

**COQUILLE INDIAN TRIBAL CODE**  
**CHAPTER 230**  
**LIMITED LIABILITY COMPANY ORDINANCE**

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**Subchapter I. General Provisions.**

- § 230-010. Definitions.
- § 230-020. Jurisdiction (RESERVED)
- § 230-102. Name set forth in certificate.
- § 230-103. Reservation of name.
- § 230-104. Registered office; registered agent.
- § 230-105. Service of process on domestic limited liability companies.
- § 230-106. Nature of business permitted; powers.
- § 230-107. Business transactions of member or manager with the limited liability company.
- § 230-108. Indemnification.
- § 230-109. Service of process on managers and liquidating trustees.
- § 230-110. Contested matters relating to managers; contested votes.
- § 230-111. Interpretation and enforcement of limited liability company agreement.

**Subchapter II Formation; Certificate of Formation**

- § 230-201. Certificate of formation.
- § 230-202. Amendment to certificate of formation.
- § 230-203. Cancellation of certificate.
- § 230-204. Execution.
- § 230-205. Execution, amendment or cancellation by judicial order.
- § 230-206. Filing.
- § 230-207. Notice.

**COQUILLE INDIAN TRIBAL CODE**  
**CHAPTER 230**  
**LIMITED LIABILITY COMPANY ORDINANCE**

---

§ 230-208. Restated certificate.

§ 230-209. Merger and consolidation.

§ 230-210. Contractual appraisal rights.

§ 230-211. Certificate of correction.

§ 230-212. [RESERVED]

§ 230-213. [RESERVED]

§ 230-214. [RESERVED]

§ 230-215. [RESERVED]

§ 230-216. [RESERVED]

**Subchapter III. Members**

§ 230-301. Admission of members.

§ 230-302. Classes and voting.

§ 230-303. Liability to 3rd parties; No waivers of Tribal sovereign immunity.

§ 230-304. Events of bankruptcy.

§ 230-305. Access to and confidentiality of information; records.

**Subchapter IV. Managers**

§ 230-401. Admission of managers.

§ 230-402. Management of limited liability company.

§ 230-403. Contributions by a manager.

§ 230-404. Classes and voting.

§ 230-405. Remedies for breach of limited liability company agreement by manager.

**COQUILLE INDIAN TRIBAL CODE**  
**CHAPTER 230**  
**LIMITED LIABILITY COMPANY ORDINANCE**

---

§ 230-406. Reliance on reports and information by member or manager.

§ 230-407. Delegation of rights and powers to manage.

**Subchapter V. Finance**

§ 230-501. Form of contribution.

§ 230-502. Liability for contribution.

§ 230-503. Allocation of profits and losses.

§ 230-504. Allocation of distributions.

§ 230-505. Defense of usury not available.

**Subchapter VI. Distributions and Resignation**

§ 230-601. Interim distributions.

§ 230-602. Resignation of manager.

§ 230-603. Resignation of member.

§ 230-604. Distribution upon resignation.

§ 230-605. Distribution in kind.

§ 230-606. Right to distribution.

§ 230-607. Limitations on distribution.

**Subchapter VII. Assignment of Limited Liability Company Interests**

§ 230-701. Nature of limited liability company interest.

§ 230-702. Assignment of limited liability company interest.

§ 230-703. Member's limited liability company interest subject to charging order.

**COQUILLE INDIAN TRIBAL CODE**  
**CHAPTER 230**  
**LIMITED LIABILITY COMPANY ORDINANCE**

---

§ 230-704. Right of assignee to become member.

§ 230-705. Powers of estate of deceased or incompetent member.

**Subchapter VIII. Dissolution**

§ 230-801. Dissolution.

§ 230-802. Judicial dissolution.

§ 230-803. Winding up.

§ 230-804. Distribution of assets.

**Subchapter IX. Foreign Limited Liability Companies**

§ 230-901. Law governing.

§ 230-902. Registration required; application.

§ 230-903. Issuance of registration.

§ 230-904. Name; registered office; registered agent.

§ 230-905. Amendments to application.

§ 230-906. Cancellation of registration.

§ 230-907. Doing business without registration.

§ 230-908. Foreign limited liability companies doing business without having qualified; injunctions.

§ 230-909. Execution; liability.

§ 230-910. Service of process on registered foreign limited liability companies.

§ 230-911. Service of process on unregistered foreign limited liability companies.

**COQUILLE INDIAN TRIBAL CODE**  
**CHAPTER 230**  
**LIMITED LIABILITY COMPANY ORDINANCE**

---

**Subchapter X. Derivative Actions**

§ 230-1001. Right to bring action.

§ 230-1002. Proper plaintiff.

§ 230-1003. Complaint.

§ 230-1004. Expenses.

**Subchapter XI. Miscellaneous**

§ 230-1101. Construction and application of chapter and limited liability company agreement.

§ 230-1102. Short ordinance.

§ 230-1103. Severability.

§ 230-1104. Cases not provided for in this chapter.

§ 230-1105. Fees.

§ 230-1106. Reserved power of the Tribe to alter or repeal chapter.

§ 230-1107. [RESERVED]

§ 230-1108. [RESERVED]

§ 230-1109. Revival of domestic limited liability company.

**COQUILLE INDIAN TRIBAL CODE**  
**CHAPTER 230**  
**LIMITED LIABILITY COMPANY ORDINANCE**

---

**Subchapter I. General Provisions.**

**§ 230-010. General**

(1) Purpose: The Coquille Tribal Council, governing body of the Coquille Indian Tribe under the Tribe's Constitution adopted September 9, 1991, pursuant to the Indian Reorganization Act of 1934 and the Coquille Restoration Act of 1989, hereby establishes an ordinance for the formation of limited liability companies under tribal law.

(2) Background and Intent: (Reserved)

(3) Definitions:

As used in this chapter unless the context otherwise requires:

(a) "Bankruptcy" means an event that causes a person to cease to be a member as provided in § 230-304 of this ordinance.

(b) "Certificate of formation" means the certificate referred to in § 230-201 of this ordinance, and the certificate as amended.

(c) "Contribution" means any cash, property, services rendered or a promissory note or other obligation to contribute cash or property or to perform services, which a person contributes to a limited liability company in the person's capacity as a member.

(d) "Foreign limited liability company" means a limited liability company formed under laws other than the laws of the Tribe.

(e) "Knowledge" means a person's actual knowledge of a fact, rather than the person's constructive knowledge of the fact.

(f) "Limited liability company" and "domestic limited liability company" means a limited liability company formed under the laws of the Tribe and having 1 or more members.

(g) "Limited liability company agreement" means any agreement, written or oral, of the member or members as to the affairs of a limited liability company and the conduct of its business. A limited liability company agreement of a limited liability company having only 1 member shall not be unenforceable by reason of there being only 1 person who is a party to the limited liability company agreement. A written limited liability company agreement or another written agreement or writing:

(1) May provide that a person shall be admitted as a member of a limited liability company, or shall become an assignee of a limited liability company interest or other rights or powers of a member to the extent assigned, and shall become bound by the limited liability company agreement:

**COQUILLE INDIAN TRIBAL CODE**  
**CHAPTER 230**  
**LIMITED LIABILITY COMPANY ORDINANCE**

---

(a). If such person (or a representative authorized by such person orally, in writing or by other action such as payment for a limited liability company interest) executes the limited liability company agreement or any other writing evidencing the intent of such person to become a member or assignee; or

(b). Without such execution, if such person (or a representative authorized by such person orally, in writing or by other action such as payment for a limited liability company interest) complies with the conditions for becoming a member or assignee as set forth in the limited liability company agreement or any other writing; and

(2). Shall not be unenforceable by reason of its not having been signed by a person being admitted as a member or becoming an assignee as provided in subparagraph a. of this paragraph, or by reason of its having been signed by a representative as provided in this chapter.

(h) “Limited liability company interest” means a member’s share of the profits and losses of a limited liability company and a member’s right to receive distributions of the limited liability company’s assets.

(i) “Liquidating trustee” means a person carrying out the winding up of a limited liability company.

(j) “Manager” means a person who is named as a manager of a limited liability company in, or designated as a manager of a limited liability company pursuant to, a limited liability company agreement or similar instrument under which the limited liability company is formed.

(k) “Member” means a person who has been admitted to a limited liability company as a member as provided in § 230-301 of this ordinance or, in the case of a foreign limited liability company, in accordance with the laws of the state or foreign country or other foreign jurisdiction under which the foreign limited liability company is organized.

(L) “Person” means a natural person, partnership (whether general or limited and whether domestic or foreign), limited liability company, foreign limited liability company, trust, estate, association, corporation, custodian, nominee or any other individual or entity in its own or any representative capacity.

(m) “Personal representative” means, as to a natural person, the executor, administrator, guardian, conservator or other legal representative thereof and, as to a person other than a natural person, the legal representative or successor thereof.

(n) “Reservation” means any real property belonging to the Tribe or its members or any real property located within the geographic boundaries of the tract of land described in the Coquille Restoration Act or any real property granted to the Tribe by subsequent acts of Congress.

(o) “Secretary of the Tribal Council” or “Secretary” means the Secretary/Treasurer of the Tribal Council of the Tribe.

**COQUILLE INDIAN TRIBAL CODE**  
**CHAPTER 230**  
**LIMITED LIABILITY COMPANY ORDINANCE**

---

- (p) “State” means the District of Columbia or the Commonwealth of Puerto Rico or any state, territory, possession or other jurisdiction of the United States other than the Tribe.
- (q) “Tribal Attorney” means the attorney employed by the Tribe so designated.
- (r) “Tribal Council” means the Coquille Tribal Council.
- (s) “Tribal Court Clerk” means the clerk of the Coquille Tribal Court .
- (t) “Tribal Court” means the Coquille Indian Tribal Court established by the Tribe.
- (u) “Tribe” means the Coquille Indian Tribe.

**§ 230.020: Jurisdiction (Reserved)**

**§ 230-102. Name set forth in certificate.**

The name of each limited liability company as set forth in its certificate of formation:

- (1) Shall contain the words “Limited Liability Company” or the abbreviation “L.L.C.” or the designation “LLC”;
- (2) May contain the name of a member or manager;
- (3) Must be such as to distinguish it upon the records in the office of the Secretary of the Tribal Council from the name of any corporation, or limited liability company reserved, registered, formed or organized under the laws of the Tribe or qualified to do business or registered as a foreign corporation or foreign limited liability company within the Reservation; provided however, that a limited liability company may register under any name which is not such as to distinguish it upon the records in the office of the Secretary of the Tribal Council from the name of any domestic or foreign corporation or limited liability company reserved, registered, formed or organized under the laws of the Tribe with the written consent of the other corporation or limited liability company, which written consent shall be filed with the Secretary of the Tribal Council; and
- (4) May contain the following words: “Company,” “Association,” “Club,” “Foundation,” “Fund,” “Institute,” “Society,” “Union,” “Syndicate,” “Limited” or “Trust” (or abbreviations of like import).

**§ 230-103. Reservation of name.**

- (a) The exclusive right to the use of a name may be reserved by:
  - (1) Any person intending to organize a limited liability company under this chapter and to adopt that name;



**COQUILLE INDIAN TRIBAL CODE**  
**CHAPTER 230**  
**LIMITED LIABILITY COMPANY ORDINANCE**

---

(2) Any domestic limited liability company or any foreign limited liability company registered within the Reservation which, in either case, proposes to change its name;

(3) Any foreign limited liability company intending to register within the Reservation and adopt that name; and

(4) Any person intending to organize a foreign limited liability company and intending to have it register within the Reservation and adopt that name.

(b) The reservation of a specified name shall be made by filing with the Secretary of the Tribal Council an application, executed by the applicant, specifying the name to be reserved and the name and address of the applicant. The Secretary of the Tribal Council shall then, at the next regular meeting or special meeting of the Tribal Council, request a Tribal Council resolution determining whether or not such specified name is available for use. If the Tribal Council, in its sole discretion, finds that the name is available for use by a domestic or foreign limited liability company, the Secretary shall reserve the name for the exclusive use of the applicant for a period of 120 days. Once having so reserved a name, the same applicant may again reserve the same name for successive 120-day periods. The right to the exclusive use of a reserved name may be transferred to any other person by filing in the office of the Secretary of the Tribal Council a notice of the transfer, executed by the applicant for whom the name was reserved, specifying the name to be transferred and the name and address of the transferee. However, such transfer shall become effective only upon prior approval by the Tribal Council embodied in a Tribal Council resolution.] The reservation of a specified name may be cancelled by filing with the Secretary of the Tribal Council a notice of cancellation, executed by the applicant or transferee, specifying the name reservation to be cancelled and the name and address of the applicant or transferee. Unless the Secretary of the Tribal Council finds that any application, notice of transfer, or notice of cancellation filed with the Secretary of the Tribal Council as required by this subsection does not conform to law, upon receipt of all filing fees required by law the Secretary shall prepare and return to the person who filed such instrument a copy of the filed instrument with a notation thereon of the action taken by the Secretary of the Tribal Council.

(c) A fee as set forth in § 230-1105(a)(1) of this ordinance shall be paid at the time of the initial reservation of any name, at the time of the renewal of any such reservation and at the time of the filing of a notice of the transfer or cancellation of any such reservation.

**§ 230-104. Registered office; registered agent.**

(a) Each limited liability company shall have and maintain within the Reservation:

(1) A registered office, which may but need not be a place of its business within the Reservation; and

(2) A registered agent for service of process on the limited liability company, which agent may be an individual person, resident of the Reservation, or member of the Tribe 18 years

**COQUILLE INDIAN TRIBAL CODE**  
**CHAPTER 230**  
**LIMITED LIABILITY COMPANY ORDINANCE**

---

of age or older whose business office is identical with the limited liability company's registered office, or a domestic corporation, or a domestic limited liability company, or a foreign corporation, or a foreign limited liability company authorized to do business within the Reservation having a business office identical with such registered office, which is generally open during normal business hours to accept service of process and otherwise perform the functions of a registered agent, or the limited liability company itself.

