

**TUNICA-BILOXI TRIBE OF LOUISIANA
ORDINANCE NO. TBN-O-2020-003**

**Ordinance to Enact Election Code and Reaffirm and Amend Tribal Election Procedures
Promulgated in Resolution #55-09.**

WHEREAS, the Tunica-Biloxi Tribe of Louisiana is a federally recognized Indian tribe;

WHEREAS, the Tunica-Biloxi Tribal Council (the “Tribal Council”) is the duly elected governing body of the Tribe, as authorized by Article VII, Section 1, of the Constitution of the Tribe (“Constitution”);

WHEREAS, the Tribal Council is authorized by Article XIII, section 4, of the Constitution to enact procedures governing the conduct of tribal elections;

WHEREAS, the Tribal Council is empowered by Articles VII and VIII of its Constitution to enact codes necessary to fulfill its enumerated powers and any other codes necessary and incidental to the exercise of its enumerated powers;

WHEREAS, clear and comprehensive tribal law on the conduct of tribal elections and referenda is fundamental to the preservation of tribal sovereignty and the ability of tribal members to hold their tribal government accountable;

WHEREAS, the Tribal Council duly passed Resolution #55-09 to establish procedures governing the conduct of tribal elections;

WHEREAS, pursuant to the Tunica-Biloxi Legislative Code, the Tribal Council has determined that an ordinance is necessary to reaffirm the procedures governing the conduct of tribal elections originally promulgated through Resolution #55-09;

WHEREAS, The Tribal Council wishes to ensure the spiritual and financial well-being of the Tribe and to instill and increase the confidence of both tribal members and the general public; and

WHEREAS, the Tribal Council has determined that in order to safeguard the safety and well-being of the Tribe, it is necessary to supplement the qualifications for those seeking to hold tribal office.

NOW, THEREFORE BE IT ORDAINED, that the Tribal Council hereby enacts the previously published Election Code to be effective immediately.

CERTIFICATION

I, the undersigned, as Secretary-Treasurer of the Tunica-Biloxi Tribe of Louisiana, certify that the Tribal Council of said Tribe is composed of seven (7) members, of whom 5, constituting a quorum, were present at a meeting thereof, duly called, noted, convened and held this 15th day of October 2020; and that the foregoing Ordinance was duly adopted by a vote of 5 members in favor, 0 opposed, and 0 abstaining.

Dated this 15th day of October 2020.


Marshall Pierite, Chairman

ATTEST:


Beverly C. Rachal, Secretary-Treasurer

TUNICA-BILOXI TRIBE OF LOUISIANA
TITLE _____
ELECTION CODE

GENERAL PROVISIONS

SECTION 1 — SHORT TITLE

This Code may be cited as the “Tunica-Biloxi Election Code.”

SECTION 2 — AUTHORITY AND PURPOSE

- a) The Tribal Council of the Tunica-Biloxi Tribe of Louisiana, hereinafter referred to as “Tribe,” is empowered by Articles VII and VIII of its Constitution to enact codes necessary to fulfill its enumerated powers and any other codes necessary and incidental to the exercise of its enumerated powers.
- b) The Tribal Council hereby enacts this Code to govern the conduct of all tribal elections and referenda.

SECTION 3 — DEFINITIONS

For purposes of this Code, the following definitions shall apply:

- a) “Code” shall mean the Tunica-Biloxi Election Code.
- b) “Elections Committee” means the committee having the exclusive responsibility for conduct of the tribal elections as provided for under this Code.
- c) “Tribal Council” means the Tunica-Biloxi Tribal Council.
- d) “Tribal Government” means the Tribal Council, the office of the Tribal Chairman, all offices and departments that report directly to the Tribal Chairman, governmental authorities, commissions, and all boards, instrumentalities, and other entities established by the Tribal Council responsible for the administration, management, or oversight of a government program, department, service, operation, grant, or any other government-related activity assigned by the Tribal Council.
- e) “Tribal Law” means all laws of the Tribe, including without limitation, this Code.
- f) “Tribal Member” means an enrolled member of the Tribe.
- g) “Tribal Office” shall mean the respective Tribal Council offices of Tribal Chairman, Vice-Chairman, Secretary-Treasurer, and Council member.

