

ORDINANCE NO. 10.08.09.01

AN ORDINANCE OF THE TRIBAL COUNCIL OF THE  
COYOTE VALLEY BAND OF POMO INDIANS ADOPTING  
RULES OF PROCEDURE GOVERNING TRIBAL ELECTIONS

The Tribal Council for the Coyote Valley Band of Pomo Indians ("Tribe") hereby ordains as follows:

Section 1. Findings and Declaration. The Tribal Council hereby finds and declares as follows:

1. The purpose of this Ordinance is to establish uniform rules of procedure governing all Tribal elections that will ensure that all tribal elections are conducted fairly.
2. This Ordinance is necessary in order to guarantee the right of each and every tribal member to cast one vote by secret ballot in each tribal election authorized by the Tribe's Constitution, to ensure that the votes are properly counted, and to provide procedures for challenging elections that tribal members believe were not carried out according to the applicable procedures.

Section 2. Adoption of New Chapter 2.06 to Title 2 of the Tribal Code Entitled "Rules of Procedure Governing Tribal Elections." A new Chapter 2.06 entitled "Rules of Procedure Governing Tribal Elections" is hereby adopted and added to Title 2 of the Coyote Valley Tribal Code and shall provide as follows:

CHAPTER 2.06

RULES OF PROCEDURE GOVERNING TRIBAL ELECTIONS

Sections:

- 2.06.010 Conformity with the Tribe's Constitution
- 2.06.020 Delegation of Authority to Election Board
- 2.06.030 Election Board
- 2.06.040 Qualification of Voters
- 2.06.050 Candidates for Tribal Council
- 2.06.060 Date of Elections
- 2.06.070 Election Procedures
- 2.06.080 Candidates Right to Challenge Election Results
- 2.06.090 Challenges to Spoiled Ballots and Rejected Absentee Ballots
- 2.06.100 Recounts
- 2.06.110 Challenge to Election Board Decisions: Tribal Court Jurisdiction
- 2.06.120 Violations of Ordinance by Members of Election Board
- 2.06.130 Application for an Order from the Tribal Court
- 2.06.140 Hearing on Application for New Election
- 2.06.150 New Election by Order of the Tribal Court
- 2.06.160 Taking Office

Section 2.06.010 Conformity with the Tribe's Constitution. All elections, including general elections, special elections, referendum, initiative, repeal and recall elections shall be conducted in conformity with the Constitution of Coyote Valley Band of Pomo Indians. Where any provision of this Ordinance conflicts with any provision of the Constitution, the provision of the Constitution shall prevail.

Section 2.06.020 Delegation of Authority to Election Board. The obligations of the Tribal Secretary relating to elections set forth in the Constitution are hereby delegated to the Tribal Election Board. The Tribal Secretary shall remain ultimately responsible for those obligations being properly carried out by the Board. If the Secretary of the Tribal Council cannot or is unable to perform her duties as required by this Ordinance, the Tribal Council shall by resolution, designate a person to perform the Secretary's duties required by this Ordinance.

Section 2.06.030 Election Board. There is hereby established a Tribal Election Board, which is authorized to conduct elections pursuant to the requirements of this Ordinance and the Constitution. Each member of the Election Board shall actively participate in all Election Board meetings and shall faithfully perform their duties as set forth in this Ordinance. The Election Board shall be comprised of five (5) tribal members who are eligible to vote in tribal elections, and who do not hold, and are not candidates for, any tribal elective office. No member of the Election board shall be eligible to run for any elective office unless they have resigned from the Election Board at least sixty (60) days prior to the election for the office they are seeking in order to give the Tribal Council time to find and appoint a replacement for the Board member who is resigning. No two Election Board members may be members of the same immediate family. Election Board members shall be appointed by the Tribal Chairperson and approved by majority vote of the Tribal Council. Election Board members shall serve for a term of four (4) years. Election Board members' terms shall begin January 1 of each year following their appointment. At the first meeting of the Election Board, the Election Board members shall elect a Chairperson, who shall preside over all Election Board meetings and perform all actions required of the Chairperson under this Ordinance.

1. "Immediate Family Member" Defined. As used in this Ordinance, the term "immediate family member" means mother, father, sister, brother, spouse or child.
2. Election Board Meetings. The Election Board shall hold regular meetings at a time and place to be determined by the Board. The Election Board shall provide notice of regular meetings to the members of the tribe at least five (5) days in advance of the meetings. Notice of the regular meetings shall be posted at the Tribal Council offices and three or more other public places on the Coyote Valley Reservation. Special meetings of the Election Board may be held at the discretion of the Election Board Chairperson or by majority vote of the Election Board members. The Election Board shall provide notice to the public of any special meeting at least 24 hours in advance of the meeting in the same manner as notice of regular Election Board meetings.
  - a. All meetings of the Election Board, except executive session meetings, shall be open to the voting members of the General Council. All persons in attendance at any Election Board meeting shall maintain rules of decorum and shall preserve order while the Board is conducting its business. Any person disturbing the Board, interfering with the ability of the Board to carry out its duties under this Ordinance, making slanderous remarks, making insulting comments and/or making threats of violence to anyone shall be subject to removal from any Election Board meeting at the discretion of the chairperson of the Board.
  - b. The Election Board may exclude all persons from a meeting and hold a closed session to discuss or consider any of the following:
    1. Whether, based on existing facts and circumstances, a closed session is necessary or authorized by this Ordinance.
    2. The evaluation and performance of an Election Board member and whether the Election Board should recommend to the Tribal Council that the member be removed, or to hear complaints or charges brought against such Election Board member by another person.