(b) A registered agent may change the address of the registered office of the limited liability company(ies) for which such registered agent is registered agent to another address within the Reservation by paying a fee as set forth in § 230-1105(a)(2) of this ordinance and filing with the Secretary of the Tribal Council a certificate, executed by such registered agent, setting forth the names of all the limited liability companies represented by such registered agent, and the address at which such registered agent has maintained the registered office for each of such limited liability companies, and further certifying to the new address to which each such registered office will be changed on a given day, and at which new address such registered agent will thereafter maintain the registered office for each of the limited liability companies recited in the certificate. Upon the filing of such certificate, the Secretary of the Tribal Council shall furnish to the registered agent a certified copy of the same under the Secretary's hand and seal of office, and thereafter, or until further change of address, as authorized by law, the registered office within the Reservation of each of the limited liability companies recited in the certificate shall be located at the new address of the registered agent thereof as given in the certificate. In the event of a change of name of any person acting as a registered agent of a limited liability company, such registered agent shall file with the Secretary of the Tribal Council a certificate, executed by such registered agent, setting forth the new name of such registered agent, the name of such registered agent before it was changed, the names of all the limited liability companies represented by such registered agent, and the address at which such registered agent has maintained the registered office for each of such limited liability companies, and shall pay a fee as set forth in § 230-1105(a)(2) of this ordinance. Upon the filing of such certificate, the Secretary of the Tribal Council shall furnish to the registered agent a certified copy of the certificate under the Secretary's hand and seal of office. Filing a certificate under this section shall be deemed to be an amendment of the certificate of formation of each limited liability company affected thereby and each such limited liability company shall not be required to take any further action with respect thereto, to amend its certificate of formation under § 230-202 of this ordinance. Any registered agent filing a certificate under this section shall promptly, upon such filing, deliver a copy of any such certificate to each limited liability company affected thereby.

(c) The registered agent of 1 or more limited liability companies may resign and appoint a successor registered agent by paying a fee as set forth in § 230-1105(a)(2) of this ordinance and filing a certificate with the Secretary of the Tribal Council, stating that it resigns and the name and address of the successor registered agent. There shall be attached to such certificate a statement executed by each affected limited liability company ratifying and approving such change of registered agent. Upon such filing, the successor registered agent shall become the registered agent of such limited liability companies as have ratified and approved such substitution and the successor registered agent's address, as stated in such certificate, shall become the address of each such limited liability company's registered office within the Reservation. The Secretary of the Tribal Council shall furnish to the successor registered agent a certified copy of the certificate of resignation. Filing of such certificate of resignation shall be deemed to be an amendment of the certificate of formation of each limited liability company affected thereby and

**COQUILLE INDIAN TRIBAL CODE**  
**CHAPTER 230**  
**LIMITED LIABILITY COMPANY ORDINANCE**

---

each such limited liability company shall not be required to take any further action with respect thereto, to amend its certificate of formation under § 230-202 of this ordinance.

(d) The registered agent of a limited liability company may resign without appointing a successor registered agent by paying a fee as set forth in § 230-1105(a)(2) of this ordinance and filing a certificate with the Secretary of the Tribal Council stating that it resigns as registered agent for the limited liability company identified in the certificate, but such resignation shall not become effective until 120 days after the certificate is filed. There shall be attached to such certificate an affidavit of such registered agent, if an individual, or the president, a vice-president or the secretary thereof if a corporation, that at least 30 days prior to and on or about the date of the filing of said certificate, notices were sent by certified or registered mail to the limited liability company for which such registered agent is resigning as registered agent, at the principal office thereof within or outside the Reservation, if known to such registered agent or, if not, to the last known address of the attorney or other individual at whose request such registered agent was appointed for such limited liability company, of the resignation of such registered agent. After receipt of the notice of the resignation of its registered agent, the limited liability company for which such registered agent was acting shall obtain and designate a new registered agent, to take the place of the registered agent so resigning. If such limited liability company fails to obtain and designate a new registered agent as aforesaid prior to the expiration of the period of 120 days after the filing by the registered agent of the certificate of resignation, the certificate of formation of such limited liability company shall be deemed to be cancelled. After the resignation of the registered agent shall have become effective as provided in this section and if no new registered agent shall have been obtained and designated in the time and manner aforesaid, service of legal process against the limited liability company for which the resigned registered agent had been acting shall thereafter be upon the Secretary of the Tribal Council in accordance with § 230-105 of this ordinance.

**§ 230-105. Service of process on domestic limited liability companies.**

(a) Service of legal process upon any domestic limited liability company shall be made by delivering a copy personally to any manager of the limited liability company within the Reservation or the registered agent of the limited liability company within the Reservation, or by leaving it at the dwelling house or usual place of abode within the Reservation of any such manager or registered agent (if the registered agent be an individual), or at the registered office or other place of business of the limited liability company within the Reservation. If the registered agent be a corporation, service of process upon it as such may be made by serving, within the Reservation, a copy thereof on the president, vice-president, secretary, assistant secretary or any director of the corporate registered agent. Service by copy left at the dwelling house or usual place of abode of a manager or registered agent, or at the registered office or other place of business of the limited liability company within the Reservation, to be effective, must be delivered thereat at least 6 days before the return date of the process, and in the presence of an adult person, and the officer serving the process shall distinctly state the manner of service in the officer's return thereto. Process returnable forthwith must be delivered personally to the manager or registered agent.

**COQUILLE INDIAN TRIBAL CODE**  
**CHAPTER 230**  
**LIMITED LIABILITY COMPANY ORDINANCE**

---

(b) In case the officer whose duty it is to serve legal process cannot by due diligence serve the process in any manner provided for by subsection (a) of this section, it shall be lawful to serve the process against the limited liability company upon the Secretary of the Tribal Council, and such service shall be as effectual for all intents and purposes as if made in any of the ways provided for in subsection (a) of this section. In the event that service is effected through the Secretary of the Tribal Council in accordance with this subsection, the Secretary of the Tribal Council shall forthwith notify the limited liability company by letter, certified mail, return receipt requested, directed to the limited liability company at its address as it appears on the records relating to such limited liability company on file with the Secretary of the Tribal Council or, if no such address appears, at its last registered office. Such letter shall enclose a copy of the process and any other papers served on the Secretary of the Tribal Council pursuant to this subsection. It shall be the duty of the plaintiff in the event of such service to serve process and any other papers in duplicate, to notify the Secretary of the Tribal Council that service is being effected pursuant to this subsection, and to pay the Secretary of the Tribal Council the sum of \$50 for the use of the Tribe, which sum shall be taxed as part of the costs in the proceeding if the plaintiff shall prevail therein. The Secretary of the Tribal Council shall maintain an alphabetical record of any such service setting forth the name of the plaintiff and defendant, the ordinance, docket number and nature of the proceeding in which process has been served upon the Secretary, the fact that service has been effected pursuant to this subsection, the return date thereof, and the day and hour when the service was made. The Secretary of the Tribal Council shall not be required to retain such information for a period longer than 5 years from the Secretary's receipt of the service of process.

**§ 230-106. Nature of business permitted; powers.**

(a) A limited liability company may carry on any lawful business, purpose or activity, whether or not for profit, with the exception of the business of granting policies of insurance, or assuming insurance risks or banking.

(b) A limited liability company shall possess and may exercise all the powers and privileges granted by this chapter or by any other law or by its limited liability company agreement, together with any powers incidental thereto, including such powers and privileges as are necessary or convenient to the conduct, promotion or attainment of the business, purposes or activities of the limited liability company.

**§ 230-107. Business transactions of member or manager with the limited liability company.**

Except as provided in a limited liability company agreement, a member or manager may lend money to, borrow money from, act as a surety, guarantor or endorser for, guarantee or assume 1 or more obligations of, provide collateral for, and transact other business with, a limited liability company and, subject to other applicable law, has the same rights and obligations with respect to any such matter as a person who is not a member or manager.

**COQUILLE INDIAN TRIBAL CODE**  
**CHAPTER 230**  
**LIMITED LIABILITY COMPANY ORDINANCE**

---

**§ 230-108. Indemnification.**

Subject to such standards and restrictions, if any, as are set forth in its limited liability company agreement, a limited liability company may, and shall have the power to, indemnify and hold harmless any member or manager or other person from and against any and all claims and demands whatsoever.

**§ 230-109. Service of process on managers and liquidating trustees.**

(a) A manager or a liquidating trustee of a limited liability company may be served with process in the manner prescribed in this section in all civil actions or proceedings brought within the Reservation involving or relating to the business of the limited liability company or a violation by the manager or the liquidating trustee of a duty to the limited liability company, or any member of the limited liability company, whether or not the manager or the liquidating trustee is a manager or a liquidating trustee at the time suit is commenced. A manager's or a liquidating trustee's serving as such constitutes such person's consent to the appointment of the registered agent of the limited liability company (or, if there is none, the Secretary of the Tribal Council) as such person's agent upon whom service of process may be made as provided in this section. Such service as a manager or a liquidating trustee shall signify the consent of such manager or liquidating trustee that any process when so served shall be of the same legal force and validity as if served upon such manager or liquidating trustee within the Reservation and such appointment of the registered agent (or, if there is none, the Secretary of the Tribal Council) shall be irrevocable. As used in this subsection (a) and in subsections (b), (c) and (d) of this section, the term "manager" refers (i) to a person who is a manager as defined in § 230-010(j) of this ordinance and (ii) to a person, whether or not a member of a limited liability company, who, although not a manager as defined in § 230-010(j) of this ordinance, participates materially in the management of the limited liability company; provided however, that the power to elect or otherwise select or to participate in the election or selection of a person to be a manager as defined in § 230-010(j) of this ordinance shall not, by itself, constitute participation in the management of the limited liability company.

(b) Service of process shall be effected by serving the registered agent (or, if there is none, the Secretary of the Tribal Council) with 1 copy of such process in the manner provided by law for service of writs of summons. In the event service is made under this subsection upon the Secretary of the Tribal Council, the plaintiff shall pay to the Secretary of the Tribal Council the sum of \$50 for the use of the Tribe, which sum shall be taxed as part of the costs of the proceeding if the plaintiff shall prevail therein. In addition, the Tribal Court Clerk in which the civil action or proceeding is pending shall, within 7 days of such service, deposit in the United States mails, by registered mail, postage prepaid, true and attested copies of the process, together with a statement that service is being made pursuant to this section, addressed to such manager or liquidating trustee at the registered office of the limited liability company and at the manager's or liquidating trustee's address last known to the party desiring to make such service.

(c) In any action in which any such manager or liquidating trustee has been served with process as hereinabove provided, the time in which a defendant shall be required to appear and file a responsive pleading shall be computed from the date of mailing by the Tribal Court Clerk as provided in subsection (b) of this section; however, the Tribal Court in which such action has been commenced may

**COQUILLE INDIAN TRIBAL CODE**  
**CHAPTER 230**  
**LIMITED LIABILITY COMPANY ORDINANCE**

---

order such continuance or continuances as may be necessary to afford such manager or liquidating trustee reasonable opportunity to defend the action.

(d) In a written limited liability company agreement or other writing, a manager or member must, at a minimum, consent to be subject to the non-exclusive jurisdiction of the Tribal Court and may, in addition, consent to be subject to the nonexclusive jurisdiction of the courts of, or arbitration in, a specified jurisdiction, or the exclusive jurisdiction of the Tribal Court, or the exclusivity of arbitration in a specified jurisdiction or within the Reservation, and to be served with legal process in the manner prescribed in such limited liability company agreement or other writing. Except by agreeing to arbitrate any arbitrable matter in a specified jurisdiction or within the Reservation, a member who is not a manager may not waive its right to maintain a legal action or proceeding in the Tribal Court with respect to matters relating to the organization or internal affairs of a limited liability company.

(e) Nothing herein contained limits or affects the right to serve process in any other manner now or hereafter provided by law. This section is an extension of and not a limitation upon the right otherwise existing of service of legal process upon nonresidents.

(f) The Tribal Court may make all necessary rules respecting the form of process, the manner of issuance and return thereof and such other rules which may be necessary to implement this section and are not inconsistent with this section.

**§ 230-110. Contested matters relating to managers; contested votes.**

(a) Upon application of any member or manager, the Tribal Court may hear and determine the validity of any admission, election, appointment, removal or resignation of a manager of a limited liability company, and the right of any person to become or continue to be a manager of a limited liability company, and, in case the right to serve as a manager is claimed by more than 1 person, may determine the person or persons entitled to serve as managers; and to that end make such order or decree in any such case as may be just and proper, with power to enforce the production of any books, papers and records of the limited liability company relating to the issue. In any such application, the limited liability company shall be named as a party and service of copies of the application upon the registered agent of the limited liability company shall be deemed to be service upon the limited liability company and upon the person or persons whose right to serve as a manager is contested and upon the person or persons, if any, claiming to be a manager or claiming the right to be a manager; and the registered agent shall forward immediately a copy of the application to the limited liability company and to the person or persons whose right to serve as a manager is contested and to the person or persons, if any, claiming to be a manager or the right to be a manager, in a postpaid, sealed, registered letter addressed to such limited liability company and such person or persons at their post-office addresses last known to the registered agent or furnished to the registered agent by the applicant member or manager. The Tribal Court may make such order respecting further or other notice of such application as it deems proper under these circumstances.

**COQUILLE INDIAN TRIBAL CODE**  
**CHAPTER 230**  
**LIMITED LIABILITY COMPANY ORDINANCE**

---

(b) Upon application of any member or manager, the Tribal Court may hear and determine the result of any vote of members or managers upon matters as to which the members or managers of the limited liability company, or any class or group of members or managers, have the right to vote pursuant to the limited liability company agreement or other agreement or this chapter (other than the admission, election, appointment, removal or resignation of managers). In any such application, the limited liability company shall be named as a party and service of the application upon the registered agent of the limited liability company shall be deemed to be service upon the limited liability company, and no other party need be joined in order for the Tribal Court to adjudicate the result of the vote. The Tribal Court may make such order respecting further or other notice of such application as it deems proper under these circumstances.

(c) Nothing herein contained limits or affects the right to serve process in any other manner now or hereafter provided by law. This section is an extension of and not a limitation upon the right otherwise existing of service of legal process upon nonresidents.

**§ 230-111. Interpretation and enforcement of limited liability company agreement.**

Any action to interpret, apply or enforce the provisions of a limited liability company agreement, or the duties, obligations or liabilities of a limited liability company to the members or managers of the limited liability company, or the duties, obligations or liabilities among members or managers and of members or managers to the limited liability company, or the rights or powers of, or restrictions on, the limited liability company, members or managers, may be brought in the Tribal Court.

