



COYOTE VALLEY

Band of Pomo Indians

COYOTE VALLEY BAND OF POMO INDIANS TRIBAL COUNCIL

ORDINANCE NO. CV-TC-12-19-13-01

AN ORDINANCE OF THE COYOTE VALLEY BAND OF POMO INDIANS TRIBAL COUNCIL REGULATING THE CONDUCT OF RECALL PETITIONS AND ELECTIONS

SECTION 1. FINDINGS, INTENT, POLICY AND SCOPE

1. Findings. The Tribal Council of the Coyote Valley Band of Pomo Indians (the “Tribe”) finds that:
 - 1.1. The Document Embodying the Laws, Customs and Traditions of the Coyote Valley Band of Pomo Indians (the “Tribal Constitution”) grants all members of the Tribe the right to petition for a special recall election against any member of the Tribal Council and the Chief of the General Council.
 - 1.2. Recall is a powerful implement of the Tribe’s democratic form of government, giving Tribal members the ability to remove an elected leader from office before the expiration of his or her term.
 - 1.3. As with any implement of considerable power, the risks of abuse are high.
 - 1.4. Historically, some tribes have used the power of recall not as a shield against derelictions of duty, but instead as a sword to strike down elected officials without cause.
 - 1.5. Recall elections are costly from multiple perspectives: they drain Tribal financial resources, erode the Tribal community and harm the Tribe’s reputation within and without Indian Country.
 - 1.6. At the same time, the existence of Constitutional recall helps ensure the will of the people remains superior to the actions of its elected officials, a foundational tenant of the Tribe’s representative democracy.
 - 1.7. Over the years, states and municipalities have attempted to regulate the use of recall elections in a variety of ways and with varying degrees of success, usually with the intention of restricting special recall elections to situations where wayward officials threaten the people’s will.
 - 1.8. After reviewing several model recall codes, the Tribal Council has decided that a regulatory ordinance mandating heightened requirements of notice, transparency and

accountability based on the standards set by the Tribal Constitution will help ensure recall elections are an important aid to Tribal democracy.

2. Intent. The Tribal Council declares that the intent of this Ordinance is to provide regulations guiding the Tribe's Constitutional recall ("Recall") process in a manner that neither stifles the Constitutional rights of Tribal members nor unnecessarily impedes the ability of elected officials to govern.
3. Policy. In enforcing this Ordinance, it is the Tribe's stated policy to encourage responsible use of the Recall process. Any ambiguities in the interpretation or enforcement of this Ordinance should be construed in favor of permitting the Recall process to occur.
4. Scope. This Ordinance shall apply to all Recall elections and Petitions allowable under the Tribal Constitution.

SECTION 2. DEFINITIONS

1. Title. This Ordinance shall be known as the Coyote Valley Recall Regulatory Ordinance.
2. Definitions.
 - 2.1. "Answer" means a Recallee's optional response to one or more charges levied against him or her by one or more Proponents, as stated in a Notice of Intention.
 - 2.2. "Chief" means the Chief of the Tribe, whose authority derives from the Tribal Constitution.
 - 2.3. "Circulator" means an Eligible Tribal Member who circulates a Petition and, by virtue of such activity, must comply with the circulation procedures of this Ordinance.
 - 2.4. "Declaration" means a Circulator's written statement attesting to the validity of signatures affixed to a Petition.
 - 2.5. "Eligible Tribal Member" means an adult voting member of the Tribe, eligible to vote under Tribal Constitutional law.
 - 2.6. "Notice of Insufficiency" means the document produced by the Chief denying the sufficiency of signatures to a Petition and effectively preventing a Recall election from occurring without successful amendment of the Petition.
 - 2.7. "Notice of Intention" means the document a Proponent delivers to a Recallee informing him or her of the Proponent's intention to seek a Recall election against the Recallee, which must be served, filed in and drafted in accordance with this Ordinance.
 - 2.8. "Notice of Sufficiency" means the document produced by the Chief certifying the sufficiency of signatures to a Petition and effectively permitting a Recall election.
 - 2.9. "Officer" means any member of the Tribal Council, or the Chief of the General Council, elected or appointed to serve the Tribe.

