

CHEROKEE COUNCIL HOUSE
CHEROKEE, NORTH CAROLINA

Date: SEP 02 2026

ORDINANCE NO. 286 (2026)

*An ordinance amending C.C. Chapter 55B governing
limited liability companies formed under Tribal law.*

WHEREAS, Cherokee Code (C.C.) Section 55B governs the formation and operation of limited liability companies under Tribal law and was first passed in Ordinance No. 619 (2017); and

WHEREAS, C.C. Chapter 55B was originally written to provide for the formation and operation of one company, Kituwah, LLC, and some of the provisions in the Chapter reflect a focus on that company; and

WHEREAS, the Chapter was minimally amended to allow for the formation and operation of Qualla Enterprises, LLC; and

WHEREAS, in the nine years since Chapter 55B first became law, it has become apparent that the Chapter would be improved by amending it in multiple ways, to better to reflect the expanded activities of companies that are subject to the Chapter; to clarify governance practices; to eliminate ambiguities; to strengthen the legal and operational framework for the companies; to clarify the roles of the Principal Chief, Tribal Council, and managing boards; to confirm the status of each company as an arm-of-the-Tribe; to clarify sovereign immunity protections and how limited waivers of waivers of sovereign immunity may be granted; and other matters; and

WHEREAS, the amendments to Chapter 55B presented herein will provide flexibility for economic growth, will better safeguard the Tribe's assets and sovereignty, and will position the Tribe's limited liability companies for sustainable expansion, improved governance, and reduced legal risk.

NOW THEREFORE BE IT ORDAINED by the Eastern Band of Cherokee Indians in Tribal Council assembled, at which a quorum is present, that C.C. Chapter 55B shall be amended as provided in the attached Exhibit A.

BE IT FINALLY ORDAINED that all ordinances that are inconsistent with this ordinance are rescinded, and that this ordinance shall become effective when ratified by the Principal Chief.

Submitted by Kituwah, LLC, and the Office of the Attorney General.

Chapter 55B

LIMITED LIABILITY COMPANY

Sec. 55B-1.1. Title.

This ~~chapter~~Chapter shall be known as The Eastern Band of Cherokee Indians Limited Liability Company Chapter which shall be the tribe, exercising its inherent sovereignty, operating in its corporate form, whether wholly owned or for subsidiaries in part, having the purposes, powers, and duties as herein or hereafter provided by tribal law.

Sec. 55B-1.2. Purpose.

The Eastern Band of Cherokee Indians ("Tribe") has a primary interest in:

- (a) Exercising its inherent sovereign authority to provide the legal framework for organizing business entities to expand the ~~private Tribal~~ business sector ~~and economy on- and off-~~ the Reservation. _____
- (b) ~~A limited liability company may be organized under this chapter and may conduct business for any lawful purpose, unless a more limited purpose is stated in its articles of organization.~~
- (c) ~~Authorizing the formation of wholly owned Tribal business entities~~Tribally Owned LLCs and their subsidiaries to be organized as ~~the Economic Development Arms~~economic development arms of the Tribe for managing the Tribe's ~~non-gaming activities~~commercial enterprises and pursuing business opportunities separate from the general affairs of its Tribal Council, with the ability to enter into legally-binding contracts and commercial relationships without the need for formal Tribal Council action.
- (d) ~~Authorizing subsidiaries of such wholly owned tribal business entities that may be themselves wholly or majority owned by the parent Tribal business entities.~~

Sec. 55B-1.3. Findings and declarations.

The Tribal Council of the Eastern Band of Cherokee Indians finds and declares as follows:

- (a) The Tribe is a sovereign, federally recognized Indian tribe, and is ~~chartered~~organized pursuant to the Charter and Governing Document of the Eastern Band of Cherokee Indians, ~~enacted and adopted May 8, 1986, by the Tribal Council of the Eastern Band of Cherokee Indians, Cherokee Council House, Cherokee, North Carolina, by Resolution No. 132 (1986), and amended by Tribal Referendum conducted October 8, 1986.~~
- (b) Pursuant to Section 23 of the Tribe's Charter and Governing Document, the Tribal Council of the Eastern Band of Cherokee Indians is authorized and empowered to govern the management of real and personal property held by the Tribe.
- (c) The Tribe, through its authority and duty to provide for the health, safety, morals, and welfare of all persons within the jurisdiction of the tribe, ~~there is hereby established and created a public body corporate and politic known as the Eastern Band of Cherokee Indians Limited Liability Company Chapter, which shall be the tribe, operating in its corporate form, whether wholly owned or for subsidiaries in part, having the purposes, powers, and duties as herein or hereafter provided by tribal law.~~Tribe, may regulate activities occurring on the Reservation and allow for the organization of limited liability companies.

1 **Sec. 55B-1.4. No waiver of sovereign immunity.**

2 By the adoption of this ~~chapter~~Chapter, the Tribe does not waive its sovereign immunity or consent to suit in
3 any court or forum, whether federal, tribal, or state. Neither the adoption of this ~~chapter~~Chapter, nor the
4 organization of any limited liability company hereunder, shall be construed to be a waiver of the sovereign
5 immunity of the Tribe or a consent to suit against the Tribe in any court.

6 **Sec. 55B-1.5. Definitions.**

7 As used in this ~~chapter~~Chapter, unless the context otherwise requires:

- 8 ~~(1) "Attorney General" means the Attorney General of the Eastern Band of Cherokee Indians.~~
- 9 ~~(2) "Chapter" means the Eastern Band of Cherokee Indians Limited Liability Company Chapter.~~
- 10 ~~(3) (1) "Articles of organizationOrganization" means documents filed underpursuant to Section 55B-1.9-~~
11 ~~For and Section 55B-2.3, for the purpose of forming a limited liability company and those documents as~~
12 ~~amended or restatedincluding any amendments thereto.~~
- 13 ~~(4)(2) "Attorney General" means the Attorney General of the Eastern Band of Cherokee Indians.~~
- 14 ~~(3) "Business" means any trade, occupation, profession, or other commercial-chapter activity, including~~
15 ~~but not limited to professions licensed by a state or other governmental agency whether or not~~
16 ~~engaged in for profit.~~
- 17 ~~(4) "Business Entity" means any entity organized under the laws of the Tribe or any other jurisdiction.~~
- 18 ~~(5) "Certificate of formationGood Standing" means the certificate referred to in Section 55B-21.10 of this~~
19 ~~chapterChapter, and such certificate as amended.~~
- 20 ~~(6)(6) "Chapter" means the Eastern Band of Cherokee Indians Limited Liability Company Chapter.~~
- 21 ~~(7) "Contribution" means any cash, property, services rendered or a promissory note or other obligation to~~
22 ~~contribute cash or property or to perform services, which a personPerson contributes to a limited~~
23 ~~liability company in the person'sPerson's capacity as a memberMember of such limited liability~~
24 ~~company.~~
- 25 ~~(7)(8) "Court" means the Cherokee Court as defined in G.G.Cherokee Code Chapter 7 or any successor court.~~
- 26 ~~(8) (9) "Foreign Business Entity" means a Foreign limited liability company, or a limited partnership or~~
27 ~~corporation formed under any jurisdiction other than the Tribe.~~
- 28 ~~(10) "Foreign Limited Liability Company" means a limited liability company formed under the laws of any~~
29 ~~state or under the laws of any foreign country or other foreign jurisdiction and denominated as such~~
30 ~~under the laws of such state or foreign country or other foreign jurisdiction other than the Tribe.~~
- 31 ~~(9) "Kituwah Economic Development Board." The Principle Chief, with agreement by the Tribal Council~~
32 ~~may appoint such a Kituwah Economic Development Board as subordinate officers and agents as the~~
33 ~~business of the Tribe may require and to allow them suitable compensation. The Kituwah Economic~~
34 ~~Development Board will be responsible for appointing the person to represent the Eastern Band of~~
35 ~~Cherokee Indians' member interest in the company.~~
- 36 ~~(10) (11) "Knowledge" means a person'sPerson's actual knowledge of a-facts, rather than the~~
37 ~~person'sPerson's constructive knowledge of the facts.~~
- 38 ~~(11)(12) "Limited liability company" and "domestic limited liability company"Liability Company", "LLC",~~
39 ~~means a limited liability company formed under the laws of the Tribe and having one or more~~
40 ~~members.~~

- ~~(12) "Limited liability company", "domestic limited liability company", or "Domestic LLC" means an organization formed under this chapter.~~
- (13) "Member(s)" means: (i) the Tribe, (ii) Kituwah, LLC, (iii) Kituwah Global Government Group, LLC, or (iv) in the case of a majority owned subsidiary of Kituwah, LLC and Kituwah Global Government Group, LLC, a Person(s) owning that is a minority member interest in such subsidiary.
- ~~(14) "Manager" of an LLC or "managers" means the person(s) or entity designated to represent the Tribes has membership interest in an LLC shall be the Kituwah Economic Development Board or for wholly owned or majority owned subsidiaries controlled by the KEDB, the manager shall be the KEDB or as set forth in their Articles of Organization or operating agreement or as set forth in Section 55B-3.1(b) and/or Operating Agreement.~~
- (14) "Manager(s)" means the Person(s) designated to manage the LLC pursuant to the Articles of Organization and/or Operating Agreement.
- (15) "Operating agreement" ~~Agreement~~ means any agreement, written or oral, of the members as to, or in the case of a limited liability company having a single member, any written agreement between the member and the company ~~agreement of the Member and the LLC~~ memorializing the affairs of a limited liability company ~~the LLC~~ and the conduct of its business ~~Business~~.
- (16) "Person" means a natural person, partnership (whether general or limited), trust, estate, association, corporation, custodian, nominee or any other individual or entity in its own or any representative capacity, in each case, whether domestic or foreign, and a limited liability company or foreign limited liability company ~~Organizing Documents~~ include Articles of Organization, Operating Agreements, Articles of Incorporation, Bylaws, partnership agreements, agreements of trust and declarations of trust, and any other basic records that create a Business Entity's organization and determine its internal governance and relations among Persons that own it, have an interest in it, or are members of it.
- (17) "Personal representative" ~~Person(s)~~ means, as to a natural person, the executor, administrator, guardian, conservator ~~trust, estate, association, custodian, Business Entity, or other legal representative thereof and, as to a person other than a natural person, Tribal Entity.~~
- (18) "Reservation or Boundary" means, (i) all lands, the title of which is held in trust by the legal representative or successor thereof, ~~United States for the benefit of the Tribe, and~~ (ii) all lands proclaimed by the Secretary of the U.S. Department of the Interior to be part of the Tribe's reservation.
- ~~(1819)~~ "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.
- ~~(1920)~~ "Tribal Council" means the legislative governing body of the Eastern Band of Cherokee Indians.
- ~~(2021)~~ "Tribal Entity" means the Tribe, the Tribal Council, or any other legal, commercial, or governmental entity of the Tribe.
- (22) "Tribally Owned LLC" means an LLC wholly owned by the Tribe, with the Tribe as its sole Member and is manager-managed in accordance with Section 55B-3.1 below.
- (23) "Tribally Owned Second Tier Subsidiary LLC" means a limited liability company wholly owned by a Tribally Owned Subsidiary LLC, with such Tribally Owned Subsidiary LLC as its sole Member.
- (24) "Tribally Owned Subsidiary LLC" means a limited liability company wholly owned by a Tribally Owned LLC, with such Tribally Owned LLC as its sole Member.
- (25) "Tribe" means the Eastern Band of Cherokee Indians.

