



PUYALLUP TRIBE OF INDIANS



NOTICE

TO: PUYALLUP TRIBAL MEMBERS
FROM: PUYALLUP TRIBAL COUNCIL
DATE: MAY 10, 2024
SUBJECT: LIMITED LIABILITY COMPANY CODE

The purpose of the Puyallup Tribe's Limited Liability Company Code PTC 3.40 and 3.24R is to provide rules for limited liability companies created under the jurisdiction of the Puyallup Tribe.

The Puyallup Tribal Constitution Article VI, Section 1(l) of the Constitution and Bylaws of the Puyallup Tribe authorizes the Tribal Council to, safeguard and promote the peace, safety, morals, and general welfare of the Puyallup Reservation by regulating the conduct of trade and the use and disposition of property upon the reservation.

The Puyallup Tribal Council finds it is necessary to create laws to meet the evolving needs of the Tribe and the Puyallup Tribal community.

Tribal Council posts this legislation at appropriate locations in compliance with Section 2.12.040 of the "Code Adoption, Revision, and Distribution" Ordinance. The Code shall be posted for 30 days for public comment. **The Limited Liability Company Code shall be posted for 30 days for public comment until June 9, 2024, and will be sent to Tribal Council for consideration prior to final review and adoption.**

The Limited Liability Company Code will be posted for public comment at the following locations: Puyallup Tribal Administration Building, Puyallup Tribal Court, Puyallup Tribe's House of Respect, and the Kwawachee Counseling Center.

Comments must be forwarded to the Puyallup Tribal Council's Secretary at:
CouncilOffices@puyalluptribe-nsn.gov

The draft legislation can be viewed on the Tribe's website: www.PuyallupTribe-nsn.gov
Additional copies are available upon request by contacting Lydia Butler-Smith in the Law Offices at: 253- 573-7800 Ext. 7877



Puyallup Tribe of Indians



**PUYALLUP TRIBAL COUNCIL
RESOLUTION NO. 08 0524-A**

WHEREAS, the Puyallup Tribe has existed since creation as the aboriginal people who are the owners and guardians of their lands and waters; and

WHEREAS, the Puyallup Tribe is an independent sovereign nation, having historically negotiated with several foreign nations, including the United States in the Medicine Creek Treaty; and

WHEREAS, the Puyallup Tribal Council is the governing body of the Puyallup Tribe in accordance with the authority of its sovereign rights as the aboriginal owners and guardians of their lands and waters, reaffirmed in the *Medicine Creek Treaty*, and their *Constitution and By Laws*, as amended and approved by the Tribe and the Assistant Secretary of the Interior; and

WHEREAS, Article VI, Section 1(l) of the Constitution and Bylaws of the Puyallup Tribe authorizes the Tribal Council to, safeguard and promote the peace, safety, morals, and general welfare of the Puyallup Reservation by regulating the economic activities within the jurisdiction of the Puyallup Tribe; and

WHEREAS, Article VI, Section 1(m) of the Constitution and Bylaws of the Puyallup Tribe authorizes the Tribal Council to charter subordinate organizations for economic purposes and to regulate the activities of all cooperative associations of members of the Puyallup Tribe by ordinance; and

This Resolution adopts PTC Chapter 3.40 titled, "Limited Liability Company Code." The purpose of Chapter 3.40 is to establish rules regarding limited liability companies within the jurisdiction of the Puyallup Tribe.

WHEREAS, on August 24, 1989, the Tribal Council of the Puyallup Tribe of Indians adopted Tribal Ordinance No. 24889, the Puyallup Tribal Government Corporation Code, which authorized the Council to Incorporate Tribal Government Corporations owned by the Tribe and to confer on such corporations responsibility to develop, manage, and operate those Tribal properties and natural resources specifically assigned, leased, or transferred by the Council to such corporations; and

**PUYALLUP TRIBAL COUNCIL
RESOLUTION NO. 080524A**
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WHEREAS, the purpose of the Puyallup Tribe's *Tribal Government Corporation Code PTC 3.12* is to exercise and implement Tribal corporate, economic, and commercial powers, and further the economic advancement of the Puyallup Tribe through economic enterprises including limited liability companies; and

NOW BE IT ENACTED by the Puyallup Tribal Council of the Puyallup Tribe, PTC Chapter 3.40 titled, "Limited Liability Company Code" is enacted as attached.

