

COQUILLE INDIAN TRIBAL CODE

Chapter 194

Part 1 – General Governmental Affairs

Elections

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194.010 General

The purpose of this ordinance is to provide fair, uniform and efficient Tribal elections authorized under Article V of the Constitution of the Coquille Indian Tribe or otherwise under Tribal law and to authorize the Coquille Indian Tribal Court to resolve certain disputes arising under Article VI, Section 4(a) of the Constitution regarding the eligibility of persons elected to office to serve as Tribal Council members.

194.100 Time of Election for Tribal Council Positions

Election Day for Tribal Council positions shall be held the third Friday of October each year.

194.120 Election Board

1. Appointment and Qualifications

(A) All elections shall be administered by the Election Board. The Election Board shall consist of three (3) members and two (2) alternates selected from the Tribal membership. The Election Board shall be appointed by the Tribal Council. The Tribal Council shall appoint the Election Board at its first meeting following the General Council nomination meeting.

(B) Members of the Election Board must be enrolled members of the Coquille Indian Tribe. Election Board members shall be 18 years of age or older. No person shall be appointed to the Election Board if (1) she or he is a candidate, (2) his/her immediate family member is a candidate, or (3) she/he nominated a candidate for office at the General Council meeting at which nominations were made.

(C) Immediate family member means: parent, child, sibling, spouse or member of a candidate's household.

(D) Members of the Election Board must resign from the Board prior to the General Council meeting for nominations if she/he wishes to nominate a person for Tribal Council office at the General Council meeting.

(E) Persons appointed to a position on the Election Board shall be notified in writing or by e-mail, return receipt requested, no later than 5:00 p.m on the Monday following the Tribal Council meeting at which they were appointed by the Tribal Council Secretary that they have been appointed. Appointees who wish to decline the appointment must send a letter or e-mail of declination to the Tribal Council Secretary within five (5) working days of the General Council nomination meeting.

2. Term in Office

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Election Board members shall serve a one (1) year term and may be re-appointed for additional terms.

3. Duties of Election Board

(A) Oath:

Upon accepting the appointment, each member of the Election Board shall sign an oath that states that she or he will serve according to the best of her or his ability and shall make every effort to prevent fraud or abuse of the election process. The oath shall become part of the election records.

(B) The duties of the Election Board shall include the following:

- (1) Conducting and supervising Tribal elections;
- (2) Developing and making available a form nomination letter at the General Council meeting for nominations;
- (3) Notifying all General Council members of the nominations meeting at least 30 days prior to the meeting;
- (4) Facilitating publication of candidates' personal statements in Tribal newsletter prior to the election;
- (5) Ensuring that a Tribal election voters' pamphlet is compiled and distributed to voting Tribal members;
- (6) Ensuring that appropriate material is contained in the voter's pamphlet, as defined in 194.150 of this ordinance;
- (7) Ensuring that ballots accurately reflect the candidates and the issues for election;
- (8) Ensuring that an updated roll of Tribal members is available for the election;
- (9) Ensuring that ballots are mailed to all Tribal members eligible to vote in election;
- (10) Receiving, counting and tabulating the ballots at the close of voting, pursuant to 194.150 of this ordinance;

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- (11) Deciding questions of eligibility to vote and ensuring that ballots are distributed only to qualified voters;
- (12) Ensuring adequate poll book and other record-keeping procedures are followed which will provide sufficient information to determine the validity of the election;
- (13) Reviewing and investigating any claims of irregularity regarding the election and making findings as to the validity or invalidity of any claims of irregularity;
- (14) Requiring that a new election be held if they determine that an irregularity affected the outcome of the election;
- (15) Interpreting ballots carefully and truthfully to voters who are unable to read or who request assistance;
- (16) Reporting to the Tribal Council the results of the election and reporting any complaint of irregularity and determination arising from such complaint;
- (17) Certifying the results of the election;
- (18) Retaining all ballots including spoiled ballots in a sealed container and under lock and key for one year from the date of each election, as evidence to be used in any election dispute;
- (19) Monitoring the polling place on Election Day; and,
- (20) Compiling a list of General Council member contact information for nominees for Tribal Council positions as provided in this Ordinance.

4. Removal

The Tribal Council may remove a member of the Election Board who fails to perform the duties set forth in this Ordinance. The member may be removed by a majority vote of all Tribal Council members present in a duly held meeting.

5. Vacancies on the Election Board

Any vacancy on the Election Board shall be filled by the alternates selected by the Tribal Council. A new Election Board alternate will then be appointed by the Tribal Council at the next regularly scheduled Tribal Council meeting.

6. Rulemaking

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(A) Rulemaking Authority:

- (1) The Election Board shall have the authority to make and enforce such rules as they find necessary to provide for fair and efficient elections under this Ordinance. Rules promulgated by the Election Board shall be in writing and shall be adopted by a majority vote of the Board.
- (2) The Election Board shall submit any rule that it promulgates for an election to the Tribal Council at its next regularly scheduled meeting along with a written explanation for the need of the rule. The Tribal Council may choose to use this information for the purpose of amending this Ordinance to include that rule.

