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TITLE 62

NOOKSACK TRIBAL ELECTION ORDINANCE

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CHAPTER 1 GENERAL

62.01.010 Short Title.

This ordinance shall be known as the Nooksack Tribal Election Ordinance.

62.01.020 Authority.

Pursuant to Article VI, Sections 1(F), (H) and (J) the Nooksack Tribal Council has established this ordinance to fairly and safely regulate the conducting of Tribal Council Elections for the benefit of the Tribal Membership.

62.01.030 Effect on Prior Enactments.

As of the date of the enactment of the Nooksack Tribal Election Ordinance, all prior resolutions or motions enacting and/or amending Title 62, the Nooksack Tribal Election Ordinance or any other Nooksack Tribal Council action affecting the regulation of elections, are hereby repealed and shall be of no further force and effect. The Nooksack Tribal Court shall have appellate jurisdiction to hear reviews of final decisions of the Election Board consistent with this Ordinance.

62.01.040 Definitions.

The following terms and phrases, when used in this ordinance shall have the meaning ascribed to them:

- A. "Eligible Voter": a tribal member meeting the qualifications to vote in the election being referred to in this ordinance. The terms "Eligible Voter", "Qualified Voter", and "Legal Voter" may be used interchangeably.
- B. "Qualified Candidate": a tribal member meeting the minimum qualifications under the Nooksack Constitution and Bylaws.
- C. "Certified Candidate": a candidate who has met the qualifications for candidacy under this ordinance and who has been certified by the Election Board.
- D. "Council Member Elect": a winning candidate who has been certified by the Election Board.
- E. "Council Member": an elected member who has received the oath of office from the Tribal Council.
- F. "Primary": means a procedure for winnowing candidates for public office to a final list of two as part of a special or general election.

62.01.050 Time and Place of Primary and Regular Elections.

The Nooksack Tribal Council Primary shall be conducted on the third Saturday in February on even numbered years. The Nooksack Tribal Council Regular Election shall be conducted on the third Saturday in March on even numbered years. The polling place for each election will be the Mí sq' eq' ó Community Building, 2515 Sulwhanon Road, Everson, WA

62.01.060 Council and Office Positions.

Pursuant to Article III to the Nooksack Tribal Constitution and Bylaws:

- A. The governing body of the Nooksack Indian Tribe is known as the Nooksack Tribal Council, and shall be elected by staggered terms by the qualified voters of the tribe, pursuant to the “staggered terms” provisions of the Nooksack Tribal Constitution.
- B. Starting with the 1990 election the Tribal Chairman, Tribal Secretary, and Council Positions A and B elections will be held every 4 years thereafter. Starting with the 1992 elections the Tribal Vice-Chairman, Treasurer, and Council Positions C and D will be held every 4 years thereafter.

62.01.070 Enrollment Department.

The Enrollment Department is charged with such duties as identified herein. To those ends, the Enrollment Department is authorized to release such records to the Election Board as may be necessary to facilitate a fair and safe election.

CHAPTER 2 THE ELECTION BOARD

62.02.010 Election Board Superintendent, Ballot Clerks and Election Clerk.

- A. *Election Superintendent:* Pursuant to Article IV, Section 4, of the Nooksack Tribal Constitution, the Tribal Council Chairperson shall appoint and swear in an Election Superintendent. The Election Superintendent will be appointed by the first Thursday in December in the year preceding a Tribal Council Election.
- B. *Ballot Clerks and Election Clerk:* The Election Superintendent will appoint two Ballot Clerks and may appoint an Election Clerk. Pursuant to Article IV Section 4 the Election Superintendent and the two Ballot Clerks shall comprise the Election Board. The Election Board will be governed by bylaws approved by the Tribal Council. The Election Board shall be exempt from the hiring procedures and personnel requirements of the Nooksack Tribe. The Ballot Clerks will be officially appointed and sworn in by the Election Superintendent to serve as Election Board Members. The Election Superintendent and Ballot Clerks will be appointed for the duration of the elections, including any appeals. The job description and duties of the Election Superintendent, Ballot Clerks, Election Clerk and any staff hired or assigned to assist the Election Board shall be included in the Election Board Bylaws.

62.02.020 Mission of the Election Board.

Pursuant to Article IV, Section 2, of the Nooksack Tribal Constitution, the Election Board (through its personnel or by way of an approved contractor) shall supervise, certify, and resolve any election disputes in a manner that will ensure fair and honest elections. The Nooksack Tribal Constitution and Bylaws, Title 62 Nooksack Tribal Election Ordinance, and regulations promulgated under this Ordinance, shall govern the election process and procedures. The Election Board shall provide and prepare election materials in an impartial and fair manner that informs the voters of the election procedures.

62.02.030 Jurisdiction.

The Election Board shall be the administrative body with original jurisdiction to hear all appeals of its decisions. The Nooksack Tribal Court shall have appellate jurisdiction to hear reviews of final decisions of the Election Board consistent with this Ordinance.

62.02.040 Notice of Election.

- A. *Date of Notice of Election:* The Election Superintendent will issue a Notice of Election. Notices will be numbered uniquely by year of issuance and number of elections that year. The Election Superintendent shall mail the Notice of Election by the fourth Friday in December in the year preceding the election to all Tribal members who will be eligible to vote on the scheduled election days. The Election Superintendent shall post the Notice of Election, by the fourth Friday in December in the year preceding the election, at the following places and complete an affidavit of posting:

1. Nooksack Tribal Administration Building, Deming, Washington (on the secure bulletin board reserved for official Tribal notifications), and
2. Placed in the next Nooksack Tribal Newsletter.

