

**Washoe Tribe of Nevada and California**  
**Law & Order Code**

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**TITLE 20 – ELECTION PROCEEDINGS**

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*[Last Amended on 3/11/2022, Resolution No. 2022-03-WTC-071]*

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# Washoe Tribe of Nevada and California

## Law & Order Code

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### TITLE 20 – ELECTION PROCEEDINGS

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*[Last Amended on 3/11/2022, Resolution No. 2022-03-WTC-071]*

#### **20-10 GENERAL PROVISIONS**

##### **20-10-010 Short Title**

This Title is known and may be cited as Election Proceedings.

*[Enacted 8/8/97, Resolution No. 97-WTC-54.]*

##### **20-10-020 General Objectives**

General objectives of this Title:

1. To promote the consistent and dependable operation of the Washoe Tribal Government. A smooth transition from incumbent Council members and administration to newly elected Tribal officials is critical and essential.
2. To ensure a smooth transition, the Tribal election for Council members must be fair, honest and proper. Procedures and time lines for handling any challenges regarding elections must be clear, uncomplicated and designed to resolve disputes in a timely and efficient manner in conformity with the Indian Civil Rights Act of 1968 and the Constitution and Bylaws of the Washoe Tribe of Nevada and California.
3. To implement the guidance necessary to prevent problems encountered in past elections and to serve as a means of providing Tribal members with their constitutional right to due process for addressing legitimate election concerns while at the same time protecting properly elected Tribal Council members from frivolous accusations.

*[Enacted 8/8/97, Resolution No. 97-WTC-54.]*

##### **20-10-030 Rights Acquired under Previous Enactments**

Nothing in this Title shall in any way interfere or affect the rights accruing to any individual obtained from the Constitution and Bylaws of the Washoe Tribe of Nevada and California. Any rights obtained from previous Resolutions, Ordinances or other Tribal actions heretofore adopted by the Washoe Tribal Council shall remain enforceable unless such rights are expressly so amended or repealed by this Title. Ordinance No. XII (Election Ordinance) and Resolution No. 92-W-OI amending Ordinance No. XII are hereby expressly repealed.

*[Enacted 8/8/97, Resolution No. 97-WTC-54.]*

**20-10-040 Choice of Law; Order of Preference**

1. In any hearing or procedure before the Washoe Tribal Council, Election Board, other Tribal administrative body, or Tribal Court regarding the subject matter of this Title or the interpretation of rights and responsibilities arising there from, the following order of preference shall be applied:
  - (a) Constitution and Bylaws of the Washoe Tribe of Nevada and California,
  - (b) Title 20, “Election Proceedings”
  - (c) Washoe traditional law.
2. If no Tribal written law, legal opinions or Tribal traditional law exists, the Washoe Tribal Council, Election Board, Tribal administrative body or Tribal Court involved in any proceeding regarding the subject matter of this Title may turn to applicable Federal statutes, regulations or case law for guidance.
3. Nevada state law may be used for guidance only in the absence of applicable Tribal and Federal law.
4. The application of Federal and Nevada State law shall be strictly discretionary.

*[Enacted 8/8/97, Resolution No. 97-WTC-54.]*

**20-10-050 Scope; Jurisdiction; Reserved Powers**

1. All elections of the Washoe Tribe of Nevada and California, where Tribal members are to be elected for a term of office to positions on individual Washoe community councils, Washoe Tribal Council, to the position of the Washoe Tribal Chair, or any subsequent recall elections of such members, are to be conducted pursuant to the provisions and restrictions found within the Tribal Constitution and Bylaws and this Title or any regulations enacted thereto.
2. The civil and criminal jurisdiction of the Washoe Tribe of Nevada and California, any political subdivision or administrative body thereof, and the Trial and Appellate Courts of the Tribe, shall cover, extend and apply to all subject matter contained within this Title and any regulations enacted thereto, including violations thereof, by any “person”, defined in Section 20-10-060(23), having an interest or connection to Washoe Tribal elections conducted within the exterior boundaries of the Washoe Reservation or on any other land or property owned or controlled by the Tribe including adjacent, dependent Indian communities.
3. The Tribe is obligated to adhere to this Title, however, nothing herein shall limit the inherent powers of the Tribe to resolve any issues not otherwise governed or addressed herein, including the power to amend this Title.

*[Enacted 8/8/97, Resolution No. 97-WTC-54.]*

**20-10-060 Definitions**

1. Abstract – a summary of election results prepared by the Election Board after the canvass of votes.

2. Alternates – those persons appointed by the Tribal Council to assist and take over the duties, responsibilities and authorities of a regular Election Board Member when such Board Member is absent.
3. Ballot – that official document, developed and consecutively numbered by the Election Board, which is used in elections to memorialize votes cast by individual Tribal members and which contains the information needed by a voter to make an informed selection of the candidate of the voter's choice.
4. Ballot Box – a container used to receive ballots cast at a polling place and to transport and hold such ballots secure.
5. Candidate – a person who applies and is determined eligible to run for a public office of the Washoe Tribe or any of its communities.
6. Canvass – the process of examining and counting the returns of votes cast during Tribal elections in order to determine voting authenticity and election legitimacy.
7. Certify or Certification – to authenticate or vouch for the truth of what is being done or represented or the authentication or voucher thereof.
8. Community or Colony – Carson Colony; Dresslerville Community; Stewart Community; in Alpine County, California, the Woodfords Community, which includes the communities of Fredricksburg, Paynesville, Diamond Valley, and the Dutch Valley area; and the Reno- Sparks Indian Colony.
9. Colony or Community Council – those governing bodies elected by individual Washoe communities to control the local affairs of their respective communities.
10. Conflict of Interest – a situation in which regard for one duty leads to disregard of another such as when a candidate for public office is related to an Election Board Member or the Tribal secretary by blood or marriage in the first degree.
11. Days – a specified number of calendar days, the calculation of which shall include Saturdays, Sundays and legal holidays. In computing any period of time designated in this Title, the day of the act or event after which the period of time is to begin to run is not included in the computation. The final day of the time period so computed shall be included. Should the final day calculated fall on a Saturday, Sunday or legal holiday, then the final day shall be the next working weekday following the final day as calculated. If this Title specifies a number of days of five (5) or below, then the calculation thereof shall not include Saturdays, Sundays or legal holidays.
12. Election Board – body created by this Title and appointed by the Tribal Council after recommendation from Washoe Community and Colony Councils, including the off-reservation representatives, which maintains the responsibility to oversee and determine all issues stemming from Tribal elections.
13. Electioneering – the influencing of voters in any form or manner by way of campaign or otherwise on the day of an election.

14. Election Returns – the official results of an election.
15. Eligible Candidates – those persons meeting Constitutional, statutory and regulatory criteria to become qualified to legally run for office in any Tribal election, such qualifications for candidacy to be determined by the Secretary of the Election Board, or in an action before the Election Board, by the Election Board itself.
16. Eligible Voters – those persons meeting Constitutional, statutory and regulatory criteria which qualify them to vote in any Tribal election, such qualifications to be determined by the Secretary of the Election Board, or in an action before the Election Board, by the Election Board itself.
17. First Degree Relation – one’s parents, children, spouse, or sibling, including adopted children and siblings.
18. Handicapped – unable to read or physically mark the ballot or unable to physically enter the voting booth without assistance.
19. Invalid Ballot – all ballots that were properly cast, but contained in a ballot box which was improperly sealed after the closing of the polls.
20. Judge – the ability and authority of an Election Board Member or alternate to determine issues which arise in any particular polling place which the Election Board Member or alternate has control over during the course of an election day.
21. Loitering – lingering around the designated voting area following voting or when a person is not eligible to vote.
22. Member – a person legally accepted by the Washoe Tribe of Nevada and California to participate in the Tribe’s government and assets, along with the acceptance by such individual of the responsibilities of being a citizen of the Washoe Tribe.
23. Nomination – the filing of a Standard Candidate Application form by a Tribal member declaring such Tribal member’s intent to run for a particular office or council position during Tribal elections.
24. Notice – an oral or written communication given, without proof of receipt, to the person to be notified concerning a past or future event.
25. Off-Reservation Member – a member of the Washoe Tribe who has not established residency in any of the Washoe Colonies and Communities.
26. Person – a Tribal member or any other individual the Election Board or the Tribal Council recognizes.
27. Polling Place – a physical location identified by the Election Board prior to an election whereby Tribal members may go to cast their votes in a Tribal election.
28. Poll-Watchers – those persons named by the Tribal Council to assist individual Election Board Members and alternates in their duties to operate polling places in a fair, responsible and legal manner.

