



Burns Paiute Tribe

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BURNS PAIUTE TRIBE
Burns Paiute Tribal Council

RESOLUTION NO. 17-14

*Adopting Revised Election Laws as Chapter 8.2
of the Burns Paiute Tribal Code*

WHEREAS, the Burns Paiute Tribe (“Tribe”) is a federally recognized Indian Tribe and has adopted a Tribal Constitution (“Constitution”) designating the Burns Paiute Tribal Council as the elected governing body of the Tribe; and

WHEREAS, Article VI, Section (1)(i) of the Tribal Constitution authorizes the Tribal Council to enact laws to maintain order, govern conduct, and protect the safety, health, and welfare of all persons within the Tribe’s jurisdiction, and Article IX, Section 2 requires the Tribal Council to adopt election laws that set forth procedures for Tribal elections; and

WHEREAS, in 2007, the Tribal Council revised the Election Ordinance to, among other changes, provide for voting by mail instead of voting at the polling place; and

WHEREAS, since 2007, the Tribe has experienced frequent election protests, low voter turnout, high election costs, and community confusion and frustration with the voting by mail process; and

WHEREAS, the Tribal Council adopted emergency revisions to the Election Ordinance in 2013 and 2015 to return to voting at the polling place and make other changes, but the revisions were not adopted in accordance with the Tribe’s notice and comment procedures, and expired after one year; and

WHEREAS, the Tribe has developed revised election laws to permanently return to voting at the polling place, and to otherwise clarify election procedures and Election Board duties; and

WHEREAS, the Tribal community has been given the opportunity to review the proposed revisions and provide their input; and

WHEREAS, the Tribal Council has reviewed the revised election laws and considered the community’s input, and has voted to approve the adoption of the revised election laws; and

WHEREAS, in an effort to include all Tribal laws in the Burns Paiute Tribal Code, the Election Ordinance has been re-numbered and re-formatted as Chapter 8.2 of the Tribal Code.

NOW THEREFORE BE IT RESOLVED, that the Tribal Council hereby expressly, unequivocally, and irrevocably adopts Chapter 8.2 of the Tribal Code, which governs elections, and which is attached hereto and hereby incorporated into this Resolution; and

BE IT FURTHER RESOLVED, that any previously-enacted election laws and any other Tribal laws, rules, or policies governing elections that are contrary to or inconsistent with the newly adopted Chapter 8.2 of the Tribal Code are hereby declared to be inapplicable and void to the extent of any such conflict or inconsistency.

CERTIFICATION

We, the undersigned Chairperson and Secretary-Treasurer of the Burns Paiute Tribal Council, do hereby certify that: the Tribal Council is composed of seven (7) members, of whom five (5) constitute a quorum; that a quorum was present at a meeting thereof duly and regularly called, noticed, convened, and held on this 13th day of April, 2017; and that the foregoing Resolution was duly adopted by 5 affirmative votes, with 0 opposing, and 0 abstaining. The Chairperson's vote is not required except in the case of a tie.



Tribal Council Chairperson
Joe DeLaRosa

Date: 4-13-17



ATTEST: Secretary-Treasurer
Tracy Kennedy

Date: 4/13/17

CHAPTER 8.2 ELECTIONS

GENERAL PROVISIONS

8.2.1 Purpose

The purpose of this Chapter is to set forth the duties of the Burns Paiute Tribe's Election Board and the procedures for conducting Tribal elections.

8.2.2 Authority

The authority for the adoption of this Chapter is set forth in Article VI, Sections 1(i) and 1(l), and Article IX, Section 2, of the Tribal Constitution.

8.2.3 Interpretation

This Chapter is intended to establish procedures for fair, transparent, and honest Tribal elections. This Chapter shall be interpreted liberally, in order to accomplish this intent. Substantial compliance, in good faith, shall satisfy this Chapter, and minor technicalities shall not be used to interfere with, delay, or block elections or to cause a loss of confidence in the election system.

ELECTION BOARD

8.2.4 Composition of Election Board

- (a) The Election Board shall be composed of 3 members and 2 alternates. Board members and alternates shall be 18 years of age or older and shall be enrolled members of the Burns Paiute Tribe.
- (b) No person shall serve on the Election Board if he or she is a current member of the Tribal Council, is a candidate for Tribal Council, or plans to be a candidate for Tribal Council during his or her term on the Election Board.
- (c) No more than one immediate family member of any person already on the Election Board may serve on the Election Board.

8.2.5 Election Board: Appointment and Oversight

- (a) Provision governing the appointment, terms, oath of office, training, standards of conduct and general duties, compensation, and resignation of Election Board members are set forth in Sections 1.4.28 – 1.4.34 of the Burns Paiute Tribal Code.
- (b) Any Tribal member may submit questions and concerns to the Election Board, in writing. The Election Board shall provide a written response to all submissions.

8.2.6 Removal

Election Board members and alternates may be removed from office as follows:

(a) The General Council may remove an Election Board member or alternate for criminal activity, misconduct, negligence, or absence from duty, upon due notice and an opportunity for an open hearing.

(1) The open hearing shall be held at a Special General Council meeting called to consider the proposed removal of the Election Board member or alternate.

(2) The General Council shall vote on the proposed removal immediately following the open hearing. The Board member or alternate shall be removed if at least a majority of the voting General Council members vote in favor of removal.

(3) For purposes of this Subsection:

(A) "Criminal activity" includes being charged with or convicted of a felony or a crime involving fraud or other dishonest, immoral, or corrupt conduct, in any jurisdiction, while serving on the Election Board.

(B) "Misconduct" means any unlawful or improper behavior related to election functions, such as misappropriation of funds, failing to appropriately carry out the duties set forth in this Chapter, or violation of the Code of Ethics.

(C) "Negligence" means carelessness, or a failure to use reasonable care when carrying out election-related functions

(D) "Absence from duty" means being unavailable to carry out Election Board duties, such as at the June General Council meeting, on Election Day, or to resolve an election protest; *provided that* an Election Board member who is not participating in election functions due to a documented conflict of interest pursuant to Section 8.2.7 of this Chapter shall not be considered to be absent from duty.

(b) The Tribal Council may remove an Election Board member or alternate in accordance with the procedures set forth in Section 1.4.32 of the Tribal Code.