3. To confer with the Tribal attorney on the Election Board's duties under this Ordinance or if a person has threatened to sue any member of the Election Board, to confer with or receive advice from its attorney regarding any pending or threatened litigation.

4. To confer with federal, state, or Tribal law enforcement personnel or Tribal security officers to discuss matters posing a threat to the security of any Election Board member or building where an election is being conducted.

5. To confer with the Tribal attorney or insurance agent/adjuster to discuss a pending or threatened administrative claim for the payment of private and public liability losses or workers compensation liability or an unemployment claim.

6. To confer with its contractor(s) over the terms and conditions of any contract proposed for the conduct an election for the Tribe under this Ordinance.

7. No member of the Election Board, or any other person present during an executive session of the Board shall disclose to any person the content or substance of any discussion which took place during such executive session unless the Board shall, by a majority vote, authorize the disclosure of such information. Any violation of this subsection shall be grounds for removing the Board member from office as provided in this Ordinance. The Chairman of the Board shall bring such charges of removal for a willful violation of this Section by a member of the Board. If the Chairman has violated this Section, then the Vice-Chairman shall bring such charges against the Chairman.

8. Subject to the Tribe's fiscal policies, the Election Board shall have the right during all executive sessions to have legal counsel present for the purpose of obtaining legal advice on any item discussed in executive session, and any employee of the Tribe if the employee's expertise is necessary to assist the Board in reaching a decision on the issue that prompted the holding of the executive session.

9. The Election Board shall announce publically any of the following actions taken in an executive session and the vote or abstention on each issue:

(A) Any final approval, subject to any applicable Tribal Council approval, given to its legal counsel to defend or initiate litigation or seek or refrain from seeking appellate review or relief, or to enter a case as an amicus curiae or to settle pending or threatened litigation against the Board.

(B) Any final approval of any action pertaining to the exoneration, discipline or removal of an Election Board member.

(C) Any final approval of any contract to retain a third party to conduct an election under this Ordinance.

10. The Secretary of the Election Board shall, during an executive session, keep a separate minute book for executive session items. The executive session minute book shall only be available for inspection by members of the Tribal Council. The Secretary shall only enter in the executive session minute book a record of who was in attendance, the topic discussed and any decisions made on each topic if more than one topic is discussed.

11. In addition to the penalties set forth in subsection (7) above, the Tribal Council may authorize the Tribal Attorney to initiate an action in any court of competent

jurisdiction for the purpose of obtaining an injunction, including money damages, to prevent the disclosure of any information discussed in an executive session.

c. When requested by the Election Board, the Tribal Council shall provide Tribal security or police presence for all meetings of the Election Board and at all Tribal elections to insure the safety of all persons present and to maintain order.

3. Quorum. A quorum for all meetings of the Election Board shall be three (3) Election Board members. Failure of an Election Board member to attend two consecutive meetings or three un consecutive meetings during any term of office shall be grounds for removal from the Election Board unless the member informs the Election Board Chairperson, or if it is the Chairperson making the request, then the Chairperson shall inform the Secretary of the Election Board, of his/her inability to attend at least three hours before the meeting. Failure of an Election Board member to perform their duties shall, upon the recommendation of the Election Board, be grounds for removal from the Election Board by the Tribal Council. In addition, the Tribal Council may remove a member from the Election Board upon a showing of good cause that the Election Board member has failed to perform their duties as required by this Ordinance.

#### Section 2.06.040 Qualification of Voters.

1. Who may vote. Any duly enrolled member of the Tribe who is eighteen (18) years of age or older on the date of any scheduled election shall have the right to vote in the election.

2. Delivery of Tribal Roll. Within one week of the Board taking office, the Secretary of the Tribal Council ("Secretary") shall personally hand deliver a certified copy of a list containing the names, addresses, dates of birth, and enrollment numbers of all members of the Tribe (Tribal Roll) to the Chairperson of the Election Board. At any time thereafter, the Secretary shall update the Tribal Roll and provide the Election Board with a current and accurate Tribal Roll within forty-eight (48) hours of receipt of a written request to do so signed by the Chairperson of the Election Board. Based on the Tribal Roll, the Election Board shall maintain a current list of eligible voters for use in tribal elections. The names of the eligible voters shall be made available from the Election Board for inspection and copying by all tribal members. The Election Board shall have the right to inspect and verify the Tribal Roll in the possession of the Secretary of the Tribal Council for the purpose of conducting elections.

