

HOPLAND BAND OF POMO INDIANS

TRIBAL CODE

Title 3. Elections

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Section 3-1.10 Definitions.

(a) “*Election*” shall include the following: elections to the Tribal Council as provided for in Article 5; a recall election as defined by Article 6, Section 2; an election to amend the Constitution as provided for in Article 5, Section 7 and Article 14; a special election as defined by Constitution Article 7, Section 1; and a referendum as defined by Article 15.

(b) “*Eligible Tribal Member*” shall mean any enrolled Tribal member who is 18 years or older on the date of any scheduled Election.

(c) “*Interested Person*” shall mean a candidate for tribal office or the person who sponsored, or is the subject of, a Constitutional Amendment, referendum, or recall.

(d) “*Qualified Voter*” shall mean a person who meets the criteria set forth in Article V, Section 1 of the Tribe’s Constitution: any enrolled Tribal member who is 18 years or older on the date of any scheduled Election and who is duly registered to vote pursuant to the Tribe’s voter registration system.

Section 3-1.20 Conformity with Tribe’s Constitution. All Elections shall be conducted in conformity with the Tribe’s Constitution. Where any provision of this Chapter conflicts with any provision of the Constitution, the provision of the Constitution shall prevail.

Chapter 3-2 ELECTION COMMITTEE

Section 3-2.10 Qualifications. The Election Committee shall be composed of 5 to 7 Eligible Tribal Members. Election Committee members shall not be Tribal Council members, an Administrative Officer or Appointed Official as defined by Tribal law.

Section 3-2.20 Appointment and Terms of Office. All Election Committee members shall be appointed by the Tribal Chair and confirmed by the Tribal Council. Terms of office shall be for 2 years.

Section 3-2.30 Vacancy of Election Committee. If a vacancy on the Election Committee occurs, the Tribal Chair shall appoint a new committee member subject to the approval of the Tribal Council.

Section 3-2.40 Officers of the Election Committee. The Election Committee shall elect from its members a Chairperson, Vice Chairperson, Secretary, and a Treasurer who shall serve for 2 years.

Section 3-2.50 Budget for Election Committee. Every year the Election Committee shall submit a budget to the Tribal Council that includes all Election costs and other costs necessary to perform their duties as set forth in this Chapter. The Election Committee must comply with all Tribal fiscal policies and procedures.

(a) *Compensation.* If the overall tribal budget permits it, members of the Election Committee, who attend meetings, may receive compensation in an amount approved on an annual basis by the Tribal Council.

(b) *Funding Elections.* Funds for all Elections and Election Committee costs, and supplies, (i.e. ballots, tally lists, etc.), shall be made available through tribal funds. However, the cost of Elections shall be offset by a candidate nomination fee set by the Election Committee before Candidates' Day. The nomination fee shall be placed in tribal funds to help pay for the costs of the Election. The nomination fee shall not be based on the length of the term of office, and must be paid by candidates on Candidates' Day.

(c) *Election Committee Meetings.* Meetings of the Election Committee shall be called in order to conduct all Tribal elections and perform duties as set forth in this Chapter.

(d) *Monthly Meetings.* The Election Committee shall set a place and time for regular monthly meetings. All Election Committee meetings will be conducted on the Hopland Reservation. The Election Committee Secretary shall post a schedule of meetings on or near the Tribal Office door each month. The Election Committee Chairperson shall update the schedule and inform each Committee member of any changes to time or place of the regular monthly meeting

(e) *Special Meetings.* The Election Committee Chairperson shall provide notice of all Special Meetings at least 48 hours before the Special Meeting.

(f) *Executive Sessions.* All Committee meetings shall be conducted in public. There are to be

no Executive Sessions.

(g) *Quorum of the Election Committee.* A majority of the Committee is required to establish a quorum. The Election Committee shall not conduct any business unless a quorum is present.

Section 3-2.60 Tribal Roll. Twice a year the Secretary of the Tribal Council shall present the Election Committee Chairperson certified and electronic copies of an updated list containing the names, addresses, dates of birth, and enrollment numbers of all Eligible Tribal Members (Tribal Roll).