NOW THEREFORE, BE IT RESOLVED, that the Puyallup Tribal Council posts this legislation at appropriate locations in compliance with Section 2.12.040 of the "Code Adoption, Revision, and Distribution" Ordinance for thirty (30) days that at the end of the 30-day comment period, unless comments are received and changes made as a result of any comments received, this Code shall take effect as herein adopted, upon final Puyallup Tribal Council approval.

BE IT FINALLY RESOLVED, by the Tribal Council that it authorizes the Tribal Council Chairman (Bill Sterud), and in his absence, the Vice-Chairwoman (Sylvia P. Miller), to execute this Resolution and other such required implementing documents as are required on behalf of the Tribe.

CERTIFICATION

I, Nadine Piatote, Secretary of the Puyallup Tribal Council of the Puyallup Reservation do hereby certify that the above Resolution was duly adopted at a Regular Meeting of the Puyallup Tribal Council held on the Puyallup Indian Reservation on the 8th day of May, 2024, a quorum being present with a vote of 5 FOR, 0 AGAINST, 0 ABSTAINING, and 1 NOT VOTING its adoption.

Nadine Piatote
Secretary, Puyallup Tribal Council

ATTEST:

Bill Sterud
Bill Sterud, Chairman or
Vice-Chairwoman, Sylvia P. Miller
Puyallup Tribal Council

3.40 LIMITED LIABILITY COMPANY CODE

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Subchapter 1. - GENERAL PROVISIONS

3.40.010 Citation.

This Chapter shall be known and cited as the "Limited Liability Company Code."

3.40.020 Purpose.

The purpose of this Chapter is to permit the formation of certain limited liability companies, and to regulate such companies to promote growth and further the exercise of Tribal sovereignty over commerce activities of the Puyallup Tribe. The provisions of this Code shall be liberally construed and applied to promote the underlying purposes of this Chapter.

3.40.030 Authority.

The Puyallup Tribal Council is authorized to enact this Code pursuant to the Constitution of the Puyallup Tribe. The Puyallup Tribal Council shall have the power to amend, repeal or modify this Chapter at any time. Such amendments, repeals or modifications shall be of prospective application only and shall not apply retroactively to any limited liability company organized pursuant to this Chapter.

3.40.040 Scope.

The provisions of this Code shall apply to all limited liability companies authorized herein and formed under the laws and sovereign power of the Puyallup Tribe, whether before or after the enactment hereof, and as more specifically prescribed herein.

Except as otherwise provided by the laws of the Tribe or limited by the operating agreement, a limited liability company may conduct or promote any lawful business or purpose. Nothing herein shall be construed as a waiver of the sovereign immunity of the Puyallup Tribe.

3.40.050 Implementation and Administration.

Governmental limited liability companies created under this Code shall be agencies and instrumentalities of the Puyallup Tribal government. The limited liability companies organized under this chapter shall be created by resolution by Tribal Council and shall be subject to Tribal law.

3.40.060 Definitions.

As used in this Chapter, the following words and phrases shall have the set forth meaning:

- (a) "*Articles of Organization*" means any documents filed to organize a Limited Liability Company, as amended or restated by certificates of correction, amendment, conversion, or merger, by restated articles, or by other instruments filed or issued under this Chapter, and may be included as an organizational document.
- (b) "*Business*" means every trade, occupation or profession.
- (c) "*Court*" means the Puyallup Tribal Court.
- (d) "*Limited Liability Company*" or "*Company*" means a limited liability company organized under this Chapter.
- (e) "*Manager*" means persons in charge of the day to day operations of the limited liability company, who may or may not be a member.
- (f) "*Member*" means owner of a limited liability company.
- (g) "*Operating Agreement*" means any written agreement as to the conduct of the business and affairs of a limited liability company, which is binding upon all of its members.
- (h) "*Organizational Documents*" means the Articles of Organization and the resolution under which such articles were adopted.
- (i) "*Person*" means natural persons, corporations, entities and governments and their political subdivisions.
- (j) "*Reservation*" means those lands encompassed by the exterior boundaries of The Puyallup Indian Reservation or lands within the Tribe's jurisdictional boundaries.
- (k) "*Successor Limited Liability Company*" or "*Successor Company*" means the surviving or resulting limited liability company existing pursuant to a merger or consolidation of two (2) or more limited liability companies.
- (l) "*Tribal Council*" means The Puyallup Tribal Council of The Puyallup Tribe of Indians.
- (m) "*Tribe*" means The Puyallup Tribe of Indians, a federally recognized Indian tribe.