3. Signature Verification Registration System. To maintain the integrity of the election process, there is hereby established a signature verification registration system. The signature verification registration system is intended to ensure that votes cast in the name of a Tribal member are in fact cast by that member, not to present a barrier to qualified members of the Tribe desiring to exercise their right to vote.

a. Each Tribal member who desires to vote in Tribal Council, Tribal Chief referendum, recall, repeal, or initiative elections, whether in person or by absentee ballot, must have a verified voter signature card on file with the Election Board. If a member does not have a verified voter signature card on file with the Election Board before the polls close on the day of any election, he or she will not be permitted to vote in that election. The Tribal Council shall cause the Secretary to be present at the polling place on the Reservation on the day of each election conducted under this Ordinance to allow tribal members who have not done so to register for a verified voter signature card. In the event that the Secretary is not

available to register members to vote on the day of the election, the Election Board shall appoint a member of the Board to perform that duty pursuant to the authority delegated to the Board under Section 2.06.020 above.

- b. A “verified voter signature card” shall mean a voter signature card that contains the signature of the tribal member, verified by the seal and signature of the Secretary. Any tribal member, regardless of their place of residency, may request a voter registration card from the Secretary, who shall provide the requesting member with a card. The tribal member may register to vote by completing the card and signing it in front of a notary public, who shall complete a notary subscription verifying that the tribal member was the person who signed the card. The tribal member shall mail the signed card to the Secretary, along with the notary subscription by certified mail, return receipt requested.
- c. The verified voter signature card shall be in a format designed by the Election Board. The verified voter signature card shall contain, at a minimum, the following elements: a space for the tribal member’s printed name, a space for the tribal member’s enrollment number, a space for the tribal member’s signature; a space for the date of execution, and a space for the Secretary’s seal and signature.
- d. The Secretary shall not verify a person’s voter signature card unless: (1) the person is personally known to the Secretary; or (2) the person has provided a valid picture identification verifying that he/she is the person that he/she claims to be. As used herein, a valid picture identification shall mean (1) a valid driver’s license or identification card issued by the Department of Motor Vehicles; (2) a valid passport; (3) a valid photo identification card issued by the Tribe; or (4) a valid photo identification card issued by a branch of the United States military.
- e. The Election Board shall devise procedures for communicating that tribal members desiring to vote are required to register for verified voter signature card and for facilitating compliance with the registration requirements.
- f. Notwithstanding any provision of this Ordinance to the contrary, it is the responsibility of each tribal member who wishes to vote in an election to ensure that he or she has a verified voter signature card on file with the Election Board. Failure of the Election Board to follow the above procedures shall not be cause to allow a member’s vote to be counted if there is no verified voter signature card on file with the Election Board for that member.
- g. Tribal members shall only be required to register for a verified voter signature card once during his/her lifetime, unless a tribal member, after registering, changes his/her name by common law, marriage or court order, or the tribal member’s verified voter signature card is lost, stolen or destroyed. If the tribal member changes his/her name or his/her verified voter signature card is lost, stolen or destroyed, the tribal member shall register again. If a

tribal member is required to re-register for a verified voter signature card because of a change in his/her name, the tribal member shall register under his/her new name.

4. Poll Book. Based on the list of members who have a verified voter signature card on file with the Election Board, the Election Board shall keep an up-to-date poll book, listing in alphabetical order the names of tribal members who are registered to vote. Each in person voter shall sign the poll book at the polling place before voting. When the Election Monitor receives an absentee ballot, he or she shall note in the Poll Book that the voter whose signature appears on the outside envelope of the absentee ballot has voted by absentee ballot.

Section 2.06.050 Candidates for Tribal Council and Tribal Chief.

1. Qualifications. Any enrolled member of the Tribe who will be eighteen (18) years of age or older on the date of the election and who is a resident of Mendocino, Lake, Humboldt, or Sonoma County, California, and who has not been disqualified from running for office by a lawful vote of the General Council, is qualified to be a candidate for Tribal Council, provided, however, that no more than one immediate family member of any person already on the Tribal Council may serve on the Tribal Council. The purpose of this subsection is to limit each family of the Tribe to two members on the Council. If two immediate family members are already serving on the Tribal Council, then no immediate family member shall be qualified to run for the Tribal Council. If only one immediate family member of a candidate or candidates for the office of Tribal Council already serves on the Tribal Council, then any immediate family member of the person already serving on the Tribal Council shall be eligible to run for office but only the candidate receiving the highest number of votes among those immediate family members running for office shall be elected to the Tribal Council.

2. Candidacy for Tribal Council and Tribal Chief. Not less than eighty (80) days before any general or special election for Tribal Council or Tribal Chief, the Election Board shall provide notice to all tribal members who are eligible to vote that an election is to be held, the date upon which the election is to be held, and the right of all eligible voters to run for office. The Notice shall include a form for filing a statement of intent to run for office.

