

**Dry Creek Rancheria
Band of Pomo Indians**

Tribal Government Code

TITLE 1. TRIBAL ELECTIONS
Approved and Effective April 27, 2013

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CHAPTER I – GENERAL PROVISIONS

Section 1. Short Title.

This Title shall be known and may be cited as the “**Tribal Election Code**” of the Dry Creek Rancheria.

Section 2. Purpose.

In 1972, the membership of the Dry Creek Rancheria Band of Pomo Indians ("Tribe") adopted, and the Secretary of the Interior approved, Articles of Association ("Articles") that set forth the processes and rules that govern the Tribe. Article V of the Articles establishes a timeframe for elections. Approval of this Government Code, Title I Election Code (“Code”) supersedes any previous version, including any document entitled “Election Ordinance” or similar document,

whether approved by the Tribal Council, or not. This Code sets forth procedures that are in accordance with the Articles for establishing an Election Committee and conducting elections for all Tribal elections.

Section 3. Definitions.

For the purposes of this Code, the word or words highlighted below shall have the following meanings:

- (A) **“Articles”** means the Articles of Association executed on September 13, 1972, and approved by the Deputy Assistant Secretary of the Interior on April 16, 1973, by virtue of powers inherent in tribal sovereignty and those delegated by the United States of America, and all duly adopted and authorized amendments thereto.
- (B) **“Board of Directors”** means the governmental body elected by the Tribal Council under the Articles and authorized to carry out the duties described in the Articles.
- (C) **“Committee Member”** means an elected member of the Election Committee as set forth in this Code.
- (C) **“Duly Enrolled Member”** means a person who meets all requirements of membership under Article III of the Articles of Association and is duly listed on the membership roll.
- (D) **“Election Committee”** means the committee established by this Code to conduct and supervise Tribal elections.
- (E) **“Eligible Voter”** means a Duly Enrolled Member who is eighteen (18) years of age or older. Eligible Voters are entitled to vote in Tribal elections.
- (F) **“Eligible Voters List”** means a formal list of Eligible Voters prepared by the Enrollment Officer and maintained by the Board of Directors in accordance with the Articles.
- (G) **“Enrollment Committee”** means a committee whose purpose is to review all enrollment applications and which has authority to make recommendations to the Board of Directors. The Enrollment Officer may accept all forms or documents submitted to the attention of the Enrollment Committee at the Tribal Office, which shall be immediately forwarded to the Enrollment Committee Chairperson on behalf of the Committee.
- (H) **“Enrollment Officer”** means the staff person who receives and processes all enrollment documents and submits all enrollment documents to the Enrollment Committee.
- (I) **“Tribal Council”** means the governing body of the Tribe and consists of all Dry Creek Rancheria members eighteen (18) years of age or older.

- (J) **“Tribe”** means the Dry Creek Rancheria Band of Pomo Indians, a federally recognized Indian tribe.

CHAPTER 2. ELECTION COMMITTEE

Section 1. Establishment of Committee

In the exercise of its governing rights and powers, the Tribal Council hereby establishes the Dry Creek Election Committee for the following purposes:

- (A) conducting and supervising Tribal elections in accordance with the Articles;
- (B) deciding disputes concerning the election;
- (C) enforcing this Code; and
- (D) adopting and publishing or declaring such additional rules as may be necessary from time to time to ensure that elections are fair and do not conflict with the Articles.

Section 2. Composition of Committee

The Election Committee shall have a minimum of seven (7) Eligible Voters serving on the Election Committee. As its first official action after being selected, the Election Committee shall elect officers to serve until the April General Membership Meeting prior to the next general election for the Board of Directors.

Section 3. Selection of Committee

- (A) Candidates for the Election Committee shall be nominated and elected by the Tribal Council, which may also nominate and create a pool of alternates that shall be available to fill vacancies. The pool of alternates may include as many individuals as the Tribal Council chooses.
- (B) Candidates may be elected by secret ballot, voice vote, unanimous consent, individually or with other candidates, as the Tribal Council shall decide.
- (C) Any candidate for election to the Election Committee may decline to serve, in which case, his or her nomination shall be withdrawn.
- (D) Candidates for the Election Committee shall be nominated and elected at the April General membership meeting prior to the general election for Board of Directors.
- (E) Election Committee members shall serve a two year term. Election Committee members may serve consecutive terms without limit.