29. Recall – the process or election by which Tribal members determine whether to remove an elected official from public office, authority or duty.
30. Rejected Ballot – a cast ballot in which the intent of the voter is unclear due to illegible markings, smears or other errors.
31. Residency – the declaration and intent by a Tribal member to live in only one of the Tribe’s communities permanently as manifest by the Tribal member’s continuous physical presence in that community for at least six continuous months immediately prior to the election. Consistent with Section 20-40-020 of this Title, residency status may be retained during some temporary absences.
32. Secretary – secretary of the Election Board, elected by the Election Board.
33. Special Election – an election held because of the invalidation of a ballot box or as a remedy to a contested election.
34. Special Notice – a written communication served upon the person to be notified either personally or by certified mail, return receipt requested.
35. Spoiled Ballot – a ballot that was ruined by the voter and was discarded before providing the voter with a new, unused ballot.
36. Standing – the issue of whether an aggrieved person who has been directly injured by official action or inaction is the proper party to bring a contest action because such party was personally and adversely affected.
37. Tribal Council – the governing body of the Washoe Tribe of Nevada and California.
38. Tribal Secretary-Treasurer – the secretary-treasurer of the Washoe Tribal Council, appointed by the Tribal Council.
39. Tribe – the Washoe Tribe of Nevada and California.
40. Unused Ballot – a blank ballot which is handed to each voter after being identified at the polls.
41. Voter – a person determined to be eligible to vote in Tribal elections.
42. Washoe Reservation – the lands held in trust by the Federal Government for the benefit of the Washoe Tribe and Tribal members.

*[Enacted 8/8/97, Resolution No. 97-WTC-54; Amended 9/4/02, Resolution No. 91-WTC-2002; Amended 9/17/02, Resolution No. 101-WTC-2002; Amended 5/16/06, Resolution No. 2006-WTC-52.]*

## **20-20 CANDIDATES**

### **20-20-010 Nominations; Fees; Eligibility Determinations**

Any person declaring candidacy for the Tribal Chair position, for a position on a respective Washoe Community Council, for the Reno-Sparks Tribal Council position, or for one of the two off-Reservation Tribal Council positions, shall become a candidate pursuant to the following:

1. Completion of the Standard Candidate Application Form, and submission to the Secretary at least seventy-five (75) days prior to the date of the election.
  - (a) All candidate applications must be received and postmarked by the Secretary by 5:00 o'clock p.m. on the final day the candidate applications are due.
  - (b) No person failing to meet this application deadline date and time shall be eligible to become a candidate for any office.
  - (c) Within two (2) days of the deadline for receipt of candidate applications, the Secretary shall date and post a "Preliminary Candidacy List" of the names of all applicants and their respective offices, at various convenient and accessible locations.
    - (i) The list shall notify the Tribal membership of a ten (10) day deadline from the posting date to file a challenge with the Secretary.
    - (ii) Should a person named on the preliminary list be deemed ineligible by the Secretary and consequently be in the process of challenging the Secretary's determination of ineligibility before the Election Board or Tribal Court, that applicant's name on the list shall be referenced by an asterisk (\*) denoting "Eligibility Determination Pending."
2. Payment of a one-time non-refundable processing fee at the time of submittal of the Standard Candidate Application Form. The processing fee for any person declaring candidacy for the Tribal Chair position shall be one-hundred dollars (\$100). The processing fee for any person declaring candidacy for a position on a respective Washoe Community Council, for the Reno-Sparks Tribal Council position, or for one of the two Off-Reservation Tribal Council positions shall be fifty dollars (\$50). Payments must be made payable to the Washoe Tribe Election Board, which shall provide a receipt to the applicant.
  - (a) The Secretary shall make an accounting of all funds so received to the Election Board at least fifteen (15) days prior to the election.
  - (b) The fees collected shall be deposited pursuant to normal Tribal procedures, but all fees collected shall be at the disposal of the Election Board to offset the costs of the election.
3. The Secretary shall conduct a background check to determine eligibility on all applicants within two (2) days after the application deadline.
  - (a) This determination shall be based upon date and time application deadlines, membership, age, residency, or other applicable criteria.
  - (b) Within this two (2) day deadline, the Secretary shall mail special notice to each applicant in writing of the results of the background check.
  - (c) For those applicants determined to be ineligible, the Secretary shall provide reasons for the determination. Following the deadline for Tribal members to file challenges to a candidate's eligibility, as per Section 20-20-020, the Secretary shall provide the challenged candidate with notice via U.S. Postal

Service overnight mail of the date, place, and time the Election Board will convene to hear any applicant's objections. Such hearings will be scheduled at the same time as any hearings regarding challenges by Tribal members.

- (d) This notification shall be delivered at least three (3) days prior to the day of the hearing and shall specify that an applicant may be represented by a person of his or her choice and may bring any witnesses or evidence the applicant believes will assist the Election Board in its decision.
4. Within ten (10) days, after the candidacy application deadline, the Election Board shall convene to hear applicant objections to determinations of ineligibility.
    - (a) The Secretary shall present the criteria and reasons why ineligibility was determined.
    - (b) The applicant shall present any arguments, witnesses, or evidence that is helpful to determine eligibility.
    - (c) The Election Board's deliberations shall be held in open session unless the applicant requests the deliberations be closed.
    - (d) The applicant and representative may remain to hear the Election Board's deliberations if the Election Board closes the deliberations to the public.
  5. The Election Board's decision shall be by majority vote based upon all criteria presented.
    - (a) If the Election Board needs time to gather additional information, it may reconvene not more than five (5) days after the initial hearing.
    - (b) The Secretary shall not be allowed to vote in the Election Board's decision.
  6. The Election Board's decision on eligibility, after the hearing and deliberations, shall be final. The applicant may not appeal to the Tribal Court on the merits of the Election Board's decision, but may bring questions of due process before the Tribal Court:
    - (a) The Tribal Court may hold an expedited hearing on the issue of due process, but under no circumstances may the Tribal Court enjoin the Washoe Tribe, the Election Board, the Tribal Council, or any member thereof, from holding the election on the scheduled date.
    - (b) If the Tribal Court can convene an expedited hearing and decide the issue of due process in time to sufficiently allow the Election Board to implement the Court's decision regarding due process before the date of the election, the Tribal Court may proceed to hear and make a binding decision thereon.
    - (c) Should time be insufficient to hear the matter before the election, the Court may proceed to hear the case, the decision of which, shall be binding upon all future elections.
  7. Under no circumstances shall an appeal on the merits or on matters of due process surrounding the Election Board's actions or decisions regarding the

determination of eligibility of candidates be made to the Tribal Council. The Tribal Council is without jurisdiction and authority to decide, convene a hearing, stop or otherwise impede any scheduled election based upon the Election Board's determination on candidacy eligibility.

8. When all challenges as to eligibility have been determined, but no later than thirty (30) days before the election, the Secretary shall date and post a "Final Candidacy List" to replace the "Preliminary" list.
9. If the "Final Candidacy List" has not been prepared by the time that ballots must be printed, the Secretary shall include on the ballots the names of all candidates contained on the "Preliminary Candidacy List," including the names of those applicants whose eligibility for candidacy is still being determined.
  - (a) The Secretary shall include, either on the ballots or in an accompanying document, instructions that voters shall prioritize their votes by indicating their first choice, second choice, etc. for those positions with candidates whose eligibility determination is pending.
  - (b) When the "Final Candidacy List" is determined and the ballots are canvassed, the Secretary shall mark the ineligible candidate(s) off the ballot with the next highest ranked candidate on the ballot receiving the voter's vote.

*[Enacted 8/8/97, Resolution No. 97-WTC-54; Amended 5/16/06, Resolution No. 2006-WTC-52; Amended 3/11/22, Resolution No. 2022-03-WTC-063 & Resolution No. 2022-03-WTC-064.]*

## **20-20-020 Tribal Member Challenges to Candidates**

1. Within ten (10) days of the posting of the "Preliminary Candidacy Lists," as noticed, any member of the Washoe Tribe may challenge the eligibility of an applicant named on the list. The challenge must state the reasons upon which the challenge is based.
  - (a) Any challenges received after this deadline shall not be heard by the Election Board, Tribal Court, or Tribal Council.
  - (b) On the date of receipt of an eligibility challenge to a candidate from a Tribal member, the Secretary shall provide the challenged candidate and the challenger with notice via U.S. Postal Service overnight mail of the date, place, and time the Election Board will convene to hear the challenge. Such hearings will be scheduled at the same time as any hearings regarding determinations of ineligibility by the Secretary, as per Section 20-20-010. The notice to the challenged candidate shall state the reasons for the challenge.
  - (c) This notification shall be delivered at least three (3) days prior to the day of the hearing and shall specify that both the challenged candidate and the challenger may be represented by a person of their choice and may bring any witnesses or evidence they believe will assist the Election Board in its decision.

