

Yomba Shoshone Tribe

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YOMBA SHOSHONE TRIBE

ELECTION ORDINANCE NO. YST2014-02

BE IT ENACTED BY THE YOMBA SHOSHONE TRIBAL COUNCIL: that this Election Ordinance is hereby enacted by virtue of the inherent sovereign authority of the Yomba Shoshone Tribe, consistent with Article IV of the Tribal Constitution, as amended. This election ordinance provides for proper election procedures for the Yomba Shoshone Tribe, and supersedes and rescinds any election laws that have previously been enacted for tribal elections.

TABLE OF CONTENTS

CHAPTER 00-10 – Authorities, Purpose, Applicability and Confidentiality

- 00-10-010 Authorities
- 00-10-020 Purpose
- 00-10-030 Applicability
- 00-10-040 Confidentiality

CHAPTER 00-20 – Definitions

- 00-20-010 Absentee Ballot
- 00-20-020 Advisory Question
- 00-20-030 Candidate
- 00-20-040 Challenge
- 00-20-050 Days
- 00-20-060 Electioneering
- 00-20-070 Eligible Voter
- 00-20-080 Felon
- 00-20-090 Lame Duck Official
- 00-20-100 Legal Residency
- 00-20-110 Petition
- 00-20-120 Recall

00-20-140 **Special Elections**

00-20-150 **Spoiled Ballots**

00-20-160 **Severability**

Chapter 00-30 Election Policy

Chapter 00-40 - Tribal Election Board (TEB)

00-40-010 **Establishment and Selection of the TEB**

00-40-020 **Duties and Responsibilities of the TEB**

Chapter 00-50—Regular Elections

00-50-010 **Calling of Election**

00-50-020 **Preparation for Election**

00-50-030 **Notice of Election**

00-50-040 **Ballot Box**

00-50-050 **Advisory Questions**

00-50-060 **Absentee Ballots**

00-50-070 **Polling Place**

00-50-080 **Electioneering**

00-50-090 **Ballots**

00-50-100 **Posting of Voters List**

00-50-110 **Filing for Candidacy**

00-50-120 **Tribal Election Voting and Assistance**

00-50-130 **Tie Votes**

00-50-140 **Challenge of Tribal Election**

00-50-150 **Certification of Election Results**

00-50-160 **Lame Duck Officials**

00-60- Special Elections

- 00-60-010 **Special Elections and Procedures**
- 00-60-020 **Initiation of Recall and Referendum Elections**
- 00-60-030 **Time of Recall and Referendum Elections**
- 00-60-040 **Cost of Recall and Referendum Elections**
- 00-60-050 **Petition Validation**
- 00-60-060 **Calling of Special Recall and Referendum Elections**
- 00-60-070 **Notice of Election and Posting**
- 00-60-080 **Recall and Referendum Election, Process, and Election Results**
- 00-60-090 **Challenge of Special Elections**
- 00-60-100 **Certification of Recall and Referendum Election Results**

Chapter 00-70- Severability

00-70-010

Chapter 00-10- Authorities, Purpose, Applicability, and Confidentiality

00-10-010- Authorities

Ordinance No. YST-2014-02 is authorized by Article IV, Section 2 of the Tribal Constitution which states, "The Tribal Council shall approve an Election Ordinance governing all election processes of the Tribe."

00-10-020- Purpose

The purpose of this ordinance is to establish fair, impartial, and uniform procedures for the conduct of regular and special elections for the Yomba Shoshone Tribe.

00-10-030- Applicability

Provisions of this ordinance shall apply to Regular and Special elections of the Tribe.

00-10-040- Confidentiality

The confidentiality of tribal members shall be recognized by the Tribe. Confidentiality Procedures of the Tribe shall be enforced for election processes.

Chapter 00-20- Definitions

00-20-010- Absentee ballot, means a ballot that is requested by a qualified voter due to an absence from the reservation because of illness, physical disability, military service, educational purposes, or living off the reservation.