- h) “Tribe” means the Tunica-Biloxi Tribe of Louisiana.

SECTION 4 — SOVEREIGN IMMUNITY

Nothing in this Code shall constitute a waiver, in whole or in part, of the sovereign immunity of the Tribe, any Tribal Entity, or any of their subsidiaries, departments, affiliates, agents, officers or employees.

SECTION 5 — REPEAL OF INCONSISTENT PROVISIONS

Any prior legislation or other Tribal Laws that are inconsistent with the purpose and procedures established by this Code are hereby repealed to the extent of any such inconsistency.

SECTION 6 — EFFECTIVE DATE

This Code shall become effective immediately upon adoption by the Tribal Council.

ELECTIONS PROCEDURES

SECTION 7 — ELECTIONS COMMITTEE

- a) On November 1 of the year preceding each regularly scheduled election, the Tribal Council shall appoint an Elections Committee, which shall have exclusive responsibility for the conduct of the tribal elections in accordance with this Code, subject to the right of appeal set out in section 15 below.
- b) The Elections Committee shall consist of either five (5) or seven (7) members, subject to the discretion of the Tribal Council. In the event fewer than five (5) members are able to serve on the committee, the Tribal Council shall appoint alternatives so that a minimum of five (5) members serve.
- c) Tribal members who are eligible to vote in the upcoming tribal election are qualified to serve as members of the Elections Committee, except that those members seated on the Tribal Council at the time of appointment of the Elections Committee are not eligible for appointment to that Elections Committee. Further, a state or federal felony conviction shall disqualify a member from eligibility for appointment to the Elections Committee and the Tribal Council shall cause criminal background checks on prospective Election Committee members to determine eligibility to be done before their appointment to the Election Committee.
- d) The duties of the Elections Committee shall terminate seven (7) days following the certification of the tribal election, or the exhaustion of all appeals following an election, whichever occurs later. Upon termination of the Election Committee’s duties, the Committee shall submit a full accounting of filing fees and election expenses and a full accounting of all ballots printed, voted, and spoiled in the election overseen by it, to the Tribal Council.

- e) The Elections Committee shall be compensated for their services on the same basis as all other committees of the Tribe.

SECTION 8 — CONDUCT OF BUSINESS BY THE ELECTIONS COMMITTEE

- a) The Elections Committee shall have its first meeting by December 1 of the year preceding the election for which it is responsible, at which meeting the members of the Elections Committee shall designate from among their members a Chairman, Bailiff, Poll Book Clerk, and Treasurer. This first and all other meetings of the Elections Committee shall take place at the seat of government of the Tunica-Biloxi Tribe and shall be conducted in accordance with Roberts Rules of Order.
- b) The Chairman shall have the responsibility of conducting all meetings; the Bailiff shall have the responsibility of insuring security of ballots and ballot boxes; the Poll Book Clerk shall have the responsibility of maintaining the poll book; and the Treasurer shall have the responsibility for accounting for filing fees and expenses of the election. For the sole purpose of safeguarding all tribal funds as required by Art. VII, sec. 13, of the Constitution of the Tunica-Biloxi Tribe, the Treasurer shall report to the Secretary/Treasurer of the Tribal Council regarding the collection and expenditure of filing fees.
- c) Following its first meeting, the Chairman of the Elections Committee shall immediately notify the Tribal Council of his/her and other officers' selection. Within ten (10) days of this notice and in consultation with the Chairman of the Elections Committee, the Tribal Council shall set a date as soon thereafter as possible for a training session to be conducted for the Elections Committee. The training session shall be conducted by special counsel retained by the Tribal Council for that purpose and shall familiarize the Elections Committee members with their responsibilities under this Code and the Tribe's Constitution.
- d) All business of the Elections Committee shall be conducted in meetings open to tribal members for observation only, except that the Chairman of the Elections Committee can at the commencement of any meeting indicate that personal, confidential matters such as the qualifications of a candidate shall be addressed at the meeting. This announcement by the Chairman will cause the meeting to be closed for the purpose of that discussion only. The Elections Committee shall maintain minutes of all meetings, which minutes shall become permanent tribal records.
- e) A quorum for the purpose of conducting business shall consist of three (3) members out of an Elections Committee consisting of five (5) members, or five (5) members out of an Elections Committee consisting of seven (7) members.