(a) *Special request of Tribal Roll.* If needed, the Election Committee Chair shall make a written request for the Tribal Roll from the Secretary of the Tribal Council. The Secretary of the Tribal Council shall update the Tribal Roll and provide the Election Committee with a current and accurate Tribal Roll within 48 hours of receipt of the written request to do so.

Section 3-2.70 Election Committee Post Office Box. The Election Committee shall arrange with the United State Post Office for a post box to receive Election Committee mail. Two Election Committee members, who are not related to each other, must go together to open the box and receive the mail.

Section 3-3.10 Who may vote. Any Qualified Voter, as defined in the Constitution and this Title 3, shall have the right to vote in an election.

Section 3-3.20 Qualified Voters List. The Election Committee shall keep an up-to-date, alphabetical list of Qualified Voters. This Qualified Voters list shall be posted at the Tribal Office at least twice (2) per year, on or about February 1 and August 1.

Section 3-3.30 Voter Registration System. As required by the Constitution, and to maintain the integrity of the election process, there is hereby established a voter registration system. The procedures set out below are to ensure that the person voting is a Qualified Voter.

(a) *Notice of Voter Registration System.* At least twice a year, the Election Committee shall submit a notice to the Tribal Newsletter advising Tribal members of the Voter Registration System.

(b) *The Voter Registration Card.* The Voter Registration Card must contain the following information: signature; printed name; Tribal enrollment number; current mailing address; and the option to select “voting status” as either absentee ballot or walk-in. It must also include the date of registration and a space for a notary acknowledgment and Election Committee Member’s verification of identity. A Tribal member’s identity must be verified by either a notary or by an Election Committee member.

(i) *Verification of Identity By Notary.* A Tribal Member may sign the Voter Registration Card in front of a notary, and have the Voter Registration Card notarized, in order to verify his or her identity.

(ii) *Verification of Identity by Election Committee Member.* If an Election Committee member is verifying the Eligible Tribal Member’s identity, the Voter Registration Card must include that Election Committee member’s signature. An Election Committee member shall not sign any Voter Registration Card unless the person has provided a picture identification verifying that they are in fact the person they claim to be. Picture identification means: (1) tribal identification; (2) driver’s license; (3) state issued identification card (4) passport; or (5) military identification.

Section 3-3.40 Registration. In order to be a Qualified Voter, an Eligible Tribal Member must keep a current Voter Registration Card on file with the Election Committee. A change in name, mailing address, or “voting status” requires a new Voter Registration Card. Further if a Voter Registration Card is lost, stolen or destroyed, a new Voter Registration Card will be required.

(a) *Filing Voter Registration Card in Person.* In order to vote, a Tribal member must have a Voter Registration Card on file with the Election Committee by 5:00 p.m. 10 days prior to the Election.

(b) *Filing Voter Registration Card by Mail.* All Eligible Tribal Members shall have the right

to file a Voter Registration Card by mail. The Election Committee shall mail out a Voter Registration Card to all Eligible Tribal Members who request one.

Section 3-3.50 Responsibility of Voter. Notwithstanding any provision of this Chapter to the contrary, it is the responsibility of each Eligible Tribal Member to register to vote. Failure of the Election Committee to follow the above procedures shall not be used to allow a vote to be counted if there is no Voter Registration Card on file with the Election Committee.

Section 3-3.60 Storage of Cards. All Voter Registration Cards shall be locked in a fireproof cabinet which will be located in the Election Office or other secure area as determined by the Election Committee.

Section 3-4.10 Tribal Council Candidate Eligibility Determination. It is the Election Committee's duty to determine whether each Tribal Council candidate is eligible, as prescribed by the Tribe's Constitution, to run for or serve on the Tribal Council or any other elected position.

(a) *Qualified Voter.* A candidate must be a Qualified Voter. *Felony Conviction.* A candidate that has been convicted of a felony will not be permitted to run for, or serve on, the Tribal Council, unless the candidate has been pardoned or had the conviction expunged according to applicable law.