1 Sec. 55B-1.6. The Tribe as the ~~member~~Member.

- 2 (a) The Principal Chief, with agreement of the Tribal Council, shall appoint the Kituwah Economic Development
3 Board as a Representative of the Eastern Band of Cherokee Indians in the capacity of member.
- 4 ~~(b) If the Tribe or a Tribal Entity is a Member of an~~ may form a Tribally Owned LLC formed under this chapter,
5 ~~any Chapter pursuant to Section 55B-1.8.~~
- 6 ~~(b) Any action of the Tribe as Member~~ which is required or permitted to take with respect to approval, consent,
7 appointment, direction, or other matter shall be taken ~~as specified in Section 3.1 of this chapter or,~~
8 ~~as pursuant to actions related to the managers of a manager-managed LLC, as stated in the LLC's operating~~
9 ~~agreement, the laws of the Tribe.~~
- 10 ~~(c) If the Tribe is the sole member of an LLC formed under this chapter, such tribally-owned LLC(c)~~ Tribally
11 Owned LLCs, Tribally Owned Subsidiary LLCs, and Tribally Owned Second Tier Subsidiary LLCs shall be
12 deemed to possess all of the privileges and immunities of the Tribe, including the Tribe's sovereign immunity
13 from suit, ~~except to the extent otherwise provided in this chapter, and from federal, state, and local taxation~~
14 ~~and regulation, unless otherwise waived in accordance with this Chapter and the LLCs Operating Agreement.~~
- 15 ~~(d) If a Tribally-owned LLC, in which the Tribe or a Tribal Entity is the sole member, forms a Tribally-Owned~~
16 ~~Subsidiary LLC, to which the Tribally-Owned LLC is the sole member, such Tribally-Owned Subsidiary LLC shall~~
17 ~~possess all of the privileges and immunities of the Tribe, including the Tribes' sovereign immunity from suit~~
18 ~~except to the extent otherwise provided in this chapter. Notwithstanding the above sentence, the Kituwah~~
19 ~~Economic Development Board may cause to be waived sovereign immunity for specific purposes in said~~
20 ~~subsidiary LLC's organic documents.~~
- 21 ~~(e) If the Tribe or a Tribal Entity is not the sole member of an LLC formed under this chapter, such LLC must not~~
22 ~~be deemed to possess the privileges and immunities of the Tribe, including sovereign immunity from suit;~~
23 ~~provided, however, that the Tribe, or Tribal Entity that is a member, shall retain its privileges and immunities.~~
- 24 ~~(f) In no event shall the Kituwah Economic Development Board, or an appointed member representative~~
25 ~~manager of an LLC in which the Tribe is a member, bind the Tribe's interest as a member in any manner~~
26 ~~without consent of the Principal Chief with agreement by the Tribal Council; provided that the Tribe's~~
27 ~~interest as a member may be bound by the Kituwah Economic Development Board or Member actions as~~
28 ~~stated in this chapter and the operating agreement of the LLC.~~
- 29 ~~(g) Any LLC formed under this chapter so that the initial members of the LLC are solely the Tribe or a Tribal~~
30 ~~Entity, shall not add or change members without the consent of the Tribe expressed in a Tribal Council~~
31 ~~resolution ratified by the Principal Chief or that has become law without the signature of the Principal Chief.~~
- 32 ~~(h) For purposes of Tribal financial audits required under C.G. § 117-46, any LLC formed under this chapter(d)~~
33 Every Tribally Owned LLC shall be manager-managed and the Manager shall have all decision-making
34 authority except the following which are specifically reserved for the Member:
- 35 (1) Amend the Articles of Organization or Operating Agreement.
- 36 (2) Sell, exchange, or otherwise dispose (other than the mortgage, pledge, or other grant of a security
37 interest) of all or substantially all of its assets.
- 38 (3) Make any additional capital contributions.
- 39 (4) Voluntarily dissolve or authorize the merger with another entity.
- 40 (5) Authorize the Manager, Board of Directors, or other Person to act on behalf of the Tribally Owned LLC
41 that contravenes the Operating Agreement.
- 42 ~~(e) Each LLC formed under this Chapter~~ shall be considered a component unit of the Tribe and shall comply with
43 ~~the Tribe's all applicable audit, accounting, financial reporting, and fiscal accountability requirements;~~
44 established by the laws of the Tribe or other applicable policies.

1 (if) Nothing contained in this ~~chapter~~Chapter shall be construed as creating any liability or waiving of sovereign
2 immunity of the Tribe in any manner; provided that the assets of any LLC in which the Tribe holds an interest
3 may be subject to liabilities and claims ~~unless otherwise provided herein as waived in accordance with this~~
4 ~~Chapter~~. In no event shall any action taken by the Tribe as ~~member~~Member concerning the exercise of any
5 right or privilege or discharge of any duty with respect to an interest in an LLC be construed as a waiver of
6 immunity or creation of a liability on the ~~tribe~~Tribe, including the individuals serving as the Tribal Council,
7 separate and apart from its interests as a ~~member~~Member of the LLC.

8 (g) Unless otherwise stated in its Articles of Organization, LLCs established under this Chapter shall be
9 considered to be instrumentalities of the Tribe, and their officers and employees considered officers and
10 employees of the Tribe, created for the purpose of carrying out the authority and responsibilities of the Tribe
11 for economic development of the Tribe and the advancement of its citizens. Such LLCs, directors, officers,
12 Managers, and employees are, therefore, entitled to all of the privileges and immunities enjoyed by the
13 Tribe, including, but not limited to, immunities from suit in federal, state, and tribal courts and from federal,
14 state, and local taxation or regulation.

15 (h) LLCs may grant a limited waiver of their sovereign immunity in order to promote economic development
16 through commercial transactions for which such a waiver is necessary and beneficial to the LLC and the
17 Tribe. LLCs must grant limited waivers of their sovereign immunity as follows:

18 (1) The sovereign immunity may be waived only by:

19 (i) for Tribally Owned LLCs, a duly authorized resolution of the Manager for the specific purpose of
20 granting such waiver, or in the case of Tribally Owned Subsidiary LLCs and Tribally Owned Second
21 Tier Subsidiary LLCs, by the Manager of the Tribally Owned LLC; and

22 (ii) the language of the waiver must be explicit and specifically limited in the duration, the grantee,
23 the scope, the court having jurisdiction, applicable law, and the assets eligible to satisfy
24 judgments brought against the LLC; and

25 (iii) the waiver must be contained in a written contract or commercial document to which the LLC is a
26 party.

27 (2) Any contract or agreement with such waiver or consent to suit shall be submitted for review to an
28 attorney representing the LLC before contract execution;

29 (3) Any such waiver or consent to suit granted pursuant to this Chapter or the LLC's Operating Agreement
30 shall in no way extend to any action against the Tribe, nor shall it in any way be deemed a waiver of
31 any of the rights, privileges, and immunities of the Tribe or Tribal Entity;

32 (4) Any recovery against the LLC shall be limited to the assets of the LLC (or such portion of the LLC's assets
33 as further limited by the waiver or consent) and the Tribe shall not be liable for the payment or
34 performance of any of the obligations of the LLC, and no recourse shall be had against any assets or
35 revenues of the Tribe in order to satisfy the obligations of the LLC, including assets of the Tribe leased,
36 loaned, or assigned to the LLC for its use, without transfer of title; and

37 (5) Notwithstanding subsections (1)-(4) above, the LLC may specifically grant a limited waiver of its
38 sovereign immunity from suit for participation in the United States Small Business Administration 8a
39 Program in the manner required by federal regulations governing the program.

