

TITLE 29
LUMMI NATION CODE OF LAWS
ELECTIONS CODE

Enacted: Resolution 78-107 (11/2/78)

Amended: Resolution 79-07 (1/18/79)
 Resolution 79-103 (9/12/79)
 Resolution 79-124 (12/4/79)
 Resolution 79-126 (12/28/79)
 Resolution 80-129 (11/3/80)
 Resolution 80-136 (12/1/80)
 Resolution 82-08 (1/12/82)
 Resolution 90-02 (1/21/90)
 Resolution 92-152 (12/29/92)
 Resolution 93-43 (3/23/93)
 Resolution 97-147 (10/22/97)
 Resolution 97-151 (11/10/97)
 Resolution 2003-164 (12/8/03)
 Resolution 2006-169 (12/18/06)
 Resolution 2008-117 (8/6/08)

**TITLE 29
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**TITLE 29
LUMMI NATION CODE OF LAWS
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Chapter 29.01 Election and Certifying Committees

29.01.010 Election Committee

(a) There is hereby established a Tribal Elections Committee for all Lummi Indian Business Council elections. The committee shall consist of the entire membership of the Tribal Enrollment Committee.

(b) The Tribal Elections Committee shall be responsible for the conduct of the primary, general, and special elections. It shall have the power to enforce rules and regulations adopted by the Lummi Indian Business Council which govern the conduct of those elections.

(c) Election Committee Members may not run for, or be a member of, the LIBC.

(d) The Election Committee shall elect from among its members a Chair and Vice-Chair at their first meeting of each calendar year.

(e) Election Committee Members shall receive the same meeting and stipend rate as other LIBC commissions, boards and committees, and the same task rate as LIBC members.

29.01.020 Election Committee Alternates and Conflicts of Interest

(a) The Lummi Indian Business Council shall appoint no fewer than three and no more than seven eligible voters to serve as alternate Tribal Election Committee members in the event that any member of the Enrollment Committee is unable or unwilling to serve as a member of the Tribal Elections Committee.

(1) Members appointed under this section shall serve as alternate members of the Election Committee until they resign, or are replaced by the Lummi Indian Business Council no later than 60 days before the Primary Election .

(b) No person shall serve on the Tribal Elections Committee who is a candidate or

who is directly related to any candidate for office.

(1) For the purposes of this subsection, “directly related” shall mean that the committee member is the son, daughter, husband, wife, mother, father, sister, or brother, aunt, uncle, niece, nephew, grandmother, grandfather, grandson, granddaughter, or a step- or in-law of any of the above relations. These relations include those related by adoption.

29.01.030 Certifying Committee

(a) The Certifying Committee shall be appointed by the General Council according to Article III – General Council, Section 3(d) of the Lummi Constitution to certify all elections to the Business Council. No person shall serve on the Certifying Committee who is a candidate or who is directly related to any candidate for office. “Directly related” shall be defined as stated in Section 29.01.020 (b) (1) of this chapter.

(b) No employee of the Enrollment/Elections Office, current LIBC member, or candidate may be a member of the certifying committee.

29.01.040 Election Challenge Review Board

An Election Challenge Review Board consisting of three General Council members shall be appointed by the General Council at the same meeting at which the General Council appoints the Certifying Committee. Members of an Election Challenge Review Board shall not be employees of the Enrollment/Elections Office, nor members of the Election Committee or the Certifying Committee, nor current members of the Lummi Indian Business Council, nor a candidate. No person shall serve on an Election Challenge Review Board who is a candidate or who is directly related to any candidate for office. “Directly related” shall be defined as stated in Section 29.01.020 (b) (1) of this chapter.

29.01.050 Training for Election Committee, Certifying Committee, and Election Challenge Review Board

The election staff shall be responsible for scheduling a training program for newly appointed Election Committee, Certifying Committee, and Election Challenge Review Board appointees prior to the dates scheduled for the Primary and General Elections.

Chapter 29.02 Voter Registration

29.02.010 Only Registered Voters May Vote

(a) To be eligible to vote in a tribal primary, general, or special election a person shall be registered to vote in accordance with these regulations.

(b) Any member of the Lummi Tribe, qualified under the Lummi Constitution, who is registered to vote, may exercise the right to vote on all matters before the Lummi General Council, including primary, general, and special elections of the Lummi Indian Business Council.

29.02.020 Voter Qualifications

Only persons meeting the following qualifications shall be eligible to vote:

(a) The person must be eighteen (18) years of age as of the date of registration.

(b) The person must be an enrolled member of the Lummi Indian Tribe as of the date of registration.

(c) The person must have maintained legal residence on the Reservation or within Whatcom County for the six (6) months immediately preceding the date of elections held pursuant to this Title.