3. Placed on the Nooksack Indian Tribe's website.

- B. *Contents of Notice of Election:* The Notice of Election shall state the positions open for election, dates and times of the elections, deadline for requesting an absentee ballot, deadlines for filing prospective Candidate Packets consisting of the Qualified Candidate and Petition Forms, place of the election, and the time the polls shall be opened. The Notice shall also state the Election Board's Office hours beginning on the date the Notice of Election was mailed. The Election Board's Office hours shall be Monday through Friday from 10:00 a.m. to 7:00 p.m. beginning on the fourth Friday in December through the first Friday in January. Thereafter the Election Board's Office hours shall be Monday through Friday from 9:00 a.m. to 5:00 p.m. and shall remain open during the noon hour. The Election Superintendent (or Election Clerk) shall certify that the Notice of Election was mailed to all eligible voters at their last known address.

62.02.050 Eligible Voter.

Each enrolled member of the Nooksack Indian Tribe, who is eighteen (18) years of age or over shall have the right to vote. The voter must be at least age eighteen (18) on the scheduled election day in order to vote.

CHAPTER 3 CANDIDACY AND APPEALS

62.03.010 Qualified Candidate.

A. A candidate shall meet the following requirements:

1. Be an enrolled Nooksack Tribal Member for at least one (1) year prior to the scheduled election day and provide proof by verification of the Nooksack Enrollment Office, and otherwise be an Eligible Voter.
2. Be eighteen (18) years of age or older on the date of filing for candidacy.
3. Be a resident of Whatcom County for one (1) year prior to the first scheduled election and provide proof of residency in Whatcom County for one (1) year prior to the first scheduled election by submitting sufficient proof of that residency in the form established by the Election Board.
4. File a petition for candidacy with signed by no fewer than ten (10) legal voters.

B. Further, the following restrictions shall also apply:

1. No two (2) members of one household may run for office in the same election.
2. No person may be a candidate who is in the household of another candidate who has already filed for election to the Nooksack Tribal Council. In the event that an incumbent candidate files after a household member has already filed for a Tribal Council position, the incumbent will remain on the ballot, and the household member will be disqualified. In the event that two or more household members, who are not incumbents, file for any Council positions, the first one to file will remain on the ballot and any who filed subsequently will be disqualified. In the event that a candidate files who is a household member of a member of the Election Board, the Election Board member will have his/her appointment rescinded and a new Board member will be appointed to fill the vacancy.
3. No person may be a candidate for more than one position on the Tribal Council
4. No person appointed to the Election Board may file for candidacy unless first resigning from the Election Board.

62.03.020 Qualified Candidate Form.

The Election Superintendent shall obtain the approved Qualified Candidate Form from the Nooksack Tribal Council. The Election Board may make changes to the Qualified Candidate Form that are ministerial in nature and do not conflict with the requirements of this Ordinance. Qualified Candidate Forms may be obtained from the Election Clerk beginning the fourth Friday in December. The form shall require the following information to be completed by the prospective candidate:

- A. *Council Position the Prospective Candidate is Applying For:* The candidate must identify the position for which they are declaring candidacy.
- B. *Contact Information:* Current mailing and physical address, contact phone number and if available an e-mail.
- C. *Copy of the candidate's valid Washington State Driver's License or Identification Card.*

- D. *Enrollment in the Nooksack Indian Tribe for One (1) Year Prior to Election Date:* Nooksack Indian Tribe enrollment number.
- E. *Date of Birth*
- F. *Proof of Residency in Whatcom County for One (1) Year Prior to the First Scheduled Election:* Residency is defined as the prospective candidate's primary place of residence. Documents to establish proof of residency for one (1) year prior to the first scheduled election can be proven by providing any documentation that contains all of the following information: (1) names the prospective candidate; (2) identifies the physical address where the service is provided or where the document was mailed; and (3) dates on the document establish that services have been provided at that address or the documents have been mailed to that address for at least one year prior to the Primary.
- G. *Resume and Candidate Statement:* The form will have a section that allows the prospective candidate to submit a resume and a candidate statement, not to exceed two (2) pages that the Election Board will provide to the public. The candidate statement is the opportunity for the prospective candidate to tell the public why they are running for the Nooksack Tribal Council and the candidates shall be advised that they are strongly encouraged to provide a resume and candidate statement because it will be released to the public. The failure to provide a resume and candidate statement shall not disqualify the prospective candidate.

62.03.030 Petition Forms.

- A. Pursuant to Article IV, Section 3, any qualified candidate seeking election must submit a petition signed by at least ten (10) legal voters from the Election Superintendent. The Election Board may make changes to the Petition Form that are ministerial in nature and that are not in conflict with the requirements of this ordinance.
- B. Petition Forms may be obtained from the Election Clerk beginning the fourth Friday in December. The Election Clerk will mark the petition with the candidate's full legal name, with any nicknames placed in parenthesis. The Election Clerk will also mark the petition with the Council position the candidate declares he/she wishes to run for prior to the circulation of the petition. The Candidate must obtain original signatures on the Petition Form from at least ten (10) persons legally eligible to vote on the date of the signing the petition. The Petition Form shall have places for twenty (20) signatures and will notify the Candidate to obtain more than the minimum of ten (10) signatures in the event signatures are declared invalid. The Petition Form shall require any person signing the form to print that person's full legal name, date of birth, Nooksack Tribal enrollment number, signature, current mailing address and a contact phone number. The information is required for the purpose of verifying voter eligibility in the event a signature needs further investigation.