Subchapter 2. FORMATION, REGISTERED AGENT, POWERS AND TAXATION

3.40.070 Formation.

- (a) A limited liability company may be formed by duly adopted organizational documents. The organizational documents shall set forth:

- (1) The name of the limited liability company;
- (2) The business purpose or purposes for which the company is formed;
- (3) The street address, and the mailing address if different from the street address, of its registered office;
- (4) The name, signature and address for service of process of its initial registered agent;
- (5) If the limited liability company is to be managed by a manager or managers:
 - (A) A statement that the company is to be managed by a manager; and
 - (B) The names and street addresses of the managers who are to serve until the first meeting of members or until their successors are elected;
- (6) If the management of a limited liability company is reserved to the members, the names and street addresses of the members;
- (7) Any other provision, not inconsistent with law, that the members choose to include in the Chapters of organization for the regulation of the internal affairs of the company, including any provision that is required or permitted to be included in the organizational documents of the company under this Chapter; and
- (8) The name of the initial member or members.

(b) It is not necessary to include in the organizational documents any of the powers enumerated in this Chapter.

(c) If a limited liability company is to be managed by one (1) or more managers, the organizational documents need not state the name or address of any member.

(d) A limited liability company shall at formation of the company and at all times have at least one (1) member.

(e) Any person may be a member of a limited liability company, provided, however, that the Tribe (either directly or through another tribally owned entity) must be a member holding and owning a majority interest in the limited liability company at formation and at all times thereafter.

(f) It shall be an event of dissolution if the Tribe ceases to be a member of a limited liability company organized and existing under this Chapter.

3.40.080 Registered Agent.

(a) Each limited liability company shall continuously maintain an agent on the Reservation for service of process on the company. The address of the registered agent need not be the same as the registered office of the limited liability company.

(b) The agent may be a member or manager of the limited liability company or a third party if provided for in the organizational documents.

(c) Failure to maintain a registered agent or registered office shall be grounds for involuntary dissolution of the limited liability company.

3.40.90 Powers.

(a) Each limited liability company organized and existing under this Chapter may:

(1) Purchase, take, receive, lease, or otherwise acquire, own, hold, improve, use, or otherwise deal in or with real or personal property or an interest in real or personal property, wherever situated;

(2) Sell, convey, mortgage, pledge, hypothecate, create a security interest in, lease, exchange or transfer, or otherwise dispose of all or any part of its property or assets;

(3) Purchase, take, receive, subscribe for, or otherwise acquire, own, hold, vote, use employ, sell, mortgage, lend, pledge, otherwise dispose of, or otherwise use or deal in or with:

(A) Shares or other interests in or obligations of other limited liability companies, domestic or foreign corporations, associations, general or limited partnerships, or individuals; or

(B) Direct or indirect obligations of the United States or government, State, territory, governmental district, or municipality or of any instrumentality of them;

(4) Make contracts or guarantees or incur liabilities, borrow money at such rates of interest as the limited liability company may determine, issue its notes, bonds, or other obligations, or secure any of its obligations by mortgage or pledge of all or any part of its property, franchises, and income;

(5) Invest or reinvest its funds, or take and hold real or personal property as security for the payment of funds so invested;

(6) Conduct its business and maintain offices and exercise the powers granted by this Code within or outside the Reservation;

(7) Elect or appoint managers and agents of the limited liability company, define their duties, and fix their compensation;

(8) Make and alter organizational documents, not inconsistent with the Code under which it is organized or with the laws of the Tribe, for the administration and regulation of its affairs;

(9) Indemnify a member or manager or any other person to the same extent that a partnership may indemnify any of the partners, managers, employees, or agents of the partnership against expenses actually and reasonably incurred by the member or manager in connection with the defense of an action, suit, or proceeding, whether civil or criminal, in which the member or manager is made a party;

- (10) Cease its activities and seek voluntary dissolution;
- (11) Have and exercise all powers necessary or convenient to effect any or all of the purposes for which the company is organized;
- (12) Transact any lawful businesses which the members or the managers find to be in aid of governmental policy;
- (13) Pay pensions and establish profit-sharing plans, and other incentive plans for any or all of its managers and employees; and
- (14) Be a promoter, incorporator, general partner, limited partner, member, associate, or manager of any corporation, partnership, limited partnership, limited liability company, joint venture, trust, or other enterprise.

