



Title 14 – Election Ordinance

Law & Order Code of the Paiute-Shoshone Tribe of the Fallon Reservation & Colony

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14-010 GENERAL PROVISIONS.....	6
14-010-010 AUTHORIZATION.....	6
14-010-020 PURPOSE	6
14-010-030 APPLICABILITY	6
14-010-040 SEVERABILITY	6
14-010-050 PRIVACY ACT	6
14-010-060 TIME OF REGULAR ELECTION.....	6
14-010-070 SOVEREIGN IMMUNITY	6
14-010-080 POSTPONEMENT OF AN ELECTION IN EMERGENCY SITUATIONS	6
14-010-090 REVISIONS TO THE TITLE 14 - ELECTION ORDINANCE	7
14-020 ROLE OF FBC SECRETARY OR DESIGNEE & ELECTION COMMITTEE	8
14-020-010 ROLE OF THE SECRETARY OF THE FALLON BUSINESS COUNCIL OR DESIGNEE.....	8
14-020-020 ESTABLISHMENT & AUTHORITY OF THE TRIBAL ELECTION COMMITTEE	9
14-020-030 SELECTION OF TRIBAL ELECTION COMMITTEE	9
14-020-040 QUALIFICATIONS OF TRIBAL ELECTION COMMITTEE MEMBERS	9
14-020-050 OATH OF OFFICE	9
14-020-060 DUTIES OF TRIBAL ELECTION COMMITTEE.....	10
14-020-070 OFFICERS OF THE TRIBAL ELECTION COMMITTEE	10
14-020-080 COMPENSATION	11
14-020-090 MEETINGS OF THE TRIBAL ELECTION COMMITTEE	11
14-020-100 RESIGNATION AND REMOVAL.....	12
14-020-110 VACANCIES.....	12
14-030 CONTRACTED & PROFESSIONAL SERVICES.....	12
14-030-010 APPLICABILITY	12
14-030-020 ELECTION SUPPORT SERVICES.....	13
14-030-030 ELECTION JUDGE	13
14-030-040 ELECTION PROSECUTOR	13
14-030-050 QUALIFICATION OF ELECTION JUDGE AND ELECTION PROSECUTOR.....	13
14-030-060 RESTRICTIONS FOR ELECTION JUDGE AND THE ELECTION PROSECUTOR	13
14-030-070 ADVERTISEMENT	13
14-030-080 COMMITTEE REFERRAL	14
14-030-090 COUNCIL SELECTION.....	14
14-030-100 COMPENSATION	14
14-040 VOTERS.....	14
14-040-010 ELIGIBLE VOTER.....	14
14-040-020 NOTIFICATION OF ELIGIBILITY TO VOTE.....	14
14-040-030 LIST OF ELIGIBLE VOTERS.....	15
14-040-040 REQUEST TO REMOVE NAME FROM THE CANDIDATE’S LIST OF ELIGIBLE VOTERS	15
14-050 ABSENTEE BALLOTS.....	15
14-050-010 ELIGIBILITY TO VOTE BY ABSENTEE BALLOT	15
14-050-020 NOTICE OF REQUESTS FOR ABSENTEE BALLOTS.....	15
14-050-030 REQUEST FOR ABSENTEE BALLOTS.....	15

14-050-040	MARKING OF ABSENTEE BALLOTS	16
14-050-050	RECEIPT OF ABSENTEE BALLOTS	16
14-050-060	RECORDING PROCEDURES OF RECEIPT OF ABSENTEE BALLOTS	17
14-050-070	RECORDING ABSENTEE BALLOTS ON THE OFFICIAL LIST OF ELIGIBLE VOTERS.....	17
14-050-080	NOTIFICATION OF RECEIPT OF ABSENTEE BALLOTS.....	17
14-060	ELECTIONS GENERAL PROVISIONS.....	18
14-060-010	TIME OF REGULAR ELECTION.....	18
14-060-020	NOTICE OF REGULAR ELECTION	18
14-060-030	POLLING PLACES.....	18
14-060-040	FINALIZING THE BALLOT	18
14-060-050	PREPARATION OF REGULAR/ABSENTEE BALLOTS.....	18
14-060-060	BALLOT FORM.....	18
14-060-070	BALLOTS AND BALLOT BOXES	19
14-060-080	USE OF TRIBAL FACILITIES.....	19
14-060-090	VIDEOTAPING, PHOTOGRAPHY, AND/OR RECORDING.....	19
14-060-100	POSTING OF NOTICES FOR DECEASED, WITHDRAWN, OR INELIGIBLE CANDIDATES	19
14-060-110	DECEASED CANDIDATES	19
14-060-120	IDENTIFICATION OF VOTERS	19
14-060-130	CHALLENGE IDENTIFICATION	19
14-060-140	SIGNATURE REQUIRED	19
14-060-150	SPOILED BALLOTS	20
14-060-160	ABSENTEE VOTER AT POLLING PLACE.....	20
14-070	REGULAR ELECTIONS.....	20
14-070-010	ELIGIBILITY FOR FALLON BUSINESS COUNCIL NOMINATIONS	20
14-070-020	CONSTITUTIONAL PROHIBITIONS.....	21
14-070-030	PROHIBITION OF IMMEDIATE FAMILY.....	21
14-070-040	POSTING OF NOTICE FOR OPENING AND CLOSING OF NOMINATIONS	22
14-070-050	FILING OF CANDIDACY	22
14-070-060	REQUIRED DOCUMENTS FROM CANDIDATES	22
14-070-070	GENERAL CAMPAIGN PROVISIONS.....	24
14-070-080	PROCEDURES AFTER AN ELECTION	25
14-080	SPECIAL ELECTION MATTERS	25
14-080-010	SPECIAL ELECTION MATTERS ON REGULAR ELECTION BALLOT.....	25
14-080-020	TYPES OF SPECIAL ELECTIONS	25
14-080-030	EFFECT OF VOTE IN SPECIAL ELECTIONS.....	25
14-080-040	INITIATION OF SPECIAL ELECTIONS.....	26
14-080-050	TIME OF SPECIAL ELECTION.....	26
14-080-060	LISTING OF CONSTITUTIONAL AMENDMENTS ON A BALLOT	26
14-080-070	BALLOT QUESTIONS (CONSTITUTIONAL, REFERENDUM, ADVISORY)	27
14-090	COUNTING OF BALLOTS	28
14-090-010	APPLICABILITY	28
14-090-020	RECESS BEFORE PUBLIC COUNTING.....	28

14-090-030	COUNTING OF BALLOTS.....	28
14-090-040	COUNTING OF BALLOTS – ABSENTEE BALLOTS.....	28
14-090-050	TOTALS AND OFFICIAL BALLOT ACCOUNTING FORM.....	28
14-090-060	READING OF ELECTION RESULTS.....	29
14-090-070	RECOUNTS.....	29
14-090-080	COUNTING OF BALLOTS IN A RECOUNT.....	29
14-090-090	TIE VOTE AFTER RECOUNT – COUNCIL AND OTHER ELECTED POSITION RACES.....	29
14-090-100	TIE VOTE AFTER RECOUNT – BALLOT QUESTIONS (CONSTITUTIONAL, REFERENDUM AND/OR RECALL).....	30
14-090-110	CLOSING OF ELECTION DAY.....	30
14-090-120	RECORDS RETENTION.....	30
14-100	ELECTION OFFENSES.....	30
14-100-010	APPLICABILITY.....	30
14-100-020	PERSONS LIABLE.....	31
14-100-030	REFUSAL TO PERFORM DUTY.....	31
14-100-040	FILING OF AN ELECTION OFFENSE CRIMINAL COMPLAINT.....	31
14-100-050	HEARING PROCEDURES OF AN ELECTION OFFENSE.....	31
14-100-060	ENFORCEMENT.....	31
14-100-070	ILLEGAL VOTING.....	32
14-100-080	ELECTIONEERING/CAMPAIGNING AT THE POLLS.....	32
14-100-090	TAMPERING WITH VOTING MACHINE(S)/BALLOT BOX.....	32
14-100-100	INTERFERING WITH VOTING.....	33
14-100-110	BALLOT SECRECY.....	33
14-100-120	UNSIGNED ELECTION ADVERTISEMENTS/PUBLICATIONS.....	33
14-100-130	SLANDER AND LIBEL.....	33
14-100-140	PENALTIES FOR VIOLATION OF ELECTION OFFENSES.....	33
14-110	ELECTION CHALLENGES.....	34
14-110-010	APPLICABILITY.....	34
14-110-020	ELIGIBLE CHALLENGERS.....	34
14-110-030	INELIGIBLE CHALLENGE(S).....	34
14-110-040	PROPERLY FILED CHALLENGES.....	34
14-110-050	ACCESS TO COPIES OF CHALLENGES.....	35
14-110-060	ELECTION CHALLENGE(S) HEARING DATE.....	35
14-110-070	TYPE OF HEARING.....	35
14-110-080	ELECTION CHALLENGE HEARING PROCEDURES.....	35
14-110-090	DECISION ON CHALLENGES.....	35
14-110-100	WRITTEN DECISION.....	36
14-120	FINALIZATION OF ELECTION.....	36
14-120-010	ACTIVITIES RELATING TO CHALLENGE DECISION(S).....	36
14-120-020	DECLARATION OF ELECTION.....	37
14-130	APPOINTMENTS TO THE BUSINESS COUNCIL.....	37
14-130-010	ELIGIBILITY FOR APPOINTMENT.....	37
14-130-020	CONSTITUTIONAL PROHIBITIONS.....	38

14-130-030	POSTING OF NOTICE.....	39
14-130-040	FILING FOR APPOINTMENT.....	39
14-130-050	REQUIRED DOCUMENTS FROM MEMBERS SEEKING APPOINTMENT.....	39
14-130-060	PROHIBITION OF IMMEDIATE FAMILY.....	40
14-130-070	METHOD OF APPOINTMENT AND CERTIFICATION	40
14-140	PETITIONS.....	41
14-140-010	COPY OF PETITION TO BE FILED BEFORE PRESENTATION.....	41
14-140-020	CIRCULATOR(S) OF A PETITION	41
14-140-030	DEADLINE FOR SUBMISSION OF PETITION	41
14-140-040	FORM REGULATIONS; REMOVAL OF NAME FROM A PETITION.....	41
14-140-050	POSTING OF PETITION.....	42
14-140-060	SUBMISSION OF PETITION.....	42
14-140-070	COUNCIL ACTION ON PETITION.....	42
14-140-080	REPLACEMENT OF FBC SECRETARY.....	43
CHAPTER 14-150	GLOSSARY – ELECTION DEFINITIONS	43
APPENDIX OF AUTHORIZED FORMS	47

14-010 GENERAL PROVISIONS

14-010-010 Authorization

This Law and Order Code, Title 14, is authorized by Article IV, Section 2 of the Constitution and Bylaws of the Fallon Paiute-Shoshone Tribe of the Fallon Reservation and Colony.

Tribal Constitution & Bylaws, Article IV, Section 2(a)

“All elections, whether for Council or by way of referendum, shall be conducted in accordance with an Ordinance, or ordinances adopted by the Council, which shall provide for election notices, polling places, ballots, election committees and their duties, and other necessary requirements. All elections shall be by secret ballot.”

14-010-020 Purpose

The purpose of this Title 14 is to set forth the rules and procedures for the fair and impartial conduct of tribal elections, including but not limited to pre- and post-election activities.

14-010-030 Applicability

The provisions of this Title 14 shall apply to all regular and special elections.

14-010-040 Severability

If any provision of this Title 14 is declared invalid by a court of competent jurisdiction, all remaining provisions of this Title 14 nevertheless shall remain in full force and effect.

14-010-050 Privacy Act

All provisions of this Title 14 shall be subject to the provisions and applications of the U.S. Privacy Act of 1974 [5 USC Sec. 552a].

14-010-060 Time of Regular Election

A regular election shall be held every even-numbered year (i.e. 2016, 2018, 2020, etc.) on the first Saturday in October for the purpose of electing Council members and for voting upon other matters properly considered in accordance with the provisions of this Title 14.

14-010-070 Sovereign Immunity

Except where expressly provided otherwise in this Title, nothing in this Title shall be construed as limiting, waiving or abrogating the sovereign immunity of the Paiute-Shoshone Tribe of the Fallon Reservation and Colony or any of its agencies, departments, enterprises, agents, officials or employees.