00-20-020- Advisory question, means a question placed on the regular election ballot as a means of advising the Tribal Council for change in tribal government.

00-20-030- Candidate, means a tribal member who submits his name to run for Tribal Council and meets the requirements of Article IV, Section 1 of the Tribal Constitution.

00-20-040- Challenge, means a subject of dispute, contention, or concerns for possible violation of election procedure (s) as established by this ordinance. Challenges apply to regular or special elections.

00-20-050- Days, as used in the election processes of the Tribe shall mean all calendar days to exclude holidays recognized by the Tribe.

00-20-060- Electioneering, means to campaign, support, and advertise for a candidate.

00-20-070- Eligible Voter, means a tribal member who is eighteen (18) years of age or over, and who has never been convicted of a felony in a State, or Federal Court.

00-20-080- Felon, means a tribal member that has been convicted of a felony in a State, or Federal Court (crimes committed on the reservation are consider misdemeanors).

00-20-090- **Lame Duck Official**, means a member of the Tribal Council whose term has expired, but, remains on the Tribal Council until the election process has been finalized and certified.

00-20-100- **Legal Residency**, means a home on the Yomba Reservation in which the candidate may live, or, where he may claim residency even if he is employed off the reservation, in the military, or schooling. Residency requirements may be supported by utility, water, sewer, or telephone bills.

00-20-110- **Petition**, means an election process or method reserved for tribal members to recall Tribal Council members in accordance with Article V, Section 3 of the Tribal Constitution; and Article VII for a Referendum. This definition does not include the petition rights of members under Article IX to petition a request for a Secretarial election.

00-20-120- **Recall**, a special election right granted to tribal members for the removal of a Tribal Council member or members. This process is reserved for tribal members and is binding on the Tribal Council if the election results are in favor of the recall.

00-20-130- **Regular Election**, means a tribal election that is held in accordance with the Tribal Constitution and this ordinance. The election is held in December of each year called on a date by the Tribal Council.

00-20-140- **Special Elections** are held for Recall elections called in accordance with Article V, Section 3 and Referendum elections pursuant to Article VII of the Tribal Constitution.

00-20-150- **Spoiled Ballots**, are official ballots that are cast and marked in such a way that it is not possible to determine the intent of the voter, or a ballot that has not been marked at all. A ballot that has not been cast may be exchanged for a new one. A ballot that is cast and considered spoiled is counted in the tabulation of the total votes to meet percentage requirements of special recall elections.

00-20-160- **Severability** means the act by which any Chapter, Section, or provision of this ordinance is declared invalid by a Court of competent jurisdiction: The remaining portions remain valid.

Chapter 00-30 Election Policy

- (a) The Yomba Shoshone Tribal Council shall consist of six council members elected by the eligible voters of the Tribe. The Tribal Council shall consist of a Chairman, Vice-Chairman, Secretary/Treasurer, and three council members.
- (b) At the first election after approval of the amended Constitution of 2014, the Chairman and Vice-Chairman shall be elected at large by the eligible voters of the Yomba Shoshone Tribe and shall serve as many terms in succession. All existing Tribal Council members shall serve out their three terms. A council member electing to run for Chairman or Vice-Chairman shall relinquish his seat on the Tribal Council and the Tribal Council shall declare a vacancy as required by Article V, Section 1 of the Tribal Constitution.
- (c) In all elections, no person shall be a candidate for the Tribal Council unless he is a member of the Yomba Shoshone Tribe, at least twenty-five years of age, and never been convicted of

a felony, and has maintained legal residency on the Yomba Reservation for one year prior to the election.