(c) If an Election Board member or alternate is elected to the Tribal Council, accepts a nomination for Tribal Council, or runs for Tribal Council as a write-in candidate, his or her appointment to the Election Board shall be deemed automatically withdrawn.

8.2.7 Conflicts of Interest

If an Election Board member or alternate's immediate family member accepts a nomination for Tribal Council, runs for Tribal Council as a write-in candidate, or is facing recall:

(a) The Election Board member or alternate must immediately disclose the conflict of interest to the Election Board;

(b) The Election Board member or alternate is not automatically disqualified from participating in the election, but may not handle any ballots, participate in the ballot count, or participate in any decisions or activities that may affect the results of the election; and

(c) To avoid any appearance of a conflict of interest:

(1) The Election Board member or alternate may voluntarily ask the Election Board to choose an alternate to temporarily take over his or her duties for the current election; or

(2) The Election Board may vote to temporarily relieve the Election Board member or alternate of his or her duties for the current election.

(d) If an Election Board member or alternate is temporarily relieved of his or her duties for an election to avoid any appearance of a conflict of interest:

(1) The Election Board shall document the action, in writing, and publish it in the Tribal newsletter; and

(2) The Election Board member or alternate with the conflict shall not lose his or her position on the Election Board, and may resume his or her duties following the election.

8.2.8 Election Board Responsibilities

The Election Board is responsible for impartially carrying out Tribal elections, in accordance with the Tribal Constitution and this Chapter, and shall:

(a) Resolve any disputes that may arise regarding a person's eligibility to vote, a voting procedure, or the validity of a ballot or other election-related document. **All decisions made by the Election Board are final, and are not subject to review by the Tribal Council.**

(b) Obtain and manage all equipment and supplies needed to carry out an election.

(1) All election-related files and correspondence shall be maintained in a locked filing cabinet and all electronic election-related data shall be stored on the Election Board's official computer.

(A) The Election Board's computer shall be password protected, and the password shall be changed on a regular basis. The Election Board shall provide a key

to the locked filing cabinet and the computer password, as updated, to the Tribe's Chief of Police for safekeeping.

(B) The Election Board shall submit written requests to the Tribal Council for approval to update the Election Board computer.

(c) Procure a PO Box or special ballot mailbox for absentee ballots.

(1) The PO Box or special mailbox shall be kept locked at all times, and accessed only on Election Day, just prior to the ballot count, in accordance with Section 8.2.29 of this Chapter.

(2) **The PO Box or special mailbox shall be used *only* for absentee ballots.**

(3) **All other Election-related correspondence shall be sent to: Burns Paiute Tribe, ATTN: Election Board, 100 Pasigo St., Burns, OR 97720.**

(d) Work with the Bureau of Indian Affairs to conduct Secretarial Elections, as requested.

(e) Carry out other actions, as necessary and proper for the exercise of the powers and duties set forth in this Chapter, or as requested by the Tribal Council.

8.2.9 Responsibilities of Alternates

Alternates shall be available to help Election Board members prepare for and conduct Tribal elections, as needed or requested.

8.2.10 Election Board Decision-Making

(a) The Election Board may conduct official business only when a quorum is present. A quorum requires the presence of at least 2 Election Board members. Alternates do not count toward a quorum, unless the alternate is officially acting in place of an Election Board member pursuant to this Chapter.

(b) Whenever possible, Election Board decisions shall be made by consensus.

(c) All Election Board meetings are closed to the public, unless a Tribal member requests, in writing, to participate in a meeting.

(d) The Election Board shall take minutes at all meetings.

(1) Minutes from all closed meetings are confidential and shall be stored in the Election Board's locked filing cabinet or on the Election Board computer.

(2) Minutes from any open meeting shall be maintained at the Tribal Administrative office, and shall be available for inspection by interested Tribal members, in accordance with Article V, Section 10 of the Tribal Constitution.

8.2.11 Election Records and Reports

(a) The Election Board shall maintain appropriate records documenting all election-related decisions.

(b) All election-related records, correspondence, notes, and files are the property of the Burns Paiute Tribe and shall remain in the Election Board's locked filing cabinet and/or on the Election Board's official computer. Electronic files shall be dated, and a copy shall be saved in .pdf form, whenever possible, to preserve an accurate record.

(c) The Election Board shall maintain an Election Log, in which Board members shall record all special requests, problems, concerns, or questions that arise during an election. Each record shall describe the issue, the date and time of the issue, the name of the individual(s) involved, and how the issue was resolved.

(d) The Election Board shall maintain all ballots cast, in safe keeping, for one year following an election. At the end of that year, the Election Board shall shred the ballots.

(e) The Election Board shall provide reports and updates to the Tribal Council upon request, or as otherwise as needed to perform Election Board duties.

VOTER ELIGIBILITY AND REGISTRATION; REGISTERED VOTER LIST

8.2.12 Voter Eligibility

All duly enrolled members of the Burns Paiute Tribe who will be 18 years of age and over on the day of the election and who are registered to vote are the qualified voters of the community and may vote in Tribal elections. Non-members of the Burns Paiute Tribe do not have the right to vote in Tribal elections, regardless of their affiliation with Tribe or its members.

8.2.13 Registered Voter List

The Election Board is responsible for maintaining an accurate, up-to-date list of Tribal members who are registered to vote. This list shall be known as the "Registered Voter List."

(a) Any Tribal member wishing to vote in a Tribal election must be listed on the current Registered Voter List.

(b) By May 1st of each year, the Election Board shall prepare an updated Registered Voter List, including adding any newly registered voters and removing any ineligible voters.

(1) The Election Board shall publish the Registered Voter List in each Tribal newsletter published in May.

(2) The Election Board shall remove a voter from the Registered Voter List if the voter has died, relinquished his or her membership in the Burns Paiute Tribe, or been disenrolled from the Burns Paiute Tribe.

8.2.14 Registering to Vote

(a) Any person wishing to register to vote shall submit a completed Voter Registration Form, including all required signature verification information, to the Election Board. The Voter Registration Form shall be substantially similar to the form included in Appendix B.

(b) To be eligible to vote on Election Day, the Election Board must receive a new voter's completed Voter Registration Form at least 5 business days before Election Day.

