

ELECTION ORDINANCE

SECTION I. PURPOSE AND SCOPE

The purpose of this ordinance is to establish a uniform procedure for the election for Tribal Council Member/Band Chairperson; for Tribal Chairperson; and of the conduct of elections due to vacancies occurring prior to the end of the term of the office; and for initiative and referendum elections.

SECTION II. ELECTION BOARD

A. Qualifications of the Election Board. The Tribal Council shall appoint three (3) or more persons to serve as the Election Board. No person who is a candidate for elective office or holds any elective Tribal office shall be eligible to serve on the Election Board. The members of the Election Board shall serve for the conduct of the specific election for which they are appointed.

B. Duties of the Election Board. It shall be the duty of the Election Board to conduct the nominations and election to insure that all elections are conducted fairly and objectively, in a manner consistent with this ordinance, including the following: (1) to insure that the candidates for office are qualified to seek office and to certify the qualifications of each person nominated prior to the Council Election (2) to insure that the name of each person offering to vote is on the official list of eligible voters; (3) to keep the ballot boxes secured at all times; (4) to insure that the ballot is cast by the voter and that the voters name is recorded; (5) to count the cast ballots immediately after the close of the polls and the absentee ballots immediately after the expiration of the time for their receipt; (6) to certify the election returns to the Tribal Council; and (7) to return all ballots to the ballot boxes which shall be marked and secured, together with all unused ballots and to deliver the same to the Tribal office, Cedar City, Utah. The Tribal Council shall designate a Tribal employee to take custody of and to keep safe said ballots pending the resolution of any challenge to the conduct of the election.

SECTION III. QUALIFICATIONS OF VOTERS

A. Who May Vote. Any Tribal member whose name appears on the membership roll and who is 18 years of age or older on the day of the election is entitled and eligible to vote for Tribal Council Member/Band Chairperson from the candidates running for said position from his or her Band.

B. Registration. No registration to vote shall be required.

C. Voters List. The Tribal Council shall provide a list of eligible voters with Band affiliation designated thereon to the Election Board on or before the date set for nomination of candidates to the Tribal Council.

SECTION IV. QUALIFICATIONS OF CANDIDATES

Any Tribal member whose name appears on the membership roll and who is twenty-one (21) years of age or older on the day of the election is entitled and eligible to be a candidate for the position of Tribal Council Member/Band Chairperson to represent the Band with which he or she is affiliated.

SECTION V. VOTING PROCEDURES

A. Ballots. The Election Board shall prepare separate ballots for each Band showing in alphabetical order the names of the nominated eligible candidates for each Band. In an initiative or referendum election, the Board shall prepare a separate ballot for each ordinance proposed. The official ballots shall be color coded for each Band and shall be prepared by the Chairperson of the Election Board.

B. Voting Instructions. The following instructions shall be printed on each ballot:

Tribal Council Member/Band Chairperson

Place an "X" in the box next to the name of the person you would like to have represent the _____ Band on the Tribal Council and as Band Chairpersons. You may also write in a candidate of your choice. If you do this, write in the candidate's name and place an "X" in the appropriate box.

Initiative or Referendum

Place an "X" in the box designated as "yes" or "no". A "yes" vote means the voter favors the adoption, repeal or amendment of the ordinance; a "no" vote means the voter does not favor the adoption, repeal or amendment of the ordinance.

C. Sample Ballots. Sample ballots will be printed on white paper and clearly marked "SAMPLE BALLOT" and shall not be counted if voted upon. Sample ballots shall be made available to all eligible voters prior to the election.

D. Interpreters. Interpreters where needed may be provided by the Election Board to explain in the Paiute language the manner of voting to an eligible voter who requests such assistance. All reasonable precautions shall be taken to insure that the interpreter does not influence the voter in casting his or her ballot. The interpreter shall not accompany the voter into the voter's booth.

E. Polls. Voting for any constitutional election shall take place at the Kanosh Community Building, the Richfield Indian Chapel, the Tribal Building in Cedar City, and the Shivwits community Building or as designated by the Election Board. The polls shall be open and ballots may be cast between the hours of 11:00 a.m. and 7:00 p.m.

No less than three Election Board members shall be present at all times. No other person or persons shall remain or loiter in the voting area. No electioneering shall be conducted within 50 feet of the polling place.

One Election Board member shall control the sign-in sheet, another Election Board member shall hand out the ballots and another Election Board member shall serve as interpreter and secure the ballot box.