14-010-080 Postponement of an Election in Emergency Situations

An election, regular or special, may be postponed for up to ninety (90) days should any of the following situations arise:

- (a) A natural or other disaster or extremely inclement weather has occurred that would seriously impact the healthy/safety of a majority of voters to make it to the polling place

as evidenced by a Declaration of Emergency issued by the governor of the State of Nevada or the President of the United States; or

- (b) During an armed conflict involving United States armed forces, or mobilization of those forces, in which the conduction of an election would expose a majority of voters to serious injury or death, as evidenced by a Declaration of War or Police Action adopted by the U.S. Congress; or
- (c) Serious and significant violations of this Title 14 would make it impossible to hold a fair and impartial election. A violation shall be defined by any action or inaction that negatively impacts the voting rights of a majority of eligible voters.
 - i) The use of this subsection (c) must be evidenced first through a notice from the TEC, in whole or part, indicating the violations that have occurred or are occurring along with evidence to support such notice. Then the Business Council must issue, by Resolution, a Declaration for the Postponement of a Scheduled Election, which must contain information on the violations that are cause for the postponement, the date of the election being rescheduled, and the new election date. Such declaration must be adopted by at least five (5) members of the Council and also have the approval of the Chief Judge of the Fallon Tribal Court. The FBC Secretary/Designee and the Chief Judge shall both sign and acknowledge the declaration. For purposes of the above section, all members of the Council shall either vote for or against the declaration with no abstentions permitted.
 - ii) The provisions of this subsection (c) shall only apply to situations that arise after finalization of the ballot. Situations arising prior to this activity shall be considered to be a minor violation and must be handled in the normal Challenge process of the Tribe;
- (d) Should the postponement of the election for violations of the Title 14 occur because of the actions of the TEC and such actions were intentional or done with malice, then the involved committee members shall be removed automatically.

14-010-090 Revisions to the Title 14 - Election Ordinance

- (a) There shall be no revisions of Title 14, any other ordinance or Law and Order Code of the Tribe dealing specifically with tribal elections during the course of an election period, which is defined as from the first day of March through the last day of December of an election year.
- (b) The following process shall apply when revising the Title 14:
 - 1) The TEC shall submit to the FBC in writing each section that it proposes to amend (with redlined revisions), with an explanation why these amendments are necessary;
 - 2) The TEC shall also submit a draft copy of the proposed amendments to the FBC Secretary for a 30 day public comment period, which shall be posted at the

following four designated areas – Administration Building, Education Building, Fallon Tribal Health Center, and the Senior Center;

- 3) After the public comment period, the TEC shall hold a meeting with the FBC and the public to discuss the proposed amendments and any submitted public comments, and the FBC may direct the TEC to make further amendments based on this meeting;
- 4) The TEC shall then submit the proposed amendments to the FBC Secretary for Tribal Attorney review;
- 5) Once reviewed, the FBC Secretary will place the proposed amendments on the agenda for the next FBC regular meeting for approval by Resolution or denial.
- 6) If approved by Resolution, the FBC shall forward to the Judicial Services Department for inclusion into the Law and Order Code of the Paiute-Shoshone Tribe of the Fallon Reservation and Colony.

14-020 ROLE OF FBC SECRETARY OR DESIGNEE & ELECTION COMMITTEE

14-020-010 Role of the Secretary of the Fallon Business Council or Designee

The Secretary of the Fallon Business Council (“FBC Secretary”) shall supervise elections as mandated by the Tribal Bylaws Article 1, Section 3.

ARTICLE 1 DUTIES OF OFFICERS, Section 3. Secretary. “...The Secretary shall supervise over matters relating to enrollment, membership, and elections.”

- (a) In the event that there is a conflict of interest involving the FBC Secretary as determined by the Council, or if the FBC Secretary is running for re-election, then the duties of the FBC Secretary shall be overseen by the FBC’s Designee. By majority vote, the FBC shall appoint a Council Member designee and one Council Member alternate to serve as the FBC’s Designee.
- (b) The FBC Secretary’s/FBC Designee’s responsibilities include ensuring that the TEC has everything they need to manage Tribal elections including but not limited to:
 - 1) Point of Contact in the event a TEC member is unavailable;
 - 2) Posting, mailing and faxing information;
 - 3) Working with the TEC and FBC Treasurer to determine appropriate line items and projected expenditure amounts for the Election Budget; and
 - 4) Assisting the TEC on Budget issues and all financial matters in accordance with the FPST Financial Management Policies & Procedures.

14-020-020 Establishment & Authority of the Tribal Election Committee

- (a) The election committee is hereby established for the purpose of conducting the Tribal elections as mandated by the Tribal Constitution and Bylaws, and this Title 14; and shall be called the Tribal Election Committee (“TEC”);
- (b) The TEC shall consist of five members and if possible two alternates, all of whom shall be appointed by the Fallon Business Council for two year terms; and
- (c) The TEC shall have the power, authority, and duty to conduct and supervise elections as provided in this Title 14.

14-020-030 Selection of Tribal Election Committee

- (a) As one of the first tasks of the Election Season, the Council shall approve the specific notice for TEC appointments at the first Regular Council Meeting in February of an Election year.
- (b) At the first Regular Council Meeting in March of the election year, TEC members shall be selected and appointed by the FBC for a two-year term.
- (c) After being appointed, the TEC Members shall make arrangements to be sworn-in prior to the first TEC meeting.

14-020-040 Qualifications of Tribal Election Committee Members

- (a) All TEC members shall be:
 - 1) At least 18 years of age; and
 - 2) Enrolled Members of the Fallon Paiute-Shoshone Tribe;
- (b) No individual shall be permitted to sit as a TEC member who:
 - 1) Currently is a Fallon Business Council Member;
 - 2) Plans to be a candidate in any election during his or her term;
 - 3) Is an immediate family member of a current Council member or Council candidate; and/or
 - 4) Was previously a TEC member who was removed from the TEC within seven years from the date of the removal.

14-020-050 Oath of Office

Every TEC member shall swear or affirm the following oath before the Fallon Business Council or its designee:

“I, _____, do solemnly swear [or affirm] that I will support and defend the Constitution and Bylaws of the Fallon Paiute-Shoshone Tribe against all enemies, foreign and domestic; that I will uphold the election laws and policies of the Fallon Paiute-Shoshone Tribe; that I will carry out faithfully and impartially the duties of my office to the best of my ability; and that I will cooperate, promote and protect the best interests of the Fallon Paiute-Shoshone Tribe in accordance with the Constitution and Bylaws of the Fallon Paiute-Shoshone Tribe.”

14-020-060 Duties of Tribal Election Committee

The duties of the Tribal Election Committee shall be to:

- (a) Administer all regular and special elections in accordance with the election procedures detailed in this Title 14;
- (b) To ensure all records of the TEC are retained in a safe, secure and pre-designated location;
- (c) To report irregularities and nonperformance of duties and violations of the Title 14 to appropriate officials;
- (d) To designate dates of elections where such dates are not otherwise specified in the laws of the FPST;
- (e) To publish in the Tribal Newsletter and/or TEC Newsletter all current and upcoming election activities;
- (f) To post notices of all current and upcoming election activities at four designated locations which are the Administration Building, Education Building, Fallon Tribal Health Center, and the Senior Center. The TEC reserves the right to post at additional locations as deemed necessary;
- (g) To prepare and secure official ballots to be used in all elections;
- (h) To set up, manage, and supervise all activities at the polls;
- (i) To verify the eligibility of every individual who wishes to vote and to distribute one ballot to each eligible voter at the polls;
- (j) To keep a record of individuals who vote and of the number of ballots distributed and cast at an election;
- (k) To resolve any disputes which may arise at the polls regarding an individual's eligibility to vote or balloting procedures. The decision of the TEC shall be final in such matters;
- (l) To secure ballot boxes and voting machines;
- (m) To count and validate ballots, and record the number of votes cast for each choice after the polls are closed;
- (n) To otherwise manage elections and perform such other duties as prescribed in this Title 14;
- (o) The TEC is not responsible for updating eligible voter's mailing addresses. Eligible voters should contact the Membership Services Department to provide address updates.

14-020-070 Officers of the Tribal Election Committee

- (a) The Officers of the TEC (Chairperson, Vice-Chairperson, Secretary, and Treasurer) shall be chosen from within the TEC by majority vote of the TEC members, and conducted by secret ballot. The list of Officers shall be submitted to the FBC Secretary/Designee who will submit it to the Fallon Business Council.
- (b) The Chairperson of the TEC shall have the following authority, responsibilities, and duties:

- 1) To exercise administrative and supervisory authority over all other TEC members;
 - 2) To preside over all meetings of the TEC;
 - 3) To sign all Purchase Orders, Check and Credit Card Requests;
 - 4) To sign all TEC timesheets and stipend forms;
 - 5) To perform all duties and responsibilities assigned by the TEC and Fallon Business Council;
- (c) The Vice-Chairperson shall act as Chairperson of the TEC in the absence of the Chairperson.
- (d) The Secretary's duties are to attend meetings and record the minutes of TEC meetings; to distribute Minutes of prior meetings to the TEC Members at the next regularly scheduled TEC meeting for approval; to distribute approved Minutes to TEC Members and the FBC Secretary; to collect and submit timesheets for processing to the Finance Office; and to perform other duties as assigned. In the absence of the Secretary, the Treasurer shall assume all Secretarial duties.
- (e) The Treasurer duties are to monitor and track expenses of the TEC, in coordination with the FBC Treasurer and Finance Office; to obtain, maintain, and distribute a monthly Budget Statement; to prepare purchase orders, check requests, and to obtain the TEC Chairperson's signature; and to perform other duties as assigned by the TEC.

14-020-080 Compensation

- (a) During the election period and the appointment process, the TEC shall be compensated at an hourly rate of \$13.00/hr.
- (b) At all other times, the TEC shall receive a stipend in accordance with the Fallon Paiute-Shoshone Tribe Stipend Policy. If the FPST Stipend Policy is no longer in effect, then the TEC shall serve on a voluntary basis.

14-020-090 Meetings of the Tribal Election Committee

- (a) The TEC shall meet at such times as are necessary to perform its duties under this Title 14 and whenever directed by the Fallon Business Council.
- (b) Three members of the TEC shall constitute a quorum of the TEC, which is necessary to transact any business of the TEC.
- (c) The TEC Chairperson may only vote to break a tie.
- (d) Tasks will be assigned in meetings and recorded in Minutes for hourly compensation.
- (e) The TEC shall keep minutes of all of its public meetings, which must be available within 30 days of the meeting upon written request by any member of the FPST.
- (f) The TEC shall submit to the FBC Secretary/FBC Designee a complete copy of all approved minutes in a timely fashion.

- (g) Public Notice of regular meetings of the TEC shall be posted at least 48 hours prior to a meeting. Special Meetings may be called by the TEC Chairperson as deemed necessary, and such meetings shall be exempt from the public notice requirement.

14-020-100 Resignation and Removal

(a) Resignations.

- 1) Any TEC member may resign from his or her position by delivering a written resignation to the TEC, which shall be effective upon receipt;
- 2) Any TEC member who becomes a candidate in any election shall immediately be deemed to have resigned from the TEC.

(b) Removal. A TEC member shall be removed from the TEC for any of the following actions:

- 1) Conviction of a felony after the appointment to the TEC;
- 2) Violation of the TEC Oath of Office;
- 3) Failure to attend two consecutive meetings of the TEC or to participate in the conduct of any election, without good cause shown; or
- 4) Failing to carry out his/her duties imposed by this Title 14 intentionally or with malice.

(c) Removal Process.

- 1) A removal action must be initiated through written allegations with supporting factual documents, which are submitted to the TEC.
- 2) The TEC shall review the allegations, make a determination on their validity, and submit all the documents with a report of the TEC's findings and determination to the FBC Secretary/Designee within five business days.
- 3) The Fallon Business Council will hold a closed hearing on all removal allegations received. The TEC member at issue shall be provided an opportunity to present his/her case at the hearing.
- 4) The decision of the Fallon Business Council shall be final.

14-020-110 Vacancies

In the event of a vacancy on the TEC, whether by removal, resignation, or otherwise, the Fallon Business Council shall appoint a TEC alternate to serve the remaining term of the TEC member being replaced. In the event a TEC member is temporarily unavailable to serve, the TEC alternate shall serve until the absent TEC member returns to duty.