(c) A new voter may return his or her Voter Registration Form to the Election Board in person or by mail, email, or fax.

(1) If a Tribal member submits a Voter Registration Form to the Election Board in person, an Election Board member must:

(A) Confirm the Tribal member's identity and make a photocopy of the voter's Tribal Identification Card, Driver's License, state-issued Identification Card, or Passport, which clearly shows his or her signature;

(B) Witness the voter's signature on the Voter Registration Form; and

(C) Sign the Voter Registration Form to acknowledge receipt.

(2) If a Tribal member submits a Voter Registration Form to the Election Board by mail, email, or fax, the signature verification section must be signed by the Tribal member, and must include proof of signature and identity, such as:

(A) A legible copy of the Tribal member's Tribal Identification Card, Driver's License, state-issued Identification Card, or Passport, clearly showing his or her signature; or

(B) The seal and signature of a notary public.

(d) Upon receipt of a Voter Registration Form, the Election Board shall:

- (1) Review the form to ensure that all required information has been provided; and
 - (2) Determine whether the registering voter is eligible to vote, which may include consultation with the Tribe's Enrollment Committee.
- (e) If the Election Board determines that a registering voter is eligible to vote, the new voter shall be added to the Registered Voter List. The Election Board shall be the sole judge of voter eligibility. No appeal shall be provided.
- (f) Once a person registers to vote and is listed on the Registered Voter's List, he or she is a registered voter and is not required to re-register annually.
- (g) It is the responsibility of each voter to notify the Election Board of any address changes or other changes in his or her voter registration information.
- (1) The Election Board will use the addresses on file when mailing election-related information to voters, and is not responsible for mail that is lost or delayed because a voter has not updated his or her address.
 - (2) Any voter who changes his or her name must submit a new Voter Registration Form to the Election Board, showing his or her former and current names and signatures, no later than 5 business days prior to the election.

NOMINATION OF CANDIDATES FOR TRIBAL COUNCIL

8.2.15 Nominations

(a) The Election Board shall coordinate the nomination of candidates for the Tribal Council at the June General Council meeting each year.

(1) All Election Board members and alternates must attend the General Council meeting to assist with the nomination process; *provided that* the Election Board may excuse a member or alternate from attending the General Council meeting if the member or alternate provides a valid excuse, as defined in Section 1.4.4(a)(2) of the Tribal Code, and enough Election Board members and alternates are available to conduct the nominations.

(2) If the Election Board determines that special nominations are needed, they shall inform the Tribal Council of their determination. Within 5 business days after receipt of the notice, the Tribal Council shall set a day for a Special General Council meeting, which shall be held within 20 calendar days after receipt of the notice.

(b) The Election Board shall notify the General Council of the number of open positions and shall accept nominations from the General Council.

(c) **A candidate must be present at the General Council meeting to be nominated.** A candidate must be nominated by an enrolled Tribal member, and the nomination must be seconded by a different enrolled Tribal member.

(d) Within 5 business days of nominations, the Election Board shall determine whether each nominee is eligible to become a candidate for and serve on the Tribal Council, in accordance with Article V, Section 3 of the Tribal Constitution.

(e) If the Election Board finds that a nominee is not eligible to become a candidate for and serve on the Tribal Council, the Election Board shall provide the nominee with notice of the decision and the opportunity to respond.

(1) Within 5 business days of the Election Board's decision, the nominee may request a meeting with the Election Board and/or may submit documents to the Election Board in support of his or her eligibility.

(2) After meeting with the nominee and/or reviewing all documents submitted, the Election Board shall make a final determination of eligibility. The decision of the Election Board is final.

(3) The Election Board shall provide written notice of its determination to the nominee, and shall publish notice of the determination, including a brief statement of the basis for the determination, in the next Tribal newsletter.

8.2.16 Withdrawal of Candidacy

(a) A nominee may decline a nomination:

(1) In person, at the General Council meeting. The nominee must also sign a written statement officially withdrawing from the election and must submit the form to the Election Board; or

(2) In a written statement filed with the Election Board at least 30 calendar days before Election Day.

(b) If a nominee declines a nomination or withdraws from an election, he or she may not reinstate his or her candidacy for that election, and any votes that he or she receives as a write-in candidate will not count.

(c) Any eligible candidate who does not withdraw by the deadline will be included on the ballot. If a candidate does not wish to run for Tribal Council, he or she may independently notify the Tribal membership of that wish.

8.2.17 Write-In Candidates

(a) Any person who is eligible to become a candidate for and serve on the Tribal Council, but who was not nominated for office in accordance with Section 8.2.15 of this Chapter, may campaign for office and receive votes as a write-in candidate.

(b) The Election Board shall ensure that all ballots set forth clear instructions regarding write-in candidates and include one line per open Tribal Council seat for write-ins. The Election Board shall not provide voters with any addition information about write-in candidates.

BALLOTS

8.2.18 Ballot Format

(a) All ballots shall be identical, and shall be substantially similar in format to the ballot included in Appendix C.

(b) Ballots shall be printed on white paper, with black ink. The names of the candidates shall be arranged on the ballot in a random order. Ballots shall include one line per open Tribal Council seat for write-in candidates.

(c) Ballots shall provide the following instructions:

Please place a mark in the square next to the candidate(s) you wish to vote for or write in the name of a write-in candidate.

You may cast one vote for each open seat on the Tribal Council. There are ___ open seats in this election. If there are more than ___ votes on your ballot, the ballot will be voided.

If you make a mistake, you may ask the Election Board for a new ballot.

After marking your ballot, please place it in the locked ballot box.

8.2.19 Number of Ballots

The Election Board shall create enough ballots to assure that all voters on the Registered Voter List, and that there are enough extra ballots to replace any spoiled ballots, if needed.

8.2.20 Ballot Corrections

If the Election Board determines that a candidate has withdrawn from the election in a timely manner, has died, or is otherwise ineligible to run for office, the candidate's name shall not be included on the ballot; *provided that:*

(a) If the ballots have already been printed, the candidate's name shall be deleted before the ballots are distributed.

(b) If one or more ballots that include the name of a withdrawn, deceased, or ineligible candidate have been distributed, no changes shall be made to the remaining ballots.

