

ELECTION CODE

CONFEDERATED TRIBES OF THE UMATILLA INDIAN RESERVATION

ELECTION CODE

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ELECTION CODE

CHAPTER 1. GENERAL PROVISIONS

SECTION 1.01. NAME

This Code shall be known as the Election Code of the Confederated Tribes of the Umatilla Indian Reservation.

SECTION 1.02. PURPOSE

The purpose of this Code is to define procedures that will produce a Tribal election process that is fair and efficient.

SECTION 1.03. SCOPE

The provisions of this Code shall apply to all elections, both regular and special, conducted by the Confederated Tribes of the Umatilla Indian Reservation.

SECTION 1.04. DEFINITIONS

- A. Except when context requires otherwise, for the purposes of this Code the following words shall be defined as follows:
1. Altered. The use of white out, marking, erasure or scribbling out to make a change.
 2. Election Commission. The Election Commission is the entity established pursuant to section 2.01 of this Code, and is referred to in this Code either as the Election Commission or the Commission.
 3. Election Notice. The official Notice that an election will be held on a specific date established by the Election Commission.
 4. General Election. The election, held in November of odd-numbered years, in which all Board of Trustees and General Council positions are filled.
 5. Log. The journal that states activities during election day (e.g., voting assistance).
 6. Non-Resident Voter. A qualified voter who lives outside the 50-mile radius of the Umatilla Indian Reservation.
 7. Polling Official. An Election Commission member or any additional appointee to the Election Commission serving at the polls on election day.
 8. Poll Watcher. A person, chosen by a candidate for a position on the Board of Trustees, to observe, on the candidate's behalf, the counting of ballots at the voting place.
 9. Qualified Voter. Any enrolled member of the Confederated Tribes of the Umatilla Indian Reservation who is 18 years of age or older.
 10. Resident Voter. A qualified voter who lives within the 50-mile radius of the Umatilla Indian Reservation.
 11. Registration Record. The official register shall be contained in binders designated as "Register of Voters" arranged alphabetically and designed to record all necessary information.
 12. Voting Assistant. Any person chosen by a voter to assist with the voting process.

13. Special Election. An election held at a time other than the General Election.
14. Spoiled Ballot. A ballot on which a voter has mistakenly marked the wrong box or has smudged a box.

CHAPTER 2. ELECTION COMMISSION

SECTION 2.01. ESTABLISHMENT

The Election Commission of the Confederated Tribes is hereby authorized to be established for the purposes of conducting and supervising all Tribal elections, regular or special, in accordance with the mandates of this Code, resolving election disputes as provided in this Code, and promulgating such additional regulations as may be necessary from time to time.

SECTION 2.02. COMPOSITION

- A. The Election Commission shall consist of seven (7) members and one alternate. The Commission shall elect by majority vote one of their number to serve in the following capacities: Chairperson, Vice Chairperson, Secretary, Treasurer and Member in Charge of Absentee Balloting.
- B. The Officers of the Commission shall be as follows:
 1. Chairperson. The Chairperson shall preside over all meetings of the Commission, affix his/her signature to official Commission documents and shall vote only in case of ties.
 2. Vice Chairperson. The Vice Chairperson shall preside at meetings and otherwise act in the full capacity of the Chairperson in the absence or disability of the Chairperson, or at his/her request.
 3. Secretary. The Secretary shall conduct all correspondence, issue public notices, take minutes, record official actions, have custody of all files and records of the Commission and affix his/her signature to the official documents of the Commission. The Secretary shall also perform other duties as assigned by the Commission.
 4. Treasurer. The Treasurer shall accept, receipt for, and safeguard all funds of the Commission under his/her custody as directed by the Commission, and keep a complete record of receipts and expenditures. The Treasurer shall also be responsible for the performance of duties as assigned by the Commission.
 5. Member in Charge of Absentee Ballots. The Member in Charge of Absentee Ballots shall be responsible for all aspects of this Code pertaining to absentee ballots.
 6. Alternate. An alternate shall be appointed to replace any Commission member who, for whatever reason, is removed from the Commission. The alternate shall attend all meetings but shall not have any voting privileges.
- C. Election of Officers. The Commission members shall meet by March of any Tribal election year to elect their officers and to provide an orientation for new members of the Commission on the Election Code and duties of Commission members.
- D. Official action taken by the Election Commission shall require a quorum of 4 members of the Election Commission.

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SECTION 2.03. APPOINTMENT

- A. The members of the Election Commission shall be enrolled members of the Confederated Tribes of the Umatilla Indian Reservation, over 18 years of age, who have applied for or wish to participate in Commission work.
- B. The seven (7) members and the alternate of the Election Commission shall be appointed as follows: Three (3) shall be appointed by the Chairman of the General Council and four (4) shall be appointed by the Chairman of the Board of trustees. The Chairman of the General Council shall appoint the alternate.
- C. Any person so appointed may decline the appointment, in which case, another appointment shall be made in a manner not inconsistent with subsection (A) of this section.
- D. The members of the Commission shall be appointed on or before March 1 of each year in which new Commission members are required to be appointed under this Code.
- E. Members appointed to the Election Commission shall be sworn in by a judge of the Umatilla Tribal Court.

SECTION 2.04. CONFLICTS OF INTEREST

- A. In the event that any Commission member is nominated as a candidate for an office to be filled during his/her term on the Commission, he or she shall withdraw from the Commission and the alternate shall serve in his or her place.
- B. Members of the Election Commission shall not sign nomination petitions for candidates for Tribal office, or other petitions that directly involve matters subject to the control or regulation by the Election Commission. Any member found in violation of this subsection shall be subject to immediate removal from the Commission.
- C. Members of the Commission shall not publicly campaign for any person running for a Tribal office or any other matter on the ballot. Any member found in violation of this subsection shall be subject to immediate removal from the Commission.