14-030 CONTRACTED & PROFESSIONAL SERVICES

14-030-010 Applicability

This Chapter shall apply to Election Contracted Services.

14-030-020 Election Support Services

- (a) The TEC shall seek an election service provider for election equipment and supplies, ballot collection, counting and technical support beginning sixty (60) days before opening of nominations;
- (b) The TEC shall then submit a recommendation of an election service provider to the FBC Secretary for FBC approval.

14-030-030 Election Judge

An Election Judge shall preside over and decide all election offense hearings and challenge hearings in accordance with this Title 14.

14-030-040 Election Prosecutor

An Election Prosecutor shall represent the Tribe for all criminal election offense cases.

14-030-050 Qualification of Election Judge and Election Prosecutor

Persons selected to serve as the Election Judge and the Election Prosecutor must be attorneys who are licensed to practice in any state, or a judge currently serving in any Tribal Court.

14-030-060 Restrictions for Election Judge and the Election Prosecutor

Any person seeking to serve as the Election Judge or the Election Prosecutor cannot be a current or past member of the Fallon Paiute-Shoshone Tribe and/or cannot have any current legal work for the Tribe and/or cannot be involved in any case in the Fallon Tribal Court (including its appellate court).

14-030-070 Advertisement

- (a) The TEC shall issue a Request for Proposals (RFP) beginning in March of an Election year for a period of thirty (30) days for qualified lawyers, legal firms or judges to serve as the Election Judge and for the Election Prosecutor.
- (b) At a minimum, the proposals should:
 - 1) Contain the name of the person in the law firm who would be accepting the position;
 - 2) Copy of licensure for the state bar, if applicable appointment or elected position; and
 - 3) A resume or a listing of their experience.
- (c) Should a situation arise where the Election Judge and/or Election Prosecutor position has not been filled, the TEC shall cause an immediate reposting and advertisement, within five (5) days of the closing of the first deadline.
 - 1) Timeframes will be extended as follows:
 - i. 15 day advertisement period;
 - ii. 3 day committee review period;
 - iii. 2 day referral to Council; and
 - iv. 5 day Council Meeting for selection.

- 2) This process may be repeated if there remains a lack of response from lawyers/law firms.

14-030-080 Committee Referral

- (a) After the RFP deadline, the TEC shall conduct a review of all proposals and determine which lawyers/law firms or judges meet the qualifications.
- (b) The TEC will then submit to the FBC Secretary a complete copy of the proposals for lawyers/law firms or judges for FBC approval.

14-030-090 Council Selection

The FBC in an open meeting shall review the proposals from the lawyers/law firms and shall then select one individual to serve as the Election Judge and one individual to serve as the Election Prosecutor.

14-030-100 Compensation

- (a) The Election Judge shall be compensated at a rate of \$800.00 for each election offense hearing and for each election challenge hearing.
- (b) The Election Prosecutor shall be compensated at a rate of \$500.00 for each election offense hearing.
- (c) If applicable, travel and per diem costs will be reimbursed upon submission of a travel expense statement documenting mileage/travel costs based on current federal rates submitted to the TEC.
- (d) Payment for services will be made within seven (7) working days after completion of the hearings.

14-040 VOTERS

14-040-010 Eligible Voter

No individual shall be qualified to vote in any election unless the individual:

- (a) Is a member of the Tribe; and
- (b) Is eighteen (18) years of age or older on the day of the election.

14-040-020 Notification of Eligibility to Vote

- (a) The Membership Services Department shall provide to the TEC a list of names and addresses of Tribal members who will be 18 years of age by or on date of the election. This shall be completed by May 1 of the election year.
- (b) The TEC shall mail, no later than the last day of May of the Election year, the following to newly eligible voters:
 - 1) An informational welcome letter; and
 - 2) Title 14 - Election Ordinance.
- (c) Failure of the Membership Services Department or the TEC to properly complete the above requirements shall not be considered a basis for challenging an election.

14-040-030 List of Eligible Voters

- (a) The TEC is responsible for keeping and updating an Official List of Eligible Voters.
- (b) A first list of Eligible Voters shall be posted at the four designated locations (*see* Section 14-020-060(f)) by the TEC at least 30 days prior to the closing of nominations; and
- (c) A second and final list, which shall be considered the Official List of Eligible Voters, shall be posted at the four designated locations, and shall be published in the Tribal and/or TEC newsletter by the TEC at least 30 days prior to an election.
- (d) The TEC is not responsible for updating eligible voter's mailing addresses. Eligible voters should contact the Tribal Membership Services Department to provide address updates.

14-040-040 Request to Remove Name from the Candidate's List of Eligible Voters

- (a) All eligible voters shall be allowed to remove their name and address from the Eligible Voters Address List issued to all eligible candidates upon submission of a completed "Request to Remove Name from Candidate's List of Voters" (Form No. TEF-002A).
- (b) The form must be signed and returned to the TEC via mail, e-mail, or fax no later than the Closing of Nominations; otherwise the name and address shall remain on the list.

14-050 ABSENTEE BALLOTS

14-050-010 Eligibility to Vote by Absentee Ballot

In accordance with the Constitution and Bylaws, Article IV, Section 3, any eligible voter who provides written notice to the TEC may vote by absentee ballot as provided in this Section at an election of the Tribe, if he/she is or expects to be:

- (a) Absent from the reservation/colony because of the nature of his/her vocation, business, or any other unavoidable causes;
- (b) Unable to go to the polling place due to unavoidable causes;
- (c) Enrolled and attending an educational institution; or
- (d) In any branch of the armed forces of the United States of America.

14-050-020 Notice of Requests for Absentee Ballots

Notice of Requests for Absentee Ballots will be posted at the four designated locations (*see* Section 14-020-060(f)) and published in a Tribal and/or TEC publication no later than thirty (30) days prior to opening of nominations.

14-050-030 Request for Absentee Ballots

- (a) Absentee ballot requests to the TEC shall be submitted in writing and notarized by a Notary Public.
- (b) All requests for an absentee ballot must be received by the TEC no later than seven (7) days prior to an election and may be requested by mail, fax or hand-delivery.

- (c) The use of the “Absentee Ballot Request Form” (Form No. TEF-005) is optional, but other formats/forms must adhere to Title 14 requirements in Section 14-050-010 Eligibility to Vote by Absentee Ballot.
- (d) Absentee ballots will be mailed and will not be handed out or hand-delivered to eligible voters.

14-050-040 Marking of Absentee Ballots

- (a) All absentee ballots shall be sent out with two envelopes and an “Absentee Ballot Voting Instruction Sheet” (Form No. TEF-005C) for proper marking and use of the envelopes. The instructions are as follows:
 - 1) Complete your ballot by marking your desired selection(s);
 - 2) Seal your ballot in the smaller envelope that is titled “Absentee Ballot” (smaller envelope);
 - 3) Place this smaller envelope into the pre-addressed mailing envelope (larger envelope);
 - 4) Print your name and address in the upper-left corner of the mailing envelope; and
 - 5) Place the proper amount of postage on the envelope and mail it.
- (b) It is the responsibility of the voter, and not the Tribe or TEC, to ensure that the mailing envelope has the proper amount of postage to ensure delivery.

14-050-050 Receipt of Absentee Ballots

- (a) All absentee ballots must be received prior to the polls being closed on the day of the election. No absentee ballot received after the polls have closed shall be counted.
- (b) All absentee ballots shall be sent to a designated absentee ballot mailbox in order to be counted.
- (c) Absentee ballots that are hand delivered or sent to any other address other than the TEC designated absentee ballot mailbox shall be marked as a Voided Ballot and shall not be counted. The key accessing the designated absentee ballot mailbox will be kept by the Tribal Police Department and shall only for used by an Officer in conjunction with a TEC Member to secure the mail.
- (d) A Tribal Police Officer, FBC Secretary/FBC Designee, and the TEC Chairman or designee shall ensure that the designated absentee ballot mailbox is checked on Election Day for retrieval of all absentee ballots.
- (e) The procedures are as follows:
 - 1) All absentee ballots that are received must be receipted on the “Absentee Ballot Daily Receipt Form” (Form No. TEF-005A).
 - 2) The TEC Chairperson or Designee and a Tribal Police Officer shall initial the “Absentee Ballot Daily Receipt Form” and the outer mailing envelope.

- 3) Once logged in, the ballots are removed from their outer mailing envelope and the absentee ballot envelope (the inner one) must be placed into the ballot box by the Tribal Police Officer and witnessed by the TEC Chairman or designee.
 - 4) The outer mailing envelope will be kept by the TEC, on file, for recording the receipt of the ballot onto the "Absentee Ballot Log Form" (Form No. TEF-005B).
 - 5) Any ballots that do not comply with these requirements must be voided.
- (f) If any eligible voter dies prior to Election Day and has received an absentee ballot, the TEC shall void their absentee ballot while in the outer mailing envelope, but only if the TEC is aware of the death at the time the absentee ballot is received.
- (g) Violations of this Section by a Tribal Police Officer shall be governed by the FPST's Personnel Policies.
- (h) Violations of this Section by a TEC Member may be cause for removal.

14-050-060 Recording Procedures of Receipt of Absentee Ballots

- (a) The TEC shall maintain the "Absentee Ballot Log Form" (Form No. TEF-005B) noting the absentee ballots received from voters. TEC members shall record on the appropriate form:
- 1) When Absentee Ballot Requests are received;
 - 2) When Absentee Ballots are mailed out; and
 - 3) When Ballots are received.
- (b) Copies of the Absentee Ballot Log can be made for Tribal members upon their written request prior to the Election.

14-050-070 Recording Absentee Ballots on the Official List of Eligible Voters

The TEC shall place on the Official List of Eligible Voters next to the eligible voter's name the date the voter's Absentee Ballot was received.

14-050-080 Notification of Receipt of Absentee Ballots

- (a) When an absentee ballot is received prior to the close of the polls, the TEC shall send notification to the absentee voter notifying them of:
- 1) Receipt of their absentee ballot;
 - 2) Date their absentee ballot was received; and
 - 3) Whether the absentee ballot was received in accordance with Title 14 Section 14-050-040 Marking and Section 14-050-050 Receipt of Absentee Ballots.
- (b) If the received absentee ballot is found to be spoiled or voided, the TEC shall send a notice to the voter advising him/her of the reasons found for the ruling.
- (c) The voter bears all responsibility for mailing the absentee ballot to ensure receipt by the TEC prior to the close of polls.

14-060 ELECTIONS GENERAL PROVISIONS

14-060-010 Time of Regular Election

A regular election shall be held every even-numbered year (i.e., 2016, 2018, 2020 etc.) on the first Saturday in October for the purpose of electing Business Council members, voting for other elected positions on the ballot, and voting upon other matters properly considered in accordance with the provisions of this Title 14.

14-060-020 Notice of Regular Election

The TEC shall post a notice at least at the four designated locations on the Reservation and/or Colony (see Section 14-020-060(f)), stating the location of polling places and the time the polls will open and close. This information shall be posted at least ten (10) working days prior to the election and shall remain posted until the polls close on the day of the election.

14-060-030 Polling Places

The TEC shall select one convenient polling place on the Reservation or Colony that shall be open continuously from 7:00 a.m. to 5:00 p.m. on the day of the election.

14-060-040 Finalizing the Ballot

Within three (3) working days after nominations close, the Business Council shall hold a special meeting to finalize the ballot. Candidates wishing to withdraw from the election and have their names removed from the ballot may do so at any time prior to the election by submitting a written notice of withdrawal to the TEC, provided, however, the candidate's name will not be removed from the ballot once the Business Council has approved the Ballot. Votes cast in the name of any withdrawing or disqualified candidate will be disregarded. The balance of the ballot, however, will be counted unless otherwise determined to be rejected, spoiled, or voided.

14-060-050 Preparation of Regular/Absentee Ballots

- (a) The TEC shall direct activities for the preparation of the ballot within three (3) working days after the finalization of the ballot. The TEC shall ensure that there are enough ballots prepared to accommodate up to 75% of the total number of eligible voters.
- (b) The TEC shall ensure a predetermined number of ballots printed as required by subsection (a) shall be considered absentee ballots and such ballots shall have a different marking than regular ballots. The determination of the marking shall be made by the TEC.