(b) *Residency.* Candidates must be residents of the State of California.

Section 3-4.20 Background Checks. The Election Committee shall cause a background check to be performed on every prospective candidate that is a Qualified Voter. A background check shall be valid for 6 months. All background checks shall remain confidential.

(a) *Procedure.* The Election Committee Chair shall provide the Hopland Reservation Chief of Police with each prospective candidate's name and other relevant information. Each candidate shall provide all needed information for such background check within 3 days from Candidates' Day. Failure to provide all needed information for this background check will result in the candidate's ineligibility. The Chief of Police, or designee, will conduct a background check to determine eligibility under Section 3-4.10. The Chief of Police may consult with the Tribal Attorney as needed. Upon completion of the background check, the Chief of Police shall notify the Chair of the Election Committee whether each candidate is eligible. If the prospective candidate has a felony conviction, the Chief of Police shall disclose only the existence of a felony conviction, not the details of the felony conviction.

(b) *Pardon or Expungement.* If the candidate with a felony conviction claims to have received a pardon or expungement, the burden is on them to prove as much by providing supporting information to the Chief of Police who shall then consult with the Tribal Attorney to jointly review and recommend whether the felony conviction continues to disqualify the candidate. That recommendation will be provided to the Chair of the Election Committee. The Election Committee will then determine whether such candidate is eligible to run for or serve on the Tribal Council.

Section 3-4.30 Nomination of Candidates. Approximately 45 days prior to the Election, the Election Committee shall hold a Candidates' day. Candidates interested in serving on the Tribal Council may nominate themselves in person or be nominated by a Qualified Voter.

Section 3-4.40 Posting of Candidate's Names. Within 10 days of Candidates' Day, the Election Committee Chair shall post all candidate names at the Tribal Office and one other visible location on the Reservation. The Election Committee shall duly update the list if a candidate withdraws or is determined not to be eligible.

Section 3-4.50 Write-In Candidates. No write-in candidates will be accepted and will result in ballot being spoiled.

Chapter 3-5 **BALLOTS AND BALLOT BOXES**

Section 3-5.10 Ballots. The Election Committee shall prepare all ballots.

(a) *Ballots for Tribal Council Elections.* The names of the eligible candidates for Tribal Council shall be in alphabetical order by last name. The ballot for Tribal Council elections shall contain the following instructions:

“YOU MAY VOTE FOR NO MORE THAN _____CANDIDATE(S) FOR TRIBAL COUNCIL. PLACE A MARK IN THE BRACKETS BY THE NAME OF EACH PERSON YOU WISH TO VOTE FOR. YOU MAY NOT GIVE ANY CANDIDATE MORE THAN ONE VOTE. IF YOU NEED ASSISTANCE, THE MEMBERS OF THE ELECTION COMMITTEE WILL HELP YOU.

[]

_____“JANE DOE”
_____ (NAME OF CANDIDATE)

(b) *Other Ballots.* The Election Committee shall prepare clearly worded ballots, so that Qualified Voters can understand the nature of the issues and choices to be decided in referenda, constitutional amendments, and recall elections .

Section 3-5.20 Ballot Boxes. There shall be 2 ballot boxes: a Ballot Box; and a Spoiled Ballot Box. All Ballot Boxes shall be locked. Before ballots are accepted into a Ballot Box, the Election Committee shall open it to ensure that it is empty. During all Elections, at least 3 Election Committee members shall be in the room with the Ballot Boxes until all ballots are counted and tallied, challenges to spoiled ballots or rejected absentee ballots are heard and decided, and the results announced. At all other times the Ballot Boxes and ballots shall be stored at the Tribal Police offices in a secure location.

Chapter 3-6 ELECTION DAY

Section 3-6.10 Time of Election. Tribal Council elections shall be held on the first Saturday in March or as closely as possible, as determined by the Election Committee, unless otherwise determined by the Tribal Council. Dates for all other elections shall be designated by the Election Committee, in consultation with the Tribal Council.

