



**BISHOP PAIUTE TRIBE ELECTION ORDINANCE**  
(Adopted February 17, 1998)  
Amended May 5, 2015

**SECTION 1.0 PURPOSE**

- 1.1 This Ordinance has been established to provide for standard, uniform procedures for conducting Tribal elections to elect Tribal Council members, other tribal officials and or proposed initiatives including but not limited to Ordinances. This Election Ordinance shall be consistent with existing tribal laws and ordinances governing the Bishop Paiute Tribe.

**SECTION 2.0 DEFINITIONS**

- 2.1 As used in this Ordinance:

- (a) **Ballot** -
1. **Cast Ballot**- an official ballot that is cast in the proper manner at the proper time by a duly registered voter.
  2. **Invalid Ballot**- an officially cast ballot discovered at the time the votes are counted, which does not comply with voting requirements or is not an official ballot. An invalid ballot is not to be counted for determining the number of ballots cast.
  3. **Mutilated Ballot**- a mutilated ballot not cast may be exchanged for a new one. If the need arises to exchange a mutilated absentee ballot, no additional time will be provided for the new ballot to be received by the Election committee.
  4. **Spoiled Ballot**- a ballot that is spoiled at the polls may be exchanged for a new one. A spoiled cast ballot is to be counted in tabulating the total votes in conjunction with determining whether the required percentage of qualified voters have participated in the election.
- (b) **Elections**-
1. **Primary Election**- an election in which eligible voters of the registered Bishop Paiute Tribal members vote to select from a list of eligible candidates, a limited number of candidates to fill vacancies.
  2. **General Election**- a duly called election of the Bishop Paiute Tribe conducted after a primary election for the purpose of electing, by secret ballot, from a list of final candidates for public office and or for voting to either approve or reject initiatives.
  3. **Special Election**- To break a tie during tribal elections or recount and other initiatives/ordinances.
- (c) **Election Board** - the three (3) members, appointed by the Bishop Paiute Tribal Council to administer tribal elections. The terms of office will be staggered. Two (2) members will serve four (4) year terms and one (1) member a two (2) year term.
- (d) **Election Committee** - Five (5) members and two (2) alternates, appointed by the election board, to conduct election procedures on any Bishop Paiute Tribal Election Day.
- (e) **Electioneer**- to work actively and otherwise lobby for the election of a particular candidate to public office or for the approval or rejection of a particular initiative.

- (f) Eligible, entitled, qualified voter, or voting member-** the status achieved by a tribal member who meet the requirements the tribe to vote in a tribal election.
- (g) General Council-** all members of the Bishop Paiute tribe who are eligible to vote acting together in a regular or special election.
- (h) Tribal Member-** A person who meets the Bishop Paiute Tribe's criteria for membership pursuant to the tribe's enrollment ordinance.
- (i) Precinct -** all surrounding areas within a thirteen (13) mile radius of the Bishop Paiute Reservation.
- (j) Registration-** the act whereby a tribal member becomes qualified or entitled to vote in an election of the Bishop Paiute Tribe by having his/her name placed on the eligible voter's list of the tribe and approved by the Election Board.
- (k) Tribal Council-** the governing body of the Bishop Paiute Tribe elected by the eligible voting members.
- (l) Tribe-** The Bishop Paiute Tribe.
- (m) Voting Member-** a person whose name is on the eligible voter list of the Bishop Paiute Tribe.

### **SECTION 3.0 ELIGIBILITY TO VOTE**

**3.1** Any person who meet all of the following criteria is eligible to vote.

A person who:

- a. Meet the criteria for tribal membership, pursuant to the tribe's Enrollment Ordinance.
- b. Will be twenty-one (21) years of age one day before an election.
- c. Is registered thirty (30) days before an election.
- d. Resides within a thirteen (13) mile radius of the Bishop Paiute Reservation.
- e. Is on the official voters list but becomes ineligible, he/she must come to the tribal office to change their voting status.

### **SECTION 4.0 ELECTION BOARD POLICIES AND PROCEDURES**

**4.1** The Tribal Council shall appoint an Election Board consisting of eligible voters of the Tribe for conducting all Bishop Paiute Tribal elections. The Tribal Council shall appoint three (3) tribal members to the Board. The Election Board shall elect from its members a chairperson. The terms of office will be staggered. Two (2) members will serve four (4) year terms and one will serve a two (2) year term.

