are being misapplied or wasted; or
 - (4) The corporation is unable to carry out its purposes;

- (5) A creditor's claim has been reduced to judgment, and execution on the judgment has been returned unsatisfied, and it is established that the corporation is insolvent; or
- (6) The corporation has admitted in writing the creditor's claim is valid; and the claim is still due and owing; and it is established that the corporation is insolvent; or
- (7) The corporation petitions the Court to conduct dissolution under Court supervision; or
- (8) An action has been commenced by the Clerk of the Tribal Council or his/her designee, and a showing is made that liquidation of its assets should precede entry of a decree of dissolution.

(b) It shall not be necessary to make directors or members parties to any such action or proceeding unless relief is sought against them personally. [Ord. 18 Part VI § 22, adopted, 10/7/2008.]

8.30.230 Liquidation procedure.

- (a) In proceedings to liquidate the assets and affairs of a corporation, the Court will have the power to issue injunctions and appoint receivers having such powers and duties as the Court, from time to time, may direct; and to take any other necessary action as may be required to preserve the corporate assets wherever situated, and carry on corporate business until a hearing can be had.
- (b) Following a hearing upon such notice to all necessary parties and parties in interest as the Court may direct, the Court may appoint a liquidating receiver or receivers to collect the assets of the corporation. The receiver(s) shall have authority to sell, convey and dispose of all, or any part of, the assets of the corporation, wherever located, either at public or private sale. The order appointing the receiver(s) shall state their powers and duties. Their power and duties may be increased or diminished at any time during the proceedings.
- (c) Proceeds from the sale, conveyance, or other disposition of corporate assets shall be applied and distributed as follows:
 - (1) Costs and expenses of the Court proceedings; and all liabilities and obligations of the corporation shall be paid, satisfied, and discharged; then
 - (2) Assets held by the corporation upon conditions requiring return, transfer, or conveyance, which conditions occur by reason of dissolution or liquidation, shall be returned, transferred, or conveyed in accordance with such requirements; then
 - (3) Assets received and held by the corporation subject to limitations permitting their use only for charitable, religious, eleemosynary, benevolent, educational, or similar purposes, but not held upon a condition requiring return, transfer, or conveyance by reason of the dissolution or liquidation, shall be transferred or conveyed to one or more societies or organizations engaged in activities substantially similar to those of the dissolving corporation, as the Court may direct.

- (d) Other assets, if any, shall be distributed in accordance with the provisions of the articles of incorporation or bylaws to the extent that the articles or bylaws determine the distributive rights of the members or any class or classes of members, or provide for distribution to others.
- (e) Any remaining assets may be distributed to such persons, societies, organizations, or domestic or foreign corporations, whether for profit or nonspecified in the plan of distribution, as the Court may direct.
- (f) The Court shall have power to allow, from time to time, as expenses of the liquidation, compensation to the receiver(s) and to attorney(s) in the proceeding; and to direct payment out of either the corporate assets or the proceeds of any sale or disposition of such assets.
- (g) A receiver appointed pursuant to this section shall have authority to sue and defend in all courts in his/her own name as receiver of such corporation. The Court appointing such receiver shall, for the purposes of this chapter, have exclusive jurisdiction of the corporation and its property, wherever situated.
- (h) The Court may require all creditors of the corporation to file with either the Clerk of Court or receiver, in such form as the Court may prescribe, proofs under oath of their respective claims. It shall fix a date which shall be not less than four months from the date of the order, as the last day for the filing of claims; and shall dictate the form of the notice to be given to creditors and claimants by the date so fixed. Prior to the date so fixed, the Court may extend the time for the filing of claims. Creditors and claimants failing to file proofs or claims on or before the date so fixed may be barred, by order of the Court, from participating in the distribution of the assets of the corporation.
- (i) Liquidation of corporate assets and the winding up of corporate business affairs may be discontinued at any time during liquidation proceedings upon proof that good cause for liquidation no longer exists. The Court shall then dismiss the proceedings, and direct the receiver(s) to redeliver to the corporation all its remaining property and assets.
- (j) When the costs and expenses of such proceedings and all debts, obligations, and liabilities of the corporation have been paid and discharged; and all of its remaining property and assets are insufficient to satisfy and discharge remaining costs, expenses, debts, and obligations; and all the remaining property and assets have been applied to the greatest extent toward payment; the Court shall enter a decree dissolving the corporation, whereupon the existence of the corporation shall cease.
- (k) Where the Court enters a decree of dissolution, it shall be the duty of the Clerk of Court to deliver a certified copy of the decree to the Clerk of the Tribal Court or his/her designee. The Clerk or his/her designee shall file same without assessment of a filing fee.
- (l) Following the voluntary or involuntary dissolution of a nonprofit corporation, the portion of the assets distributable to any persons who are either unknown, or cannot be found; or who are under disability and there is no person legally competent to receive such distributive portion; the assets shall be reduced to cash and be deposited into an Individual Indian Account. Monies held in the account shall be paid over to such person, or to his/her legal representative, upon proof satisfactory to the Court of his rights thereto. [Ord. 18 Part VI § 23, adopted, 10/7/2008.]

8.30.240 Qualification of receivers.

A receiver shall, in all cases, be either an individual or a corporation authorized to act as receiver, and shall give such bond as the Court may direct with such sureties as the Court may require. [Ord. 18 Part VI § 24, adopted, 10/7/2008.]

The Yurok Tribal Code is current through Ordinance 72, passed February 11, 2021.

Disclaimer: The Office of the Tribal Attorney has the official version of the Yurok Tribal Code. Users should contact the Office of the Tribal Attorney for ordinances passed subsequent to the ordinance cited here.

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