(a) *Postponement of Election Day.* In the event that the Tribal Council determines the need to postpone an Election, the Tribal Council, may postpone the election day for a reasonable amount of time, not to exceed 30 days. The Election Committee shall immediately provide public notice of the postponement and establish a new voting date.

Section 3-6.20 Conducting the Election. At least three Election Committee members shall be present in the room whenever voting is taking place.

Section 3-6.30 Campaigning at the Polls. No person shall campaign within one hundred (100) feet of the voting area. If any dispute about this should arise, the Election Committee members present (a minimum of three) shall immediately decide the issue. If the Election Committee decides that there is campaigning at the polls, the following must occur:

- (a) *Warning* – The individual(s) will be given one verbal warning to stop;
- (b) *Removal* – If the individual(s) continue, the Election Committee will ask the Tribal Police to remove the individual(s);
- (c) *Fine and removal from ballot* – If the campaigning continues, the Election Committee may fine the individual(s) and if they are a candidate he or she may be removed from the ballot;
- (d) *Final decision and Tribal Court Order* – The Election Committee’s decision shall be final except as provided in Chapters 3-9 and 3-10 of this Title.

Chapter 3-7 VOTING

Section 3-7.10 Location and Hours. Voting for all Elections shall take place at the Tribal Community Hall or at another location on the Reservation set by Election Committee resolution. Voting shall be conducted from 9:00 a.m. to 7:00 p.m. on the date set for the Election.

Section 3-7.20 Voting Procedure. All voting shall take place using the following procedure.

(a) *Committee Member Responsibilities.* One Election Committee member shall control the verified Voter Registration Cards, the second member shall verify the poll book, and the third member shall hand out the ballots and supervise the Ballot Box. All ballots shall be counted, and accounted for as set forth in Chapter 3-8.

i. The Election Committee shall first determine whether a Voter Registration Card is on file with the Election Committee. If there is no Voter Registration Card on file, the individual shall not be permitted to vote.

ii. If there is a Voter Registration Card on file, the person shall then sign his or her name in the poll book. If the person is unable to do so, the Election Committee member shall write “unable to sign” by that name and have the person make his/her mark.

iii. An Election Committee member shall verify the person’s identity by visual comparison with a form of photo identification as defined in Section 3-3.30(b)(ii). Once an Election Committee member has verified the person’s identity as a Qualified Voter, the Election Committee member shall note such verification in the poll book by signing his or her initials by the Qualified Voter’s name. The Election Committee shall then issue the Qualified Voter a ballot and an envelope.

(b) The Qualified Voter shall then be directed to a designated, private area to mark the ballot. The Qualified Voter may request an Election Committee member’s assistance in marking the ballot. The Qualified Voter shall place the completed ballot in the envelope provided by the Election Committee and deposit it into the locked Ballot Box.

(c) If a Qualified Voter accidentally makes a mistake on or destroys his or her ballot, a new ballot shall be issued to the voter, with the correction noted in the poll book; the spoiled ballot shall immediately be marked “void” by an Election Committee member and shall be retained by the Election Committee in the ballot box reserved for spoiled ballots.

(d) *Secret Ballot.* All Elections shall be by secret ballot.

Section 3-7.30 Absentee Voting. Provisions for absentee balloting are required for all Elections. The Election Committee shall mail every Qualified Voter, who has selected “absentee” on their Voter Registration Card, an absentee ballot no less than 20 days prior to the Election. Any Qualified Voter shall be eligible to vote by absentee ballot in accordance with the following procedures:

(a) *Absentee Ballots and Envelopes.* The absentee ballot shall consist of: (1) a paper ballot which meets the requirements of Section 3-5.10 of this Title; (2) an instruction sheet; (3) an inner envelope marked “official ballot;” and (4) a postage paid, self-addressed return envelope.

(b) *Absentee Voting Procedure.* The voter shall mark the ballot, and seal it in the inner envelope. The voter shall then place the inner envelope, with no writing on it, inside the return envelope and seal the return envelope. The voter shall print name and address on the return envelope, sign the return envelope and return it to the Election Committee.