- 2.10. “Ordinance” means this Coyote Valley Recall Regulatory Ordinance
- 2.11. “Page of the Petition” means any side of any document on which the signatures of Eligible Tribal Members appear for the purpose of establishing the requisite number of signatories to evoke a recall election, submitted to the Chief as part of a Petition.
- 2.12. “Policy” means the policy guiding the implementation and enforcement of this Ordinance, as described in Section 1, Subpart 2.
- 2.13. “Proponent” means an Eligible Tribal Member who initiates a Recall against an Official by serving a Notice of Intention.
- 2.14. “Proposed Petition” means the form of a Petition, which must be submitted to the Chief for approval prior to circulation.
- 2.15. “Recall” means the power of Eligible Tribal Members to remove an elected officer of the Tribe pursuant to Article XI, Section 2 of the Tribal Constitution, this Ordinance and other Tribal law.
- 2.16. “Recallee” means the elected official against whom a Recall is sought.
- 2.17. “Residence Address” means the location where a person primarily and physically resides.
- 2.18. “Section of the Petition” means one or more Pages of a Petition assembled in accordance with this Ordinance.
- 2.19. “Tribal Constitution” means the Document Embodying the Laws, Customs and Traditions of the Coyote Valley Band of Pomo Indians, including all amendments thereto.
- 2.20. “Tribal Council” means the elected, representative governing body of the Tribe.
- 2.21. “Tribal Court” shall have the meaning assigned to it in Article XIV of the Tribal Constitution.
- 2.22. “Tribal Prosecutor” shall mean the chief legal representative of the legal party responsible for enforcing the Tribe’s laws.
- 2.23. “Tribe” means the Coyote Valley Band of Pomo Indians.

SECTION 3. GENERAL PROVISIONS

1. Agency. This Ordinance is enacted pursuant to the inherent sovereign powers of the Tribe, in accordance with the Tribal Constitution.
2. Construction. In construing the provisions of this Ordinance, the following shall apply:

- 2.1. The provisions of this Ordinance, being necessary for the benefit of the Tribe and its members, shall be liberally construed to effectuate its purpose and to promote substantial justice in accordance with its stated Policy.
- 2.2. The Findings, Intent, Policy and Scope stated in Section 1 constitute the standards to be observed by the offices of the Chief and the Tribal Council in their respective exercise of discretionary powers under this Ordinance and in all matters of construction and application of this Ordinance required for any determination or action.
3. Conformity with the Tribal Constitution. Where any provision of this Ordinance conflicts with the Tribal Constitution, the Tribal Constitution shall prevail.
4. Severability. If any section of this Ordinance is invalidated by a court of competent jurisdiction, the remaining sections shall not be affected thereby.
5. Effective Date. This Ordinance will take full force and effect upon the date it becomes law in accordance with Article VIII, Section 1 of the Tribal Constitution.

SECTION 4. RECALL PROCESS

1. Service of Notice of Intention. To begin a Recall against an Officer, a Proponent must serve a copy of a Notice of Intention by personal delivery or by certified mail on each Recallee.
2. Filing of Notice of Intention. A Proponent must file the original Notice of Intention, along with an affidavit of the time and manner of service, with the Chief. A separate Notice of Intention must be filed against each Recallee. The Notice of Intention must contain:
 - 2.1. The name and title of the Recallee;
 - 2.2. A statement not more than twenty-five words in length of the charge(s) against the Recallee; and
 - 2.3. The printed name, signature, primary e-mail address, primary telephone number, Tribal identification number and residence address of each Proponent, provided that if a Proponent cannot receive mail at his or her residence address, the Notice of Intention must also contain his or her mailing address.
3. Answer of Recallee. Within seven (7) days following the filing of the Notice of Intention, the Recallee may file with the Chief an Answer of not more than twenty-five (25) words. The Answer shall be signed and shall be accompanied by the printed name and business or residence address of the Recallee.
4. Service of Answer. If an answer is filed, the Recallee must, within seven (7) days following the filing of the Notice of Intention, serve a copy of the Answer, by personal delivery or certified mail, on each Proponent named in the Notice of Intention.
5. Approval of Petition. Proponents must file two (2) blank copies of the Proposed Petition with the Chief within ten (10) days following the filing of the Answer, or, if no Answer is filed, within ten (10) days following the expiration of the seven-day (7-day) period for filing