- 4.2 The Tribal Council shall delegate the authority they deem necessary for the Election Board to effectively carryout its purpose and duties in accordance with its Ordinance of the Bishop Paiute Tribe.
- 4.3 The Bishop Tribal Election Board Chairman shall post official election results after all ballots have been counted. Results shall be posted in designated area(s). (Section 12.2)
- 4.4 The Election Board shall submit a final report to the Tribal Council within three (3) days following the elections.

## **SECTION 5.0 ELECTION COMMITTEE**

- 5.1 The Election Board shall solicit and appoint a five (5) member Election Committee for the purpose of conducting tribal elections. The Election Committee shall be comprised of five (5) regular members and two (2) alternate members, all of whom shall be eligible voters of the tribe. The Election Committee shall elect from its members a Chairperson and a Secretary.
- 5.2 No grandparents, spouse, mother, father, brother, sister, or children of a candidate shall be a member of the election committee.
- 5.3 Following the elections, the Election Committee shall prepare a preliminary report of the election certifying its accuracy and shall announce, and post the results at the Tribal office and other locations designated in the notice of the election.

## **SECTION 6.0 ELIGIBILITY AND NOMINATIONS OF CANDIDATES TO HOLD ELECTED OFFICE**

- 6.1 Any eligible Bishop Paiute tribal member can be nominated for tribal council or other elected office by an eligible tribal voting member at a sanctioned Election Board nomination night. If nominated, the eligible candidate may accept or decline the nomination. Eligible candidates at the tribal nomination night shall be responsible to fill out the "Declaration of Candidacy" and pay a Twenty-five Dollar (\$25.00) filing fee payable to the Bishop Paiute Tribe within ten (10) business days of the nomination night.
- 6.2 Any eligible tribal voting member who desires to be placed on the ballot as a candidate for tribal council or other elected office, shall file with the Election Board a "Declaration of Candidacy" and pay a Twenty-five Dollar (\$25.00) filing fee payable to the Bishop Paiute Tribe.
- 6.3 The Election Board shall review and verify the eligibility of all candidates for public office. A candidate presenting false information shall be ineligible as a candidate and shall be notified immediately by certified letter. A copy of the information will be sent to the Bishop Tribal Council.
- 6.4 Any candidate whom the Election Board finds ineligible may appeal the decision in writing. Such a candidate must file a written appeal with the no later than forty-eight (48) hours after the receipt of the adverse decision. The Bishop Paiute Tribal Election Board shall render a written decision no later than seven (7) days after the receipt of the appeal.
- 6.5 If the Bishop Paiute Election Board decides in favor of the candidate, the candidate's name will be placed on the ballot. The Bishop Paiute Election Board decision shall be final.
- 6.6 Felon – A candidate for any elected position shall not have been convicted of a felony in tribal, state or federal court within Five (5) Years prior to the nomination date.

## **SECTION 7.0 ELIGIBILITY OF TRIBAL COUNCIL CANDIDATES**

**7.1** Any enrolled tribal member who meets the following criteria is eligible to be a candidate for the office of the Tribal Council:

- a. Be twenty-one (21) years of age on the official nomination date;
- b. Have resided in the designated precinct for thirty (30) days prior to the official nomination date;
- c. Have not been convicted of a felony in a federal, state or tribal court five (5) years prior to the official nomination date.

**7.2** The term of office for Tribal Council members shall be four (4) years. Tribal Council elections will be staggered terms and be conducted on even number years. *For the purpose of this Bishop Tribal Election Ordinance, the two Tribal Council members in 2015 shall be elected for a three (3) year term of office. (This shall only occur one time to align staggered Tribal Council terms to the even number year at 2018.)* Tribal Council members shall be staggered four (4) year terms as follows: Three (3) Tribal Council members shall be elected four (4) year terms starting in 2016 and Two (2) Tribal Council members shall be elected to four (4) year terms in 2018.

## **SECTION 8.0 PROCEDURE TO RECALL A TRIBAL COUNCIL MEMBER**

**8.1** Purpose - The Tribal Council has determined that the best interests of the Tribe require an orderly process in which the Election Ordinance provision for removal of Council members may be carried out. The purpose of this recall procedure is to provide that orderly process.

**8.2** It is recognized that continuity in our government is beneficial to all Bishop Paiute Tribal members. However there may be occasions when a Tribal Council member is not performing his or her duties competently and or in the best interest of the Tribe. Therefore this election ordinance provides for a recall procedure of Tribal Council members.

**8.3** Petition - Initiating recall proceedings. Whenever any legal voter of the Bishop Paiute Tribe desires to demand the recall and discharge of a Tribal Council member, he or she shall prepare a printed or typewritten statement reciting the reason the recall petition is being filed. The statement shall set forth the act or acts complained of, if any, the mailing address of the petitioner and be signed by him or her in the presence of the Bishop Paiute Tribal Notary.