8.2.21 Posting of a Sample Ballot

The Election Board shall produce a sample copy of the ballot and shall post the sample outside of the Gathering Center at least 10 business days prior to Election Day. The sample ballot shall be printed on colored paper and shall be clearly marked "sample."

ELECTION RULES AND PROCEDURES

8.2.22 Election Notice

(a) The Election Board shall issue notice of each annual Tribal Council election at least 30 calendar days prior to the election, and shall issue notice of any special elections, as needed. The notice shall be:

(1) Included in every Tribal newsletter published during the 30 calendar days before Election Day;

(2) Posted at the polling place and at various other public places on the Reservation; and

(3) Posted on the Tribe's website, Facebook page, and/or other electronic or social media sites.

(b) The notice shall include:

(1) The date, time, place, and purpose of the election;

(2) The names of the candidates or a description of the issues to be voted on and a sample ballot;

(3) Instructions for voting and registering to vote;

(4) Instructions for requesting absentee ballots and the name(s) and contact information for the Election Board member(s) designated to process absentee ballots.

8.2.23 Election Day

(a) The annual Tribal Council election shall be conducted on the 2nd Tuesday of August each year.

(b) The Election Board may adjust the date of the annual Tribal Council election, in the case of an emergency, if voters are provided with sufficient notice of the new date to give sufficient time for absentee ballots to be requested, mailed out, and returned.

(c) The Election Board shall schedule special elections as needed. Special elections shall be scheduled to give sufficient time for absentee ballots to be requested, mailed out, and returned.

8.2.24 Voting Methods

Voting shall be by secret ballot. Two methods of voting may be used: voting at the designated polling place; and voting by absentee ballot.

8.2.25 Voting at the Designated Polling Place

(a) Elections shall be held at the Burns Paiute Tribal Court, from 10:00 AM and 7:00 PM. Any person waiting in line to vote at 7:00 PM may vote, but no one who arrives at the polling place after 7:00 PM will be permitted to vote.

(b) At least 2 Election Board members must be present at the polling place all times; *provided that* alternates may perform Election Board duties on Election Day, as needed, to give Election Board members breaks.

(c) At least 2 sample ballots, printed on colored paper and clearly marked "sample," shall be posted at the polling place for review by voters.

(d) The Election Board shall verify the following for each voter:

(1) The voter's identity;

(2) That the voter's name is listed on the Registered Voter List; and

(3) That the voter has not been sent an absentee ballot. If a voter has been sent an absentee ballot, he or she may not be given another ballot at the polling place.

(e) After verifying the factors set forth in subsection (d), above, the Election Board shall:

(1) Ask the voter to sign in, and verify that the voter's signature matches the signature on file for the voter; and

(2) Read the following instructions to the voter:

Please let an Election Board member know if you need assistance, such as help reading or marking your ballot, or if you have questions.

On your ballot, please place a mark in the square next to the candidate(s) you wish to vote for or write in the name of a write-in candidate

You may cast one vote for each open seat on the Tribal Council. There are ___ open seats in this election. If there are more than ___ votes on your ballot, the ballot will be voided.

If you make a mistake, you may ask the Election Board for a new ballot.

After marking your ballot, please place it in the locked ballot box.

(3) Give the voter a ballot.

(f) If a voter makes a mistake or accidentally damages his or her ballot, he or she may ask the Election Board for a new ballot. The Election Board may issue a new ballot to a voter if the voter returns the spoiled ballot, and shall note the incident in the Election Log.

(g) If a voter needs assistance, due to a disability, illiteracy, or any other reason, an Election Board member shall provide such assistance and shall note the incident in the Election Log.

8.2.26 Campaigning and Loitering

(a) No person may campaign within 100 feet of the polling place. No loitering is permitted in or around the polling places during voting hours.

(b) The Election Board may request assistance from the Tribal police, as needed, to maintain order at the polling place.

8.2.27 Requesting an Absentee Ballot

(a) Any registered voter may request an absentee ballot, for any reason. **No person may request an absentee ballot for any other person.**

(b) Absentee ballots may be requested only from the Election Board member or members who have been designated to process absentee ballots.

(c) Absentee ballots may be requested by the registered voter in person, or by mail, email, fax, or telephone. Absentee ballots will not be issued after the deadlines set forth in this section.

(1) Absentee ballots may be requested in person up to 5 business days before Election Day.

(2) Absentee ballot requests that are sent by mail, email, fax, or telephone must be received by the Election Board at least 10 business days before Election Day.

(d) Ballots shall not be e-mailed or faxed to a voter and may not be returned by e-mail or fax.

(e) Absentee ballots shall be included in a packet that contains the following:

(1) A ballot;

(2) A preaddressed outer envelope for mailing back the ballot, which includes lines and instructions for the voter to print and sign his or her name; and

(3) Instructions for completing and returning the ballot shall be substantially similar in format to the instructions included in Appendix D, and shall state that:

(A) The voter should mark the ballot, as instructed on the ballot, and enclose the ballot in the pre-addressed return envelope;

(B) The voter must sign and clearly print his or her name on the envelope. Ballots returned in unsigned envelopes will not be counted;

(C) To be counted, absentee ballots must be returned as follows:

- By mail: Received at the designated PO Box or mailbox for absentee ballots on or before Election Day; or
- Hand-delivered: Delivered to the Election Board, at the polling place on Election Day, between 10:00 AM and 7:00 PM. Absentee ballots may only be delivered by the voter who requested the ballot. **Hand delivered ballots delivered by any other person, or delivered before Election Day, will not be accepted.**

8.2.28 Providing and Returning Absentee Ballots; Record Keeping

(a) At least 20 calendar days before the election, the Election Board shall mail out all absentee ballots that have been requested by mail, email, fax, or telephone. If a voter requests an absentee ballot by mail, email, fax, or telephone after that mailing, but within the timelines set forth in Section 8.2.27(c), the Election Board shall mail out the absentee ballot within 2 business day of receipt of the request.

(b) To be counted, absentee ballots must be returned as follows:

(1) By mail: Received at the designated PO Box or mailbox for absentee ballots on or before Election Day; or

(2) Hand-delivered: Delivered to the Election Board, at the polling place on Election Day, between 10:00 AM and 7:00 PM. Absentee ballots may only be delivered

by the voter who requested the ballot. **Hand delivered ballots delivered by any other person, or delivered before Election Day, will not be accepted.**

(c) An absentee ballot returned by expedited mail service (such as Fed Ex) will be accepted only if the expedited mail service envelope carries the ballot inside the signed, outer envelope.