62.03.040 Deadline for Filing Qualified Candidate and Petition Forms.

The Qualified Candidate and Petition forms together comprise the Candidate Packet. The Candidate Packet shall be filed with the Election Superintendent or his/her designee by 2:00 PM on the first Friday in January. The Election Superintendent, or his/her designee shall place the time and date of receipt of each Candidate Packet (consisting of the Qualified Candidate and Petition form) and sign said Candidate Packet as having been filed. A copy of the completed dated and signed Candidate Packet shall be given to the candidate. The Election Clerk shall retain all

Candidate Packet forms filed by the date and time, regardless of the completeness of each Candidate Packet form.

62.03.050 Certification of Candidates

Candidates will not be certified for placement on the ballot until so declared by the Election Board. The Election Board shall meet to certify candidates no later than the third Friday in January. The Election Board will review each candidate packet for all required qualifications. A Candidate Packet must be accurately completed and have provided the necessary information required. If information is missing, the Election Board will give the prospective candidate one opportunity after written notice to provide the required information. The Enrollment Department will confirm and certify to the Election Board the Nooksack Tribal Enrollment status and age of the prospective candidates and of the persons who signed the Petition Form. The residency status will be established if the document(s) provided by the prospective candidate, names the person, identifies the physical address listed in the Candidate Packet, and establishes the services have been provided or mail has been received for at least one (1) year prior to the date of the first election. In the event that the Election Board deems a potential candidate to be ineligible, the Election Board shall notify the potential candidate by personal service or U.S. certified mail postmarked within one (1) business day of the Board's determination. Business days under this Ordinance shall be defined as days the Election Board Offices are open. The notification must specifically state the reason(s) why the candidate was disqualified.

62.03.060 Appeal to Election Board.

Any potential candidate deemed ineligible may request a hearing before the Election Board to contest the Election Board's decision by filing a written request to the Election Board, within five (5) calendar days after the Election Board has mailed or personally served the potential candidate with the Election Board's decision. Notice of disqualification is deemed given when written notice thereof, addressed to the candidate, is deposited in the U.S. mail, certified postage prepaid or by personal service. The written request must state the reasons why the Election Board should reconsider its decision and attach relevant documentation to support the request. A hearing before the Election Board shall be held within one (1) business day of the Election Board's receipt of the request. The prospective candidate will be notified of the time and place of the hearing, after which the Election Board shall render a written decision within in two (2) business days of the hearing. Notice of the decision is deemed given when written notice thereof, addressed to the candidate, is deposited in the U.S. mail, certified postage prepaid or by personal service.

62.03.070 Appeal of Final Decisions of the Election Board to Tribal Court.

Decisions of the Election Board may be appealed to the Nooksack Tribal Court as an appellate court. Appeals to the Nooksack Tribal Court shall be filed within five (5) calendar days after the Election Board has mailed the Election Board's decision. If the potential candidate has been personally served they shall have two (2) calendar days to appeal the decision of the Election Board. Copies of the appeal shall be served upon the Election Board at the same time of filing with the Nooksack Tribal Court and a proof of service shall be attached to the prospective candidate's appeal. The appeal shall state the reasons why the Election Board's decision should be reversed. Election Board responses to the appeal must be filed within one (1) business day of its receipt of the appeal. The Election Board is not required to respond. The Nooksack Tribal Court shall only review the evidence the Election Board used to make its decision (the record below) and shall not

review new evidence or hear new testimony. The standard of review shall be substantial evidence. The Court has the discretion to have oral arguments so long as the time frames are met but it is not required. The Nooksack Tribal Court shall issue a written decision within two (2) business days of receiving the appeal and an Election Board response, if any. The decision of the Nooksack Tribal Court shall be final.

62.03.080 Official List of Candidates.

After the time for appeals have passed for decisions of the Election Board and there are no pending appeals, the Election Superintendent shall prepare an Official List of Candidates, which shall be used to prepare an Official Election Ballot. The list and any resumes and/or candidate statements shall be placed at the Nooksack Tribal Administration Building, Deming Washington, the next published Tribal newsletter and on the Nooksack Indian Tribe's website.

CHAPTER 4 BALLOTS AND VOTING

62.04.010 Ballot Preparation.

The Election Board shall prepare an Official Ballot for printing which clearly identifies all the candidates running for the election. The candidates will be listed by full legal name and any nicknames will be placed in parenthesis. To prevent ballot fraud, the ballots will be sequentially numbered in the upper right hand corner on a unique paper color chosen for that election and watermarked in such a manner to prevent unlawful duplication. Ballots shall contain an instruction sheet informing the voter of the proper ballot marking procedure and examples of when a vote will not be counted.

62.04.020 Absentee Ballots.

Any Eligible Voter may vote by absentee ballot in any primary or general election.

- A. Requests. An Eligible Voter desiring to cast an absentee ballot at a general election or primary must request the absentee ballot from the Election Board no earlier than the posting of the Notice of Election and no later than the close of the Election Board Office ten (10) business days following the posting of the Notice of Election. The request may be made in person at the Election Board Office, by telephone, electronically, or in writing. A voter requesting an absentee ballot for a primary may also request an absentee ballot for the following general election. In requesting an absentee ballot, the voter must confirm his or her membership number, date of birth, and the member's official address as documented with the Enrollment Department.
- B. Absentee Ballot Log. The Election Board shall keep and maintain a log documenting all requests for absentee ballots, including the name, roll number, mailing address, the date and time of the request, for what purposes the absentee ballot is requested (primary or general election), and date which the ballot (or ballots) were sent.
- C. Processing Absentee Ballot Requests. For Primaries and General Elections, the Election Board will mail an absentee ballot (or replacement) to a requesting Eligible Voter no sooner than thirty (30) calendar days nor later than twenty (20) calendar days prior to an election, or within three (3) days following the conclusion of a final appeal of a Primary, if any, whichever is later. Ballots will be mailed to all Eligible Voters to the address shown on the official records of the Enrollment Department. It is the Eligible Voter's responsibility to ensure his or her request was timely.
 1. Envelopes, Declaration, and Instructions: In addition to the ballot, the Election Board shall send each requesting Eligible Voter, a security envelope in which to conceal the ballot after voting and labeled "Official Ballot", a larger self-addressed, properly stamped (whether Canadian, American, or other postage) envelope in which to return the security envelope that is preaddressed to the Election Board with:

I, (name of voter), hereby certify that I am an Eligible Voter, and that I will be 18 years of age or over at the election date and am entitled to vote in the

election to be held on (date of election). I further certify that I marked the enclosed ballot in secret. a certification as follows:

Signed: _____ (voter's signature).