**8.4** Petition – Where filed - Any person making a written statement requesting a recall petition shall file it with the Tribal Council Secretary who shall promptly provide to the Bishop Paiute Election Board. The petitioner shall pay a One Hundred Dollars (\$100.00) non-refundable fee payable to the Bishop Paiute Tribe.

**8.5** Any eligible voting tribal member may request a recall petition for removal from the Election Board. The petitioner shall fill out a written statement and state all reason(s) for removal from tribal council. (The recall shall be one of the following reasons listed in Section 14.3 (3) of this Election Ordinance; gross neglect of duty, malfeasance, misconduct misdemeanor in office, misdemeanor involving dishonesty, misfeasance or nonfeasance.) The petitioner shall provide evidence/documentation to the Election Board to determine if a recall petition shall be provided.

**8.6** The Election Board shall have a recall petition hearing within ten (10) days to determine if the evidence/documentation is valid to approve the recall petition.

8.7 Petition form - The recall petition shall contain the following information:

(a) The heading shall read "PETITION FOR RECALL."

(b) The body of the petition for recall shall be substantially in the following form:

All columns below must be complete for a voter's signature to be valid. In addition, a signature will not be valid if appears on more than one petition.

**PETITION FOR THE RECALL OF** (here insert the name of the Tribal Council member whose recall is petitioned for).

We, the undersigned members of the Bishop Paiute Tribe, being duly enrolled, respectfully direct that a special election be called to determine whether or not (here insert the name of the Tribal Council member whose recall is petitioned for) be recalled and discharged from office because (here insert the reason for the recall petition – Section 14.3), in that he or she (here insert a description of what happened) and each of us for himself or herself says: I have personally signed this petition; I am an enrolled member of the Bishop Paiute Tribe, aged 21 or older; my address, enrollment number is correctly stated and to my knowledge I have signed this petition only once.

Petitioner's Signature \_\_\_\_\_

Print name                      Residence address/Street and number                      Tribal Enrollment Number

(There follow 20 numbered lines divided into columns as below)

1. \_\_\_\_\_

2. \_\_\_\_\_

3. \_\_\_\_\_

Etc.

DATE/TIME RECEIVED \_\_\_\_\_ DATE/TIME OF EXPIRATION \_\_\_\_\_

NUMBER OF SIGNATURES REQUIRED as verified by the Election Committee Chairperson: \_\_\_\_\_.

SIGNATURE OF PETITIONER: \_\_\_\_\_.

SIGNATURE OF PETITION CARRIER: \_\_\_\_\_.

SIGNATURE OF TRIBAL COUNCIL SECRETARY: \_\_\_\_\_.

- 8.8** Petition size - Each recall petition at the time of circulation, signing and filing with the Tribal Council Secretary shall be stamped with the date of submittal and with the prescribed warning, title and form of petition on each sheet, and a full, true and correct copy of the original statement filed against the Council member referred to therein, printed on a sheet or sheets of paper of like size and quality as the petition, firmly fastened together.
- 8.9** Signatures - Number of signatures required. When the person(s) demanding the recall of a Tribal Council member has secured sufficient signatures upon the recall petition he or she may submit the same to the Election Board. The number of signatures required for an election to be called is two thirds (66%) of the total voting membership of the registered Bishop Paiute voters, such total being determined as of the date the petitioner's printed or typewritten statement is filed with the Tribal Council Secretary.
- 8.10** Rescinding signature - A voter who has signed a petition may rescind his or her signature from the recall petition, provided a written request is submitted to the Election Board before the expiration of the time for filing.
- 8.11** Filing supporting signatures – Time limit - The sponsor(s) of a recall demanded of a Council member shall have a maximum of 60 days in which to obtain and file supporting signatures after filing the printed or typewritten statement with the Election Board. Any petition with supporting signatures which is filed after the sixtieth day shall be invalid.
- 8.12** Verification - Upon the filing of a recall petition with the Election Board there shall be stamped on each petition the date of filing and each petition shall then be numbered sequentially, e.g., 1 of 28, 2 of 28. The Election Board shall then notify the person(s) filing the petition and the Council member whose recall is demanded of the date when the recall petitions will be verified, which date shall not be less than five or more than 10 days from the date of its filing.
- 8.13** Verification of signature - Upon the filing of a recall petition, the Election Board shall proceed to verify the names of qualified voters on the petition. The verification of signatures on the petition may be observed by persons representing the advocates and opponents of the proposed recall petition. The Election Board may limit the number of observers to not fewer than two on each side, if, in its opinion, a greater number would cause undue delay or disruption of the verification process. If the Election Board finds the same name signed to more than one petition, it shall reject all signatures of that Tribal member.
- 8.14** Date for Recall Election - Fixing date for recall election. If, at the conclusion of the verification, it is found that a petitioner for recall bears the required number of valid signatures of enrolled Tribal members aged 21 or older. The Election Board shall promptly certify the petition as valid and set a date for the Recall Election. The special election shall be held within 60 days from the date of certification by the Election Board. Notice shall be given in the manner required in Section 9.0 of this Election Ordinance.
- 8.15** The Recall Election shall not be valid unless 66% of the registered voters participate in the duly called election.
- 8.16** If the Tribal Council Recall Election ballots casted are in favor of removal from office, then the Bishop Tribal Council member shall be removed immediately by the Bishop Paiute Council under Section 14.6 of this election ordinance.