3.40.100 Taxation of Limited Liability Companies.

For purposes of taxation by the Tribe, if any, a limited liability company formed under this Code shall be classified in the same manner as it is classified for federal income tax purposes. Any limited liability company of which the Tribe is the sole member may be treated as a disregarded entity, as appropriate.

3.40.110 Name; Exclusive Right.

- (a) The name of each limited liability company shall contain the words "Limited Liability Company," or shall contain the abbreviation "LLC"; and
- (b) No limited liability company formed pursuant to this Code shall contain the words "association," "corporation," "incorporated," "limited partnership," "limited," "L.P.," "Ltd." or words or any abbreviation with a similar meaning in any other language.
- (c) The name of a limited liability company must be distinguishable from the name of any other entity formed under this Code or otherwise authorized to transact business on the Reservation.

3.40.120 Effect of Filing and Prefiling Activities.

- (a) Upon the affirmative vote of the Council in favor of the organizational documents, the limited liability company shall be considered duly organized and lawfully existing.
- (b) The adopted organizational documents shall be conclusive evidence that all conditions precedent required to be performed by the members have been complied with and that the limited liability company has been legally organized under this Chapter.
- (c) A limited liability company may not transact business or incur indebtedness, except that which is incidental to its organization or to obtaining subscriptions for or payment of contributions, until adoption of the organizational documents, provided that debts, contracts, or liabilities incurred on behalf of the company prior to approval of the organizational documents may be ratified in the

resolution, with an effective date earlier than the date of the affirmative vote of the Council in favor of the duly adopted resolution.

3.40.130 When Amendments Required.

(a) The organizational documents of a limited liability company shall be amended when:

- (1) There is a change in: (i) the registered office, (ii) registered agent or (iii) the name of the limited liability company;
- (2) There is a change in the character of the business of the company specified in the organizational documents;
- (3) There is a false or erroneous statement in the organizational documents; or
- (4) as provided in the organizational documents.

(b) A limited liability company may continue to act during any time period when an amendment to its organizational documents is required.

3.40.140 Records.

(a) Each limited liability company shall keep at its principal place of business the following:

- (1) A current list in alphabetical order of the full name and last known street address of each member;
- (2) A copy of the organizational documents and all amendments thereto;
- (3) Copies of the company's federal, State and Tribal income tax returns and reports, if any, for the three (3) most recent years;
- (4) A copy of the company's operating agreement.

(b) Records kept under this Section are subject to inspection and copying at the reasonable request and at the expense of any limited liability company member during ordinary business hours.

3.40.150 Additional Members.

(a) After the adoption of a limited liability company's original organizational documents, additional members may be admitted:

- (1) As provided in the organizational documents; or
- (2) If the organizational documents do not provide for the admission of additional members, with the written consent of all members, subject to approval by the Tribal Council.

(b) A limited liability company may become a member of an entity not formed under this Code, subject to the laws, rules, regulations and limitations applicable to such an entity.

3.40.160 Restated Organizational Documents.

A limited liability company may integrate into a single instrument all of the provisions of its organizational documents and amendments thereto. Such integrated instrument shall constitute a restated Organizational and/or Formation Documents.

3.40.170 Merger and Consolidation.

(a) Pursuant to any agreement ratified by a majority of the members a limited liability company may merge or consolidate with or into one (1) or more limited liability companies formed under the laws of the Tribe. The successor company shall be as provided in the agreement of merger. An agreement of merger may provide for the merger of a foreign entity with and into a limited liability company created under this Chapter. For purposes of this Chapter a foreign entity is any entity created under the laws of any state of the United States of America, or under the provincial or national laws of the Dominion of Canada.