40 Sec. 55B-1.7. Nature of business.

41 ~~A limited liability company~~An LLC may be organized under this ~~chapter~~Chapter for any lawful purpose.
42 Unless otherwise provided in its ~~operating agreement~~Operating Agreement, an LLC organized and existing under
43 this ~~Code~~Chapter has the same powers as an individual to do all things necessary and convenient to carry out its
44 ~~business~~Business, including but not limited to all of the following:

- (a) ~~Consent to Sue and~~ be sued, complain, and defend in its name; provided, however, that ~~if an LLC is Tribally owned, or wholly owned by another entity which itself is wholly owned by the Tribe, it~~ shall be entitled to and shall enjoy and be cloaked with the Tribe's sovereign immunity from suit unless ~~the operating agreement provides otherwise~~ waived in accordance with this Chapter.
- (b) Purchase, take, receive, lease, or otherwise acquire and own, hold, improve, use, and otherwise deal in or with real, or personal property or any legal or equitable interest in real or personal property, wherever situated.
- (c) Sell, convey, mortgage, pledge, create a security interest in, lease, exchange, or otherwise dispose of all or any part of its property.
- (d) Lend money, property, and services to, and otherwise assist, its ~~members~~Member and ~~managers~~Managers, if any.
- (e) Purchase, take, receive, subscribe for, or otherwise acquire and own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise dispose of and deal in and with shares or other interests in, or obligations of, any other ~~enterprise or entity~~Business Entity.
- (f) Make contracts and guarantees; incur liabilities; borrow money; issue notes, bonds, and other obligations; and secure any of its obligations by mortgage or pledge of all or part of its property, franchises, and income.
- (g) Lend money, invest and reinvest its funds, and receive and hold real or personal property as security for repayment.
- (h) Conduct its ~~business~~Business, locate offices, and exercise the powers granted by this ~~Code~~Chapter inside or outside of the ~~reservation~~Reservation.
- (i) Be a promoter, incorporator, partner, member, associate, or manager of any ~~enterprise or entity~~Business Entity.
- (j) Elect or appoint ~~managers~~Managers, agents, and employees, define their duties, and fix their compensation.
- (k) Pay pensions and establish pension plans, pension trusts, profit-sharing plans, and benefit or incentive plans for any or all of its current or former ~~members, managers~~Members, Managers, employees, and agents.
- (l) Make donations to and otherwise devote its resources for the public welfare or for charitable, scientific, educational, humanitarian, philanthropic, or religious purposes.
- (m) Indemnify a ~~member, manager~~Member, Manager, employee, officer or agent, or any other ~~person~~Person.
- (n) Provide benefits or payments to ~~members, managers~~Members, Managers, employees, and agents of the LLC, and to their estates, families, dependents or beneficiaries in recognition of the past services of the ~~members, managers~~Members, Managers, employees, and agents of the LLC.
- (o) Make payments, or do any other ~~chapter activity~~ not prohibited by law, that furthers the ~~business~~Business of the LLC.
- (p) Transact any lawful ~~business~~Business that the ~~members~~Members or the ~~managers~~Managers find to be appropriate to promote and further the business and affairs of the ~~limited liability company~~LLC.

Sec. 55B-1.8. ~~Execution of formation documents~~Formation Authority.

- (a) ~~Except as otherwise provided in this chapter, any formation document required or permitted by this~~ The Articles of Organization to be delivered for filing shall be ~~executed by any of the following~~ authorized ~~organizers as follows:~~

(1) ~~The Eastern Band of Cherokee Indians For Tribally Owned LLCs, the~~ Principal Chief ~~with agreement,~~
upon approval by a resolution of the Tribal Council.

~~(2) Any member of the appointed Kituwah Economic Development Board.~~

(2) For Tribally Owned Subsidiary LLCs, the Manager's designee, upon approval of such action by a
resolution of the Manager.

(3) For Tribally Owned Second Tier Subsidiary LLCs, any Manager, if management of the LLC is vested in a
Manager, or by a Member, if management of the LLC is reserved to the Member, upon approval of
such action by a duly enacted resolution of the Manager of the Tribally Owned LLC.

(b) The ~~person~~Person executing the formation document shall sign it and state beneath or opposite the
signature the ~~person's~~ Person's name and capacity in which the ~~person~~Person signs.

~~(c) The person executing the formation document may do so as an attorney-in-fact. Powers of attorney relating
to the executing of the formation document need not be shown to nor filed with the Office of the Attorney
General.~~

Sec. 55B-1.9. ~~Filing~~Filings.

(a) The Office of the Attorney General shall receive all filings required under this ~~chapter~~Chapter and maintain
the records of such filings pursuant to this section, including but not limited to the Articles of Organization,
amended or restated ~~articles~~Articles of Organization, annual reports, names and addresses of registered
offices and agents, ~~and, in the case of Tribally-owned LLC's,~~ the Operating Agreement and amendments
thereto, and other reports required by this ~~chapter~~Chapter.

(b) Upon receipt of a document for filing under this ~~Code~~Chapter, the Office of the Attorney General shall
ensure it meets the requirements herein and then shall stamp or otherwise endorse the date and time of
receipt of the original, the duplicate copy, and, upon request, any additional copy received.

(c) Any document accepted by the Office of the Attorney General shall be effective at the time of receipt unless
a delayed effective date and/or time not more than 90 days after receipt by the Office of the Attorney
General is specified in the document.

Sec. 55B-1.10. Certificate of ~~good standing~~Good Standing.

Any ~~person~~Person may obtain from the Office of the Attorney General, upon request, a Certificate of Good
Standing.

Sec. 55B-2. ~~LLC formation~~Formation and ~~operations~~Operations.

Sec. 55B-2.1. Name ~~reservation request~~Reservation Request; Fictitious Names.

(a) The exclusive right to use a specified name for ~~a domestic LLC~~ or ~~foreign limited liability company~~
~~Foreign Limited Liability Company~~ may be reserved by any of the following:

(a1) The authorized organizer who intends to form ~~a limited liability company~~an LLC under this
~~chapter~~Chapter.

(b2) The authorized organizer may reserve a specified name by filing a signed application with the Office of
the Attorney General.

(e3) If the Office of the Attorney General finds that the name is available for use by ~~a limited liability~~
~~company~~an LLC, it shall reserve the name for the exclusive use of the applicant for 60 days or such
shorter period as may be requested.

1 (b) LLCs may operate under one or more fictitious names and may reserve the right to use such fictitious name
2 by filing a signed application and submitting it to the Office of the Attorney General.

3 **Sec. 55B-2.2. Registered office and agent.**

4 (a) Each ~~limited liability company~~ LLC shall continuously maintain:

5 (1) A registered office on file with the Office of the Attorney General.

6 (2) At least one registered agent who is an authorized organizer.

7 (b) The location and post office address of the original registered office and the full name and post office
8 address of the original registered agent shall be stated in the initial report.

9 (c) After organization, ~~a limited liability company~~ an LLC may change its registered agent or registered office, as
10 permitted by the LLC's Operating Agreement, by filing for record with the Office of the Attorney General a
11 statement authorizing the designation or change ~~signed by the Office of the Attorney General. Any change of~~
12 ~~registered agent shall be approved by written resolution of the Kituwah Economic Development Board.~~

13 **Sec. 55B-2.3. ~~Articles of organization~~ Formation Documents.**

14 (a) One or more authorized organizers ~~or the member~~ may organize ~~a limited liability company~~ an LLC by signing
15 and delivering the Articles of Organization to the Office of the Attorney General for filing.

16 (b) The ~~articles~~ Articles of ~~organization~~ Organization shall set forth the following:

17 (1) The name of the ~~limited liability company~~ LLC;

18 (2) The location and mailing address of the LLC;

19 (3) The term and commencement date;

20 (4) The ~~purposed~~ purpose for which the ~~limited liability company~~ LLC is organized;

21 (5) The name and mailing address of the ~~member~~ or Member;

22 (6) Whether the LLC shares in the case of a majority owned subsidiary of Kituwah, LLC or Kituwah Global
23 Government Group, LLC, a list of each member and mailing address;

24 (6) Limited waiver of sovereign immunity if approved by the Kituwah Economic Development Board; or of
25 the Board of Tribe;

26 (7) If the Special Purpose LLC;

27 (7) Name of manager(s); LLC is to be managed by managers, a statement to that effect.

28 (c) The Office of the Attorney General shall assign each ~~Article of Organization~~ LLC an identification number.

29 (d) ~~Amendment~~ An LLC may amend its Articles of Organization and Operating Agreement, in accordance with
30 this Chapter, at any time by ~~delivering~~ filing an amendment to the Office of the Attorney General.

31 (e) Effect of ~~delivery or~~ filing.

32 (1) An LLC is formed when the Articles of Organization ~~is approved by~~ are filed with the ~~EBG~~ Attorney
33 General.

34 (2) The Office of the Attorney General's filing of the Articles of Organization is conclusive proof that the
35 LLC is organized and formed under this ~~chapter~~ Chapter.

36 (f) This section does not prohibit the filing of other LLC documents with the Attorney General.

37 **Sec. 55B-3. Management.**

1 **Sec. 55B-3.1. Kituwah Economic Development Board Management.**

2 (a) ~~The management affairs of Eastern Band of Cherokee Indians Limited Liability Companies, other Tribally~~
3 ~~Owned LLCs. Other~~ than those managed pursuant to Section 55B-3.1(b), Tribally Owned LLCs shall be
4 managed by ~~the Kituwah Economic Development a Board of Directors (each a "Board. In the case of majority,~~
5 ~~but not wholly owned subsidiaries of Kituwah, LLC and Kituwah Global Government Group, LLC, the Manager~~
6 ~~shall be as designated in their respective Articles of Organization or Operating Agreement.")~~. The Tribe shall
7 have no authority to direct the business affairs of ~~the Company LLCs~~, except through The Kituwah Economic
8 Development the appointment of a Board, as a representative of The Eastern Band of Cherokee Indians in
9 the capacity of member. The Kituwah Economic Development for Tribally Owned LLCs.

10 (1) Each Board shall be composed of five persons.