SECTION 2.05. STIPENDS

- A. For each meeting of the Commission where a quorum is present, any Commission members (and any alternate) who are in attendance for at least two thirds of the length of the meeting shall be paid a stipend. The amount of the stipend shall be the standard amount paid by the Tribal government to members of subsidiary bodies of the Board of Trustees.
- B. Each Commission member who spends more than three hours: 1) in attendance at a Candidate's Forum, 2) assisting in putting out a bulk mailing, or 3) working on election day, shall be paid a double stipend in lieu of a standard stipend.
- C. Each Commission member who spends more than seven hours working on election day shall be paid a triple stipend in lieu of a standard or double stipend.

SECTION 2.06. TERMS OF OFFICE FOR ELECTION COMMISSION MEMBERS

The terms of appointment for members of the Election Commission shall depend upon their selection. Members selected by the Chairman of the Board of Trustees shall serve a term of three (3) years. Members selected by the Chairman of the General Council shall serve a term of two (2) years. The alternate shall serve a term of two (2) years.

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SECTION 2.07. RULEMAKING AUTHORITY

- A. The Election Commission shall have authority to promulgate and enforce such rules as they may deem necessary, by a majority vote, to provide for fair and efficient elections under this Code. Any regulations promulgated by the Commission must be in writing and be posted where all election notices are posted.
- B. Any rule promulgated under the authority of this section shall not be inconsistent with the provisions of this Code or the Constitution and By-Laws of the Confederated Tribes.
- C. Any rule promulgated by the Commission pursuant to this section shall, upon the conclusion of the election during which said rule was promulgated, submit that rule in writing to the Board of Trustees along with an explanation of the reason for its promulgation, for the purpose of considering the inclusion of that rule in this Code.

SECTION 2.08. VACANCIES

Any vacancies occurring in the Election Commission shall initially be filled by the alternate. The Chairman who appointed the member who is leaving the Commission shall then have the authority to designate a new alternate. Any person so appointed shall serve for the duration of the term of his/her predecessor.

SECTION 2.09. REMOVAL

Any member of the Election Commission may be removed from office for cause. Removal shall be by action of the Commission under procedures established by the Commission. Written notice of removal shall be provided the member setting forth the grounds for removal and the opportunity for a hearing. The Commission shall schedule any hearing to review the removal of a member within 48 hours of the issuance of the notice of removal.

SECTION 2.10. CAMPAIGN FAIRS

The Election Commission is authorized, but is not required, to schedule and conduct campaign fairs in which candidates for Board of Trustee officer and at-large member positions and General Council officers would be permitted to speak to and answer questions posed by eligible voters, members of the Election Commission or by other persons as determined appropriate by the Election Commission.

CHAPTER 3. ELECTION PROCEDURES, GENERALLY

SECTION 3.01. ELECTION DATES

The Tribal General Election shall be held on the Tuesday before Thanksgiving Day in odd-numbered years. Tribal Special Elections shall be held at times determined by the Election Commission.

SECTION 3.02. VOTING HOURS

Voting hours for Tribal elections shall be between 8:00 a.m. and 8:00 p.m.

SECTION 3.03. VOTING PLACE

The Election Commission shall designate an appropriate public building within the Mission area to serve as the main voting place. The Commission may also establish additional voting places elsewhere within the Umatilla Indian Reservation as the Commission deems appropriate.

SECTION 3.04. NOTICES

The Election Commission shall issue such notices as are necessary to inform Tribal members of the dates, times, places, and procedures for nominations and elections. The Commission shall issue

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election notices ninety (90) days prior to the General Election date established in section 3.01 of this Code, which notice shall be posted at all locations deemed appropriate by the Commission. Notice of the Tribal elections shall be published in local newspapers and the Tribal newspaper. The Commission shall also take reasonable measures to notify Tribal members living outside the Umatilla Indian Reservation of the time, place and procedures for Tribal elections.

SECTION 3.05. QUALIFICATIONS FOR HOLDING OFFICE

Any enrolled member of the Confederated tribes over 18 years of age may hold office on the General Council or the Board of Trustees; Provided, that no person shall be eligible to be an officer of the General Council or a member or officer of the Board of Trustees unless that person resides within the 1855 boundaries of the Umatilla Indian Reservation at the time the elected official is sworn into office as provided in section 3.17 of this Code and throughout the course of his/her term.

SECTION 3.06. TERMS OF OFFICE FOR TRIBAL ELECTED OFFICIALS

- A. Officers of the General Council shall serve for terms of two (2) years or until their successors are elected and take office.
- B. Members of the Board of Trustees shall serve for terms of two (2) years or until their successors are elected and take office.
- C. Members of the Board of Trustees elected to serve as Board Officers shall serve their two (2) year term in said office.
- D. There shall be no limit on the number of terms to which an officer of the General Council or an officer or member of the Board of Trustees can be elected.

