

ELECTION ORDINANCE

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3.7 Certification of Petition.

The Election Board shall review the petition for compliance with all the requirements set forth in this ordinance. The Election Board shall verify the number and genuineness of the signatures and the voting qualifications of the signers. If there are sufficient valid signatures, the tribal attorney opinion issued in accordance with Section 3.6 is that the measure is constitutional, and the other requirements of this ordinance are met, then the Election Board shall certify the petition. If the number of signatures are found to be insufficient or invalid, or if the tribal attorney opinion is that the measure is not constitutional, or if the other requirements of this ordinance are not met, then the Election Board shall return the petition to its sponsor with the reasons for its finding and shall also advise the Tribal Council of its action and the reasons.

3.8 Presentation of Measure to Tribal Council.

Upon certification of the petition, the Election Board shall present the petition to the Tribal Council at its next regular meeting. The Tribal Council may at its discretion consider the measure contained in the petition, and may adopt it. In the event that the Tribal Council adopts the measure, no General Council election will be held.

3.9 Date of General Council Election.

In the event that the Tribal Council does not adopt the proposed or referred measure as presented under Section 3.8 of this ordinance, the measure shall be placed on the ballot for the next regularly scheduled General Council election or within 60 days, whichever comes first. Any special election shall be held in the same manner as regular elections are provided for in Section 1 of this ordinance, and the matter on the ballot shall be limited to the measure contained in the petition (or petitions if more than one petition has been certified) and any measure or measures referred by the Tribal Council.

3.10 Adoption of Measure.

A majority vote of those voters actually voting shall be required for the adoption of any measure by the General Council election. In the event that there are conflicting measures placed upon the ballot, the ballot shall state that the voter may vote for as many measures as he or she chooses. In the event that more than one measure receives a majority of the votes cast, the measure receiving the greatest number shall prevail. If no measure receives a majority vote, none shall be adopted and no further election shall be held without full compliance with the requirements of this ordinance.

3.11 Effective Date of Measure.

Unless a measure submitted to the General Council specifies a later date of effect, any measure adopted by General Council election shall become effective upon certification of the election results by the Election Board.

SECTION 4: Recall

4.1 Recall.

Tribal voters may recall any elected tribal official by filing a recall petition with the Election Board. The petition must meet the requirements of this ordinance. "Elected tribal official" shall mean any person elected to tribal office in a previous General Council election.

4.2 Required Signatures.

Petitions must have verified signatures of at least one-third (1/3) of the eligible voters in the Tribe at the time the petition is filed with the Election Board.

4.3 Petition Requirements.

A. Sponsor. Each petition must have at least one sponsor, with whom all correspondence and communication with the Election Board shall take place. The sponsor(s) must be a tribal member eligible to vote, and his or her name must appear on each petition signature page along with mailing address and phone number.

B. Purpose and Measure. Each petition signature page must contain the statement that "THE PURPOSE OF THIS PETITION IS TO HAVE A GENERAL COUNCIL ELECTION ON THE RECALL OF _____, a duly elected tribal official who holds the office of _____. (Name) _____'s term of office would normally end on (Date)_____."

C. Signatures. The name of each signer must be printed and the signature must be in ink. The date of signing must be noted. Signers must be eligible to vote in tribal elections as set forth in Section 1.3.A of this ordinance.

D. Verification. On the back of each signature page shall be a statement, signed by the tribal member who circulated that page, stating that he or she is a tribal member eligible to vote, that he or she circulated the signature page, and that the signatures on it are true and authentic to the best of his or her knowledge.

E. Forms. The Election Board may issue a suggested form of petition for use by tribal members, but any petition which meets the requirements of this Section shall be sufficient for filing with the Election Board.

4.4 Procedure Before Circulation of Petition (Optional).

No initiative or referendum petition will be certified by the Election Board unless it meets all the requirements of this ordinance. Therefore, although not required, sponsors may at their option submit their proposed petition to the Election Board prior to circulation so that errors as to form or legality may be identified in advance. The Election Board shall promptly assist the petitioner in correcting any errors as to form. The Election Board shall also confirm that the person named in the petition is actually an elected tribal official and therefore subject to recall.

4.5 Circulation of Petition.

Petitions may be circulated only by tribal voters who are eligible to vote in tribal elections. Persons asked to sign the petition must be given sufficient opportunity to read the entire petition and must be advised that they must be an eligible tribal voter in order to sign.