- (d) Any qualified member of the Yomba Shoshone Tribe may announce his candidacy for the Tribal Council, such announcement to be in writing and presented to the Secretary of the Tribal Council at least 30 days before the election. It shall be the duty of the Secretary to post in two public places, at least 10 days before the election, names of all candidates running for Tribal Council.
- (e) Any member of the Yomba Shoshone Tribe 18 years of age or older shall have the right to vote. Once a member turns 18, he will be placed on the eligible voters list. The TEB shall update the voter list as necessary. The updates would include adding new names of members that turn 18, removing names of deceased, removing names of relinquished members, and removing names of dis-enrolled members.
- (f) Tribal election for Tribal Council shall be held every December and shall be called at least sixty days prior to the expiration of a term of office. The terms of office shall be for a period of three years, staggered to where two Council members are elected each year, or until their successors are elected.
- (g) Upon receipt of a petition signed by at least 30% of the qualified voters calling for the recall of the Chairman, Vice-Chairman, or any member of the Tribal Council, it shall be the duty of the Tribal Council to call a special election for that purpose. No member shall be recalled unless at least 30% of the eligible voters vote at such election.
- (h) Upon a petition signed by at least 30% of the qualified voters of the Yomba Shoshone Tribe, a referendum election may be demanded on any enacted or proposed ordinance or resolution of the Tribal Council. The referendum shall be conclusive and binding upon the Tribal Council provided that at least 30% of the eligible voters shall vote and the results are by majority vote.

Chapter 00-40- Tribal Election Board (hereinafter TEB)

00-40-010- Establishment and Appointment of the TEB

- (a) The Tribal Council shall appoint three (3) committee members that are over eighteen (18) years of age to serve on the TEB. The TEB members shall be appointed each election year to serve both regular and special election process. An alternate shall also be appointed;
- (b) The Tribal Council shall advertise for the TEB no later than September of each year and appointments shall be made at the regular Tribal Council meeting in September. If less than three applications are received, the Tribal Council shall appoint their choice for the remaining vacancy;
- (c) No Tribal Council member is allowed to sit on the TEB, but, may be appointed to serve as an advisor and/or delegate to report TEB activities to the Tribal Council;
- (d) No TEB member shall be a candidate for elective office, have a direct relationship (mother, father, husband, wife, son, or daughter) with a Tribal Council member, or a candidate for office; and
- (e) There is no time limit to the number of consecutive terms TEB members may serve.

00-40-020 Duties and Responsibilities of the TEB

- (a) A Chairman shall be elected from within the TEB to preside over TEB meetings and oversee all TEB activities;
- (b) Any TEB member missing three unexcused consecutive meetings shall be cause for removal;
- (c) Conduct elections in a fair, impartial, and objective manner. Confidentiality shall be exercised at all times;
- (d) Assure that the Notice of Election is posted at least sixty (60) days prior to the election date;
- (e) Keep the voters list updated to add new members, remove deceased, remove relinquished members, and remove dis-enrolled members;
- (f) Check candidates eligibility to see if they meet the requirements of Article IV, Section 1 of the Tribal Constitution and if the candidacy deadline was met;
- (g) Keep the ballot box secure at all times during the election process; and when there is no election process, the ballot box and documents shall be secured at the Tribal Court and Records Management Procedures followed;
- (h) Assure that all voters are on the eligible voters list and sign their names on a line provided by the TEB;
- (i) Conduct a count following the close of polls, certify the election results, report the final results to the Tribal Council and report the election results;
- (j) Review all challenges to the election and provide a recommendation of determination to the Tribal Council; and
- (k) The TEB may be an advisor to the Tribal Council if there are questions on the election laws and procedures.

Chapter 00-50 Regular Elections

00-50-010- Calling of Election

The Tribal Council shall call the regular December election at least sixty (60) days prior to the election;

00-50-020- Preparation for Election

- (a) The TEB shall conduct meetings in preparation for the upcoming election in accordance with provisions of this ordinance and the Tribal Constitution;
- * (b) The TEB shall submit to the Tribal Council, a time-table of the scheduled dates to include all deadlines;
- (c) The TEB shall assure that all forms necessary for the tribal election are in place and current;
- (d) The TEB shall set a deadline date for the voters list to be posted and corrected;
- (e) The TEB shall set a deadline date for candidacy and eligibility;
- (f) The TEB shall set a deadline date for requests for absentee ballots, and date that absentee ballot should be received;
- (g) The TEB shall recommend any election concerns and proposed amendments to the Tribal Council; and

(h) A neutral monitor may be requested for the election to assure that election laws and rules are followed.