- (d) The Election Board shall convene a hearing on all challenges no later than five (5) days after the final day when challenges to candidates are to be submitted.
2. During a hearing regarding any Tribal member's challenge to a candidate, the Secretary, challenger, and challenged candidate shall be given the opportunity to make presentations to the Election Board. The challenger and candidate may be represented by a person of their choice and may present any witnesses, evidence, or arguments supporting their positions.
  3. After hearing the parties, and on the same day of the hearing, the Election Board shall openly deliberate and make a decision, by majority vote, on the eligibility of the challenged candidate.
    - (a) The Secretary may not vote in the Election Board's decision.
    - (b) The decision of the Election Board is final both on the merits of the challenge and on any due process issue.

*[Enacted 8/8/97, Resolution No. 97-WTC-54; Amended 5/16/06, Resolution No. 2006-WTC-52.]*

**20-20-030 Community Council Composition; Eligibility**

1. A maximum of five individuals shall be elected to serve on each of the four respective Community Councils consisting of Carson, Dresslerville, Woodfords and Stewart.
2. To be eligible for candidacy for a vacant seat, an applicant must:
  - (a) Be a member of the Washoe Tribe with membership validated by the Washoe Tribal Enrollment office;
  - (b) Be twenty-one (21) years of age or older; and (c) Be a resident of the Colony or Community for which that person wants to be elected.

*[Enacted 8/8/97, Resolution No. 97-WTC-54.]*

**20-20-040 Reno-Sparks Candidate's Eligibility**

Any member of the Washoe Tribe who resides on the Reno-Sparks Indian Colony is eligible to become a candidate, for the sole representative position on the Washoe Tribal Council created for the Reno-Sparks Colony if:

1. Membership is validated by the Washoe Tribal Enrollment office;
2. The member is twenty-one (21) years of age or older.

*[Enacted 8/8/97, Resolution No. 97-WTC-54.]*

**20-20-050 Off-Reservation Representative Candidate's Eligibility**

Any member of the Washoe Tribe is eligible to become a candidate as one (1) of two (2) off-Reservation representatives on the Washoe Tribal Council if:

1. Membership is validated by the Washoe Tribal Enrollment office;

2. The member is twenty-one (21) years of age or older; and
3. The member is not a resident of one of the Washoe Communities or Colonies, or the Reno-Sparks Indian Colony.

*[Enacted 8/8/97, Resolution No. 97-WTC-54.]*

**20-20-060 Tribal Chairperson Candidate’s Eligibility; Elected at Large**

1. Any member of the Washoe Tribe is eligible to become a candidate for Tribal Chairperson of the Washoe Tribe if:
  - (a) Membership is validated by the Washoe Tribal Enrollment office;
  - (b) The member is twenty-one (21) years of age or older; and
  - (c) The member is not a candidate for office for one of the Washoe Community Councils, the Reno-Sparks Indian Colony Tribal Council representative, or the off-Reservation Tribal council representatives.
2. The Tribal Chairperson is elected at large by eligible voters of the Washoe Tribe during the general election.

*[Enacted 8/8/97, Resolution No. 97-WTC-54.]*

**20-30 TRIBAL COUNCIL MEMBERSHIP**

**20-30-010 Composition**

The Washoe Tribal Council shall consist of twelve (12) Tribal members who shall each be at least twenty-one (21) years of age or older.

*[Enacted 8/8/97, Resolution No. 97-WTC-54.]*

**20-30-020 Selection**

1. Within thirty (30) days from the date of the General Election for Community Council members, each Community Council shall select and send two members from among its own respective Council membership, to be seated on, and represent their respective Council on, the Washoe Tribal Council.
2. The Reno-Sparks Indian Colony may elect one Tribal member to be its representative on the Tribal Council during the Washoe Tribe’s General Election.
3. During the General Election, the total eligible voters may elect two Tribal members, possessing off-Reservation residencies, to serve on the Tribal Council as the off-Reservation Council representatives.
4. The twelfth and final member of the Washoe Tribal Council shall be the Tribal Chairman, who shall be elected at large by the Tribal membership during the General Election.

*[Enacted 8/8/97, Resolution No. 97-WTC-54.]*

**20-40 ELIGIBLE VOTERS****20-40-010 Voter Eligibility in General**

In all Tribal elections, any person is eligible to vote, regardless of residency (including incarceration in a Federal, State or Tribal facility) who:

1. Is a member of the Washoe Tribe with membership validated by the Washoe Tribal Enrollment office;
2. Is twenty-one (21) years of age or older.

*[Enacted 8/8/97, Resolution No. 97-WTC-54; Amended 9/4/02, Resolution No. 91-WTC-2002.]*

**20-40-020 Qualifications for Colony and Community Elections; Residency**

1. To qualify for colony and community elections, Tribal members who qualify under Section 20-40-010 above, must also establish residency as defined under Section 20-10-060(29) in the Washoe Community or Colony in which they intend to vote.
2. A Tribal member who has established residency in a Washoe Colony or Community retains residency status therein for temporary absences for purposes such as employment, education, military service, incarceration, illness or physical disability.
3. A Tribal member who has established residency in a Washoe Colony or Community loses residency status therein when:
  - (a) His or her employment results in an absence of more than six (6) continuous months out of the previous twelve (12) months, or
  - (b) The member, who is temporarily absent because of education, military service, incarceration, illness or physical condition but fails to notify the Secretary of the Election Board in writing of his or her status and his or her intent to vote in their home community at least thirty (30) days prior to the election.
4. Off-reservation Tribal members shall not be eligible to vote in Colony or Community elections, but shall remain eligible to vote for Tribal Chairman and off-reservation representatives.

*[Enacted 8/8/97, Resolution No. 97-WTC-54; Amended 9/17/02, Resolution No. 101-WTC-2002.]*

**20-40-030 Eligible Voters List; Preparation; Publication; Challenges**

1. The Community representatives on the Election Board shall be responsible for maintaining an Eligible Voters List of all Tribal members who are eligible to vote in their community and shall submit this list to the Secretary of the Election Board.
2. No Tribal member eligible to vote in a community shall be permitted to vote unless his or her name appears on the Eligible Voters List.

3. The preliminary Eligible Voters List shall be posted at the polling places by the Election Board at least thirty-five (35) days prior to the date of election.
4. Any adult member of the Tribe whose name has been omitted from the Eligible Voters List may appeal in writing to the Election Board seven (7) days after the Eligible Voters List has been posted.
5. Any adult member of the Tribe may protest any name appearing on the Eligible Voters List where eligibility is in question by appealing in writing to the Election Board by 5:00 p.m., seven (7) days after the Eligible Voters List has been posted. Those members found to be considered Off-reservation eligible voters, will be mailed an absentee ballot at the same time the resident Tribal members absentee ballots are mailed.
6. All appeals and protests shall be decided upon by the Election Board and shall be final.
7. A final Eligible Voters List, incorporating any and all final decisions of the Election Board regarding appeals and protests, shall be posted three (3) days prior to the election. All members on the final Eligible Voters List shall be deemed to be registered voters for that election.

*[Enacted 8/8/97, Resolution No. 97-WTC-54; Amended 9/4/02, Resolution No. 91-WTC-2002; Amended 9/17/02, Resolution No. 101-WTC-2002; Amended 5/16/06, Resolution No. 2006-WTC-52; Amended 8/7/2018, Resolution No. 2018-08-WTC-074; Amended 3/11/22, Resolution No. 2022-03-WTC-065.]*

## **20-50 ELECTION BOARD**

### **20-50-010 Composition**

The Election Board shall consist of six (6) Washoe members with a representative from each of the five Washoe Colonies and Communities, and one representative from the off-reservation Tribal membership.

*[Enacted 8/8/97, Resolution No. 97-WTC-54.]*

### **20-50-020 Appointment; Staggered Terms**

1. To be appointed a member of the Election Board by the Tribal Council, a person must:
  - (a) Be a member of the Washoe Tribe;
  - (b) Be twenty-one (21) years of age or older; and
  - (c) Be recommended by the representative of the Washoe Community or Colony Council where the appointee resides or by the off- reservation representative if the appointee resides off- reservation.
2. Members of the Election Board shall each serve eight (8) year terms after the initial appointment of the Board by the Tribal Council.
3. To create staggered terms between the Board Members, three of the six initial

appointments shall only serve a four (4) year term, the Tribal Council to determine which three Board Members are to serve the four year term. Thereafter, the Tribal Council shall appoint three Election Board Members every four years.

4. The Tribal Council shall appoint Election Board Members, Alternates and Poll Watchers within two months after the regular Tribal elections every four years.