(d) If an absentee voter accidentally makes a mistake or damages his or her ballot, the voter may contact the Election Board to request a new ballot. The Election Board may issue a new ballot to the voter if the voter returns the spoiled ballot. The request for a new ballot and the Board's resolution of the request must be noted in the Election Log.

(e) A voter who believes that his or her ballot has been lost, misplaced, or otherwise mishandled before reaching the Election Board may request and submit a new ballot, but if the original ballot is later found, only the first ballot received by the Election Board will be counted.

(f) The Election Board has no control over the mail, and is not be responsible for the late delivery of absentee ballots or for absentee ballots lost in the mail.

(g) The Election Board may accommodate special requests for absentee ballots from military personnel, incarcerated persons, or other individuals needing special accommodations, but cannot extend the deadline for the receipt of ballots past Election Day. The Board shall note any special requests and accommodations in the Election Log.

(h) The Election Board shall keep a record of:

(1) Any voter who requests an absentee ballot and the date the Election Board received the absentee ballot request;

(2) Whether the ballot was provided to the voter in person or by mail, and the date provided; and

(3) If the absentee ballot was mailed, the address to which it was sent.

8.2.29 Processing Absentee Ballots

(a) Absentee ballots shall remain locked in the designated PO box or mailbox for absentee ballots until after the mail is delivered on Election Day, at which time an Election Board member shall retrieve the absentee ballots and bring them, unopened, to the polling place.

(b) A Tribal Police officer shall accompany the Election Board member to and from the ballot box and shall be present during the ballot count. The Election Board shall notify the Tribal Police Department that it will be requesting this assistance at least one business day before Election Day.

(c) At least 2 Election Board members shall be present during the processing of absentee ballots.

(d) For each absentee ballot, the Election Board shall compare the signature on the outer envelope with the voter's signature on the Registered Voter List, and confirm that the voter requested an absentee ballot. If the signatures match and the voter requested an absentee ballot, the Election Board shall:

(1) Make a note on the Registered Voter List, next to the voter's name, indicating that the voter has returned an absentee ballot; and

(2) Open the envelope and immediately place the ballot, without looking at the votes, in the locked ballot box.

(e) An absentee ballot must be rejected if:

(1) Two or more Election Board members agree that the signature on the envelope does not match the voter's signature on file;

(2) The ballot is not returned inside an official envelope that includes the voter's name and signature on the outside;

(3) The absentee ballot is returned by someone other than the registered voter to whom the ballot was issued; or

(4) The ballot is received after the close of the polls.

(f) If the Election Board rejects an absentee ballot, the entire rejected ballot shall be marked "void" and deposited, unopened, in a separate, secure container for invalid ballots. The Election Board shall note the rejection in the Election Log.

8.2.30 Ballot Counting Procedures

(a) The Election Board shall count the ballots at the polling place. All 3 Board members, and both alternates, if possible, shall be present for the count.

(1) Only Board members and alternates may participate in the ballot count.

(2) A Tribal Police Officer shall be present during the ballot count, except in the case of a law enforcement emergency.

(b) The Election Board shall destroy all unused ballots at the close of the polls, before counting the ballots.

(c) The Election Board shall count the ballots immediately after all absentee ballots have been processed and placed in the ballot box.

(d) Any ballot that is not clearly marked, contains more votes than open seats, or is received after the close of the polls will not be counted. These ballots shall be marked "void" and shall be placed in a separate, secure container for invalid ballots. The Election Board shall note any voided ballots in the Election Log.

(e) After counting the ballots, the Election Board shall rank the candidates, based on the highest number of votes, and determine the winners.

ELECTION RESULTS

8.2.31 Recounts

The Election Board shall conduct an automatic recount of all ballots, immediately following the initial count, if any seat on the Tribal Council has been decided by 3 votes or less.

8.2.32 Runoff Elections

In the event of a tie, unless one candidate withdraws, the Election Board shall set a date for a Runoff Election, which shall be held within 30 calendar days. The date of the Runoff Election shall provide enough time for the request, mailing out, and return of absentee ballots.

8.2.33 Determining Terms

If, due to a vacancy between terms, a seat or seats on the Tribal Council involve less than a full term, the winners receiving the most votes fill the longest terms.

(a) If there is a tie between candidates who would fill partial terms of different lengths, the candidates shall flip a coin to determine which candidate shall fill the longer term.

(b) If more than one immediate family member of a person already serving on the Tribal Council is elected, the immediate family member receiving the most votes shall be declared a winner.

8.2.34 Announcement of Initial Election Results

(a) Immediately after completing the ballot count and any required recount, the Election Board shall post the initial election results at the Tribal Police Department, Administrative Office, Health Office, Tribal Council Office, and Gathering Center. The announcement shall be substantially similar in format to the announcement included in Appendix E.

(b) All Election Board members participating in the ballot count must sign the announcement of the initial election results.

(c) If a winning candidate withdraws after the initial results are announced but before taking office, the losing candidate with the most votes shall be declared a winner.

8.2.35 Election Protests

(a) Any registered voter may protest an election, within 3 business days of the election, by submitting his or her concerns, in writing, to the Election Board. The written protest shall include:

(1) The name of the registered voter making the protest;

(2) **A full description of the alleged problems with the election.** The protesting party must provide facts in support of their allegations, and is encouraged to submit relevant documents to help prove their claims;

(3) How many ballots the protesting party believes were affected by the problems, if known;

(4) How the protesting party would like the issue to be resolved;

(5) The signature of the protesting party; and

(6) A certified check, cashier's check, or money order, in the amount of \$50.00, made payable to the Burns Paiute Tribe. The purpose of this filing fee is to recoup election-related expenses.

(b) The Election Board shall meet within 3 business days of the receipt of an election protest to consider the protest. The Election Board may contact the protesting party and/or other members of the Tribal Community to obtain additional input, if necessary.

(c) Within 5 business days of its receipt of the election protest, the Election Board shall determine whether a new election, other action, or no action is needed to resolve the protest.

