

ELECTION ORDINANCE

Section 1. Title and Purpose:

This ordinance shall be known as the Qagan Tayagungin Tribe Election Ordinance. Its purpose is to regulate the conduct of Elections and Special election as required by the Qagan Tayagungin Tribal Constitution. The Qagan Tayagungin Tribal Council, hereinafter, will be referred to as the "Council".

Section 2. Administration:

The Executive Director/Tribal Clerk is the supervisor of elections and shall prepare and maintain election materials and records. The Executive Director/Tribal Clerk shall begin preparations for a general election at least forty-six (46) days before the date of the election, and for a special election as expeditiously as possible. The Executive Director/Tribal Clerk or designee/Tribal Clerk is responsible for maintaining the voters' registration list. The Executive Director/Tribal Clerk or designee shall act as Clerk to the Election Board.

Section 3. Council and Officer Positions:

- a. The Council shall consist of seven (7) members.
- b. At the initial Secretarial Election, the Council members shall provide for staggered terms by drawing lots so three (3) Council members shall serve a term of three (3) years, two(2) Council members shall serve a term of two (2) years, and two (2) Council members shall serve a term of one (1) year. This shall continue until all Council members are serving three (3) year terms.
- c. After each annual election, the Council shall elect a Council Chairperson, Vice-Chairperson, and a secretary-Treasurer. (The Secretary and Treasurer positions may be separated if Council wishes.)

Section 4. Voter Qualifications:

The Executive Director/Tribal Clerk or designee shall prepare an eligible voters list. Voters eligible to vote in the Election will be on the Tribal Membership Roll. At all subsequent elections, the voters list will be set thirty-two (32) days prior to the election.

Persons not listed shall have five (5) days to appeal to the Council. The Council, after a hearing, shall determine final eligibility. The decision of the Tribal Council shall be final.

Other criteria are as follows:

Updated May 8, 2019

- a. Has been a resident of Sand Point for one (1) year preceding the election.
- b. Is 18 years old or older
- c. Have registered with the Qagan Tayagungin Tribe prior to noon the day the eligible voters list is published.

Section 5. General Elections

The regular general election for council members shall be held each year in October. Questions or propositions may be placed on the ballot at this time. Notice of the election must be posted in three (3) public places for thirty-two (32) days preceding the date of election.

Section 6. Special Elections

The Council shall set dates for all special elections authorized under the Constitution of the Tribe. The Council shall give at least ten (10) days prior notice of special elections, with the purpose of the special election.

Section 7. Election Notice (s)

Election notices shall be prepared and posted in three (3) public places by the Executive Director/Tribal Clerk or designee for thirty-two (32) days preceding the date of the general election (and ten (10) days preceding the date of a special election) and shall contain the following:

- a. Purpose of Election.
- b. Date of the Election
- c. Location of the polling place.
- d. Time the polling place will open and close.
- e. Time for declaring candidacy.

Section 8. Times and Places:

The annual Election shall be held in coordination with the City of Sand Point's election at the place designated by the Council.

Section 9. Election Board and Duties:

The council shall appoint a three (3) member Election Board. The members shall be approved by the Tribal council. The Election Board shall not be Council members or candidates for office.

Updated May 8, 2019

If an appointed Election Board member fails to appear and subscribe to the oath on Election Day or becomes incapacitated during the time of the election for the counting of the ballots, the remaining Election Board members shall appoint a qualified voter to fill the vacancy. The Election Board members will select one (1) to be the chairperson.

The Election Board is hereby authorized to administer and conduct the election. The Election Board shall act by majority vote. The Election Board shall be clearly identified at the polling place.

The Election Board shall:

- a. Administer and conduct elections in a manner that will insure fair and honest elections.

Section 10. Candidates:

Any eligible tribal member who is at least eighteen (18) years of age, and who has resided at Sand Point for at least one (1) year immediately preceding the election shall be eligible to be a candidate. Persons seeking candidacy must file in person at the Qagan Tayagungin Tribal office a "DECLARATION OF CANDIDACY" form. The application for candidacy shall be filed no sooner than thirty-two (32) days and no later than eleven (11) days before the election.