*[Enacted 8/8/97, Resolution No. 97-WTC-54.]*

#### **20-50-30 Alternates; Poll Watchers**

1. The Tribal Council shall select six (6) alternates and six (6) poll watchers to assist the Election Board in its duties and in conducting elections.
2. The poll watchers and alternates shall serve the same length of period as regular Election Board Members and shall be appointed by the Washoe Tribal Council in the same term as the regular Election Board Members.

*[Enacted 8/8/97, Resolution No. 97-WTC-54.]*

#### **20-50-040 Removal; Conflicts of Interest; and Resignations**

1. Election Board Members, alternates and poll watchers shall be removed from office by the Tribal Council only upon recommendation from their respective Washoe Community or Colony Council.
2. The off-reservation Election Board Member and alternate may be removed by the Tribal Council.
3. No Tribal Council member or candidate for office shall be eligible for appointment to the Election Board.
4. When a conflict of interest arises whereby a candidate for office is related to an Election Board Member by blood or marriage in the first degree, that Board Member shall not participate in conducting that Election or being a judge at the designated polling place. Rather, the alternate to the Election Board Member shall take over the Board Member's duties and authority at the polling place and during any meeting of the Board whereby a decision on an issue of the election is being made.
5. When both a Board Member and the Alternate are disqualified because of a conflict of interest, as provided in subsection 4 above, the Election Board shall appoint an alternate from another community to serve in the place of the disqualified Board Member for that election. The disqualified Board Members shall resume their Board duties for ensuing elections.
6. When a conflict of interest arises whereby a candidate for office is related to a Poll Watcher by blood or marriage in the first degree, that Poll Watcher shall not serve at the polling place of the community where the conflict arises, and the Election Board shall require that the conflicted Poll Watcher serve at the polling place of another community and that one of the Poll Watchers from that community serve in the original polling place of the conflicted Poll Watcher.

Where a Poll Watcher is related by blood or marriage in the first degree to a candidate for an at large position, the Poll Watcher shall be removed and the Washoe Tribal Council shall appoint an alternative Poll Watcher to serve in that election.

7. When an Election Board Member resigns the Election Board Alternate shall serve the remainder of the Board Member's term, and the Washoe Tribal Council shall appoint a new Alternate to serve the remainder of that same term. When a Poll Watcher resigns, the Washoe Tribal Council shall appoint an interim Poll Watcher to serve the remainder of the Poll Watcher's term.

*[Enacted 8/8/97, Resolution No. 97-WTC-54; Amended 9/4/02, Resolution No. 91-WTC-2002.]*

## **20-50-050 Duties**

1. The Election Board as a whole shall have the following duties:
  - (a) Establish internal governing rules and select officers necessary to fulfill the duties of the Election Board as set forth herein;
  - (b) Determine all issues falling under its authority and jurisdiction as set forth herein;
  - (c) Select and confirm the sites of the polling places;
  - (d) Provide for the safekeeping of ballots and the ballot boxes for canvass after the election;
  - (e) Open and close the polls and ensure that the ballot boxes are empty and locked before balloting begins;
  - (f) Develop, for Tribal Council review and approval, any regulations needed to implement this Title; and
  - (g) Conduct all other responsibilities delineated by this Title.
2. Each Election Board Member shall perform the following duties at his or her respective colony or community, and shall be considered the sole judge as to resolving any issues arising hereunder:
  - (a) Oversee the voting at the polling place permitting only those individuals named on the Eligible Voters List or the Off- Reservation Registered Voters List to vote;
  - (b) Ensure that there is no electioneering within one-hundred (100) feet of the polling place while the polls are open;
  - (c) Check off each voter's name from the Eligible Voters List or the Off-Reservation Registered Voters List and have the voter sign in on the signature line prior to receiving a ballot. The Board Member is to keep a separate voter list on those Tribal members voting with an Alternate or poll watcher cross checking the Board Member's tally for accuracy;
  - (d) Ensure that each voter is permitted to mark the ballot in private;

- (e) Permit a handicapped person to have the assistance of a person of his or her choice; and
- (f) Maintain order at the polling place, including, but not limited to:
  - (i) Ensuring that there is no loitering within the voting area designated by the Election Board Members at the polling place, such area to be no greater than within one-hundred (100) feet of the polling place, while the polls are open and during such time thereafter while Election Board Members are carrying out their duties; and
  - (ii) Ensuring that only eligible voters and accompanying minors, or someone assisting an elder in need of such assistance, are in the voter line.
- 3. The decision of the Election Board Member as to the resolution of any issue raised in performance of the responsibilities above shall be deemed final for the day on which the Board Member makes the decision.
- 4. Review of Board Member decisions at the respective polling places can only be reviewed pursuant to the provisions of this Title dealing with contest actions.
- 5. Alternates to Election Board Members shall have the same functions, duties, responsibilities and authority that Board Members have when the Alternate is required to replace a Board Member.
  - (a) With the approval of the Board, an Alternate's replacement of a Board Member can be either at Election Board meetings or during elections at the polling places;
  - (b) Alternates are required to attend all meetings of the Election Board;
  - (c) Alternates cannot vote at any meeting if their respective Board Member is present; otherwise, Alternates can vote as a full-fledged Board Member;
  - (d) Alternates can hold any office created by the Board and to which he or she is appointed.
- 6. Poll watchers shall be present during the elections and upon the Board's request for any meetings. The duties of the poll watchers are to help maintain order and give assistance at the designated polling places. The Board may clarify or assign other duties to poll watchers as deemed appropriate. Alternates do not replace poll watchers on the day of any election.
- 7. At least one member of the Election Board, his or her alternate, and a poll watcher shall be present at each polling place during the hours the polling places are open for voting.

*[Enacted 8/8/97, Resolution No. 97-WTC-54; Amended 9/4/02, Resolution No. 91-WTC-2002; Amended 5/16/06, Resolution No. 2006-WTC-52.]*

## **20-50-060 Per Diem**

Each Election Board Member, Alternate and the Tribal Secretary/Treasurer shall be paid \$100 and mileage for attending each Board meeting and \$250 and mileage

for monitoring polling places during each election day. Poll Watchers are entitled to the same remuneration when their presence at a meeting or election is required by the Board. Reimbursement for mileage will be computed according to the Government Service Administration rate.

*[Enacted 8/8/97, Resolution No. 97-WTC-54; Amended 9/4/02, Resolution No. 91-WTC-2002; Amended 11/19/05, Resolution No. 116-WTC-2005; Amended 7/13/2018, Resolution No. 2018-07-WTC-061.]*

#### **20-50-070 Advisory Capacity of Tribal Secretary/Treasurer**

Unless requested for assistance by the Election Board, the Tribal Secretary/Treasurer, defined in Section 20-10-060(29), shall serve only as an advisor to the Election Board and shall not be a voting member. The Tribal Secretary/Treasurer shall be required to attend all meetings of the Election Board and shall help in coordinating the functions and directives of the Board pursuant to this Title and any election process.

*[Enacted 8/8/97, Resolution No. 97-WTC-54; Amended 9/4/02, Resolution No. 91-WTC-2002.]*

### **20-60 ELECTIONS**

#### **20-60-010 Election Dates**

The election for Community and Tribal Councils shall be on the third (3rd) Saturday of October as mandated by the Constitution.

*[Enacted 8/8/97, Resolution No. 97-WTC-54.]*

#### **20-60-020 Election Notice**

All elections shall be announced by the Secretary of the Election Board posting an official notification at least forty-five (45) days prior to the election. The notice shall be posted in public places which are accessible and convenient for members of the Tribe to see or posted in a manner otherwise conducive to the applicable community standards by taking into account the visibility of each location.

*[Enacted 8/8/97, Resolution No. 97-WTC-54; Amended 9/4/02, Resolution No. 91-WTC-2002.]*

#### **20-60-030 Polling Places**

1. At least forty-five (45) days prior to the election, the Election Board shall select a convenient polling place on each of the Washoe Colonies and Communities. Notice of the location of the polling place shall be provided at the same time as the official notification of the election.

*[Enacted 8/8/97, Resolution No. 97-WTC-54; Amended 5/16/06, Resolution No. 2006-WTC-52; Amended 3/11/22, Resolution No. 2022-03-WTC-066.]*

**20-60-040 Off-Reservation Voting**

Tribal members who are not residents of one of the Washoe Colonies or Communities shall vote by absentee ballot. Off-reservation members shall only be allowed to vote for the Tribal Chairman and the two off-reservation representatives.