- a. Statement of Intent. Any person eligible for election to any office of the Tribal Council under the Tribe's Constitution may become a candidate by filing with the Election Board a statement of intent notifying the Elections Board of his/her intent to run for that office. The statement of intent shall set forth the candidate's name, address and the office for which he or she intends to be a candidate, and shall be signed by the candidate. Each candidate's statement of intent must be filed not less than sixty-six (66) days] before the general or special election to which the statement of intent relates.
- b. Determination of Eligibility. The Election Board shall determine whether each candidate is eligible under the Tribe's Constitution to run for office and has filed a properly completed Statement of Intent.
- c. Only One Statement of Intent Filed. If only one statement of intent is submitted for a tribal office, a special meeting of the General Council shall be convened for the purpose of taking nominations

from the floor for a candidate or candidates for that office not less than sixty-six (66) days before the election. A maximum of three nominations shall be accepted from the floor, which shall be the first three nominations presented. If no nomination is received, the person who filed the Statement of Intent shall be elected by acclamation and the Election Board shall certify the person who filed the sole Statement of Intent as the winner without holding or conducting an election.

d. Primary Elections. If three or more persons file a statement of intent relating to the same office, including any persons nominated pursuant to subparagraph (c), a primary election for that office shall be held not less than thirty-five (35) days before the general election. The two candidates receiving the highest number of votes in the primary election shall be the candidates in the general election.

3. Write-In Candidates. Votes for write-in candidates will be void and of no effect.

Section 2.06.060 Date of Elections. The general election for members of the Tribal Council or Tribal Chief shall be held annually on the date specified in the Tribe's Constitution. The date for voting on referendum, recall, repeal and initiative elections shall be determined by the Election Board.

Section 2.06.070 Election Procedures.

1. Elections to be Conducted by Neutral Third Party Election Monitor. All tribal elections shall be conducted by the Election Board. The General Council may require the Election Board to contract with a neutral third party election monitor to conduct the election.

a. As used in this Ordinance, the terms "neutral third party election monitor" and "election monitor" shall mean an election monitoring entity:

- i. With at least five years of experience conducting and monitoring elections, including at least one Indian tribal election;
- ii. That does not employ, in any capacity, any Coyote Valley tribal member or any immediate family member of a Coyote Valley tribal member;
- iii. No principal or employee of which owns any property on the Coyote Valley Indian Reservation or has any other financial interest in any Coyote Valley tribal property, business, or economic development activity, or any financial interest in the property or business activity of any Coyote Valley tribal member.
- iv. As used herein, the term "Election Monitor" shall refer to both the election monitoring entity and the individual employees of the election monitoring agency.

- b. Selection of Election Monitor. The Election Monitor shall be selected for each election by the Election Board.
- c. Minimum Number of Monitors Required. At least two individual Election Monitors shall be provided to the Tribe to conduct each election.

2. Notice of Election. Not less than eighty (80) days prior to each election date, including primary elections, the Election Board or the Election Monitor shall provide written notice of the election to each eligible tribal member by mail. Notice of the election shall also be provided by posting notice at the tribal offices and at least three other public places on the Reservation. The Election Board shall keep a record of the date upon which notice was sent to each eligible member of the Tribe and the address to which notice was sent, which shall be preserved until challenges to the election results have been resolved and the results certified by the Election Board to the Tribal Council. The Secretary shall then, within two (2) business days from the date the Election Board certifies the election results to the Tribal Council, certify the election results to the Superintendent of the Bureau of Indian Affairs by mailing the certification to the Superintendent by certified mail, return receipt requested. The notice shall include the following information:

- a. The date of the election;
- b. The location of the election polling site and the hours that the polling site will be open;
- c. The name of each of the candidates and the office for which each candidate is running;
- d. In the case of a referendum, recall, repeal, or initiative election, a copy of the referendum petition, recall petition, repeal petition, or initiative petition that is the subject of the election;
- e. The requirements for voting in a tribal election, and
- f. Notice of the option of voting by absentee ballot, an absentee ballot and instructions for voting via absentee ballot.

3. Ballots. The Election Monitor shall prepare all ballots.

- a. Ballots for Tribal Council Elections and/or Tribal Chief. The names of the candidates for Tribal Council and the Tribal Chief shall be listed on the ballot in alphabetical order under office for which each is a candidate. The ballot for Tribal Council and Tribal Chief elections shall contain the following information in substantially the same form as set forth below:

**“OFFICIAL BALLOT**

*Instructions for Voting:* Listed below are candidates for the position(s) of \_\_\_\_\_ and \_\_\_\_\_. Please vote for only one (1) candidate for each position. Vote by making an X in the box beside the name of the each candidate of your choice.

[For in-person voting, insert the following:]



After filling out your ballot, please hand it to one of the Election Monitors who are administering this tribal election. The Election Monitors will be responsible for ensuring that the voter places the completed ballot in the ballot box.

**Actions That Will Make Your Ballot Invalid:** Your ballot will be invalid if you vote for more than one (1) candidate for any one position. It will also be invalid if you write any comments or names, scribble or draw any pictures on your ballot. To protect the secrecy of your vote, DO NOT write or sign your name on the ballot.

[For absentee ballot voting, insert the following:]

After filling out your absentee ballot, please place it into the small envelope marked "Secret Ballot Envelope," which was provided with your absentee ballot. Seal and place the Secret Ballot envelope into the larger Ballot Return Envelope addressed to the Election Monitor. Seal the envelope and legibly print your full return address on the Ballot Return Envelope and then legibly print and sign your name in the designated area on the envelope. Mail the envelope. Your absentee ballot must be received by mail. It cannot be faxed.