11 ~~(1) The board shall consist of voting members individuals (each a "Director" and collectively, "Directors")~~
12 ~~as enumerated in the next full paragraph:~~

- 13 i. ~~Directors shall be appointed by the Principal Chief and confirmed, subject to confirmation by~~
14 ~~weighted vote a resolution of the Tribal Council. Nothing herein shall be construed to require the~~
15 ~~Tribal Council to consider, vote upon, or confirm any appointment submitted by the Principal~~
16 ~~Chief.~~
- 17 ii. ~~No member of the Kituwah Economic Development Board Director~~ may be a current member of
18 ~~the EBCI Tribal Council.~~
- 19 iii. ~~Each member of the Economic Development Board Director~~ shall serve a term of five years,
20 ~~subject to removal. At a meeting called expressly for such purpose, any Director may be removed~~
21 ~~from a Board, with just cause, by a majority vote of the Tribal Council. Just cause includes, but is~~
22 ~~not limited to, insanity, a) adjudication as incompetent by a court of competent jurisdiction, b)~~
23 ~~conviction of a felony, excessive absence from c) failure to attend three (3) consecutive Board~~
24 ~~meetings, without excuse or failure to attend four (4) consecutive Board meetings for any reason,~~
25 ~~d) alcohol or substance abuse, which, in the determination of the Tribal Council, adversely affects~~
26 ~~such Director's ability to perform his or her duties, or e) conviction of any misdemeanor involving~~
27 ~~"deceit, untruthfulness, dishonesty, including, but not limited to, bribery, extortion and~~
28 ~~embezzlement,," breach of duties to the Cherokee people, malfeasance or misfeasance.~~
29 ~~Nothing in this chapter Chapter shall be construed to preclude a member of the Economic~~
30 ~~Development Board Director from serving successive terms. There shall be a six month~~
31 ~~probationary period for each new appointee to be reviewed by the Tribal Council.~~
- 32 iv. To ensure continuity in ~~thea~~ Board and rotation of appointments, the ~~initial Board~~
33 ~~members' Directors' terms shall be adjusted so that they serve staggered terms. Upon the~~
34 ~~effective date of this amendment, the Principal Chief shall assign first term expiration dates for~~
35 ~~each current Board member, such that one member's Director's term expires each year on~~
36 ~~September 30. The established rotation shall continue for each Board Director position for future~~
37 ~~new, renewal, or replacement appointments.~~
- 38 v. ~~All of the members of the Kituwah Economic Development Board Directors~~ shall be ~~members~~
39 ~~enrolled in~~ a federally recognized Tribe, with at least a majority of ~~members Directors~~ being
40 ~~enrolled~~ members of ~~EBCI the Tribe~~, provided, however, ~~thea~~ Board may appoint such non-voting
41 ~~advisory members to theits Board as it may see fit to advance theits purposes of the companies.~~
- 42 vi. ~~No member of the Kituwah Economic Development Board may be Director may become~~ an
43 ~~employee of the company an LLC, except by unanimous vote of the Board and Officers of the~~
44 ~~company voting officers. respective Board.~~
- 45 vii. ~~All appointed managers Directors~~ shall have such education or experience in administration,
46 ~~accounting, law, finance, Cherokee culture, or such other field as will contribute to the Boardsa~~
47 ~~Board's ability to manage tribal enterprises to achieve the purposes of the company.~~

viii. ~~Each appointed member of the Kituwah Economic Development Board's character and personal history shall be appropriate to management of the business affairs of The Eastern Band of Cherokee Indians on behalf of the Tribal Community and membership, and each appointment shall be subject to confirmation or withdrawal by the Principal Chief and Tribal Council for a period of 60 days from the date of appointment, based on background check and credit report. Pending any action by the Principal Chief and Tribal Council under the preceding sentence, each appointee shall serve in a temporary capacity, entitled to exercise all of the powers, and subject to all duties. Withdrawal of an appointment during the review period shall terminate the temporary appointment and leave the affected members position vacant. Confirmation of the appointment or expiration of the review term without action by the Principal Chief and Tribal Council shall make the appointment final and fully effective.~~

~~(2) Three members of the Kituwah Economic Development Board shall Each Director's character and personal history shall be appropriate to management of the business affairs of the Tribe on behalf of the membership.~~

~~(2) Three Directors shall~~ constitute a quorum.

(3) ~~The~~Each Board of Directors shall elect from among ~~its members~~the Directors a Chairman, ~~and a Vice-Chairman, and a Secretary. The Secretary will be responsible for maintaining all filing as defined in this chapter submitted to the Office of the Attorney General.~~

(4) ~~The Kituwah Economic Development Board~~Directors may receive compensation for their services at a rate to be established by ~~The~~the Principal Chief with agreement of the Tribal Council, and reimbursement for expenses, including traveling expenses, when incurred in the discharge of their duties. Expenses may be advanced with the approval of the respective Board. ~~No member of the Kituwah Economic Development Board~~Director shall have his or her compensation reduced during his or her term of office, except that if funds beare unavailable for appropriation, the compensation of all board membersDirectors may be reduced proportionally to the availability of funds.

~~(5) The Kituwah Economic Development Board shall designate such employee with managerial skills sufficient to manage the Company to represent the Eastern Band of Cherokee Indians' member interest in the company. The title of said employee may be referred to as "CEO" or "President" or both. The CEO or President retains control of all management decisions within the limited liability company common to such positions to include strategic planning, budget approval, and the employment and compensation. The CEO or President shall designate such subordinate employees as the Board and CEO or President shall deem necessary.~~

~~(6) The manager of any wholly owned subsidiary LLC organized by any member of the Kituwah Economic Development Board shall be the Kituwah Economic Development Board. The manager of any majority owned subsidiary organized by any member of the KEDB shall be as designated in their respective Articles of Organization or Operating Agreement.~~

~~(7) The KEDB shall have the power and duty to:~~

~~i. Enter into agreements, contracts, and understandings with any government agency, person, partnership, corporation or Indian tribe; and~~

~~ii. Retain the services of any business or professional consultants.~~

~~iii. All contracts and other documents executed in the name of the KEDB may be executed by either written resolution of the board or signed by two Board members, one of whom shall be the Chairperson or the Vice Chairperson, provided that the Board in its discretion may delegate such signatory authority for specific types of documents to an officer or employee of the KEDB.~~

~~iv. Notwithstanding any provision of any Articles of Organization or Operating Agreement the KEDB may, in its sole discretion, transfer as equity interest any funds from one wholly entity managed by the KEDB to another entity managed by the KEDB.~~

1 ~~(b) Notwithstanding subsection (a) in this section, the Tribe may from time to time cause to be organized such~~
2 ~~special purpose LLC's to be formed for designated purposes. Management of those LLC's shall be set forth in~~
3 ~~their respective Articles of Organization and/or Operating Agreement, provided that the Member of such LLC~~
4 ~~shall always be the Tribe or the LLC in which the Tribe is the sole member.~~

5 ~~(c) Unless otherwise provided in the operating agreement or this chapter, the affirmative vote, approval, or~~
6 ~~consent of the Principal Chief with agreement of the Tribal Council, shall be required to do any of the~~
7 ~~following:~~

8 ~~(1) Amend the Articles of Organization.~~

9 ~~(2) Issue an interest in an LLC to any person.~~

10 ~~(3) Allow an LLC to accept any additional contributions.~~

11 ~~(4) Allow a partial redemption of an interest in an LLC.~~

12 ~~(5) Authorize the manager, or other person to act on behalf of the LLC that contravenes the operating~~
13 ~~agreement.~~

14 ~~(5) Each Board shall have all power and authority to take any and all actions which are necessary and~~
15 ~~proper for the operation of the Business of its respective Tribally Owned LLC and to delegate its~~
16 ~~authority to Managers and employees thereof, unless such actions are specifically reserved for the~~
17 ~~Member.~~

18 ~~(b) Subsidiary LLCs. Tribally Owned Subsidiary LLCs or Tribally Owned Second Tier Subsidiary LLCs, may be~~
19 ~~Member-managed or Manager-managed. If Manager-managed, the LLC's Operating Agreement shall set~~
20 ~~forth the qualifications, number, terms, and method for selecting and removing such Managers.~~

21 **Sec. 55B-3.2. Records and ~~information~~Information.**

22 (a) An LLC shall keep at its principal place of business all of the following:

23 (1) A list, in alphabetical order, of each past and present ~~manager~~Manager.

24 (2) A copy of the executed Articles of Organization and all amendments ~~to the articles thereto~~, together
25 with executed copies of any powers-of-attorney under which any ~~articles~~Articles of Organization were
26 executed.

27 (3) A copy of the executed ~~operating agreement~~Operating Agreement and all amendments thereto,
28 together with executed copies of any powers-of-attorney under which any ~~operating~~
29 ~~agreement~~Operating Agreement was executed.

30 (4) A record of all matters referred to in this ~~chapter~~Chapter, including Organizing Documents as
31 maintained in such record and ~~s~~-which are not otherwise specified in the ~~operating~~
32 ~~agreement~~Operating Agreement.

33 (b) ~~Upon~~All LLCs shall provide such records and information to such Persons as may be required by the laws of
34 ~~the Tribe. For all other records and information, the Member may make~~ reasonable request; requests by:

35 (1) an approved motion of the Tribal Council, Principal Chief, or Vice Chief may, at their own expense,
36 inspect and copy during ordinary business hours any by letter from the executive committee, if
37 seeking records from a Tribally Owned LLC record. Additionally, the; or

38 (2) an adopted resolution of the Member.

39 (c) All LLCs shall provide the requested records within a reasonable amount of time and shall fully cooperate
40 with and provide reasonable assistance to the Tribal Council, Principal Chief or Vice Chief may request that
41 the LLC records described herein be produced to them. Such request must be in writing and and their
42 authorized officers, employees, staff, and advisors who are acting within the scope of their authority under
43 this Chapter or other applicable Tribal law. If the LLC believes any such information is prohibited from

disclosure by applicable law or agreement, the LLC shall have five working days in which state such reasoning for withholding information in a written response to produce the records. Member.

(e) Additionally, the Tribal Council, Principal Chief or Vice Chief may request that the LLC produce financial records, audit records and contracts, regardless of where those items are maintained. Such request must be in writing and the LLC shall have five working days in which to produce the records.

Sec. 55B-3.3. Reports.

The ~~Chairman~~Manager of ~~Kituwah Economic Development Board~~each Tribally Owned LLC shall submit ~~bi-monthly~~quarterly and annual reports to the Tribal Council showing:

- (a) A summary of the ~~period~~period's activities.
- (b) The financial condition of the ~~companies~~Tribally Owned LLCs, including any subsidiaries thereof.
- (c) The condition of the properties ~~under the Board's management or control~~owned by or leased to Tribally Owned LLCs or their subsidiaries.
- (d) A summary of any unprofitable ventures and plans for correction.
- (e) Any significant problems and accomplishments.
- (f) Plans for the future.

Sec. 55B-4. Finance.

Sec. 55B-4.1. Contributions.

A Member's contributions to an LLC may consist of cash, or property, services rendered, or promissory notes or other written obligations to provide cash or property or to perform services.

The value of a ~~member's contribution~~Member's Contribution shall be determined in the manner provided in the ~~operating agreement~~Operating Agreement. If the ~~operating agreement~~Operating Agreement does not fix a value to a ~~contribution~~Contribution, the value of a ~~contribution~~Contribution shall be approved by a ~~majority in interest of the members~~Member and shall be properly reflected in the records and information kept by the LLC. The value of contributions so determined shall be binding and conclusive on the LLC and its ~~member~~Member.

Sec. 55B-4.2. Liability for ~~contribution~~Contribution.