The voter shall first sign his or her name on the sign-in sheet. If the voter is unable to do so, the voter shall make a mark that is witnessed by the two Election Board members and a notation to the record signed by both Election Board members shall be prepared.

The voter will then be handed a ballot which shall then be marked in a private area to be designated by the Election Board. The voter may receive assistance from the Election Board if requested. The voter shall fold the ballot and place it in the appropriate ballot box.

If the voter makes a mistake or otherwise spoils the ballot, a new ballot may be issued to the voter. The spoiled ballot shall immediately be marked "SPOILED" by an Election Board member and signed by two Election Board members.

F. Absentee voting. Absentee voting shall be allowed for all elections. No ballots received after 7:00 p.m. on the day preceding the day of the election shall be counted. Absentee ballots may be mailed to the Election Board Chairperson, Paiute Indian Tribe of Utah, 600 North 100 East, Cedar City, Utah 84720. Absentee ballots may also be hand-delivered to the Election Board up to 7:00 p.m. on the day preceding the day of the election.

G. Absentee Ballot Regulations.

Each person applying for an absentee ballot must fill out and sign an application form prepared by the Election Board.

Applications for absentee ballots will be made available to all eligible voters of the Tribe. Applicable instructions will be included.

Requests for an absentee ballot must be received by the Election Board on a date established by the Tribal Council, but said date must be at least fifteen (15) days prior to said election.

When a proper application is received by the Election Board Chairperson, a ballot shall be issued in the name of the applicant.

The Election Board Chairperson shall keep an official record of all such actions taken.

The absentee ballot shall consist of a ballot listing the names of all candidates, a space for write-in candidates, an instruction sheet, an inner envelope, an

outer envelope and a stamped, self-addressed return envelope.

When voting, the voter shall mark the ballot, then place it in the inner envelope and seal it. The inner envelope is then placed inside the outer envelope and sealed. The outer envelope shall be signed by the voter. It shall then be returned to the Election Board in the return envelope as prescribed in sub-section F above.

The Election Board shall compare the signature on the outer envelope with the signature on the application. If the signatures match, the outer envelope shall be opened and the inner envelope shall be deposited in the appropriate ballot box.

H. Returns. Immediately after the polls are closed, the Election Board shall clear the polling place of all persons other than themselves and shall count the votes cast. The Election Board shall then certify the results of the election and deliver the results to the Chairperson of the Election Board.

I. Winners. The candidate who receives the highest number of votes to represent his/her respective Band will be declared elected to represent said Band on the Tribal Council and as Band Chairperson.

SECTION VI. TERM OF OFFICE

The term of office for those elected after the first election shall commence on April 3, 1985 and shall run for four (4) years. If a vacancy occurs during any term of office, the individual elected to fill such vacancy shall serve for the remainder of the unexpired term.

SECTION VII. PROCEDURES FOR CONDUCT OF GENERAL TRIBAL COUNCIL ELECTIONS

A. Definition. General Tribal Council Elections. General Tribal Council Elections are those elections held during the second week of March of every fourth year for the purpose of electing a Tribal Council.

B. Nominating Meeting. Each Band shall conduct a meeting on or before thirty (30) days of the date established by the Tribal Council for the elections for

Tribal Council members, which date shall be set on a date falling within the second week of March every fourth year, for the purpose of nominating candidates for Tribal Council Member/Band Chairperson. A band member designated by the Election Board shall report the results within twenty-four (24) hours thereof to the Election Board Chairperson, who shall be responsible for assembling the names of all candidates. Candidates to represent a particular Band must be a member of said Band. A candidate may be nominated only by members of his or her own Band. Any person who seeks to nominate a candidate must be an eligible voter. Consistent with the requirements of this ordinance the recognized custom for nominations within each Band shall be observed.

C. Certification of Qualifications. The qualifications of each person nominated by a particular Band must be certified by the Election Board twenty-five (25) days prior to the Council Election.

D. Appeal of Certification Decision. Any person who is certified as ineligible to seek elective office by the Election Board may petition the Tribal Council in writing to certify the person as a candidate. Said petition must be submitted at least 15 days before the election. The petition shall state the grounds therefore. The Tribal Council shall render a final decision at least ten (10) days before the election, unless a primary election is to be held, in which case the Tribal Council shall render a decision before the primary election.

E. Primary Elections. In the event there are more than five (5) candidates for office from a particular band, a primary election shall be held by that band and the two (2) candidates receiving the highest number of votes shall be the final candidates from that band for the office of Council Member. Said primary election shall , be held twenty (20) days prior to the Council Election.