**Actions That Will Make Your Ballot Invalid:** Your ballot will be invalid if you vote for more than one (1) candidate for any one position. It will also be invalid if you write any comments or names, or scribble or draw on your ballot. To protect the secrecy of your vote, DO NOT write or sign your name on the ballot or on the Secret Ballot Envelope. Your absentee ballot will also be invalid if you do not sign the Ballot Return Envelope in the designated area of the envelope.

**Important:** The Absentee Ballot must be received by the Election Monitor by the close of the business day on \_\_\_\_\_ [day of the week], \_\_\_\_\_ [day/month/year] in order for your vote to count.

### CANDIDATES

Vote for one (1) candidate for each of the following positions by placing an "X" in the box by the candidate of your choice.

[Name of Position]

\_\_\_\_\_  
[Name of Candidate]

\_\_\_\_\_  
[Name of Candidate]"

b. Other Ballots. Ballots for referendum, initiative, repeal and recall elections shall be prepared by the Election Monitor in a form that ensures that the voters clearly understand the nature of the issues and choices to be decided in the election.

4. Ballot Boxes. All Ballot Boxes shall be locked using at least two different locks requiring two different keys. There shall be at least one box provided for each of

the following:

- a. In person ballots;
- b. Absentee ballots;
- c. Spoiled ballots; and
- d. Rejected ballots.

5. Handling of Ballots. Before the polls open on any date set for an election, or in the case of the absentee ballot box, at least thirty days before the election and before any absentee ballots have been received by the Election Monitors, the Election Monitors shall be provided with the Ballot Boxes and the keys to the Ballot Boxes, and shall open the Ballot Boxes to ensure that they are empty before any ballots are placed in the Ballot Boxes. At least one member of the Election Board shall observe the opening of the Ballot Boxes, unless the Tribe contracts with an outside agency to be the Election Monitors; in that event, a member of the Election Board does not need to be present for the inspection of the absentee ballot box prior to the placing of the absentee ballots in the box. The keys to the Ballot Boxes shall be maintained by the Election Monitors until all of the ballots are counted and tallied, challenges to spoiled ballots or rejected absentee ballots are heard and decided, and the results announced and certified to the Tribal Council and the Bureau of Indian Affairs. No one person shall have in his/her possession more than one key to any ballot box. The Ballot Boxes and ballots shall, at all other times, be stored in a secure location at the Election Board offices until the time for challenging an election under this Ordinance has expired. After the time for challenging an election has expired, the Election Board shall destroy all ballots from the election by shredding them.

6. Election Board Member and Election Monitor's Presence Required. At all tribal elections, no fewer than two (2) Election Board members, and no fewer than two (2) Election Monitors shall be present at all times in the room where voting is taking place while the polls are open and while the votes are being counted and tallied.

7. No Loitering or Campaigning in Voting Area. No person other than the members of the Election Board and the Election Monitors shall remain or loiter within one hundred (100) feet of the voting area on any election day. Any tribal member may observe the counting and tallying of the votes subject to the authority of the Election Board to remove anyone for disrupting the tallying of the ballots or for any other health or safety reason. It shall be within the sole discretion of the Election Board as to what constitutes a valid health or safety reason. No one may engage in any form of campaigning within one hundred (100) feet of the voting area on any election day. If any dispute should arise as to whether a person is violating these prohibitions, the Election Monitors shall immediately decide the issue and their decision shall be final.

8. Voting Procedure. Tribal members may vote by absentee ballot or in person in all Tribal Council, Tribal Chief, referendum, initiative, repeal and recall elections. In person voting shall take place at the Tribal Council Offices or at such other place or places on the Tribe's Reservation as the Tribal Council shall establish by resolution from 10:00 a.m. to 7:00 p.m. on the date set for the election. In person voting shall take place using the following procedure:

- a. An Election Monitor shall first determine whether or not the tribal member wishing to vote has a verified voter signature card on file with the Election Board. A voter who does not have a verified voter signature card on file with the Election Board on the day of

the election may register for a verified voter signature card at any time up to the close of the polls on the day of the election. Once a voter has registered for a verified voter signature card, the voter shall be permitted to vote. If a voter does not have a verified voter signature card on file with the Election Board, and the voter fails to register for the verified voter registration card before the close of the polls on election day, the voter shall not be permitted to vote.