(b) A limited liability company that is not the successor company in a merger or consolidation shall be deemed to have dissolved effective on a date not later than the effective date of the merger or consolidation.

(c) On the effective date of the merger or consolidation, the following shall be vested in and enforced against the successor limited liability company as they were in each of the companies that have merged or consolidated without any further act or deed:

- (1) All of the rights, privileges, and powers of each of the limited liability companies that have merged or consolidated;
- (2) All property, real, personal and mixed and debts due to any of the limited liability companies; and
- (3) All other things and causes of action belonging to each of the limited liability companies.

3.40.180 Conversion

(a) An organization including a limited liability company formed under another jurisdiction may convert into a limited liability company under this Chapter, and a limited liability company under this Chapter may convert into an organization pursuant to this section and a plan of conversion, if:

- (1) The conversion is not prohibited by the law of the jurisdiction that enacted the other organization's governing statute; and
- (2) The other organization complies with its governing statute in effecting the conversion.

(b) A plan of conversion must be in a record and must include:

- (1) The name and form of the organization before conversion;
- (2) The name and form of the organization after conversion;

(3) The terms and conditions of the conversion, including the manner and basis for converting interests in the converting organization into any combination of the interests, shares, obligations, or other securities of the converted organization or any other organization or into cash or other property in whole or part; and

(4) The organizational documents of the converted organization as approved by the Tribal Council.

Subchapter 3. DISSOLUTION AND DISTRIBUTION

3.40.190 Dissolution.

A limited liability company organized under this Chapter shall be dissolved upon the occurrence of any of the following events:

- (a) When the period fixed for the duration of the company in its organizational documents expires;
- (b) When the Tribe or any instrumentality of the Tribe ceases to be a member of the limited liability company;
- (c) By written agreement signed by the members entitled to receive a majority of the profits of the company, unless otherwise provided in the organizational documents;
- (d) Upon the occurrence of an event specified in the organizational documents as an event resulting in dissolution; or
- (e) When the company is not the successor limited liability company in the merger or consolidation of two (2) or more limited liability companies.

3.40.200 Settlement Upon Dissolution.

(a) In settling accounts after dissolution, the liabilities of the limited liability company shall be entitled to payment in the following order:

- (1) Liabilities to creditors, in the order of priority as provided by law, except those liabilities to members of the company on account of their contributions;
- (2) Except as provided in the organizational documents, liabilities to members of the company in respect of their contributions to capital; and
- (3) Liabilities to members of the company in respect of their shares of the profits and other compensation by way of income on their contributions.

(b) Members shall share in the limited liability company assets as provided in the organizational documents, or if not so provided, in respect to their claims for capital and in respect to their claims for profits or for compensation by way of income on their contributions, respectively, in proportion to the respective amounts of claims.

Subchapter 4. LIABILITY OF MEMBERS AND MANAGERS

3.40.210 Liability of Members, Managers and Employees; Waiver.

(a) *Freedom from Liability.* Except as otherwise specifically set forth in this Chapter, neither the members, the managers, nor the employees of a limited liability company are personally liable under a judgment, decree, or order of the Court, or in any other manner, for a debt, obligation, or liability of the company.

(b) *Sovereign Immunity.* A limited liability company established under this Chapter that is wholly owned by the Tribe or a wholly owned entity of the Tribe shall be considered to be a governmental agency and instrumentality of the Tribe; and their managers and employees shall be considered to be officers and employees of the Tribe, notwithstanding the fact that their work rules and conditions may differ from that of other Tribal employees. Managers and employees of such companies shall be empowered to carry out responsibilities for economic advancement of the Tribe and its members and may carry out other essential governmental functions as assigned by the Tribal Council. Except as otherwise provided by this Chapter, such limited liability companies and their managers and employees shall be entitled to all of the privileges and immunities enjoyed by the Tribe, including but not limited to immunities from suit in federal, state and Tribal courts, and exemption from federal and state taxation or regulation. The right to consent to suit may be delegated to limited liability companies created pursuant to this Chapter; provided, however, there is hereby granted a limited consent to suit against any limited liability company created pursuant to this Chapter. This consent to suit is limited to actions in Tribal Court to enforce contracts or other obligations arising in tort or from the application of federal or Tribal law.

