

## CHAPTER 22

### ELECTION

#### 22-1 ELIGIBILITY TO VOTE

22-1.01 To be eligible to vote in an election held by the Kootenai Tribe of Idaho a person must be a member of the Kootenai Tribe of Idaho and be at least 18 years of age.

#### 22-2 ELIGIBILITY TO BE A MEMBER OF THE TRIBAL COUNCIL

22-2.01 To be a member of the Tribal Council, a person must be eligible to vote on adoption applications and have been a resident of the U.S. portion of Ktunaxa Territory that is the primary responsibility of the Kootenai Tribe of Idaho for the previous six months. A person convicted of a felony or any crime involving fraud, embezzlement, or theft, within the previous four years, is not eligible to be a member of the Tribal Council.

#### 22-3 VOTING BY DISTRICT

22-3.01 Members of the Council shall be elected from three districts. The Council shall be composed of six members, two from each District.

22-3.02 The Districts shall be Aitken, Abraham and David. Eligible members must designate a district in which they will vote on or before June 1, 1998. Such designations cannot be changed.

22-3.03 After June 1, 1998, members must designate the voting district of which they are a member upon becoming eligible to vote. Such designation cannot be changed. Members of the Tribal Council are selected from the districts from which they are members. Except as set forth below, members of a district elect the Member(s) of the Tribal Council representing them.

#### 22-4 COUNCIL SEATS

22-4.01 Each district shall elect two Tribal Council Members and one alternate.

22-4.02 The two individuals who receive the highest number of votes from each district, upon being seated by the Council, will represent that district on the Tribal Council. The individual who receives the next highest number of votes shall become the alternate and shall become a member of the Council if a member from the alternate's

district is unavailable or unable to serve during a meeting or other official business of the Tribe. The Council shall refuse to seat members elected to the Council only pursuant to the provisions of this Act.

#### 22-5 SPECIAL AND RUN OFF ELECTIONS

22-5.01 In case of a tie for the highest number of votes in a district there will be a run off election, if necessary, between the individuals receiving an equal number of votes.

22-5.02 The Districts will set the dates for Special and Run Off Elections. The provisions of this ordinance shall govern all Special and Run Off Elections.

#### 22-6 ELECTION PROCESS

22-6.01 Except for Special and Run Off Elections, election day shall be the second Friday in September during election years. Election years are every fourth year starting with the year 1997.

22-6.02 Voting shall be done by secret ballot, except—telephone votes are permitted provided calls are received at the location selected by the District for its election and the caller is identified by at least two individuals and the phone vote is certified and put in writing.

22-6.03 Repealed July 2005

22-6.04 Each District will engage an independent third party to be present on the day of any election to supervise the election process. Such third party will certify in writing the results of the election to the Tribal Secretary by the official election day.

22-6.05 Districts shall meet at a location selected by the Districts no more than 2 (two) weeks prior to the official election day. Each District shall select its Council Members and Alternates at such meeting.

22-6.06 At the time of an election, all eligible voters must certify that they have not voted in another Tribe's and/or Band's election within the

previous five years. Eligible voters who refuse to sign the certification will not be allowed to vote.

## 22-7 SEATING OF COUNCIL MEMBERS

22-7.01 A person elected to the Council shall not be deemed a member of the Council until he or she is seated.

22.7.02 Prior to being seated on the Council, members elected from each district must certify that they are not aware of any physical, mental or emotional health problems, including drug and alcohol abuse or addictions, that will prevent them from performing their duties or will substantially impair them in such performance.

22-7.03 A Council member who fails to disclose physical, mental or emotional problems as required under section 22-7.02 and who subsequently fails to perform the duties of a Council member as a result of such health problems, shall be deemed to have committed fraud and shall be subject to disciplinary action or removal from the Council as determined by a vote of not less than five members of the Council voting in favor. Removal from the Council shall be for a period of four (4) years.

22-7.04 The Council may, under extraordinary circumstances, refuse to seat a person elected to the Council from a district, regardless of the certification required by section 22-7.02, if the Council determines by a vote of not less than five members voting in favor of refusing to seat that person, that the person so elected is physically, mentally or emotionally unable to perform the duties of a Council member competently, or has violated Chapter Four, Sections 4-4.17 or 4-4.18, provided such refusal for any reason stated herein is based on clear and convincing evidence.

22-7.05 "Clear and Convincing Evidence" shall be evidence such as the person's own admission, the person's previous resignation from the Council, information from trained individuals qualified to express professional opinions on matters related to physical, mental or emotional health or the experience and observations of at least three members of the Council.

## 22-8 COUNCIL OFFICER

22-8.01 The Council shall elect from its membership a Chairperson, Vice-Chair, Secretary and Treasurer. The Chairperson shall not have a

vote on Council business except in the case of a tie and as set forth in section 22-10.03. The Alternate from the Chairperson's district shall serve the term vacated by the Chairperson.

## 22-9 FILLING VACANCIES

22-9.01 A vacancy on the Council shall be filled by the alternate from the district in which the vacancy occurs.

22-9.02 If no alternate is available the Council shall call a Special Election for the district within sixty (60) days at which time the district shall elect a replacement, who shall be seated pursuant to the same rules and procedures as any other elected member of the Council. Special Elections shall be held in a manner designated by the District.

22-9.03 If a district fails to elect a suitable member to fill the vacant seat at the Special Election called by the Council for that purpose, that seat shall remain vacant at the discretion of the Council. The Council may, if it so chooses, leave the seat vacant or appoint a member from the district with the vacant seat to serve out the remaining term of that seat.

22-9.04 If a district does not have any representation on the Council due to vacant seats, which have not been filled by the district at a Special Election called for that purpose, the Council shall appoint at least one member from that district to serve out the remaining term of the vacant seats to ensure that the district has some representation. If no member from that district is willing and/or qualified to fill the seat, the Council shall appoint a member at large to serve out the term of the vacant seat, who shall represent the district as he or she deems proper.

## 22-10 PROCEDURES CHAIRPERSON AUTHORIZED TO VOTE

22-10.01 All matters related to seating and disciplinary actions of the Council shall be conducted in compliance with the Indian Civil Rights Act.

22-10.02 Upon a petition signed by 75% of the eligible voters of a district, the Council shall reconsider any action taken under this ordinance to refuse to seat or to discipline an elected or seated member of the Council from that district, provided that nothing herein shall require the

Council to rescind or modify any previous action and any rescission or modification will not be effective unless approved by not less than five members of the Council voting in favor of rescission or modification.

22-10.03 The Chairperson of the Council shall be authorized to vote in all matters related to the seating or disciplining of Council members.

22-11 NO WAIVER OF SOVEREIGN IMMUNITY

22-11.01 Nothing in this ordinance shall be construed as a waiver of the sovereign immunity of the Kootenai Tribe of Idaho or the Council. There shall be no right of appeal to any forum from any action taken or discipline imposed by the Council pursuant to this ordinance.