the Answer. The Chief must, within ten (10) days of receiving the copies of the Proposed Petition, determine whether the form and wording of the Proposed Petition meets the necessary requirements and notify each Proponent in writing of his or her findings. If it is found that the Proposed Petition does not meet the requirements, the notification must include a statement of what alterations in the Proposed Petition are necessary. Then, each Proponent must file two blank copies of the corrected Proposed Petition with the Chief within ten (10) days following receipt of the notification. No signature may be obtained on the Petition until the Proposed Petition has been approved by the Chief. All Petitions, including any approved Proposed Petition, must include the following:

- 5.1. Each Page of a Petition on which signatures appear must include in no less than eight-point (8-point) type:
 - 5.1.1. A request that an election be called to elect a successor to the office;
 - 5.1.2. A statement not more than twenty-five (25) words in length of the reason(s) for Recall identical to the statement provided on the Notice of Intention;
 - 5.1.3. The name of each Proponent; and
 - 5.1.4. The Answer, if any, of the Recallee, provided that where the Recallee has not provided an Answer, the Petition must so state.
- 5.2. Each signatory must personally place his or her own information on the Petition and must personally affix his or her:
 - 5.2.1. Printed Name;
 - 5.2.2. Signature;
 - 5.2.3. Primary telephone number;
 - 5.2.4. Tribal identification number;
 - 5.2.5. Residence Address, including street and number, or if no street or number exists, adequate designation of residence so that the location may be readily determined; and
 - 5.2.6. Name of city, town or community.
- 5.3. Each Section of the Petition must have attached to it a Declaration signed by the Circulator of that Section of the Petition setting forth in the Circulator's own hand all of the following:
 - 5.3.1. The printed name of the Circulator;
 - 5.3.2. The Residence Address of the Circulator, including the street and number, or if no street or number exists, adequate designation of residence so that the location may be readily determined;

- 5.3.3. Primary telephone number of the Circulator;
- 5.3.4. Primary e-mail address of the Circulator;
- 5.3.5. Tribal identification number of the Circulator; and
- 5.3.6. The dates between which all signatures to the Section of the Petition were obtained.

5.4. The Declaration itself must also state:

- 5.4.1. That the Circulator circulated that Section of the Petition and witnessed the appended signatures as each was being written;
- 5.4.2. That, according to the best information and belief of the Circulator, each signature is the genuine signature of the person whose name it purports to be;
- 5.4.3. That the Circulator is an Eligible Tribal Member;
- 5.4.4. That the Circulator certifies to the content of the declaration, as to its truth and correctness, under penalty of perjury; and
- 5.4.5. For each Section of the Petition, the date and place of execution along with the Circulator's name and signature.

6. Circulation of Petition.

- 6.1. Only Eligible Tribal Members may circulate a Petition.
- 6.2. Only Eligible Tribal Members may sign a Petition.
- 6.3. A Petition must be signed by at least 1/3 of the Eligible Tribal Members before the Chief will consider it for certification.

7. Filing of Petition. All Proponents of a Petition have thirty days (30) days from the date any Proponent receives, in writing, notice of the Chief's approval of the Proposed Petition to gather the required number of signatures. Completed Petitions must be filed with the Chief.

8. Rescinding of Signatures. A signatory to a Petition may rescind his or her signature from a Petition provided a written request is received by the Chief prior to the date on which the Chief serves the Notice of Certification to the Tribal Council.

9. Certification of Petition. The Chief shall, within fourteen (14) days, but not prior to ten (10) days, of the filing of a Petition, certify the validity of signatures by any reasonable manner and, upon completion of the certification process, serve Notice of Certification or Notice of Insufficiency to the Tribal Council, the Recallee and the Proponent(s), provided that the method of certification shall be included in all such notices.

10. Notice of Insufficiency. A Notice of Insufficiency must state with reasonable detail the reason(s) for the determination of insufficiency and that the Proponent(s) have ten (10) days

following receipt of the Notice of Insufficiency by any Proponent to amend and resubmit the Petition.