## **Subchapter II Formation; Certificate of Formation**

**§ 230-201. Certificate of formation.**

(a) In order to form a limited liability company, 1 or more authorized persons must execute a certificate of formation. The certificate of formation shall be filed in the office of the Secretary of the Tribal Council and set forth:

- (1) The name of the limited liability company;
- (2) The address of the registered office and the name and address of the registered agent for service of process required to be maintained by § 230-104 of this ordinance; and
- (3) The name of each Manager or Member and a statement that the Company and each Manager or Member consents to at least be subject to the non-exclusive jurisdiction of the Tribal Court and any other matters the members determine to include therein.

(b) In order to establish a limited liability company:

**COQUILLE INDIAN TRIBAL CODE**  
**CHAPTER 230**  
**LIMITED LIABILITY COMPANY ORDINANCE**

---

(1) The Secretary of the Tribal Council shall, at the next regular meeting or special meeting of the Tribal Council, request a motion determining whether or not such a limited liability company may be formed;

(2) The Tribal Council, in its sole discretion, may decide by a Tribal Council resolution whether or not such a limited liability company may be formed; and

(3) A limited liability company is formed at the time of passage of a Tribal Council resolution approving the initial certificate of formation filed in the office of the Secretary of the Tribal Council or at any later date or time specified in the certificate of formation if, in either case, there has been substantial compliance with the requirements of this section. A limited liability company formed under this chapter shall be a separate legal entity, the existence of which as a separate legal entity shall continue until cancellation of the limited liability company's certificate of formation.

(c) [RESERVED]

(d) A limited liability company agreement may be entered into either before, after or at the time of the filing of a certificate of formation and, whether entered into before, after or at the time of such filing, may be made effective as of the formation of the limited liability company or at such other time or date as provided in the limited liability company agreement.

**§ 230-202. Amendment to certificate of formation.**

(a) A certificate of formation is amended by filing a certificate of amendment thereto in the office of the Secretary of the Tribal Council. The certificate of amendment shall set forth:

(1) The name of the limited liability company; and

(2) The amendment to the certificate of formation.

(b) A manager or, if there is no manager, then any member who becomes aware that any statement in a certificate of formation was false when made, or that any matter described has changed making the certificate of formation false in any material respect, shall promptly amend the certificate of formation.

(c) A certificate of formation may be amended at any time for any other proper purpose.

(d) Upon prior approval by resolution by the Tribal Council, which approval may not be unreasonably withheld and unless otherwise provided in this chapter or unless a later effective date or time (which shall be a date or time certain) is provided for in the certificate of amendment, a certificate of amendment shall be effective at the time of its filing with the Secretary of the Tribal Council.



**COQUILLE INDIAN TRIBAL CODE**  
**CHAPTER 230**  
**LIMITED LIABILITY COMPANY ORDINANCE**

---

**§ 230-203. Cancellation of certificate.**

A certificate of formation shall be cancelled upon the dissolution and the completion of winding up of a limited liability company, or as provided in § 230-104(d) of this chapter, or upon the filing of a certificate of merger or consolidation if the limited liability company is not the surviving or resulting entity in a merger or consolidation. A certificate of cancellation shall be filed in the office of the Secretary of the Tribal Council to accomplish the cancellation of a certificate of formation upon the dissolution and the completion of winding up of a limited liability company and shall set forth:

- (1) The name of the limited liability company;
- (2) The date of filing of its certificate of formation;
- (3) The reason for filing the certificate of cancellation;
- (4) The future effective date or time (which shall be a date or time certain) of cancellation if it is not to be effective upon the filing of the certificate; and
- (5) Any other information the person filing the certificate of cancellation determines.

**§ 230-204. Execution.**

(a) Each certificate required by this subchapter to be filed in the office of the Secretary of the Tribal Council shall be executed by 1 or more authorized persons.

(b) Unless otherwise provided in a limited liability company agreement, any person may sign any certificate or amendment thereof or enter into a limited liability company agreement or amendment thereof by an agent, including an attorney-in-fact. An authorization, including a power of attorney, to sign any certificate or amendment thereof or to enter into a limited liability company agreement or amendment thereof need not be in writing, need not be sworn to, verified or acknowledged, and need not be filed in the office of the Secretary of the Tribal Council, but if in writing, must be retained by the limited liability company.

(c) The execution of a certificate by an authorized person constitutes an oath or affirmation, under the penalties of perjury in the third degree, that, to the best of the authorized person's knowledge and belief, the facts stated therein are true.

**§ 230-205. Execution, amendment or cancellation by judicial order.**

(a) If a person required to execute a certificate required by this subchapter fails or refuses to do so, any other person who is adversely affected by the failure or refusal may petition the Tribal Court to direct the execution of the certificate. If the Tribal Court finds that the execution of the certificate is

**COQUILLE INDIAN TRIBAL CODE**  
**CHAPTER 230**  
**LIMITED LIABILITY COMPANY ORDINANCE**

---

proper and that any person so designated has failed or refused to execute the certificate, it shall order the Secretary of the Tribal Council to record an appropriate certificate.

(b) If a person required to execute a limited liability company agreement or amendment thereof fails or refuses to do so, any other person who is adversely affected by the failure or refusal may petition the Tribal Court to direct the execution of the limited liability company agreement or amendment thereof. If the Tribal Court finds that the limited liability company agreement or amendment thereof should be executed and that any person required to execute the limited liability company agreement or amendment thereof has failed or refused to do so, it shall enter an order granting appropriate relief.

**§ 230-206. Filing.**

(a) The original signed copy of the certificate of formation and of any certificates of amendment, correction, amendment of a certificate of merger or consolidation, termination of a merger or consolidation or cancellation (or of any judicial decree of amendment or cancellation), and of any certificate of merger or consolidation, any restated certificate, any certificate of transfer, and of any certificate of revival shall be delivered to the Secretary of the Tribal Council. A person who executes a certificate as an agent or fiduciary need not exhibit evidence of that person's authority as a prerequisite to filing. Any signature on any certificate authorized to be filed with the Secretary of the Tribal Council under any provision of this chapter may be a facsimile, a conformed signature or an electronically transmitted signature. Unless the Secretary of the Tribal Council finds that any certificate does not conform to law, upon receipt of all filing fees required by law and upon the performance of any action of the Tribal Council required under the provisions of this ordinance the Secretary of the Tribal Council shall:

(1) Certify that the certificate of formation, the certificate of amendment, the certificate of correction, the certificate of amendment of a certificate of merger or consolidation, the certificate of termination of a merger or consolidation, the certificate of cancellation (or of any judicial decree of amendment or cancellation), the certificate of merger or consolidation, the restated certificate, the certificate of transfer or the certificate of revival has been filed in the Secretary of the Tribal Council's office by endorsing upon the original certificate the word "Filed," and the date and hour of the filing. This endorsement is conclusive of the date and time of its filing in the absence of actual fraud;

(2) File and index the endorsed certificate; and

(3) Prepare and return to the person who filed it or that person's representative a copy of the original signed instrument, similarly endorsed, and shall certify such copy as a true copy of the original signed instrument.

(b) Upon the filing of a certificate of amendment (or judicial decree of amendment), certificate of correction or restated certificate in the office of the Secretary of the Tribal Council, or upon the future effective date or time of a certificate of amendment (or judicial decree thereof) or restated certificate, as provided for therein, the certificate of formation shall be amended or restated as set forth therein. Upon the filing of a certificate of cancellation (or a judicial decree thereof), or a certificate of

**COQUILLE INDIAN TRIBAL CODE**  
**CHAPTER 230**  
**LIMITED LIABILITY COMPANY ORDINANCE**

---

merger or consolidation which acts as a certificate of cancellation or a certificate of transfer, or upon the future effective date or time of a certificate of cancellation (or a judicial decree thereof) or of a certificate of merger or consolidation which acts as a certificate of cancellation or a certificate of transfer, as provided for therein, or as specified in § 230-104(d) of this ordinance, the certificate of formation is cancelled. Upon the filing of a certificate of amendment of a certificate of merger or consolidation, the certificate of merger or consolidation identified in the certificate of amendment of a certificate of merger or consolidation is amended. Upon the filing of a certificate of termination of a merger or consolidation, the certificate of merger or consolidation identified in the certificate of termination of a merger or consolidation is terminated. Upon the filing of a certificate of revival, the limited liability company is revived with the effect provided in § 230-1109 of this ordinance.

(c) A fee as set forth in § 230-1105(a)(3) of this ordinance shall be paid at the time of the filing of a certificate of formation, a certificate of amendment, a certificate of correction, a certificate of amendment of a certificate of merger or consolidation, a certificate of termination of a merger or consolidation, a certificate of cancellation, a certificate of merger or consolidation, a restated certificate, a certificate of transfer or a certificate of revival.

(d) A fee as set forth in § 230-1105(a)(4) of this ordinance shall be paid for a certified copy of any paper on file as provided for by this chapter, and a fee as set forth in § 230-1105(a)(5) of this ordinance shall be paid for each page copied.

**§ 230-207. Notice.**

The fact that a certificate of formation is on file in the office of the Secretary of the Tribal Council is notice that the entity formed in connection with the filing of the certificate of formation is a limited liability company formed under the laws of the Tribe and is notice of all other facts set forth therein which are required to be set forth in a certificate of formation by § 230-201(a)(1) and (2) of this ordinance.

**§ 230-208. Restated certificate.**

(a) A limited liability company may, whenever desired, integrate into a single instrument all of the provisions of its certificate of formation which are then in effect and operative as a result of there having theretofore been filed with the Secretary of the Tribal Council 1 or more certificates or other instruments pursuant to any of the sections referred to in this subchapter, and it may at the same time also further amend its certificate of formation by adopting a restated certificate of formation.

(b) If a restated certificate of formation merely restates and integrates but does not further amend the initial certificate of formation, as theretofore amended or supplemented by any instrument that was executed and filed pursuant to any of the sections in this subchapter, it shall be specifically designated in its heading as a "Restated Certificate of Formation" together with such other words as the limited liability company may deem appropriate and shall be executed by an authorized person and filed as provided in § 230-206 of this ordinance in the office of the Secretary of the Tribal Council. If a restated

**COQUILLE INDIAN TRIBAL CODE**  
**CHAPTER 230**  
**LIMITED LIABILITY COMPANY ORDINANCE**

---

certificate restates and integrates and also further amends in any respect the certificate of formation, as theretofore amended or supplemented, it shall be specifically designated in its heading as an "Amended and Restated Certificate of Formation" together with such other words as the limited liability company may deem appropriate and shall be executed by at least 1 authorized person, and filed as provided in § 230-206 of this ordinance in the office of the Secretary of the Tribal Council.

(c) A restated certificate of formation shall state, either in its heading or in an introductory paragraph, the limited liability company's present name, and, if it has been changed, the name under which it was originally filed, and the date of filing of its original certificate of formation with the Secretary of the Tribal Council, and the future effective date or time (which shall be a date or time certain) of the restated certificate if it is not to be effective upon the filing of the restated certificate. A restated certificate shall also state that it was duly executed and is being filed in accordance with this section. If a restated certificate only restates and integrates and does not further amend a limited liability company's certificate of formation as theretofore amended or supplemented and there is no discrepancy between those provisions and the restated certificate, it shall state that fact as well.

(d) Upon the filing of a restated certificate of formation with the Secretary of the Tribal Council, or upon the future effective date or time of a restated certificate of formation as provided for therein, the initial certificate of formation, as theretofore amended or supplemented, shall be superseded; thenceforth, the restated certificate of formation, including any further amendment or changes made thereby, shall be the certificate of formation of the limited liability company, but the original effective date of formation shall remain unchanged.

(e) Any amendment or change effected in connection with the restatement and integration of the certificate of formation shall be subject to any other provision of this chapter, not inconsistent with this section, which would apply if a separate certificate of amendment were filed to effect such amendment or change.

**§ 230-209. Merger and consolidation.**

(a) As used in this section, "other business entity" means a corporation, or a business trust or association, a real estate investment trust, a common-law trust, or any other unincorporated business, including a partnership (whether general (including a limited liability partnership) or limited (including a limited liability limited partnership)), and a foreign limited liability company, but excluding a domestic limited liability company.

(b) Pursuant to a written agreement of merger or consolidation, 1 or more domestic limited liability companies, may merge or consolidate with or into 1 or more domestic limited liability companies or 1 or more other business entities formed or organized under the laws of the Tribe or any other tribe or any state or the United States or any foreign country or other foreign jurisdiction, or any combination thereof, with such domestic limited liability companies or other business entity as the agreement shall provide being the surviving or resulting domestic limited liability companies or other business entity. Unless otherwise provided in the limited liability company agreement, a merger or consolidation shall be approved by each domestic limited liability company which is to merge or consolidate by the members or, if there is more than one class or group of members, then by each class or group of members, in either

**COQUILLE INDIAN TRIBAL CODE**  
**CHAPTER 230**  
**LIMITED LIABILITY COMPANY ORDINANCE**

---

case, by members who own more than 50 percent of the then current percentage or other interest in the profits of the domestic limited liability company owned by all of the members or by the members in each class or group, as appropriate. In connection with a merger or consolidation hereunder, rights or securities of, or interests in, a domestic limited liability company or other business entity which is a constituent party to the merger or consolidation may be exchanged for or converted into cash, property, rights or securities of, or interests in, the surviving or resulting domestic limited liability company or other business entity or, in addition to or in lieu thereof, may be exchanged for or converted into cash, property, rights or securities of, or interests in, a domestic limited liability company or other business entity which is not the surviving or resulting limited liability company or other business entity in the merger or consolidation. Notwithstanding prior approval, an agreement of merger or consolidation may be terminated or amended pursuant to a provision for such termination or amendment contained in the agreement of merger or consolidation.