00-50-030- Notice of Election

A Notice of Election shall be posted at least sixty (60) days prior to the tribal election. The Notice shall include: Date of election, polling place, times polls are open and close, number of vacant tribal council seats, absentee ballot information, and other general election information as required.

00-50-040- Ballot Box

All ballots that are cast shall be placed into a locked ballot box. The ballot box shall be safeguarded at all times. Following the election, all ballots, challenges, tally sheets, and final certification documents shall be put into the ballot box and provided to the Tribal Court for safeguarding. The Tribal Court is designated by the Tribal Council to take custody of the ballot box for a period of one year. After this period, the documents shall be filed in accordance with Tribal Record Management Procedures.

00-50-050- Advisory Questions

Any committee, Business Council member, or tribal member interested in placing a question on the election ballot shall submit their requests to the TEB no later than ten (10) days prior to the closing of nominations for candidacy. The TEB shall review the questions and recommend to the Tribal Council. Negative questions against tribal sovereignty shall not be allowed and subject to denial.

00-50-060- Absentee Ballots

- (a) Absentee voting is allowed for all elections. Eligible voters have a right to request an absentee ballot if they will be absent from the reservation due to illness, physical disability, military service, education, and living off the reservation. The burden is on the eligible voter if they want to request to vote absentee and not the Tribe;
- (b) An eligible voter that has requested an absentee ballot and sent a absentee ballot shall not be permitted to vote at the polls;
- (c) The deadline for requesting an absentee ballot shall be at least twenty (20) days prior to the election. The deadline for absentee ballots to be received by the TEB shall be one (1) day prior to the election. Absentee ballots are sent to: Election Board Chairperson, Yomba Shoshone Tribe, HC61 Box 6275, Austin, Nevada 89310, or hand-carried into Tribal Administration. Absentee ballots shall be placed into a locked ballot box;
- (d) An absentee ballot shall be mailed or available at the tribal office to a qualified voter requesting an absentee ballot by the deadline date. The request shall be on a form approved by the Tribal Council.
- (e) The absentee ballot shall be sent back to the TEB in a plain envelope marked "Absentee Ballot" and directions shall be provided by the TEB. It is the sole responsibility of the eligible voter for getting the absentee ballot to the TEB by the required deadline date.

00-50-070- **Polling Place**

The ~~polling place~~ shall be the Yomba Tribal Administrative Offices, Yomba, NV. The polls shall officially open at 9:00 a.m. and close at 5:00 p.m. Once the polls are closed, no eligible voter shall be allowed to vote with no exceptions. All TEB members shall report to the polling place at least thirty (30) minutes prior to polls opening.

00-50-080- **Electioneering**

No electioneering shall be allowed within fifty (50) feet of the polling place. Electioneering includes campaigning or loitering.

00-50-090- **Ballots**

All voting for regular and special elections shall be accomplished by secret ballot on ballot forms that are prepared by the TEB and approved by the Tribal Council. After the closing date to file for Candidacy, the TEB shall finalize the ballot. Candidates that wish to withdraw their name from the ballot shall be permitted to do so within five (5) days after the close of Candidacy, but, their names shall not be removed from the ballot once the ballot is approved by the Tribal Council. The TEB shall prepare enough ballots for the election.

00-50-100- **Posting of Voters List**

The TEB is responsible for keeping an accurate list of the eligible voters for the Tribe. The first posting shall be in November and shall be posted for at least thirty (30) days for any corrections. It shall be the responsibility of the eligible voter to update their names and addresses with the TEB.