SECTION 3.07. NOMINATIONS

- A. The Election Commission shall prepare nominating petitions for each Board of Trustee and General Council officer position and for the Board of Trustee at large positions. Each nominating petition shall be numbered by the Election Commission. Each nomination petition shall contain signature lines for at least 60 persons and shall include space for the signature, printed name and Tribal enrollment number for each petition signer. Only nomination petitions prepared by the Election Commission may be used to collect signatures for Tribal candidates.
- B. Any Tribal member over the age of 18 who meets the qualifications for a Tribal elected position, may be nominated by having his/her name and the position for which he/she is being nominated placed on a nomination petition by a person qualified to vote in a Tribal election and thereafter having at least fifty (50) people who are qualified voters in the Tribal election sign the petition. The Election Commission shall not accept nomination petitions that were not prepared and issued by the Election Commission, that have been photocopied, or that have been altered. For the purposes of this section, a nomination petition has been altered if the Tribal elected position or the name of the candidate on the petition has been altered, erased or changed.
- C. Nomination petitions shall be deposited in a locked ballot box provided by the Election Commission and located at the Tribal office no later than 4:00 p.m. seventy (70) days prior to the date of the General Election as set by this Code. Upon the date set for the close of nominations the Commission shall:
 - 1. Review all nomination petitions received,
 - 2. Determine whether or not the person nominated for a particular office is a member of the Tribe, is over 18 years old and otherwise meets any other requirements of this Code,

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3. Determine whether or not each person signing a nomination petition is qualified to vote in a Tribal election,
 4. Determine whether at least 50 qualified voters have signed the petition, and
 5. Determine whether or not the nomination petition has been altered in the spaces for the person running or the position they are running for.
- D. Upon the determination of which candidates are properly nominated and otherwise eligible to serve in the position for which they are nominated, the Commission shall post public notices of the eligible candidates and shall direct the official preparation of the official ballots. The Commission shall also prepare a written explanation for any nomination petition it rejected because of a failure to meet the requirements of this Code.

SECTION 3.08. WITHDRAWAL

A candidate may withdraw at any time prior to the printing of Tribal ballots, which shall be 8 calendar days after the closing date for the filing of nomination petitions as set forth in section 3.07.C of this code. Withdrawals must be in writing, signed by the candidate, and notarized by a notary public. Withdrawals are final upon delivery to the Election Commission. In the event of the death of a candidate, the Election Commission must withdraw the candidate's name. Withdrawals should be acknowledged at the Election Commission meeting following receipt of the withdrawal.

SECTION 3.09. BALLOTS

- A. The Election Commission shall prescribe the form of the ballot to be used in each election. Tribal ballots shall contain the names of the candidates, the offices for which they are candidates, and a place for the voter to mark his/her selection. The ballot shall be numbered and printed with a perforated stub from which the ballot can be easily detached.
- B. The Commission shall provide space for the casting of write-in votes for each elected position on the Tribal ballot.
- C. Should any elector spoil his/her ballot, in his/her effort to vote, he/she shall fold and return it in the presence of the election officials and such elector shall then, in the presence of said officials, destroy said ballot and the election officials shall then provide such elector with another ballot in the same manner that the first one was provided. The election official shall write on the proper blank line on the stub of the spoiled ballot the word "Spoiled."
- D. The Election Commission shall keep the ballots, ballot box and the voting list under lock and key until any election recount is conducted, any election dispute is resolved and the election results are certified. Immediately after the swearing in of the new officers and members of the Board of Trustees and the new officers of the General Council, the Election Commission shall supervise the destruction of all paper materials (except the ballots) and the secure storage of the ballot box. The Election Commission shall destroy the ballots on the later of the following: 1) thirty (30) days after the election results have been certified or 2) in the case of an election dispute, immediately after the Umatilla Tribal Court issues its final decision.

SECTION 3.10. ABSENTEE VOTING

- A. Absentee ballots shall be sent to qualified voters as follows:
 1. To qualified resident and non-resident Tribal voters who previously returned a notarized absentee ballot request form. Such voters shall receive absentee ballots for every Tribal General and Special Election after the submission of the notarized absentee ballot request form until such time as the voter rescinds the request in writing;

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2. To qualified voters whose mailing address is outside the 97801 zip codes whose signatures are on file with the Election Commission. Such voters shall receive absentee ballots for every Tribal General and Special Election after the submission of their signature to the Election Commission until such time as the voter rescinds the request in writing; and
 3. To qualified voter who submits a written request for an absentee ballot signed by the voter requesting the ballot, which signature must be verified by the Election Commission. Such voters shall receive an absentee ballot only for these specific Tribal General or Special Election for which the absentee ballot is requested.
- B. Any written request for an absentee ballot must be signed by the voter requesting the ballot, and his/her signature must be verified by the Election Commission. Requests for absentee ballots must be received by the Election Commission no less than fifteen (15) days before the General or Special Election, as defined in section 3.01 of this Code.
- C. Absentee ballots shall be sent by mail to qualified voters authorized to receive absentee ballots pursuant to subsection A of this section no less than fourteen (14) days before the General or Special Election date.
- D. All requests for absentee ballots shall be kept on file in the Tribal Office by the Commission.
- E. Completed absentee ballots must be received by the Commission prior to the close of voting hours on the Election Day.
- F. Absentee ballot requests shall be available to be picked up or mailed, as requested to all qualified voters fifty (50) days prior to Election Day. The Election Commission shall use the Tribal newspaper to provide information about absentee balloting and how to request absentee ballots to Tribal members.
- G. Execution and Return of Absentee Ballots by Mail.
1. The absentee voter shall mark and fold the ballot and enclose it in the inner envelope supplied by the Election Commission. The ballot shall be folded so as to conceal the marking and be placed in the inner envelope marked "absentee ballot" and the envelope sealed. It shall then be inserted in the preaddressed outer envelope (on which the voter must sign his name) and sealed.
 2. The Absentee Ballot may be returned either by placing the envelope in the U.S. Mail, or by dropping it off at the locked ballot box provided for absentee ballots.
 3. Any absentee ballot not properly submitted in accordance with these instructions for absentee balloting shall not be counted.
 4. The Election Commission shall collect absentee ballots from the post office box provided for mail-in ballots in the following manner. Two members of the Election Commission shall remove the envelopes from the post office box with one poll watcher observing. The Commission members and an officer of the Umatilla Tribal Police Department shall immediately take the absentee ballots to the voting place and deposit them in the locked ballot box provided for absentee ballots. This procedure shall be conducted as often as is reasonably necessary to prevent the post office box from becoming overfilled. The final pickup shall occur at 8 p.m. on Election Day.
- H. Any qualified voter who receives an absentee ballot pursuant to subsection A of this section shall be permitted to cast their vote at the Voting Place on Election Day either by:
1. Depositing their absentee ballot at the Voting Place; or

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2. Voting on an official ballot at the Voting Place, provided that the official ballot shall be the one counted, and any absentee ballot mailed or deposited by the voter shall be marked "spoiled" and shall not be counted.