(c) If a domestic limited liability company is merging or consolidating under this section, the domestic limited liability company or other business entity surviving or resulting in or from the merger or consolidation shall file a certificate of merger or consolidation executed by 1 or more authorized persons on behalf of the domestic limited liability company when it is the surviving or resulting entity in the office of the Secretary of the Tribal Council. The certificate of merger or consolidation shall state:

(1) The name and jurisdiction of formation or organization of each of the domestic limited liability companies and other business entities which is to merge or consolidate;

(2) That an agreement of merger or consolidation has been approved and executed by each of the domestic limited liability companies and other business entities which is to merge or consolidate;

(3) The name of the surviving or resulting domestic limited liability company or other business entity;

(4) The future effective date or time (which shall be a date or time certain) of the merger or consolidation if it is not to be effective upon the filing of the certificate of merger or consolidation;

(5) That the agreement of merger or consolidation is on file at a place of business of the surviving or resulting domestic limited liability company or other business entity, and shall state the address thereof;

(6) That a copy of the agreement of merger or consolidation will be furnished by the surviving or resulting domestic limited liability company or other business entity, on request and without cost, to any member of any domestic limited liability company or any person holding an interest in any other business entity which is to merge or consolidate; and

(7) If the surviving or resulting entity is not a domestic limited liability company or a corporation organized under the laws of the Tribe, a statement that such surviving or resulting other business entity agrees that the Company and each Manager or Member consents to at least

**COQUILLE INDIAN TRIBAL CODE**  
**CHAPTER 230**  
**LIMITED LIABILITY COMPANY ORDINANCE**

---

be subject to the non-exclusive jurisdiction of the Tribal Court, that it may be served with process within the Reservation in any action, suit or proceeding for the enforcement of any obligation of any domestic limited liability company which is to merge or consolidate, irrevocably appointing the Secretary of the Tribal Council as its agent to accept service of process in any such action, suit or proceeding and specifying the address to which a copy of such process shall be mailed to it by the Secretary of the Tribal Council. In the event of service hereunder upon the Secretary of the Tribal Council, the procedures set forth in § 230-911(c) of this ordinance shall be applicable, except that the plaintiff in any such action, suit or proceeding shall furnish the Secretary of the Tribal Council with the address specified in the certificate of merger or consolidation provided for in this section and any other address which the plaintiff may elect to furnish, together with copies of such process as required by the Secretary of the Tribal Council, and the Secretary of the Tribal Council shall notify such surviving or resulting other business entity at all such addresses furnished by the plaintiff in accordance with the procedures set forth in § 230-911(c) of this ordinance.

(d) Unless a future effective date or time is provided in a certificate of merger or consolidation, in which event a merger or consolidation shall be effective at any such future effective date or time, a merger or consolidation shall be effective upon the filing in the office of the Secretary of the Tribal Council of a certificate of merger or consolidation. If a certificate of merger or consolidation provides for a future effective date or time and if an agreement of merger or consolidation is amended to change the future effective date or time, or if an agreement of merger or consolidation permits a certificate of merger or consolidation to be amended to change the future effective date or time without an amendment to the agreement of merger or consolidation, or if an agreement of merger or consolidation is amended to change any other matter described in the certificate of merger or consolidation so as to make the certificate of merger or consolidation false in any material respect, as permitted by subsection (b) of this section prior to the future effective date or time, the certificate of merger or consolidation shall be amended by the filing of a certificate of amendment of a certificate of merger or consolidation which shall identify the certificate of merger or consolidation and the agreement of merger or consolidation, if applicable, which has been amended and shall state that the agreement of merger or consolidation, if applicable, has been amended and shall set forth the amendment to the certificate of merger or consolidation. If a certificate of merger or consolidation provides for a future effective date or time and if an agreement of merger or consolidation is terminated as permitted by subsection (b) of this section prior to the future effective date or time, the certificate of merger or consolidation shall be terminated by the filing of a certificate of termination of a merger or consolidation which shall identify the certificate of merger or consolidation and the agreement of merger or consolidation which has been terminated and shall state that the agreement of merger or consolidation has been terminated.

(e) A certificate of merger or consolidation shall act as a certificate of cancellation for a domestic limited liability company which is not the surviving or resulting entity in the merger or consolidation. Whenever this section requires the filing of a certificate of merger or consolidation, such requirement shall be deemed satisfied by the filing of an agreement of merger or consolidation containing the information required by this section to be set forth in the certificate of merger or consolidation.

(f) An agreement of merger or consolidation approved in accordance with subsection (b) of this section may:

**COQUILLE INDIAN TRIBAL CODE**  
**CHAPTER 230**  
**LIMITED LIABILITY COMPANY ORDINANCE**

---

- (1) Effect any amendment to the limited liability company agreement; or
- (2) Effect the adoption of a new limited liability company agreement, for a limited liability company if it is the surviving or resulting limited liability company in the merger or consolidation.

Any amendment to a limited liability company agreement or adoption of a new limited liability company agreement made pursuant to the foregoing sentence shall be effective at the effective time or date of the merger or consolidation. The provisions of this subsection shall not be construed to limit the accomplishment of a merger or of any of the matters referred to herein by any other means provided for in a limited liability company agreement or other agreement or as otherwise permitted by law, including that the limited liability company agreement of any constituent limited liability company to the merger or consolidation (including a limited liability company formed for the purpose of consummating a merger or consolidation) shall be the limited liability company agreement of the surviving or resulting limited liability company.

(g) When any merger or consolidation shall have become effective under this section, for all purposes of the laws of the Tribe, all of the rights, privileges and powers of each of the domestic limited liability companies and other business entities that have merged or consolidated, and all property, real, personal and mixed, and all debts due to any of said domestic limited liability companies and other business entities, as well as all other things and causes of action belonging to each of such domestic limited liability companies and other business entities, shall be vested in the surviving or resulting domestic limited liability company or other business entity, and shall thereafter be the property of the surviving or resulting domestic limited liability company or other business entity as they were of each of the domestic limited liability companies and other business entities that have merged or consolidated, and the ordinance to any real property vested by deed or otherwise, under the laws of the Tribe, in any of such domestic limited liability companies and other business entities, shall not revert or be in any way impaired by reason of this chapter; but all rights of creditors and all liens upon any property of any of said domestic limited liability companies and other business entities shall be preserved unimpaired, and all debts, liabilities and duties of each of the said domestic limited liability companies and other business entities that have merged or consolidated shall thenceforth attach to the surviving or resulting domestic limited liability company or other business entity, and may be enforced against it to the same extent as if said debts, liabilities and duties had been incurred or contracted by it. Unless otherwise agreed, a merger or consolidation of a domestic limited liability company, including a domestic limited liability company which is not the surviving or resulting entity in the merger or consolidation, shall not require such domestic limited liability company to wind up its affairs under § 230-803 of this ordinance or pay its liabilities and distribute its assets under § 230-804 of this ordinance.

**§ 230-210. Contractual appraisal rights.**

A limited liability company agreement or an agreement of merger or consolidation may provide that contractual appraisal rights with respect to a limited liability company interest or another interest in a limited liability company shall be available for any class or group of members or limited liability company interests in connection with any amendment of a limited liability company agreement, any

**COQUILLE INDIAN TRIBAL CODE**  
**CHAPTER 230**  
**LIMITED LIABILITY COMPANY ORDINANCE**

---

merger or consolidation in which the limited liability company is a constituent party to the merger or consolidation, or the sale of all or substantially all of the limited liability company's assets. The Tribal Court shall have jurisdiction to hear and determine any matter relating to any such appraisal rights.

**§ 230-211. Certificate of correction.**

(a) Whenever any certificate authorized to be filed with the office of the Secretary of the Tribal Council under any provision of this chapter has been so filed and is an inaccurate record of the action therein referred to, or was defectively or erroneously executed, such certificate may be corrected by filing with the office of the Secretary of the Tribal Council a certificate of correction of such certificate. The certificate of correction shall specify the inaccuracy or defect to be corrected, shall set forth the portion of the certificate in corrected form, and shall be executed and filed as required by this chapter. The certificate of correction shall be effective as of the date the original certificate was filed, except as to those persons who are substantially and adversely affected by the correction, and as to those persons the certificate of correction shall be effective from the filing date.

(b) In lieu of filing a certificate of correction, a certificate may be corrected by filing with the Secretary of the Tribal Council a corrected certificate which shall be executed and filed as if the corrected certificate were the certificate being corrected, and a fee equal to the fee payable to the Secretary of the Tribal Council if the certificate being corrected were then being filed shall be paid and collected by the Secretary of the Tribal Council for the use of the Tribe in connection with the filing of the corrected certificate. The corrected certificate shall be specifically designated as such in its heading, shall specify the inaccuracy or defect to be corrected and shall set forth the entire certificate in corrected form. A certificate corrected in accordance with this section shall be effective as of the date the original certificate was filed, except as to those persons who are substantially and adversely affected by the correction and as to those persons the certificate as corrected shall be effective from the filing date.

**§ 230-212. [RESERVED]**

**§ 230-213. [RESERVED]**

**§ 230-214. [RESERVED]**

**§ 230-215. [RESERVED]**

**§ 230-216. [RESERVED]**



**COQUILLE INDIAN TRIBAL CODE**  
**CHAPTER 230**  
**LIMITED LIABILITY COMPANY ORDINANCE**

---

### **Subchapter III. Members**

#### **§ 230-301. Admission of members.**

(a) In connection with the formation of a limited liability company, a person is admitted as a member of the limited liability company upon the later to occur of:

(1) The formation of the limited liability company; or

(2) The time provided in and upon compliance with the limited liability company agreement or, if the limited liability company agreement does not so provide, when the person's admission is reflected in the records of the limited liability company.

(b) After the formation of a limited liability company, a person is admitted as a member of the limited liability company:

(1) In the case of a person who is not an assignee of a limited liability company interest, including a person acquiring a limited liability company interest directly from the limited liability company and a person to be admitted as a member of the limited liability company without acquiring a limited liability company interest in the limited liability company at the time provided in and upon compliance with the limited liability company agreement or, if the limited liability company agreement does not so provide, upon the consent of all members and when the person's admission is reflected in the records of the limited liability company;

(2) In the case of an assignee of a limited liability company interest, as provided in § 230-704(a) of this ordinance and at the time provided in and upon compliance with the limited liability company agreement or, if the limited liability company agreement does not so provide, when any such person's permitted admission is reflected in the records of the limited liability company; or

(3) Unless otherwise provided in an agreement of merger or consolidation, in the case of a person acquiring a limited liability company interest in a surviving or resulting limited liability company pursuant to a merger or consolidation approved in accordance with § 230-209(b) of this ordinance, at the time provided in and upon compliance with the limited liability company agreement of the surviving or resulting limited liability company.

(c) A person may be admitted to a limited liability company as a member of the limited liability company and may receive a limited liability company interest in the limited liability company without making a contribution or being obligated to make a contribution to the limited liability company. Unless otherwise provided in a limited liability company agreement, a person may be admitted to a limited liability company as a member of the limited liability company without acquiring a limited

**COQUILLE INDIAN TRIBAL CODE**  
**CHAPTER 230**  
**LIMITED LIABILITY COMPANY ORDINANCE**

---

liability company interest in the limited liability company. Unless otherwise provided in a limited liability company agreement, a person may be admitted as the sole member of a limited liability company without making a contribution or being obligated to make a contribution to the limited liability company or without acquiring a limited liability company interest in the limited liability company.

**§ 230-302. Classes and voting.**

(a) A limited liability company agreement may provide for classes or groups of members having such relative rights, powers and duties as the limited liability company agreement may provide, and may make provision for the future creation in the manner provided in the limited liability company agreement of additional classes or groups of members having such relative rights, powers and duties as may from time to time be established, including rights, powers and duties senior to existing classes and groups of members. A limited liability company agreement may provide for the taking of an action, including the amendment of the limited liability company agreement, without the vote or approval of any member or class or group of members, including an action to create under the provisions of the limited liability company agreement a class or group of limited liability company interests that was not previously outstanding. A limited liability company agreement may provide that any member or class or group of members shall have no voting rights.

(b) A limited liability company agreement may grant to all or certain identified members or a specified class or group of the members the right to vote separately or with all or any class or group of the members or managers, on any matter. Voting by members may be on a per capita, number, financial interest, class, group or any other basis.

(c) A limited liability company agreement may set forth provisions relating to notice of the time, place or purpose of any meeting at which any matter is to be voted on by any members, waiver of any such notice, action by consent without a meeting, the establishment of a record date, quorum requirements, voting in person or by proxy, or any other matter with respect to the exercise of any such right to vote.

(d) Unless otherwise provided in a limited liability company agreement, on any matter that is to be voted on by members, the members may take such action without a meeting, without prior notice and without a vote if a consent or consents in writing, setting forth the action so taken, shall be signed by the members having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all members entitled to vote thereon were present and voted. Unless otherwise provided in a limited liability company agreement, on any matter that is to be voted on by members, the members may vote in person or by proxy.

**§ 230-303. Liability to 3rd parties; No waivers of Tribal sovereign immunity.**

(a) Except as otherwise provided by this chapter, the debts, obligations and liabilities of a limited liability company, whether arising in contract, tort or otherwise, shall be solely the debts, obligations and liabilities of the limited liability company, and no member or manager of a limited liability company shall be obligated personally for any such debt, obligation or liability of the limited

**COQUILLE INDIAN TRIBAL CODE**  
**CHAPTER 230**  
**LIMITED LIABILITY COMPANY ORDINANCE**

---

liability company solely by reason of being a member or acting as a manager of the limited liability company.

(b) Notwithstanding the provisions of subsection (a) of this section, under a limited liability company agreement or under another agreement, a member or manager may agree to be obligated personally for any or all of the debts, obligations and liabilities of the limited liability company.

(c) Notwithstanding any other provision contained in this ordinance, limited liability companies shall have the power to consent to such limited liability companies, but not the Tribe or any other tribal entity other than itself, being sued in courts or to have claims against it resolved through arbitration.

(d) Notwithstanding any other provision contained in this ordinance, limited liability companies may not dispose of, mortgage, or otherwise encumber real or personal property of the Tribe, except that such limited liability companies may grant a leasehold mortgage or other security interest in such limited liability companies' leasehold interest in any lease of real or personal property of the Tribe to such limited liability company.

**§ 230-304. Events of bankruptcy.**

A person ceases to be a member of a limited liability company upon the happening of any of the following events:

(1) Unless otherwise provided in a limited liability company agreement, or with the written consent of all members, a member:

- a. Makes an assignment for the benefit of creditors;
- b. Files a voluntary petition in bankruptcy;
- c. Is adjudged a bankrupt or insolvent, or has entered against the member an order for relief, in any bankruptcy or insolvency proceeding;
- d. Files a petition or answer seeking for the member any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any statute, law or regulation;
- e. Files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against the member in any proceeding of this nature;
- f. Seeks, consents to or acquiesces in the appointment of a trustee, receiver or liquidator of the member or of all or any substantial part of the member's properties; or

(2) Unless otherwise provided in a limited liability company agreement, or with the written consent of all members, 120 days after the commencement of any proceeding against the member seeking

**COQUILLE INDIAN TRIBAL CODE**  
**CHAPTER 230**  
**LIMITED LIABILITY COMPANY ORDINANCE**

---

reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any statute, law or regulation, if the proceeding has not been dismissed, or if within 90 days after the appointment without the member's consent or acquiescence of a trustee, receiver or liquidator of the member or of all or any substantial part of the member's properties, the appointment is not vacated or stayed, or within 90 days after the expiration of any such stay, the appointment is not vacated.