00-50-110- **Filing for Candidacy**

Any tribal member listed on the eligible voters list and who meets the requirements of Article V, Section 1 of the Tribal Constitution has a right to file his name for candidacy. The tribal member has never been convicted of a felony in a State or Federal Court. The deadline for filing for candidacy shall be at least thirty (30) days prior to the election. The eligibility for candidates shall be determined at least twenty-five (25) days prior to the election.

00-50-120- **Tribal Election Voting and Assistance**

- (a) The TEB shall have rules of the tribal election posted at the polling site;
- (b) The TEB shall have complete control of the election and if necessary, have a monitor onsite;
- (c) Interpreters may be provided by the TEB to explain in Shoshone the manner of voting when assistance is requested. All reasonable precautions shall be taken to insure that the interpreter does not influence the voter in casting his ballot. The interpreter cannot accompany the voter into the voter's booth;
- (d) The voter shall first sign his name on the voter's list sheet. This process is not available to absentee voters who have mailed or hand-carried their ballots;

- (e) The voter is provided instruction on the process and voting booth requirements. After voting, the voter shall fold the ballot and drop into the ballot box;
- (f) The TEB shall provide assistance to all voters upon request;
- (g) After the polls close, the TEB shall conduct a manual count of all ballots cast. Each TEB member shall have a tally sheet to record the votes. The TEB Chairman shall unlock the ballot box and remove all ballots; all absentee ballots shall be removed from their envelopes and counted; all other ballots shall then be counted and a total recorded. The TEB Chairman shall call out the election votes to the TEB who shall tally the count in groups of five and acknowledge when each candidate reaches the group total. All spoiled ballots shall be placed into an envelope marked "Spoiled Ballots". When all ballots have been tallied, the TEB shall figure the total number of votes cast for each candidate and report out on a Certification of Unofficial Results form. The Certification shall be signed by all TEB members. If a tie vote exists, then the procedures found in 00-50-130 shall be followed.

00-50-130- Tie Votes

In the event of a tie between two candidates for one position on the Tribal Council, there shall be a run-off election called by the Tribal Council. This run-off election shall occur two weeks (on a Saturday) after all challenges have been resolved. The run-off election shall only include the two candidates and no other candidates shall be allowed to be placed on the ballot.

00-50-140 Challenge of Tribal Election

Any eligible voter has a right to challenge the election within three (3) days after the polls closed. The challenge has to be on the election process or misconduct on part of the TEB. The burden of proof shall be on the challenger. The challenge shall be in writing submitted to the Secretary of the Tribal Council setting forth the name of the challenger, address, and grounds for the challenge. If the Secretary is one of the persons running for office, the Tribal Council shall delegate a Council Member. Within five (5) days after receipt of the challenge, the Tribal Secretary shall provide the challenge to the TEB who shall within ten (10) days determine validity. Within five (5) days after determining validity, the TEB shall provide the Tribal Council their recommendations. The Tribal Council at a Special Meeting decides on the challenge. The challenger may be present at the Special Meeting. The declaration of the challenge shall be final.

00-50-150 Certification of Election Results

After the election results and all challenges are resolved, the TEB shall provide a Certification of Election Results to the Tribal Council. The Certification shall include names of all candidates, number of votes received, date of election, number of eligible voters voted, number of absentee ballots, number of spoiled ballots, and signed by all TEB members. The Tribal Council shall approve the Certification of Election Results.

00-50-160 Lame Duck Officials

Notwithstanding that a Tribal Council member loses an election or chooses not to run for another term, the Tribal Council member shall continue to serve in his official capacity until the newly elected member is sworn into and formally takes office.