- D. Returned Address List: A list of requesting Eligible Voters with returned addresses ("Returned Address List") will be maintained by the Election Board during each election session. No ballot will be mailed to a person listed on the Returned Address List. It is the responsibility of the Eligible Voter to ensure his or her address is current and accurate with the Enrollment Office.

Should the U.S. Postal Service (or another mailing service) indicate for any reason that mail cannot be delivered to said Eligible Voter at his or her address as shown by the official records of the Enrollment Office (or the Election Board), that person will be placed on the "Returned Address" list. If an Eligible Voter's ballot is returned, the Eligible Voter can contact the Election Board to update their information and request another ballot if such request is prior to the deadline for requesting an absentee ballot. Eligible Voters should contact the Election Board with any inquiries about their ballots.

- E. Replacement Ballots: A requesting Eligible Voter may obtain one (1) replacement ballot if the original absentee ballot is destroyed, spoiled, lost, or not received by the voter. The Eligible Voter may request a ballot by telephone, by mail, electronically, or in person. Once a replacement ballot is issued, the original ballot is void and the Board shall verify incoming absentee ballots to ensure the voided ballot is not counted. In the event that there is fewer than ten (10) days before the Election Day, a replacement ballot shall be provided and the Eligible Voter may cast the replacement ballot; however, no ballot will be counted if received later than after the close of polls on the day of the election.

62.04.030 Voting.

Voting shall be by secret ballot. Each voter shall vote only once in the election. Only Official Ballots properly marked, as an Official Ballot shall be counted. Only votes for candidates on the official ballot will be counted. If any ballot has more than one vote cast for the specific Council position, the vote for that position shall be nullified, and the rest of the ballot shall remain valid and be counted. If a voter writes in the name of a person that is not on the ballot and places a vote for that person that vote will not be counted. A ballot entry for a position left blank shall not nullify the entire ballot. Votes will not be counted if the Election Board is unable to reasonably identify who the voter voted for.

62.04.040 Voting Procedures – Polling Place.

Eligible voters shall:

- A. Appear in person at the official polling place between the hours designated in the Notice of Election on the scheduled Election Day or during the two (2) days immediately preceding the Primary or General Election. For each Primary and General Election, the Polling Place shall be open for casting ballots the day of the Primary (or General Election), and the two (2) days immediately preceding the Primary and General Election.
- B. State his/her name to a member of the Election Board and show proper photo identification. Proper photo identification shall be a valid state (or provincial) driver's license or identification

card, a valid Nooksack Tribal enrollment identification card, a BIA identification card, or a valid Canadian Status identification card.

- C. Sign the Voter's Book; verify the address listed (making any corrections necessary) in the presence of a Ballot Clerk. In the event that the Eligible Voter was sent an absentee ballot, the Eligible Voter shall be notified that the absentee ballot will be voided if the voter is provided a replacement ballot for casting at the Polling Place. Once a replacement ballot is issued, the original absentee ballot is void and the Board shall verify incoming absentee ballots to ensure the voided ballot is not counted.
- D. Obtain only one (1) ballot from the Election Board. The ballot number will be marked next to the voter's name in the Voter's Book.
- E. Take the ballot into an enclosed and private area, as provided by the Election Board.
- F. Fold the ballot to conceal its contents.
- G. Upon returning the ballot, the voter shall place such ballot in a sealed and secured ballot box provided by the Election Board.

62.04.050 Assistance to Voters.

When any voter presents themselves for a ballot and states that because of a physical disability or infirmity is unable to mark their ballot on their own, it shall be the duty of the individual chosen by the voter (who shall then not be a current member of the Election Board), to give the voter such assistance as they need, but in all such instances the voter must state, without suggestions from person chosen by the voter, the way he or she wishes to vote, and, in no instance shall the person chosen by the voter, by word, action, or expression attempt to influence the voter as to how the voter should vote nor to disclose the voter's choice. Such assistance shall be given in privacy and all persons other than the person of the voter's choice, shall be kept sufficiently distant so that they will not hear or know how such disabled or infirm voter voted. Election Officials shall require the person who provided the assistance to provide valid identification and print and sign their name to the Voter's Book as having assisted the voter. Any voter who shall require the need of an interpreter shall furnish his or her own interpreter.

62.04.060 Supervising of Election.

No less than two (2) members of the Election Board shall be present at the polling place at all times.

62.04.070 Electioneering.

No person shall solicit, secure or influence voters by any means, within 300 feet of polling place during voting hours.