Section 4. Qualifications for Serving on Committee

- (A) All members of the Election Committee shall be Eligible Voters.
- (B) In the event that any Election Committee member is nominated as a candidate in any Tribal Council election, they shall either decline that nomination or resign from the Election Committee. Candidates need not be present to be nominated for the Election Committee.
- (C) At no time shall a current member of the Tribal Board of Directors serve on the Election Committee.
- (D) Vacancies due to resignation shall be filled in a manner consistent with Section 5 of this Chapter.
- (E) If a candidate that resigned from the Election Committee to run for an elected office is not elected to that office, their name may be placed back in the pool of alternates.

Section 5. Vacancies on Committee

- (A) Any vacancies occurring on the Election Committee shall be filled by the Board of Directors from the pool of alternates. If there are no alternates available, the vacancy will be filled by appointment by the Board of Directors, and agreed to by the Election Committee.
- (B) Any person appointed to fill a vacancy on the Election Committee shall serve for the duration of the term of their predecessor.
- (C) Vacancies shall be filled by the Board of Directors from the pool of alternates within 5 (five) days of the vacancy, and agreed to by the Election Committee. If such vacancies are not filled within the 5-day timeframe, the Election Committee may appoint a Committee Member from the pool of alternates to fill such vacancy pending final appointment by the Board of the Directors.

Section 6. Attendance; Removal from Committee

- (A) Attendance of Election Committee meetings is mandatory. Failure to attend two (2) meetings without a valid excuse may be grounds for removal from the Election Committee. "Valid Excuse" under this section shall be determined by the Election Committee pursuant to Chapter 3 of this Code.
- (B) The Election Committee may remove a Committee Member for good cause. "Good Cause" under this section shall be determined by the Election Committee pursuant to Chapter 3 of this Code.

- (C) A written notice shall be provided to the removed Election Committee member which shall state the reason(s) for such removal. A copy of the notice shall also be provided to the Board of Directors.

Section 7. Election Committee Meetings; Voting

Only Election Committee members may vote at Committee meetings. All Enrolled Members may attend and observe meetings of the Committee, unless confidential personal information is being discussed, in which case the Committee may meet in a closed session solely to address issues concerning such confidential information.

Election Committee meetings shall be conducted pursuant to the Peace and Protection Ordinance. Section 1 of the Peace and Protection Ordinance prohibits any person from hindering, preventing, disrupting, or interfering with the conduct of private, public or governmental business through threats, intimidation, harassment, violence, occupation, blockade, or other unlawful means.

CHAPTER 3. RULEMAKING BY THE ELECTION COMMITTEE

- (A) The Election Committee must abide by and enforce the rules of this Code to provide for fair, consistent and efficient elections. The Election Committee shall prepare rules in order to implement this Code. Any rule proposed by the Election Committee shall be consistent with the provisions of this Code, and the Articles, and shall be submitted in writing to the Board of Directors prior to becoming effective.
- (B) The Board of Directors shall have 3 (three) business days to review and approve the proposed rules and will notify the Election Committee within that timeframe to set a meeting to discuss any concerns. The rule will take effect immediately following that meeting.
- (C) The approved rules shall be posted in plain view at the Tribal Office, and copies made available to all Duly Enrolled Members upon request.
- (D) The Election Committee shall prepare and approve the forms to be used in all Tribal Elections prior to that election taking place and make such forms available to all persons nominated for an elected office.
- (E) Written, electronic and hard copies of all rules, forms, certifications and other documents created and maintained by the Election Committee will be stored in a designated place within the Tribal Office for use by future Election Committees. The purpose of this provision is to ensure that Elections are conducted in a consistent manner and to provide certainty in the records of a tribal election.

CHAPTER 4. ELECTION PROCEDURES

Section 1. Nominations

Nominations for elected officials shall be held during the duly noticed Tribal Council meeting in September. Any individuals nominated for an elected position, but not present at the Tribal Council meeting shall be contacted by the Election Committee for confirmation of acceptance of such nomination. The nominee shall have three (3) business days to confirm in writing to the Election Committee, their acceptance of such nomination.