14-060-060 Ballot Form

The Ballot shall contain all necessary information that pertains to that election being voted upon and where applicable the choice of "None of the Above" shall be printed in candidate races and ballot questions. Should a situation arise where "None of the Above" receives the highest number of votes, then the person who has the next highest number shall be the winner.

14-060-070 Ballots and Ballot Boxes

- (a) All elections shall be conducted by secret ballot.
- (b) Procedures for counting of ballots shall be handled in accordance with the directions and operating manuals of the automation system being utilized by the Tribe at the specific election.
- (c) All absentee ballots shall be placed in a receptacle clearly marked "Ballot Box" and maintained in the custody of the Tribal Police only.
- (d) The TEC shall place all ballots that are spoiled, rejected, or voided into three separate boxes that are clearly marked "Spoiled Ballots", "Rejected Ballots", and "Voided Ballots", respectively, and these boxes shall be handled in accordance with the provisions of this Title 14.

14-060-080 Use of Tribal Facilities

The use of any tribal facility will not be permitted for social functions or other non-normal work activities on Election Day.

14-060-090 Videotaping, Photography, and/or Recording

Videotaping, photography and audio recording are prohibited within 75 feet of the polling place during the voting period. Violators will be immediately removed from the polling place.

14-060-100 Posting of Notices for Deceased, Withdrawn, or Ineligible Candidates

The TEC shall post a notice that is in public view notifying all voters at the polling place of any candidate that has died, withdrawn, or has been found ineligible due to the background check prior to the opening of the polling place. This notice shall indicate that any votes cast for these candidates will not be counted towards the outcome of any race.

14-060-110 Deceased Candidates

In the event a Candidate has died after winning a race but before being sworn in, the next candidate with the highest vote shall be declared the winner. In the event that the next highest winner is "None of the Above", a new election for that race will be held.

14-060-120 Identification of Voters

In order to cast a ballot, each eligible voter wishing to vote must be able, upon request of a TEC Member, to produce photo identification.

14-060-130 Challenge Identification

Any eligible voter or the TEC may challenge the identity of any person appearing to vote. The TEC shall resolve all disputes immediately by majority vote of the TEC and the decision of the TEC shall be final.

14-060-140 Signature Required

Before an eligible voter is handed a Ballot, the TEC shall cause the voter to sign the Voters Signature List next to their enrollment number and name.

14-060-150 Spoiled Ballots

If a person spoils their ballot, they shall be given another ballot. The spoiled ballot shall be marked "Spoiled", initialed by the TEC members and placed in the box labeled "Spoiled Ballots". All spoiled ballots shall be placed in the boxes designated for the storage of these ballots and will not be counted in an election

14-060-160 Absentee Voter at Polling Place

If an eligible voter who has previously requested an Absentee Ballot and one has been mailed to him/her appears at the polling place to vote in person the following provisions shall apply:

- (a) If the absentee voter has their absentee ballot with them at the polling place, he/she shall surrender this ballot to the TEC who shall mark it as a "Voided" ballot, initialed by the TEC members and placed in the box labeled "Voided Ballots" and it shall not be counted in an election. A regular ballot will be issued to the voter.
- (b) If the absentee voter does not have their absentee ballot in their possession and upon checking the "Absentee Ballot Log Form" (Form No. TEF-005B) the TEC confirms that their absentee ballot has not been received then the voter shall be issued a regular ballot once the voter signs an "Affidavit of Absentee Voter at the Polling Place" (Form No. TEF-006) stating that he/she has not returned his/her absentee ballot and he/she wishes to vote in person, and that should his/her absentee ballot be returned it shall be voided, and that the voter is aware that it is unlawful to attempt to vote more than once.
- (c) If the absentee voter does not have their absentee ballot in their possession, but upon checking the "Absentee Ballot Log Form" (Form No. TEF-005B) the TEC confirms that the voter's absentee ballots has been returned and accepted, then the voter will be denied a ballot at the polling place. If the absentee ballot has been returned but has been rejected, spoiled, or voided then the provision of subsection (b) above shall apply.

14-070 REGULAR ELECTIONS

14-070-010 Eligibility for Fallon Business Council Nominations

In accordance with Article III, Section 4, of the Tribal Constitution and Bylaws, persons wishing to run for a Council seat must meet the following qualifications and submit an application form to the TEC at least sixty (60) days prior to the election date (closing of nominations):

Tribal Constitution & Bylaws, Article III-Governing Body, Section 4

Business Council Qualifications and Filing Deadline:

- (a) *Persons seeking to serve on the Fallon Business Council must be able to meet the following qualifications:*
 - 1) *Be an enrolled member of the Paiute-Shoshone Tribe of the Fallon Reservation and Colony; and*
 - 2) *Be at least twenty-one (21) years of age or older; and*
 - 3) *Have physically resided within the exterior boundaries of the Tribe, as described in Article I of the Constitution or Churchill County, Nevada, for at least one year*

prior to the election he/she is running in or at least one year prior to their appointment.

(BIA Approved: December 3, 2010)

- 4) *Never been convicted of any felony or gross misdemeanor in any Indian, State or Federal Court: and*
- 5) *Have successfully graduated from a high school and/or equivalent program and be able to provide proof of graduation.*

(b) Qualified Persons shall be eligible to be a candidate for the Business Council at a Tribal Election provided that his or her name is provided to the Tribal Election Committee at least sixty (60) days prior to the election date.

(BIA Approved on July 1, 2010 for October 28, 2008)

14-070-020 Constitutional Prohibitions

Pursuant to the Constitution and Bylaws of the Tribe, there are two additional extraordinary provisions, in addition to the normal qualifications, that make a person is ineligible to run for a seat or to seek an appointment to any position on the Council. These are:

- (a) A person may not serve on the Business Council simultaneously with their husband, wife, brother, sister, father, mother, son or daughter (further clarified in Section 14-070-030).

Tribal Constitution & Bylaws, Article IV, Nominations and Elections, Section 5

A person may not serve on the Business Council simultaneously with his or her husband, wife, brother, sister, father, mother, son or daughter. Situations arising under this section shall be governed by the Tribal Election Code.

(BIA Approved: June 3, 2002)

- (b) A person may not serve on the Business Council if he/she has been removed or recalled from the Business Council during the seven (7) year period preceding filing for candidacy or appointment.

Tribal Constitution & Bylaws, Article V, Vacancies and Removals, Section 2 (4)

If a member of the Business Council who is removed and/or recalled as of August 2001 or later for cause, the former members shall not be eligible to run or be appointed to any position on the Business Council for a seven (7) years following such removal.

(BIA Approved: June 3, 2002)

14-070-030 Prohibition of Immediate Family

Based on the prohibition against immediate family members serving on the Council at the same time (Constitution Article IV, Section 5), the following procedures will apply:

- (a) If an eligible tribal member wants to be a candidate for the Council in an upcoming election and is an immediate family member as defined in the Constitution and Bylaws

to a current Council member whose term will not expire at the upcoming election, then the eligible tribal member's candidacy shall be denied.

(b) If there are two or more eligible tribal members who are immediate family member as defined in the Constitution who want to be candidates for the Council in an upcoming election, the Council will utilize the following method to determine which of the immediate family members will be an eligible candidate:

- 1) The "Filing of Candidacy for the Fallon Business Council" packet of the candidate that has the earliest date and time of filing will be deemed the eligible candidate and the other eligible tribal member's "Filing of Candidacy for the Fallon Business Council" shall be denied; or
- 2) If the date and time on the "Filing of Candidacy for Fallon Business Council" (Form No. TEF-001) are the same for the two candidates the Council will utilize a lottery method. In this method, the names of the eligible tribal members who are immediate family members will be placed into a receptacle and one name will be chosen and this individual will be deemed to be the eligible candidate.

14-070-040 Posting of Notice for Opening and Closing of Nominations

Nominations for Council candidacy shall be open beginning 90 days prior to the regular election and closing 60 days prior to the regular election. The TEC shall post notice of the opening of nominations, which shall include specific dates on which nominations open and close. This notice shall be posted at least at the four designated locations (see Section 14-020-060(f)) on the Reservation and Colony at least 30 days before nominations open.

14-070-050 Filing of Candidacy

- (a) Persons wishing to run for office shall submit a completed "Filing of Candidacy for the Fallon Business Council" packet to the TEC. The completed packets must be submitted no later than 12:00 P.M. (noon) 60 days prior to Election Day (closing of nominations). No exceptions.
- (b) The burden of proof that a fully complete "Filing of Candidacy for the Fallon Business Council" packet has been submitted timely to the TEC rests on the prospective candidate and all documentation provided is subject to the Privacy Act. Failure to submit a completed packet with required documentation will result in an incomplete application with a recommendation from the TEC to the Fallon Business Council for denial.

14-070-060 Required Documents from Candidates

All candidates shall submit the following required documents with the "Filing of Candidacy for Fallon Business Council" (Form No. TEF-001):

- (a) **Enrollment and Age Certification:** A letter from the enrollment office stating membership and enrollment number, or a copy of a tribal membership card showing the

enrollment number and date of birth. If date of birth is not on the enrollment card, attach a copy of a current driver's license or identification card.

- (b) **Proof of Residency:** Prospective candidates shall submit a copy of at least two (2) bills/statements that show the candidate's name, physical address, and a date of issue. Those prospective candidates who are unable to provide copies of at least two bills/statements, shall submit a current written statement from the homeowner/renter certifying the candidate's physical address (the statement must be dated within 60 days prior the closing of nominations and must be notarized).
- 1) The Tribe's Constitution and Bylaws requires candidates to reside either on the Reservation, Colony, or within Churchill County, Nevada.

Tribal Constitution & Bylaws, Article III Section 4 (3)

(3) Have physically resided within the exterior boundaries of the Tribe, as described in Article I of the Constitution or Churchill County, Nevada, for at least one year prior to the election he/she is running in or at least one year prior to their appointment.

- 2) The prospective candidate may also submit any other information, documents and/or records that provide a credible basis upon which to determine whether the residency requirement has been satisfied.
- (c) **Background Criminal History Check:** All candidates must complete and sign the "Criminal Background Check Form" (Form No. TEF-001A), as well as completing the fingerprint card, and submit it directly to the Fallon Tribal Police Department. Failure to consent to and to comply with this requirement shall disqualify the person. Candidates must also have a representative from the Tribal Police Department sign-off on the designated space on the "Filing of Candidacy for Fallon Business Council" (Form No. TEF-001) acknowledging that the candidate has submitted the "Criminal Background Check Form" prior to the closing of nominations. Each candidate shall pay to the Finance Office a non-refundable \$50.00 "Background Criminal History Check Fee." The Form and the Fee must be submitted together.
- 1) On the day that nominations close, the Tribe and/or Tribal Police Department shall ensure that a qualified individual is stationed with the TEC at the Tribal Police Department/Judicial Building to allow candidates to complete the form and fingerprint card and sign-off on the appropriate forms.
 - 2) If at any time prior to the swearing in of the Council members the background check shows that a candidate has a conviction that would disqualify him/her from holding office, then the person who received the next highest number of votes in the race shall replace the disqualified individual.

- (d) **Proof of Graduation:** Prospective candidate shall submit proof that they have successfully graduated from a high school and/or equivalent program. Acceptable proof shall include a copy of a high school diploma or GED, a certified copy of the official transcripts, or a letter from a designated official of the school district attesting to the graduation of the individual (the transcript and the letters must indicate the date of graduation). Candidates must request that the TEC consider alternate proof to support

their candidacy, which shall be subject to the decision of the TEC and which shall be final.