## **SECTION 9.0 PRIMARY AND GENERAL ELECTION**

- 9.1** A Primary Election shall be conducted on the second Tuesday of the month in June, for the purpose of electing no more than five (5) nominees to fill vacancies on the Tribal Council and for electing other public officials.

- 9.2 A General Election shall be conducted no less than thirty (30) days from the date of the primary election. When the fourth of July falls on a Tuesday the election will be held on the following Tuesday.
- 9.3 The Election Board shall post or cause to be posted a notice of the Bishop Tribal Election.
- 9.4 The Election Board shall mail or cause to be mailed election notices and sample ballots to all eligible voters at least fourteen (14) days prior to the election.
- 9.5 The Election Board shall organize a "Candidates Night" at least ten (10) days before the date of the General Election, where the candidates may, if they want, express their views to the tribal members.

#### **SECTION 10.0 MANNER OF VOTING**

- 10.1 All tribal elections shall be by secret ballot.
- 10.2 Absentee voting is permitted. Eligible voters must individually request an absentee ballot from the Bishop Paiute Tribal Office, and return the absentee ballot to the Bishop Paiute Tribal Office before polls close on Election Day.
- 10.3 No proxy shall be permitted.

#### **SECTION 11.0 POLLING**

- 11.1 The Tribal Chambers shall be the designated polling place. Polls shall be open from 7:30 AM to 7:00 PM, local time. The Election board may set different hours; they shall inform the voters of the change in the election notice.
- 11.2 There shall be no electioneering within a one hundred (100) feet radius of the polling place during the polls are open.

#### **SECTION 12.0 GENERAL ELECTION RESULTS**

- 12.1 The candidates(s) receiving the highest number of votes for each office shall be declared the winner(s). In the event the ballot count reveals two candidates for the same office have received the same number of votes, a recount will be conducted immediately after the Polls have closed. If a tie exists at the completion of the recount, the Election Board will call a special run off election; following procedures pursuant to SECTIONS 9.2, 9.3, and 9.4.
- 12.2 The Election Board shall post the results of the election immediately after the count, at the Tribal office and other locations designated in the election notice.
- 12.3 The Election Board shall keep all election material in a locked and sealed cabinet for thirty (30) days following the election in case of protest or order for recount. After the thirty (30) days they may dispose of the ballots. The results shall be filed at the tribal office.

#### **SECTION 13.0 CONTESTING OF ELECTION RESULTS**

- 13.1 Any candidate may challenge the manner in which an election was conducted to election results. Any challenge filed, which includes a recount shall be in writing and filed with the Election board within two (2) working days have lapsed.

- 13.2 Any individual filing a challenge shall be required to submit along with the challenge a non-refundable filing fee of One Hundred Dollars (\$100.00) payable to the Bishop Paiute Tribe.
- 13.3 If a recount is ordered, the Election Board, and the candidates shall be present to view the recount. The Election Committee shall perform the recount. The decision of the Election Board shall be final. If the Challenge is found valid and a run-off election is warranted: they will follow procedures pursuant to Section 9.2, 9.3, and 9.4.

#### **SECTION 14.0 REMOVAL, RECALL, AND VACANCY**

- 14.1 Final conviction of a felony by any tribal, federal or state court while serving on the Tribal Council. For purposes of this ordinance, means a serious crime in any federal, state or tribal court.
- 14.2 The Tribal Council may suspend a Council Member charged with a felony pending the outcome of the trial and any appeals.
- 14.3 The Tribal Council may discipline or remove a Council Member, by a majority vote of at least four (4) members of the Tribal Council, for:
- (1) Converting tribal property or monies for personal use;
  - (2) Failing to attend three (3) regular or special meetings consecutively without good cause;
  - (3) If a Tribal Council member is found guilty of gross neglect of duty, malfeasance, misconduct, misdemeanor in office, misdemeanor involving dishonesty, misfeasance, or nonfeasance.