- (a) An obligation of a ~~member~~Member to provide cash or property or to perform services as a ~~contribution~~Contribution to an LLC is not enforceable unless specified in a writing signed by the ~~member~~Member.
- (b) Unless otherwise provided in the ~~operating agreement~~Operating Agreement, a ~~member~~Member is obligated to an LLC to perform any enforceable promise to provide cash or property ~~or to perform services, even if the member is unable to perform because death, disability, or any other reason.~~ If a ~~member~~Member does not provide cash, property, ~~or services as promised, the member is obligated then~~ at the option of the LLC to, the Member shall provide the cash equal to that portion of the value of the stated ~~contribution~~Contribution that has not been fulfilled.
- (c) Unless otherwise provided in the ~~operating agreement~~Operating Agreement, a ~~member's~~Member's obligation to provide cash or property ~~or perform services as a contribution~~ to the LLC may be ~~compromised~~amended only by the written consent of ~~all of the members~~Member.

1 **Sec. 55B-4.3. Allocation of ~~profits~~Profits and ~~losses~~Losses.**

2 The profits and losses of an LLC shall be allocated ~~among~~to the ~~members~~Member in the manner provided in
3 the ~~operating agreement~~Operating Agreement. If the ~~members do not enter into an operating agreement or the~~
4 ~~operating agreement~~Operating Agreement does not provide otherwise, profits and losses shall be allocated on the
5 basis of value of the contributions made by ~~each member~~the Member.

6 **Sec. 55B-5. ~~Non-liquidating distributions.~~**

7 **Distributions.**

8
9 **Sec. 55B-5.1. ~~Interim distributions~~Distributions.**

10 Except as provided in this chapter, a member is entitled to receive distributions from an LLC before the
11 member's dissociation from the LLC and before its dissolution and winding up to the extent and at the times or
12 upon the events specified in the operating agreement, or to the extent and at the times determined by the
13 Kituwah Economic Development Board.

14 **~~Sec. 55B-5.2. Allocation of distributions.~~**

15 ~~(a)~~ Distributions of cash or other assets of an LLC shall be allocated ~~among~~to the ~~members~~Member as provided
16 in the ~~operating agreement~~Operating Agreement, or if the ~~operating agreement~~Operating Agreement does
17 not so provide, on the basis of the value of the contributions made by ~~each member~~.

18 ~~(b)~~ ~~No distribution~~the Member and to the extent and at the times determined by the Manager, as permitted
19 by this Chapter or as required by the laws of the Tribe or other applicable policies or agreements of corporate
20 property among the members of the Tribal Members shall be made, except out of the net profit of corporate
21 enterprises after all corporate debts then due have been paid. ~~the Member.~~

22 ~~(c)~~ Distribution shall be as follows: 50 percent of distributable net profit for Per Capita/Gen Well and 50 percent
23 to Debt Service Sinking Fund.

24 **Sec. 55B-5.32. Distribution ~~upon partial redemption.~~**

25 ~~Except as provided in this chapter, upon the distribution in partial liquidation of a member's~~
26 ~~interest, the redeeming member is entitled to receive the amount to which the~~
27 ~~member is entitled under the operating agreement and, if not otherwise provided~~
28 ~~in the operating agreement, the fair value of the redeemed interest based on the~~
29 ~~member's right to share in distributions from the LLC.~~ Kind.

30 **~~Sec. 55B-5.4. Distribution upon dissociation.~~**

31 Except as otherwise provided in this chapter, upon an event of dissociation that does not cause dissolution of
32 the LLC, a dissociating member is entitled to receive any distribution to which member is entitled under the
33 operating agreement and, if not otherwise provided in the operating agreement, the fair market value of the
34 Member's interest in the LLC based on the member's rights to share in distributions from the LLC.

35 **~~Sec. 55B-5.5. Distribution in kind.~~**

36 Unless otherwise provided in the ~~operating agreement~~.

~~(a) A member may not demand and receive any distribution from an LLC in the form of cash until all corporate debts to include contractually obligated payroll liabilities, have been paid.~~

~~(b) A member~~ Operating Agreement, a Member may not be compelled to accept a distribution of any asset in kind except for a liquidating distribution made proportionately pursuant to this Chapter or the Operating Agreement.

Sec. 55B-5.63. Right to ~~distribution~~ Distributions.

At the time that a ~~member~~ Member becomes entitled to receive a distribution from an LLC, the ~~member~~ Member has the status of and is entitled to all remedies available to a creditor of the LLC with respect to the distribution; provided, however, that such right shall not in any way limit any other remedy.

Sec. 55B-5.74. Limitations of ~~distributions~~ Distributions.

(a) An LLC may not declare or make a distribution to ~~any of its members~~ the Member, if after giving effect to the distribution, any of the following would occur:

(1) The LLC would be unable to pay its debts as they become due in the usual course of business.

(2) The fair market value of the LLC's total assets would be less than the sum of its total liabilities ~~plus, unless the operating agreement provides otherwise, the amount that would be needed for the preferential rights upon dissolution of members, if any.~~

(b) An LLC ~~may~~ shall base a determination that a distribution is not prohibited by subsection (a), above, on any of the following:

(1) Financial statements and other financial data prepared on the basis of accounting practices and principles that are reasonable under the circumstances.

(2) A fair market valuation or other method that is reasonable under the circumstances.

(c) An LLC's indebtedness to a ~~member~~ Member incurred by reason of a distribution made in accordance with this section is at parity with the LLC's indebtedness to its general unsecured creditors, except to the extent subordinated by written agreement. This section does not affect the validity or priority of a security interest in an LLC's property that is created to secure the indebtedness to the ~~member~~ Member.

Sec. 55B-5.85. Liability for ~~wrongful distribution~~ Wrongful Distribution.

(a) ~~Except as provided in~~ Subject to subsection (b) below, a ~~member~~ Member (other than ~~the Tribe or a Tribal Entity~~), ~~appointed Board Member~~ Director, or ~~manager~~ Manager who votes ~~to a distribution in violation in favor of a distribution that violates~~ Section 55B-5.74 above or of the operating agreement Operating Agreement is personally liable to the LLC for the amount of the ~~excess wrongful or excessive~~ distribution actually distributed, subject to contribution from all other ~~managers~~ Managers or ~~members~~ Directors participating in such action.

(b) An action to recover under this ~~section~~ Section may be brought ~~before by the LLC in~~ the Eastern Band of Cherokee Indians Cherokee Court for further action; however, a proceeding under this Section is barred unless it is brought within one year after the date of the distribution.

~~(c) Nothing in this chapter serves to waive any aspect of the Tribes' sovereign immunity, and any waiver thereof must be provided explicitly in the LLC's operating agreement or Articles of Organization.~~

Sec. 55B-6. Membership and ~~transfer~~ Transfer of LLC ~~company property~~ Property.

1 **Sec. 55B-6.1. ~~Membership~~Ownership of LLC ~~property~~Property.**

- 2 (a) All property originally transferred to or acquired by an LLC is property of the LLC and not the ~~members~~
3 ~~individually.~~Member.
4 (b) Property acquired with LLC funds is presumed to be LLC property.
5 (c) Property may be acquired, held, and conveyed in the name of the LLC in accordance with this Chapter and
6 the LLC's Operating Agreement.

7 **Sec. 55B-6.2. Transfer of ~~property~~Property.**

8 The property of an LLC may be transferred by an instrument of transfer executed by ~~resolution of the~~
9 ~~Kituwah Economic Development Board and filed with the Office of the Attorney General~~the Member or Manager
10 in the name of the LLC, subject to any limitation that may be imposed by this Chapter or the LLC's Operating
11 Agreement. ~~Notwithstanding the above sentence, any LLC may transfer or sell property in the normal course of~~
12 ~~business using appropriate instruments of common to the industry.~~

13 **Sec. 55B-6.3. Nature of ~~interest~~Interest.**

14 An LLC interest is personal property.

15 ~~Sec. 55B-6.4. Reserved.~~

16 ~~Sec. 55B-6.5. Reserved.~~

17 ~~Sec. 55B-6.6. Powers of legal representative.~~

18 ~~If a member who is an individual dies or a court of competent jurisdiction adjudges the member to be~~
19 ~~incompetent to manage his or her person or property, the member's personal representative, administrator,~~
20 ~~guardian, conservator, trustee, or other legal representative shall have all the rights of an assignee of the~~
21 ~~member's interest. If a member is a corporation, trust, partnership, limited liability company, or other entity and is~~
22 ~~dissolved or terminated, the powers of that member may be exercised by its legal representative or successor.~~

23 **Sec. 55B-7. Dissolution.**

24 **Sec. 55B-7.1. Dissolution.**

25 ~~A limited liability company~~An LLC is dissolved and its affairs shall be wound up upon the happening of the
26 first of the following:

- 27 (a) The occurrence of dissolution events specified in the ~~operating agreement~~Operating Agreement.
28 (b) The written consent of the ~~Principal Chief with agreement of the Tribal Council and The Kituwah~~
29 ~~Economic Development Board.~~Member.
30 (c) ~~An event of dissociation of a member, unless otherwise provided in the operating agreement or~~
31 ~~continuation is consented to by all remaining members.~~ Entry of a decree of judicial dissolution under
32 Section 55B-7.2.
33

1 **Sec. 55B-7.2. Judicial ~~dissolution~~Dissolution.**

2 ~~(a)~~ In a proceeding by or for a ~~member, the Kituwah Economic Development Board or court of competent~~
3 ~~jurisdiction~~ Member, the Court may order dissolution of an LLC if any of the following is established:

- 4 ~~(1a)~~ That it is not reasonably practicable to carry on the business of the LLC;
5 ~~(2b)~~ That the LLC is not acting in conformity with its ~~operating agreement~~ Operating Agreement;
6 ~~(3c)~~ That ~~one the Member or more managers~~ Manager(s) are acting or will act in a manner that is illegal,
7 ~~oppressive, or fraudulent; or~~
8 ~~(4)~~ That ~~one or more members in control of the LLC are acting or will Chapter in a manner that is illegal,~~
9 ~~oppressive, or fraudulent.~~
10 ~~(5)~~ That ~~LLC (d)~~ That the LLC assets are being misapplied or wasted.