(c) *Retrieving Absentee Ballots from Post Box.* While the Election Committee is receiving absentee ballots, the two Election Committee members must have a Tribal Police escort when retrieving Election Committee mail. Also, the post box key shall be kept in the locked Ballot Box and the key to the locked ballot box shall be under the control of the Tribal Chief of Police.

(d) *Collecting Absentee Ballots on Election Day.* Two Election Committee members and at least one Tribal Police officer shall go to the post office to collect the absentee ballots. Upon verification of signatures as required in Section 3-7.40 the Election Committee members shall deposit the absentee ballots into the Ballot Box.

(e) *Late Receipt of Absentee Ballots.* No ballots received after the close of the polls for voting shall be counted. All late ballots shall be collected, remain unopened and marked “Spoiled.”

Section 3-7.40 Absentee Ballot Envelope Inspection and Spoliation. The Election Committee shall compare the signature on the return envelope with the signature on the Voter Registration Card. If the signatures match, the return envelope shall be opened and the inner envelope shall be deposited in the Ballot Box. If the signatures do not match, the absentee ballot shall be spoiled. If a ballot is spoiled because the signatures do not match the return envelope shall not be opened. The spoiled ballot in the return envelope shall be deposited in the Spoiled Ballot Box.

Section 3-8.10 Count and Tally of Ballots. Immediately after the polls are closed, the Election Committee shall open the Ballot Box and shall count and tally the votes. One member of the Election Committee shall open and read the ballots. The Election Committee Chair and 2 Election Committee members designated by the Election Committee Chair shall each concurrently record the tally on tally sheets while the other Election Committee members observe the count and tally. If the tallies match, the count and tally are completed. If the tallies as recorded do not match, the procedure shall be repeated until the counts and tallies are reconciled.

Section 3-8.20 The Tally Sheet. Before any Election the Election Committee must approve a tally sheet to be used to count votes. The tally sheet must set forth: (1) the number of ballots distributed; (2) the total number of votes cast; (3) the number of votes cast at the voting station; (4) the number of votes cast by absentee ballot (4) the number of spoiled ballots (as defined in Sections 3-7.40 and 3-8.30); (5) the number of votes cast for each candidate, or, in the case of a Constitutional Amendment, referendum, or recall election, the number in favor of and opposed to the referendum or recall (6) the statement “I, the undersigned member of the Election Committee, hereby certify that the above count and tally is true and correct, executed this __ day of _____, 2_____;” and (7) signature lines for each Election Committee member.

Section 3-8.30 Spoiled Ballot: Definition. The members of the Election Committee may determine that a ballot is spoiled only if: (1) the ballot was late; (2) the ballot included a write-in response; (3) it is an absentee ballot that was inspected and determined to be spoiled according to Section 3-7.40; or (4) a majority of the Election Committee find that they are unable to clearly determine the voter’s intent from the marks on the ballot, because:

- (a) The voter failed to mark an “X” on the ballot or sufficiently close to the appropriate areas designated for the mark;
- (b) The voter marked too many candidates;
- (c) In the case of a Constitutional Amendment, referendum or recall, the voter marked both approval and disapproval of the issue; or
- (d) The voter informed a member of the Election Committee at the polling station that the voter mistakenly marked or damaged the ballot. However, solely in this situation the voter will be issued a new ballot to replace the spoiled ballot.

Section 3-8.40 Announcement of Election Results and Certification. Upon conclusion of the count and tally and after the tally sheets are signed, the Election Committee will announce the winners, or, in the case of a referendum, recall, or Constitutional amendment, whether the measure passed or failed or the official was recalled. The winner or winners shall be determined on the number of votes received, and ranked in order of votes received. The Election Committee shall then immediately certify the Election by each Election Committee member signing his/her name at the bottom of each tally sheet. Winning candidates shall take office in accordance with

Chapter 3-11.