(1) All 3 Election Board members must participate in the decision; *provided that* if an Election Board member is not available to help resolve the protest, the Election Board shall appoint an alternate to serve in his or her place.

(2) The Election Board shall use common sense and best judgment. The Election Board may not call for a new election based on errors of a purely technical nature, which do not call the validity of the election into question.

(3) If the Election Board's decision cannot be made by consensus, the decision shall be made by majority vote.

(4) If the Election Board determines that a new election is needed, the new election shall be limited to voting on the candidates that were affected by the election errors.

(A) If the errors affected the entire election, the new election shall be held to vote on the same candidates, using the same Registered Voter List as the protested election, unless the protest is based on errors in the nomination process, candidate list, or Registered Voter List.

(B) If some election winners were not impacted by the errors, such winners shall be certified and shall take office in accordance with this Chapter. The new election shall be held to vote on the remaining candidate(s), using the same Registered Voter List as the protested election.

(5) The Election Board shall provide its decision, in writing, to the protesting party. The Election Board shall also provide a copy of its decision to the Tribal Council, and shall publish its decision in the next Tribal newsletter.

(6) The decision of the Election Board is final. The Tribal Council has no authority to review or overrule the Election Board's decision.

8.2.36 Certification of Results

(a) The Election Board shall certify the election and provide the final election results to the Tribal Council Chair, in accordance with the following timelines:

(1) If no protests are filed and no Runoff Election is required: 4 business days after the election.

(2) If a Runoff Election is required or a protest was filed: no later than 2 business days after the Runoff Election or the resolution of the protest.

(b) The certification shall be substantially similar in format to the certification form included in Appendix F.

(c) The Election Board shall publish the certified results in the Tribal Newsletter and shall forward a list of newly elected Tribal Council members to the Superintendent of the BIA, Warm Springs Agency.

(d) Winning candidates shall take office in accordance with Section 1.4.8(a) of the Tribal Code.

SPECIAL ELECTIONS: RECALL, INITIATIVE, AND REFERENDUM

8.2.37 Recall of a Tribal Council Member from Office

(a) To initiate the recall of a Tribal Council member from office, a completed Petition Submission Form and a Recall Petition signed by at least 1/3 of the voters on the most recently approved Registered Voter List must be submitted to the Election Board.

(1) Each page of the Recall Petition must include the name of the Tribal Council member for whom recall is sought and a brief description of the facts upon which the proposed recall is based.

(2) A separate Recall Petition must be submitted for each Tribal Council member for whom recall is sought.

(b) If a majority of voters who vote in the Recall Election vote to recall the Tribal Council member, the Tribal Council member shall be recalled from office, and the Tribal Council shall fill his or her seat, in accordance with the Tribal Constitution.

(c) No Tribal Council member shall be subject to a recall vote more than 2 times during his or her term of office.

8.2.38 Initiative Process

(a) The initiative process permits any registered voter to propose legislation and seek a special Initiative Election to give registered voters the opportunity to vote on the proposed legislation.

(b) To initiate the initiative process, the text of the proposed legislation, a completed Petition Submission Form, and an Initiative Petition signed by at least 1/3 of the voters on the most recently approved Registered Voter List must be submitted to the Election Board. Each page of the Initiative Petition must include a description of the proposed legislation.

(c) If at least 1/3 of the Tribe's registered voters cast ballots, and at least a majority of those who vote approve the proposed legislation, the proposed legislation shall become the law of the Tribe until it expires by its own terms or is otherwise changed by action of the voters. The decision of the voters shall be binding on the Tribal Council.

(d) Once an initiative issue has been submitted to the voters and decided, that same issue shall not be addressed in another Initiative Election for at least 6 months.

8.2.39 Referendum

(a) The referendum process allows the Tribe's registered voters to vote on an issue of public policy, such as a proposed Constitutional amendment, the adoption of a proposed Tribal law, or the revision or repeal of a previously enacted Tribal law or Tribal Council resolution.

(b) The Tribal Council may call a special Referendum Election if at least 4 Tribal Council members vote in favor of the election. The Election Board shall conduct the Referendum Election, in accordance with the election procedures set forth in this Chapter, as applicable, within 45 calendar days from the date the Tribal Council called the election.

(c) Any registered voter may demand a Referendum Election by submitting a completed Petition Submission form and a Referendum Petition signed by at least 1/3 of the Tribe's registered voters to the Election Board. Each page of the Referendum Petition must include a description of the proposed action.

(d) To pass a referendum, at least 1/3 of the Tribe's registered voters must cast ballots, and at least a majority of those who vote must approve the referendum; *provided that* if the vote is to consider a Constitutional amendment, rules for Secretarial elections apply.

(1) The decision of the voters shall be binding on the Tribal Council.

(2) An action approved by referendum shall stand until it expires by its own terms or is otherwise changed by action of the voters.

8.2.40 Petitions for Special Elections

(a) To request a special election to vote on a proposed recall, initiative, or referendum, a registered voter must submit the applicable Petition, which includes the valid signatures of at least 1/3 of the Tribe's registered voters, and a Petition Submission Form, to the Election Board.

(1) Petition Submission Forms shall be substantially similar in format to the form included in Appendix G, and Petition shall be substantially similar in a format to the applicable form set forth in Appendix H – Appendix J.

(2) Petitions must be submitted to the Election Board within 60 calendar days of the date of the first signature on the petition.

(3) Only original signatures on petitions will be accepted. Photocopied signatures will be invalidated.

(4) The Election Board shall provide a Petition and Petition Submission Form to any registered voter, upon request.

(b) Any registered voter shall have the right to sign a Petition.

(c) Any Tribal member may have his or her name removed from a Petition if the member submits a signed written request to the Election Board before the Tribal Council calls for the special election.

(d) Signatures on a Petition shall not be obtained or removed by coercion, fraud, or misrepresentation, or under circumstances in which it would have been physically impossible to have obtained the signature.

(e) Upon receipt of a Petition for a special election, the Election Board shall determine whether at least 1/3 of the voters on the most recently approved Registered Voter List have signed the Petition, and shall verify each signature on the Petition by comparing it to the signature on file for each voter.