- b. The voter shall sign his or her name in the poll book. If the voter is unable to do so, an Election Monitor shall write "unable to sign" by that name and have the voter make his/her mark. An Election Monitor shall verify that the voter is the tribal member in whose name he or she is seeking to vote. Verification shall be done by comparing the poll book signature or mark with the tribal member's signature or mark as it appears on the member's verified voter signature card and, if necessary, by visual comparison with any form of photo identification. Once an Election Monitor has verified the identity and eligibility of the voter, the Election Monitor shall note such verification in the poll book by signing his or her initials by the voter's name. The voter will then be issued a ballot.
- c. If the Election Monitors cannot verify the voter's identity or eligibility using the above procedures, that voter shall be issued an absentee ballot, a secrecy envelope, and an outside ballot envelope. He or she shall complete the absentee ballot, fold it, place it in the secrecy envelope, place the secrecy envelope in the outside envelope and seal and sign the envelope. The envelope shall then be placed in a separate ballot box reserved for rejected ballots. The decision to reject the ballot based on the lack of verification of the voter's identity or eligibility shall be subject to the challenge procedures set forth in Section 2.06.090.
- d. Once the voter's identity and eligibility have been verified, the voter shall be directed to a designated, private area to mark the ballot. Any voter, including a person completing an absentee ballot under subsection c above, may receive assistance from an Election Monitor or one person accompanying the voter in marking the voter's ballot if the voter so requests. Unless the voter is physically unable to do so, the voter shall take the completed ballot, fold it in half, and hand it to an Election Monitor, who shall deposit it in the ballot box in the presence of the voter. If the voter is physically unable to fold the ballot or put it in the ballot box, the person accompanying the voter or at the request of the voter, the Election Monitor, shall fold the ballot and place it in the ballot box for the disabled voter.
- e. If the voter makes a mistake on his or her ballot, a new ballot shall be issued to the voter, which shall be noted in the poll book, the spoiled ballot shall immediately be marked "void" by an Election Monitor, who shall place it in the ballot box reserved for spoiled ballots.

9. Absentee Voting. All eligible voters shall be permitted to vote by absentee ballot in all tribal elections.

- a. Absentee Ballots and Envelopes. Absentee ballots shall be sent to every eligible voter, together with the notice of the election, pursuant to the requirements of Section 2.06.070 (2). The packet of materials provided to each voter shall include a ballot, an instruction sheet, a secrecy envelope, and a return envelope, postage prepaid.
- b. Voting Procedure. To vote by absentee ballot, the voter shall mark the ballot, place it in the secrecy envelope, and seal the secrecy envelope. The voter shall then place the secrecy envelope inside the return envelope and seal the return envelope. The voter shall then sign the return envelope in the designated area and return it to the Election Monitor by mail. All absentee ballots must be received by the Election Monitor by close of business on the day before the election.
- c. Late Receipt of Absentee Ballots. No ballots received after the close of the polls on the day before any election day shall be counted.
- d. Inspection of Absentee Ballots and Envelopes. After the polls have closed on election day, at least two Election Monitors shall compare the signature on each absentee ballot return envelope with the signature on the voter's verified voter signature card. If the signatures match, the return envelope shall be opened and the inner envelope shall be deposited in the locked ballot box. The Election Board shall not spoil an Absentee Ballot except for the reasons set forth in Section 2.06.070(11). If the tribal member submitting the absentee ballot has no verified voter signature card on file with the Election Board by the time the polls close on the day of any election, or if the signatures on the envelope and the signature card do not match, the absentee ballot shall be rejected. In the event that an absentee ballot is rejected, the return envelope shall not be opened. The rejected ballot in the return envelope shall be deposited in a separate, locked rejected ballot box.

10. Count and Tally of Ballots. Immediately after the polls are closed, the Election Monitors shall open all ballots boxes and count and tally the votes cast in the presence of the members of the Election Board. The tally sheet shall set forth the number of ballots distributed, the total number of votes cast, the number of votes cast at the voting station, the number of votes cast by absentee ballot, the number of spoiled ballots (as defined in Section 2.06.070(11)), the number of rejected ballots (as defined in Section 2.06.070(8)(c)), the number of votes cast that were neither spoiled nor rejected, the number of votes cast for each candidate, or, in the case of a referendum, recall, repeal, or initiative election, the number in favor of and opposed to the referendum, repeal, recall, or initiative.

11. Rejected and Spoiled Ballots: Definition. The employees of the Election Monitor may determine that a ballot is:

- a. Rejected only if the Election Monitors find that they are unable to determine the voter's intent from the marks on the ballot, because:
  - i. The voter has failed to mark the ballot in or sufficiently close to the appropriate areas designated for the mark;

- ii. The voter has marked too many candidates;
  - iii. In the case of a referendum, initiative, repeal, or recall, the voter has marked both approval and disapproval of the referendum, initiative, repeal or recall; or
  - iv. The Election Monitor was unable to verify that the person was an eligible voter, in accordance with Section 2.06.070 (8) (c) above.
- b. Spoiled only if the voter informs an Election Monitor that he/she mistakenly marked or damaged his/her ballot and was issued a new ballot to replace the spoiled ballot.

12. Announcement of Results of Election: Certification. Upon conclusion of the count and tally, the winners or, in the case of a referendum, initiative, repeal, or recall, measure, whether the measure passed or failed or the official was recalled, will be determined by the Election Monitors. The winner or winners shall be determined on the basis of a plurality, and ranked in order of votes received. The Election Monitors shall then announce the results of the election by reading them out loud to those present and posting them in the room where the vote took place. If no recount is requested and granted, or at the conclusion of any recount, the Election Monitors shall, five business days after the close of the polls, certify the results of the election to the Election Board. If a recount is requested and granted, the Election Monitors shall certify the results of the election five (5) business days after the recount is completed and shall deliver the results to the Election Board. Winning candidates shall take office in accordance with Section 2.060.160 of this Ordinance.

13. Tie Vote. If a referendum, recall, repeal, or initiative election results in a tie, the referendum, initiative or recall shall fail. In the event of a tie for any office in a primary election between the second highest vote getter, a new primary election shall be held to decide who shall run in the general election. In the event of a tie for any office of the Tribal Council, the winner shall be decided by a run-off election to be held within 30 days of the original election. A run-off election shall include only those candidates who tied for the most votes for a particular position on the Council.