62.04.080 Voting Procedures – Absentee Ballots.

The following procedures shall apply to casting absentee ballots:

- A. Voting: An Eligible Voter shall mark the absentee ballot and the completed ballot shall then be folded so as to conceal the marking and be placed in the envelope marked "Official Ballot" and the envelope sealed. The voter shall then place the sealed envelope marked "Official Ballot" in the outer envelope, seal it and complete the certificate and mail it. The preaddressed outer envelope shall be directed to the Election Board. Ballots must be received by the Election Board no later than the close of polls on the day of the election; the Election Board is not

responsible for untimely delivery of a voter's ballot or failure of delivery by the close of polls on the day of the election. Alternatively, Eligible Voters may hand deliver the cast absentee ballots to the Election Board Office or the Polling Place (during election).

- B. **Ballot Deadline:** No ballot will be counted if received later than the close of polls on the Election Day; it is the Eligible Voter's responsibility to ensure his or her ballot is actually received by the Election Board by the close of polls on the Election Day.
- C. **Ballot Records:** The Election Board shall make and keep a record of ballots mailed, to whom mailed, the date of mailing, the address where the ballot (or replacement) was mailed, requests for replacement ballots (including by whom and when made), voided ballots, and when an absentee ballot is received (and from whom).
- D. **Processing Incoming Ballots:** The Election Board shall process the incoming ballots in accordance with this provision.
 - 1. All received returned envelopes must be placed in a secure location from the time of delivery to the time the Election Board opens the envelopes.
 - 2. Only ballots received at or before the close of polls on Primary or Election Day shall be counted.
 - 3. Record the receipt date of the ballots timely received, or if the postmark is missing or illegible, the date on the ballot declaration to which the voter has attested. Any ballot postmarked after the close of polls shall not be counted. The received returned envelope shall be secured and left unopened.
 - 4. Following the close of polls on Election Day, the Election Board shall open the outer envelopes, secure the outer envelopes, and tabulate the votes from Eligible Voters.
 - 5. The Election Board shall retain and safeguard all rejected ballots until final certification of the election results.

62.04.090 Ballot Box Locking and Chain of Custody.

Before the balloting begins, the Election Board shall open and inspect the ballot box and verify the contents consist exclusively of cast absentee ballots previously logged received. The ballot box shall then be locked and shall remain locked until the time to count the ballots. Keys to the ballot box shall be placed in a sealed, signed, dated envelope indicating the time the boxes are locked by the Election Superintendent. Upon the locking of the ballot box and until the counting of the vote following the close of the polls (at which time it shall be in the custody and control of the Board), at no time shall the ballot box be out of the custody and control of the Nooksack Police Department and a record of such custody and control shall be kept by the Election Board.

CHAPTER 5

VOTE TABULATION AND RESULTS

62.05.010 Vote Counting.

- A. *Voter's Book and Ballot Reconciliation:* All vote counting will begin immediately after the polls have closed and the vote counting shall be open to the public and if the public is not available it shall be done in the presence of witnesses. After the polls have closed, within ten (10) minutes, the Chief of Police (or his or her designee), shall transport the locked ballot box including all timely received absentee ballots from the polling area to the area where ballots will be counted.

The Election Superintendent, in the presence of the other members of the Election Board shall unlock the locked ballot box containing the executed ballots. The list of those signing in to vote from the Voter's Book will be counted, and the number of those signing in to vote must conform with the number of executed ballots, excluding absentee ballots. Then, the absentee ballots timely received will be counted, and the number of absentee ballots must conform with the number of absentee ballots logged in. If the numbers do not match, the Election Board shall do another count. If the two do not match after a second count, the Election Board will attempt to resolve the difference and document the resolution. If the number of signatures and the number of ballots cannot be reconciled, it will be documented for further investigation by the Board and the vote count will proceed. The official results will describe the outcome of any investigation.

- B. *Counting Individual Votes:* Once the Voter's Book and the executed ballots have been counted, the election officials shall then count the ballots cast in the following manner. The count may be manual or by way of non-manual (machine) so long as such count can be manually verified if necessary. If conducted manually, the Election Superintendent shall verbally announce the choice or choices indicated on the ballot. Another Board Member shall confirm the choice or choices prior to it being recorded. The Election Board shall record the votes on tally sheets that are provided for such purpose. The votes will be recorded in a manner where the public can visually see the real time recording of the information. The Election Board shall compute the vote with the utmost care and every precaution shall be taken and every method used, within reason, which will ensure an accurate count.

62.05.020 Unused Ballots

After the close of the polls on Election Day, the Election Board shall keep all unused ballots for documentation. Unused ballots will be retained pursuant to 62.08.020.

62.05.030 Announcement of Unofficial Results.

On the evening of the election, after completing the counting, the Election Board shall announce and post the unofficial results of the elections on the main front door of the polling place, the Nooksack Tribal Administration Building, printed in the next published Tribal newsletter, and published on the Nooksack Indian Tribe's website.

62.05.040 Primary Results

In a Primary, the two (2) candidates who receive the highest number of votes for each position shall be certified to the Regular Election. In the event only one (1) or two (2) candidate(s) files for a given position, there shall be no primary for that position and those candidates shall be certified to the Regular Election. In the event one (1) of the two (2) primary candidates running for a position withdraw or are unable to participate in the Regular Election, the Election Board shall certify the candidate with the next highest vote for that position in the Primary to participate in the Regular Election for that position.

62.06.050 Recounts.

When the ballot count difference between the first and second place for a Tribal Council position is less than or equal to three-quarters (3/4) of one (1) percent of the total number of votes cast for that position, a candidate may by written request, by 4:00pm on the Monday immediately following the date of election, obtain a recount of the ballots for that candidate's position only.

62.06.060 Ties.

In the event of a tie, unless one candidate withdraws, a run-off election will be scheduled within thirty (30) days. The incumbent shall remain in office until the Council Elect is sworn in.