SECTION 9 — CANDIDATE QUALIFICATIONS AND FILING

- a) Candidates for Tribal Chairman, Vice-Chairman, and Secretary-Treasurer must be enrolled members of the Tribe who are at least twenty-five (25) years of age by the time she/he

would assume office. Candidates for Council member must be enrolled members of the Tribe who are at least eighteen (18) years of age by the time she/he would assume office. These offices are referred to herein collectively as tribal offices.

- b) A state or federal felony conviction shall disqualify an individual from running for tribal office and from holding a tribal office. Individuals convicted of financial crimes, crimes involving dishonestly, crimes of moral turpitude, sex-related crimes, and/or violent crimes, regardless of whether the conviction was a felony or misdemeanor or whether the conviction took place when the individual was a minor shall in all cases be disqualified from running for tribal office and from holding a tribal office. The Elections Committee shall cause criminal background checks to be performed on every candidate to determine qualification.
- c) An individual who currently holds a tribal office, and whose term will not expire upon the next election, is disqualified from filing for any other tribal office, unless that individual resigns from the tribal office currently held by her/him. The intent to resign from a currently held tribal office so that the individual is qualified to run for another tribal office shall be announced to the Tribal Council no later than the first Friday in January in the year of the election.
- d) The filing deadline shall be the third Friday in January in the year of the election. The filing shall include a formal statement which designates the office for which the individual intends to run and the payment of a filing fee in the amounts of \$500 for an officer and \$300 for a council member. The filing fees shall be deposited by the Treasurer of the Elections Committee into a separate account and used solely to offset the costs of the elections.
- e) The use of tribal resources, equipment, and work time in campaigning by candidates or electioneering by tribal employees is prohibited. This prohibition includes the use of tribal benefits, tickets, or other value, by incumbents after the filing deadline and for purposes of the tribal election, provided that incumbent office holders may continue the distribution of such tribal resources or assets in the normal course of tribal business unrelated to the tribal election.
- f) Every candidate who files and is qualified to stand for tribal office is entitled to receive the addresses of all enrolled tribal members printed upon mailing labels one time, so long as the candidate supplies the mailing labels.

SECTION 10 — BALLOTS AND BALLOT BOXES

- a) The Elections Committee shall finalize and secure the printing of ballots immediately before February 1, in order that they may be available in accordance with Section 12 (a), below. The final ballot shall contain only those candidates' names who met the filing and other qualifying deadlines, submitted the appropriate filing fee, have been determined to have no felony convictions, and who continue to be available and willing to serve. A

- candidate's death or withdrawal shall cause him/her to be removed from the ballot before printing.
- b) All ballots shall be numbered and shall consist of three sections, separated by perforated lines: first, the voting section, which lists all offices, starting with officers in order of rank and council seats designated by numbers, and under each office the legal names of all candidates who have filed therefore in alphabetical order by last name; second, a voter identification section, which contains the signature and roll number of the voter; and third, the receipt section, which shall be retained by the voter. The first and third sections of each ballot shall bear the ballot number. Write in candidacy shall not be allowed.
 - c) Upon printing, the ballots shall be deemed official tribal records and the Elections Committee shall maintain custody over the ballots at all times. Specifically, the Bailiff shall maintain a log of all ballots by number, certifying the release of specified ballots to a member of the Elections Committee for purposes of absentee or poll voting or as replacement ballots. At the termination of its duties, the Elections Committee shall include in its final accounting to the Tribal Council a complete accounting of all printed ballots showing a chain of custody for each.
 - d) Separate ballot boxes shall be employed for ballots voted at the poll and those voted by absentee. Both boxes shall be fireproof and constructed with an opening in which to place voted ballots. Both boxes shall be secured with separate dual locks and keys so that it shall require the use of both keys to open each box. The Bailiff and Poll Book Clerk shall have exclusive access to one set of keys each and shall sign in and sign out every use of the keys in a log book. When not in use by the Bailiff and Poll Book Clerk, both sets of keys shall be maintained in a combination locked box at the Tribal Cultural Center and shall never leave the tribal territory.