14-070-070 General Campaign Provisions

- (a) The TEC shall publish an Election Newsletter stating the names of all eligible candidates as well as all proposed Amendments and Questions between the Close of Nominations and 30 days before Election Day.
- (b) No solicitation, distribution of campaign/promotional materials, campaign posters, or signs by or on behalf of a candidate shall be posted on or within 75 feet of a tribal facility during the election process. This prohibition includes the voting area on Election Day.
- (c) Candidates or candidate's agents shall not place any campaign posters, signs, or any promotional material about any candidate on private property without first securing the permission of the owner(s) of the property.
- (d) The following is prohibited and shall not be used for promotion of a candidate(s) or for the purpose of enhancing a candidate(s) chance of winning:
 - 1) Tribal facilities/equipment such as copier, fax, postage, etc.;
 - 2) Tribal employees such as faxing, mailing, distribution, etc.; and
 - 3) Tribal supplies such as paper, envelopes, etc.
 - 4) This prohibition does not apply to any tribally-operated transportation services on Election Day or the one (1) time labels of the Eligible Voter's List.
- (e) Candidate and/or candidate agents shall include on all campaign publications and/or distributions the names(s) and addresses of the person(s) and/or organization that caused the advertisement or publication to be produced and/or distributed.
- (f) Violations of Section 14-070-070(c) & (d) will be governed by Section 14-100-140(a) and Section 14-070-070(e) will be governed by Section 14-100-140(b).
- (g) All eligible candidates may request from the TEC a copy of the List of Eligible Voters with their mailing addresses printed on labels so that he/she may mail campaign materials, which must be mailed between fifteen days after the ballot has been finalized and fifteen days prior to an election. The request must be submitted to the TEC with the following:
 - 1) Completion of "Request for Eligible Voters List" (Form No. TEF-002); and
 - 2) A \$50.00 refundable deposit paid to the Finance Department. The fee will be refunded once all the pages of unused labels have been returned to the TEC.
 - 3) Each candidate, by accepting the Eligible Voter Address List, agrees to:
 - i. Maintain the confidentiality of the List at all times;
 - ii. Use the List solely for use as a FBC eligible candidate in the current Election;
 - iii. Not allow or give anyone a copy(s) of the List;

- iv. Return all the List's unused labels to the TEC by the Friday @ 5:00 p.m. before Election Day;
 - v. Failure to return all unused labels to the TEC by the deadline will forfeit the refundable deposit.
- (h) A voter may have his/her name and address removed from the List of Eligible Voters labels by following the procedure stated in Section 14-040-040 Request to Remove Name from the Candidate's List of Eligible Voters.

14-070-080 Procedures after an Election

- (a) Within one (1) month after the election, candidates shall be responsible and required to remove all campaign posters, signs, etc., from public view, except on their own private property regardless whether they put it up themselves.
- (b) If campaign posters, signs, etc., are still up after the one (1) month period, the TEC shall notify the Tribal Law Enforcement who shall then cause the removal of the signs and bill the costs of removing the signs to the respective candidate(s).

14-080 SPECIAL ELECTION MATTERS

14-080-010 Special Election Matters on Regular Election Ballot

An election contains special election matters when advisory, referendum, constitutional, or recall matters are present on the ballot of a regular election.

14-080-020 Types of Special Elections

- (a) **Referendum:** Eligible voters may make a binding decision on any ordinance and/or resolution, proposed or enacted by the Council in a special referendum election.
- (b) **Recall:** Eligible voters may vote on a proper recall of any official in a specific recall election.
- (c) **Constitutional:** Eligible voters shall make a binding decision to amend and/or add amendments to the Constitution and Bylaws of the Tribe. Any amendments or revisions to the Constitution and Bylaws can only be made at a regular or special election.

14-080-030 Effect of Vote in Special Elections

- (a) **Referendum:** Referendum elections in which at least thirty percent (30%) of the eligible voters cast a vote and a majority of these voting approve the measure, shall have the same force and effect as actions taken by the Council and shall be binding on the Council.
- (b) **Recall:** When at least thirty percent (30%) of the eligible voters cast a vote and a majority vote to recall an official, that official is removed from office.
- (c) **Constitutional:** Constitutional amendments shall be valid only if at least thirty percent (30%) of the eligible voters cast a vote, and a majority of those voting approve the measure.

- (d) **Example for all above subsections:** With 1,000 eligible voters, for any Special Elections or Special Election Matters to be valid at least 300 eligible voters must vote at the election. A majority vote of those 300 eligible voters shall approve or deny the individual measure in question.

14-080-040 Initiation of Special Elections

- (a) **Referendum:** Upon receipt of a petition (Form No. TEF-008) signed by at least thirty percent (30%) of the eligible voters, or upon the request of a majority of the entire Council, any enacted or proposed ordinance or resolution of the Council shall be submitted to a popular referendum, and the vote of the majority of the eligible voters voting in such referendum shall be conclusive and binding on the Council, provided, that at least thirty percent (30%) of the eligible voters shall vote in such election and provided further that all enacted ordinances and resolutions shall be in effect until rescinded by the Council or by referendum of the Tribe. [Reference: Constitution - Article VIII]
- (b) **Recall:** Upon receipt and verification of a petition (Form No. TEF-008) signed by at least thirty percent (30%) of the eligible voters of the Tribe calling for the recall of an official, it shall be the duty of the Council to call an election on such recall petition; provided, that at least thirty (30%) of those entitled to vote shall vote in such election. [Reference: Constitution - Article V, Section 5].
- (c) **Constitutional:** Upon receipt of a petition (Form No. TEF-008) signed by at least thirty percent (30%) of the eligible voters, or upon the request of a majority of the entire Council, the Constitution and Bylaws may be amended by a majority vote of the eligible voters of the Tribe voting at an election called for that purpose by the Council; provided, that at least thirty percent 30% of those eligible to vote shall vote in such election and such amendment(s) shall become effective upon approval by the Secretary of the Interior or duly authorized representative. [Reference: Constitution - Article IX]

14-080-050 Time of Special Election

A special election shall be held within 60 days from the date after the Council passes the required resolution. If the next regular election is no more than 90 days from the date when the Council considers the special election resolution, the special election shall be held at the next regular election, with the exception of recall elections which must be held within sixty (60) days. By resolution, the Council shall schedule the special election within the time limits set forth in this section.

14-080-060 Listing of Constitutional Amendments on a Ballot

- (a) Whenever a constitutional amendment is placed on a ballot, either at a special election or when these special election items are on a regular ballot, these amendment shall be labeled as Amendment A, Amendment B, Amendment C, etc. The full text of the Amendments must be reviewed by the Council and Tribal Attorney prior to the approval of the Ballot. After the election if any constitutional amendments have been adopted and approved, then the FBC Secretary/FBC Designee shall assign each amendment with the next available amendment number.

- (b) Whenever a constitutional amendment is placed on a ballot, either at a special election or when these special election items are on a regular ballot, an explanation of the question must be included with the amendment, including – in plain language – what the effects of a “yes” and “no” vote would mean. Full text of the Amendments must be reviewed by the Council and Tribal Attorney prior to the approval of the Ballot. Additionally, when these items are placed on the ballot, the full text of what is being amended must be included. If a constitutional amendment is approved by the voters and Secretary of the Interior or duly authorized representative, the wording that is placed onto the official ballot shall be considered the official change to the Constitution and By-Laws and shall be the language that the Tribe adheres to.

14-080-070 Ballot Questions (Constitutional, Referendum, Advisory)

(a) Notice of Solicitation

A public notice shall be posted at least the four designated locations (*see* Section 14-020-060(f)) on the Reservation and Colony advertising for ballot question requests for an upcoming election. This notice shall be posted no later than 75 days prior to the closing of nominations.

(b) Solicitation of Questions

The Council or a tribal member interested in having a proposed Constitutional Amendment or Advisory Question voted on in an upcoming General election shall complete and submit either a “Constitutional Amendment Submission Form” (Form No. TEF-004) or an “Advisory Question Submission Form” (TEF-004A) to the TEC no later than 45 days prior to the closing of nominations for that election.

(c) Procedure After Submission of Proposed Constitutional Amendment(s)

The following procedure shall be followed after the deadline for submitting of proposed Constitutional Amendment(s):

- 1) **Within 14 days after deadline:** The TEC shall submit a copy of all proposed Constitutional Amendments and Advisory Question requests and recommendations to the FBC Secretary.
- 2) **Within 28 days after deadline:** The Council shall conduct a public meeting to determine what, if any, further action should be taken on the proposed Constitutional Amendment(s), including but not limited to: approve, deny, or convert to an Advisory Question.
- 3) **No later than 10 days before closing of nominations:** The Council, at a public meeting, shall approve the proposed Constitutional Amendment(s) and or Advisory Questions, in whole or part, and those proposed Constitutional Amendments and questions will be presented to the eligible voters on the day of the election. The decision of the Council shall be final. This will provide time to allow the TEC and/or tribal legal counsel to develop the ballot language and/or constitutional wording. The final approval of ballot language will be conducted during the Finalization of the Ballot.

14-090 COUNTING OF BALLOTS

14-090-010 Applicability

This Chapter shall apply to counting and certification of election results.

14-090-020 Recess before Public Counting

There shall be a one and a half (1.5) hour recess period after the time the polls close. During the recess period, the ballot box and/or the automated machine(s) shall be in public view and guarded by a Tribal Police Officer. After the recess, the TEC meeting for the public count shall begin.

14-090-030 Counting of Ballots

- (a) **Automation:** Procedures for counting of ballots shall be handled in accordance with the directions and operating manuals of the automation system being utilized by the Tribe at the specific election. By reference in this Chapter, these directions and manuals are hereby incorporated into this Title 14 as provisions for conducting the counting of ballots-automation.
- (b) **Hand Count:** Procedures for counting of ballots by hand count shall follow the same procedures as outlined in 14-090-040 Counting of Ballots – Absentee Ballots.

14-090-040 Counting of Ballots – Absentee Ballots

Once the meeting for the public count is convened, the following steps shall be taken:

- (a) A Tribal Police Officer shall break the numbered seal(s) on the ballot box and open it;
- (b) The TEC shall remove all the absentee ballots from the ballot box, show the public the ballot box is empty and set the box aside;
- (c) The TEC shall remove the absentee ballot(s) from their envelopes and return them to the ballot box;
- (d) The TEC Chairman shall remove the absentee ballots one by one and shall read the choices marked on the ballot as observed by a TEC member, and shall show the ballot to each remaining TEC member, as well as showing the ballot to the public, to ensure the tally is correct; and
 - 1) If, during the tallying of the votes, the TEC members are unable to determine from a ballot the intended choice of the voter, that ballot shall be rejected. A rejected ballot shall be folded and marked “REJECTED” in ink and placed in the rejected ballot box.
 - 2) The hand count will be added to the automation system totals.

14-090-050 Totals and Official Ballot Accounting Form

After the tally is complete, the TEC shall complete an “Official Ballot Accounting Form” which shall, at a minimum, include the following information:

- (a) Date of Election;
- (b) Total Number of Eligible Voters;
- (c) 30% of Eligible Voters;
- (d) Total Number of Eligible Voters at the Polling Place;

- 1) # of First Ballot issued at the Polling Place;
 - 2) # on Last Ballot issued at the Polling Place;
 - 3) # on the Last Printed Ballot;
 - 4) # of Spoiled Ballots (Election Day);
- (e) Total Number of Valid Absentee Ballots;
- 1) # of Valid Absentee Ballots Received;
 - 2) # of First Ballot Issued to Absentee Voters;
 - 3) # of Last Ballot Issued to Absentee Voters;
 - 4) # of Rejected, Spoiled, and Voided Absentee Ballots Received;
 - 5) # of Rejected, Spoiled, and Voided Absentee Ballots (Election Day);
- (f) Total Number of Eligible Voters Voting in Regular Election;
- (g) Was the 30% Requirements for Referendum, Recall, and/or Constitutional Amendments met, Yes or No; and
- (h) Certification by each member of the TEC, by signing their name thereto.

14-090-060 Reading of Election Results

Once the Official Ballot Accounting Form is complete:

- (a) The TEC shall conclude their meeting and deliver the Official Ballot Accounting Form to the FBC Secretary/FBC Designee.
- (b) The Fallon Business Council will call to order a special meeting to read and approve the Election Results.

14-090-070 Recounts

An automatic recount shall be conducted if:

- (a) There is a tie between two or more successful candidates; or
- (b) The difference between the numbers of votes separating successful candidates is less than 1% of the total of participating voters on the election date.

14-090-080 Counting of Ballots in a Recount

- (a) **Hand Count:** The Council shall open the ballot box and shall recount the votes for the candidate or ballot question races involved, on all ballots that are not rejected, spoiled, or voided; or
- (b) **Automation:** The Council shall recount the votes, on all ballots that are not rejected, spoiled, or voided, on the automation system in accordance with the directions/manuals, with the exception of absentee ballots which must be hand-counted (excluding those absentee ballots that are rejected, spoiled, or voided).
- (c) **Announcement:** At the close of the recount, the totals shall be read aloud.