SECTION 3.11. VOTING ASSISTANCE

- A. **Voting With Assistance.** If a voter requests assistance in voting because of a handicap a Polling Official or voting assistant will assist.
- B. The Polling Official or the voting assistant must not tell the voter whom to vote for. Any Polling Official or voting assistant doing this is liable for a fine of up to five hundred (\$500) dollars upon conviction by the Tribal Court.
- C. If the voter is unable to mark the ballot normally, the voter should direct that either the Polling Official or the voting assistant, mark the ballot for him. Any Polling Official or other person who willfully marks the ballot against the wishes of the voter is liable for a fine of up to five hundred (\$500) dollars upon conviction by the Tribal Court.
- D. A Polling Official should note that voting had taken place with assistance, in the registration record and in the Log.
- E. **Voting Assistance on Election Day.** If a qualified voter is unable to enter the voting place to cast his or her ballot on election day due to the voter's disability, age or sickness, such voter may request that the polling officials provide the voter with an absentee ballot. Such election day absentee balloting may be permitted under the following procedures:
 1. A written request for an absentee ballot must be signed by the qualified voter. A voting assistant may be used to bring the request to the voting place.
 2. A Polling Official will then check the registration record to make sure an absentee ballot has not already been mailed. An absentee ballot and envelopes will then be issued to the qualified voter or voting assistant.
 3. The qualified voter shall mark and fold the ballot and enclose it in the inner envelope supplied by the Election Commission. The ballot shall be folded so as to conceal the marking and be placed in the inner envelope marked "absentee ballot" and the envelope sealed. It shall then be inserted in the preaddressed outer envelope (on which the voter must sign his/her name) and sealed.
 4. The envelope when returned to the voting place will then be put in the locked ballot box provided for absentee ballots.

SECTION 3.12. VOTING METHOD

- A. **Verification of Enrollment.** On the date of the election at least three (3) members of the Commission shall be present at the ballot box during voting hours and they shall verify the enrollment of each person casting a ballot and make the appropriate entries in the registration record.
- B. **General Council.** Each voter shall cast one (1) vote for the candidate of the voter's choice for the office of Chairman, one (1) vote for the candidate of the voter's choice for Vice Chairman and so on until a vote has been cast for each office to be filled. The candidate having the highest number of votes shall be declared the winner. The voting for General Council Officers shall take place on the date set for the General Election as provided in section 3.01 of this Code.
- C. **Board of Trustees.** Each voter shall cast one (1) vote for the candidate of the voter's choice for the office of Chairman, one (1) vote for the candidate of the voter's choice for Vice

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Chairman and so on until a vote has been cast for each office to be filled. Each voter shall also cast one (1) vote for each of the four (4) at large Board positions. For Board Officers, the candidates having the highest number of votes shall be declared the winner. For Board at large positions, the four candidates receiving the highest number of votes shall be declared the winners.

- D. Recalls, Removals, Constitutional Amendments and Vacancies. Each voter shall cast one (1) vote either for or against the proposed recall, removal, or constitutional amendment, and one (1) vote for the candidate of the voter's choice for any vacant position.

SECTION 3.13. COUNTING OF VOTES

- A. Upon the closing of the voting place, the Commission shall examine all ballots cast, eliminate any invalid or improperly completed ballots and then determine the number of votes cast for each candidate whose name appears on the ballot. Write-in votes for persons who are otherwise eligible candidates for Tribal office shall also be counted.
- B. Poll Watchers. Each candidate for a position on the Board of Trustees is entitled to choose one person to observe, on his/her behalf, the counting of ballots at the voting place. Candidates shall notify the Election Commission in writing at least three (3) days before the General Election or Special Election identifying their poll watcher. In elections to vote on issues, the Election Commission may designate two (2) watchers to observe the counting of the ballots, one to represent each side of the question under consideration. No watcher shall in any way interfere with or hinder the polling officials in exercising their responsibility. If interference occurs, the Election Commission Chairperson shall call for a suspension in the count until the individual or individuals responsible for the interference are eliminated from the room. Duplicate counts by poll watchers will not be allowed.
- C. Alternates for Polling Officials. Should any polling official of the voting place become ill or have an unforeseen emergency arise, the Chairperson of the Election Commission shall be notified immediately so that an alternate may be prepared to assume the responsibilities of the vacated position.

SECTION 3.14. CERTIFICATION OF ELECTION

- A. Upon the completion of the counting of votes, the Commission shall prepare a certification of the results of the election which shall be signed by the Chairperson of the Commission upon a majority vote and which shall contain the following information:
1. The number of ballots cast,
 2. The number of invalid ballots eliminated,
 3. The number of absentee ballots cast,
 4. The total number of valid ballots,
 5. The votes received by all persons on the ballot,
 6. The persons elected to office and the office to which they were elected,
 7. The votes for and against any other matter on the ballot
- B. The write-in votes for eligible candidates need only be reported if the write-in candidate receives at least twenty (20) votes.
- C. Upon approval by a majority vote of the Commission, the certification shall be signed by the Chairperson of the Commission.

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- D. By noon of the day following election day, the Chairperson of the Commission shall transmit the Commission certification to the Chairman and Secretary of the General Council for approval.
- E. The Chairman and Secretary of the General Council shall approve the certification and submit it to the Board of Trustees by 4 p.m. of the day following election day.