Section 2.06.080 Candidates Right to Challenge Election Results. After the results of an election have been announced, any candidate for tribal office or sponsor of a referendum, recall, repeal, or initiative shall have the right to:

1. Within five (5) business days of the announcement of the election results, challenge in writing the Election Board's determination that a ballot is spoiled or the Election Board's rejection of an absentee ballot, pursuant to Section 2.06.070;

2. Within five (5) business days of the announcement of the election results, request in writing a recount pursuant to Section 2.06.100;

3. Within five (5) business days of the announcement of the election results, file a written application for a new election pursuant to Section 2.06.090;

4. All of the foregoing appeals, requests and applications shall be ruled upon by the Election Monitor, subject to the approval of the Election Board whose decision shall be final and unappealable. An Election Board shall not vote or participate in voting on a challenge if the Board Member has a conflict of interest. Any Election Board member who is disqualified from voting on a particular matter by reason of a conflict of

interest shall publicly state, or have the Election Board Chairman state, the nature of such disqualification in open meeting. When no clearly disqualifying conflict of interest appears, the matter of disqualification may, at the request of the Board member affected, be decided by the other Election Board members. A Board member who is disqualified by reason of a conflict of interest in any matter shall not remain in the room where the Election Board is meeting but shall request and be given the permission by the Chairman of the Election Board to leave the room where the Election Board is meeting. A Board member stating such disqualification shall be counted as a part of a quorum and shall be considered an abstention for the purpose of determining the outcome of any vote on such matter.

For purposes of this subsection, a member of the Election Board shall have a conflict of interest when a decision of the Election Board in deciding a challenge will have a direct effect on:

1. The Council member's natural mother, father, step-father, step-mother, brother, sister, step-brother, step-sister, children, the Board member's spouse, or live-in-partner.
2. Any person who has been a source of income to the Board member of \$250.00 or more within the 12 months immediately preceding consideration of the issue that will result in a decision.
3. Notwithstanding any provision in this subsection to the contrary, nothing in this subsection shall prohibit any Board member from voting for or against the removal of any other Board member.
4. The Board member(s) possessing a conflict shall not vote on the issue but shall abstain. Any motion pending before the Board shall not fail as a result of an abstention.

Section 2.06.090 Challenges to Rejected Ballots. Within five (5) business days of the announcement of the results of an election, any candidate for office or sponsor of a referendum, initiative, repeal, or recall may challenge a determination that a ballot was rejected. If a challenge to a rejected absentee ballot is granted, the return envelope shall be opened and the absentee ballot shall be considered a properly completed ballot and it shall be added to the election count and tally. If a challenge to a rejected ballot is granted, the rejected ballot shall be considered a properly completed ballot and it shall be added to the election count and tally. Spoiled and rejected ballots shall be retained by the Election Monitor for a period of sixty (60) days from the date of the election.

Section 2.06.100 Recounts. Where a candidate for office or a referendum, initiative, repeal, or recall has been defeated by 10 or fewer votes and the candidate or sponsor of a referendum, initiative, repeal, or recall can present reasonable evidence of an error or omission that could have had a material effect on the outcome of the election, he/she may request a recount within five (5) business days of the announcement of the results of the election by the Election Monitor. Such a request shall be made in writing to the Election Monitor. A recount may be granted when, in the opinion of the Election Monitor, there is sufficient evidence of an error or omission to justify a recount.

Section 2.06.110 Challenge to Election Board Decisions: Tribal Court Jurisdiction. In the event that the Tribal Council, with the approval of the General Council, establishes a Tribal Court, any candidate for office or sponsor of a referendum, initiative, repeal, or recall may, within fifteen business days of an election, seek review of any of the Election Board's decisions or actions relating to an election in the Tribal Court if he/she believes that:

1. One or more Election Monitors, or one or more members of the Election Board, through act or omission, violated the provisions of this Ordinance or abused his or her discretion in such a manner that it had a material influence on the outcome of the election; or

2. One or more members of the Election Board, through act or omission, violated the provisions of this Ordinance in such a manner that the member(s) of the Election Board should be sanctioned or removed from his/her position on the Election Board.

3. The Tribal Court is hereby granted jurisdiction to review the decisions of the Election Monitor made during any election and to issue such orders as the Court deems necessary to remedy any violations of this Ordinance. The Tribal Court is hereby granted jurisdiction to order:

- a. Recounts;
- b. New elections;
- c. The removal of a member of the Election Board from office;
- d. Monetary or other sanctions that the Court deems necessary to discourage members of the Election Board and tribal members in general from violating the provisions of this Ordinance; and
- e. Such other actions or sanctions as the Court deems necessary to ensure the integrity of the election process.

The standard of review to be applied by the Tribal Court in determining whether the actions of the Elections Board are contrary to the law or whether the members of the Election Board abused their discretion, is clear and convincing evidence. As used herein, the term "Tribal Court" shall mean a court established by ordinance of the Tribal Council, which has been approved by the General Council, and which authorizes the Tribal Chief to appoint a person the Chief Judge of the Tribal Court, subject to the approval of the General Council, with the minimum qualifications, if any, established by the Tribal Council in any Ordinance adopted by the Tribal Council to establish the Tribal Court.