#### ***Definitions for 14.3 (3)***

- a. *Gross neglect of duty – means a serious, repeated or prolonged lack of diligence or care in one's duties; or a conscious, voluntary act or omission in reckless regard of one's duties;*
- b. *Malfeasance – means a wrongful or unlawful act;*
- c. *Misconduct – means a corrupt violation of assigned duties by malfeasance, misfeasance, or nonfeasance;*
- d. *Misdemeanor in office – means a crime in any federal, state or tribal court that is less than a felony and that is usually punishable by fine, penalty, forfeiture or imprisonment for less than one year that is related to the individual's official duties as a tribal council member.*
- e. *Misdemeanor involving dishonesty – means a crime in any federal, state, or tribal court that is less serious than a felony and that is punishable by fine, penalty, forfeiture or imprisonment for less than one year that relates to bad faith, untruthfulness, and or theft;*
- f. *Misfeasance – means excessive, malicious, or negligent exercise of powers;*
- g. *Nonfeasance – means the failure to fulfill the duties as a Tribal Council member.*



(4) Final conviction of three (3) misdemeanors by any federal, state, or tribal court while serving on the Tribal Council.

**14.4** Procedure for Removal - The Bishop Tribal Council shall meet and review the documentary evidence that an event described in Section 14.3 has occurred. If the Tribal Council determines that such an event has occurred, the Tribal Council shall document this in the form of a Tribal Resolution to Remove a Tribal Council Member.

(1) Notice

- a. Prior to the removal by the Tribal Council, the Secretary of the Tribal Council (or other designee) shall provide to the tribal council member 14 day's written notice, by certified mail, that the Tribal Council will hold a hearing for the purpose of providing the council member an opportunity to show why he/she should not be removed from Tribal Council.
- b. The notice shall state which of the grounds described in Section 14.3, the basis for the removal is, and shall also provide copies of all documents which shall be considered by the Tribal Council in making its removal decision.

(2) Hearing – at the hearing the member will be given the opportunity to respond to the evidence before the Tribal Council, offer and confront witnesses, and present any additional relevant evidence to the Tribal Council. The tribal council member shall be given adequate time to present his/her case. The Tribal Council member may be represented by legal counsel.

(3) Decision - the Bishop Tribal Council shall make a decision to remove or to overturn the decision for removal of the Tribal Council member. (All decisions will be final and binding.) A certified letter shall be sent to the Tribal Council member with the final decision of the Bishop Paiute Tribal Council.

**14.5** The Bishop Paiute Tribal Council shall remove a council member within five (5) business days of the final decision to remove him/her from the position of Tribal Council.

**14.6** The Bishop Paiute Tribal Council may replace a council member when one of following things occur:

- (1) Bishop Tribal Council person who dies, resigns, or loses his/her tribal membership;
- (2) Bishop Tribal Council person is recalled by registered Bishop Tribal voters; (Section 8.0)
- (3) Bishop Tribal Council person may be removed according to Section 14.3 of the Election Ordinance.

**14.7** The Bishop Paiute Tribal Council shall inform the Election Board to conduct a Special Election to fill the vacancy of the removed Tribal Council member. The Special Election shall be held within sixty (60) days' notice to the Election Board.

## **15.0 AMENDMENTS**

**15.1** This Bishop Paiute Tribal Election Ordinance shall provide for standard and uniform administration of all elections conducted by Bishop Paiute Tribe. Accordingly, a majority vote of the Tribal Council may amend this Ordinance. All five (5) Tribal Council members must be present to vote on any amendments. Amendments will become effective upon certification by the Tribal Council.

**16.0 CERTIFICATE OF ENACTMENT**

The Bishop Paiute Tribal Council duly enacted the forgoing Bishop Paiute Tribal Election Ordinance at a meeting held at the Bishop Paiute Tribal headquarters on this the **5<sup>th</sup> Day of May, 2015** by a vote of **Four (4) For, Zero (0) Against** and **Zero (0) Abstentions**, with a full quorum being present.



Gerald Howard, Tribal Chairman



Kristopher Hohag, Vice Chairman



Earleen Williams, Secretary



Gertrude Brown, Councilwoman



William Turner, Councilman

**ATTEST:**



Valerie Spoonhunter, Tribal Secretary