CHAPTER 6

CONTESTS, APPEALS AND CERTIFICATION OF ELECTION RESULTS

62.06.010 Contests.

A. *Reasons for a Contest:* Any voter may contest the primary or regular election results or any candidate may contest the primary or regular election results of the office they were a candidate for any of the following reasons:

1. Any member of the Election board was guilty of misconduct in the performance of his or her duties on the Board.
2. That any candidate has given to any voter or member of the Election Board any bribe or reward for the purpose of procuring the election.
3. That illegal votes were cast sufficient to change the results of the primary or regular election.
4. That the Election Board in conducting the primary or regular election or in counting the returns, made errors sufficient to change the results of the primary or regular election as to any person who has been declared elected.
5. That there was an error in the vote counting or summation of ballot counts sufficient to change the results of the primary or regular election.
6. That a candidate knowingly submitted false information to the Election Board at the time of their qualification.

B. *Misconduct, Bribe or Reward:* When any primary or regular election is contested on account of misconduct of, or bribe or reward to the Election Board, or any member thereof, the primary or regular election shall not be annulled or set aside upon any proof thereof, unless the action was such that changes the result of the primary or regular election.

C. *Illegal Votes:* A primary or regular election shall not be set aside on account of illegal votes unless it appears that a number of illegal votes has been given to the person whose right to the office is contested, or who has been certified as having tied for first place, which if taken from him or her would reduce the number of the legal votes below the number of votes given to some other person for the same office, after deducting the illegal votes which may be shown to have been given to that other person.

62.06.020 Appeal to Election Board.

Any qualified voter or candidate contesting a primary or regular election under this section shall file a written statement with the Election Board stating (1) his or her name and address; (2) the name of the candidate and office; and (3) the particular grounds of the contest. Such a written statement must be delivered to the Election Superintendent no later than 4:00 PM on the Monday immediately following the election. Upon receipt of a contestant's written statement the Election Board shall review the allegation(s) and such review may include a hearing at the discretion of the Election Board, where the contestant and any candidate may present evidence, after which the Election Board shall respond in writing prior to posting the official certification of primary or regular election results. If scheduled, hearings must be held within one (1) business day after the request is received by the Election Board. If a hearing is held, a written decision shall be issued

within two (2) business days after receipt of the written statement. If no hearing is held a written decision will be issued within one (1) business day after the receipt of the written statement.

62.06.030 Appeal of Final Decisions of the Election Board to Tribal Court.

Decisions of the Election Board may be appealed to the Nooksack Tribal Court as an appellate court. Business days under this Ordinance shall be defined as days the Election Board Offices are open. Appeals to the Nooksack Tribal Court shall be filed within five (5) calendar days after the Election Board has mailed the Election Board's decision. If the candidate has been personally served they shall have two (2) calendar days from service to appeal the decision of the Election Board. Copies of the appeal shall be served upon the Election Board at the same time of filing with the Nooksack Tribal Court and a proof of service shall be attached to the qualified voter's or candidate's appeal. The appeal shall state the reasons why the Election Board's decision should be reversed. Election Board responses to the appeal must be filed within one (1) business day of its receipt of the appeal. The Election Board is not required to respond. The Nooksack Tribal Court shall only review the evidence the Election Board used to make its decision (the record below) and shall not review new evidence or hear new testimony. The standard of review shall be substantial evidence. The Nooksack Tribal Court has the discretion to have oral arguments so long as the time frames are met but it is not required. The Nooksack Tribal Court shall issue a written decision within two (2) business days of receiving the appeal and an Election Board response, if any. The decision of the Nooksack Tribal Court shall be final.

62.06.040 Certification of Election Results.

After the time for appeals has passed for decisions of the Election Board and there are no pending appeals of decisions, the Election Superintendent will sign and post the Certification of Primary or Regular Elections within one (1) business day. The Election Superintendent will provide a copy of the signed Certification of Election to the Tribal Council, marked "CERTIFIED COPY," by 5:00 PM on the day it is signed. The names of the winning candidates will be listed and the Superintendent of the Election Board will sign said list and post it in the following places:

- A. Nooksack Tribal Administration Building, Deming, Washington (on the secure bulletin board reserved for official Tribal notifications).
- B. Placed in the next Nooksack Tribal Newsletter.
- C. Placed on the Nooksack Indian Tribe's website.

CHAPTER 7
INSTALLATION OF COUNCIL MEMBERS, OATH OF OFFICE AND
NOTIFICATION TO BUREAU OF INDIAN AFFAIRS

62.07.010 Installation of Council Members.

Candidates-Elect will be installed the day after the Tribal Council has received the Certification of Elections.

62.07.020 Oath of Office.

Each newly elected Nooksack Tribal Council Member and appointed Election Board Member shall subscribe to the following oath of office given by the Election Superintendent:

I, _____, do solemnly swear (or affirm) that I will support and uphold the Constitution of the United States, and the Constitution and Bylaws and Ordinances of the Nooksack Indian Tribe of the State of Washington, and, I will in all respects, faithfully and fully perform the duties of my office of _____ for the Nooksack Indian Tribe, so help me God.

62.07.030 Notification Sent to Bureau of Indian Affairs

Within one (1) business day of the swearing in of the newly elected Nooksack Tribal Council Members, the Election Board shall send the Bureau of Indian Affairs, Puget Sound Agency, a copy of the certified election results and certification of the date that the newly elected Nooksack Tribal Council Members were officially sworn in.