14-090-090 Tie Vote after Recount – Council and other Elected Position Races

If after a recount has been completed, there remains a tie between successful candidates then the Tribe shall apply a “high-card draw” system with all “joker” and “wild” cards removed. Under this system:

- (a) A sealed deck of cards will be opened by the Tribal Chairman or Vice-Chairman (whichever is not up for election);
- (b) Each candidate shall be given an opportunity to shuffle the deck;
- (c) After shuffling, the Tribal Chairman or Vice-Chairman shall gather the deck and give one final shuffle;
- (d) Each of the tied candidates shall choose one card from any place in the deck. The choice of who will go first will be alphabetical using last name listed on the ballot;
- (e) The highest card shall be declared the winner; if there is a tie then this process shall be repeated until there is no longer a tie;
- (f) In the event there is more than one seat involved and more than two candidates, then the person or persons having the next highest card values will assume the seats; and
- (g) For purposes of this section, an ace is considered a high card.

14-090-100 Tie Vote after Recount – Ballot Questions (Constitutional, Referendum and/or Recall)

If after a recount has been completed, there remains a tie involving any ballot questions then the question(s) shall automatically fail and not be considered to be approved and/or adopted for any purposes.

14-090-110 Closing of Election Day

- (a) Once the FBC concludes their meeting, the TEC shall place all counted ballots, unused ballots, Eligible Voters Signature List, and boxes for spoiled, rejected and voided ballots in a container locked with numbered seals;
 - 1) The TEC shall mark all unused ballots with a distinctive mark and note that they are unused ballots.
 - 2) Seven (7) of the unused ballots shall be picked at random to maintain as official documentation for the FBC Secretary's records and distribution.
- (b) Tribal Law Enforcement will take possession of the sealed containers and ballot box until the challenge period has expired and the election declared valid.

14-090-120 Records Retention

Thirty days prior to the opening of nominations of the next election, all records deemed unnecessary shall be destroyed under the supervision of the TEC and the FBC Secretary/Designee. The TEC shall record the process in Official Minutes. If there are any pending legal challenges at this time period though, the records shall be maintained until the resolution of the legal challenges.

14-100 ELECTION OFFENSES

14-100-010 Applicability

This Chapter shall apply to Election Offenses.

14-100-020 Persons Liable

- (a) Any person who commits a violation of this Title 14 shall be deemed a principal and may be charged with the violation although he/she did not directly commit the violation and although the person who directly committed the violation has not been convicted of the violation.
- (b) A person is liable for an election offense if he/she commits a violation of this Title 14, if he/she:
 - 1) Directly commits a violation;
 - 2) Aids or abets the commission of a violation; or
 - 3) Is a party to a conspiracy with another to commit a violation, or advises, hires, counsels or otherwise procures another to commit a violation.

14-100-030 Refusal to Perform Duty

It is a violation of this Title 14 for any officer or employee of the Tribe to knowingly fail or refuse to perform any duty required of him/her under this Title 14.

14-100-040 Filing of an Election Offense Criminal Complaint

Any candidate or eligible voter who believes that a violation of the election offenses outlined in Section 14-100-070 through Section 14-100-130 has been committed may submit a "Tribal Election Offense Criminal Complaint" (Form No TEF-003) to the Election Prosecutor. Procedures for the investigation and prosecution of a violation of the campaign practices section shall be handled in accordance with Title 4 - Criminal Procedures. Persons convicted of any such offense in the Tribal Court shall be sentenced in accordance with Section 14-100-140.

14-100-050 Hearing Procedures of an Election Offense

Upon Election Prosecutor review of the submitted Election Offense Criminal complaint, the following shall apply:

- (a) The Election Offense criminal complaint if found to be without merit will be denied and a written decision will be issued by the Election Prosecutor within 14 days of decision; or
- (b) The Election Offense criminal complaint if found to be with merit shall be submitted by the Election Prosecutor to the Tribal Court for prosecution.

14-100-060 Enforcement

- (a) Criminal enforcement of this Title 14 shall be conducted in the same manner as other crimes under the laws of the Tribe are conducted and the provisions of Title 14 of the Code shall apply to criminal enforcement and proceedings under this Title.
- (b) The Attorney for the Tribe shall have the authority to bring a civil action against any person for violation of this Title 14, including the imposition of civil fines.
- (c) Any person, who has been a victim of a violation of this Title 14, as defined in this Chapter, may bring an action in the Tribal Court against the person who committed the violation including the imposition of civil fines.

- (d) Any civil fines imposed pursuant to this Title shall be remitted to the FPST Finance Department and used to defray the costs of elections.

14-100-070 Illegal voting

A person knowingly commits crimes of illegal voting when he/she:

- (a) votes in an election in which the person is not eligible to vote;
- (b) signs a petition relating to an election when the person is not eligible to sign the petition;
- (c) votes more than once in an election;
- (d) votes by taking the identity of another eligible voter or represents himself/herself as another eligible voter; or
- (e) votes in violation of the voting procedures established by this Title 14.

14-100-080 Electioneering/Campaigning at the Polls

- (a) There will be no posting of any campaign posters, signs, or anything that promotes a candidate anywhere within 75 feet of the voting area except on private property.
- (b) There will be no soliciting of voting anywhere within 75 feet of the voting area on the election date. The TEC will post signs designating voting area(s).
- (c) There will be no distribution of campaign materials or solicitation of support for a candidate or any matter that is the subject of the election anywhere within 75 feet of the voting area on the election date.
- (d) Candidates or candidate's agents shall not place any campaign posters, signs, or any promotional material about any candidate on private property without first securing the permission of the owner(s) of the property.
- (e) Candidates or candidate's agents shall not place any campaign posters, signs, or any promotional material about any candidate on or within 75 feet of a tribal facility.
- (f) The use of any tribal facility will not be permitted for social functions or other activities on Election Day.
- (g) Videotaping, photography and audio recording are prohibited within 75 feet of the polling place during the voting period. In addition to the penalties associated with an election offense, violators will be immediately removed from the polling place.
- (h) The use of tribal equipment and supplies for promotion of a candidate(s) or for the purpose of enhancing a candidate(s) chance of winning is hereby prohibited. This does not apply to any tribally-operated transportation services or the one time copy of the Eligible Voter Address List.

14-100-090 Tampering with Voting Machine(s)/Ballot Box

A person commits a crime if that person knowingly:

- (a) tampers with a voting machine, ballot box, ballots or election records with the purpose to change the record of votes cast; or
- (b) has a key, or similar anti-tampering device, to a voting machine in an automated election or ballot box knowing that the possession is not authorized by the TEC.

14-100-100 Interfering with Voting

A person commits a crime if that person:

- (a) without lawful authorization, knowingly obstructs an election or hinders another person from voting or hinders a person from filing for candidacy or other election petition;
- (b) offers a benefit/bribe to another person with the purpose to induce the person to refrain from voting or from signing any petition relating to an election; or
- (c) creates a disruption or hostile environment by being verbally and/or physically aggressive which could hinder membership voting and/or the TEC conducting election matters on Election Day.

14-100-110 Ballot Secrecy

A person commits a crime if that person tampers with a voting machine or ballots to determine how a voter has voted, or who induces a voter to distinguish the record of that person's vote from others.

14-100-120 Unsigned Election Advertisements/Publications

A person commits a crime if that person publishes and/or distributes advertisements or any other type of publication intended to influence voting that does not include the names and addresses of the person(s) and/or organization that caused the advertisement or publication to be produced and/or distributed.

14-100-130 Slander and Libel

A person commits a crime who, with malice, intentionally originates, circulates, or publishes a false or unsubstantiated statement or matter concerning or involving a candidate, candidate's immediate family, TEC and/or TEC member which tends to injure the character or reputation of the candidate, the candidate's family, the TEC and/or TEC member. "Malice" means with knowledge that the statement is false, unsubstantiated, or with reckless disregard of whether it is false or not. The statement or matter must be related to an election issue, or result from an election.

14-100-140 Penalties for Violation of Election Offenses

- (a) The penalty for a person or persons who are convicted of a violation of the election offenses codified at Section 14-100-070 through Section 14-100-110 and any other Sections specifically referring to these penalties shall be a fine up to \$500.00 and/or the disqualification of a candidate from the election or subsequent service on the Council.
- (b) The penalty for a person or persons who are convicted of a violation of the election offense codified at Section 14-100-120 and any other Sections specifically referring to these penalties shall be a fine up to \$1,000 and/or the disqualification of a candidate from the election or subsequent service on the Council.
- (c) The penalty for a person or persons who are convicted of a violation of the election offense codified at Section 14-100-130 shall be a fine up to \$2,500/per offense, the disqualification of a candidate for the election or subsequent service on the Council, and/or a term of imprisonment not to exceed six (6) months.

- (d) If any person is convicted of any of these election offenses, the Tribe shall place a front-page story in the tribal newsletter that identifies the convicted individual, the crime that was committed, a brief summary of the situation, and the penalty that was imposed by the Court.

14-110 ELECTION CHALLENGES

14-110-010 Applicability

This Section shall apply to Election Challenges in accordance with the Tribal Constitution and Bylaws, Amendment No. 32- Article IV – Nominations and Election.

14-110-020 Eligible Challengers

- (a) Any Council Candidate may challenge the final results of an election if they have a factual and legal basis for such a challenge.
- (b) Any eligible voter who's right to vote has been denied under Title 14 may challenge the final results of an election if they have a factual and legal basis for such a challenge.

14-110-030 Ineligible Challenge(s)

The following categories of challenges shall not be allowed:

- (a) A matter involving the TEC's recommendation to deny or FBC denial of a Tribal Member the status of a Council Candidate pursuant to the Tribal Constitution, Article III, Section 4;
- (b) Any disputes that the TEC has authority to resolve and that were resolved by a majority vote decision of the TEC on Election Day;
- (c) Procedural errors of this Title 14 such as date calculations, notice postings, etc., unless it can be conclusively proven that such procedural error would have changed or impacted the results of the election; or
- (d) Failure of the Membership Services Department to notify the TEC of newly eligible voters or the TEC to mail out a welcome letter with a Title 14 - Election Ordinance.

14-110-040 Properly Filed Challenges

- (a) Challenges shall be submitted on an "Election Outcome Challenge Form" (Form TEF-007);
 - 1) There shall only be one (1) challenge subject per form. Any form that contains more than one (1) challenge subject shall be declared Void and not considered a properly filed challenge and not reviewable by the Tribal Court;
 - 2) If a person has more than one challenge, a separate form and filing fee shall be submitted for each challenge.
- (b) An individual challenger is limited to three (3) challenges subject to judicial review;
- (c) An individual challenger is allowed to subpoena no more than three (3) persons to serve as witnesses to that challenge subject to judicial review;

- (d) An individual challenger shall pay a \$100.00 non-refundable filing fee for each challenge;
- (e) Challenges must be submitted no later than 12:00 p.m. noon of the fifth (5th) working day following the election and shall be time-stamped by the tribal court clerk.

14-110-050 Access to Copies of Challenges

Copies of all challenge(s) submitted and all supporting documents filed shall be made available to the TEC after the 12:00 p.m. close of filing of challenges. Copies of the initial challenge(s) with no supporting documents may be obtained thereafter by the public and may be subject to current court fees.

14-110-060 Election Challenge(s) Hearing Date

A hearing on the election challenges shall be held on the following Friday after the deadline for submittal of challenges.

14-110-070 Type of Hearing

The challenges shall be heard before a selected Election Judge in the Tribal Court. The qualifications of the Election Judge and the selection process are set forth in Chapter 14-030.

14-110-080 Election Challenge Hearing Procedures

The Election Judge shall follow these challenge hearing procedures:

- (a) At the beginning of the hearing, the Election Judge shall read the challenges and identify Challengers;
- (b) The Election Challenger must be present to present their challenge and evidence. If a challenger is not present to present their challenge then the challenge shall be dismissed;
- (c) The Election Judge shall call up the first challenger to present their challenge, evidence and if applicable witnesses (not to exceed three witnesses);
- (d) Once the Challenger has completed their presentation, the Defendant(s) will have an opportunity to plead their defense, evidence and if applicable witnesses (not to exceed three witnesses);
- (e) Testimonies shall not be taken except from witnesses on the stand. No comments will be accepted from the gallery. Those who are disruptive shall be escorted out by Law Enforcement.
- (f) After hearing the testimony and evidence, the Election Judge shall move on to the next challenger repeating the process.