(B) General Rules

In addition to any such rules promulgated by the Election Board pursuant to its authority under this Ordinance, the Board will abide by these general rules in the conduct of the election:

- (1) The Board will count ballots cast in an election on the day of the election at the Coquille Tribal Headquarters.
- (2) An independent election watcher (the "Election Watcher") must be present to monitor vote counting at all Tribal elections held under this ordinance. As used in this subparagraph, "independent" means that an Election Watcher (and any employee or agent of the Election Watcher) is not a spouse, sibling parent, child, grandparent, grandchild, aunt, uncle or cousin of any candidate in that election.
- (3) No person will be allowed to loiter in the tabulation area in which the Board is counting ballots.
- (4) One member of the Coquille Indian Tribe Election Board must be present at the location of the ballot box at all times on Election Day. The Election Board may not count ballots unless three (3) Board members are present.
- (5) Except as authorized by Tribal law, the Election Board may not publish or release a list of voters who voted in a particular election in order to protect the privacy of individual Tribal members.

7. Tribal Member Directory

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Within one week after the Nominations meeting, the Tribal Member Services Department will assist the Election Board in compiling a list of all then current General Council names and phone numbers. Upon request, the Elections Board will provide copies of the list to candidates nominated for election to Tribal Council; *provided*, that the nominee must, in advance of receiving the directory, sign a notarized statement under oath, swearing that the nominee will (a) use the directory exclusively for the purpose of that year's campaign for Tribal Council, (b) will make no copies of the directory, and (c) will destroy the directory immediately after conclusion of the election. No candidate will receive the directory until the Election Board receives the candidate's signed and notarized oath. An oath is considered received when it is faxed, e-mailed or delivered to the Tribal Administration office. In the event of faxing or e-mailing the oath, the original must then be mailed to the Tribe. The Tribal Administration may identify directories handed out for this purpose by use of watermarks, memorandum notes, or otherwise.

194.130 Candidates

1. Qualifications

Any enrolled member of the Coquille Tribe who will be (18) eighteen years of age or older on the date of the election is qualified to be a candidate for Tribal office.

2. Nominations

(A) The General Council shall hold a meeting at least ten weeks prior to Election Day for the sole purpose of nominating candidates for the Tribal Council election. The Chairperson of the Tribal Council shall chair the General Council meeting. The Election Board shall send notice of the Nominations Meeting to all members of the General Council at least thirty (30) days before the meeting. Only members of the General Council over eighteen years of age may nominate candidates for Tribal office. Nominations for Tribal office will be made from the floor at the General Council meeting. A General Council member who plans to nominate a candidate must be present to do so. The person nominated need not be present. The nomination will only be valid if the General Council member who nominated the candidate or the nominee provides the Election Board with a letter of nomination of the nominee by the end of the General Council meeting at which the nomination is made. The Election Board will have a form letter of nomination available at the General Council meeting.

(B) The Election Board will review the qualifications of the candidates and will contact all nominees as soon as possible after the General Council nomination meeting to determine whether the nominees wish to accept the nomination. Nominees must respond in writing by fax, e-mail, or U.S. mail postmarked within five (5) working days of the meeting.

3. Write-in Candidates

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Write-in candidates shall be allowed for Tribal Council elections. The Election Board shall ensure that the ballots provided will provide space for write-in candidates for each position.

194.140 Qualification of Voters

1. Eligible Voters

Any enrolled member of the Coquille Tribe who will be (18) eighteen years of age or older on the date of the election shall have the right to vote in that election.

2. No Registration

Voters shall not be required to register to vote.

3. Voter List

The Tribal Member Services Department shall be responsible for maintaining and updating the addresses of qualified Tribal voters. The Tribal Member Services Department shall provide the most current mailing list of qualified voters to the Election Board, no later than ten (10) weeks prior to any scheduled election. The Election Board shall keep an up-to-date poll book with the voters listed in alphabetical order or as nearly as possible.

194.150 Conduct of the Election

1. Voter's Pamphlets

(A) The Election Board shall prepare all voter's pamphlets for all Tribal Council elections.

(B) The voter's pamphlets may only contain:

- (1) A personal statement from each candidate; and
- (2) A resume from each candidate;

(C) The voter's pamphlets may not:

- (1) Contain any statements not authored by the candidate;
- (2) Any documents on letterhead from the Tribe or any Tribal entity;

(D) The total submission may not exceed four pages front and back, not to exceed twelve point font and not less than ten point font.

(E) Review of submitted candidate materials:

- a. Materials submitted for the voter's pamphlet shall be subject to review by the Election Board for conformance with this ordinance.
- b. Any materials that do not conform to the requirements of this ordinance will be returned to the Candidate for correction.