SECTION 11 — POLL VOTING

- a) The official polling place for tribal elections is the Reservation in Marksville, Louisiana. Voting shall take place on the first Sunday in April in every even numbered year and the polling place shall be open between the hours of 9:00 a.m. and 1:00 p.m.
- b) An eligible member appearing to vote at the poll shall be required to sign the poll book to receive a ballot. In advance of election day, the poll book shall be stored in the combination locked box at the Tribal Cultural Center along with the two sets of keys to the ballot boxes. The Poll Book Clerk member of the Elections Committee shall have exclusive access to the poll book and shall sign in and sing out every use of the poll book in a log book.
- c) When each ballot is voted, the voter will separate the third portion of the ballot as his receipt and deposit the remainder of the ballot into the ballot box. Assistance will be provided for elderly, handicapped or other voters requiring such assistance by the Elections Committee. At all times, the secrecy of the ballot shall be respected and maintained. Upon voting at the poll, the voter will depart from the voting area.

- d) On election day, there shall be no electioneering within 100 feet of the polling place. This prohibition includes campaigning by or on behalf of candidates and the posting of campaign signs and slogans.

SECTION 12 — ABSENTEE VOTING

- a) The Elections Committee shall designate one of its members to receive requests for absentee ballots. No later than February 1, the identity of that committee member, a toll free phone number to be used to request an absentee ballot, and the post office box for the receipt of absentee ballots shall be publicized to tribal members. All absentee ballot requests and processing shall be done under the personal supervision of the designated member of the Elections Committee.
- b) Up to and including March 1, any eligible voting member of the Tribe may request an absentee ballot, either in person, by phone, or mail postmarked no later than March 1. An eligible voting member cannot vote absentee and at the polling site as well.
- c) The designated Elections Committee member shall maintain a log of all requests received and all ballots mailed out, showing the eligible voter and ballot number of each. Each absentee ballot mailed or given out shall be accompanied by three documents: first, complete instructions, which shall direct the voter to execute the enclosed affidavit, vote the ballot, detach and retain the receipt portion of the ballot, and return the voted ballot and affidavit in the enclosed envelope; second, a simple form statement verifying that the ballot is voted by the signed, voting eligible member; and third, a stamped, addressed envelope in which to return the voted ballot and statement of eligibility to vote, which envelope shall also bear the ballot number on the outside.
- d) The designated Elections Committee member shall be personally responsible for placing all mailed out ballots directly in a United States Post Office, for express mail delivery, and personally responsible for retrieving all voted absentee ballots from the post office box dedicated to that purpose.
- e) The designated Elections Committee member shall make every reasonable effort to follow up on each absentee ballot request, whether made by phone, mail, or in person, to verify that the ballot was received. When voted absentee ballots are returned, the designated Elections Committee member shall immediately note the ballot number on the envelop, notify the voter that the ballot was received, and place the unopened absentee ballot in the absentee ballot box. No ballots returned after the last delivery of mail by the Post Office before election day shall be counted. The designated Elections Committee member shall account for the continuous custody of all absentee ballots to the Bailiff for inclusion in the Bailiff's ballot accounting.