*[Enacted 8/8/97, Resolution No. 97-WTC-54; Amended 5/16/06, Resolution No. 2006-WTC-52; Amended 7/13/2018, Resolution No. 2018-07-WTC-062.]*

**20-60-045 Reno-Sparks Indian Colony Voting**

Tribal members who are residents of the Reno-Sparks Indian Colony shall vote by absentee ballot. Reno-Sparks Washoe Tribal members shall be allowed to vote for the Tribal Chairman, the Reno-Sparks Tribal Council position, and the two Off-Reservation Tribal Council positions.

*[Enacted 5/16/06, Resolution No. 2006-WTC-52; Amended 3/11/22, Resolution No. 2022-03-WTC-067.]*

**20-60-050 Voting Hours**

Polls shall be open from 8:00 a.m. to 5:00 p.m. on Election Day. Any voter in line at a polling place but unable to cast his ballot before closing time of the polling place shall be allowed to finish voting.

*[Enacted 8/8/97, Resolution No. 97-WTC-54; Amended 9/4/02, Resolution No. 91-WTC-2002.]*

**20-60-060 Ballots; Voting**

1. After all challenges to candidates, if any, have been resolved pursuant to the provisions of Sections 20-20-010 and 20-20-020, the Secretary shall prepare the final ballots in printed form with an alphabetical listing of the candidates under the offices for which they are running, and present the ballots to the full Election Board for their review. The ballots shall be pre-numbered consecutively beginning with number one (1).
2. While the polls are open, each voter, after being identified on the Eligible Voters List and by a government-issued photo identification card, shall:
  - (a) Receive an unused ballot by a Board Member;
  - (b) Sign on a register acknowledging receipt of a ballot;
  - (c) Vote in privacy by marking next to the name of each candidate of choice;
  - (d) Vote for only a candidate whose name appears on the ballot;
  - (e) Invalidate a ballot if he or she writes in the name of an additional candidate for any office;
  - (f) Fold the ballot to ensure privacy and deposit the ballot in the ballot box.
3. Should a voter spoil a ballot and obtain another, the Election Board Member present shall fold the spoiled ballot and mark it with the word “SPOILED” in ink. The Board Member shall sign his or her name below this mark and the

spoiled ballot shall be placed in an envelope marked “SPOILED.” At the end of the Election Day when all the votes have been counted, all of the spoiled ballots shall be placed in an envelope marked “SPOILED” and kept by the Election Board in a secure location for future reference.

4. If illness or physical disability occurs within thirty (30) days before the election, reasonably preventing an eligible voter from physically going to the polling place to vote, the applicable Election Board Member and a Tribal police or security officer shall, upon request of the afflicted voter, give reasonable assistance at the discretion of the Election Board Member to enable the voter to vote, including but not limited to taking the ballot to the voter at another location. If a voter has an illness or physical disability prior to thirty (30) days before the election that will reasonably prevent the voter from physically going to the polling place to vote, the voter shall request an absentee ballot according to the provisions of Section 20-60- 070.
5. All unused ballots shall be marked “UNUSED” in ink by the individual Election Board Members at the polling places after the closing of the polls. All unused ballots shall be placed in an envelope marked “UNUSED” and kept by the Election Board in a secured environment for future reference.
6. If a ballot box is improperly sealed following the closing of the polls, all ballots in that box are invalid. Each ballot shall be marked “INVALID” in ink and shall be placed in a box marked “INVALID” and kept by the Election Board in a secured environment for future reference. In the event that a ballot box is marked invalid, the Election Board shall hold a special election for the community in which the invalid ballot box was located, no later than thirty (30) days after the general election.
7. During the canvassing of the votes, a ballot will be marked “REJECTED” by the Election Board if the Election Board cannot determine from the ballot for whom the vote was cast. All rejected ballots shall be placed in an envelope marked “REJECTED” and kept by the Election Board in a secured environment for future reference.

*[Enacted 8/8/97, Resolution No. 97-WTC-54; Amended 9/4/02, Resolution No. 91-WTC-2002; Amended 5/16/06, Resolution No. 2006-WTC-52.]*

## **20-60-070 Absentee Voting**

1. All Off-Reservation (non-resident) Tribal members, including inmates incarcerated in Federal, State or Tribal facilities, and Tribal members who are residents of the Reno-Sparks Indian Colony must vote by Absentee Ballot. Resident Tribal members may vote by Absentee Ballot – only if they send written and signed request for an Absentee Ballot.
  - (a) When receiving an absentee ballot request the Tribal Secretary/Treasurer shall mark the date and time of receipt of the request.
  - (b) All requests for resident Tribal members must be postmarked or hand-delivered to the Election Board, not less than twenty (20) days prior to the

date of election. No requests that are either postmarked or hand-delivered, less than twenty days (20) days prior to the date of election, or that are received less than fifteen (15) days prior to the date of the election, will be granted.

2. After checking the requesting member's voting eligibility, the Secretary shall mail an absentee ballot to the member providing the member meets eligibility requirements. When sending an absentee ballot, the Secretary must follow and include those instructions contained within Section 20-20-010(9) of this Title.
3. Tribal members casting absentee votes shall return absentee ballots to the Tribal Secretary/Treasurer at the Tribal Headquarters by 5:00 p.m., Friday, the day before the Saturday Elections.
  - (a) All Absentee ballots shall be mailed to the Tribal Secretary/Treasurer at Tribal Headquarters and must be contained in the envelope provided to the Tribal member by the Election Board unless the Tribal member chooses to follow instructions contained in the next section (Section 20-60-070(3.b.)).
  - (b) A Tribal member shall be permitted to return their absentee ballot in-person to the Tribal Secretary/Treasurer, or a member of the Election Board, at Tribal Headquarters on the Friday before the Saturday Elections from 12:00pm to 5:00pm. The absentee ballot must be contained in the envelope provided to the Tribal member by the Election Board. Tribal members shall only be permitted to return their own absentee ballot and shall not be permitted to submit absentee ballots for other Tribal members.
  - (c) No absentee ballots will be accepted, or counted by the Election Board, which do not meet the time and date deadlines.
4. After receiving the envelopes containing the absentee ballots, the Tribal Secretary/Treasurer shall keep all such envelopes, unopened, in a ballot box secured by the Election Board, until the closing of the polls.
5. The Election Board shall canvass the absentee ballots according to the provisions of Sections 20-70- 010.

*[Enacted 8/8/97, Resolution No. 97-WTC-54; Amended 9/4/02, Resolution No. 91-WTC-2002; Amended 5/16/06, Resolution No. 2006-WTC-52; Amended 7/13/2018, Resolution No. 2018-07-WTC-071; Amended 3/11/22, Resolution No. 2022-03-WTC-068, and Resolution No. 2022-03-WTC-069 & Resolution No. 2022-03-WTC-070 & Resolution No. 2022-03-WTC-071.]*

## **20-60-080 Closing of Polls**

1. At the close of voting at each polling place, each Election Board Member shall:
  - (a) Lock or seal the ballot box in the presence of the police or security officer;
  - (b) Sign an affidavit in the presence of the police or security officer swearing that
    - (i) the Election Board Member sealed the ballot box at the polling place,

- (ii) all the ballots are within the ballot box, and
  - (iii) all other procedures were otherwise met by the Election Board Member to ensure the accuracy, validity and security of the votes cast in the election; and
- (c) Place the affidavit, together with all unused and spoiled ballots, and the voting lists in the officer's possession for transportation to the location identified for the vote canvassing.
2. The sealed ballot boxes shall be delivered or placed into the custody of a Tribal police officer and an Election Board Member or designated Security Officer and an Election Board Member for transportation to a location identified for the canvassing of votes.

*[Enacted 8/8/97, Reso No. 97-WTC-54; Amended 7/13/18, Reso No. 2018-07-WTC-072.]*

## **20-70 CANVASSING ELECTION RESULTS**

### **20-70-010 Canvassing of Votes**

1. When all the ballot boxes, voting lists, unused, and spoiled ballots have been received at the designated location, a special open and joint session of the Tribal Council and the Election Board shall convene. A quorum of the Tribal Council shall be required.
2. The police or security officers or Election Board Member transporting the ballot boxes shall present the ballot boxes to the Election Board, along with the unused and spoiled ballots, the voting lists and the affidavits of the Board Members who sealed such boxes.
3. The Election Board shall have ready the sealed absentee ballot box containing the envelopes of those members casting absentee ballots.
4. The Board shall unlock the ballot boxes for the vote canvass. Any ballot box found to be improperly sealed, shall be marked "INVALID" and each ballot found within shall be declared invalid and marked "INVALID" in ink and stored in a secure location.
5. The Secretary, or appointed Board Member, shall:
  - (a) Remove the ballots from each box one by one;
  - (b) Read aloud the candidates marked upon each ballot;
  - (c) Show the ballot to the Board to ensure correct canvassing; and
  - (d) Place the canvassed ballot with other counted ballots.
6. The Board shall reject any ballot which the Board deems unclear as to the intent of the voter or which contains a "write-in" candidate and shall mark such ballot "REJECTED" in ink and place in an envelope marked "REJECTED" to be stored in a secure location.
7. The Board shall also examine all the unused and spoiled ballots to ensure they

have been properly handled by each individual Board Member who sat in judgment at the individual polling places.