(F) Candidate photos for voter's pamphlet

- a. Each candidate may submit only one photo of themselves for the voter's pamphlet.

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- b. The photo must be no more than five years old.
 - c. Photographs must only be of the head and shoulders of the candidate.
 - d. Any photographs that reveal clothing, uniform or insignia suggestive of holding public office, or that of any organization that advocates or teaches racial or religious intolerance, are prohibited.
- (G) Voter's pamphlet materials shall be submitted to the Election Board Chair. In the Chair's absence or unavailability, materials may be submitted to any Election Board member. Materials shall remain confidential until they are mailed.

2. Ballots and Voter's Packets

(A) The Election Board shall prepare all ballots and voter's packets for all Tribal elections.

(B) The ballots for Tribal Council election shall have the names of the candidates for each office listed in alphabetical order by last name. The ballots shall have a space for write-in candidates for each office. The ballot shall contain the following instructions:

You may vote for one candidate for the office of _____. Place a mark by the name of each person for whom you wish to vote. You may not give any candidate more than one vote. If you vote for more than the correct number of candidates for any position, your vote for that position will not be counted.

If you make an error on the ballot or want to change your vote, you may (1) make the correction on the ballot as clearly as possible so it can be determined by the Election Board for whom the vote was intended or (2) return the mismarked ballot to the Election Board for a new ballot.

Be sure to sign your name on the back of your return envelope. Your ballot will not be counted if you do not sign the return envelope.

If you need assistance, the Election Board members will help you.

(C) Ballots for referendum or initiative will clearly state the question presented and that a yes or no vote is required on the issue. In addition to the statement of the question presented, the ballot shall also contain the following instruction:

You may vote either yes or no on the referendum or initiative. A yes vote means that you support the referendum/initiative. A no vote means that you do not support the referendum/initiative. Place a mark by either yes or no. A voter cannot vote both yes and no on the issue.

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If you make an error on the ballot or want to change your vote, you may (1) make the correction on the ballot as clearly as possible so it can be determined by the Election Board for whom the vote was intended or (2) return the mismarked ballot to the Election Board for a new ballot.

Be sure to sign and print your name on the back of your return envelope. Your ballot will not be counted if you do not sign the envelope.

(D) Ballots for recall of a Tribal Council member will clearly state the name of the Tribal Council member whose recall is sought. Additionally each official ballot shall contain the following instructions:

You may either vote yes or no on the recall of (insert council member whose recall is being sought) from the Tribal Council. If you vote yes, it means that you support the recall petition and that you believe that the Tribal Council member should be removed from office. If you vote no, it means that you do not support the recall petition and that you do not want the Tribal Council member removed from office.

Please place a mark by either the Yes or No space. You may not vote more than once. If you mark both spaces, your ballot will be marked spoiled and your vote will not be counted.

If you make an error on the ballot or want to change your vote, you may (1) make the correction on the ballot as clearly as possible so it can be determined by the Election Board for whom the vote was intended or (2) return the mismarked ballot to the Election Board for a new ballot.

Be sure to sign and print your name on the back of your return envelope. Your ballot will not be counted if you do not sign the envelope.

1) Sample Ballot

Ballot #

Should _____ (insert council member's name) be recalled?

___ YES

___ NO

(E) Ballots for a General Council Advisory Vote will clearly state the question presented and that a yes or no vote is required on the issue. In addition to the statement of the question presented, the ballot shall contain the following instruction:

This is a ballot for a General Council Opinion Vote. This vote does not create or change Tribal law. The Tribal Council is using this vote to find out how you feel about an important issue.

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You may vote either yes or no on the General Council Opinion Vote. A yes vote means that you support the question posed on the ballot. A no vote means that you oppose the question on the ballot. Place a mark by either yes or no. You cannot vote both yes and no on the issue.

If you make an error on the ballot or want to change your vote, you may (1) make the correction on the ballot as clearly as possible so it can be determined by the Election Board for whom the vote was intended or (2) return the mismatched ballot to the Election Board for a new ballot.

Be sure to sign and print your name on the back of your return envelope. Your ballot will not be counted if you do not sign the envelope.

(F) The ballots shall be printed in black on white paper and clearly marked as official ballots.

(G) The Election Board shall determine and record the total number of ballots to be printed for each election in the poll book.

(H) The Election Board may include sample ballots for voters. Sample ballots must be printed on colored paper and shall clearly be labeled "sample ballot". If a sample ballot is placed in the ballot box, it shall not be counted. The packets will also include instructions for casting the ballots including the purpose of the election, pertinent dates for return of the ballots and instructions for voting.

(I) Voter's packets shall include the official ballot, an inner optional secrecy envelope, a marked "Ballot" and self-addressed stamped envelope which has the voter's return address, a line preprinted with the voter's name and a line for voter's signature on the back of the envelope. It may also include sample ballots.