11 ~~(b)~~ ~~If the Tribe is a member~~ **Sec. 55B-7.3. Articles of Dissolution.**

12 Dissolution of an LLC is complete upon the filing of Articles of Dissolution with the Office of the Attorney
13 General that include the following:

- 14 (a) The name of the LLC;
15 (b) The date of filing of its Articles of Organization;
16 (c) The statutory grounds for dissolution and the date authorized; and
17 (d) Effective date of dissolution.

18 ~~of the LLC, any action under this section must be brought before the Kituwah Economic Development Board to~~
19 ~~determine if action by the Cherokee Court is necessary, unless otherwise provided in the operating~~
20 ~~agreement. Nothing in this Section may be construed as the acquiescence of the Tribe to any other~~
21 ~~jurisdiction or a waiver of the Tribe's sovereign immunity from suit.~~

22 ~~(Ord. No. 552, Exh. B, 6-27-2019)~~

23 ~~Sec.~~ **Sec. 55B-7.34. Winding up.**

- 24 (a) A dissolved LLC continues its legal existence but may not carry on any business except that which is
25 appropriate to wind up and liquidate its ~~business~~ Business.
- 26 (b) Unless otherwise provided in its ~~operating agreement~~ Operating Agreement:
- 27 (1) The ~~business~~ Business of the LLC may be wound up by any of the following:
- 28 a. The ~~members~~ Member or ~~managers~~ Manager(s) who have authority to manage the LLC before
29 dissolution.
- 30 b. In a judicial dissolution, the ~~person~~ Person(s) designated by ~~Cherokee the~~ Court.
- 31 (2) The ~~persons~~ Persons winding up the ~~business~~ Business of the LLC may do all of the following in the name
32 of and on behalf of the LLC:
- 33 a. Collect its assets.
- 34 b. Prosecute and defend suits.
- 35 c. Take any action necessary to settle and close the ~~business~~ Business of the LLC.
- 36 d. Dispose of and transfer the property of the LLC.

- e. Discharge or make provision for discharging the liabilities of the LLC.
 - f. Distribute to the ~~members~~Member any remaining assets of the LLC.
- (c) Dissolution of an LLC does not do any of the following:
- (1) Transfer title ~~to of~~ the LLC's property.
 - (2) Prevent transfer of all or part of a ~~member's~~Member's interest.
 - (3) Prevent commencement of a civil, criminal, administrative, or investigatory proceeding by or against the LLC.
 - (4) Abate or suspend a civil, criminal, administrative, or investigatory proceeding pending by or against the LLC at the time of dissolution.
 - (5) Terminate the authority of the registered agent of the LLC.
 - (6) Alter the limited liability of a ~~member~~Member.

Sec. 55B-7.45. Distribution of ~~assets~~Assets.

Upon the winding up of an LLC, the assets shall be distributed in the following order:

- (a) To creditors, including ~~to the extent permitted by law, members, and former members~~Member in satisfaction of ~~the LLC's~~ liabilities ~~of the LLC~~.
- (b) Unless otherwise provided in the ~~operating agreement~~Operating Agreement, to ~~members and former members~~the Member in satisfaction of ~~liabilities for~~ distributions owed under ~~Sections~~Section 55B-5.1, 55B-5.3, and 55B-5.4
- (c) Unless otherwise provided in the ~~operating agreement~~Operating Agreement, to ~~members and former members first~~the Member for the return of ~~their~~its contributions ~~in proportion to their respective values and, thereafter, in proportion to their respective rights to share in distributions from the LLC before dissolution.~~

Sec. 55B-7.5. ~~Articles of dissolution.~~

~~After the dissolution of an LLC under Section 55B-7.1, the LLC may file Articles of Dissolution with the Office of the Attorney General that includes the following:~~

- ~~(a) The name of the LLC.~~
- ~~(b) The date of filing of its Articles of Organization.~~
- ~~(c) The statutory grounds under Section 55B-7.1 for dissolution.~~
- ~~(d) Effective date of dissolution.~~

~~Sec. 55B-7.6. Known ~~claims against dissolved~~Claims Against a Dissolved LLC.~~

- (a) A dissolved LLC may notify its known claimants in writing of the dissolution and specify a procedure for making claims.
- (b) A claim against the LLC is barred if:
 - (1) A claimant who was given written notice under subsection (a) above, does not deliver the claim, in writing, to the LLC by the deadline specified in the notice; or
 - (2) A claimant whose claim is rejected by the LLC does not commence a proceeding to enforce the claim within 90 days after receipt of the rejection notice.

1 **Sec. 55B-7.7. Unknown or ~~contingent claims~~Contingent Claims.**

2 A claim not barred under Section 55B-7.6 may be enforced:

- 3 (a) Against the dissolved LLC, to the extent of its undistributed assets.
- 4 (b) If the dissolved LLC's assets have been distributed in liquidation, against ~~a member~~the Member of the
- 5 LLC, ~~other than the Band, a Tribal Entity~~, to the extent of the ~~member's~~Member's proportionate share
- 6 of the claim or of the assets of the LLC distributed to the ~~member~~Member in liquidation, whichever is
- 7 less. A ~~member's~~Member's total liability for all claims under this Section may not exceed the total value
- 8 of assets at the time distributed to the ~~member~~Member.

9 **Sec. 55B-8. Merger and ~~conversion~~Conversion.**

10

11 **Sec. 55B-8.1. ~~Definitions.~~**

- 12 ~~(a) "Business entity" means both a domestic business entity and a foreign business entity.~~
- 13 ~~(b) "Domestic business entity" means a company, incorporated under the laws of the Eastern Band of Cherokee~~
- 14 ~~Indians; a Domestic LLC organized under this Code; a tribally chartered entity of the Tribe, an unincorporated~~
- 15 ~~cooperative of the Tribe; or other tribally formed entity that is party to the merger.~~
- 16 ~~(c) "Foreign business entity" means a foreign limited liability company, a foreign limited partnership, or a foreign~~
- 17 ~~corporation.~~
- 18 ~~(d) Unless the context requires otherwise, "LLC" includes a Domestic LLC and a Foreign LLC.~~
- 19 ~~(e) "Organizational documents" include Articles of Organization, operating agreements, Articles of~~
- 20 ~~Incorporation, Bylaws, partnership agreements, agreements of trust and declarations of trust, and any other~~
- 21 ~~basic records that create a business entity's organization and determine its internal governance and relations~~
- 22 ~~among persons that own it, have an interest in it, or are members of it.~~

23 **~~Sec. 55B-8.2. Merger.~~**

- 24 (a) Unless otherwise provided in its ~~operating agreement, one or more LLCs~~Operating Agreement, an LLC may
- 25 merge with or into one or more other ~~business entities~~Business Entities if the action of merger is a process
- 26 permitted under the applicable laws of the jurisdiction that governs each such ~~other business entity~~Business
- 27 Entity and each such ~~business entity~~Business Entity approves the plan of merger in accordance with its
- 28 ~~organizational documents~~Organizing Documents.
- 29 (b) Interests or shares in an LLC that is a party to a merger may be exchanged for or converted into cash,
- 30 property, obligations, or interest in the surviving ~~business entity~~Business Entity.

31 **Sec. 55B-8.32. Approval of ~~merger~~Merger.**

- 32 (a) Unless otherwise provided in the ~~operating agreement, a domestic~~Operating Agreement, an LLC that is a
- 33 party to a proposed merger shall approve the plan of merger ~~by an affirmative vote by all of the members in~~
- 34 ~~accordance with this Chapter and its Operating Agreement.~~
- 35 (b) Unless otherwise provided in the ~~operating agreement~~Operating Agreement, the ~~manager or~~
- 36 ~~managers~~Manager(s) of a ~~domestic~~an LLC may not approve a merger without also obtaining the approval of
- 37 the LLC's ~~members~~Member under subsection (a) above.
- 38 (c) Each ~~business entity~~Business Entity, other than a ~~domestic~~an LLC, that is a party to a proposed merger shall
- 39 approve the merger in the manner and by the vote required by the laws applicable to the ~~business~~
- 40 ~~entity~~Business Entity and in accordance with ~~their~~its respective ~~organizational documents~~Organizing
- 41 Documents.

- (d) Each ~~business-entity~~Business Entity that is a party to the merger shall have any rights to abandon the merger as provided for in the plan of merger or in the laws applicable to the ~~business-entity~~Business Entity or in accordance with its ~~organizational documents~~Organizing Documents.
- (e) Upon approval of a merger, the LLC shall notify its ~~members of the approval and~~Member of the effective date of the merger.
- (f) After a merger is authorized, and at any time before the Articles of Merger are filed with the Office of the Attorney General, the ~~LCC may abandon the~~ planned merger ~~may be abandoned~~, subject to any contractual rights, without further action on the part of ~~the shareholders or any~~ other ~~members~~Business Entity that is ~~party to the planned merger~~, in accordance with the procedures set forth in the plan of merger or, if none is set forth, in the manner determined by the ~~governing body of any business entity that is a party to the merger~~Organizing Documents of the LLC.

Sec. 55B-8.43. Plan of ~~merger~~Merger.

- (a) Each ~~business-entity~~Business Entity must enter into a written plan of merger, which must include all of the following:
- (1) The ~~name, names of each Business Entity, the corporate~~ form of ~~business-entity~~each Business Entity, and ~~identity of~~ the jurisdiction governing each ~~business-entity~~Business Entity that is a party to the merger and the name, ~~corporate~~ form ~~of business-entity~~, and identity of the jurisdiction of the surviving ~~business-entity with, or into, Business Entity~~ which ~~each other business entity proposes to merge will result from such proposed merger~~.
 - (2) The terms and conditions of the proposed merger.
 - (3) The manner and basis of converting the interests ~~in of~~ each ~~business-entity~~Business Entity that is a party to the merger into shares, interests, obligations, or other securities of the surviving ~~business entity~~Business Entity, or into cash or other property in whole or in part.
 - (4) Amendments to the ~~Articles of Organization or other similar governing document~~Organizing Documents of the surviving ~~business-entity~~Business Entity.
 - (5) Other necessary or desirable provisions relating to the proposed merger.

Sec. 55B-8.54. Articles of ~~merger~~Merger.