*[Enacted 8/8/97, Resolution No. 97-WTC-54; Amended 7/13/2018, Resolution No. 2018-07-WTC-073.]*

## **20-70-020 Official Report; Recount**

1. After all ballots have been canvassed, including the absentee ballots, the Board shall prepare an abstract of the election results by certifying in writing that the votes were counted, what the results were for each office, and that the canvassing was accurate. Each member of the Election Board shall individually sign the abstract.
2. This official abstract shall be presented to the Tribal Council and a member of the Election Board shall read the abstract of the votes to the Council and the general public.
3. If the abstract shows that the highest votes for two or more candidates for the same office are tied, or if the higher vote is larger than the next highest vote by less than one per cent of the total votes cast for an office, the Election Board shall conduct an automatic recount of the votes before the Council and the public.
  - (a) The recount shall be conducted in the same manner as the Board conducted the initial count during the canvass, but the Secretary shall show the individual ballots to the Tribal Council and public in lieu of the Election Board.
  - (b) During the recount, candidates, members of the Tribal Council and Tribal members or the public shall have an opportunity to contest the vote cast on any accepted or rejected ballot.
    - (i) The person voicing the contest will provide arguments to the Election Board as to why the decision on the accepted or rejected ballot should be reversed.
    - (ii) After hearing arguments on the ballot, and examining the ballot in light of such argument(s), the Election Board shall make its decision on the ballot, which decision shall be final, unless a contest action is brought pursuant to Chapter 20-80.
  - (c) After the recount, the Election Board shall prepare a new abstract and shall read aloud to the Tribal Council and the public the new abstract.
  - (d) If required, the recount for the election and the abstract shall be adjusted according to the decision made by the Election Board. Once a new abstract is prepared under these procedures, the recount shall be final.

*[Enacted 8/8/97, Resolution No. 97-WTC-54.]*

**20-70-030 Declaration of Winner; Run-off Election; Seating of Council**

1. A candidate receiving the highest number of votes cast for that office shall be declared the winner by the Election Board after the presentation of the final abstract to the Tribal Council and public.
2. The final abstract shall become binding after the five (5) day period for filing contest actions runs and there is no contest filed.
3. If the final abstract, upon recount as provided in Section 20-70-020(3) above, shows that the highest vote cast for two or more candidates for an office resulted in a tie, a run-off election shall be conducted by the Election Board.
4. The run-off election shall be conducted within thirty (30) days after the general election. The Election Board shall supervise the run-off election following the same rules and procedures followed in the general election. Subsequent run-off elections may be held if necessary.
5. Any Colony or Community Council not affected by the run-off election, or by any contest action involving the election may seat their new Councils as provided in their Articles of Association.
6. The new Tribal Council may be seated at the next regular meeting of the Tribal Council following the election if there is no run-off election, special election, or contest to the election.
7. Should there be a run-off election, special election, or a contest to the election, the new Tribal Council shall be seated at the next regular meeting of the Council following the final resolution of any issues.

*[Enacted 8/8/97, Resolution No. 97-WTC-54; Amended 9/4/02, Resolution No. 91-WTC-2002.]*

**20-70-040 Safekeeping of Election Data**

1. The Election Board shall provide for the security, and safe-keeping of all ballot boxes, unused ballots, spoiled ballots, rejected ballots, counted ballots, absentee ballots, canvass sheets, abstracts and other documents generated during the entire election process.
2. These materials shall be available for review by the parties involved during any recount or run-off election and available for review to the parties and decision makers in resolution of any action brought forward pursuant to the procedures set forth in Chapter 20-80.

*[Enacted 8/8/97, Resolution No. 97-WTC-54.]*

**20-80 CONTEST OF ELECTION****20-80-010 Grounds for Contest**

1. Any candidate or eligible voter may challenge the right of any elected candidate to be seated in office.

2. No person may bring an action under this Title contesting the election or election results based upon:
  - (a) The ineligibility of a successful candidate;
  - (b) The ineligibility of a voter;
  - (c) The exclusion of a Tribal member from the Eligible Voters List; or
  - (d) The impropriety or error of the Election Board’s decision on such eligibility issues.
3. Except as provided in subsection 2 above, any candidate or Tribal member who is twenty-one (21) years of age or older and who has been directly aggrieved or adversely affected, has the standing to challenge or contest the results of the applicable election based upon any of, but not limited to, the following grounds:
  - (a) misconduct on the part of the Election Board or any member thereof, or on the part of any official making or participating in the process for canvassing of the election;
  - (b) the offering of a bribe or reward to an Election Board Member, alternate, poll watcher, or police or security officer by any person elected or any party acting for such person for the purpose of procuring his or her election or the commission of any other offense against the peoples’ right to vote;
  - (c) the counting of illegal ballots (e.g., write-in votes, spoiled or rejected ballots, unofficial ballots, votes cast which exceed the number of valid ballots accepted) or the disregarding of legitimate votes which resulted in the wrong candidate being declared elected; or
  - (d) the erroneous count or rejection of votes, resulting in the person declared elected not receiving the highest number of votes for the office or seat.
4. Only a member with standing may file a contest action.
  - (a) Such a member may retain any person to represent him or her in a contest action.
  - (b) Proof of representation must be provided by an affidavit executed by the aggrieved person and filed with the action.

*[Enacted 8/8/97, Resolution No. 97-WTC-54.]*

#### **20-80-020 Election Board to Hear and Decide Contest Actions**

1. Every contest action shall be brought before the Election Board;
2. The Election Board’s decision may be reviewed and overturned by the Tribal Court, but only upon a showing of clear and convincing evidence that the Board’s decision was incorrect.
3. Where the contest action alleges misconduct through actions of the Election Board, or any member or alternate thereof, such contest action shall still be brought before the Election Board for a determination on whether the contest action can be resolved or decided by the Election Board without a conflict of

interest.

- (a) The Board may dissolve or mitigate a conflict of interest by not allowing the member or alternate at issue to take part in the Board's deliberations or decisions on the contest action.
- (b) Should the Election Board determine that a conflict of interest exists which cannot be dissolved or mitigated, or the full Board has already under prior Title procedures made a decision on the issue before it, the Board shall direct that the contest action be addressed by the Tribal Court for resolution.
- (c) Where the Board determines that it can make a decision on the merits of the contest action by dissolving or mitigating a conflict of interest, the Board shall proceed to make a decision on the merits of the contest action.
- (d) The person bringing the contest action may appeal the Board's decision to hear the matter, or the Board's decision on the merits of the contest action, to the Tribal Council.
- (e) The Tribal Council shall provide for and proceed with an expedited hearing on any election matter filed before it.
- (f) The Tribal Council shall not hear contest actions or appeals dealing with an election and is without the authority or jurisdiction to consider or decide any contest action brought to it.

*[Enacted 8/8/97, Resolution No. 97-WTC-54.]*

## **20-80-030 Contest Action Statement**

1. The aggrieved Tribal member or candidate contesting a Tribal election shall, within five (5) working days after completion of the canvass of the election and the declaration of the election results, file with the Election Board a contest action statement. Should a contest action statement not be filed within this deadline, or not contain the necessary elements required, or the person bringing the action does not have standing or fails to appear at any scheduled hearing set by the Election Board to resolve the issue, the contest action shall be summarily dismissed by the Election Board, which dismissal shall not be reviewable or appealable to the Tribal Court.
2. The contest action statement shall:
  - (a) Be in writing and signed by the person bringing the contest;
  - (b) Contain the name and residence of the person bringing the contest action and state whether he or she is an eligible voter or candidate for office of the Washoe Tribe;
  - (c) Contain a statement of the standing under which the person is bringing the contest action;
  - (d) Contain a detailed and specific description of the issue, giving the dates, times, persons and witnesses involved who have knowledge of the facts or who are alleged to have caused the action complained of, and any other

information which will be necessary for the Election Board or Tribal Court to decide the contest action; and

- (e) Pursuant to Section 20-80-010(4), where the person bringing the contest action is being represented by another individual, provide an affidavit confirming such representation.