2. Voter's pamphlets, voter's packets, and ballots shall be mailed together.

3. Polling Place and Hours

The polling place shall be open from 8:00 a.m. to 12:00 p.m. on Election Day at the Coquille Tribal Administrative Offices. At least one member of the Election Board shall be at the polling place at all times on Election Day. No candidate or proponent of an initiative or referendum shall be present or in the proximity of the polling place except to cast his or her ballot. No one shall be permitted to campaign or electioneer at the Coquille Tribal Administrative Offices.

4. Casting Ballots

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- (A) The Election Board shall mail official ballots to all General Council members no later than forty five (45) days prior to Election Day. The Election Board shall keep a poll book in which they docket the names of the eligible voters and the date that the ballots were mailed to the voters.
- (B) Voters may cast their ballots in person by depositing the completed ballot envelope in the ballot box at the polling place at the Coquille Tribal Headquarters during normal tribal office hours from the time of the receipt of the ballots until 12:00 p.m. on Election Day. Voters may also cast their vote by mailing the completed ballot to the Coquille Tribal Headquarters.
- (C) Ballots may not be cast by facsimile (fax) machine or via email.
- (D) Ballots that are cast by mail must be received at the Coquille Tribal Headquarters by 12:00 p.m. on Election Day. Ballots that are received later than 12:00 p.m. on Election Day are spoiled ballots and shall not be counted. The Election Board shall note in the poll book any ballots received after 12:00 p.m. on Election Day and keep these ballots in the spoiled ballot container.
- (E) Ballots that are cast by mailing to the Tribal Headquarters shall be placed in a secured box upon their receipt at the Tribal Headquarters. A designated Tribal staff person shall stamp the date the ballot is received on the outer ballot envelope, docket the receipt of the ballot in the poll book and deposit the ballot in the secured box. No one shall have access to this ballot box except the members of the Election Board; provided that a quorum of the Election Board shall be present when the ballot box is opened. To cast a ballot, each voter shall mark the ballot and place it in the envelope and seal it. If the voter makes an error on the ballot or wants to change a vote, the voter may (1) make the correction on the ballot as clearly as possible so it can be determined by the Election Board for whom the vote was intended or (2) return the mismarked ballot to the Election Board for a new ballot.
- (F) The voter may place the ballot in the inner envelope and seal the inner secrecy envelope. If the inner secrecy envelope is used, it shall be placed in the return envelope. The back of the return envelope shall be signed, or the ballot will be spoiled. The Election Board shall note that the ballot is spoiled and it will be kept in the spoiled ballot container.
- (G) If the voter is unable to mark the ballot or sign his/her signature, the voter may direct someone to mark the ballot for him/her and sign the envelope provided that the voter mark the signature line with an X and the person attests to the mark; for example, "X, mark of John Doe witnessed by Jane Doe."
- (H) Spoiled ballots shall be placed in separate container clearly marked "spoiled ballots".

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(I) The Election Board shall record in the poll book by each eligible voter's name whether his or her ballot was cast by mail or in person. The Election Board shall also note in the poll book any spoiled ballots. All return envelopes with ballots received by the Election Board shall be deposited in the appropriate box for in person deposit, mail in ballots and spoiled ballots. The poll book shall be kept confidential.

5. Counting Ballots

(A) The Election Board shall have an independent Election Watcher present at the vote count, tally, certification and any recount of the votes.

(B) All ballots received shall be counted by the members of the Election Board after the polls have closed on Election Day. A quorum of the Election Board and the Election Watcher must be present to count the ballots and any recounts of the ballots. The ballot boxes shall be opened with a quorum of the Election Board members present. The Election Board shall examine all return envelopes to determine whether any ballots are spoiled because of lack of signature or printed name. The Election Board shall keep the return envelopes as part of the record of the election.

(C) The members of the Election Board shall remove the ballots from the optional inner secrecy envelopes and count the ballots and votes for each candidate or initiative or referendum.

(D) The Election Board shall count and record in the poll book: the total number of ballots cast; the total number of valid ballots cast by personal delivery; the total number of valid ballots casts by mail; and the total number of spoiled ballots cast by personal delivery; and the total number of spoiled ballots cast by mail and certify the number of valid votes received for each candidate or each initiative or referendum in the poll book.

6. Certification

(A) After the Election Board has counted and tallied all ballots received in person or by mail, and tallied the votes for each candidate, initiative or referendum, the Election Board shall prepare a certification of the results of the election which shall be signed by the members of the Election Board and the independent Election Watcher.. The Election Board shall include the following information in the certification:

- (1) The total number of ballots cast;
- (2) The total number of spoiled ballots which were eliminated;
- (3) The total number of valid ballots;
- (4) The number of votes cast for each Tribal Council office, including the

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number of write-ins votes or the number of votes cast in support of or rejecting the initiative or referendum;

- (5) The name of the person elected to each position; and,
- (6) The number of votes cast for each candidate.