4.6 Filing of Petition.

Petitions shall be filed by the sponsor with the Election Board by mail or hand delivery to the Siletz Tribal Office, P.O. Box 549, Siletz, Oregon 97380. Upon the filing of the petition, the Election Board shall send copies to the tribal official named in it and to the Tribal Chairman.

4.7 Certification of Petition.

The Election Board shall review the petition for compliance with all the requirements set forth in this ordinance. The Election Board shall verify the number and genuineness of the signatures and the voting qualifications of the signers. If there are sufficient valid signatures, the tribal official meets the definition set out in Section 4.1 of this ordinance, and the other requirements of this ordinance are met, then the Election Board shall certify the petition. If there are not sufficient valid signatures, the tribal official does not meet the definition set out in Section 4.1 of this ordinance, or the other requirements of this ordinance are not met, then the Election Board shall return the petition to its sponsor with the reasons for its finding and shall also advise the Tribal Council of its action and the reasons.

4.8 Presentation of Measure to Tribal Council.

Upon certification of the petition, the Election Board shall present the petition to the Tribal Council. The Tribal Council may at its discretion consider the expulsion of the tribal official named in the petition in accordance with Section 5 of this ordinance. If the Tribal Council expels the official, no General Council election will be held.

4.9 Date of General Council Election.

In the event that the Tribal Council does not expell the tribal official a special election shall be held within 30 days of the certification of the petition; except that

if the petition is filed within six months of the next annual election, the Tribal Council may direct that the recall matter be placed on the ballot at that election instead. The decision of the Tribal Council shall be final.

4.10 Votes Required to Recall.

A majority vote of those voters actually voting shall be required for the recall of any tribal official by the General Council election.

4.11 Effective Date of Recall.

Any recall of a tribal official by General Council election shall become effective upon certification of the election results by the Election Board. The vacancy shall be filled in accordance with Article VII, Section 6 of the tribal Constitution.

SECTION 5: Expulsion

5.1 Expulsion

The Tribal Council may by a two-thirds vote of its entire membership expell a Tribal Council member for neglect of duty or gross misconduct. Expulsion shall take place only in accordance with this ordinance.

5.2 Notice

Upon the motion to expell duly made by any Tribal Council member, the Tribal Council may by majority vote adopt a resolution giving the Tribal Council member in question notice that he or she is the subject of a motion to expell, the reasons for the motion, and setting a date for a special Tribal Council meeting to consider the matter.

5.3 Opportunity to be Heard

The Tribal Council member in question shall have the opportunity and right to be heard on his own behalf at the special Tribal Council meeting set in accordance with Section 5.2. There shall be full and complete discussion of all the aspects of the charges of neglect of duty or gross misconduct prior to Tribal Council action.

5.4 Decision and Effective Date

Any Tribal Council decision to expell shall be by a vote of at least two-thirds of the total membership of the Tribal Council and shall be effective immediately.

(2) That the Tribal Council finds it in the best interest of the Tribe to waive the second reading of this amendment, and its adoption shall take effect immediately.

5.5 Right to Appeal

Any expelled Tribal Council member shall have the right to appeal to the Tribal Court. Such appeal shall be given first priority by the Court. The vacancy created by the expulsion shall not be filled until the decision of the Court. The expelled Tribal Council member may not, however, participate in Tribal Council meetings until or unless reinstated by decision of the Tribal Court.

5.6 Tribal Court Review

The Tribal Court's review shall be limited to review of whether the procedures set forth in this ordinance have been followed. The Court shall not substitute its judgment for that of the Tribal Council on the merits of the alleged neglect of duty or gross misconduct. If the Court finds that the procedures were not followed, it shall reinstate the expelled member with a statement to the Tribal Council of the procedural deficiencies.

5.7 Tribal Council Reconsideration

In the event that the Tribal Council reinstates an expelled member in accordance with Section 5.6 of this ordinance, the Tribal Council may reconsider the matter at its discretion in accordance with the procedures set forth in this ordinance.

Certification

The foregoing ordinance was adopted by the Siletz Tribal Council on February 19, 1980, at a regular meeting in Siletz, Oregon, by a vote of 9 FOR and 0 AGAINST.

Attest
/s/ Mary Alice Muncey
Mary Alice Muncey, Secretary

/s/ Arthur S. Bensell,
Arthur S. Bensell, Chairman
NOTED:
/s/ Bernard W. Topash
Bernard W. Topash
Superintendent