(c) *Indemnification.* A limited liability company may indemnify any member or manager from and against any judgments, settlements, penalties, fines, or expenses incurred in a proceeding or obligate itself to advance or reimburse expenses incurred in a proceeding to which a person is a party because such person is, or was, a member or a manager, provided that no such indemnity shall indemnify a member or a manager from or on account of acts or omissions of the member or manager finally adjudged to be intentional misconduct or a knowing violation of law by the member or manager. A limited liability company may indemnify and advance expenses to an officer, employee, or agent of the limited liability company who is not a member or manager to the same extent as to a member or manager. For purposes of this Section, "expenses" include counsel fees.

3.40.220 Member Liabilities.

(a) A member of a limited liability company is liable to the company:

(1) For the difference between the amount of the member's contributions to capital which have been actually made and the amount which is stated in the operating agreement or other contract as having been made; and

(2) For any unpaid contribution to capital which the member, in the operating agreement or other contract, agreed to make in the future at the time and on the conditions stated in the organizational documents or other contract.

(b) A member holds as trustee for the limited liability company:

(1) Specific property which is stated in the operating agreement or other contract as having been contributed by the member, if the property was not contributed or it has been wrongfully or erroneously returned; and

(2) Money or other property wrongfully paid or conveyed to the member on account of the member's contribution.

(c) The liabilities of a member as set out in this Section may be waived or compromised upon the consent of all other members. This waiver or compromise does not affect the rights of a creditor of the limited liability company who extended credit or whose claim arose prior to the dissolution of the limited liability company.

(d) When a member has rightfully received the return, in whole or in part, of their capital contribution, the member remains liable to the limited liability company for any sum, not in excess of the return with interest, necessary to discharge the limited liability company's obligations to all creditors of the company who extended credit or whose claims arose before the return.

Subchapter 5. OPERATING AGREEMENT, MANAGEMENT AND MEMBER INTERESTS

3.40.230 Capital Contributions.

The contributions to capital of a member to the limited liability company may consist of cash, property, services rendered, a promissory note, pledge of credit or public or private borrowing capacity, or other binding obligation to contribute cash, property, to perform services or provide another thing of value.

3.40.240 Management.

(a) The management of a limited liability company, unless otherwise provided in the organizational documents, shall be vested in a manager. Any natural person, the Tribe or wholly owned tribal entity may be a manager. Any manager has authority to bind the company, unless otherwise provided in the organizational documents. A manager shall have authority to exercise all powers set out in this Chapter necessary to carry out the business purpose of the limited liability company.

(b) If the management of a limited liability company is vested in the members, the majority member has the exclusive authority to bind the limited liability company, unless otherwise provided in the organizational documents.

(c) If there are multiple members of a limited liability company, any conflict arising as to a matter in the ordinary course of business may be decided by the vote, approval, or consent of a majority of the members.

3.40.250 Operating Agreement.

(a) An operating agreement may be adopted with the unanimous consent of the members.

(b) An operating agreement may be altered, amended, or repealed as provided in the operating agreement of the limited liability company.

(c) The operating agreement may provide for:

- (1) The regulation and management of the affairs of the limited liability company in any manner not inconsistent with law or the organizational documents;
 - (2) The removal of a manager or managers, other than the Tribe; and
 - (3) The means of payment for a termination of a member's interest in the limited liability company.
- (d) A written declaration or written guidelines adopted by the sole member of a limited liability company constitutes an operating agreement for purposes of this Code if:
- (1) The limited liability company has only one (1) member; and
 - (2) The member designates in the written declaration or guidelines that the written declaration or guidelines is the operating agreement.

3.40.260 Ownership and Disposition of Property.

- (a) Real or personal property owned or purchased by a limited liability company may be held and owned, and conveyance shall be made, in the name of the limited liability company.
- (b) Instruments and documents providing for the acquisition, mortgage, or disposition of property of the limited liability company shall be valid and binding upon the company if they are executed by one (1) or more managers of a limited liability company, or if they are executed by one (1) or more members of a limited liability company in which management authority has been provided to the members within the organizational documents.

3.40.270 Conditions for Property Distribution.

From time to time, the limited liability company may distribute its property to the members of the company upon the basis stipulated in the organizational documents if, after distribution is made, the fair value of the assets of the company is in excess of all liabilities of the company except liabilities to members on account of their contributions.