*[Enacted 8/8/97, Resolution No. 97-WTC-54.]*

## **20-80-040 Contest Procedure**

1. Once the Election Board receives a timely filed contest action, if any, the Election Board shall set a place, date and time to convene to hear all contest action disputes.
  - (a) The time and date of the hearings shall be set no later than fifteen (15) days after the closing date for the filing of contest actions.
  - (b) The Secretary of the Election Board shall give notification to the Tribal membership of the contest action hearings by posting notifications thereof at places accessible and convenient to the members.
2. The Secretary of the Election Board shall send special notice of the place, date and time of hearing to the person(s) challenging the election, any representative(s), and to all individuals named in the contest action's description statement.
  - (a) The special notice shall direct those served to bring any material, documents or evidence which will assist the Election Board in their decision.
  - (b) If a question raised by the contest action statement concerns the ballots, ballot boxes or other documents of the applicable election, the special notice to the person(s) challenging the election shall state that the person(s) challenging the election, or the representative(s), shall be allowed to examine such material in the presence of the Secretary of the Election Board at any time before the date of the hearing upon the request of the person(s) challenging the election.
  - (c) The Election Board shall have the ballots, ballot boxes and other applicable election material present at the contest hearing(s).
3. On the date the Election Board convenes, the Board shall continue in session to hear and determine all contest actions filed.
  - (a) Where the full Board has made a determination on the issue before it through other provisions of this Title, the Board shall declare that the issue has already been decided and direct the contestant to file the action with the Tribal Court for resolution.
  - (b) Where the Election Board, or its members, alternates or poll watchers are accused of misconduct, the Board shall determine whether it can dissolve or mitigate the conflict in order to resolve the merits of the contest dispute.
  - (c) If the conflict cannot be dissolved or mitigated to the degree by which a

majority of the Board Members can make a fair and unbiased decision on the merits of the contest, the Board shall declare a “conflict of interest” and direct the contestant to file the action with the Tribal Council for resolution.

- (d) Should the Board determine that it can dissolve or mitigate the conflict of interest by excluding the specific Board Member(s) accused of misconduct from hearing and deciding the controversy at issue, the Board shall exclude such member(s) and proceed to hear the merits of the contest action.
4. During the hearing(s), the Election Board shall allow the person(s) challenging the election, witnesses and, in misconduct matters, excluded Board Members or their alternates to make presentations to the Board on the issue.
    - (a) No formal rules of civil procedure need be followed during these hearings.
    - (b) After the parties and witnesses have had the opportunity to make presentations of argument and evidence, the Board may either decide the matter immediately or take the matter under advisement and make its decision within ten (10) days of the date of the hearing.
    - (c) When the Board makes its decision, it shall reduce such decision to writing and shall make its findings and decision immediately available to the parties involved.
    - (d) The decision shall either confirm or annul the election to the extent the election was called into question by the applicable contest action.
    - (e) Aspects of the election not called into question by the contest action shall remain confirmed pursuant to the declaration made on the final abstract.
  5. If the Election Board is convinced that the contest action has merit, the Election Board may take whatever action is appropriate to remedy the situation. Remedies may include, but are not limited to:
    - (a) Declaring the election, or a portion thereof, null and void and commencing a special election; or
    - (b) Declaring a candidate with the next highest vote in the affected office as the winner of the election with right of office.

*[Enacted 8/8/97, Resolution No. 97-WTC-54; Amended 9/4/02, Resolution No. 91-WTC-2002.]*

## **20-80-050 Tribal Court Proceedings**

1. Subject to Section 20-80-050(4) below, an individual may bring an action in Tribal Court regarding any election:
  - (a) Where there is a contest action alleging misconduct by the Election Board or its members or alternates and the Election Board determines that it has a conflict of interest which cannot be dissolved or mitigated;
  - (b) Where the Election Board makes a determination that it can decide an issue involving Board misconduct which decision the person(s) challenging the election disagree with and the Board then proceeds to make a decision on

- the merits of the contest action;
- (c) Where the Election Board made a decision on the merits of any contest action which the person(s) challenging the election disagree with; and
  - (d) Where any other provision within this Title allows the Tribal Court to hear a dispute.
2. In any action brought before the Tribal Court pursuant to this Title the Court shall:
    - (a) Hear the matter in an expedited manner adhering to time frames herein;
    - (b) Overturn an Election Board decision only if the Court finds, by clear and convincing evidence, that the Board’s decision was erroneous;
    - (c) Take into account the discretion the Election Board has in making decisions pursuant to this Title;
    - (d) Uphold the Board’s decision and deny the person(s) challenging the election the relief the person(s) challenging the election requested should the Court find that the Board has made its decision supported by any factual and/or legal basis.
  3. The Tribal Court shall not prevent the Election Board, any of its members, alternates or the Washoe Tribe from conducting an election or with the seating of a new Council, Council member(s), or from taking any other action allowed under this Title, unless the party bringing the injunction action can show that irreparable harm will result if a temporary injunction is not granted and that the party bringing the action, is likely to succeed on the merits of the case.
    - (a) If the Court deems that an injunction is warranted, the Court shall direct and order with specificity what action is enjoined and what Board action, parts of the election or the seating of Council may continue to proceed.
    - (b) The Court shall proceed to hear the matter enjoined in an expedited fashion.
  4. The Tribal Court is without jurisdiction or authority to decide or take any action on any matter brought before it which this Title does not specifically allow the Tribal Court to hear or where this Title requires the Election Board to first decide upon the issue presented and such initial Election Board action has not occurred.

*[Enacted 8/8/97, Resolution No. 97-WTC-54; Amended 9/4/02, Resolution No. 91-WTC-2002.]*

## **20-80-060 Tribal Council**

The Tribal Council is without the authority or jurisdiction to hear, decide, overturn or otherwise involve itself in any matter or issue addressed by this Title unless this Title specifically provides for such involvement.

*[Enacted 8/8/97, Resolution No. 97-WTC-54.]*

**20-90            DECLARATION OF WINNERS AND SEATING OF COUNCIL(S)**

**20-90-010      Procedure**

1. The Election Board shall declare that the candidates with the highest votes be seated in their appropriate offices if:
  - (a) The final abstract presented to the Tribal Council and the public during the canvass is uncontested and no challenges to the election are filed within five (5) days after the date of such canvass;
  - (b) All challenges have been reviewed and dismissed by the Election Board or Tribal Court as the case may be.; or
  - (c) The Election Board or Tribal Court orders corrective action be taken pursuant to any contest action filed and such corrective action has been instituted.
2. Any candidate elected to a colony or community office which has not been challenged in the applicable time frame may be declared elected by the Election Board and seated in the applicable office while challenges to other candidates are pending before the Election Board or Tribal Court.
3. Tribal Council members may not be seated until all challenges, run-off elections, or other corrective actions have been otherwise implemented.

*[Enacted 8/8/97, Resolution No. 97-WTC-54.]*

**20-90-020      BIA Employees**

1. Bureau of Indian Affairs employees shall not participate in conducting a Tribal election except as provided by Federal law or Departmental regulations.
2. Employees of the Bureau of Indian Affairs may be consulted on related matters; however, acceptance of BIA employee advice is optional to the Election Board or Tribal Court.

*[Enacted 8/8/97, Resolution No. 97-WTC-54.]*

**20-100          RECALL; REMOVAL PROCESS**

**20-100-010      Recalls; Recall Affidavits; Recall Petitions**

1. Consistent with Article IX of the Constitution of the Washoe Tribe of Nevada and California, certain members of the Washoe Tribal Council are subject to the following recall procedures
  - (a) Representatives Woodfords Community, the Dresslerville Colony, the Carson Colony, or the Stewart Community may be recalled by either community petition or community council action
    - (i) The members of his or her respective colony or community may recall one or all of their Washoe Tribal Council representatives by presenting, to the community council, a petition meeting the criteria set forth in

- paragraph (2) below and certified by the Election Board, and signed by a majority of the eligible voters of the colony or community, that states the complaint against their representative and asks for his or her recall from office. Upon receipt of a valid petition satisfying the criteria in paragraph (i), above, the community council shall act to recall the accused
- (ii) The members of a community council may recall a member of the Washoe Tribal Council who is representing their community by a majority vote of the community council
  - (iii) A person recalled from the Washoe Tribal Council is not automatically recalled from his or her seat on the community council by either action.
- (b) The eligible voters of the Tribe who are residents of the Reno-Sparks Colony, may accomplish a recall of the Washoe Tribal Council member representing the Reno-Sparks Colony by presenting a petition, meeting the criteria set forth in paragraph (2) below and certified by the Election Board, and signed by a majority of the eligible Washoe voting residents, to the Washoe Tribal Council.
- (c) The off-reservation representative on the Washoe Tribal Council may be recalled from office by a majority of the eligible voters of the Washoe Tribe who vote in a special election called for this purpose by the Washoe Tribal Council. The Washoe Tribal Council shall call such an election, which shall be conducted by the Election Board, upon receipt of a petition certified by the Election Board, signed by one hundred and fifty (150) eligible voters of the Washoe Tribe, stating the complaint against this representative and requesting the special election.
2. All petitions seeking the recall of any member of the Washoe Tribal Council must satisfy the procedures set forth in Section 20-100-010 and comply with the following requirements:
- (a) To begin proceedings for a recall election, five (5) or more eligible voters shall form a “Petitioner’s Committee,” which shall file a notarized affidavit with the Election Board, which the affidavit shall:
    - (i) contain the names and addresses of the eligible voters forming the Petitioner’s Committee;
    - (ii) designate which named eligible voter will be the person to receive all correspondence and notices from the Election Board on behalf of the Petitioner’s Committee;
    - (iii) name the elected official sought to be recalled.
  - (b) For the recall of the off-reservation representatives, members of the Petitioner’s Committee and signatories on the recall petition can be any Tribal member eligible to vote.
  - (c) For recall of a member of a Colony or Community Council, members of the Petitioner’s Committee and signatories on the recall petition shall be

eligible voters of the Colony or Community represented by the elected official targeted for recall.