(B) The Election Board shall make public its certification of the results of the election. The Election Board shall post the results at the Coquille Tribal Headquarters and the Tribal Portal, mail the results to each head of household, and publish in the next edition of the Tribal newsletter. The Election Board will notify candidates of the election results within twenty four (24) hours of the close of the polls on Election Day. Elected Tribal Council members will be sworn in at the next regularly scheduled Tribal Council meeting following certification of the election results, regardless of whether the Elected Person attends that meeting.

194.160 Contesting Election Results

1. Who May Challenge Election Results

Only a candidate can challenge the results of the vote on her/his position by filing a written complaint with the Election Board.

2. Time for Filing Challenge

A candidate who wishes to challenge the election results on his/her position must file a written complaint with the Election Board within five (5) working days of the certification of the election results. The challenge must be made in writing and be postmarked or hand delivered to the Election Board at Coquille Tribal Administrative Office by 5:00 p.m. on the fifth working day. The challenge must state that it is a challenge to the election results and must state the basis for the claim.

3. Procedure

(A) The Election Board shall meet to consider the challenge as soon as possible after it is received. The Board shall make its findings in writing and shall make them within twenty days following certification of the election. The Board shall make its findings on the claim by a majority vote of the members of the Board. If the Election Board determines that a new election should be held, they shall specify in the findings which position(s) is/are affected by the claim. They shall also state in the findings which position(s) should be included in the new election.

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(B) The Election Board shall forward the request for a new election to the Tribal Council in writing or by e-mail and state which position(s) is/are subject to the new election. The Tribal Council must set a new election day on the affected positions within five (5) weeks of the Election Board's written notification of the need for a new election.

(C) The Election Board will serve a copy of its written findings and conclusions on the complainant by certified mail.

4. Appeal

(A) If the candidate who filed the challenge disagrees with the final decision of the Election Board on his/her challenge, the candidate may file an appeal with the Tribal Court. Only the candidate who filed the challenge may appeal the Election Board's final decision to the Tribal Court.

(B) The candidate must file the appeal with the Tribal Court within ten (10) days of the candidate's receipt of the Election Board's decision, or thirty (30) days after the Election Board's final written decision, whichever is shorter. The Tribal Court must deny any appeal that is not timely filed.

(C) The Tribal Court shall apply the standard of arbitrary and capricious in its evaluation of a decision of the Election Board appealed under this section.

(D) In evaluating the petition, the Court may consider evidence offered by the complaint and Election Board without strictly complying with the rules of evidence. The Court shall consider evidence offered if the Court deems it to be relevant and truthful.

(E) Except as provided under this section, the provisions of Coquille Indian Tribal Code Chapter 610 (Tribal Court), and Coquille Indian Tribal Code Chapter 620 (Rules of Civil Procedure) apply to any appeal filed under this section.

194.170 Complaints

1. Who May File a Complaint?

A Tribal member who is eligible to vote in a Tribal election may file a complaint regarding the conduct of the election.

2. Procedure

(A) An eligible voting Tribal member may file a written complaint regarding the conduct of the election with the Election Board. If the complaint is filed after the nomination but prior to Election Day, the Election Board shall meet within seventy two hours (72) to consider the claim of complaint and shall issue its written findings regarding

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the complaint within forty eight (48) hours of that meeting. If the complaint is filed on or after Election Day, the Board shall make its findings in writing and shall make them within fifteen (15) days following receipt of the written complaint. The Election Board may meet with the person who filed the complaint as part of its deliberations to determine potential resolution of the complaint.

(B) The Board shall make its findings on the claim by a majority vote of the members of the Board. The Election Board may use its discretion in determining the remedy for a complaint received prior to Election Day. If the Election Board determines that a new election should be held, they shall specify in the findings which position(s) is/are affected by the complaint. The Board shall also state in the findings which position(s) should be included in the new election.

(C) The Board shall notify the Tribal Council in writing or e-mail that a new election must be held and state which position(s) is/are subject to the new election. The Tribal Council must set a new Election Day for the affected positions within five (5) weeks of the Election Board's written notification.

(D) The Election Board will serve a copy of its written findings and conclusions on the complainant by certified mail.

3. Appeal

(A) If the complainant disagrees with the final decision of the Election Board, the complainant may file an appeal with the Tribal Court.

(B) The complainant must file the appeal with the Tribal Court within ten (10) days of notification of the Election Board's decision. The appeal must be denied by the Tribal Court if it is not filed within ten (10) days of the complainant's receipt of the Election Board's decision.

(C) The Tribal Court shall apply the standard of arbitrary and capricious in its evaluation of a decision of the Election Board appealed under this section.