- (A) The Election Committee shall provide all nominees with an information packet that contains a copy of this Code, the Articles of Association, Election Committee rules (if any) a *Candidate Declaration Form* and any other governing documents necessary for that elected position. The Election Committee will make the information packets available at the September Tribal Council meeting or as soon as possible thereafter if there are not sufficient copies available at the Meeting for all nominees.
- (B) In accepting a nomination to be elected to the Board of Directors, a candidate agrees to execute and file a *Candidate Declaration Form* with the Election Committee within five (5) business days after receiving the forms. If a candidate fails to timely execute and deliver the required forms to the Election Committee, the candidate's name shall be stricken from the ballot. No special nomination to replace the candidate on the ballot is allowed.
- (C) Candidates for elected tribal positions other than the Board of Directors shall meet the requirements of the governing documents creating the elected position. If a candidate does not meet the requirements as set forth in the governing documents for such position, such candidate's name shall be stricken from the ballot.
- (D) The Election Committee will provide rules of Bylaws or any other requirements for elected tribal positions other than the Board of Directors, as they are set forth in the appropriate governing documents.

Section 2. Verification of Eligibility to Serve

The *Candidate Declaration Form* shall require information that will assist the Election Committee in certifying the candidate's eligibility. The Election Committee shall forward the form on a confidential basis to the Enrollment Committee.

- (A) The Enrollment Committee shall:
 - 1. Verify candidate eligibility to run for office under the Articles; and

2. Report to the Board of Directors whether each candidate does or does not meet tribal membership requirements. If a candidate does not meet the tribal membership requirement, the Enrollment Committee shall provide the specific reason such candidate does not qualify as a Duly Enrolled Member of the Tribe. The Enrollment Committee's determination shall include written documentation that supports its' finding that the person does not qualify as a Duly Enrolled Tribal Member.

(B) The Board of Directors will consider the findings of the Enrollment Committee. The Board will report back to the Election Committee in three days whether or not each candidate qualifies to be on the ballot. If a candidate is unqualified for membership, the candidate will be notified in writing within three (3) business days and the letter will state specific reasons why the person is not qualified for membership and the process to appeal. The person shall have fifteen (15) business days to appeal such decision, as set forth in the Tribe's Enrollment Code, or other tribal procedures if no such Code is enacted. The Board will set a hearing date within ten (10) business days after receiving an appeal request and the appealing hearing date no later than fifteen (15) business days. No extension will be allowed by the appellant or the Board.

Section 3. Official Ballots

Upon completion of the verification process, the Board of Directors will meet with the Election Committee and submit a final list of the names of qualified candidates running for office. The Board of Directors will direct the Election Committee to complete the preparation of official ballots.

Section 4. Voting

Eligible voters must be present at the polling place to vote for candidates for any office. No absentee ballots are allowed, unless the Articles of Association are amended to allow for absentee voting. Voting shall be by written, secret ballot. Arrangements shall be made so that voters can cast their vote on a confidential basis.

Section 5. No Write-In Candidates

Each candidate for a position as an elected official shall be a Duly Enrolled member, nominated and verified pursuant to this Code and the Articles. No write-in candidates will be permitted; votes for write-in candidates will be considered spoiled and therefore not counted.

Section 6. Election Day

The date for the election shall be selected at the September Tribal Council meeting, with sufficient time given to allow for the resolution of any appeals required under Section 2 of this Chapter. If an extension is needed notice will be sent to the membership and the new date of the election will be given at least seven (7) business days prior to the Election Day.

On the date of the election at least three (3) members of the Election Committee shall be present during voting hours to verify voter identity, have each voter sign the Eligible Voter List and show their Tribal ID card or suitable identification upon request. The Election Committee will provide a clear, locked box for the collection of all completed ballots to prevent any tampering or spoiling of completed ballots.

Section 7. Counting of Ballots

Upon closing of the polls after voting hours, the Election Committee, in view of the Tribal Council, shall open the clear, locked ballot box, count the number of ballots cast against the number of signatures in the Eligible Voter List, publicly count the number of votes cast for each candidate, and display the results of the final tabulation on an overhead projection screen. The outcome of the counting of all votes shall be announced immediately by the Election Committee.

- (A) In the event of a tie or other cause for a re-count, such as disruption, the Election Committee shall, with a witness from each candidate involved in the re-count present, move to a quiet area in the immediate vicinity of the election, and carefully count each ballot until an accurate count can be obtained.
- (B) The purpose for moving to a quiet area is to ensure that the count can be conducted free from distractions or disruptions. However, in no case may a candidate or their witness be prevented from observing the re-count in a quiet, peaceful manner.
- (C) In the event of a tie, the Election Committee will announce a run-off election to take place within 14 (fourteen) days from the election, the time and location of the run-off election, and the office for which the run-off election involves.