Eleven (11) days before the election the Executive Director/Tribal Clerk shall verify eligibility of each candidate. The Executive Director/Tribal Clerk will then develop a list of eligible candidates. A qualified voter may also become a write-in candidate.

Section 11. Ballot Preparation:

No later than eight (8) days prior to the election the Tribal Clerk shall prepare an official ballot clearly listing all candidates. The Tribal Clerk shall prepare sufficient ballots determined by the list of eligible voters plus a reasonable surplus for use as samples or replacements. All ballots shall be marked for folding to insure secret ballot. All ballots shall be sequentially marked in blue ink with a number place on the ballot in such a way as it can be cut off along a marked line at the time the ballot is given or mailed to a voter. No ballots shall be so marked, formed, or cut as to allow identification of its user after instructions or the ballot shall be nullified.

Section 12. Voting:

All voting for Tribal Council positions shall be by secret ballot. Each voter may vote only once in each election. Only official ballots properly marked shall be counted. If on any ballot more votes are cast than specified on the ballot instructions the ballot shall be nullified.

Section 13. Voting Procedures:

Eligible voters desiring to vote in person must:

Updated May 8, 2019

Appear at the polling place between 8 a.m. and 8 p.m.

Produce satisfactory identification to a member of the Election Board.

Sign or mark the voter's list opposite his or her name.

Obtain a ballot from an Election Board member.

Take the ballot into the voting area.

Vote for the number of vacancy's specified on the ballot.

Fold the ballot as instructed.

Hand the ballot to a member of the Election Board for removal of number. Ballots mutilated or miss-marked shall be destroyed only in the presence of the Election Board. The Election Board may thereby provide a replacement ballot.

Upon return of the ballot, place in a sealed, secure ballot box.

Section 14. Absentee Voting:

Voters desiring to vote by absentee ballot must:

- a. Obtain an absentee ballot at the Tribal Office by written request or in person. The request shall be no later than noon the day before an election.
- b. The ballot will be identical to the type prepared for regular voters.
- c. After voting the voter will fold the ballot to conceal its contents. Absentee ballots for the Election must be received at the tribal office no later than noon the day before the election.

Upon receipt of the absentee ballots, the Election Board shall note the name of the sender and mark the voter's list accordingly. After removing the ballot from the envelope, it shall be dated and placed, still folded, in the ballot box. Absentee ballots not mailed or otherwise sent may be cast at the polling place between the hours of 8 a.m. and 8 p.m.

Section 15. Electioneering:

No person shall solicit, secure, or influence voters by any means at the polling place or surrounding grounds, during the voting hours.

Section 16. Assistance to Voters:

Updated May 8, 2019

In cases where voters are unable to complete their ballots, the election Board may grant such assistance, or in appropriate cases authorize other persons to do so after taking every precaution to assure the voter exercises full freedom of choice. In all cases, the secret ballot must be strictly observed, and person assisting must maintain complete confidentiality.

Section 17. Voting Counting:

- a. Immediately after the polls close and the last vote has been cast, the Election Board will open the boxes containing the ballots and count the ballots. Ballots may not be counted before 8 p.m. on the day of the election. The counting of the ballots shall be public. The opening of the ballots of the ballot box at the close of the polls shall be done in full view of any person present. The public may be excluded from the area in which the ballots are counted. However, the chair of the Election Board shall not permit anyone present to interfere in any way or to distract the appointed officials from their duties, and no one other than appointed officials may handle the ballots. The Election Board shall remove the ballots from the ballot box one by one, and tally the number of votes for each candidate. The ballots shall be inspected for disqualifying marks or defects. The Election Board shall cause the vote tally to be continued without adjournment until the count is complete.
- b. The Election Board shall account for all ballots by completing a ballot statement containing: 1. The number of ballots received: 2. The number of ballots voted: 3. The number of ballots unused. The Election Board shall count the number of questioned ballots and shall compare that number to the number of questioned voters in the register. If any discrepancies in numbers of ballots received and ballots accounted for are found, the ballots shall be recounted until the Election Board finds the number of ballots accounted for are the same as the number received or there is an unexplained error. If a discrepancy is determined to exist between the ballots received and those accounted for, it shall be explained in detail on the ballot statement and the explanation signed by the Election Board.