**§ 230-305. Access to and confidentiality of information; records.**

(a) Each member of a limited liability company has the right, subject to such reasonable standards (including standards governing what information and documents are to be furnished at what time and location and at whose expense) as may be set forth in a limited liability company agreement or otherwise established by the manager or, if there is no manager, then by the members, to obtain from the limited liability company from time to time upon reasonable demand for any purpose reasonably related to the member's interest as a member of the limited liability company:

(1) True and full information regarding the status of the business and financial condition of the limited liability company;

(2) Promptly after becoming available, a copy of the limited liability company's income tax returns for each year;

(3) A current list of the name and last known business, residence or mailing address of each member and manager;

(4) A copy of any written limited liability company agreement and certificate of formation and all amendments thereto, together with executed copies of any written powers of attorney pursuant to which the limited liability company agreement and any certificate and all amendments thereto have been executed;

(5) True and full information regarding the amount of cash and a description and statement of the agreed value of any other property or services contributed by each member and which each member has agreed to contribute in the future, and the date on which each became a member; and

(6) Other information regarding the affairs of the limited liability company as is just and reasonable.

(b) Each manager shall have the right to examine all of the information described in subsection (a) of this section for a purpose reasonably related to the position of manager.

(c) The manager of a limited liability company shall have the right to keep confidential from the members, for such period of time as the manager deems reasonable, any information which the manager reasonably believes to be in the nature of trade secrets or other information the disclosure of which the manager in good faith believes is not in the best interest of the limited liability company or

**COQUILLE INDIAN TRIBAL CODE**  
**CHAPTER 230**  
**LIMITED LIABILITY COMPANY ORDINANCE**

---

could damage the limited liability company or its business or which the limited liability company is required by law or by agreement with a 3rd party to keep confidential.

(d) A limited liability company may maintain its records in other than a written form if such form is capable of conversion into written form within a reasonable time.

(e) Any demand by a member under this section shall be in writing and shall state the purpose of such demand.

(f) Any action to enforce any right arising under this section shall be brought in the Tribal Court. If the limited liability company refuses to permit a member to obtain or a manager to examine the information described in subsection (a)(3) of this section or does not reply to the demand that has been made within 5 business days after the demand has been made, the demanding member or manager may apply to the Tribal Court for an order to compel such disclosure. The Tribal Court is hereby vested with exclusive jurisdiction to determine whether or not the person seeking such information is entitled to the information sought. The Tribal Court may summarily order the limited liability company to permit the demanding member to obtain or manager to examine the information described in subsection (a)(3) of this section and to make copies or abstracts therefrom, or the Tribal Court may summarily order the limited liability company to furnish to the demanding member or manager the information described in subsection (a)(3) of this section on the condition that the demanding member or manager first pay to the limited liability company the reasonable cost of obtaining and furnishing such information and on such other conditions as the Tribal Court deems appropriate. When a demanding member seeks to obtain or a manager seeks to examine the information described in subsection (a)(3) of this section, the demanding member or manager shall first establish (1) that the demanding member or manager has complied with the provisions of this section respecting the form and manner of making demand for obtaining or examining of such information, and (2) that the information the demanding member or manager seeks is reasonably related to the member's interest as a member or the manager's position as a manager, as the case may be. The Tribal Court may, in its discretion, prescribe any limitations or conditions with reference to the obtaining or examining of information, or award such other or further relief as the Tribal Court may deem just and proper. The Tribal Court may order books, documents and records, pertinent extracts therefrom, or duly authenticated copies thereof, to be brought within the Reservation and kept within the Reservation upon such terms and conditions as the order may prescribe.

## **Subchapter IV. Managers**

### **§ 230-401. Admission of managers.**

A person may be named or designated as a manager of the limited liability company as provided in § 230-010(j) of this ordinance.

### **§ 230-402. Management of limited liability company.**

**COQUILLE INDIAN TRIBAL CODE**  
**CHAPTER 230**  
**LIMITED LIABILITY COMPANY ORDINANCE**

---

Unless otherwise provided in a limited liability company agreement, the management of a limited liability company shall be vested in its members in proportion to the then current percentage or other interest of members in the profits of the limited liability company owned by all of the members, the decision of members owning more than 50 percent of the said percentage or other interest in the profits controlling; provided however, that if a limited liability company agreement provides for the management, in whole or in part, of a limited liability company by a manager, the management of the limited liability company, to the extent so provided, shall be vested in the manager who shall be chosen in the manner provided in the limited liability company agreement. The manager shall also hold the offices and have the responsibilities accorded to the manager by or in the manner provided in a limited liability company agreement. Subject to § 230-602 of this ordinance, a manager shall cease to be a manager as provided in a limited liability company agreement. A limited liability company may have more than 1 manager. Unless otherwise provided in a limited liability company agreement, each member and manager has the authority to bind the limited liability company.

**§ 230-403. Contributions by a manager.**

A manager of a limited liability company may make contributions to the limited liability company and share in the profits and losses of, and in distributions from, the limited liability company as a member. A person who is both a manager and a member has the rights and powers, and is subject to the restrictions and liabilities, of a manager and, except as provided in a limited liability company agreement, also has the rights and powers, and is subject to the restrictions and liabilities, of a member to the extent of the manager's participation in the limited liability company as a member.

**§ 230-404. Classes and voting.**

(a) A limited liability company agreement may provide for classes or groups of managers having such relative rights, powers and duties as the limited liability company agreement may provide, and may make provision for the future creation in the manner provided in the limited liability company agreement of additional classes or groups of managers having such relative rights, powers and duties as may from time to time be established, including rights, powers and duties senior to existing classes and groups of managers. A limited liability company agreement may provide for the taking of an action, including the amendment of the limited liability company agreement, without the vote or approval of any manager or class or group of managers, including an action to create under the provisions of the limited liability company agreement a class or group of limited liability company interests that was not previously outstanding.

(b) A limited liability company agreement may grant to all or certain identified managers or a specified class or group of the managers the right to vote, separately or with all or any class or group of managers or members, on any matter. Voting by managers may be on a per capita, number, financial interest, class, group or any other basis.

(c) A limited liability company agreement may set forth provisions relating to notice of the time, place or purpose of any meeting at which any matter is to be voted on by any manager or class or group of managers, waiver of any such notice, action by consent without a meeting, the establishment of a

**COQUILLE INDIAN TRIBAL CODE**  
**CHAPTER 230**  
**LIMITED LIABILITY COMPANY ORDINANCE**

---

record date, quorum requirements, voting in person or by proxy, or any other matter with respect to the exercise of any such right to vote.

(d) Unless otherwise provided in a limited liability company agreement, on any matter that is to be voted on by managers, the managers may take such action without a meeting, without prior notice and without a vote if a consent or consents in writing, setting forth the action so taken, shall be signed by the managers having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all managers entitled to vote thereon were present and voted. Unless otherwise provided in a limited liability company agreement, on any matter that is to be voted on by managers, the managers may vote in person or by proxy.

**§ 230-405. Remedies for breach of limited liability company agreement by manager.**

A limited liability company agreement may provide that:

(1) A manager who fails to perform in accordance with, or to comply with the terms and conditions of, the limited liability company agreement shall be subject to specified penalties or specified consequences; and

(2) At the time or upon the happening of events specified in the limited liability company agreement, a manager shall be subject to specified penalties or specified consequences.

**§ 230-406. Reliance on reports and information by member or manager.**

A member or manager of a limited liability company shall be fully protected in relying in good faith upon the records of the limited liability company and upon such information, opinions, reports or statements presented to the limited liability company by any of its other managers, members, officers, employees or committees of the limited liability company, or by any other person, as to matters the member or manager reasonably believes are within such other person's professional or expert competence and who has been selected with reasonable care by or on behalf of the limited liability company, including information, opinions, reports or statements as to the value and amount of the assets, liabilities, profits or losses of the limited liability company or any other facts pertinent to the existence and amount of assets from which distributions to members might properly be paid.

**§ 230-407. Delegation of rights and powers to manage.**

Unless otherwise provided in the limited liability company agreement, a member or manager of a limited liability company has the power and authority to delegate to 1 or more other persons the member's or manager's, as the case may be, rights and powers to manage and control the business and affairs of the limited liability company, including to delegate to agents, officers and employees of a member or manager or the limited liability company, and to delegate by a management agreement or another agreement with, or otherwise to, other persons. Unless otherwise provided in the limited liability company agreement, such delegation by a member or manager of a limited liability company shall not

**COQUILLE INDIAN TRIBAL CODE**  
**CHAPTER 230**  
**LIMITED LIABILITY COMPANY ORDINANCE**

---

cause the member or manager to cease to be a member or manager, as the case may be, of the limited liability company.

## **Subchapter V. Finance**

### **§ 230-501. Form of contribution.**

The contribution of a member to a limited liability company may be in cash, property or services rendered, or a promissory note or other obligation to contribute cash or property or to perform services.

### **§ 230-502. Liability for contribution.**

(a) Except as provided in a limited liability company agreement, a member is obligated to a limited liability company to perform any promise to contribute cash or property or to perform services, even if the member is unable to perform because of death, disability or any other reason. If a member does not make the required contribution of property or services, the member is obligated at the option of the limited liability company to contribute cash equal to that portion of the agreed value (as stated in the records of the limited liability company) of the contribution that has not been made. The foregoing option shall be in addition to, and not in lieu of, any other rights, including the right to specific performance, that the limited liability company may have against such member under the limited liability company agreement or applicable law.

(b) Unless otherwise provided in a limited liability company agreement, the obligation of a member to make a contribution or return money or other property paid or distributed in violation of this chapter may be compromised only by consent of all the members. Notwithstanding the compromise, a creditor of a limited liability company who extends credit, after the entering into of a limited liability company agreement or an amendment thereto which, in either case, reflects the obligation, and before the amendment thereof to reflect the compromise, may enforce the original obligation to the extent that, in extending credit, the creditor reasonably relied on the obligation of a member to make a contribution or return. A conditional obligation of a member to make a contribution or return money or other property to a limited liability company may not be enforced unless the conditions of the obligation have been satisfied or waived as to or by such member. Conditional obligations include contributions payable upon a discretionary call of a limited liability company prior to the time the call occurs.

(c) A limited liability company agreement may provide that the interest of any member who fails to make any contribution that the member is obligated to make shall be subject to specified penalties for, or specified consequences of, such failure. Such penalty or consequence may take the form of reducing or eliminating the defaulting member's proportionate interest in a limited liability company, subordinating the member's limited liability company interest to that of nondefaulting members, a forced sale of that limited liability company interest, forfeiture of his or her limited liability company interest, the lending by other members of the amount necessary to meet the defaulting member's commitment, a fixing of the value of his or her limited liability company interest by appraisal or by formula and redemption or sale of the limited liability company interest at such value, or other penalty or consequence.



**COQUILLE INDIAN TRIBAL CODE**  
**CHAPTER 230**  
**LIMITED LIABILITY COMPANY ORDINANCE**

---

**§ 230-503. Allocation of profits and losses.**

The profits and losses of a limited liability company shall be allocated among the members, and among classes or groups of members, in the manner provided in a limited liability company agreement. If the limited liability company agreement does not so provide, profits and losses shall be allocated on the basis of the agreed value (as stated in the records of the limited liability company) of the contributions made by each member to the extent they have been received by the limited liability company and have not been returned.

**§ 230-504. Allocation of distributions.**

Distributions of cash or other assets of a limited liability company shall be allocated among the members, and among classes or groups of members, in the manner provided in a limited liability company agreement. If the limited liability company agreement does not so provide, distributions shall be made on the basis of the agreed value (as stated in the records of the limited liability company) of the contributions made by each member to the extent they have been received by the limited liability company and have not been returned.

**§ 230-505. Defense of usury not available.**

No obligation of a member or manager of a limited liability company to the limited liability company arising under the limited liability company agreement or a separate agreement or writing, and no note, instrument or other writing evidencing any such obligation of a member or manager, shall be subject to the defense of usury, and no member or manager shall interpose the defense of usury with respect to any such obligation in any action.

## **Subchapter VI. Distributions and Resignation**

**§ 230-601. Interim distributions.**

Except as provided in this subchapter, to the extent and at the times or upon the happening of the events specified in a limited liability company agreement, a member is entitled to receive from a limited liability company distributions before the member's resignation from the limited liability company and before the dissolution and winding up thereof.

**§ 230-602. Resignation of manager.**

**COQUILLE INDIAN TRIBAL CODE**  
**CHAPTER 230**  
**LIMITED LIABILITY COMPANY ORDINANCE**

---

A manager may resign as a manager of a limited liability company at the time or upon the happening of events specified in a limited liability company agreement and in accordance with the limited liability company agreement. A limited liability company agreement may provide that a manager shall not have the right to resign as a manager of a limited liability company. Notwithstanding that a limited liability company agreement provides that a manager does not have the right to resign as a manager of a limited liability company, a manager may resign as a manager of a limited liability company at any time by giving written notice to the members and other managers. If the resignation of a manager violates a limited liability company agreement, in addition to any remedies otherwise available under applicable law, a limited liability company may recover from the resigning manager damages for breach of the limited liability company agreement and offset the damages against the amount otherwise distributable to the resigning manager.

**§ 230-603. Resignation of member.**

A member may resign from a limited liability company only at the time or upon the happening of events specified in a limited liability company agreement and in accordance with the limited liability company agreement. Notwithstanding anything to the contrary under applicable law, unless a limited liability company agreement provides otherwise, a member may not resign from a limited liability company prior to the dissolution and winding up of the limited liability company. Notwithstanding anything to the contrary under applicable law, a limited liability company agreement may provide that a limited liability company interest may not be assigned prior to the dissolution and winding up of the limited liability company.