- (d) A separate recall petition is required for each elected official sought to be removed.
- (e) For each recall petition sought to be circulated, the Petitioner's Committee shall pay a non-refundable cash fee of five hundred dollars (\$500) to the Election Board. This fee shall be used to off-set the costs of conducting the recall election.
- (f) No petition of recall shall be circulated or be valid until the requirements above have been met or otherwise complied with.
- (g) The petition of recall shall be in the format created or specified by the Election Board. Separate clearly delineated petitions shall be utilized for recall of the Tribal Chairman/off-reservation representatives and the various Colony or Community Councils. Each petition shall contain:
  - (i) The name of the official whose recall is sought;
  - (ii) A statement, not to exceed two hundred (200) words, which describes the specific reason (s) the Petitioner's Committee is seeking the removal of the elected official identified; and
  - (iii) A designated space for the signature, community of residence, and enrollment number of each solicited voter as well as whether the voter voted in the last election for the office in question.
- (h) During the solicitation of eligible voter signatures on the recall petition, if a voter signs the petition with a thumbprint (or an "X") or with a signature that is not legible, a separate signature verification form shall be required.
  - (i) This signature verification form shall provide for the information required in paragraph (c) above and shall require the signatures of at least two individuals circulating the petition who have witnessed the solicited voter sign his or her signature thereon.
  - (ii) The signature verification form shall be specified or created by the Election Board.
  - (iii) All signature verification forms shall be attached to the petition.
- (i) The sufficiency of the reasons stated on the recall petition is solely within the exclusive discretion of the solicited voter to decide.
  - (i) The Election Board, Tribal Court, Tribal Council, Community or Colony Council, or the elected official sought to be recalled do not have any authority to decide the legality, reasonableness or sufficiency of the reasons given for the recall.
  - (ii) These reasons shall not be subject to review by any entity or person.
- (j) When the Petitioner's Committee files the petition, each solicitor who circulated the petition shall attach a notarized affidavit thereto. The Election

Board shall ensure that such affidavit forms contain the correct specified time lines provided in this Title by which the petition is to be filed. The affidavits shall state that:

- (i) The solicitor personally circulated the petition;
  - (ii) All signatures on the petition were affixed to the petition in his presence and are, to the best of his knowledge, the genuine signatures of registered voters; and
  - (iii) Each solicited voter read, or had read and translated to him or her, the full and complete statement of the reasons for recall as provided on the petition.
- (k) The Election Board may, after adequate notice of, and hearing granted to the parties involved, invalidate the entire petition if the Board finds that the payment of anything of value, or the promise to pay such, has been made to secure the circulation of the petition or to procure any signatures thereon.

*[Enacted 8/8/97, Resolution No. 97-WTC-54; Amended 9/4/02, Resolution No. 91-WTC-2002.]*

#### **20-100-020 Filing of Petition; Certification**

1. Within ninety (90) days after filing the affidavit creating the Petitioner's Committee, the Petition for Recall shall be filed with the Election Board. Failure by the Petitioner's Committee to file the petition within the time period here required shall render the petition null and void.
2. The petition shall contain sufficient signatures needed to legitimately have the Election Board provide a recall election pursuant to Section 20-100- 010(2). Failure by the Petitioner's Committee to file the petition with the requisite number of signatures shall render the petition null and void.
3. The Election Board shall have thirty (30) days from the date the petition is filed to review the petition for accuracy and sufficiency of the number of signatures contained thereon, whereupon it shall certify that the petition is valid and that a recall election shall be conducted.
  - (a) At least one member of the Election Board shall be present at all times while the signatures are being verified.
  - (b) Certification shall contain the signatures of the Board Members who voted to verify the recall petition.
4. Should the Election Board not certify the recall petition as valid:
  - (a) The Secretary of the Election Board shall give special notice to the Petitioner's Committee of the Board's action and the reasons provided for non-certification;
  - (b) The Petitioner's Committee shall have fifteen (15) days from the date of receipt of the notice of non-certification to correct any deficiencies in the petition.

- (c) Once corrected, the Petitioner’s Committee may then refile the petition within the fifteen (15), day time line provided.
- (d) The Election Board shall then convene to determine if the petition qualifies for certification. If certification cannot be granted after the second review, the Election Board shall deny the recall petition.
- (e) The fifteen (15) additional days granted in this subsection shall be exclusive of the ninety (90) day time period originally granted to the Petitioner’s Committee to file the petition.

*[Enacted 8/8/97, Resolution No. 97-WTC-54; Amended 9/4/02, Resolution No. 91-WTC-2002.]*

**20-100-030 Recall Election; Elected Official Resignation; Ballot**

1. If the Election Board certifies the recall petition as valid, the petition shall be presented to the Washoe Tribal Council as specified in Section 20-100- 010(1), which shall call for a recall election.
2. Upon the calling of a recall election, the Election Board shall set the date for the recall election and shall notify the Petitioner’s Committee and the official whose recall is sought of the certification and the election date.
  - (a) The date for the election shall be held not less than forty (40) days from the date of the certification of the petition.
  - (b) If a regular Tribal election is set to be held within ninety (90) days after the Election Board certifies the petition as valid, the recall election shall be deemed unnecessary.
3. In the event the elected official who is subject to the recall election offers to resign from the office at issue at least forty (40) days before the recall election, the recall election shall be held to fill the vacant office.
  - (a) Resignations shall be official when accepted by the Board.
  - (b) The Board shall immediately post notices at all customary and accessible places in the community affected soliciting nominations for the vacant office and shall otherwise follow the procedures set forth in this Title for the conducting of regular Tribal elections.
  - (c) Members of the Petitioner’s Committee shall be deemed ineligible to run for the office in question due to a conflict of interest, unless the election to be held to fill the vacant office is a regular Tribal election.
4. Where the elected official subject to recall resigns from office less than forty (40) days before the recall election, the Election Board shall cancel the recall election and proceed to reset the election for a date that will allow the Election Board to notify and request the community membership affected for nominations to fill the vacancy and to otherwise comply with the time lines required for regular Tribal elections.

5. Should a recall election become necessary, the ballot for the recall election shall state:

This election is held to determine whether (name of elected official) shall be removed from office. Do you wish to remove (name of elected official) from office? \_\_\_ Yes \_\_\_ No

6. If an elected official is recalled from office after a recall election, the Election Board shall proceed to fill the vacancy created by the recall through another election.
7. If an official subject to a recall election wins the recall election, he or she shall continue to serve in the applicable office for the term he or she was, originally elected for.

*[Enacted 8/8/97, Resolution No. 97-WTC-54; Amended 9/4/02, Resolution No. 91-WTC-2002.]*

**20-100-040 Conducting Recall/Vacancy Elections, Special Elections**

All recall elections and elections conducted to fill vacancies created by a recall petition, or special elections held because of the invalidation of a ballot box or as a remedy to a contested election, shall be conducted pursuant to the requirements and provisions of this Title.

*[Enacted 8/8/97, Resolution No. 97-WTC-54; Amended 9/4/02, Resolution No. 91-WTC-2002.]*

**20-100-050 Limitations on Recall Petitions**

No recall petition shall be filed with the Election Board requesting the removal of any official until such official has held office for a minimum of one hundred and eighty (180) days.

*[Enacted 8/8/97, Resolution No. 97-WTC-54.]*

**20-100-060 Ineligibility to Hold Office**

Any official who resigns or is removed from office pursuant to this Title, shall be ineligible to run or hold any Washoe Tribal or Community elective office for a minimum of eight (8) years from the date of the resignation or the date of the recall election.

*[Enacted 8/8/97, Resolution No. 97-WTC-54.]*