SECTION 3.15. RECOUNT OF VOTES

- A. In the event that the person receiving the highest number of votes for an office has ten (10) or less votes more than the person receiving the next highest number of votes, the latter may, upon written request, have the votes for that particular office recounted by the Election Commission.
- B. Any request for a recount shall be delivered to the Chairman of the Commission no later than 48 hours after the results of the election have been certified.

SECTION 3.16. TRANSITION

- A. Board Members and Officers and General Council Officers shall continue to serve in their positions until formally replaced as provided in this section.
- B. Board Members and Officers. New Officers and Members of the Board of Trustees shall be sworn in by a Judge of the Umatilla Tribal Court on the Wednesday after Thanksgiving. Once sworn into office, the new Board members and officers shall assume the duties of their offices.
- C. General Council Officers. New General Council officers shall be sworn in by a judge of the Umatilla Tribal Court at the same time as Board members and officers are. Once sworn into office, the new General Council officers shall assume the duties of their offices.

CHAPTER 4. RULES GOVERNING SPECIFIC TYPES OF ELECTIONS

SECTION 4.01. TIES

- A. In any race for a position as an officer of the Board of Trustees or General Council, if more than one candidate receives the highest number of votes due to a tie, then a run-off election shall be held between the candidates who tied.
- B. In the election of at-large members of the Board of Trustees, if there is a tie between two or more candidates for the fourth at-large position, then a run-off election shall be held between the candidates who tied.
- C. A run-off election shall be held by all qualified voters casting their vote on a ballot prepared by the Election Commission to break the tie. The candidate receiving the highest number of votes in the run-off election shall be deemed elected to the position. In any run-off election, sufficient time for notice and receipt of absentee ballots, in a manner consistent with this Code, shall be allowed.

SECTION 4.02. FILLING A VACANCY

- A. In the event that any officer or member of the Board of Trustees or officer of the General Council is unable, for whatever reason, to complete the term to which he/she was elected, a Special Election shall be called by the Chairman of the General Council for the purpose of filling the vacancy. In the event the vacancy to be filled is the position of General Council Chairman, the Vice-Chairman of the General Council shall call for the Special Election to fill that vacancy.

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- B. A Special Election shall be held as soon as practicable after an office is left vacant.
- C. This Code shall govern the holding of a Special Election except where its provisions are clearly inapplicable.
- D. Any person elected to fill a vacancy on the Board of Trustees or as an officer of the General Council shall be sworn into office on the first Monday following the certification of the election results. If, at that time, a dispute over the election is still pending resolution by the Election Commission or the Umatilla Tribal Court, then the winning candidate shall be sworn in within the next business day following the final resolution of that dispute.

SECTION 4.03. RECALL

- A. Manner of Collecting Petition Signatures. Any member of the General Council may initiate a recall petition against an officer or member of the Board of Trustees or officer of the General Council. Only members of the General Council may sign such a petition. To be found “in proper form” a petition must comply with the standards listed in this section. Persons gathering petition signatures must ask each signer to read the petition before allowing them to sign it. It is illegal to obtain (or attempt to obtain) a person’s signature on a petition by means of coercion or threats. It is also illegal to pay a person to sign a petition, or to offer to pay them. This is true whether the payment is in the form of cash, goods or services.
- B. Form of Recall Petition.
 - 1. Each recall petition shall be directed at one officer or member of the Board of Trustees or officer of the General Council, and shall contain allegations specific to that individual.
 - 2. Each recall petition shall:
 - a. state the name and title of the person whose recall is being sought;
 - b. state clearly the charges against that person (A clearly stated charge is one that will permit the individual subject to recall to understand the charge against him or her and to permit the individual to respond to that charge as provided below.);
 - c. state the full name, address and enrollment number of the lead petitioner(s).
 - 3. Each signature must appear on the same sheet of paper as the petition (either on the same or reverse side) or on a piece of paper stabled to the petition. Multiple copies of the petition, containing different signatures, are permitted. Signatures must be written in ink. In addition to providing his or her signature, each person signing the petition must print his or her full name, enrollment number, and the date of his or her signature. Any signature lacking this information shall not be considered valid. Any signature which the Election Commission or Umatilla Tribal Court determines was obtained by illegal means shall not be considered valid. All valid signatures are final as of the date of signing, and cannot be retracted.
 - 4. Each copy of the petition must contain the following information in uppercase type of a size at least equivalent to Times New Roman 10 point font:
 - a. **PERSONS CIRCULATING THIS RECALL PETITION ARE PROHIBITED FROM USING COERCION, THREATS OR PAYMENT (OF CASH, GOODS OR SERVICES) TO INDUCE YOU TO SIGN THIS PETITION. IF YOU FEEL YOU ARE BEING HARASSED, FORCED OR BRIBED INTO SIGNING THIS PETITION, CONTACT THE UMATILLA TRIBAL POLICE AT 541/278-0550 OR THE ELECTION COMMISSION;**