Section 8. Election Certification

- (A) The Election Committee shall thereafter prepare a certification of the results of the election which shall be signed by each member of the Election Committee and which shall contain the following information:
 - 1. the number of ballots cast;
 - 2. the number of signatures in the Eligible Voter List;
 - 3. the number of spoiled ballots; and
 - 4. the persons elected to office, the number of votes received by those persons and the office to which they were elected.
- (B) The Election Committee will submit all necessary forms required by the Department of the Interior, Bureau of Indian Affairs to verify election results following the completion of any appeals.

CHAPTER 5. ELECTION DISPUTES

Section 1. Disputes over the Outcome of an Election

The Election Committee shall decide all disputes arising during and concerning the election process. Decisions of the Election Committee shall be appealable to the Board of Directors whose decision shall be final with no further right to appeal.

Section 2. Procedures for Resolving Disputes

All election protests must be filed in writing with Tribal Administrator, or their designee, on behalf of the Election Committee at the Tribal Office within three (3) business days following the election date (“protest period”). For example, if the election takes place on a Saturday, the protest period ends at 5 p.m. on the following Wednesday. The Tribal Administrator shall promptly forward the protests to the Committee by personal delivery or next day express delivery. If the candidate protesting the election wants a hearing before the Election Committee a request for hearing must be made in writing and included with the written protest filed with the Election Committee consistent with this Section.

- (A) Immediately following the close of the protest period and receiving a protest of an election, the Committee will gather facts relevant to the facts and circumstances raised in the protest.
- (B) If the protesting candidate requested a hearing before the Election Committee in accordance with this Section, the hearing shall occur within seven (7) business days of the election.
- (C) The Election Committee will render its written decision regarding the protest within fourteen (14) business days following the election, and send the written decision to the protesting candidate. A copy of the Election Committee’s written decision shall be filed with the Board of Directors. The Board of Directors shall post the decision and make it available to the Tribal Council.
- (D) The Election Committee’s decision may be appealed to the Board of Directors. The appeal shall be filed with the Secretary of the Board of Directors within five (5) business days of the delivery of the Election Committee's written decision. The Board of Directors shall hold a hearing within ten (10) business days of receiving a notice of the appeal to decide whether or not to uphold the Committee’s decision. The appeal shall be in writing and state the grounds for the appeal.
- (E) The decision of the Board of Directors must be in writing and state the grounds for reversing or upholding the Committee’s decision. The final decision must be made within ten (10) business days of the Board of Directors holding a hearing on the appeal. The

final decision shall be filed with the Secretary of the Board of Directors and the Chair of the Election Committee and shall be made available to the Tribal Council on the same day by posting it in plain view at the Tribal Office.

- (F) If the appeal concerns the election of a Board of Directors position and the protesting party disagrees with the Board of Directors decision he/she may make a formal request for an appeal to the Tribal Council within three (3) business days of receiving the Board of Directors final decision. The Board of Directors upon receipt of such request shall place the matter on the agenda for the next Tribal Council meeting or the Board of Directors may, in its discretion, call a Special Meeting of the Tribal Council in accordance with the Articles to address the appeal.

CHAPTER 6. ELECTED OFFICIALS; TERM OF OFFICE; VACANCY

Elected Tribal officials shall hold offices for the term set forth in the governing document creating such office or until their successors are duly elected and installed. If an officer shall die, resign, be found guilty of a felony, or be recalled from office, the vacancy so created shall be filled by the Board of Directors at its next meeting, and the replacement shall serve out the unexpired term of office of his predecessor, unless the governing document creating the elected office sets forth a different process for filling such vacancy.

CHAPTER 7. TRIBAL MEMBERSHIP REPORTING

The Election Committee shall provide a written report to the general membership, at the annual April General Membership Meeting which summarizes:

- (A) any actions taken by the Committee between membership meetings;
- (B) any rules or policies adopted or submitted for approval to the Board of Directors;
- (C) removal of any Committee members; and
- (D) a summary report as to the process and results of any election that took place between General Membership meetings.

CERTIFICATION

The foregoing Election Code was presented at a General Membership Meeting held on April 27, 2013, and was approved with a quorum present and such Code has not been rescinded or amended in any way.

Harvey Hopkins
Chairman

Date

Margie Rojas
Secretary/Treasurer

Date