SECTION 13 — VOTE TALLYING

- a) Immediately following the closing of the polling site, the Elections Committee shall convene for the tallying of ballots in open view of the voting members, with the poll ballot box counted first and the absentee ballot box counted second. The Elections Committee shall obtain the services of two impartial, non-tribal members, who shall be responsible for reading the voted ballots.
- b) The ballots shall be counted one at a time with candidates receiving votes on each ballot read aloud, with two members of the Elections Committee separately recording each vote on a separate tally sheet. After the candidate(s) names voted by a ballot are read, the voting section of the ballot is separated from the voter identification section. The voting section and voter identification section shall be maintained and stored separately.
- c) After each twenty (20) ballots have been counted, the Bailiff shall require a call back from the two separate tallies. Once all ballots are counted in this manner, the Chairman of the Elections Committee shall announce the total count as found on the two separate tallies for each candidate and shall adjourn the meeting.
- d) A ballot that has been altered by any means shall be deemed spoiled and shall not be counted. A ballot that for any reason fails to reveal the intent of the voter with regard to any race(s), shall be deemed unreadable and shall not be counted as to that race or races. Attempts to write in candidate(s) shall render the ballot unreadable as to that race or races.

SECTION 14 — VOTE CERTIFICATION

- a) By close of business on the Tuesday following the election, the Election Committee shall certify the vote in the tribal election overseen by it to the Tribal Council.
- b) The certification shall contain a summary of the election results, the votes tallied for each candidate, showing the poll and absentee voting separately, and a reconciliation of votes tallied as compared to voter identification portions of the ballots.
- c) The certification, poll book, voter identification portions of the ballot, the final ballot and financial accounting, and minutes of all meetings of the Elections Committee shall be considered permanent tribal records to be maintained by the Tribal Administration. All other records of the Elections Committee may be destroyed by the next constituted Elections Committee.
- d) Upon certification of the tribal election, the candidates certified as obtaining the majority votes shall assume that office at the monthly Tribal Council meeting for April, which shall be held the Saturday following the election. In the event a timely challenge to the tribal election is filed in accordance with section 15 below, the certified candidates continue to serve in their elected office unless and until the election or a given race is set aside at the end of all appeals or consideration of a challenge. In the event an election or race is set aside at the end of all appeals or consideration of a challenge, the affected candidate(s) is or are immediately unseated.

SECTION 15 — APPEAL

- a) Any voting member, whether or not a candidate in the election, may contest a tribal election by submitting in writing a formal challenge to the Elections Committee within seven (7) calendar days of the certification of the tribal election by the Elections Committee to the Tribal Council.
- b) A formal challenge to a tribal election must allege one of two grounds: first, that there were such serious violations of tribal law or voting irregularities that would undermine the integrity of the entire electoral process; or second, that there were violations of tribal law or voting irregularities that may have affected the outcome of a given race. The formal challenge shall include statements of facts or circumstances to substantiate the claimed ground for the challenge.
- c) The Elections Committee shall investigate any challenge to the tribal election. In conducting the investigation, the Elections Committee shall consult with special counsel who conducted the training sessions for the Committee. Following its investigation and within ten (10) calendar days of the receipt of the challenge, the Elections Committee shall issue a written statement of its conclusions. The Elections Committee can: reject the challenge as failing to allege a sufficient basis for the challenge or failing to prove sufficient allegations; accept the challenge but uphold the election if the allegations do not rise to the level of violation required to set aside the election; accept the challenge and set aside a particular race; or accept the challenge and set aside the entire election. The Elections Committee shall provide a copy of its decision, including any analysis, report, or recommendation of special counsel, to the voting member who challenged the election and the Tribal Council in open session.
- d) The voting member who filed the challenge can seek further review of the decision of the Elections Committee on the challenge by notifying the Tribal Council of her/his desire to do so within seven (7) calendar days of the Elections Committee decision on the challenge. In that event, the Tribal Council shall immediately convene all counsel currently under contract with the Tribe for the purpose of identifying three (3) attorneys who are unassociated with the Tribe at that time and who agree to function as an appeal panel for the challenge. This appeal panel shall be convened no later than seven (7) calendar days following receipt of notice that the voting member who filed the challenge seeks further review.
- e) In the event an appeal panel is convened to further review the challenge, the panel shall review the entire record relating to the challenge and must issue its decision within five (5) business days after it is convened. The panel can affirm or reverse any decision of the Elections Committee. In the event the appeal panel determines the challenge to be frivolous, it can impose the costs of convening the review panel upon the voting member who sought the further review. In the event the appeal panel sets aside the election in whole or part, the Tribal Council shall convene a new Elections Committee in accordance with the terms of this Code to conduct the new election.