- (a) The surviving ~~business-entity~~Business Entity shall deliver to the Office of the Attorney General the Articles of Merger, executed by each party to the plan of merger, which shall include all of the following:
- (1) The name and jurisdiction of organization for each ~~business-entity, Business Entity~~.
 - (2) The plan of merger.
 - (3) The name of the surviving ~~or resulting LLC, Business Entity~~.
 - (4) The effective date and time of the merger₇₂.
 - (5) ~~A statement as to whether if~~ the surviving ~~business-entity~~Business Entity is ~~Tribally wholly~~ owned.
 - (6) ~~If Tribally owned by the Tribe~~, a statement as to whether the surviving ~~business-entity~~Business Entity enjoys the Tribe's sovereign immunity₇₂ and
 - (7) ~~A statement that the plan of merger was approved by each domestic~~ LLC that is a party to the merger in accordance with Section 55B-8.3.
- (b) Once filed with the Office of the Attorney General, a merger takes effect upon the effective date of the Articles of Merger.

1 **Sec. 55B-8.65. Effects of mergerMerger.**

2 A merger has the following effects:

- 3 (a) ~~The business entities must become~~Each Business Entity becomes a single entity, which shall be the
4 ~~Business~~ Entity designated in the plan of merger as the surviving ~~LLC~~Business Entity.
- 5 (b) Each ~~business entity~~Business Entity, except the surviving ~~LLC~~Business Entity, ceases to exist.
- 6 ~~(c) The surviving LLC possesses all of the rights, privileges, immunities, and powers of each merged~~
7 ~~business entity and is subject to all of the restrictions, disabilities, and duties of each merged business~~
8 ~~entity.~~
- 9 ~~(d)(c)~~ All property and all debts, including contributions, and each interest belonging to or owed to each ~~of~~
10 ~~the business entities~~Business Entity are vested in the surviving ~~LLC~~Business Entity without further act,
11 ~~unless otherwise provided for in the plan of merger.~~
- 12 (ed) Title to all real estate and any interest in real estate (~~excluding real property of the Reservation~~),
13 vested in any ~~business entity~~Business Entity, does not revert, and is not in any way impaired because of
14 the merger.
- 15 ~~(f) The (e)~~ Unless otherwise provided for in the plan of merger, the surviving ~~LLC~~Business Entity
16 has all the liabilities and obligations of each ~~of the business entity~~Business Entity and any claim existing
17 or action or ~~proceedings~~proceeding pending by or against any merged ~~business entity~~Business Entity
18 may be prosecuted as if the merger had not taken place, or the surviving ~~LLC~~Business Entity may be
19 substituted in the action.
- 20 (gf) The rights of creditors and any liens on the property of any ~~business entity~~Business Entity survive the
21 merger, ~~unless otherwise provided for in the plan of merger.~~
- 22 (hg) The interests in a ~~business entity~~Business Entity that are to be converted or exchanged into interest,
23 cash, obligations, or other property under the terms of the plan of merger are converted and the
24 former interest holders are entitled only to the rights provided in the plan of merger ~~or~~for the rights
25 otherwise provided by ~~applicable~~ law.
- 26 (ih) The Articles of Organization of the surviving ~~LLC is~~Business Entity are amended to the extent provided
27 in the Articles of Merger.

28 **Sec. 55B-8.7. Right to object.**

29 ~~Unless otherwise provided in the operating agreement, upon receipt of the notice required by Section 8.3(e),~~
30 ~~a member who did not vote in favor of the merger may, within 20 days after the date of the notice, voluntarily~~
31 ~~dissociate from the LLC under Section 3.7(c) and receive fair value for the member's LLC interest under Section 5.4.~~

32 **~~Sec. 55B-8.8. Conversion.~~**

- 33 (a) Unless otherwise provided in its ~~organizational documents, a domestic~~Organizing Documents, an LLC may
34 convert to another form of ~~business entity~~Business Entity if it:
- 35 (1) Satisfies the requirements under this Chapter relating to conversions; and,
36 (2) If the conversion is permitted under the applicable law of the jurisdiction that governs the organization
37 of the ~~business entity~~Business Entity into which the ~~domestic~~ LLC is converting.
- 38 (b) Unless otherwise provided in its ~~organizational documents~~Organizing Documents, a ~~business entity other~~
39 ~~than a domestic LLC~~Foreign Business Entity may convert into a ~~domestic~~an LLC if it:
- 40 (1) Satisfies the requirements under this Chapter relating to conversions; and

(2) If the conversion is permitted under the applicable law of the jurisdiction that governs the ~~business entity~~Foreign Business Entity.

(c) The filing requirements of Section ~~55B-1.9~~ apply to conversions under this Chapter.

(d) Notwithstanding its prior approval, a plan of conversion under this Chapter may be amended before the conversion takes effect if the amendment is approved by the ~~members~~Member of the converting ~~domestic LLC or business entity~~Members of the Foreign Business Entity in the same manner as was required for the approval of the original plan of conversion.

Sec. 55B-8.97. Plan of conversion for ~~domestic~~an LLC into ~~another business entity~~Another Business Entity.

(a) ~~Unless subsection (c) applies, the domestic~~The LLC proposing to convert shall adopt a plan of conversion that includes all ~~of~~ the following:

(1) The name of the ~~domestic LLC~~; the name of the ~~business entity~~Business Entity into which the ~~domestic LLC~~ is converting; the type of ~~business entity~~Business Entity into which the ~~domestic LLC~~ is converting; ~~identification of the statute~~jurisdiction that will govern the internal affairs of the ~~surviving business entity~~converted Business Entity; the street address of the ~~surviving business entity~~converted Business Entity; the street address of the ~~domestic LLC~~, if different from the street address of the ~~surviving business entity~~converted Business Entity; and, the principal place of business of the ~~surviving business entity~~converted Business Entity.

(2) The terms and conditions of the proposed conversion, including the manner and basis of converting the membership interest of the ~~domestic LLC~~ into (i) membership interests or obligations of the ~~surviving business entity~~converted Business Entity, (ii) cash, ~~into~~(iii) other consideration that may include membership interests or obligations of an entity that is not a party to the conversion, or (iv) into a combination of cash and other consideration.

(3) The terms and conditions of the ~~organizational documents~~Organizing Documents that are to govern the ~~surviving business entity~~converted Business Entity.

(4) Any other provisions, with respect to the proposed conversion that the ~~domestic LLC~~ considers as necessary or desirable.

(b) ~~A~~An affirmative vote of the ~~members~~Member of the ~~domestic LLC~~ is required to adopt a plan of conversion under subsection (a). ~~A unanimous vote of the members entitled to vote is required to approve a plan of conversion, unless its organizational documents provide otherwise.~~

~~(c) Subsections (a) and (b) do not apply if: the domestic LLC has not commenced business; has not issued any membership interests; has no debts or other liabilities; and has not received any payments, or has returned any payments it has received after deducting any amount disbursed for payment of expenses, for subscriptions for its membership interests. In the event that all of these conditions apply, the members of the domestic LLC, may approve of the conversion of the domestic LLC into another business entity by majority vote.~~

~~(d)~~(c) To effect the conversion, ~~a majority of the members~~LLC must execute and file a certificate of conversion under Section ~~55B-8.108~~.

Sec. 55B-8.108. Filing of ~~certificate~~Certificate of ~~conversion~~Conversion for ~~domestic~~an LLC.

(a) If the plan of conversion is approved under Section ~~55B-8.107~~(b), the ~~domestic LLC~~ shall file any formation documents required to be filed under the laws governing the internal affairs of the ~~surviving business entity~~converted Business Entity, in the manner prescribed by ~~those company documents~~the Organizing Documents, and shall file a certificate of conversion with the Office of the Attorney General.

(b) The certificate of conversion shall include all of the following:

- (1) A copy of the plan of conversion, ~~unless Section 8.9(e) applies.~~
- (2) The name of the ~~domestic~~ LLC that is converting into another ~~business entity~~ Business Entity.
- (3) The name of the ~~surviving business entity~~ converted Business Entity.
- (4) The type of ~~business entity~~ Business Entity the ~~domestic~~ LLC is converting into and the jurisdiction under which the ~~surviving business entity~~ converted Business Entity shall be governed.
- (5) A statement that the ~~members~~ Member of the ~~domestic~~ LLC ~~have~~ has adopted the plan of conversion under Section ~~55B-8.97(b), or that the members of the domestic LLC have approved of the conversion under Section 8.9(e), as applicable.~~
- (6) A statement that the ~~surviving business entity~~ converted Business Entity will furnish a copy of the plan of conversion, on request and without cost, to ~~any member~~ the Member of the ~~domestic~~ LLC.
- (7) The registered agent and registered office, of the ~~domestic~~ LLC before and after conversion.
- (8) A ~~Statement~~ statement whether the ~~domestic LLC is Tribally owned~~ converted Business Entity enjoys the Tribe's sovereign immunity.

Sec. 55B-8.119. Effect of ~~conversion~~ Conversion of ~~domestic~~ an LLC into ~~another business entity~~ Another Business Entity.

All of the following apply, when a ~~domestic LLC's~~ an LLC's conversion into another ~~business entity~~ Business Entity takes effect:

- (a) The ~~domestic~~ LLC converts into the ~~surviving business entity~~ converted Business Entity, and the ~~organizational documents~~ Organizing Documents of the ~~domestic~~ LLC are canceled.
- (b) Except as otherwise provided in ~~the Code, the surviving business entity~~ this Chapter, the converted Business Entity is organized under and subject to the organizational laws of the jurisdiction of the ~~surviving business entity~~ converted Business Entity as stated in the ~~Certificate~~ certificate of ~~Conversion~~ conversion.
- (c) The ~~surviving business entity~~ converted Business Entity has all of the liabilities of the ~~domestic~~ LLC. The conversion of the ~~domestic~~ LLC into a ~~business entity~~ Business Entity under this Section shall not be considered to affect any obligations or liabilities of the ~~domestic~~ LLC incurred before the conversion or the ~~personal~~ liability of any ~~person~~ Person incurred before the conversion, and the conversion shall not be considered to affect the choice of law applicable to the ~~domestic~~ LLC with respect to matters arising before the conversion.
- (d) The title to all real estate ~~(excluding real property of the Reservation)~~ and other property and rights owned by the ~~domestic~~ LLC remain vested in the ~~surviving business entity~~ converted Business Entity without reversion or impairment.
- (e) The ~~surviving business entity~~ converted Business Entity is considered to be the same entity that existed before the conversion and is considered to be organized on the date that the ~~domestic~~ LLC was originally organized.
- (f) The membership interests of the ~~domestic~~ LLC that were to be converted into ~~(g) Membership interest~~ membership interests or obligations of the ~~surviving business entity~~ converted Business Entity or into cash or other property are converted.
- (~~h~~g) Unless otherwise provided in the plan of conversion, the ~~domestic~~ LLC is not required to wind up its affairs or pay its liabilities and distribute its assets on account of the conversion, and the conversion does not constitute a dissolution of the ~~domestic~~ LLC.