**§ 230-604. Distribution upon resignation.**

Except as provided in this subchapter, upon resignation any resigning member is entitled to receive any distribution to which such member is entitled under a limited liability company agreement and, if not otherwise provided in a limited liability company agreement, such member is entitled to receive, within a reasonable time after resignation, the fair value of such member's limited liability company interest as of the date of resignation based upon such member's right to share in distributions from the limited liability company.

**§ 230-605. Distribution in kind.**

Except as provided in a limited liability company agreement, a member, regardless of the nature of the member's contribution, has no right to demand and receive any distribution from a limited liability company in any form other than cash. Except as provided in a limited liability company agreement, a member may not be compelled to accept a distribution of any asset in kind from a limited liability company to the extent that the percentage of the asset distributed exceeds a percentage of that asset which is equal to the percentage in which the member shares in distributions from the limited liability company. Except as provided in the limited liability company agreement, a member may be compelled to accept a distribution of any asset in kind from a limited liability company to the extent that the percentage of the

**COQUILLE INDIAN TRIBAL CODE**  
**CHAPTER 230**  
**LIMITED LIABILITY COMPANY ORDINANCE**

---

asset distributed is equal to a percentage of that asset which is equal to the percentage in which the member shares in distributions from the limited liability company.

**§ 230-606. Right to distribution.**

Subject to §§ 230-607 and 230-804 of this ordinance, and unless otherwise provided in a limited liability company agreement, at the time a member becomes entitled to receive a distribution, the member has the status of, and is entitled to all remedies available to, a creditor of a limited liability company with respect to the distribution. A limited liability company agreement may provide for the establishment of a record date with respect to allocations and distributions by a limited liability company.

**§ 230-607. Limitations on distribution.**

(a) A limited liability company shall not make a distribution to a member to the extent that at the time of the distribution, after giving effect to the distribution, all liabilities of the limited liability company, other than liabilities to members on account of their limited liability company interests and liabilities for which the recourse of creditors is limited to specified property of the limited liability company, exceed the fair value of the assets of the limited liability company, except that the fair value of property that is subject to a liability for which the recourse of creditors is limited shall be included in the assets of the limited liability company only to the extent that the fair value of that property exceeds that liability. For purposes of this subsection (a), the term “distribution” shall not include amounts constituting reasonable compensation for present or past services or reasonable payments made in the ordinary course of business pursuant to a bona fide retirement plan or other benefits program.

(b) A member who receives a distribution in violation of subsection (a) of this section, and who knew at the time of the distribution that the distribution violated subsection (a) of this section, shall be liable to a limited liability company for the amount of the distribution. A member who receives a distribution in violation of subsection (a) of this section, and who did not know at the time of the distribution that the distribution violated subsection (a) of this section, shall not be liable for the amount of the distribution. Subject to subsection (c) of this section, this subsection shall not affect any obligation or liability of a member under an agreement or other applicable law for the amount of a distribution.

(c) Unless otherwise agreed, a member who receives a distribution from a limited liability company shall have no liability under this chapter or other applicable law for the amount of the distribution after the expiration of 3 years from the date of the distribution unless an action to recover the distribution from such member is commenced prior to the expiration of the said 3-year period and an adjudication of liability against such member is made in the said action.

**Subchapter VII. Assignment of Limited Liability Company Interests**

**§ 230-701. Nature of limited liability company interest.**

**COQUILLE INDIAN TRIBAL CODE**  
**CHAPTER 230**  
**LIMITED LIABILITY COMPANY ORDINANCE**

---

A limited liability company interest is personal property. A member has no interest in specific limited liability company property.

**§ 230-702. Assignment of limited liability company interest.**

(a) A limited liability company interest is assignable in whole or in part except as provided in a limited liability company agreement. The assignee of a member's limited liability company interest shall have no right to participate in the management of the business and affairs of a limited liability company except as provided in a limited liability company agreement and upon:

(1) The approval of all of the members of the limited liability company other than the member assigning the limited liability company interest; or

(2) Compliance with any procedure provided for in the limited liability company agreement.

(b) Unless otherwise provided in a limited liability company agreement:

(1) An assignment of a limited liability company interest does not entitle the assignee to become or to exercise any rights or powers of a member;

(2) An assignment of a limited liability company interest entitles the assignee to share in such profits and losses, to receive such distribution or distributions, and to receive such allocation of income, gain, loss, deduction, or credit or similar item to which the assignor was entitled, to the extent assigned; and

(3) A member ceases to be a member and to have the power to exercise any rights or powers of a member upon assignment of all of the member's limited liability company interest. Unless otherwise provided in a limited liability company agreement, the pledge of, or granting of a security interest, lien or other encumbrance in or against, any or all of the limited liability company interest of a member shall not cause the member to cease to be a member or to have the power to exercise any rights or powers of a member.

(c) A limited liability company agreement may provide that a member's interest in a limited liability company may be evidenced by a certificate of limited liability company interest issued by the limited liability company.

(d) Unless otherwise provided in a limited liability company agreement and except to the extent assumed by agreement, until an assignee of a limited liability company interest becomes a member, the assignee shall have no liability as a member solely as a result of the assignment.

(e) Unless otherwise provided in the limited liability company agreement, a limited liability company may acquire, by purchase, redemption or otherwise, any limited liability company interest or other interest of a member or manager in the limited liability company. Unless otherwise provided in the

**COQUILLE INDIAN TRIBAL CODE**  
**CHAPTER 230**  
**LIMITED LIABILITY COMPANY ORDINANCE**

---

limited liability company agreement, any such interest so acquired by the limited liability company shall be deemed canceled.

**§ 230-703. Member's limited liability company interest subject to charging order.**

(a) On application by a judgment creditor of a member or of a member's assignee, the Tribal Court may charge the limited liability company interest of the judgment debtor to satisfy the judgment. The Tribal Court may appoint a receiver of the share of the distributions due or to become due to the judgment debtor in respect of the limited liability company, which receiver shall have only the rights of an assignee, and the Tribal Court may make all other orders, directions, accounts and inquiries the judgment debtor might have made or which the circumstances of the case may require.

b) A charging order constitutes a lien on the judgment debtor's limited liability company interest. The Tribal Court may order a foreclosure of the limited liability company interest subject to the charging order at any time. The purchaser at the foreclosure sale has only the rights of an assignee.

(c) Unless otherwise provided in a limited liability company agreement, at any time before foreclosure, a limited liability company interest charged may be redeemed:

(1) By the judgment debtor;

(2) With property other than limited liability company property, by 1 or more of the other members; or

(3) By the limited liability company with the consent of all of the members whose interests are not so charged.

(d) This chapter does not deprive a member of a right under exemption laws with respect to the member's limited liability company interest.

(e) This section provides the exclusive remedy by which a judgment creditor of a member or member's assignee may satisfy a judgment out of the judgment debtor's limited liability company interest.

(f) No creditor of a member shall have any right to obtain possession of, or otherwise exercise legal or equitable remedies with respect to, the property of the limited liability company.

**§ 230-704. Right of assignee to become member.**

(a) An assignee of a limited liability company interest may become a member as provided in a limited liability company agreement and upon:

**COQUILLE INDIAN TRIBAL CODE**  
**CHAPTER 230**  
**LIMITED LIABILITY COMPANY ORDINANCE**

---

(1) The approval of all of the members of the limited liability company other than the member assigning limited liability company interest; or

(2) Compliance with any procedure provided for in the limited liability company agreement.

(b) An assignee who has become a member has, to the extent assigned, the rights and powers, and is subject to the restrictions and liabilities, of a member under a limited liability company agreement and this chapter. Notwithstanding the foregoing, unless otherwise provided in a limited liability company agreement, an assignee who becomes a member is liable for the obligations of the assignor to make contributions as provided in § 230-502 of this ordinance, but shall not be liable for the obligations of the assignor under subchapter VI of this chapter. However, the assignee is not obligated for liabilities, including the obligations of the assignor to make contributions as provided in § 230-502 of this ordinance, unknown to the assignee at the time the assignee became a member and which could not be ascertained from a limited liability company agreement.

(c) Whether or not an assignee of a limited liability company interest becomes a member, the assignor is not released from liability to a limited liability company under subchapters V and VI of this chapter.

**§ 230-705. Powers of estate of deceased or incompetent member.**

If a member who is an individual dies or a Tribal Court or a state court adjudges the member to be incompetent to manage the member's person or property, the member's personal representative may exercise all of the member's rights for the purpose of settling the member's estate or administering the member's property, including any power under a limited liability company agreement of an assignee to become a member. If a member is a corporation, trust or other entity and is dissolved or terminated, the powers of that member may be exercised by its personal representative.

**Subchapter VIII. Dissolution**

**§ 230-801. Dissolution.**

(a) A limited liability company is dissolved and its affairs shall be wound up upon the first to occur of the following:

(1) At the time specified in a limited liability company agreement, but if no such time is set forth in the limited liability company agreement, then the limited liability company shall have a perpetual existence;

**COQUILLE INDIAN TRIBAL CODE**  
**CHAPTER 230**  
**LIMITED LIABILITY COMPANY ORDINANCE**

---

(2) Upon the happening of events specified in a limited liability company agreement;

(3) Unless otherwise provided in a limited liability company agreement, upon the affirmative vote or written consent of the members of the limited liability company or, if there is more than 1 class or group of members, then by each class or group of members, in either case, by members who own more than two-thirds of the then-current percentage or other interest in the profits of the limited liability company owned by all of the members or by the members in each class or group, as appropriate;

(4) At any time there are no members; provided, that the limited liability company is not dissolved and is not required to be wound up if:

a. Unless otherwise provided in a limited liability company agreement, within 90 days or such other period as is provided for in the limited liability company agreement after the occurrence of the event that terminated the continued membership of the last remaining member, the personal representative of the last remaining member agrees in writing to continue the limited liability company and to the admission of the personal representative of such member or its nominee or designee to the limited liability company as a member, effective as of the occurrence of the event that terminated the continued membership of the last remaining member; provided, that a limited liability company agreement may provide that the personal representative of the last remaining member shall be obligated to agree in writing to continue the limited liability company and to the admission of the personal representative of such member or its nominee or designee to the limited liability company as a member, effective as of the occurrence of the event that terminated the continued membership of the last remaining member, or

b. A member is admitted to the limited liability company in the manner provided for in the limited liability company agreement, effective as of the occurrence of the event that terminated the continued membership of the last remaining member, within 90 days or such other period as is provided for in the limited liability company agreement after the occurrence of the event that terminated the continued membership of the last remaining member, pursuant to a provision of the limited liability company agreement that specifically provides for the admission of a member to the limited liability company after there is no longer a remaining member of the limited liability company.

(5) The entry of a decree of judicial dissolution under § 230-802 of this ordinance.

(b) Unless otherwise provided in a limited liability company agreement, the death, retirement, resignation, expulsion, bankruptcy or dissolution of any member or the occurrence of any other event that terminates the continued membership of any member shall not cause the limited liability company to be dissolved or its affairs to be wound up, and upon the occurrence of any such event, the limited liability company shall be continued without dissolution.

**§ 230-802. Judicial dissolution.**

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Limited Liability Company Ordinance  
Approved August 14, 2001  
Adopted September 21, 2001

**COQUILLE INDIAN TRIBAL CODE**  
**CHAPTER 230**  
**LIMITED LIABILITY COMPANY ORDINANCE**

---

On application by or for a member or manager the Tribal Court may decree dissolution of a limited liability company whenever it is not reasonably practicable to carry on the business in conformity with a limited liability company agreement.

**§ 230-803. Winding up.**

(a) Unless otherwise provided in a limited liability company agreement, a manager who has not wrongfully dissolved a limited liability company or, if none, the members or a person approved by the members or, if there is more than 1 class or group of members, then by each class or group of members, in either case, by members who own more than 50 percent of the then current percentage or other interest in the profits of the limited liability company owned by all of the members or by the members in each class or group, as appropriate, may wind up the limited liability company's affairs; but the Tribal Court, upon cause shown, may wind up the limited liability company's affairs upon application of any member or manager, the member's or manager's personal representative or assignee, and in connection therewith, may appoint a liquidating trustee.

(b) Upon dissolution of a limited liability company and until the filing of a certificate of cancellation as provided in § 230-203 of this ordinance, the persons winding up the limited liability company's affairs may, in the name of, and for and on behalf of, the limited liability company, prosecute and defend suits, whether civil, criminal or administrative, gradually settle and close the limited liability company's business, dispose of and convey the limited liability company's property, discharge or make reasonable provision for the limited liability company's liabilities, and distribute to the members any remaining assets of the limited liability company, all without affecting the liability of members and managers and without imposing liability on a liquidating trustee.

**§ 230-804. Distribution of assets.**

(a) Upon the winding up of a limited liability company, the assets shall be distributed as follows:

(1) To creditors, including members and managers who are creditors, to the extent otherwise permitted by law, in satisfaction of liabilities of the limited liability company (whether by payment or the making of reasonable provision for payment thereof) other than liabilities for which reasonable provision for payment has been made and liabilities for distributions to members and former members under § 230-601 or § 230-604 of this ordinance;

(2) Unless otherwise provided in a limited liability company agreement, to members and former members in satisfaction of liabilities for distributions under § 230-601 or § 230-604 of this ordinance; and

(3) Unless otherwise provided in a limited liability company agreement, to members first for the return of their contributions and second respecting their limited liability company interests, in the proportions in which the members share in distributions.



**COQUILLE INDIAN TRIBAL CODE**  
**CHAPTER 230**  
**LIMITED LIABILITY COMPANY ORDINANCE**

---

(b) A limited liability company which has dissolved:

(1) Shall pay or make reasonable provision to pay all claims and obligations, including all contingent, conditional or unmatured contractual claims, known to the limited liability company;

(2) Shall make such provision as will be reasonably likely to be sufficient to provide compensation for any claim against the limited liability company which is the subject of a pending action, suit or proceeding to which the limited liability company is a party; and

(3) Shall make such provision as will be reasonably likely to be sufficient to provide compensation for claims that have not been made known to the limited liability company or that have not arisen but that, based on facts known to the limited liability company, are likely to arise or to become known to the limited liability company within 10 years after the date of dissolution.