(D) In evaluating the petition filed by the complainant, the Court may consider evidence offered by the complainant and Election Board without strictly complying with the rules of evidence. The Court shall consider evidence offered if the Court deems it to be relevant and truthful.

(E) Except as provided under this section, the provisions of Coquille Indian Tribal Code Chapter 610 (Tribal Court) and Coquille Indian Tribal Code Chapter 620 (Rules of Civil Procedure) apply to any appeal filed under this section.

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194.180 Recount

If the margin of victory for a position is within two (2) percent of the total votes cast for that position, the Election Board shall automatically recount the votes for that position to verify the results.

194.190 Recall Election

1. Standard for Recall

A member of the Tribal Council may only be removed from office under the Recall provision of the Tribal Constitution, Article IV, Section 3 by a 2/3 majority vote provided that at least thirty percent (30%) of eligible Tribal voters cast a vote in the Recall election.

2. Procedure For Recall

(A) Upon verification of a Petition for Recall, the Election Board shall notify the Tribal Council and the proponent of the Recall petition that a special Election on the Recall petition must be held. Upon receipt of the notification from the Election Board, the Tribal Council shall set a special Election conducted according to the provisions of this Ordinance to consider the recall of the Tribal Council member(s) named in the Recall petition. The Council shall set the Recall election within forty-five (45) days of notification of the verification of the petition by the Election Board; provided that if the Recall petition is submitted within six (6) months of the annual Council election, the Tribal Council may direct that the matter be placed on the ballot for that Election.

(B) The Election Board shall send written notice of the Recall Election to each eligible Tribal voter.

(C) The Recall Election shall be held within forty-five (45) days of the verification of the petition by the Election Board, or shall coincide with an annual election as provided in this subsection 194.190(2).

(D) The Tribal Council member subject to Recall and the sponsor of the Recall may each submit a two page document to the Election Board regarding their respective positions within two (2) weeks of notification of verification of the petition. The document may be mailed, e-mailed, or faxed to the Election Board. The Election Board will review the submitted document and mail it to all eligible Tribal voters prior to the Recall Election.

3. Basis for Recall

A Recall of the Tribal Council member must be based upon gross neglect of duties to the Tribal Council or improper conduct by the member. For purposes of this section, "improper conduct" shall consist of a conviction for any felony in any jurisdiction, or any act involving

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substantial dishonesty committed while acting as a Tribal official. For purposes of this section, "gross neglect of duty" shall consist of failure to perform the duties set forth in the Constitution of the Coquille Indian Tribe.

4. Notice

(A) Upon receipt of a Recall petition, the Election Board shall personally deliver or mail by certified mail, a copy of the Recall petition to the Tribal Council member whose recall is sought.

(B) The Election Board shall send notice of the Recall Election to all eligible Tribal voters.

5. Verification

The Election Board shall verify Recall petitions as provided in this Ordinance.

6. Dispute Resolution of Recall Elections

(A) Any challenges to a recall election is subject to the procedures set forth in Section 194.160 of this ordinance provided that only a Tribal Council member who has been recalled may contest the results of the recall election. The proponents of a recall whose efforts have failed to recall a Tribal Council member may not contest the results of the recall election.

(B) If the recall vote results in a member of the Tribal Council being recalled from office, the position vacated will be filled pursuant to the provisions of Article VI, Section 5 of the Coquille Tribal Constitution.

194.200 Initiative, Referendum, and Recall Petition Requirements

1. Each petition, whether for Initiative, Referendum, or Recall, must have a sponsoring Tribal member, with whom all communication with the Election Board will occur. The sponsor's name, address, and telephone number must be clearly listed in the upper left hand corner of each petition signature page.
2. Each Referendum or Initiative petition signature page must contain the statement that "THE PURPOSE OF THIS PETITION IS TO HAVE A GENERAL COUNCIL ELECTION ON THE FOLLOWING MEASURE:"
3. Each Recall petition signature page must contain the following statement "RECALL PETITION FOR _____, TRIBAL COUNCIL MEMBER", or an equivalent statement. Each Recall petition signature page must also contain a brief statement of the basis for the recall including when appropriate, dates, places and times of alleged misconduct.

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4. Each petition signature page must have attached to it a complete copy of the proposed measure or measures to be referred. A Recall petition may include a statement on each page of the reasons why recall of the Tribal Council member is being sought.
5. Each petition signature page must include the following information for each Tribal member signing the petition:
 - a. Printed name,
 - b. Signature,
 - c. Address and phone number,
 - d. Date of signature.
6. The Election Board may issue a suggested form of petition for use by Tribal members, but any petition which meets the requirements of this Section shall be sufficient for filing with the Election Board.

194.220 Circulation of Petition

Petitions may be circulated only by Tribal members who are eligible to vote in Tribal elections. Persons asked to sign a petition must be given sufficient opportunity to read the summary of the petition and the attached complete copy of the measure for Initiative and Referendum petitions, and must be advised that they must be an eligible Tribal voter in order to sign a petition.