F. Tribal Council/Band Chairperson. Each of the five constituent Bands of the Tribe shall elect a Tribal Council Member/Band Chairperson. Those elected will serve as the Band's representative to the Tribal Council and as Band Chairperson. The candidate who receives the highest number of votes in his or her Band election shall be certified as the winner. In the event of a

tie, a flip of a coin as overseen by the Election Board shall determine the winner.

G. Tribal Chairperson. The Tribal Chairperson shall be elected by the membership of the entire Tribe from among the five individuals who have previously been elected to the Tribal Council. All Council members shall be candidates for Tribal Chairperson. The Council member who receives the highest number of votes cast by the eligible voters of the Tribe shall be Chairperson. The Council member receiving the second highest number of votes shall be Vice Chairperson on the Tribal Council. The election of the chairperson shall be held within twenty (20) days of the election to the Tribal Council. The manner in which the election shall be conducted shall be determined by the newly elected Tribal Council. In the event of a tie, a flip of a coin as overseen by the Election Board shall determine the winner.

SECTION VIII. PROCEDURES FOR CONDUCT OF SPECIAL TRIBAL COUNCIL ELECTIONS.

A. Definition. Special Council Elections. Special Council Elections are those elections held to fill a vacancy in office created as a result of recall, removal or automatic forfeiture. Special Tribal Council Elections must be held within thirty (30) days of the vacancy.

B. In the event of a vacancy on the Tribal Council, the Vice-Chairperson of the affected band shall fill said vacancy and shall have full voting authority until the election of a band chairperson can be conducted.

C. All Special Assignments of a Council member leaving office shall be dissolved and reassigned by the Tribal Council.

D. Nominating Meeting. The affected Band shall conduct a meeting within fifteen (15) days after the vacancy for the purpose of nominating candidates for Tribal Council Member/Band Chairperson. A band member designated by the Election Board shall report the results within twenty-four (24) hours thereof to the Election Board Chairperson, who shall be responsible for assembling the names of all candidates. Candidates to represent a particular Band must be a member of said Band. A candidate may be nominated only by members of his or her

own Band. Any person who seeks to nominate a candidate must be an eligible voter. Consistent with the requirements of this ordinance the recognized custom for nominations within each Band shall be observed.

E. Certification of Qualifications. The qualifications of each person nominated by a particular Band must be certified by the Election Board within five days (5) after the nomination. The certification must be in writing and delivered to the Tribal Council.

F. Appeal of Certification Decision. Any person who is certified as ineligible to seek elective office by the Election Board may petition the Tribal Council in writing to certify the person as a candidate. The petition shall state the grounds therefore. The petition must be filed within three (3) days of the Election Board decision. The Tribal Council shall render a final decision within five (5) days after receipt of the certification decision, unless a primary election is to be held, in which case the Tribal Council shall render a decision before the primary election.

G. Primary Elections. In the event there are more than five (5) candidates for office from a particular band, a primary election shall be held by that band and the two (2) candidates receiving the highest number of votes shall be the final candidates from that band for the office of Council Member. Said primary election shall be held at least five (5) days prior to the Council Election.

H. Tribal Council/Band Chairperson. The person elected during a special election will serve as the Band's representative to the Tribal Council and as Band Chairperson. The candidate who receives the highest number of votes in his or her Band election shall be certified as the winner. In the event of a tie, a flip of a coin as overseen by the Election Board shall determine the winner.

I. Consultation with Band. The dates of the nominating meeting, the certification by the Election Board, determination of appeals and if necessary, a primary election shall be established by the Tribal Council by resolution after consultation with the affected band council.

SECTION IX. PROCEDURES FOR RECALL ELECTIONS

Recall elections shall be governed by the specific provisions of Article XII, Section 1, of the constitution. Recall petitions must be signed by the requisite number of eligible votes. All pages of the petition shall be uniform in size and style. Each signature shall be executed in ink and shall be followed by the street or post office address of the person signing.

Each page of a recall petition shall have attached to it when filed, an affidavit executed by the circulator thereof, stating that he personally circulated the petition, the number of signatures thereon, that signatures were affixed in his presence, that he believes them to be the genuine signatures of the persons whose names they purport to be and that each signer had an opportunity before signing to read the detailed statement of the charges and accusations.

Within ten (10) days of the filing of a recall petition, the Tribal Council shall cause a review of the sufficiency of the petition to occur. If the petition is insufficient, the petitioner shall be informed of the particular insufficiencies in writing and shall have ten (10) days **in** which to make it sufficient.