(a) *Tie Vote.* Constitutional Amendment, referendum, or recall elections that result in a tie vote shall fail. In the event of a tie for the last or only position for Tribal Council, the winner shall be decided by a run-off election to be held within 30 days of the original election.

(b) *Delivery of Results to Tribal Council.* In order to allow time for recounts and challenges pursuant to Chapters 3-9 and 3-10 the results shall be delivered to the Chairperson of the Tribal Council or, in the absence of the Chairperson, the Vice-Chairperson of the Tribal Council on the sixth (6th) day following the announcement and certification of the Election results.

Section 3-9.10 Candidates Right to Inspection and Challenge. After the results of an Election have been certified and announced, any Interested Person shall have the right to:

(a) Within 3 days of the certification of the Election results, inspect the poll book, Voter Registration Cards, ballots, outer envelopes used in absentee voting, and tally sheets for conformity with the procedures set forth in this Title;

(b) Within 3 days of the certification of the Election results, challenge the Election Committee's determination that a ballot is spoiled or the Election Committee's rejection of an absentee ballot, pursuant to Section 3-9.20;

(c) Within 3 days of the certification of the Election results, request a recount pursuant to Section 3-9.30;

(d) Within 3 days of the certification of the Election results, file an appeal of any Election Committee decision that had a material effect on the outcome of the Election pursuant to Section 3-10.10;

(e) Within 10 days of the certification of the Election results, file a petition with the Tribal Court pursuant to Chapter 3-10.

Section 3-9.20 Challenges to Spoiled Ballots and Absentee Ballots. Any Interested Person may challenge the Election Committee's determination that a ballot is spoiled. The Election Committee will conduct a review of the challenged ballot within 2 days of the request. If a challenge to a spoiled ballot is granted, the spoiled ballot shall be considered a properly completed ballot and it shall be added to the election count and tally. Ballots shall be retained by the Election Committee for a period of two years. If the Interested Person is unhappy with any decision made by the Election Committee during the challenge to spoiled ballots and rejected absentee ballots, then the Interested Person may challenge the Election Committee's decisions pursuant to Chapter 3-10.

Section 3-9.30 Recounts. Where the outcome to an Election is determined by 5 or fewer votes, and the Interested Person can present reasonable evidence of an apparent error or omission that could have had a material effect on the outcome of the Election, a recount may be requested. Such a request shall be made in writing to the Election Committee. A recount will be granted and conducted within 2 days of the request.

Chapter 3-10 ELECTION CHALLENGES IN THE TRIBAL COURT

Section 3-10.10 Challenge to Election Committee Decisions in Tribal Court. Any Interested Person may seek review of any of the Election Committee's decisions or actions relating to an Election based on the belief that:

(a) An Election Committee member, through an act or omission, violated this Title or abused their discretion in such a manner that it had a material influence on the outcome of the Election; or

(b) An Election Committee member, through an act or omission, violated the provisions of this Title in such a manner that the member should be sanctioned.

Section 3-10.20 Tribal Court Jurisdiction and Standard of Review. The Tribal Court is granted jurisdiction to review the decisions of the Election Committee made during any Election and to issue such orders as the Court deems necessary to remedy any violations of this Chapter. The Tribal Court is hereby granted jurisdiction to order:

(a) Recounts;

(b) New elections;

(c) Monetary or other sanctions that the Court deems necessary to discourage members of the Election Committee and tribal members in general from violating the provisions of this Chapter;

(d) Such other actions or sanctions as the Court deems necessary to ensure the integrity of the election process; and

(e) While the Tribal Council retains the right to appoint and remove, committee members, the Tribal Court judge may remove any or all Election Committee members for cause.

(f) The standard of review to be applied by the Tribal Court in determining whether the actions of the Elections Committee violate this law is clear and convincing evidence.