194.250 Validation and Verification of Petitions

1. General. As required by the Constitution of the Coquille Indian Tribe, the Election Board shall verify and determine the validity of petitions presented by the General Council for the purpose of Recall of Tribal Council members, Initiative, or Referendum.
2. The Election Board shall verify petitions by certifying that the names and signatures which appear on such petitions total at least one-third (1/3) of the General Council members entitled to vote, that each person has signed each petition only once, and that the names on the petition are the names of General Council members.
3. Signatures will be valid for one year from the date of signature. Any signatures obtained more than a year before the petition is presented for verification shall be considered invalid, and will not count towards the total number of signatures required.
4. Verification Procedure. The Election Board shall take the following steps to verify petitions:

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- (A) Compare every petition signature with the current General Council member list to ensure that each General Council member has signed a petition only once. If a General Council member has signed a petition more than once, only one of the signatures will be verified and the remainder will not count toward the total required to authorize an election to consider a Recall, Initiative or Referendum.
- (B) Compare the physical signature on the petition with signature on the ballot envelope on file with the Tribal Records Management Department.
- (C) If the physical signature on the petition is different from the signature on the ballot envelope on file, or if there is no ballot envelope on file with the Tribal Records Management Department, the Election Board shall attempt to call the person listed in the petition. In this phone call the Election Board shall:
- (1) Ask the person to verify their age, the spelling of their name and their Tribal membership.
 - (2) Briefly summarize the nature of the petition and the Election Board's duty to verify petition signatures.
 - (3) Ask the person to confirm that they signed the petition.
 - (4) Request the person to send a signature card to be kept on file to verify future tribal petition or election signatures.
 - (5) Make a written record of the telephone call and the person's responses.
- (D) If after taking steps 2 and 3, above, the Election Board cannot confirm the identity of the person, the Election Board shall send a certified letter to the person at their last known address on file with the Tribal Member Services Department. This letter will request the person to contact the Election Board either telephonically or in writing to confirm their age, identity, Tribal member status and desire to sign the Petition. This letter will request a response within 30 days of its mailing.
- (E) If the Election Board takes all of the above steps and still does not receive a response from the person it must treat the signature as unverified and the signature will not count toward the total required to authorize a Recall, Initiative or Referendum election.

194.300 How to Contest the Eligibility of an Elected Person Under the Constitution of the Coquille Indian Tribe.

CITC 194.300 – 194.320 govern the standards and procedures for applying Article VI, Section (4)(a) of the Constitution of the Coquille Indian Tribe (the “Tribal Constitution”).

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194.310 Eligibility Standards

1. Article VI, Section (4)(a) of the Tribal Constitution (the “Employment Prohibition”) provides that, “[n]o member of the Tribal Council may be employed by the tribal administrative office while serving as a member of the Tribal Council.”

2. For the purposes of the Employment Prohibition, “employ” means to provide compensation for services. Employ does not include:
 - a. gifts received,
 - b. volunteering,
 - c. receipt of any general welfare benefits under the laws of the Tribe, as defined by CITC Chapter 163,
 - d. receipt of benefits available to any class of eligible persons under the laws of any government, including the Tribe;
 - e. receipt or accrual of benefits under the Tribal Council Service Fund Ordinance;
 - f. receipt of meals, lodging, per diem, nominal gifts, or transportation from any entity that qualifies as a “tribal administrative office” under this Ordinance;
 - g. reimbursement of any expense incurred on behalf of the Tribe or “tribal administration office” as defined by this Ordinance.

3. For the purposes of the Employment Prohibition, “tribal administrative office” includes:
 - a. units of Tribal government, including, without limitation, all employees within the Coquille Gaming Commission and the Coquille Indian Housing Authority, and all employees under the chain of command of the Tribal Chairman, Tribal Executive Director, the Tribal Chief Financial Officer, or the Tribal Attorney;
 - b. entities in which the Tribe has greater than a 50% ownership interest, and any subsidiaries of such entities in which the entity or the Tribe (individually or combined) have a greater than 50% ownership interest, and

4. For the purposes of the Employment Prohibition, “employed by the tribal administrative office” excludes the following:

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- a. Tribal Council membership by a person not subject to the Employment Prohibition, including the performance of duties and powers associated with or derived from Tribal Council membership, or as delegated by Tribal Council;
- b. Tribal government authorized compensation received by a person not subject to the Employment Prohibition for Tribal Council membership or service during a Tribal Council member's term;
- c. special purpose contracts between Tribal Council members and the Tribal Council for the performance of extraordinary Tribal Council duties, with a term not to exceed 120 days, unless unusual circumstances warrant a longer contract term;
- d. work as a volunteer for the tribal administrative office; and
- e. service on tribal administrative office boards, workgroups or committees.