CHAPTER 8 MISCELLANEOUS

62.08.010 Test for Illegal Drugs.

The Nooksack Tribal Council has determined it has an important governmental interest to ensure that its prospective candidates for the Nooksack Tribal Council and current Nooksack Tribal Council Members are free from the effects of illegal drugs. The Nooksack Tribal Council maintains direct oversight and control over the Tribal government and its relationship to its membership is on a much closer level than non-Tribal governments. Therefore, Nooksack Tribal Council Members are in sensitive positions that require an absence of the effects of illegal drugs. Because of this important governmental interest, prospective candidates shall submit to a test for illegal drugs at the Nooksack Tribal Health Clinic. The Prospective Candidate will receive a drug testing form from the Election Board which must be successfully completed and returned to the Election Board prior to receiving the Candidate Packet. Failure to pass the test will result in the prospective candidate's disqualification as a candidate in the election.

62.08.020 Election Records.

A. *Records*: The Election Superintendent shall be responsible for seeing that files on each election for which they are responsible for are maintained and provided to the Tribal Council Secretary and include the following material:

1. Election notices
2. Candidate Qualification and Petition forms and associated documents
3. Sample ballot
4. Unofficial and official certification of election results
5. Voter Book
6. Ballots: Executed and unused ballots.

B. *Retention and Destruction*: All of the articles mentioned in this section with the exception of the ballots and ballot numbers must remain in the files permanently. At no time will an original document be permanently removed from the files. After certification of an election, with the prior approval of the Nooksack Tribal Council the ballots described in 62.08.020 A(6) may be disposed of. Candidate Qualification forms and the Voter Book shall be treated as confidential records and are not available to the public except pursuant to a court order.

62.08.030 Time Computation.

Whenever a response or document is required to be filed in a certain number of days, the time computation does not include the day the action was taken, but begins as of the next following day and runs until the last day specified, unless the last day falls on a weekend or a tribal holiday, in which even the due date is the next Election Board Office work day.

62.08.040 Severability.

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

62.08.050 Amendments.

The Nooksack Tribal Council may amend this ordinance by a majority vote of a quorum at duly called meeting, provided that any amendments may not be made at any time during an election in progress.

62.08.060 Sovereign immunity.

Nothing in this Ordinance shall be deemed or construed to be a waiver of the sovereign immunity of the Nooksack Indian Tribe, its officials, its entities, or employees acting within their official or individual capacities.

CERTIFICATION

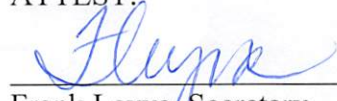
I, the undersigned, as Chairman of the Nooksack Tribal Council, do hereby certify: that the Nooksack Tribal Council is composed of eight members, of which 7 () were present, constituting a quorum, at a duly called meeting thereof, duly and regularly called, noticed, convened, and held this 17 th day of November, 2021; that Title 62, The Election Ordinance was adopted by resolution #21-230 at said meeting by a vote of 6 () for and 0 () against; and that since its adoption this Ordinance has not been altered, rescinded, or amended in any way.

Dated this 17 day of November 2021.



Roswell Cline, Chairman
Nooksack Tribal Council

ATTEST:



Frank Leyva, Secretary
Nooksack Tribal Council

NOOKSACK TRIBAL ELECTION BOARD BYLAWS

I. Tribal Elections Board:

As stated in Title 62 Elections Ordinance - ELECTION BOARD AND DUTIES

62.02.010 Election Board Superintendent, Ballot Clerks and Election Clerk.

- A. *Election Superintendent*: Pursuant to Article IV, Section 4, of the Nooksack Tribal Constitution, the Tribal Council Chairperson shall appoint and swear in an Election Superintendent. The Election Superintendent will be appointed by the first Thursday in December in the year preceding a Tribal Council Election.
- B. *Ballot Clerks and Election Clerk*: The Election Superintendent will appoint two Ballot Clerks and may appoint an Election Clerk. Pursuant to Article IV Section 4 the Election Superintendent and the two Ballot Clerks shall consist of the Election Board. The Election Board will be governed by bylaws approved by the Tribal Council. The Election Board shall be exempt from the hiring procedures and personnel requirements of the Nooksack Tribe. The Ballot Clerks will be officially appointed and sworn in by the Election Superintendent to serve as Election Board Members. The Election Superintendent and Ballot Clerks will be appointed for the duration of the elections. The job description and duties of the Election Superintendent, Ballot Clerks, Election Clerk and any staff assigned to assist the Election Board shall be included in the Election Board Bylaws.

62.02.020 Mission of the Election Board.

Pursuant to Article IV, Section 2, of the Nooksack Tribal Constitution, the Election Board shall supervise, certify, and resolve any election disputes in a manner that will ensure fair and honest elections. The Nooksack Tribal Constitution and Bylaws, Title 62 Nooksack Tribal Election Ordinance, and regulations promulgated under this Ordinance, shall govern the election process and procedures. The Election Board shall provide and prepare election materials in an impartial and fair manner that informs the voters of the election procedures.

II. Alternate Members:

- A. Two alternate members shall be appointed by the Election Superintendent (Alternate 1 and Alternate 2) to serve in the event a regular member is removed from office or has vacated his or her position on the Board. Alternate members may also be called upon to attend Board meetings to achieve a quorum if necessary. Alternate members shall be called upon to serve in the order of their alternate number.
- B. However, if a quorum is achieved at any time during the meeting, the alternate member shall not participate in the balance of the meeting. Alternate members are otherwise invited to attend all meetings as non-participants.

- C. Alternate members shall not serve as full time replacements for regular members unless requested to do so by the Election Superintendent, and only if a regular member has been removed or vacated his or her position.