14-110-090 Decision on Challenges

- (a) Once the Election Judge has heard all challenges, testimony and evidence, he/she shall adjourn to make his/her decision;

- (b) Once a decision has been reached, the court in an open hearing, shall announce the decision on whether to accept or deny the challenges, in whole or in part, and the relief ordered on the matters;
- (c) All this shall be completed on the hearing date.

14-110-100 Written Decision

- (a) After the hearing a written order shall be prepared by the Election Judge based exactly on the verbal decision of the Court within seventy-two (72) hours of the completion of the challenge hearing;
- (b) This order shall be mailed to the Tribal Court Clerk who will then mail and/or hand deliver it to all involved parties including the TEC within two working days following receipt of the order;
- (c) The decision of the Election Judge in the election matter shall be final and not reviewable by any court.

14-120 FINALIZATION OF ELECTION

14-120-010 Activities relating to Challenge Decision(s)

- (a) If a challenge is filed regarding a particular race(s), candidate(s), and/or question(s), and the Election Judge approves/accepts the challenge(s), then the following will occur:
 - 1) **Challenges to Candidates:** For challenges of candidates, if a candidate is declared invalid, then the person receiving the next highest number of votes shall be declared the winner and sworn onto the Council.
 - 2) **Challenges to Races/Constitutional Amendments:** For challenges to races or Constitutional amendments, if the entire race (i.e., Chairman, Vice-Chairman, etc.) or amendment question is declared invalid, then another election will be held ONLY on that invalidated race/amendment question within seventy-five (75) days from the final decision of the Election Judge.
 - 3) **Challenges to Advisory or Other Ballot Questions:** For challenges to advisory and other ballot questions, if an advisory question or other non-constitutional question is declared invalid, there will not be another election on these types of questions, but rather these types of questions shall be declared defeated for that election year.
- (b) **Challenges to the Entire Election Process:** If a challenge is filed regarding the entire election process on an item that can be proven would change/impact the final outcome of an election and the Election Judge declares the election void, then another election shall be held within seventy-five (75) days from the final decision of the Election Judge.
- (c) **Procedural Errors.** In no event shall an election be overturned or invalidated on a procedural error of this Title 14, unless it can be conclusively proven that such procedural error would have changed or impacted the results of the election.
- (d) **Timeframes:** The election process in any new election, either partial (subsections a and b) or full (subsection d), will start at the finalization of the ballot with no changes to the

candidates or questions on the original ballot, other than to remove any voided candidates/questions.

- (e) **Denied Challenges:** In the event that a challenge is denied, the Council members elected shall be sworn into office in accordance with Title 14-120-020(b).

14-120-020 Declaration of Election

- (a) If there are no challenges to an election, the Council shall accept the results of the election and shall swear-in the new members at a Special Council Meeting called solely for that purpose within 3 to 5 days after the filing of challenges deadline. Failure or declination by the Council to accept the court's decision or election results when no challenges have been brought shall not affect the swearing in of the newly elected members. In such situation, the Chief Judge of Tribal Court shall conduct the swear-in of the newly elected Council members who shall take office at that point. Such swearing in shall be conducted in person on the Fallon Reservation or Fallon Colony, and the Chief Judge shall be paid \$150.00.
- (b) When all challenges have been resolved, the Council shall declare those persons finally determined to have received the highest number of votes to be elected and the votes in a special election or special election matters to be final. The elected candidates will be sworn into office at a Special Council Meeting called solely for that purpose within 3 to 5 days after the Election Judge's final decision. A resolution will be presented to the Secretary of the Interior or designated representative citing the election's results and swearing in of elected officials within ten (10) days of enactment. If applicable, resolutions will also be presented for each constitutional amendment citing the results, the new/revised amendment, amendment number, and a request for certification.
- (c) The FBC Secretary/FBC Designee shall provide copies to the Secretary of the Interior or designee of the election results along with the approving resolutions within ten (10) days after the finalization of the election provisions in this section are completed.

14-130 APPOINTMENTS TO THE BUSINESS COUNCIL

14-130-010 Eligibility for Appointment

In accordance with Article V, Section 1 of the Constitution of the Tribe, the Council shall appoint an eligible member to fill the unexpired term of a Council position that has been declared vacant. In accordance with Article III, Section 4 of the Tribal Constitution and Bylaws, persons who wish to be appointed to the Council must meet the following qualifications and submit an application form to the Tribal Secretary by the posted closing date:

*Tribal Constitution & Bylaws, Article III Section 4
Business Council Qualifications and Filing Deadline:*

- a) *Persons seeking to serve on the Fallon Business Council must be able to meet the following qualifications:*

- 1) *Be an enrolled member of the Paiute-Shoshone Tribe of the Fallon Reservation and Colony; and*
 - 2) *Be at least twenty-one (21) years of age or older; and*
 - 3) *Have physically resided within the exterior boundaries of the Tribe, as described in Article I of the Constitution or Churchill County, Nevada, for at least one year prior to the election he/she is running in or at least one year prior to their appointment.*
 - 4) *Never been convicted of any felony or gross misdemeanor in any Indian, State or Federal Court: and*
 - 5) *Have successfully graduated from a high school and/or equivalent program and be able to provide proof of graduation.*
- b) *Qualified Persons shall be eligible to be a candidate for the Business Council at a Tribal election provided that his or her name is provided to the Tribal Election Committee at least sixty (60) days prior to the election date.*

In addition, the candidate for appointment cannot have been recently removed from the FBC:

Tribal Constitution & Bylaws, Article V Section 2 (4)

If a member of the Business Council who is removed and/or recalled as of August 2001 or later for cause, the former members shall not be eligible to run or be appointed to any position on the Business Council for a seven (7) years following such removal.

14-130-020 Constitutional Prohibitions

Pursuant to the Constitution and Bylaws of the Tribe, there are three provisions, outside of the normal qualifications, that make a person ineligible to be appointed to a position on the Business Council. These are:

- a) A person may not serve on the Council simultaneously with a member of his/her immediate family.

Tribal Constitution & Bylaws, Article IV Section 5

A person may not serve on the Business Council simultaneously with his or her husband, wife, brother, sister, father, mother, son or daughter. Situations arising under this section shall be governed by the Tribal Election Code.

- b) A person may not serve on the Council if he/she has been recently removed and/or recalled from a position on the Council.

Tribal Constitution & Bylaws, Article V Section 2 (4)

If a member of the Business Council who is removed and/or recalled as of August 2001 or later for cause, the former members shall not be eligible to run or be

appointed to any position on the Business Council for a seven (7) years following such removal.

- c) A person may not serve on the Council if he/she was a losing candidate in a recent Tribal election.

Tribal Constitution & Bylaws, Article V Section 3

No losing candidate for a position on the Business Council may be appointed to fill any vacancy on the Business Council which arises during the term of the position for which the losing candidate ran.

14-130-030 Posting of Notice

The Tribal Secretary shall post notice for the solicitation of eligible members to fill a vacant position, which shall include a specific deadline for the receipt of Applications for Appointment. This notice shall be posted at least at the four designated locations (*see* Section 14-020-060(f)) on the Reservation and Colony for a period of 30 days.

14-130-040 Filing for Appointment

Persons wishing to be appointed for a position shall complete and submit to the TEC a “Filing of Appointment for the Fallon Business Council” (Form No. TEF-001-APPT) to be considered for the vacancy, in addition to all required documents listed in Section 14-130-050, which shall be attached with the form. All this is to be submitted by the posted deadline established by the Council or FBC Secretary/FBC Designee.

14-130-050 Required Documents from Members Seeking Appointment

All persons seeking an appointment shall be required to submit the “Filing of Appointment to the Fallon Business Council” (Form No. TEF-001-APPT). The burden of proof rests on the prospective candidate and all documentation provided is subject to the Privacy Act. Failure to submit a complete Filing of Appointment for Fallon Business Council form with full documentation will result in an incomplete application. In addition to submitting the required form, members seeking appointment shall submit the following required documents:

- (a) **Enrollment and Age Certification:** A letter from the enrollment office stating membership and enrollment number or a copy of a tribal membership card showing the enrollment number and date of birth. If date of birth is not on the enrollment card, attach a copy of a current driver’s license or identification card.
- (b) **Proof of Residency:** Members shall submit a copy of at least two (2) bills/statements which show member’s name, physical address, and a date of issue. Those members who are unable to provide copies of at least two bills/statements, shall submit a written statement from the homeowner/renter certifying the member’s physical address (the statement must be dated no earlier than the date of the posting addressed in section 14-130-030, and must be notarized).
 - 1) The Constitution of the Tribe requires eligible members seeking appointment to reside either on the Reservation/Colony or in Churchill County, Nevada, for at least one year prior to the appointment.

- 2) The member may also submit any other information, documents and/or records that provide a credible basis upon which to determine whether the residency requirement has been satisfied.
- (c) **Background Criminal History Check:** All members must complete and sign the “Criminal Background Check Form” (Form No. TEF-001A), as well as completing the fingerprint card, and submit it directly to the Fallon Tribal Police Department. Failure to consent to and comply with this item will be grounds for disqualification of the person’s application for appointment. Eligible members must also have a representative from the Tribal Police Department sign-off on the designated space on the “Filing of Appointment for the Fallon Business Council” (Form No. TEF-001-APPT) acknowledging that the member has submitted the “Criminal Background Check Form” prior to the closing date. Each candidate for Appointment shall pay to the Finance Office a \$50.00 “Background Criminal History Check” fee.
- (d) **Proof of Graduation:** Eligible members shall submit proof that they have successfully graduated from a high school and/or equivalent program. Acceptable proof shall include a copy of a high school diploma or GED or a letter from a designated official of the school district attesting to the graduation of the individual. Members must request that the Council consider alternate proof to support their candidacy, which shall be subject to the decision of the Council and the decision shall be final.

14-130-060 Prohibition of Immediate Family

Pursuant to the Constitution and Bylaws of the Paiute-Shoshone Tribe of the Fallon Reservation and Colony (Article IV, Section 5) immediate family members are prohibited from serving on the Council at the same time. If an eligible member submits a “Filing of Appointment to the Fallon Business Council” (Form No. TEF-001-APPT) for a vacant position on the Council and there is an immediate family member currently serving on Council, then the Council shall immediately deny consideration of the member’s request for appointment.

14-130-070 Method of Appointment and Certification

At the next regular meeting following the deadline for appointment to the Council for a vacant position, the Council shall review all applications. Applications for members who are constitutionally prohibited or ineligible from serving and/or those that do not adhere to these requirements shall be declared invalid and not considered for appointment. No appointment shall be made until the local/tribal background check is completed. The FBC shall vote for a person to fill the vacancy by secret ballot – the person receiving the highest number of votes shall be declared the winner and will be sworn in no later than the next regular Council meeting. A resolution will be approved by the Council and submitted to the Secretary of the Interior or designated representative citing the appointment of the eligible member for the vacant position within ten (10) days of enactment.

14-140 PETITIONS

14-140-010 Copy of Petition to be Filed Before Presentation

A copy of the "Petition of the Eligible Voters of the Tribe" (Form No. TEF-008) for a referendum, recall, and/or constitutional amendment must be placed on file with the FBC Secretary/FBC Designee before it may be presented to the eligible voters for signatures. The person or persons who submit a petition to the FBC Secretary shall be known as the "Petition Filing Agent(s)". Upon acceptance of a Petition, the FBC Secretary shall immediately request the number of eligible voters from the Membership Services Department.

14-140-020 Circulator(s) of a Petition

- (a) The Petition Filing Agent(s) shall submit a Petition Circulator Form (Form No. TEF-008A) to the FBC Secretary indicating the eligible voter(s) who will be personally circulating a petition. Persons identified on this form shall be known as "Petition Circulators". If a non-listed person circulates a petition or if the petition is not personally circulated, the FBC shall declare the petition invalid. Circulation by any type of mail or delivery service is invalid.
- (b) No current member of the TEC or FBC shall be a Petition Filing Agent and/or a Circulator of a Petition. Any TEC/FBC member who accepts either one of these two roles shall immediately resign from the TEC/FBC, and if they fail to do so, the TEC will notify the Council to begin removal proceedings against the involved TEC/FBC member.
- (c) FBC Members are prohibited from signing all Tribal petitions wherein he/she may be called upon to act on the matter.
- (d) If any "Petition Filing Agent(s)" or "Circulator(s) of a Petition" is an immediate family member of the FBC Secretary, all duties performed by the FBC Secretary under this Chapter shall be assigned to the FBC Vice-Chairman and the FBC Treasurer working together in equal capacity.
- (e) "Petition Filing Agent(s)" or "Circulators of a Petition" must confirm each Tribal member's identity by entering the Tribal member's Enrollment Number on the Petition Form or the last four (4) numbers of his/her Social Security number.