(1) If the Election Board determines that a Petition does not contain the required number of signatures, or makes a finding, supported by substantial evidence, that 2 or more signatures on the Petition were forged, obtained by false representation, photocopied, or otherwise improperly obtained, the Election Board shall invalidate the Petition.

(2) If at least 1/3 of the voters on the most recently approved Registered Voter List have signed a valid Petition, the Election Board shall report that fact to the Tribal Council, and the Tribal Council Chair shall call a special election to vote on the proposed recall, initiative, or referendum; *provided that* if a Petition seeks the recall of the Tribal Council Chair, the Vice-Chair shall call the special election.

(f) The special election shall be scheduled by the Election Board and held within 45 calendar days of the Election Board's receipt of the Petition; *provided that*:

(1) If a Recall Petition is submitted within 2 months of the next annual Tribal election, the Tribal Council may direct that the recall vote be conducted along with the election.

(2) If an Initiative or Referendum Petition is received within 30 calendar days of a scheduled General Council meeting, the vote on the initiative or referendum shall be delayed until that meeting.

(g) The special election shall be conducted in accordance with election procedures set forth in this Chapter, as applicable; *provided that* before a vote is held on the recall of a Tribal Council member from office, the Tribal Council shall hold a Special General Council meeting to give the Tribal Council member facing recall the opportunity to respond to any and all claims and allegations.

(1) The meeting shall be held before the Election Board mails out any absentee ballots.

(2) The meeting may be waived at the request of the Tribal Council member subject to recall.

PETITIONS TO CALL A SPECIAL TRIBAL GENERAL MEETING

8.2.41 Petitions to Call a Special General Council Meeting

- (a) To call a Special General Council meeting, a Petition stating the subject(s) to be addressed at the meeting, which is signed by at least 25 registered voters, must be submitted to the Election Board, and a copy of the petition must be submitted to the Tribal Council.
- (b) Within 2 business days of receipt of a Petition to call a Special General Council meeting, the Election Board shall determine whether at least 25 voters on the most recently approved Registered Voter List have signed the Petition, and shall verify each signature on the Petition by comparing it to the signature on file for each voter.
- (c) If the Election Board determines that the Petition does not contain the required number of signatures, or makes a finding, supported by substantial evidence, that 2 or more signatures on the Petition were forged, obtained by false representation, photocopies, or otherwise improperly obtained, the Election Board shall invalidate the Petition.
- (d) If at least 25 registered voters signed a valid Petition, the Election Board shall report that fact to the Tribal Council, and the Tribal Council Chair shall set a date for the Special General Council meeting. The Tribal Council must set the date for the meeting within 5 business days after receipt of the Petition, and the meeting must be held within 20 calendar days after receipt of the Petition.

ELECTION VIOLATIONS AND PENALTIES

8.2.42 Election Violations

It shall be an election violation to:

- (a) Engage in threats, intimidation, acts of bribery, or fraud related to an election;
- (b) Knowingly vote more than one time in any election;
- (c) Not being entitled to vote, knowingly vote;
- (d) Intentionally hinder or interfere with the election process or the voting rights of others;
- (e) Knowingly add a ballot to those legally cast at any election by fraudulently introducing the ballot into the ballot box or mixing the ballot with other ballots lawfully cast while they are being counted;

- (f) Knowingly detain, destroy, alter, or mutilate a ballot or election returns;
- (g) Intentionally disable or remove a ballot box or voting record from the polling place or custody of an Election Board member;
- (h) File an election protest or submit a petition for recall knowing that the allegations contained in the protest or petition are false. Protests or petitions filed in good faith shall not be found to be a violation;
- (i) Participate in official Election Board functions without authorization; or
- (j) Disturb the Election Board when the Board is in session and carrying out its official duties.

8.2.43 Enforcement

- (a) An election violation is a Class C Offense.
- (b) Any person observing or having other credible evidence of any election violation shall notify the Tribal Police, who shall immediately investigate the matter and pursue criminal charges as appropriate.
- (c) Additional criminal charges may be filed, where applicable, for violations of this Chapter that also involve the violation of other criminal laws.

APPENDIX A: LEGISLATIVE HISTORY

The Burns Paiute Tribe adopted a Constitution and Bylaws on February 19, 1988, which was approved by the Secretary of the Interior on June 3, 1988. Article IX, Section 2 of the Constitution requires the Tribal Council to enact an Election Ordinance, consistent with the Constitution, which sets forth procedures for conducting Tribal elections.

The Tribe first revised the Tribe's Election Ordinance in 2004. On December 18, 2007, the Tribe adopted revisions to that Election Ordinance. These revisions were intended to address gaps in and inconsistencies with the Tribe's Election Ordinance. Among other revisions, the revised Election Ordinance ended voting at the polling place, and created procedures for voting by mail.

After the Tribal Council adopted the revised Election Ordinance, the Tribe experienced frequent election protests, low voter turnout, high election costs, and community confusion and frustration with the voting by mail process.

In 2013, the Tribal Council adopted emergency revisions to the Election Ordinance to permit voting at the polling place, to permit non-Tribal members who reside in Harney County and meet the requirements for office to serve on the Election Board, and to make other minor changes to the Ordinance. The Tribal Council did not adopt the emergency revisions through the Tribe's notice and comment procedures, and the revisions therefore expired after one year.

On August 4, 2015, the Tribal Council revised the Election Ordinance, on an emergency basis, through Resolution No. 2015-12, to permit voting at the polling place and make other changes. The Tribal Council did not adopt the emergency revisions through the Tribe's notice and comment procedures, and the revisions therefore expired after one year.

In January 2017, the Tribe's Election Board and Tribal Council began developing amendments to the Election Ordinance, in an effort to clarify election procedures and Election Board duties, and to permanently change to voting at the polling place. The Ordinance was also re-numbered and re-formatted to become Chapter 8.2 of the Tribal Code.

The Tribal Council adopted the new Chapter 8.2 of the Tribal Code on April 13, 2017, through Tribal Council Resolution 2017-14.

APPENDIX B: VOTER REGISTRATION FORM

VOTER REGISTRATION FORM

To register to vote, please submit this Voter Registration Form to the Election Board.
To be eligible to vote on Election Day, the Election Board must receive this form at least 5
business days before Election Day.