Section 2.06.120. Violations of Ordinance by Members of Election Board. The following acts and omissions on the part of members of the Election Board are violations of this Ordinance:

1. On the day of the election, being in the polling area or in a room with the Ballot Boxes without an Election Monitor present;

2. On the day of the election, leaving the area where the Ballot Boxes are being kept without ensuring that there is at least one member of the Election Board and one Election Monitor present;

3. Taking custody of both keys necessary to open any of the Ballot Boxes;

4. Unexcused failure to be present and available to carry out the duties imposed by this Ordinance;

5. Allowing unauthorized persons access to ballots or Ballot Boxes;

6. Adding unauthorized ballots to, or removing ballots from, the Ballot Boxes; or

7. Any other act or omission that could materially affect the outcome of the election.

Section 2.06.130 Application for an Order from the Tribal Court. Any candidate or sponsor of a referendum, initiative, repeal, or recall seeking an order from the Tribal Court pursuant to Section 2.06.100 shall file with the Court, and serve on the Tribal Secretary and the Election Board, the following documents within fifteen (15) business days of the election in question:

1. An application for an Order for a new election explaining in detail the basis for the application;
2. All documentary evidence in support of his/her application; and
3. A list of any witnesses that the candidate or sponsor intends to call in support of his/her application and a summary of the matter about which each witness is to testify.
4. Within 24 hours of the first business day following the date of being served with an application for an Order, the Election Board shall deposit with the Court the poll book, all ballots, Ballot Boxes, all tallies of votes, the certification of the results of the election and any other evidence that was relied upon in making the decision that was the basis for the filing of the application to the Tribal Court.

Section 2.06.140 Hearing on Application for New Election. Upon receipt of an application for an Order for a new election and supporting documents, the Tribal Court shall set a hearing date on the application not less than five (5) business days after the filing of the application, and serve notice on the applicant, the Election Board, any person who is believed to have acted in a manner that could give rise to an Order for a new election under Section 2.06.110, and the Secretary of the Tribe. At the hearing, the applicant shall present any and all evidence supporting his/her position that an act or omission occurred that had a material influence on the outcome of the election. The person or persons accused of the act or omission may respond to the arguments presented in the application and the evidence in support thereof by filing a response to the application, along with any documentary evidence, and witness testimony in support of their response. Once the arguments, evidence, and testimony have been presented, the Court shall rule on the application within two business days of the hearing on the application and adopt findings of fact and conclusions of law in support of the Court's decision.

Section 2.06.150 New Election by Order of the Tribal Court. If the Tribal Court orders that a new election be held, the new election shall be conducted in accordance with the procedure set forth in this ordinance except that no new candidates may be nominated. Sufficient time shall be granted for notice of the new election to be given to tribal members and for absentee voting, but in any case new elections shall be held no fewer than 30 days from the date of the Court ordering that a new election be held.

Section 2.06.160 Taking Office.

1. Beginning of Terms. Unless a new election is ordered by the Election Monitor or Tribal Court, at the first regularly scheduled Tribal Council meeting following the certification of the election by the Election Board to the Tribal Council, the Tribal



Chief and the newly elected Officials shall gather in the Tribal Council Chambers for the administration of the oath of office by the Tribal Chief to the newly elected officials. If the Tribal Chief is not available or if the Chief is the person who has to take the oath of office, the Secretary of the Tribal Council, shall administer the oath. Immediately upon the taking of the oath of office, the Tribal Council members or in the case of the Chief, the Chief, shall begin their terms of office. The oath of office shall be as follows:

I, \_\_\_\_\_, do solemnly swear [or affirm] that I shall uphold and defend the Constitution and laws of the Coyote Valley Band of Pomo Indians and shall faithfully carry out my duties as \_\_\_\_\_.

2. Terms of Officers. The members of the Tribal Council elected pursuant to this Ordinance shall hold office from the time of their swearing in as officers until their term of office expires and their successors are sworn in.

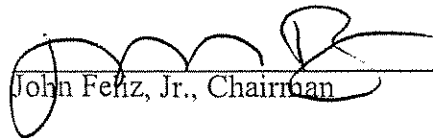
Section 3. Effective Date. This Ordinance shall take effect on the date of enactment by the Tribal Council and approved by the Chief.

Section 4. Severability. If a court of competent jurisdiction finds any provision of this Ordinance to be invalid or illegal under applicable federal or tribal law, such provision shall be severed from this Ordinance. The remainder of this Ordinance shall remain in full force and effect.


### CERTIFICATION

The foregoing Ordinance was adopted by the Tribal Council at a regular meeting held on the 8<sup>th</sup> day of OCTOBER, 2009, by the following vote:

AYES: 7  
NOES: 0  
ABSTAIN: 0  
ABSENT: 0

  
John Fehz, Jr., Chairman

ATTESTED:

  
Candace Lowe, Secretary

APPROVED:

  
Richard Campbell, Sr., Tribal Chief