Section 18 Quorum

A quorum for all Regular and Special Elections shall be thirty percent (30%) of the eligible voters.

Section 19. Certification:

The names of the winners will be listed on the form provided. Said forms will be signed by the Chairperson of the Election Board and the Tribal Council.

Section 20. Retention of Ballots:

Updated May 8, 2019

As soon as possible after closing of the poll on election day, all ballots, including absentee ballots received shall be placed in a secure receptacle to prevent tampering. After the vote count has been made official and the winners certified on the attached form, all ballots shall be retained at the tribal office until the next regular election.

Section 21. Recounts:

Any candidate may by written request, obtain a recount, when in the opinion of the Election Board, a vote is so close as to justify a recount or there is some evidence of irregularity to justify one.

Section 22. Ties:

In the event of a tie, unless one candidate withdraws, a flip of a coin will determine the winner.

Section 23. Protests:

- a. Any qualified voter may contest the election of anyone.
- b. Any qualified voter who believes prohibited practices occurred at any election may contest the election by:

Filing a written affidavit with the Executive Director/Tribal Clerk specifying with a particularity the provisions of the law which he/she believes to be misconduct:

This affidavit must be filed with the Executive Director/Tribal Clerk before or during the first review of the ballots on the Friday following the election. The Executive Director/Tribal Clerk shall acknowledge the date and time the affidavit is received on its face and make a photocopy of the affidavit which shall be given to the contestant.

2. Contest of Election: Council.
 - a. The Council may order an investigation or a recount of the ballots or declare the election invalid and order a new election or declare the affidavit of election contest without merit and certify the results of the election.
3. Ballot recount.

If an error has allegedly occurred and a recount of ballots is demanded, the Election Board will recount the ballots.
4. Prohibited practices alleged.

When the contestant alleges prohibited practices, the Council shall direct the Executive Director/Tribal Clerk to produce the original register books for the election.

5. Sustained charges: recount.

If the charges alleged by the contestant are upheld, the election review committee shall make a recount. The Council shall then certify the correct election returns.

Recount expenses: appeal.

a. The contestant shall pay all costs and expenses incurred in a recount of an election demanded by the contestant if the recount fails to reverse any result of the election or the difference between the winning and a losing vote on the result contested is more than two (2) percent.

b. No person may appeal the Council decision of a Tribal election for any cause or reason unless the person is qualified to vote in the Tribe or has exhausted his administrative remedies. If no action is commenced within ten (10) days after the Council has finally declared the election results, the election and election results shall be conclusive, final and valid in all respects.

Section 24. Transfer of Property:

The outgoing council Members shall be responsible for delivering or accounting for all Tribal documents and equipment in their possession to the Council Chairperson immediately after vacating their seat.

Section 25. Installation of Council Members:

Newly-elected members who have been duly certified shall be installed thereafter at the next regular meeting of the Tribal Council. Each newly-elected member shall subscribe to the following oath:

I, _____ do solemnly swear (or affirm), that I will support and uphold the Constitution of the United States and the Constitution, Bylaws and Ordinances of the Qagan Tayagungin Tribe, of the State of Alaska, and

That I will in all respects faithfully and fully perform the duties of my office of _____ for the Qagan Tayagungin Tribe, so help me God.

Section 26. Construction, Severability, and Amendment:

This ordinance is exempted from the rule of strict construction, and it shall be liberally construed

Updated May 8, 2019

to give full effect to the objectives and purpose for which it was enacted.

If any provision of the Ordinance, or its application to any person or legal entity or circumstance is held invalid, the remainder of the entities or circumstances shall not be affected.

The Qagan Tayagungin Tribal Council reserves the right to amend this ordinance as needed.