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- b. BEFORE YOU SIGN THIS RECALL PETITION, READ AND BE AWARE OF THE CHARGES IT CONTAINS;
 - c. YOUR SIGNATURE ON THIS RECALL PETITION IS FINAL AND YOU MAY NOT LATER REQUEST THAT YOUR SIGNATURE BE REMOVED; AND
 - d. TO BE VALID, SIGNATURES MUST BE PLACED ON THE FRONT OR BACK OF THE SAME SHEET OF PAPER AS THE PETITION'S CHARGES OR ON A PIECE OF PAPER STAPLED TO THE SHEET CONTAINING THE PETITION'S CHARGES.
- C. Required Number of Signatures. The required number of valid signatures shall be determined by dividing the total number of General Council members (as determined by the Enrollment Office) by 10 and rounding the result to the nearest whole number.
- D. Submission of Recall Petition. When the lead petitioner believes the petition satisfies all legal requirements (including having an adequate number of valid signatures) the petitioner may submit the petition to the Secretary of the Board of Trustees or his/her designee. Upon receipt of a recall petition, the Secretary shall record the time and date the petition was received. The Secretary shall promptly provide copies of the recall petition to all officers and members of the Board of Trustees and to officers of the General Council.
- E. Verification of Petition Signatures. The Board Secretary shall submit the recall petition and associated signatures to the Enrollment Officer. The Enrollment Officer shall examine each signature to determine if it is the signature of the person indicated and if the person is a member of the General Council. The Enrollment Officer shall also examine each signature to determine if it meets the standards listed in this section (in ink, etc). The Enrollment Officer shall report his or her findings to the Secretary of the Board of Trustees as soon as practicable, but at a minimum within five (5) days of receiving the petition from the Board Secretary.
- F. Findings by the Board of Trustees
- 1. Upon receipt of the findings of the Enrollment Officer, the Secretary of the Board of Trustees shall schedule a review of the recall petition for the next regular Board meeting.
 - 2. At such meeting, the Board of Trustees shall, by motion, make the following findings and determinations:
 - a. A finding as to whether the recall petition contains the required number of valid signatures by General Council members;
 - b. A finding as to whether the allegations in the recall petition contain charges that are clearly stated against the individual sought to be recalled;
 - c. A finding as to whether the recall petition complies with the requirements as to form contained in this section;
 - 3. The Board shall promptly notify the Election Commission of the Board's findings.
- G. Recall Election Date. In the event the Board of Trustees finds that the recall petition contains sufficient valid signatures, clearly states its charges, and is in proper form, then the Election Commission shall schedule a recall election. The Commission shall use the following guidelines when scheduling the election:

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1. The Commission shall assure that the person subject to the recall election has received a complete copy of the petition, including signatures. The Commission shall schedule the recall election for a date at least twenty (20) days after the date the recall petition was presented to the person subject to the recall.
 2. The Commission shall schedule the recall election for a date no later than ninety (90) days after the Board of Trustees made the findings listed above.
 3. The recall election shall be scheduled on a date that permits adequate time for:
 - a. the mailing of notices to all General Council members regarding the recall election;
 - b. the preparation of a response to the charges, written by the person subject to the recall, for inclusion in that mailing;
 - c. the mailing of absentee ballot request forms to voters;
 - d. General Council members to request and receive absentee ballots.
- H. Conduct of Recall Election. Recall elections are Special Elections as defined by this Code. Pursuant to section 2.01, they are administered by the Election Commission.
1. The following sections of chapters 3 and 5 shall apply to the conduct of recall elections, except as specified here:
 - a. Section 3.02;
 - b. Section 3.03;
 - c. Section 3.04 (but the 90 day rule will not apply);
 - d. Section 3.09;
 - e. Section 3.10 (Requests for absentee ballots must be received by 15 days before the Special Election; the 50 day requirement for mailing absentee ballots to non-resident voters will not apply);
 - f. Section 3.11;
 - g. Section 3.12(A) and (D);
 - h. Section 3.13 (one poll watcher designated by the lead petitioner(s) and one by the person subject to the recall election);
 - i. Section 3.14(A)(1)-(4), (7), (C)-(E);
 - j. Section 3.15 (Ten vote difference between the yea and nay votes is sufficient to trigger recount; request may be filed by person subject to the recall election or the lead petitioner, as appropriate);
 - k. Section 3.18;
 - l. Section 5.01(E);
 - m. Section 5.03;
 - n. Section 5.04.

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2. Each officer or member of the Board of Trustees or officer of the General Council who is subject to a recall election shall have the right to respond to the recall charges filed against him/her. The person subject to recall shall be permitted to include a response to the recall petition charges in the mail-out to all General Council members providing notice of the recall election as set forth above. The person subject to recall shall also be authorized to have his/her response published in the Confederated Umatilla Journal (CUJ) or successor Tribal newspaper at no cost.
3. Voting shall be by secret ballot. A simple majority is required to effect the recall. In the case of a tie vote, the recall fails.

I. Effect of Recall.

1. If the majority of voters vote in favor of the recall, then the person subject to the recall shall immediately cease to exercise any duties as an officer or member of the Board or an officer of the General Council, regardless of whether the election results are contested.
2. If the election results are contested, and the completion of the recount or dispute resolution process indicates that the recall effort failed, the person may resume his or her duties immediately.
3. If the election results are not contested, or if they are contested but the completion of the recount or dispute resolution process does not change the election results, then the recalled person's seat shall be declared vacant. The recalled individual shall immediately vacate his or her office, return any Tribal property in his or her possession, and shall receive their final paycheck. The vacancy caused by the recall shall be filled using the procedures described in section 4.01 of this Code.

SECTION 4.04. REMOVAL FROM BOARD OF TRUSTEES FOR GROSS NEGLIGENCE OF DUTY

Whenever, in the opinion of a majority of the entire Board of Trustees, any member of the Board of Trustees has been guilty of gross neglect of duty, it shall certify its opinion, together with the reasons therefore, to the General Council, which shall have the power to remove said member from office and to select a successor. The member who is so accused shall have the right to receive a copy of the charges against him/her at least twenty (20) days in advance of the meeting of the General Council at which the question of removal and of selection of a successor are to be voted on, and shall be entitled to appear at said meeting and answer said charges.