3.40.280 Asset Distribution.

Distributions of cash or other assets of a limited liability company shall be allocated among the members in the manner provided in the organizational documents. If the organizational documents do not otherwise provide, cash or other assets shall be allocated on the basis of value of the contributions made by each member to the extent they have been received by the limited liability company and have not been returned.

3.40.290 Profits and Losses.

The profits and losses of a limited liability company shall be allocated among the members in the manner provided in the organizational documents. If the organizational documents do not otherwise provide, profits and losses shall be allocated on the basis of value of the contributions made by each member to the extent they have been received by the limited liability company and have not been returned.

3.40.300 Character, Transfer, Adjustment, and Assignment of Member Interests.

- (a) An interest of a member in a limited liability company is personal property.
- (b) An interest of a member in a limited liability company may be adjusted, transferred, or assigned only as provided in the operating agreement.
- (c) Except as otherwise provided in the organizational documents, if the non-transferring members entitled to receive a majority of the non-transferred profits of the limited liability company do not consent to the proposed transfer or assignment:
 - (1) The transferee of the interest of the member has no right to:
 - (A) Participate in the management of the business and affairs of the limited liability company; or
 - (B) Become a member.
 - (2) The transferee is entitled to receive only the share of profits or other compensation by way of income and the return of contributions to which that member would otherwise be entitled.
- (d) On application to the Court by any judgment creditor of a member in a limited liability company, the Court may charge the interest of the member in the limited liability company with payment of the unsatisfied amount of the judgment with interest.
 - (1) To the extent a judgment creditor is a beneficiary of a charging order issued under this Subsection, the judgment creditor has only the rights of a transferee under Subsection (c) above, of the member's interest in the limited liability company.
 - (2) This Code does not deprive any member of the benefit of any exemption laws applicable to the member's interest in the limited liability company.
- (e) Any transfer of a member's interest in a limited liability company in violation of this Section is void.

3.40.310 Conditions for Distribution of Property—Return of Contribution.

- (a) A member shall receive no distribution of limited liability company property on account of any member's contribution to capital until:
 - (1) All liabilities of the limited liability company, except liabilities to members on account of their contributions to capital, have been paid or sufficient property of the company remains to pay them; and
 - (2) The consent of all members is obtained, unless the return of the contribution to capital may be rightfully demanded as provided in this Code, the Chapters of organization, or the organizational documents.

(b) Subject to Subsection (a) above, a member may rightfully demand the return of the member's contribution:

(1) Upon the dissolution of the limited liability company; or

(2) When the date of an event specified in the organizational documents for the return of the contribution has arrived.

3.40.320 Derivative Actions.

A member may bring a derivative action to enforce a right of a limited liability company if:

(a) The member first makes a demand on the members in a member-managed limited liability company, or on the managers of a manager-managed limited liability company, requesting that they cause the limited liability company to bring an action to enforce the right, and the managers or other members do not bring the action within a reasonable time; or

(b) A demand would be futile.

Subchapter 6. Tribal Entity Offering Health Care Services

3.40.330 Tribal Entity Offering Health Care to Indian Health Services-Eligible Patients.

By resolution of Tribal Council, an organization or care center may be formed to provide health care services by an existing entity, which shall not require a separate creation of a limited liability company, organization, or other entity, but will remain subject to the reporting requirements and any oversight by the Board responsible for the tribal entity. The following applies to a tribal entity offering health care to Indian Health Services (IHS) eligible patients:

(a) Any Tribal entity which offers health care to IHS-eligible patients may at the Tribe's sole option be identified in its IHS Contract, whereupon the entity will be entitled to the accompanying benefits and subject to the accompanying obligations.

(b) The Tribe may designate an entity as providing "Direct Care," "Purchased-Referred Care," and/or "Purchased-Referred Care in Support of Direct Care," in compliance with applicable Tribal and Federal laws and regulations.

(1) Such a designation may be made unilaterally by the Tribe, or may be contained in an amendment to its IHS Contract subject to IHS approval, as the Tribe may determine appropriate.

(2) The entity's designation(s) will determine its functions and the nature of its funding, services and patient population.