

Chapter 15. Tribal Council Elections
AS AMENDED

Sec. 1. Candidates.

In accordance with Article IV, Section 2 of the Constitution and Bylaws, any qualified voter of the Tribe may announce his or her candidacy by notifying the Secretary of the Tribal Council in writing of their candidacy at least 15 days prior to the election. It shall be the duty of the Secretary to post the names of all candidates who have so filed at least 10 days before the election.

Sec. 2. Eligible Voters.

In accordance with Article IV, Section 4, of the Constitution any member of the Fort McDermitt Paiute and Shoshone Tribe who is 21 years of age or over shall be entitled to vote.

Sec. 3. Election Committee; Appointment; Restrictions; Poll Watchers.

- (a) Appointment: An Election Committee consisting of five (5) tribal members shall be appointed by the Tribal Council at least four months prior to each tribal election and shall remain appointed until the next regular election in anticipation of a special election. The Election Committee shall from within elect a Chairman and Secretary. Election Committee members may be removed for cause by the Tribal Council, or voluntary relinquishment from the committee. To conduct business, three (3) members shall constitute a quorum.
- (b) Restrictions: No Tribal Council member or candidate for office shall be eligible for appointment to the election Committee.
- (c) Poll Watchers: The Tribal Council may hire poll watchers to assist the Election Committee in conducting the election.

Sec. 4. Election Committee; Duties.

- (a) Polling Place. The polling place shall be the Tribal Community Building unless otherwise posted. The polls shall be open between the hours of 7:30 a.m. to 7:00 p.m. The Tribe shall request the BIA Law Enforcement to maintain law and order for public safety at the polling site.
- (b) Equal Distribution of Duties. The Chairman of the committee shall divide the duties of the Election Committee as equally as possible between himself and other committee members.
- (c) Eligible Voters List. The Election Committee shall develop and maintain a list of eligible voters in coordination with the Tribal Enrollment Committee. The voters list shall be posted at least thirty (30) days before the election. It shall be the eligible voter's responsibility to make corrections to the listed name, inform the Election Committee and make it known on the voters list.
- (d) Preventing Vote Getting. The Election Committee and poll watchers shall take appropriate steps to prevent candidates from seeking votes from within 200 feet of the polling place while polls are open.
- (e) Voting Method. The Election Committee shall ensure that every eligible voter can cast his or her vote in secrecy and without interruption.

- (f) Decisions on Ability to Vote. The Election Committee shall decide all challenges to the right of any person to vote. The decision of the Election Committee shall be final.
- (g) Ballot Box; Security Measures; Safe keeping. The Election Committee shall secure the ballot boxes and ensure that they are empty and locked before Election Day or at least before balloting begins. The boxes shall not be opened except after the polling place is closed and centrally located for the purpose of counting ballots cast. When the ballots have been counted and the Election Committee is satisfied with its tally, voting lists, unused ballots, voided ballots, the abstract of the tally sheet, and a certificate signed by all members of the Election Committee, attesting to the results of the election, will be locked in one ballot box and secured until the next business day. Thereafter, the Chairman and Vice-Chairman shall secure the ballot box, however, the Chairman of the Election Committee shall retain the key until the next Tribal Council Meeting. At the meeting, the key shall be relinquished to the Chairman or Vice-Chairman of the Tribal Council.

Sec. 5. Tallying the Votes.

Under observation of the election monitor and at the close of polls, the Election Committee Chairman shall unlock the ballot box, remove the ballots and read the votes cast for the tally. Following the tally, the results may be cross-checked if necessary. The candidates with the highest number of votes shall be declared election winners for the appointed vacancies. The results shall be certified by the Election Committee by signing their signatures thereto and a copy shall be posted as an unofficial results record. In the case of a tie, there shall be a recount, and if a tie still exists, a drawing of a playing card will be conducted. The candidate drawing the highest card shall be declared the tie winner.

Sec. 6. Administration of Election Day.

- (a) Election Dates. In accordance with the Constitution, the election for ending Tribal Council positions shall be held every two years on the second Saturday in November.
- (b) Election Notices. The Tribal Council shall call the tribal election at least forty-five (45) days before the election. The election Committee shall post the Election Notice at least thirty-five (35) days before the election, at prominent places on the Fort McDermitt reservation and Winnemucca Indian Colony.

Sec. 7. Ballot; Form.

The election ballots shall be developed by the Election Committee, printed, and pre-numbered starting with the number 1. The candidates shall be listed in the order in which their nominations were received by the Secretary of the Tribal Council as demonstrated by a date and time stamp. All ballots shall be recorded and maintained on a log sheet developed by the Election Committee.