194.320 Contesting Eligibility to Serve on Tribal Council

1. The Tribal Council, the Tribal Attorney (or designee of the Tribal Attorney), or any member of the General Council may contest the right of an Elected Person (as defined below) to serve on Tribal Council. For the purpose of this Ordinance, an "Elected Person" is a person who the Election Board has certified as the winner of a Tribal Council election and who has taken office to serve on Tribal Council. To contest the right of an Elected Person to serve on Tribal Council, the Tribal Attorney (of designee), or any member of the General Council may file a Petition for Declaratory Judgment and Injunctive Relief ("Petition") in the Coquille Indian Tribal Court (the "Tribal Court"). Such a Petition must specifically allege the grounds for denying an Elected Person's right to serve on Tribal Council and must request the following relief:

- a. declaring an Elected Person to be disqualified from service as a Tribal Council member under Article VI, Section (4)(a) of the Tribal Constitution,
- b. enjoining the Elected Person's service on Tribal Council and declaring the Tribal Council position at issue to be temporarily open and unfilled, and
- c. declaring the Tribal Council position at issue to be temporarily open and unfilled and preliminarily enjoining the Elected Person's service on Tribal Council, pending the outcome of the litigation.

2. Except as otherwise provided in CITC 194.300-194.320, the Tribal Court will apply CITC 610 and 620 to any Petition for Declaratory Judgment proceeding authorized under this Ordinance.

3. It is the Tribe's policy for proceedings filed under CITC 194.320 to be resolved efficiently and in an expedited manner. The Tribal Court will expedite proceedings filed under CITC 194.320, and for this purpose, the Tribal Court will have the authority to impose procedural time limitations

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and deadlines different from those listed elsewhere under Tribal law, including but not limited to discovery, motions, and hearings; *provided*, that nothing in this section authorizes the Tribal Court to alter the provisions of CITC 620.200(e) (“Statute of Limitations for Suits Against Tribe or Tribal Entities”). Unless the Court orders otherwise, discovery in any such proceedings will be limited to items that are directly relevant to the Elected Person’s election and employment status and the Tribal affiliation of the entity employing the Elected Person.

3. If requested by a Petitioner or Intervenor, the Tribal Court may enter an Ex-Parte temporary restraining order or preliminary injunction enjoining an Elected Person from serving on Tribal Council until resolution of the Declaratory Judgment and Injunctive Relief proceeding. If the Tribal Court enters such a temporary restraining order or preliminary injunction, the Tribal Council position at issue will be deemed temporarily open and unfilled and remain open and unfilled until that order or injunction is dissolved. At its discretion, the Court may make enter orders regarding receipt of benefits associated with Tribal Council membership for the Elected Person as is appropriate under the circumstances.

3. If the Tribal Court ultimately finds that an Elected Person does not have a right to serve on Tribal Council under the Employment Prohibition, the Court shall issue a Declaratory Judgment and Permanent Injunction enjoining that Elected Person from serving on the Tribal Council and declaring the position at issue open and unfilled. Provided, however, that such Declaratory Judgment and Permanent Injunction will become effective only after a ten calendar day waiting period (“Waiting Period”).

a. The purpose of the Waiting Period is to provide the Elected Person an opportunity to voluntarily resolve the conflict of interest (the “Conflict”) by terminating the tribal administration office employment at issue.

b. If, prior to the expiration of the Waiting Period, the Elected Person provides sufficient evidence to the Tribal Court demonstrating that he or she is no longer employed by the tribal administrative office, the Tribal Court shall withdraw the Declaratory Judgment and Permanent Injunction, shall dissolve any temporary restraining order or preliminary injunction, and shall dismiss the case without prejudice.

c. If the Waiting Period expires with no resolution of the conflict, the Declaratory Judgment and Permanent Injunction will immediately go into effect, and the Tribal Council vacancy will then be filled as provided under the Tribal Constitution.

Notwithstanding any provision of Tribal law, the Tribal Court may not award attorney fees, fines, compensation or damages for or against any party as a result of a proceeding brought pursuant to CITC 194.300 - 320.

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194.400 Severability

If a court of competent jurisdiction finds any provision of this Ordinance to be invalid or illegal under applicable Tribal and or federal law, such provision shall be severed from this ordinance and the remainder of this Ordinance shall remain in full force and effect.

194.500 Sovereign Immunity

Nothing in this Ordinance waives the sovereign immunity of the Coquille Indian Tribe, or any of its officers, employees, board members, representatives or agents.

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History of Amendments to Chapter 194 Elections Ordinance:

September 8, 1989
Revised August 10, 1994
Amended April 23, 2005
Adopted June 9, 2005
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Adopted August 6, 2008 CY08114
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Approved May 22, 2010 CY1054
Adopted July 24, 2010 CY1070
Approved March 26, 2011 CY 1131
Adopted June 7, 2011 CY 1156
Approved September 7, 2011 CY 1185
Adopted October 19, 2011 CY 1198