14-140-030 Deadline for Submission of Petition

- (a) After filing the petition with the FBC Secretary in accordance with Section 14-140-010, the Filing Agent shall have ninety (90) days to obtain the required signatures and must file the completed petitions with the FBC Secretary before the expiration of the ninety (90) day period.
- (b) All petitions submitted after the ninety (90) days shall be declared invalid by resolution of the Fallon Business Council with notification given to the petition filing agent(s).

14-140-040 Form Regulations; Removal of Name from a Petition

- (a) Petitions must be submitted on the approved form (Form No. TEF-008) in order for the petition and signatures to be accepted. Petition filing agent(s) must number each page on the petition submission in sequential order (i.e., 1, 2, 3, 4, 5, etc.).

- (b) A person who signs a petition may remove their name by submitting a written statement to the FBC Secretary no later than the close of business on the day the FBC is to hear the report on the petition(s).

14-140-050 Posting of Petition

- (a) Once a petition has been properly submitted, the FBC Secretary shall post the entire petition with the Tribal members' Enrollment/Social Security numbers blacked out, but including names, signatures, and dates, for a period of ten (10) working days. The petition shall be posted at least at the four (4) designated locations (see Section 14-020-060(f)) on the Reservation and Colony.
- (b) Any person challenging a name, signature, or date on the Petition shall submit a written letter stating the facts asserted and any supporting documentation to the FBC Secretary/FBC Designee stating the reasons for such challenge. Any such letter must be sent before the close-of-business on the 10th day after the posting.
- (c) The FBC Secretary/FBC Designee shall determine whether the challenge meets the requirements of this title and/or the Tribal Constitution and Bylaws. He/She shall contact all persons involved to request written statements on the allegation(s) contained in the Challenge. All persons have five (5) working days to respond. Regardless of whether responses are submitted timely or not, the FBC Secretary/FBC Designee shall include all challenges, along with his/her report on each Challenge, to the FBC with the Report on the validity of the Petition.
- (d) The FBC shall determine the validity of each Challenge before making a determination on the validity of the entire Petition.

14-140-060 Submission of Petition

Once a petition has been received and filed with the FBC Secretary and following the petition posting period, the FBC Secretary shall verify that all signatures on the petition are of eligible voters in accordance with the Official List of Eligible Voters used in the previous election. The FBC Secretary shall present this report to the FBC within ten (10) days after receipt of the petition.

14-140-070 Council Action on Petition

- (a) If the petition contains the required number of verified signatures as set forth in the Constitution and Bylaws and this Title 14, the Council shall pass a resolution acknowledging receipt, acceptance of the petition and the date that is scheduled for the special election, in accordance with Section 14-080-050 of this Title 14.
- (b) If a petition does not meet the signature requirement, is not submitted as set forth in Section 14-140-040 or within the time frame of Section 14-140-030, or is not in accordance with the Constitution and Bylaws and this Title 14, then the Council shall pass a resolution acknowledging the petition to be invalid. Such resolution shall be sent to the Petition Filing Agent(s) by certified mail.
- (c) If the Petition Filing Agent(s) feels that the denial of a petition was not done in accordance with tribal law, the Petition Filing Agent(s) may file with the Tribal Court to settle the matter in accordance with Tribal Law.

14-140-080 Replacement of FBC Secretary

If the FBC Secretary is the subject of a circulated recall petition that has been filed, then the responsibilities assigned to the FBC Secretary shall be delegated to the FBC's Designee under the supervision of the FBC Vice-Chairman and the FBC Treasurer working in equal capacity.

Chapter 14-150 GLOSSARY – ELECTION DEFINITIONS

Absentee Ballot

A ballot used in any election in which a person who cannot make it to the polling place can vote in a regular or special election of the Tribe.

Absentee Voter

Any eligible voter who submits a valid absentee ballot request in accordance with the Tribe's Constitution and Bylaws and this Title 14 - Election Ordinance.

Advisory Questions

Any question on the ballot that is non-binding on the Council. Any advisory question is considered to be a method for the Council to receive input from the tribal membership.

Challenge

A complaint filed to challenge the final results of an election by any Council Candidate if they have a factual and legal basis for the challenge; or a complaint filed by an eligible voter who's right to vote has been denied.

Date Calculations

In determining the exact dates for events under this Title 14 in relation to setting up events, deadlines, activities either prior to or following a specified date, the TEC will calculate dates by counting the specified number of days excluding the date/day from which the calculation originates from. In any event no election shall be overturned for a miscalculation unless it can be proved that the election's outcome would have been significantly affected and altered if the date had been calculated properly.

Dishonesty

As used in this Title 14 and the Constitution & Bylaws of the Fallon Paiute-Shoshone Tribe, dishonesty is defined as any act that exhibits a disposition to lie, cheat, deceive, or defraud; demonstrate a predisposition for untrustworthiness; or actions which show evidence of a lack of integrity, lack of honesty, probity or integrity in principle; lack of fairness and straightforwardness; or a disposition to defraud, deceive or betray; act or behavior that gravely violates the sentiment or accepted standard of the Tribe and/or other quality of dishonesty that is present in the commission of a criminal offense (i.e., theft, perjury, vice crimes, bigamy, and rape have generally been found to involve moral turpitude, while liquor law violations and disorderly conduct generally have not). While the precise definition of a crime that involves dishonesty is fluid, the following crimes are always considered crimes of dishonesty: murder; voluntary manslaughter; rape; statutory rape; domestic violence; prostitution; fraud and crimes

where fraud is an element; all theft offenses; blackmail; malicious destruction of property; arson; slander/libel; bribery; and perjury.

Eligible Voter

Any member of the Tribe who is eighteen (18) years of age or older on the day of the election.

Felony

A felony, as used in this Title 14 or in the Constitution & Bylaws of the Fallon Paiute-Shoshone Tribe, is defined as a serious crime generally punishable by a term of one (1) year or more in jail.

Finalizing the Ballot

When the Council approves the list of candidates for an upcoming election and/or approves any other items for inclusion on a ballot.

Gross Misdemeanor

A gross misdemeanor, as used in this Title 14 or in the Constitution & Bylaws of the Fallon Paiute-Shoshone Tribe, is defined as any crime that carries a penalty of six (6) or more months in jail and/or a fine of \$1,000 or more.

Immediate Family Member

As used in this Title 14, an immediate family member is defined as a husband, wife, brother, sister, father, mother, son, or daughter.

"Lame Duck" Official

When a Council member/officer or other elected individual loses an election or chooses not to run for re-election then that member/officer/individual shall continue to serve in their official capacity until the newly elected members/officers/individuals are sworn in and seated.

Nomination

When a prospective candidate submits the required documents to be a candidate for an upcoming election.

Petition

A form signed by eligible voters of the Tribe to initiate a special election for the purpose of a constitutional amendment, recall, or referendum.

Recall

A method of removal of an official through a petition in which power of removal is granted to or reserved by the eligible voters of the Tribe.

Referendum

A method to ratify or reject any ordinance and/or resolution, proposed or enacted by the Fallon Business Council.

Regular Election

Biennial elections that are held in accordance with the Tribe's Constitution and Bylaws and this Title 14 for the purpose of electing individuals to serve on the Council, electing individuals to serve in other positions as adopted by the Council, and for advisory questions.

Rejected Ballots

A ballot that during the counting is found to be unreadable, the voter's choice of candidates cannot be determined, and/or if a voter has marked more than the allowable number of candidates in a race. All of these ballots are marked "Rejected" by the TEC and these ballots do not get counted towards the outcome of any regular or special election.

Residency

Residency requirements are detailed in the Article III of the Tribal Constitution and Bylaws:

Tribal Constitution & Bylaws, Article III Section 4 (3)

(4) Have physically resided within the exterior boundaries of the Tribe, as described in Article I of the Constitution or Churchill County, Nevada, for at least one year prior to the election he/she is running in or at least one year prior to their appointment.

Severability

The act of which if any chapter, section, or provision(s) of this Title 14 is declared invalid by a court of competent jurisdiction, but the remaining chapters, sections, and/or provisions are capable of maintaining a complete and independent existence. If any provision of this Title 14 is declared invalid by a court of competent jurisdiction, then all remaining provisions of this Title 14 nevertheless shall remain in full force and effect.

Special Election

Any election that is scheduled by the Council that is not set on the day of a regular election or an election called for the purpose of a recall, referendum, or constitutional amendment.

Spoiled Ballots

Spoiled ballots are ballots that are returned in the larger envelopes that do not meet the requirements set out in Title 14 and voters who at the polling place make a mistake on their ballot and require a new ballot.

For example, all of the spoiled ballots are marked "Spoiled" by the TEC and these ballots do not get counted towards the outcome of any regular/special election. The TEC may, if time permits, mail a new absentee ballot to the voter upon his/her written request, but it remains the responsibility of the voter to mail their absentee ballot back by the time polls close on election day.

Tribal Facility/Property

Tribal Facility/Property is defined as any building or facility of the Tribe where business of the Tribe or a tribal entity/organization is conducted or performed is to be considered a Tribal Facility/Property. This includes buildings and facilities of the Fallon Tribal Development Corporation.

Unavoidable Causes

This term shall mean medical conditions that prohibit making it to the polling place, weather conditions that would hinder a person to safely travel to the polling place, travel/vacation plans that would remove a voter from the Reservation/Colony, or eligible voters who reside outside the exterior boundaries of the Fallon Paiute-Shoshone Tribe. All requests for an absentee ballot that use the reasons of unavoidable causes shall be subject to review by the TEC for consideration and approval. The decision of the TEC shall be final.

Voided Ballots

A voided ballot is an absentee ballot that is not returned in accordance with this Title 14 which requires absentee ballots to be mailed to the TEC's mailbox or that are received after the polls close. Voided ballots include ballots that are hand-delivered and/or sent to any other address other than the TEC mailbox. All of these ballots are marked "Voided" by the TEC and these ballots do not get counted towards the outcome of a regular/special election. If time permits, the TEC may mail a new absentee ballot to the impacted voter, but it remains the responsibility of the voter to mail the absentee ballot back by the time polls close on Election Day.

Working Day / Day

- (a) Working Day. As used in this Title 14, the term of "working day" shall be defined as a day on or in between Monday through Friday. Working day does not include Saturdays, Sundays, or any holiday recognized by the Tribe.

- (b) Day. As used in this Title 14, the term of "day" shall be defined as every day of the week including Saturdays, Sundays, and any holidays recognized by the Tribe.

Written Notice (Absentee Ballots)

Written notice is a request for an absentee ballot that shall be in writing and notarized by a Notary Public. The usage of Form No. TEF-005 is optional and alternative forms of request are acceptable as long as they are in compliance with the provisions of this Title 14.

APPENDIX OF AUTHORIZED FORMS

FORM NUMBER	FORM TITLE	TITLE 14 REFERENCE
TEF-001	Filing of Candidacy for Fallon Business Council	14-070-030(b)(2) 14-070-060
TEF-001 APPT	Filing of Appointment for the Fallon Business Council	14-130-040 14-130-050
TEF-002	Request for Eligible Voters List	14-070-070(g)(1)
TEF-002A	Request to Remove Name from Candidate's List of Voters	14-040-040(a)
TEF-003	Tribal Election Offense Criminal Complaint	14-100-040
TEF-004	Constitutional Amendment Submission Form	14-080-070(b)
TEF-004A	Advisory Question Submission Form	14-080-070(b)
TEF-005	Absentee Ballot Request Form	14-050-030(c)
TEF-005A	Absentee Ballot Daily Receipt Form	14-050-050(e)(1)
TEF-005B	Absentee Ballot Log Form	14-050-050(e)(4) 14-050-060(a)
TEF-005C	Absentee Ballot Voting Instruction Sheet	14-050-040(a)
TEF-Example	Pre-Paid Postcard Example	14-050-080
TEF-006	Affidavit of Absentee Voter at Polling Place	14-060-160(b)
TEF-007	Election Outcome Challenge Form	14-110-040
TEF-008	Petition of the Eligible Voters of the Tribe	14-080-040 14-140-010
TEF-008A	Petition Circulator Form	14-140-020