Sec. 8. Method of Casting Vote.

Each prospective voter, after being identified as an eligible voter shall be handed an unused ballot by a member of the Election Committee and shall sign his name to the eligible voters list to acknowledge that he or she has received the ballot. After making the appropriate mark opposite the name of the candidate voted for, the voter shall fold the ballot to hide his votes and he or she shall personally deposit his or her vote into the ballot box.

If the voter “spoils” or otherwise renders a ballot void or voidable, the spoiled ballot shall be appropriately marked and another issued to the voter. Spoiled ballots shall also be deposited in the ballot box and tallied.

All unused ballots shall be placed in an envelope marked “UNUSED BALLOTS” and locked in the ballot box after the votes have been tallied.

All ballots not marked, e.g., more votes were cast than the voter could cast, the ballot shall be marked “REJECTED”.

Sec. 9. Absentee Voting.

- (a) Eligible voters may request an absentee ballot if they will be absent from the reservation due to illness, education, military, or living off the reservation.
- (b) The deadline for requesting an absentee ballot shall be at least fifteen (15) days before the election, and the deadline for receiving absentee ballots shall be the day before the scheduled tribal election.
- (c) No faxed ballots shall be allowed or accepted because of the pre-numbered process. If a faxed ballot is received, it will be considered spoiled and not counted.
- (d) Absentee ballots shall be counted and tallied in the same manner as regular votes cast.
- (e) Absentee ballots cast shall be returned in an outer envelope that has the voter’s address, and post-mark. There will be an inner envelope marked “Absentee Ballot” that includes the sealed absentee ballot. Prior to the count, all absentee ballots shall be removed from their envelopes, the assigned numbers cut so as to keep the voter’s choices confidential and placed with the regular ballots.

Sec. 10. Canvass.

Article III, Section 2, of the Bylaws reads, “all tribal elections for officers shall be canvassed and certified by the council or a board appointed by it. No candidate shall be considered legally elected, nor hold office until such canvass and certification shall have been made by the council within 5 days after the election.” The Tribal Council shall be the authority to canvass the tribal election after receiving the results from the Tribal Election Committee and certify by tribal resolution that the election process is completed. The certification shall be transmitted to the Bureau of Indian Affairs for proper recognition of the Tribal Council.

Sec. 11. Contesting Election Results; Method.

Within three (3) days after the election results are posted, any eligible voter may file a written challenge to the election process if they have a factual and/or legal basis. The challenge shall be submitted to the Secretary of the Tribal Council who shall notify and transmit copies of the challenge to the Tribal Chairman who shall call a special meeting of the Tribal Council within four (4) days after receipt of the first challenge. The decision of the Tribal Council shall be final.

Sec. 12. Contesting Election Results; Grounds.

The grounds for contesting a Tribal Council election shall be:

- (a) Misconduct by Election Committee member.
- (b) Person not eligible to assume office.
- (c) Giving or receiving a bribe.

- (d) Giving reward for casting vote.
- (e) Preventing a person to vote.
- (f) Casting illegal votes.
- (g) Erroneous counting of ballots.

Sec. 13. Contesting Election Results; Form.

A statement shall be prepared advising the following:

- (a) Name of the party contesting the election.
- (b) Name of candidate whose right to hold office is contested.
- (c) Grounds for contest.
- (d) Election Board will prepare format for contesting election.
- (e) Written contests shall be submitted to the Election Committee and no faxed contests will be accepted.

Sec. 14. Declaration by Tribal Council.

If the election results are uncontested or all challenges have been reviewed and addressed, the Tribal Council shall declare the names of the person elected publicly in order of the highest number of votes obtained.

Sec. 15. Authority of BIA Employees During Elections.

Per policy statement of the Bureau of Indian Affairs issued by the Assistant Secretary-Indian Affairs, BIA employees shall only provide assistance to Tribes during elections and shall not interfere in the election process.

Sec. 16. Definitions.

- (a) "Days", as used in this chapter, means regular work days, Holidays and weekend days are not counted.
- (b) "Constitution and Bylaws", as used in this chapter, means the Constitution and Bylaws of the Fort McDermitt Paiute-Shoshone Tribe of Nevada.
- (c) "Spoiled Ballot" means a ballot that is found to be unreadable, where the voter's choice of candidates cannot be determined, a voter has marked the ballot with remarks, and the ballot marks are inconsistent with instructions provided. This includes all ballots that are cast at the polls or sent by absentee. When a voter notifies the Election Committee that a mistake was made, a new ballot may be issued based on a determination of the Election Committee. Spoiled ballots are not counted towards the election results and are placed into an envelope marked "Spoiled Ballots".