SECTION 4.05. CONSTITUTIONAL AMENDMENTS

- A. A proposed constitutional amendment shall only be placed on the ballot in the following ways:
 1. Approval by the Board of Trustees of a resolution to place the proposed amendment on the ballot, or
 2. Vote by the General Council to place the proposed amendment on the ballot.
- B. In order to appear on the General Election ballot, the complete text of the proposed amendment must be delivered to the Election Commission at least seventy (70) days prior to the date of the General Election. Proposed amendments delivered at other times shall be voted on at Special Elections.
- C. The notice of the election (whether a General or Special Election) shall set forth the proposed amendment in full. Likewise, the ballot shall set forth the proposed amendment in full.

- D. A proposed constitutional amendment shall only take effect if both of the following occur:
 - 1. A majority of the qualified voters vote in favor of it, and
 - 2. At least 50 votes are received in favor of it.

CHAPTER 5. CODE ENFORCEMENT

SECTION 5.01. UNLAWFUL CAMPAIGN PRACTICES

- A. No person shall campaign, attempt to persuade voters, place campaign literature or signs or otherwise attempt to influence the outcome of a Tribal election within 75 feet of the entrance to a voting place established by the Election Commission for a Tribal election. The Commission shall post a notice of this subsection at each voting place.
- B. No person shall use Tribal personnel, property, equipment or work time for purposes of influencing the outcome of a Tribal election or promoting the placement of an issue on the ballot (including preparing petitions or gathering signatures).
- C. No person shall attempt to influence a person's vote or obtain a person's signature on a petition by means of coercion or threats.
- D. No person shall attempt to influence a person's vote or obtain a person's signature on a petition by making a direct and specific offer to that individual of cash, goods or services (including alcohol or drugs). This subsection is not intended to limit the making of "campaign promises", i.e., generalized suggestions that people will benefit from policies associated with particular candidates or issues on the ballot.
- E. The Election Commission may promulgate regulations setting forth a civil fine schedule pursuant to its rulemaking authority under section 2.07 of this Code. The civil fines imposed by the Election Commission shall not exceed \$1,000 per violation.
- F. Candidates for Tribal office shall remove all campaign signs supporting their candidacy within the boundaries of the Umatilla Indian Reservation no later than thirty (30) days after the General Election or Special Election. Any candidate who fails to remove such signs within the prescribed time period shall be liable to a civil fine imposed by the Election Commission which shall not exceed \$50.00 per sign.
- G. Any violation of this section shall be subject to civil fines imposed by the Election Commission.

SECTION 5.02. INVESTIGATIONS AND FINES.

- A. Investigations. The Election Commission shall be authorized to conduct or have conducted on its behalf, any such investigation it determines reasonable and necessary to carry out its obligations set forth in this Code. Such investigations may be associated with determining that a candidate meets the eligibility requirements for the position the candidate seeks, that nomination petitions are valid, the facts surrounding an election protest and allegations of unlawful campaign practices.
- B. Notice of Violation. Upon the completion of an investigation by the Commission of an unlawful campaign practice, the Commission shall issue a Notice of Violation to any person(s) the Commission determines has engaged in an unlawful campaign practice. The Notice of Violation shall contain the following information:
 - 1. Name of person engaged in unlawful campaign practice.
 - 2. Nature of the unlawful campaign practice.

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3. Citation to Election Code that makes the campaign practice unlawful.
 4. The fine imposed by the Commission.
 5. The opportunity for the person receiving the Notice of Violation to challenge the finding of an unlawful campaign practice and the imposition of a fine, including the time, date and location for the hearing and that the person subject to the Notice of Violation has the right to be represented by an attorney or personal representative at the hearing.
- C. Hearings. The Commission shall conduct an informal hearing if requested in writing by a person receiving a Notice of Violation pursuant to this section. The request for hearing must be submitted to the Commission prior to the scheduled hearing date. The hearing shall be scheduled and conducted within five (5) calendar days of the issuance of the Notice of Violation. The hearing shall be conducted by a quorum of the Commission, and shall be subject to informal rules of both procedure and evidence. The hearing shall open with the Commission setting forth the basis for its issuance of a Notice of Violation. The person receiving the Notice of Violation shall then have the opportunity to present testimony and evidence challenging the basis for the Notice of Violation. The Commission shall issue its written decision on the challenge to the Notice of Violation within three (3) working days following the hearing, and provide a copy of such written decision to the person who requested the appeal.
- D. Fines. The Election Commission has the ability to impose and collect fines on any person found to have engaged in unlawful campaign practices. The Commission may impose fines up to the following amounts for the following violations:
1. Failure to Remove Campaign Signs – pursuant to the authority in section 5.01(E), the Commission may fine a candidate for up to \$50.00 per election sign not removed within thirty (30) days after a General Election or Special Election.
 2. Unlawful Campaign Practices – pursuant to section 5.01(D), the Commission may fine persons who have engaged in unlawful campaign practices as defined in section 5.01 in an amount that shall not exceed \$1,000.00 per violation provided that in no event shall a person's first violation result in a fine that exceeds \$100.00 unless the Commission finds that the violation was willful and wanton and that the violation had the effect of compromising the integrity of a Tribal election.

SECTION 5.03. ELECTION PROCEDURE DISPUTES.

- A. The Election Commission shall decide all disputes arising during and concerning the election process and their decision shall be final, unless reversed by the Umatilla Tribal Court as provided in section 5.04 of this chapter.
- B. In deciding any election disputes, the Commission shall gather all relevant facts and documents as are necessary for a resolution of the problem. The Commission shall provide any affected candidate an opportunity for a hearing. Any decision of the Commission shall be based on the evidence gathered by the Commission or submitted by an affected candidate. The Commission's decision shall be in writing and shall be by a majority vote thereof. The Commission shall render its decision as expeditiously as possible, but in no event later than three (3) working days after the election.