If there are sufficient assets, such claims and obligations shall be paid in full and any such provision for payment made shall be made in full. If there are insufficient assets, such claims and obligations shall be paid or provided for according to their priority and, among claims of equal priority, ratably to the extent of assets available therefor. Unless otherwise provided in the limited liability company agreement, any remaining assets shall be distributed as provided in this chapter. Any liquidating trustee winding up a limited liability company's affairs who has complied with this section shall not be personally liable to the claimants of the dissolved limited liability company by reason of such person's actions in winding up the limited liability company.

(c) A member who receives a distribution in violation of subsection (a) of this section, and who knew at the time of the distribution that the distribution violated subsection (a) of this section, shall be liable to the limited liability company for the amount of the distribution. For purposes of the immediately preceding sentence, the term "distribution" shall not include amounts constituting reasonable compensation for present or past services or reasonable payments made in the ordinary course of business pursuant to a bona fide retirement plan or other benefits program. A member who receives a distribution in violation of subsection (a) of this section, and who did not know at the time of the distribution that the distribution violated subsection (a) of this section, shall not be liable for the amount of the distribution. Subject to subsection (d) of this section, this subsection shall not affect any obligation or liability of a member under an agreement or other applicable law for the amount of a distribution.

(d) Unless otherwise agreed, a member who receives a distribution from a limited liability company to which this section applies shall have no liability under this chapter or other applicable law for the amount of the distribution after the expiration of 3 years from the date of the distribution unless an action to recover the distribution from such member is commenced prior to the expiration of the said 3-year period and an adjudication of liability against such member is made in the said action.

(e) Section 230-607 of this ordinance shall not apply to a distribution to which this section applies.

**COQUILLE INDIAN TRIBAL CODE**  
**CHAPTER 230**  
**LIMITED LIABILITY COMPANY ORDINANCE**

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**Subchapter IX. Foreign Limited Liability Companies**

**§ 230-901. Law governing.**

- (a) Subject to the Constitution of the Tribe:
  - (1) The laws of the tribe, state, territory, possession, or other jurisdiction or country under which a foreign limited liability company is organized govern its organization and internal affairs and the liability of its members and managers; and
  - (2) A foreign limited liability company may not be denied registration by reason of any difference between those laws and the laws of the Tribe.
- (b) A Foreign limited liability company shall be subject to § 230-106 of this ordinance.

**§ 230-902. Registration required; application.**

(a) Before doing business within the Reservation, upon prior approval by resolution by the Tribal Council, which approval may be withheld in its sole discretion, a foreign limited liability company shall register with the Secretary of the Tribal Council. In order to register, a foreign limited liability company shall submit to the Secretary of the Tribal Council:

- (1) A copy executed by an authorized person of an application for registration as a foreign limited liability company, setting forth:
  - a. The name of the foreign limited liability company and, if different, the name under which it proposes to register and do business within the Reservation;
  - b. The tribe, state, territory, possession or other jurisdiction or country where formed, the date of its formation and a statement from an authorized person that, as of the date of filing, the foreign limited liability company validly exists as a limited liability company under the laws of the jurisdiction of its formation;
  - c. The nature of the business or purposes to be conducted or promoted within the Reservation;
  - d. The address of the registered office and the name and address of the registered agent for service of process required to be maintained by § 230-904(b) of this ordinance;
  - e. A statement that the Secretary of the Tribal Council is appointed the agent of the foreign limited liability company for service of process under the circumstances set forth in § 230-910(b) of this ordinance and that the Company and each

**COQUILLE INDIAN TRIBAL CODE**  
**CHAPTER 230**  
**LIMITED LIABILITY COMPANY ORDINANCE**

---

Manager or Member consents to at least be subject to the non-exclusive jurisdiction of the Tribal Court; and

f. The date on which the foreign limited liability company first did, or intends to do, business within the Reservation.

(2) A fee as set forth in § 230-1105(a)(6) of this ordinance shall be paid.

(b) A person shall not be deemed to be doing business within the Reservation solely by reason of being a member or manager of a domestic limited liability company or a foreign limited liability company.

**§ 230-903. Issuance of registration.**

(a) If the Secretary of the Tribal Council finds that an application for registration conforms to law and all requisite fees have been paid, the Secretary of the Tribal Council shall:

(1) Certify that the application has been filed by endorsing upon the original application the word "Filed", and the date and hour of the filing. This endorsement is conclusive of the date and time of its filing in the absence of actual fraud;

(2) File and index the endorsed application.

(b) The Secretary of the Tribal Council shall prepare and return to the person who filed the application or the person's representative a copy of the original signed application, similarly endorsed, and shall certify such copy as a true copy of the original signed application.

**§ 230-904. Name; registered office; registered agent.**

(a) A foreign limited liability company may register with the Secretary of the Tribal Council under any name (whether or not it is the name under which it is registered in the jurisdiction of its formation) that includes the words "Limited Liability Company" or the abbreviation "L.L.C." or the designation "LLC" and that could be registered by a domestic limited liability company; provided however, that a foreign limited liability company may register under any name which is such as to distinguish it upon the records in the office of the Secretary of the Tribal Council from the name of any domestic or foreign corporation or limited liability company reserved, registered or organized under the laws of the Tribe.

(b) Each foreign limited liability company shall have and maintain within the Reservation:

**COQUILLE INDIAN TRIBAL CODE**  
**CHAPTER 230**  
**LIMITED LIABILITY COMPANY ORDINANCE**

---

(1) A registered office which may but need not be a place of its business within the Reservation; and

(2) A registered agent for service of process on the foreign limited liability company, which agent may be an individual person, resident of the Reservation, or member of the Tribe 18 years of age or older whose business office is identical with the foreign limited liability company's registered office, or a domestic corporation, or a domestic limited liability company, or a foreign corporation, or a foreign limited liability company authorized to do business within the Reservation having a business office identical with such registered office, which is generally open during normal business hours to accept service of process and otherwise perform the functions of a registered agent.

(c) A registered agent may change the address of the registered office of the foreign limited liability company(s) for which he or she is registered agent to another address within the Reservation by paying a fee as set forth in § 230-1105(a)(7) of this ordinance and filing with the Secretary of the Tribal Council a certificate, executed by such registered agent, setting forth the names of all the foreign limited liability companies represented by such registered agent, and the address at which such registered agent has maintained the registered office for each of such foreign limited liability companies, and further certifying to the new address to which each such registered office will be changed on a given day, and at which new address such registered agent will thereafter maintain the registered office for each of the foreign limited liability companies recited in the certificate. Upon the filing of such certificate, the Secretary of the Tribal Council shall furnish to the registered agent a certified copy of the same under the Secretary's hand and seal of office, and thereafter, or until further change of address, as authorized by law, the registered office within the Reservation of each of the foreign limited liability companies recited in the certificate shall be located at the new address of the registered agent thereof as given in the certificate. In the event of a change of name of any person acting as a registered agent of a foreign limited liability company, such registered agent shall file with the Secretary of the Tribal Council a certificate, executed by such registered agent, setting forth the new name of such registered agent, the name of such registered agent before it was changed, the names of all the foreign limited liability companies represented by such registered agent, and the address at which such registered agent has maintained the registered office for each of such foreign limited liability companies, and shall pay a fee as set forth in § 230-1105(a)(7) of this ordinance. Upon the filing of such certificate, the Secretary of the Tribal Council shall furnish to the registered agent a certified copy of the same under the Secretary's hand and seal of office. Filing a certificate under this section shall be deemed to be an amendment of the application of each foreign limited liability company affected thereby and each foreign limited liability company shall not be required to take any further action with respect thereto, to amend its application under § 230-905 of this ordinance. Any registered agent filing a certificate under this section shall promptly, upon such filing, deliver a copy of any such certificate to each foreign limited liability company affected thereby.

(d) The registered agent of 1 or more foreign limited liability companies may resign and appoint a successor registered agent by paying a fee as set forth in § 230-1105(a)(7) of this ordinance and filing a certificate with the Secretary of the Tribal Council, stating that it resigns and the name and address of the successor registered agent. There shall be attached to such certificate a statement executed by each affected foreign limited liability company ratifying and approving such change of registered agent. Upon such filing, the successor registered agent shall become the registered agent of such foreign limited liability company as has ratified and approved such substitution and the successor registered

**COQUILLE INDIAN TRIBAL CODE**  
**CHAPTER 230**  
**LIMITED LIABILITY COMPANY ORDINANCE**

---

agent's address, as stated in such certificate, shall become the address of each such foreign limited liability company's registered office within the Reservation. The Secretary of the Tribal Council shall furnish to the successor registered agent a certified copy of the certificate of resignation. Filing of such certificate of resignation shall be deemed to be an amendment of the application of each foreign limited liability company affected thereby and each such foreign limited liability company shall not be required to take any further action with respect thereto, to amend its application under § 230-905 of this ordinance.

(e) The registered agent of a foreign limited liability company may resign without appointing a successor registered agent by paying a fee as set forth in § 230-1105(a)(7) of this ordinance and filing a certificate with the Secretary of the Tribal Council stating that it resigns as registered agent for the foreign limited liability company identified in the certificate, but such resignation shall not become effective until 120 days after the certificate is filed. There shall be attached to such certificate an affidavit of such registered agent, if an individual, or of the president, a vice-president or the secretary thereof if a corporation, that at least 30 days prior to and on or about the date of the filing of said certificate, notices were sent by certified or registered mail to the foreign limited liability companies for which such registered agent is resigning as registered agent, at the principal office thereof within or outside the Reservation, if known to such registered agent or, if not, to the last known address of the attorney or other individual at whose request such registered agent was appointed for such foreign limited liability company, of the resignation of such registered agent. After receipt of the notice of the resignation of its registered agent, the foreign limited liability company for which such registered agent was acting shall obtain and designate a new registered agent, to take the place of the registered agent so resigning. If such foreign limited liability company fails to obtain and designate a new registered agent as aforesaid prior to the expiration of the period of 120 days after the filing by the registered agent of the certificate of resignation, such foreign limited liability company shall not be permitted to do business within the Reservation and its registration shall be deemed to be cancelled. After the resignation of the registered agent shall have become effective as provided in this section and if no new registered agent shall have been obtained and designated in the time and manner aforesaid, service of legal process against the foreign limited liability company for which the resigned registered agent had been acting shall thereafter be upon the Secretary of the Tribal Council in accordance with § 230-911 of this ordinance.

**§ 230-905. Amendments to application.**

If any statement in the application for registration of a foreign limited liability company was false when made or any arrangements or other facts described have changed, making the application false in any respect, the foreign limited liability company shall promptly file in the office of the Secretary of the Tribal Council a certificate, executed by an authorized person, correcting such statement, together with a fee as set forth in § 230-1105(a)(6) of this ordinance.

**§ 230-906. Cancellation of registration.**

A foreign limited liability company may cancel its registration by filing with the Secretary of the Tribal Council a certificate of cancellation, executed by an authorized person, together with a fee as set forth in § 230-1105(a)(6) of this ordinance. A cancellation does not terminate the authority of the

**COQUILLE INDIAN TRIBAL CODE**  
**CHAPTER 230**  
**LIMITED LIABILITY COMPANY ORDINANCE**

---

Secretary of the Tribal Council to accept service of process on the foreign limited liability company with respect to causes of action arising out of the doing of business within the Reservation.

**§ 230-907. Doing business without registration.**

(a) A foreign limited liability company doing business within the Reservation may not maintain any action, suit or proceeding within the Reservation until it has registered to do business within the Reservation, and has paid to the Tribe all fees and penalties for the years or parts thereof, during which it did business within the Reservation without having registered.

(b) The failure of a foreign limited liability company to register within the Reservation does not impair:

- (1) The validity of any contract or act of the foreign limited liability company;
- (2) The right of any other party to the contract to maintain any action, suit or proceeding on the contract; or
- (3) Prevent the foreign limited liability company from defending any action, suit or proceeding in the Tribal Court.

(c) A member or a manager of a foreign limited liability company is not liable for the obligations of the foreign limited liability company solely by reason of the limited liability company's having done business within the Reservation without registration.

(d) Any foreign limited liability company doing business within the Reservation without first having registered shall be fined and shall pay to the Secretary of the Tribal Council \$200 for each year or part thereof during which the foreign limited liability company failed to register to do business within the Reservation.

**§ 230-908. Foreign limited liability companies doing business without having qualified; injunctions.**

The Tribal Court shall have jurisdiction to enjoin any foreign limited liability company, or any agent thereof, from doing any business within the Reservation if such foreign limited liability company has failed to register under this subchapter or if such foreign limited liability company has secured a certificate of the Secretary of the Tribal Council under § 230-903 of this ordinance on the basis of false or misleading representations. Upon the motion of the Tribal Attorney or upon the relation of proper parties, the Tribal Attorney shall proceed for this purpose by complaint in Tribal Court.

**§ 230-909. Execution; liability.**

Section 230-204 (c) of this ordinance shall be applicable to foreign limited liability companies as if they were domestic limited liability companies.

**COQUILLE INDIAN TRIBAL CODE**  
**CHAPTER 230**  
**LIMITED LIABILITY COMPANY ORDINANCE**

---

**§ 230-910. Service of process on registered foreign limited liability companies.**

(a) Service of legal process upon any foreign limited liability company shall be made by delivering a copy personally to any managing or general agent or manager of the foreign limited liability company within the Reservation or the registered agent of the foreign limited liability company within the Reservation, or by leaving it at the dwelling house or usual place of abode within the Reservation of any such managing or general agent, manager or registered agent (if the registered agent be an individual), or at the registered office or other place of business of the foreign limited liability company within the Reservation. If the registered agent be a corporation, service of process upon it as such may be made by serving, within the Reservation, a copy thereof on the president, vice-president, secretary, assistant secretary or any director of the corporate registered agent. Service by copy left at the dwelling house or usual place of abode of any managing or general agent, manager or registered agent, or at the registered office or other place of business of the foreign limited liability company within the Reservation, to be effective must be delivered thereat at least 6 days before the return date of the process, and in the presence of an adult person, and the officer serving the process shall distinctly state the manner of service in the officer's return thereto. Process returnable forthwith must be delivered personally to the managing or general agent, manager or registered agent.