11. Amending a Petition Following Notice of Insufficiency. If a Petition is found to be insufficient, the Proponent(s) must be allowed to examine the Petition. Proponents shall have ten (10) days following receipt of the Notice of Insufficiency by any Proponent to amend and resubmit the Petition. A Petition may only be amended and resubmitted two (2) times before it shall be destroyed in accordance with Subpart 13, below.
12. Challenge of Sufficiency by Recallee. Within ten (10) days after a Petition is filed with the Chief for certification, the Recallee may examine and, if he or she desires, may challenge the sufficiency of the Petition. Any challenge to the validity of the signature on a Petition must demonstrate by affidavits or other supporting evidence a failure to comply with statutory requirements. The burden of proof is on the challenger. The information on a Petition is presumed valid unless proven otherwise.
13. Destruction of Insufficient Petition. If, following all challenges, amendments and required Notices of Insufficiency, a Petition remains insufficient, the Chief shall cause the Petition to be destroyed unless prevented by the Tribal Court.
14. Notice of Recall Election. Within sixty (60) days following the issuance of a Notice of Certification, the Tribal Council shall call and hold a special election in accordance with the Tribal Constitution.
15. Effect of Recall of the Chief. In the event it is the Chief who is the subject of a Petition, the Chairperson of the Tribal Council shall assign all duties of the Chief under this Ordinance to a member of the Tribal Council.
16. Effect of Recall on Recallee. Upon the filing of a Notice of Intention, a Recallee may not be removed, whether permanently or temporarily, through suspension or other means, from office until the completion of the Recall process, provided that this provision shall in no way prevent subsequent efforts of Recalls or other removals from office under Tribal law.

SECTION 5. VIOLATIONS AND ENFORCEMENT

1. Fraudulent Names. The Chief shall keep a record of all signatures appearing on a Petition which he or she does not certify as a valid signature and shall report the same to a Tribal Prosecutor for possible prosecution.
2. Violations by Signatories. Every person who signs a Petition with any other than his or her true name is guilty of a crime. Every person who knowingly and maliciously prepares a false statement as to the cause of the recall petition is guilty of a crime punishable by the Tribal Court.
3. Enforcement Provision. The Tribal Court has jurisdiction to compel the performance of any act required of any Tribal officer or employee or to prevent the performance by any such officer or employee of any act in relation to the recall not in compliance with Tribal law. Any proceeding to compel or to prevent the performance of any such act shall be begun

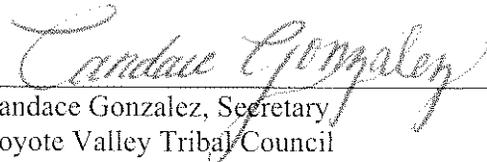
within ten (10) days from the time the cause of the complaint arises, shall be considered an emergency matter of Tribal concern, take precedence over other cases and be speedily heard and determined. The decision of the Tribal Court is final and not subject to appeal.

CERTIFICATION

This is to certify that the foregoing Ordinance was approved by the Coyote Valley Band of Pomo Indians Tribal Council at a duly noticed and convened meeting held on December 19, 2013, and was approved by a vote of 7 For 0 Against with 0 Abstaining, and that this Ordinance has not been amended or rescinded in any way.



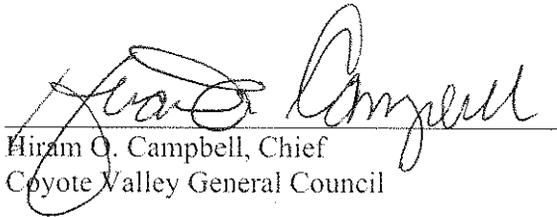
Michael Hunter, Chairman
Coyote Valley Tribal Council



Candace Gonzalez, Secretary
Coyote Valley Tribal Council

APPROVAL

By the power invested in me by the Document Embodying the Laws, Customs and Traditions of the Coyote Valley Band of Pomo Indians, I hereby approve this Ordinance and the law created herein.



Hiram O. Campbell, Chief
Coyote Valley General Council

12/30/13
Date