Section 3-10.30 Petition to Challenge Election Committee Decision. Any Interested Person seeking a Tribal Court order shall file with the Court, and personally serve the Secretary of the Tribal Council and the Election Committee, the following documents within 10 days of the certification of the Election being challenged:

(a) A Petition explaining in detail the basis for the challenge and the remedy requested;

(b) All documentary evidence in support of the Petition;

(c) A list of any witness that the Interested Person intends to call in support of the Petition and a summary of the matter about which the witness is to testify; and

(d) Within 24 hours of being served with a Petition, the Election Committee shall deposit with the Court the poll book, all ballots still in the ballot boxes, all tallies of votes, the certification of the results of the Election and any other evidence the Election Committee relied upon in making its decision that was the basis for the filing of the Petition to the Tribal Court.

Section 3-10.40 Hearing on Petition to Challenge Election. Upon receipt of a Petition to Challenge Election, and the supporting documents, the Tribal Court shall set a hearing date not

less than 5 days after the filing of the Petition, and serve notice on the Petitioner, the Election Committee and the Secretary of the Tribal Council. Those accused of wrongful acts may respond to the Petition by filing: a written response to the Petition; documentary evidence, and providing witness testimony at the hearing. At the hearing, the Petitioner shall present any and all evidence supporting the Petition. Once the arguments, evidence, and testimony have been presented, the Court shall rule on the Petition within two days of the hearing and adopt findings of fact and conclusions of law in support of the Court's decision.

Section 3-10.50 New Election by Order of 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 Title 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. However, new Elections shall be held no fewer than 45 days and no more than 60 days from the date of the Court ordering a new Election.

Chapter 3-11 **TAKING OFFICE.**

Section 3-11.10 Beginning of Terms. After the 10 day period following the certification of the Election, the certified winners shall be sworn in.

Section 3-11.20 Election Challenge. If a challenge has been filed in Tribal Court, no one shall be sworn in until the challenge has been decided.

Section 3-11.30 Oaths of Office. At the next regular monthly Tribal Council meeting the newly elected Tribal Council members(s) shall gather for the administration of the oath of office by the Election Committee Chair or designee. The oath of office shall be as follows:

“I, _____ DO SOLEMNLY SWEAR THAT I WILL UPHOLD THE CONSTITUTION AND LAWS OF THE HOPLAND BAND OF POMO INDIANS, THAT I WILL SERVE THE TRIBE TO THE BEST OF MY ABILITY, THAT I WILL WORK FOR THE ENTIRE MEMBERSHIP OF THE TRIBE, THAT I WILL RESPONSIBLY REPRESENT THE TRIBE, THAT I WILL CARRY OUT THE DIRECTIONS OF THE TRIBAL COUNCIL, THAT I WILL DECLARE WHEN A CONFLICT OF INTEREST COULD AFFECT THE PERFORMANCE OF MY DUTIES ON BEHALF OF THE TRIBE, AND THAT I WILL PERFORM ALL DUTIES REQUIRED OF ME BY THE CONSTITUTION AND LAWS OF THE TRIBE.”

Immediately upon the taking of the oath of office, the Tribal Council members shall begin their terms of office.

Chapter 3-12 VACANCIES, REMOVAL, RECALL, FORFEITURE AND REFERENDUM

Section 3-12.10 Vacancies.

(a) Any office which has been vacated, whether it be by removal, recall or forfeiture proceedings pursuant to Article VI of the Tribe's Constitution, shall be filled pursuant to Article VII of the Tribe's Constitution.

(b) In the event that an office is vacated during the third or fourth year of a term and the candidate who received the highest number of votes in the last Tribal Council election but did not win a seat on the Tribal Council either is no longer eligible to serve on the Tribal Council or no longer wishes to fill the office, the Council will then appoint the candidate who received the next highest number of votes in the last Tribal Council election but did not win a seat and who is eligible to serve on the Tribal Council and agrees to fill the office. Should this person also no longer be eligible to serve on the Tribal Council or no longer wishes to fill the office, then the Tribal Council shall appoint the next highest vote getter, and so on. In the event that all of the candidates who ran in the last Tribal Council election and did not win seats are no longer eligible to serve on the Tribal Council or do not wish to fill the office, the Tribal Council shall appoint any qualified voter it chooses who is eligible to serve on the Tribal Council and wishes to fill the office. A special election called to fill one or more Tribal Council seats shall count as a Tribal Council election for the purpose of determining what election was the last Tribal Council election pursuant to Article VII Section 1 (b) of the Constitution. If the candidate does not have a valid background check pursuant to Section 3-4.20, the candidate will have to pay to have a new background check performed.