SECTION 5.04. TRIBAL COURT REVIEW

- A. Review of Fines Imposed for Unlawful Campaign Practices. The Umatilla Tribal Court shall have jurisdiction to review the imposition of a fine by the Election Commission against any person found to have engaged in an unlawful campaign practice as defined by section 5.01, provided that the person found in violation requested a hearing before the Commission to

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challenge the basis of the Notice of Violation as provided in section 5.02(B)(5) and (C). The person seeking Tribal Court review must file their suit challenging the Commission's imposition of a fine within five (5) working days following the date of the Commission's decision. The Tribal Court shall uphold the decision of the Commission unless it finds the Commission's decision arbitrary and capricious or otherwise not in accordance with applicable law.

- B. Review of Election Disputes. The Umatilla Tribal Court shall have jurisdiction to review the Commission's decisions on election disputes. Any action brought under this Code must be filed within five (5) working days of the final decision of the Commission. The Tribal Court shall uphold the decision of the Commission unless it finds the Commission's decision arbitrary and capricious or otherwise not in accordance with applicable law. The Tribal Court shall place any election suit filed under this Code as the highest priority on its docket.

APPENDIX A

LEGISLATIVE HISTORY

ELECTION CODE

LEGISLATIVE HISTORY

As enacted in 1949, the Constitution and By-Laws of the Confederated Tribes of the Umatilla Indian Reservation addressed election matters in the following sections: Art. V, sections 2, 5, and 6; Art. VI, sections 2, 3, 5, and 6, and Art. VII.

For many years elections were conducted using only the guidance provided in the Tribes' Constitution and certain customary rules. This occasionally leads to problems in the administration of elections (See Board of Trustees Resolution No. 71-18 (December 1, 1970)). In order to codify election processes which implement and elaborate upon the Constitutional provisions, the Board of Trustees enacted the Election Ordinance, in Resolution No. 77-10 (July 20, 1976).

On November 27, 1990 the General Council of the Confederated Tribes approved Amendment Four and Amendment Five to the Constitution and By-Laws of the Confederated Tribes of the Umatilla Indian Reservation. Amendment Four required direct election of the Officers of the Board of Trustees (Previously, Board Officers had been appointed by the Board itself from among its nine elected members.). Amendment Five extended the term of office of Officers of the General Council from one year to two. As these amendments significantly changed the election processes of the Confederated Tribes, revision of the Tribes' Election Ordinance became necessary. The Board enacted a revised Election Ordinance in Resolution 91-33 (June 19, 1991), and amended it once, in Resolution No. 92-12 (March 18, 1992).

On June 18, 1992 the General Council approved Amendment Six to the Constitution and By-Laws of the Confederated Tribes. This amendment established that all Tribal general elections shall take place in November of odd numbered years.

Subsequently, the revised Election Ordinance was amended an additional four times, by Resolutions No. 93-41(A) (September 29, 1993), No. 93-41(B) (September 29, 1993), No. 94-29 (April 20, 1994), and No. 97-52 (September 3, 1997).

In the *Statutes of the Confederated Tribes of the Umatilla Indian Reservation, July 1999 Compilation*, three editorial changes were made to the revised Election Ordinance. One of these changes was to change the name from "Election Ordinance" to "Election Code." The other changes are described in detail in the legislative history published with the Code in the *July 1999 Compilation*. The Board of Trustees approved these changes in Board Resolution No. 99-63 (July 28, 1999).

Following Board approval of the *Statutes of the Confederated Tribes of the Umatilla Indian Reservation, July 1999 Compilation*, the Board enacted a second revised Election Code in Resolution No. 01-087 (August 20, 2001). The second revised Election Code contained a number of technical amendments recommended by the Tribes' Election Commission, based upon experience in recent elections.

Unfortunately, several of the amendments recommended by the Election Commission were inadvertently left out of the text of the second revised Election Code. Consequently, two and a half months later the Board enacted a third revised Election Code, which incorporated additional technical amendments recommended by the Election Commission. The third revised Election Code was enacted by the Board of Trustees in Resolution No. 01-109 (November 5, 2001), in order to be available for the General Election to be held later that month.

As of the enactment of the third revised Election Code, no version of the Election Code had addressed the entire range of Tribal elections. The various versions of the Code had focused on regulating general elections of officers and members of the Board of Trustees and General Council officers. The Code had either overlooked entirely, or only partially addressed a number of other types of elections addressed in the Tribal Constitution, such as recalls and constitutional amendments. In addition, the organization of the Code was unnecessarily confusing and redundant.

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To correct these problems, the Board of Trustees enacted a fourth revised Election Code in Resolution No. 02-035 (April 15, 2002).

The fourth revised Election Code was amended by the Board of Trustees in Resolution No. 02-079 (September 30, 2002). This amendment greatly expanded section 4.02 and added a subsection (D) to section 4.01.

The Board enacted a fifth revised Election Code in Resolution No. 05-006 (January 24, 2005). This revised code incorporated the changes to the recall procedure made by Amendment IX to the Constitution and Bylaws. It also added a new chapter 5 which addresses code enforcement. Finally, the fifth revised code included new provisions relating to tied elections, and made changes to provisions on ballots and absentee voting.

In response to problems arising in the conduct of the 2007 Tribal Election, in Resolution 08-109 (October 27, 2008), the Board enacted several amendments to the Election Code. Specifically, section 3.07, concerning the preparation and submission of nomination petitions, and section 3.08, concerning the withdrawal of candidates were amended.

In the November 2007 general election, tribal members approved Amendment XI to the Confederated Tribes' Constitution, which amended Article VII of the Constitution to remove the requirement that the Secretary of the Interior approve constitutional amendments prior to their taking effect. Section 4.05(D) of the Election Code, which also contained language requiring constitutional amendments to be approved by the Secretary of the Interior, was not immediately amended. The Board of Trustees corrected this inconsistency in Resolution 09-122 (October 19, 2009) by removing the requirement of secretarial approval.