(b) In case the officer whose duty it is to serve legal process cannot by due diligence serve the process in any manner provided for by subsection (a) of this section, it shall be lawful to serve the process against the foreign limited liability company upon the Secretary of the Tribal Council, and such service shall be as effectual for all intents and purposes as if made in any of the ways provided for in subsection (a) of this section. In the event service is effected through the Secretary of the Tribal Council in accordance with this subsection, the Secretary of the Tribal Council shall forthwith notify the foreign limited liability company by letter, certified mail, return receipt requested, directed to the foreign limited liability company at its last registered office. Such letter shall enclose a copy of the process and any other papers served on the Secretary of the Tribal Council pursuant to this subsection. It shall be the duty of the plaintiff in the event of such service to serve process and any other papers in duplicate, to notify the Secretary of the Tribal Council that service is being effected pursuant to this subsection, and to pay to the Secretary of the Tribal Council the sum of \$50 for the use of the Tribe, which sum shall be taxed as a part of the costs in the proceeding if the plaintiff shall prevail therein. The Secretary of the Tribal Council shall maintain an alphabetical record of any such service setting forth the name of the plaintiff and defendant, the ordinance, docket number and nature of the proceeding in which process has been served upon the Secretary, the fact that service has been effected pursuant to this subsection, the return date thereof and the day and hour when the service was made. The Secretary of the Tribal Council shall not be required to retain such information for a period longer than 5 years from the Secretary's receipt of the service of process.

**§ 230-911. Service of process on unregistered foreign limited liability companies.**

(a) Any foreign limited liability company which shall do business within the Reservation without having registered under § 230-902 of this ordinance shall be deemed to have thereby appointed

**COQUILLE INDIAN TRIBAL CODE**  
**CHAPTER 230**  
**LIMITED LIABILITY COMPANY ORDINANCE**

---

and constituted the Secretary of the Tribal Council its agent for the acceptance of legal process in any civil action, suit or proceeding against it in Tribal Court arising or growing out of any business done by it within the Reservation. The doing of business within the Reservation by such foreign limited liability company shall be a signification of the agreement of such foreign limited liability company that any such process when so served shall be of the same legal force and validity as if served upon an authorized manager or agent personally within the Reservation.

(b) Whenever the words “doing business,” “the doing of business” or “business done in the Reservation,” by any such foreign limited liability company are used in this section, they shall mean the course or practice of carrying on any business activities within the Reservation, including, without limiting the generality of the foregoing, the solicitation of business or orders within the Reservation.

(c) In the event of service upon the Secretary of the Tribal Council in accordance with subsection (a) of this section, the Secretary of the Tribal Council shall forthwith notify the foreign limited liability company thereof by letter, certified mail, return receipt requested, directed to the foreign limited liability company at the address furnished to the Secretary of the Tribal Council by the plaintiff in such action, suit or proceeding. Such letter shall enclose a copy of the process and any other papers served upon the Secretary of the Tribal Council. It shall be the duty of the plaintiff in the event of such service to serve process and any other papers in duplicate, to notify the Secretary of the Tribal Council that service is being made pursuant to this subsection, and to pay to the Secretary of the Tribal Council the sum of \$50 for the use of the Tribe, which sum shall be taxed as part of the costs in the proceeding, if the plaintiff shall prevail therein. The Secretary of the Tribal Council shall maintain an alphabetical record of any such process setting forth the name of the plaintiff and defendant, the ordinance, docket number and nature of the proceeding in which process has been served upon the Secretary, the return date thereof, and the day and hour when the service was made. The Secretary of the Tribal Council shall not be required to retain such information for a period longer than 5 years from the receipt of the service of process.

## **Subchapter X. Derivative Actions**

### **§ 230-1001. Right to bring action.**

A member or an assignee of a limited liability company interest may bring an action in the Tribal Court in the right of a limited liability company to recover a judgment in its favor if managers or members with authority to do so have refused to bring the action or if an effort to cause those managers or members to bring the action is not likely to succeed.

### **§ 230-1002. Proper plaintiff.**

In a derivative action, the plaintiff must be a member or an assignee of a limited liability company interest at the time of bringing the action and:

- (1) At the time of the transaction of which the plaintiff complains; or



**COQUILLE INDIAN TRIBAL CODE**  
**CHAPTER 230**  
**LIMITED LIABILITY COMPANY ORDINANCE**

---

(2) The plaintiff's status as a member or an assignee of a limited liability company interest had devolved upon the plaintiff by operation of law or pursuant to the terms of a limited liability company agreement from a person who was a member or an assignee of a limited liability company interest at the time of the transaction.

**§ 230-1003. Complaint.**

In a derivative action, the complaint shall set forth with particularity the effort, if any, of the plaintiff to secure initiation of the action by a manager or member or the reasons for not making the effort.

**§ 230-1004. Expenses.**

If a derivative action is successful, in whole or in part, as a result of a judgment, compromise or settlement of any such action, the Tribal Court may award the plaintiff reasonable expenses, including reasonable attorney's fees, from any recovery in any such action or from a limited liability company.

**Subchapter XI. Miscellaneous**

**§ 230-1101. Construction and application of chapter and limited liability company agreement.**

(a) The rule that statutes in derogation of the common law are to be strictly construed shall have no application to this chapter.

(b) It is the policy of this chapter to give the maximum effect to the principle of freedom of contract and to the enforceability of limited liability company agreements.

(c) To the extent that, at law or in equity, a member or manager or other person has duties (including fiduciary duties) and liabilities relating thereto to a limited liability company or to another member or manager or to an other person that is a party to or is otherwise bound by a limited liability company agreement:

(1) Any such member or manager or other person acting under the limited liability company agreement shall not be liable to the limited liability company or to any such other member or manager or to any such other person for the member's or manager's or other person's good faith reliance on the provisions of the limited liability company agreement; and

(2) The member's or manager's or other person's duties and liabilities may be expanded or restricted by provisions in the limited liability company agreement.

**COQUILLE INDIAN TRIBAL CODE**  
**CHAPTER 230**  
**LIMITED LIABILITY COMPANY ORDINANCE**

---

(d) Unless the context otherwise requires, as used herein, the singular shall include the plural and the plural may refer to only the singular. The use of any gender shall be applicable to all genders. The captions contained herein are for purposes of convenience only and shall not control or affect the construction of this chapter.

**§ 230-1102. Short ordinance.**

This chapter may be cited as the “Coquille Limited Liability Company Ordinance.”

**§ 230-1103. Severability.**

If any provision of this chapter or its application to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end, the provisions of this chapter are severable.

**§ 230-1104. Cases not provided for in this chapter.**

In any case not provided for in this chapter, the rules of law and equity, including the law merchant, shall govern pursuant to the application of law as set forth in the Coquille Tribal Court Ordinances.

**§ 230-1105. Fees.**

(a) No document required to be filed under this chapter shall be effective until the applicable fee required by this section is paid. The following fees shall be paid to and collected by the Secretary of the Tribal Council for the use of the Tribe:

(1) Upon the receipt for filing of an application for reservation of name, an application for renewal of reservation or a notice of transfer or cancellation of reservation pursuant to § 230-103(b) of this ordinance, a fee in the amount of \$75.

(2) Upon the receipt for filing of a certificate under § 230-104(b) of this ordinance, a fee in the amount of \$50, upon the receipt for filing of a certificate under § 230-104(c) of this ordinance, a fee in the amount of \$50 and a further fee of \$2 for each limited liability company affected by such certificate, and upon the receipt for filing of a certificate under § 230-104(d) of this ordinance, a fee in the amount of \$2.50.

(3) Upon the receipt for filing of a certificate of formation under § 230-201 of this ordinance, a certificate of amendment under § 230-202 of this ordinance, a certificate of cancellation under § 230-203 of this ordinance, a certificate of merger or consolidation under § 230-209 of this ordinance, a restated certificate of formation under § 230-208 of this ordinance, a certificate of amendment of a certificate of merger or consolidation under § 230-209(d) of this ordinance, a certificate of termination of a merger or consolidation under § 230-209(d) of this ordinance, a certificate of correction under § 230-211 of this ordinance, or a certificate of revival under § 230-1109 of this ordinance, and upon the restoration of a domestic limited liability

**COQUILLE INDIAN TRIBAL CODE**  
**CHAPTER 230**  
**LIMITED LIABILITY COMPANY ORDINANCE**

---

company or a foreign limited liability company under § 230-1107(i) of this ordinance, a fee in the amount of \$50.

(4) For certifying copies of any paper on file as provided for by this chapter, a fee in the amount of \$20 for each copy certified.

(5) The Secretary of the Tribal Council may issue photocopies or electronic image copies of instruments on file, as well as instruments, documents and other papers not on file, and for all such photocopies or electronic image copies, whether certified or not, a fee of \$5 shall be paid for the 1st page and \$1 for each additional page. The Secretary of the Tribal Council may also issue microfiche copies of instruments on file as well as instruments, documents and other papers not on file, and for each such microfiche a fee of \$2 shall be paid therefor.

(6) Upon the receipt for filing of an application for registration as a foreign limited liability company under § 230-902 of this ordinance, a certificate under § 230-905 of this ordinance or a certificate of cancellation under § 230-906 of this ordinance, a fee in the amount of \$50.

(7) Upon the receipt for filing of a certificate under § 230-904(c) of this ordinance, a fee in the amount of \$50, upon the receipt for filing of a certificate under § 230-904(d) of this ordinance, a fee in the amount of \$50 and a further fee of \$2 for each foreign limited liability company affected by such certificate, and upon the receipt for filing of a certificate under § 230-904(e) of this ordinance, a fee in the amount of \$2.50.

(8) For preclearance of any document for filing, a fee in the amount of \$250.

(9) For preparing and providing a written report of a record search, a fee in the amount of \$30.

(10) For issuing any certificate of the Secretary of the Tribal Council, including but not limited to a certificate of good standing, other than a certification of a copy under paragraph (4) of this subsection, a fee in the amount of \$20, except that for issuing any certificate of the Secretary of the Tribal Council that recites all of a limited liability company's filings with the Secretary of the Tribal Council, a fee of \$100 shall be paid for each such certificate.

(11) For receiving and filing and/or indexing any certificate, affidavit, agreement or any other paper provided for by this chapter, for which no different fee is specifically prescribed, a fee in the amount of \$25.

(12) The Secretary of the Tribal Council may in his or her discretion charge a fee of \$25 for each check received for payment of any fee that is returned due to insufficient funds or the result of a stop payment order.

(b) In addition to those fees charged under subsection (a) of this section, there shall be collected by and paid to the Secretary of the Tribal Council the following:

**COQUILLE INDIAN TRIBAL CODE**  
**CHAPTER 230**  
**LIMITED LIABILITY COMPANY ORDINANCE**

---

(1) For all services described in subsection (a) of this section that are requested to be completed within 2 hours on the same day as the day of the request, an additional sum of up to \$500;

(2) For all services described in subsection (a) of this section that are requested to be completed within the same day as the day of the request, an additional sum of up to \$200; and

(3) For all services described in subsection (a) of this section that are requested to be completed within a 24-hour period from the time of the request, an additional sum of up to \$100.

The Secretary of the Tribal Council shall establish (and may from time to time amend) a schedule of specific fees payable pursuant to this subsection.

(c) The Secretary of the Tribal Council may in his or her discretion permit the extension of credit for the fees required by this section upon such terms as the secretary shall deem to be appropriate.

(d) The Secretary of the Tribal Council shall retain from the revenue collected from the fees required by this section a sum sufficient to provide at all times a fund of at least \$500, but not more than \$1,500, from which the secretary may refund any payment made pursuant to this section to the extent that it exceeds the fees required by this section. The funds shall be deposited in a financial institution which is a legal depository of Tribe moneys to the credit of the Secretary of the Tribal Council and shall be disbursable on order of the Secretary of the Tribal Council.

**§ 230-1106. Reserved power of the Tribe to alter or repeal chapter.**

All provisions of this chapter may be altered from time to time or repealed and all rights of members and managers are subject to this reservation. Unless expressly stated to the contrary in this chapter, all amendments of this chapter shall apply to limited liability companies and members and managers whether or not existing as such at the time of the enactment of any such amendment.

**§ 230-1107. [RESERVED]**

**§ 230-1108. [RESERVED]**

**§ 230-1109. Revival of domestic limited liability company.**

(a) A domestic limited liability company whose certificate of formation has been canceled pursuant to § 230-104(d) of this ordinance may be revived by filing in the office of the Secretary of the

**COQUILLE INDIAN TRIBAL CODE**  
**CHAPTER 230**  
**LIMITED LIABILITY COMPANY ORDINANCE**

---

Tribal Council a certificate of revival accompanied by the payment of the fee required by § 230-1105(a)(3) of this ordinance. The certificate of revival shall set forth:

- (1) The name of the limited liability company at the time its certificate of formation was canceled and, if such name is not available at the time of revival, the name under which the limited liability company is to be revived;
- (2) The date of filing of the original certificate of formation of the limited liability company;
- (3) The address of the limited liability company's registered office within the Reservation and the name and address of the limited liability company's registered agent within the Reservation;
- (4) A statement that the certificate of revival is filed by 1 or more persons authorized to execute and file the certificate of revival to revive the limited liability company; and
- (5) Any other matters the persons executing the certificate of revival determine to include therein.

(b) The certificate of revival shall be deemed to be an amendment to the certificate of formation of the limited liability company, and the limited liability company shall not be required to take any further action to amend its certificate of formation under § 230-202 of this ordinance with respect to the matters set forth in the certificate of revival.

(c) Upon the filing of a certificate of revival, a limited liability company shall be revived with the same force and effect as if its certificate of formation had not been canceled pursuant to § 230-104(d) of this ordinance. Such revival shall validate all contracts, acts, matters and things made, done and performed by the limited liability company, its members, managers, employees and agents during the time when its certificate of formation was canceled pursuant to § 230-104(d) of this ordinance, with the same force and effect and to all intents and purposes as if the certificate of formation had remained in full force and effect. All real and personal property, and all rights and interests, which belonged to the limited liability company at the time its certificate of formation was canceled pursuant to § 230-104(d) of this ordinance or which were acquired by the limited liability company following the cancellation of its certificate of formation pursuant to § 230-104(d) or of this ordinance, and which were not disposed of prior to the time of its revival, shall be vested in the limited liability company after its revival as fully as they were held by the limited liability company at, and after, as the case may be, the time its certificate of formation was canceled pursuant to § 230-104(d) of this ordinance. After its revival, the limited liability company shall be as exclusively liable for all contracts, acts, matters and things made, done or performed in its name and on its behalf by its members, managers, employees and agents prior to its revival as if its certificate of formation had at all times remained in full force and effect.