Name: _____ Date of birth: _____

Address: _____

I hereby certify that I am an enrolled member of the Burns Paiute Tribe, and that I will be at least 18 years of age on the date of the next election.

Signature

Date

Please choose one of the following methods to verify your signature:

- IN PERSON:** I am submitted my Voter Registration Form to the Election Board *in person*. The following Election Board member obtained a copy of my ID, confirmed my identity, and witnessed my signature on this form:

Signature of Election Board Member

Date

- BY MAIL, FAX, OR EMAIL:** To prove my signature (*please check one*):
- I am enclosing a legible copy of one of the following documents, which clearly shows my signature:
 - Tribal Identification Card;
 - Driver's License;
 - State-issued Identification Card; or
 - Passport.
 - A Notary Public witnessed my signature on the Voter Registration Form and confirmed my identity. His or her seal and signature is included below.

Signature of Notary Public

Date

Burns Paiute Tribe, ATTN: Election Board, 100 Pasigo St., Burns, OR 97720
Fax: (541) 573-2323; Email: bpt.elections@gmail.com

APPENDIX C: BALLOT

APPENDIX D: VOTING INSTRUCTIONS – ABSENTEE BALLOTS

VOTING INSTRUCTIONS – ABSENTEE BALLOTS

Election Day is: _____

To submit an absentee ballot, please complete the following steps:

1. **MARK YOUR BALLOT.** Instructions are included on the ballot.
2. **PLACE YOUR BALLOT IN THE PRE-ADDRESSED RETURN ENVELOPE.**
3. **SIGN AND CLEARLY PRINT YOUR NAME ON THE ENVELOPE.** *Ballots returned in unsigned envelopes will not be counted.*
4. **RETURN YOUR BALLOT BY MAIL OR HAND DELIVERY.**

To return your ballot by mail:

- Be sure to put a stamp on the envelope. Mail your ballot. ***To be counted, your ballot must be received at the designated PO Box or mailbox for absentee ballots on or before Election Day.***
- If you think your ballot has been lost in the mail, you may contact the Election Board to request a new ballot. If the original ballot is found, only the first ballot received by the Election Board will be counted.
- The Election Board has no control over the mail and is not responsible for the late delivery of absentee ballots, or for absentee ballots that are lost before reaching the Election Board.

To hand-deliver your ballot:

- You may hand-deliver your absentee ballot to the Election Board, at the polling place on Election Day, between 10:00 AM and 7:00 PM.
- Absentee ballots may only be delivered by the voter who requested the ballot. ***Hand delivered ballots delivered by any other person, or delivered before Election Day, will not be accepted.***

* NOTE: Because you requested an absentee ballot, you CANNOT receive another ballot at the polling place. *

APPENDIX E: INITIAL ELECTION RESULTS ANNOUNCEMENT

**Burns Paiute Tribe Election Board
Initial Results of Tribal Council Election**

Election Date: _____

Number of Registered Voters: _____

Number of ballots received: _____

Number of ballots voided: _____

Based on the above count, the Election Board hereby announces the following *initial* election results:

Newly elected Tribal Council members:

Term Expires:

1. _____

2. _____

3. _____

4. _____

The Election Board will certify the final election results after any required recounts or the resolution of any election protests.

Certification by Election Board Members:

Signature of Election Board Member

Date

Signature of Election Board Member

Date

Signature of Election Board Member

Date

APPENDIX F: ELECTION RESULTS CERTIFICATION FORM

**Burns Paiute Tribe Election Board
Final Certification of Tribal Council Election**

Election Date: _____

Number of Registered Voters: _____

Number of ballots received: _____

Number of ballots voided: _____

The Election Board hereby certifies that: the Tribal Council election was held in accordance with Tribal law; any recounts or election protests, if any, have been resolved; the applicable protest period has passed; and the following candidates have been duly elected:

Newly elected Tribal Council members:

Term Expires:

1. _____

2. _____

3. _____

4. _____

Certification by Election Board Members:

Signature of Election Board Member

Date

Signature of Election Board Member

Date

Signature of Election Board Member

Date

APPENDIX G: PETITION SUBMITTAL FORM

PETITION SUBMISSION FORM

Submitted by: *(print name of petitioner)*: _____

Petition for: *(check one)*

- Recall of the following Council Member: _____
- Referendum
- Initiative
- Special General Council meeting

Signature of Petitioner: _____

Address: _____

Phone number: _____

The following information is to be completed by the Election Board:

Date Submitted: _____ Time Submitted: _____

Date of first signature on petition: _____ Total signatures: _____

Number of Pages: _____ Copy made for Petitioner? Yes No

Received by *(name of Election Board member)*: _____

Signed by: _____
Burns Paiute Tribal Election Board Member

APPENDIX H: RECALL PETITION

RECALL PETITION

Article X, Section 3 of the Constitution the Burns Paiute Tribe states:

“Upon a petition of at least one-third of the eligible voters of the Burns Paiute Tribe, it shall be the duty of the Tribal Council to call a special election to consider the recall of the member(s) of the Council named in such petition.”

We, the undersigned registered voters of the Burns Paiute Tribe, hereby petition for the recall of the following Tribal Council Member: _____, for the following reason(s):

_____.

Date	Print Name	Signature	Address

APPENDIX I: INITIATIVE PETITION

INITIATIVE PETITION

Article IX, Section 3 of the Constitution the Burns Paiute Tribe states:

“The qualified voters may propose legislation by submitting to the tribal council a petition signed by at least one-third (1/3) of the registered voters. Each page of the petition shall contain a description of the proposed enactment.”

We, the undersigned registered voters of the Burns Paiute Tribe, hereby petition for a vote on the following proposed legislation:

A copy of the complete text of the proposed legislation is attached.

Date	Print Name	Signature	Address

APPENDIX J: REFERENDUM PETITION

REFERENDUM PETITION

Article IX, Section 4 of the Constitution the Burns Paiute Tribe states:

“A referendum may be demanded on any enacted or proposed ordinance or resolution of the Burns Paiute Tribal Council by a petition of at least one-third (1/3) of the registered voters of the Burns Paiute Indian Reservation.”

We, the undersigned registered voters of the Burns Paiute Tribe, hereby petition for a vote on the following:

Date	Print Name	Signature	Address