- (ih) The ~~organizational documents~~ Organizing Documents of the ~~surviving business entity~~ converted Business Entity are as provided in the plan of conversion.
- (ji) All other provisions of the plan of conversion apply.

Sec. 55B-8. ~~1210~~. Plan of conversion for a ~~business entity~~ Foreign Business Entity into a ~~domestic~~ LLC.

- (a) A ~~business entity~~ Foreign Business Entity proposing to convert into a ~~domestic~~ LLC must adopt a plan of conversion that includes all of the following:
- (1) The name of the ~~business entity~~ Foreign Business Entity, the ~~type of business entity~~ corporate form of the Foreign Business Entity that is converting, ~~identification of the statute~~ jurisdiction that governs the internal affairs of the ~~business entity~~ Foreign Business Entity, the name of the surviving ~~domestic~~ LLC into which the ~~business entity~~ Foreign Business Entity is converting, the street address of the surviving ~~domestic~~ LLC company, the street address of the ~~business entity~~ Foreign Business Entity if different from the street address of the surviving ~~domestic~~ LLC, and the principal place of business of the surviving ~~domestic~~ LLC.
 - (2) The terms and conditions of the proposed conversion, including the manner and basis of converting the membership interests of the ~~business entity~~ Foreign Business Entity into (i) membership interests of the surviving ~~domestic~~ LLC, ~~into (ii) cash, into (iii) other consideration that may include membership interests or obligations of an entity that is not a party to the conversion, or (iv) into a combination of cash and other consideration.~~
 - (3) The terms and conditions of the ~~organizational documents~~ Organizing Documents that are to govern the surviving ~~domestic~~ LLC.
 - (4) Any other provisions with respect to the proposed conversion that the ~~business entity~~ Foreign Business Entity considers necessary or desirable.
- (b) If a plan of conversion is adopted by the ~~business entity~~ Foreign Business Entity under subsection (a), the plan of conversion is submitted for approval in the manner required by the law governing the internal affairs of that ~~business entity~~ Foreign Business Entity.
- (c) If the plan of conversion is approved under subsections (a) and (b), the ~~business entity~~ Foreign Business Entity shall file a ~~Certificate~~ certificate of Conversion ~~conversion~~ with the Office of the Attorney General. The ~~Certificate~~ certificate of Conversion ~~conversion~~ shall include all of the following:
- (1) A copy of the plan of conversion.
 - (2) A statement that the ~~business entity~~ Foreign Business Entity has obtained approval of the plan of conversion under subsection (b).
 - (3) A statement that the surviving ~~domestic~~ LLC will furnish a copy of the plan of conversion, on request and without cost, to any member of the ~~business entity~~ Foreign Business Entity.
 - (4) The registered agent and registered office, record agent and record office, or other similar agent and office of the surviving ~~domestic~~ LLC before and after conversion.
 - (5) The ~~type~~ corporate form of ~~business entity~~ the Foreign Business Entity, as well as the date and location of jurisdiction where the ~~business entity~~ Foreign Business Entity was formed, prior to converting into a ~~domestic~~ LLC.
 - (6) A statement whether the surviving ~~domestic~~ LLC ~~is Tribally owned, enjoys the Tribe's sovereign immunity.~~
 - (7) Submission of Articles of Organization for the surviving ~~domestic~~ LLC that meet all of the requirements of this Code.

1 **Sec. 55B-8.1311. Effect of conversion of ~~business-entity~~ Foreign Business Entity into**
2 **~~domestic~~an LLC.**

3 All of the following apply when a ~~business-entity's~~ Foreign Business Entity's conversion into a ~~domestic~~an LLC
4 takes effect:

- 5 (a) The ~~business-entity~~ Foreign Business Entity converts into the surviving ~~domestic~~ LLC. Except as
6 otherwise provided in this Section, the surviving ~~domestic~~ LLC is organized under and subject to the
7 ~~Codethis Chapter.~~
- 8 (b) The ~~surviving domestic LLC has all of the liabilities of the business entity. The~~ conversion of the
9 ~~business-entity~~ Foreign Business Entity into a ~~domestic~~an LLC under this Section shall not be considered
10 to affect any obligations or liabilities that the ~~business-entity~~ Foreign Business Entity incurred before
11 the conversion, or the personal liability of any ~~person~~ Person incurred before the conversion unless
12 otherwise provided for in the plan of conversion; and, the conversion shall not be considered to affect
13 the choice of law applicable to the ~~business-entity~~ Foreign Business Entity with respect to matters
14 arising before conversion.
- 15 (c) The title to all real estate and other property and rights owned by the ~~business-entity~~ Foreign Business
16 Entity remains vested in the surviving ~~domestic~~ LLC without reversion or impairment.
- 17 ~~(d) A proceeding pending against the business entity may be continued as if the conversion had not~~
18 ~~occurred, or the surviving domestic LLC may be substituted in the pending proceeding for the business~~
19 ~~entity.~~
- 20 ~~(e) The surviving domestic(d)~~ The surviving LLC is considered to be the same entity that existed
21 before the conversion, and is considered to be organized on the date that the ~~business-entity~~ Foreign
22 Business Entity was originally organized.
- 23 ~~(f)~~ The membership interests of the ~~business-entity~~ Foreign Business Entity that were to be converted into
24 membership interests or obligations of the surviving ~~domestic~~ LLC or into cash or other property are
25 converted.
- 26 ~~(g)~~ Unless otherwise provided in a plan of conversion, the ~~business-entity~~ Foreign Business Entity is not
27 required to wind up its affairs or pay its liabilities and distribute its assets on account of the conversion,
28 and the conversion does not constitute a dissolution of the ~~business-entity~~ Foreign Business Entity.
- 29 ~~(h)~~ The ~~organizational documents~~ Organizing Documents of the ~~domestic~~ LLC are as provided in the plan of
30 conversion.
- 31 ~~(i)~~ All other provisions of the plan of conversion apply.

32 **Sec. 55B-9. Miscellaneous.**

- 33 (a) In construing this Chapter, the present tense includes the past and future tenses, and the future tense
34 includes the present tense.
- 35 (b) When reference is made to any portion of this Chapter, the reference shall apply to all amendments made
36 hereafter.
- 37 (c) Section headings shall not be used in construing this Chapter.
- 38 (d) If any part of this Chapter is invalidated by a court of competent jurisdiction, all valid parts that are severable
39 from the invalid part remain in effect. If a part of this Chapter is invalid in one or more of its applications,
40 that part remains in effect in all valid applications that are severable from the invalid applications.

1 **Sec. 55B-10. Relationship to the TERO ordinance.**

- 2 (a) Any LLC ~~of the Tribe~~ organized under this Chapter shall only be deemed an enterprise of the Tribe when
3 acting to procure goods, services, or employment occurring on ~~Trust Lands~~ the Reservation and such
4 performance is on ~~Trust Lands~~ the Reservation.
- 5 ~~(b) Kituwah, LLC, Kituwah Global Government Group, LLC and their subsidiaries~~ (b) Tribally Owned LLCs,
6 Tribally Owned Subsidiary LLCs, and Tribally Owned Second Tier Subsidiary LLCs shall be considered a Priority
7 1 Certified Economic Entity under Article 5 Section 92 of the Cherokee Code when providing ~~good~~ goods or
8 services on ~~Trust Lands~~ the Reservation, provided they submit proof of liability insurance as required by
9 Article 3 Section 92 of the Cherokee Code.
- 10 (c) Any other LLC may be considered a Priority 1 Certified Economic Entity when providing ~~good~~ goods or
11 services on ~~Trust Lands~~ the Reservation, provided ~~they meet it meets~~ the requirements contained in Article 3
12 Section 92 of the Cherokee Code.

13 ~~Sec. 55B-11. Kituwah, LLC and Kituwah Global Government Group, LLC Subsidiaries.~~

- 14 ~~(a) Recognizing that the Kituwah Economic Development Board has caused to be formed Kituwah, LLC, and~~
15 ~~Kituwah Global Government Group, LLC, wholly owned tribal LLCs under this Chapter with the Articles of~~
16 ~~Organization having been appropriately adopted and filed, and the operating agreement executed by the~~
17 ~~Principal Chief and the Chair of the Kituwah Economic Development Board, the Tribe hereby conveys upon~~
18 ~~Kituwah, LLC and Kituwah Global Government Group, LLC the right to form such subsidiary LLCs as the~~
19 ~~Kituwah Economic Development Board may from time to time deem to be in the best interests of the~~
20 ~~company.~~
- 21 ~~(b) Notwithstanding any previous provisions to the contrary, each subsidiary of Kituwah, LLC or Kituwah Global~~
22 ~~Government Group, LLC shall be wholly or majority owned by the Tribe, but its Articles of Organization may~~
23 ~~allow that Kituwah, LLC and Kituwah Global Government Group, LLC is are the majority member of such~~
24 ~~subsidiary, and the Manager of each subsidiary shall be the Kituwah Economic Development Board unless~~
25 ~~otherwise designated in their respective Articles of Organization or Operating Agreement.~~

26 ~~(Ord. No. 332, 1-21-2021)~~

27 ~~Ord. No. 332, adopted Jan. 21, 2021, amended § 55B-11 in its entirety to read as herein set out. Former § 55B-11~~
28 ~~pertained to Kituwah, LLC Subsidiaries and derived from Ord. No. 552, Exh. B, adopted June 27, 2019.~~