SECTION 16 — TRIBAL ELECTION SCHEDULE

- a) Elections for tribal officers shall be held the first Sunday in April of even numbered years upon the expiration of the current terms and in accordance with Article XIII, section 1, of the Tribe's Constitution.
- b) In summary of the provisions set out above, the following schedule applies to the conduct of elections for tribal officers, which schedule shall be featured in the training of Elections Committee members required in Section 8, c), above:
- Nov. 1, odd numbered years – appointment of Elections Committee;
 - Dec. 1, odd numbered years – organizational meeting of Elections Committee;
 - Dec. 10, odd numbered years – Tribal Council consults with Elections Committee on scheduling of training session;
 - First Friday in Jan., even years – deadline for tribal officers to announce resignation to run for other office;
 - Third Friday in Jan. even years – filing deadline;
 - Feb. 1, even years – ballots printed and announcement by Elections Committee regarding absentee ballots;
 - March 1, even years – deadline for requesting absentee ballot;
 - First Sunday in April – election and tallying of vote;
 - Close of business on Tuesday following election – Elections Committee certifies the vote;
 - Saturday following election – tribal officers sworn into office, subject to appeal process;
 - Within 7 days following certification, any challenges to certified elections filed;
 - Within 10 days after receipt of the challenge, the Elections Committee makes its determination in writing;
 - Within 7 days of the Elections Committee determination, notification to Tribal Council of further review;
 - Within 7 days of notification, review panel consisting of 3 attorneys is convened;
 - Within 5 days of panel convening, decision on review;

- Within 7 days of certification or decision by review panel, Elections Committee files final financial and ballot accounting and duties terminate.

SECTION 17 — ELECTIONS COMMITTEE FOR RECALL, INITIATIVE, REFERENDA, AND TO FILL VACANCIES.

- a) Election Committees for the conduct of elections on recall, initiatives, referenda, and to fill vacancies in tribal offices, shall be appointed and conduct business in accordance with the provisions of this Code, except as specifically set out in this section.
- b) The schedule governing the activities of Elections Committees to oversee the conduct of recall, initiatives, referenda, and vacancies in office is:
 - (1) Immediately upon receipt of a petition showing thirty percent (30%) of the enrolled qualified voters calling for an initiative or referendum vote, or a declared vacancy in a tribal office, the Tribal Council shall appoint an Elections Committee and refer the initiative or referendum to it and immediately consult with the appointed committee for the scheduling of training in accordance with section 3 (c), above;
 - (2) Within ten (10) days of receipt of the petition for initiative or referendum, the Elections Committee shall determine the validity of the petition, in the performance of which duty the Elections Committee may and is encouraged to consult with the attorney appointed to conduct training of this Elections Committee;
 - (3) In the event the petition is determined to be valid, the Elections Committee shall conduct the election in accordance with this provision. These elections and those to fill a vacancy must be conducted within sixty (60) days of the event requiring the election.
- c) A voting member who is a signatory to a petition for recall, initiative, or referendum or any voting member in an election to fill a vacancy may appeal a decision of the Elections Committee regarding that petition as set out above in Section 15.
- d) In the event more than one election is taking place at a given time, whether on a recall, referendum, initiative, to fill a vacancy, and a regularly scheduled election, the Tribe Council may in its discretion appoint more than one Election Committee to conduct the overlapping elections. The activities of all Election Committees, whether or not operating simultaneously with another Election Committee, shall be governed by the provisions of this Code.