Chapter 00-60 Special Elections

00-60-010 Special Elections and Procedures

- (a) Recall. A petition to recall a Tribal Council member is a right provided to qualified tribal members. Article V, Section 3 of the Tribal Constitution, as amended, states, "Upon receipt of a petition signed by at least 30% of the qualified voters calling for the recall of the Chairman, Vice-Chairman, or any member of the Tribal Council, it shall be the duty of the Tribal Council to call a special election for that purpose. No member shall be recalled unless at least 30% of the eligible voters shall vote at such election."
- (b) Article V, Section 1 states, "if a Tribal Council Chairman, Vice-Chairman, Tribal Council or an official shall die, resign, be removed from office, or convicted of a felony, the Tribal Council shall declare the position vacant and shall appoint to fill the unexpired term."
- (c) If a Tribal Council member is recalled pursuant to Article V, Section 3 of the Tribal Constitution, a vacancy shall be declared pursuant to Article IV, 1 and an eligible tribal member shall be appointed for the unexpired term. The process for the appointment shall be fair and timely, provided, that the Tribal Council has posted an advanced Notice for the vacancy.
- (d) Referendum. Upon a petition signed by at least 30% of the qualified voters of the Yomba Shoshone Tribe, a referendum election may be demanded on any enacted or proposed ordinance or resolution of the Tribal Council. The referendum shall be conclusive and binding upon the Tribal Council provided that at least 30% of the eligible voters shall vote and the results are by majority vote.

00-60-020 Initiation of Recall and Referendum Elections

Upon receipt of a petition signed by one-third (1/3) of the eligible voters calling for the recall of any member of the Tribal Council, or a referendum, it shall be the duty of the Tribal Council to certify the petition and to call a special election for that purpose. No member may be recalled in the election unless at least thirty (30) percent of the eligible voters vote in such election. No referendum shall be conclusive and binding on the Tribal Council unless 30% of the eligible voters have voted by majority vote and in favor of referendum. The TEB shall conduct the eligibility of the petition and recommend to the Tribal Council the validity of the petition.

00-60-030 Time of Recall and Referendum Elections

The time of a special election shall depend on the validity of the petition. If the petition is valid, the Tribal Council shall call a Special Recall Election unless the regular December election is ninety (90) days

from the petition validation. In that instance, the special election may be held the same time as the regular election and also depending on the council member's term. The Special election shall be held on a Saturday allowing time for absentee ballots to be requested and received. The time requirements shall be determined by the TEB.

00-60-040 Cost of Recall and Referendum Elections

The Yomba Shoshone Tribe shall pay all costs for conducting the Recall and Referendum Elections in accordance with this Ordinance and Tribal Constitution.

00-60-050 Petition Validation

Name only on
Eligible Voters List
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The Petition shall be filed with the Tribal Council Secretary by an affidavit signed by the circulator. Names of the members that signed the petition shall be verified by the TEB in coordination with Tribal Enrollment. All names shall be tribal members and on the eligible voters list. The TEB shall develop a petition format that shall be used for all recall elections. At least ten (10) days from the filing of a petition, the TEB shall complete the validation process and present a recommendation to the Tribal Council. At least twenty (20) days from a petition being determined valid, the Tribal Council shall call a special recall election. If a petition is determined invalid, the Tribal Council shall notify the petitioners of the decision. The Tribal Council decision is final.

Any eligible voter who has signed the petition may request their names be removed from the petition at any time prior to the close of business that the Tribal Council is to determine validity. The Tribal Council shall decide on the removal upon recommendation from the TEB. No petition shall be circulated for more than three (3) months. Any petition in circulation over this time period shall be declared invalid.

00-60-060 Calling of Recall and Referendum Elections

The Tribal Council shall call a Special Election in accordance with the authority contained in the Constitution under Article V, Section 3 and Article VIII and Section 00-60-050 of this Ordinance.

00-60-070 Notice of Election and Posting

A Notice shall be prepared and posted on the Yomba Reservation shortly after the Tribal Council has determined the petition's validity and the calling of a Special Recall Election providing the following information:

- (a) Purpose and requirements of the special election;
- (b) Date, time and place of election;
- (c) Polls open and close; and
- (d) All information on absentee ballots requests and deadlines. The deadlines established should follow the same procedures as 00-50-060 of this Ordinance.

00-60-080 Recall and Referendum Elections, Process and Election Results