If within ten (10) days a valid petition is filed, an election shall be held pursuant to the provision of the Constitution. If the petition is invalid, the petition will be deemed insufficient to cause the holding of an election.

SECTION X. PROCEDURES FOR REMOVAL FROM OFFICE

Actions to remove a Tribal Council member from the office by the Tribal Council shall be governed by Article XII, Section 2, of the Constitution and ordinances developed pursuant thereto. Once a Council member is removed, this ordinance shall govern the procedure for the filling of the vacancy by election.

SECTION XI. PROCEDURES FOR INITIATIVE ELECTIONS

A. Initiative Petitions. Upon the written request of any eligible voter, the Tribal Council shall cause to

issue an initiative petition. Initiative petitions must be signed by at least twenty percent (20%) of the eligible voters of the Tribe. All pages of a petition shall be uniform in size and style. Each signature shall be executed in ink and shall be followed by the street addresses of the person signing. Petitions shall contain or have attached thereto throughout their circulation, the full text of the ordinance proposed or sought to be reconsidered.

Each page of a petition shall have attached to it when filed an affidavit executed by the circulator thereof stating that he personally circulated the petition, the number of signatures thereon, that signatures were affixed in his presence, that he believes them to be the genuine signatures of the persons whose names they purport to be and that each signer had an opportunity before signing to read the full text of the ordinance proposed or sought to be repealed or amended.

Within ten (10) days of the filing of said petition, the Tribal Council shall cause a review of the sufficiency of the petition to occur. If the petition is insufficient, the petitioner shall be informed of the particular insufficiencies in writing and shall have ten (10) days in which to make it sufficient.

B. Action by Council. When an initiative petition has been determined sufficient the Council shall either:

1. Adopt the ordinance as submitted by the initiatory petition.
2. Repeal or amend the ordinance, or part thereof, referred to by the initiatory petition.
3. Submit the proposal provided for in the petition to the eligible voters.

C. Submission to Voters. The vote of the qualified electors on the proposed ordinance, repeal or amendment of an ordinance shall be held not less than thirty (30) and not later than sixty (60) days from the date the initiative and a valid petition are filed with the Tribal Council.

An initiative petition may be withdrawn by the petitioner up to twenty (20) days prior to the scheduled election.

The vote of a majority of those actually voting shall be conclusive and binding upon the Tribal Council; provided, that at least thirty-five percent (35%) of the eligible voters of the Tribe cast ballots in said special elections.

SECTION XII. PROCEDURES FOR REFERENDUM ELECTIONS

A. Action by Council. The Tribal Council shall upon the vote of three (3) Council members **in** favor, submit any proposed or previously enacted ordinance to a vote of the eligible voters, except as prescribed by the Constitution.

The proposed or existing ordinance referred by the Council to the voters shall be posted at the polling places at least twenty (20) days prior to said election. The effect of any existing ordinance referred to the voters shall be suspended pending the vote at the referendum election.

B. Submission to Voters. The referendum election shall be held not less than (30) days and not later than sixty (60) days from the date the proposed or existing ordinance is referred to the voters by the vote of the Tribal Council as provided in this sub-section. The vote of a majority of those eligible voters actually voting shall be conclusive and binding on the Tribal Council; provided, that at least thirty-five percent (35%) of the eligible voters of the Tribe cast ballots in the referendum election.

SECTION XIII. DEFINITIONS

Automatic Forfeiture. A Council member shall automatically forfeit his or her office and a vacancy' shall be created if the Council member dies, resigns, is convicted of a felony while in office, or fails to attend four consecutive regular Council Meetings.

Initiative. An initiative is an action by the eligible voters of the Tribe to propose any ordinance to the Tribal Council or to repeal or amend any ordinance

except as limited by Article XI, Section 1, of the Constitution.


Recall. Recall is a procedure by which the eligible voters of the Tribe may remove a Council member for neglect of duty or willful misconduct as provided in Article XII, Section 1, of the Constitution.

Referendum. A referendum is a process by which the Tribal Council may submit a proposed or previously enacted ordinance to a vote of the eligible voters.


Removal. Removal is an action by the Tribal Council to remove another Council member from office for neglect of duty or willful misconduct.

CERTIFICATION

I hereby certify that the foregoing ordinance was fully considered by the Tribal Council at a duly called meeting held at the Tribal Offices, Cedar City, Utah at which a quorum was present and that same was passed by a vote of 5 in favor and 0 opposed, this 18th day of May 1984.


Geneal Anderson, Chairperson

ATTEST:


Alex Shepherd, Council Member