III. Qualifications of Board Members/Ballot Clerk and all other election staff:

The following is a list of requirements for all election staff:

- A. Must be at least 18 years or older.
- B. Able to read, write and have good communication skills.
- C. Must be able to bend, reach, kneel, twist, and grip items while working from assigned work areas, with the ability to lift 25 pounds.
- D. Comply with the Drug and Alcohol Policies of the Nooksack Indian Tribe, including appointment/pre-employment drug testing.
- E. No person may be a Board member who is in the household of another candidate for Nooksack Tribal Council.
- F. Must submit to a criminal background check.
- G. Must have no convictions in any jurisdiction of a misdemeanor involving a crime of dishonesty or illegal drugs within the past five years.
- H. Must have no convictions in any jurisdiction of a felony within the past five years with the exception of any State conviction related to civil disobedience in the exercising of treaty rights.
- I. Must have no convictions in any jurisdiction of a felony involving selling or manufacturing illegal drugs within the past ten years.
- J. Must have no convictions in any jurisdiction of a felony involving a sex offense.
- K. Must not have been found liable for a civil judgment issued by any court of competent jurisdiction for conduct involving, fraud, misappropriation, unauthorized use, theft or conversion.
- L. No person appointed to the Election Board may file for candidacy unless first resigning from the Election Board.

IV. Job Duties:

Election Superintendent (one position):

The Election Superintendent is responsible for supervising all election staff and is the Chairperson of the Election Board. The Election Superintendent is responsible for all operations involved in the election including but not limited to: appointing and training election staff, setting up election office, preparing ballots, presiding over meetings of the Election Board. It is preferred the Election Superintendent has previous knowledge of supervising tribal elections and if requested may need to provide references.

Ballot Clerks (two positions):

The Ballot Clerks will work the day of the election, to set up the election-polling site, to oversee the election and to be available for the actual public polling of the cast ballots. The Ballot Clerks will be part of the Election Board. The Ballot Clerks, in addition to being at the election polling place all day on the day of election, must be available to review and certify the petitions for candidates, attend Election Board meetings, oversee the polls on election day, hear any protests after the election, and additional times as necessary.

Election Clerk (one position):

The Election Clerk will be required to handle the day-to-day clerical responsibilities which may include answering telephone calls, office visitations, handing out petitions, keeping logs of all phone calls, visitations, and any additional work assigned by the Superintendent. The ability to use Microsoft Office software programs will be required. Knowledge of the purchasing procedures of the Nooksack Tribe highly recommended.

Tally Sheet Markers (number of positions shall be equivalent to the number of candidates in an election):

Tally Sheet Markers will mark the votes as they are counted by the Election Board on tally sheets provided for that purpose.

V. Quorum:

All three board members must be present at any meeting in order to achieve a quorum. Alternate members may be called upon to serve for regular or special meetings in order to achieve a quorum if the minimum of three (3) regular board members are not in attendance. However, if three (3) regular board members are in attendance, or if a quorum is achieved later in a meeting where an alternate has filled in, the alternates may not participate in the remainder of that Board meeting, but may be present as a non-participating and a non compensated observer.

VI. Meetings:

Meetings shall be called by the Election Superintendent.

VII. Removal of Office:

All members, regular and alternate, are subject to removal from office by the Election Superintendent for any of the following reasons:

1. Gross negligence of duty;
2. Failure to attend three consecutive meetings without cause;
3. Significant breach of or significant failure to comply with the Nooksack Constitution, the Nooksack Tribal Election Ordinance or these Election Board bylaws.
4. A felony conviction while in office.

The Tribal Council Chairman may rescind the appointment of the Election Superintendent for any of the above stated reasons.

VIII. Minutes

The Board will be responsible for keeping and maintaining minutes of the Board's actions. Although the Board's deliberations and discussions are closed to the tribal membership, the action taken by the Board is open to the tribal membership through the Board's minutes.

IX. Compensation and Election Board Budget

The Election Superintendent shall be compensated for his or her services for duration of the election.

The Ballot Clerks and Election Clerks shall be compensated each for their services for duration of the election pursuant to approved budgets and contracts.

The Tally Sheet Markers shall be compensated at per election night(s) for their services pursuant to approved budgets and contracts.

The budget for the supplies and other equipment needs of the Election Board shall be set by the Council and expenses shall be processed through the Tribe's regular procedures and approvals for purchases.

X. Oath of Office

All Board members, regular and alternate, will take an oath of office, swearing to perform their given duties to implement the Nooksack Tribal Elections Ordinance. The Tribal Council Chairman or the Tribal Council Vice-Chairman will administer the oath to the Superintendent. The Election Superintendent will administer the oath to all appointed Board members and staff.

XI. Authority

The Board's authority is delegated by the Tribal Council, which receives its authority from the Constitution of the Nooksack Indian Tribe. The scope of the Board's authority is set forth in the Tribal Constitution and the Election Ordinance.

XII. Amendments

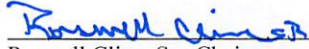
These by-laws may be amended by a majority vote of the Nooksack Tribal Council at a duly called or a special meeting.

C E R T I F I C A T I O N

I, the undersigned, as Chairman of the Nooksack Tribal Council, do hereby certify: that the Nooksack Tribal Council is composed of seven members, of which 7 () were present, constituting a quorum, at a duly called meeting thereof, duly and regularly called, noticed, convened, and held this 17th day of November 2021; that the Election Board Bylaws were

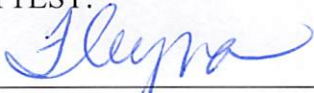
adopted by resolution # 21-230 at said meeting by a vote of 6 () for and 0 () against;
and that since its adoption these Bylaws have not been altered, rescinded, or amended in any
way.

Dated this 17th day of November, 2021.



Roswell Cline, Sr., Chairman
Nooksack Tribal Council

ATTEST:



Frank Leyva, Secretary
Nooksack Tribal Council