(c) If the office vacated is that of an officer of the Tribal Council, then the Tribal Council shall appoint at its next meeting another Council Member to fill that officer position until the next election of officers.

Section 3-12.20 Removal, Recall, Forfeiture and Referendum

(a) Given the time, effort, and cost involved with removal, recall, and certain forfeitures of office, no person removed, recalled, or who has forfeited his or her office pursuant to Article VI, section 3(b) or (c) of the Tribe's Constitution shall be permitted to serve in that same capacity for a period of ten (10) years from the date of removal, recall, or forfeiture.

(b) Only Qualified Voters may sponsor and submit petitions for removal, recall and referendum. A petition must specify its purpose. While a petition may consist of as many pages as necessary to accommodate the signatures of all petitioners, the purpose of the petition must be set forth verbatim at the top of each page containing signatures. Only Qualified Voters may sign the petition(s). A Qualified Voter must print his or her name, affix the date, and put his or her current address next to his or her signature. A separate petition for recall must be submitted for each official the petitioners wish to recall.

(c) The sponsor of a petition shall submit the petition to the Secretary of the Tribal Council and the Chair of the Election Committee once the sponsor believes a sufficient number of

signatures have been gathered. The Tribal Council Secretary and Election Committee Chair shall each independently verify whether the petition (i) contains the number of signatures of Qualified Voters required by the Tribe's Constitution and (ii) conforms to the requirements of this Ordinance. Such verification must be performed within 5 days of submission. If both persons so verify, an election shall be called and conducted within 30 days to vote on the petition(s) unless otherwise provided in the Tribe's Constitution. If either the Tribal Council Secretary or the Election Committee Chair is the subject of the petition, the Tribal Council shall appoint one or more other persons from the Tribal Council to verify the petition(s).

(d) The conduct of a recall or referendum election shall be as set forth herein. All petitions submitted, with addresses redacted, may be inspected and copied by any Qualified Voter.

Chapter 3-13 **TRIBAL COUNCIL OFFICER ELECTIONS**

Section 3-13.10 Election of Officers. The officers of the Tribal Council shall consist of a Chairperson, a Vice-Chairperson, Secretary, and Treasurer. The officers of the Tribal Council shall be elected by a majority vote of the members of the Tribal Council. At the Tribal Council meeting to elect new officers, if the Chairperson of the Tribal Council's term has expired, the Vice-Chairperson of the Tribal Council shall chair the meeting until a new Chairperson is elected. The Tribal Council meeting to elect new officers shall be held on the same day and at the same meeting where the swearing in of Tribal Council members took place. In years where no Tribal Council election is held, the Tribal Council shall meet on the anniversary of the swearing in to elect new officers.

Section 3-13.20 Terms of Officers. The officers of the Tribal Council elected pursuant to this Chapter shall hold two year terms and elections shall be held every other year. All Tribal Council member terms shall be for four years.

Chapter 3-14 **REPEAL, SEVERABILITY AND AMENDMENTS**

Section 3-14.10 Repeal of Previous Ordinance. This Ordinance repeals and replaces all prior Election Ordinances and any other Ordinance that conflicts with provisions of this Ordinance except for those Ordinances which require the approval of the Tribal Membership.

Section 3-14.20 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.

Section 3-14.30 Amending the Election Ordinance. This Title may only be amended by the Tribal Council in open session at a properly noticed Tribal Council meeting. It cannot be amended by a poll vote of the Tribal Council. Any future changes to this Title will not affect any Election which had its Candidates' Day before the changes were formally approved by the Tribal Council.

History: Ordinance No. 11-12-06; Ordinance No. 12-07-30; Ordinance No. 13-04-27; Ordinance No. 14-01-09.