(1) As used in this regulation, “legal residence” shall mean actual physical presence and maintenance of a home within Whatcom County. Any person challenged on their “residency” shall be required to provide documented proof of residence and presence in Whatcom County. For the purposes of these regulations, a student, a person serving in the Armed Forces, or a person in a rest home shall be considered to have a legal residence within Whatcom

County during the time he is a student, or in the Armed Forces, or in a rest home elsewhere, provided that he maintained a legal residence within the County immediately prior to departing to attend school, or serve in the Armed Forces, or enter the rest home.

(2) A person who is employed outside the State of Washington, registered to vote in another State or County within Washington State, licensed to drive in another State, or is absent from Whatcom County for more than ninety (90) days in a consecutive six (6) month period preceding registration or an election held pursuant to this title is presumed to not have legal residence in Whatcom County. This presumption may be overcome by showing of evidence that the person maintained a home and was actually present in Whatcom County for at least 91 days in the six (6) month period preceding registration or an election held under this Title.

29.02.030 Preparation of Voters List

(a) The Tribal Elections Committee shall prepare an initial list of registered voters no later than 30 days before the Primary Election , which shall consist of all persons who have registered since preparation of the last initial list or who have voted in at least one of three immediately preceding primary or general elections of the Lummi Indian Business Council. Registered Tribal Members who meet the residency requirements and are over the age of 70 may not be removed from the registered voter list for lack of participation.

(1) This list of registered voters shall be updated for every election.

(b) The initial list shall be posted in not less than four (4) public places within the exterior boundaries of the Reservation and published in the tribal newspaper, or other tribal publication, at least thirty (30) days prior to the primary election each year.

29.02.040 Registration Process

(a) Persons may have their names added to the list by registering at the enrollment/election office at the Tribal Office,

on forms provided for that purpose, and by presenting satisfactory proof that the qualifications for registration have been met according to 29.02.020.

(1) It is the direct responsibility of the voter to maintain an updated mailing address with the enrollment/elections office.

(b) Voter Registration Forms shall be accepted during regular working hours:

(1) Up to (and including) fifteen (15) calendar days prior to a primary election or special election in order to be eligible to vote in that primary or special election; or

(2) Up to (and including) ten (10) calendar days prior to a general election in order to be eligible to vote in that general election.

29.02.050 Registration Appeal and Voter's List Challenge

(a) Any person whose application is rejected by the enrollment/elections staff shall have the right to an appeal to the Tribal Elections Committee.

(b) Any member of the tribe who is registered to vote may challenge the inclusion of any person on the registered voters list.

(c) The enrollment/election office may request additional information from a challenged voter before removing them from the list. If the person will not be included on the list of eligible voters, the enrollment/elections office shall notify the person who has been rejected or challenged by personal service that their name will not be included on the list of eligible voters, that they have the right to appeal the decision, and about the appeals process.

29.02.060 Registration Appeal and Voter's List Challenge Process

(a) All appeals and challenges must be made in writing and submitted to the enrollment/election office within ten (10) calendar days prior to the primary, general or special election.

(b) Any response to a challenge must be filed by the challenged voter within five (5)

calendar days of the challenge.

(c) A hearing shall be held by the Tribal Elections Committee within five (5) calendar days from the receipt of an appeal and between the 6th and 8th day from the receipt of a challenge. The challenged voter shall have, at minimum, the right to:

- (1) Written Notice of the purpose, date, time and location of the hearing personally served to them at least 5 days prior to the hearing. Personal Service is defined in Title 3 of the Lummi Code of Laws.
- (2) The opportunity to present evidence, witnesses and testimony on their own behalf.
- (3) Cross-examine witnesses against them.
- (4) Have a spokesperson represent or assist them in the preparation and presentation of their defense, at their own expense.

(d) The decision of the Tribal Elections Committee concerning the appeal or challenge shall be final.

Chapter 29.03 Lummi Indian Business Council Positions

29.03.010 Positions Designated

(a) There shall be eleven seats on the Lummi Indian Business Council. These seats shall be designated by the letters A through K.

(b) Unless changed by the Lummi Indian Business Council, the following positions are open to persons living off the Reservation.

- Position A (held by Henry Hillaire on January 11, 1979)
- Position G (held by John Finkbonner on January 11, 1979)
- Position H (held by James McKay on January 11, 1979)
- Position I (held by Forrest Kinley on January 11, 1979)

The remaining positions are open only to persons living on the Reservation and are designated as follows:

- Position B (held by William Jones on January 11, 1979)
- Position C (held by George Adams on

January 11, 1979)
Position D (held by James Wilson on
January 11, 1979)
Position E (held by Larry Kinley on
January 11, 1979)
Position F (held by Vernon Lane on
January 11, 1979)
Position J (held by James Adams on
January 11, 1979)
Position K (held by Sam Cagey on
January 11, 1979)

29.03.020 Filing Petitions for LIBC Positions

(a) The Tribal Election Committee, through the enrollment/election staff, shall accept filing by potential candidates for specific positions.

(b) Each potential candidate shall be nominated by a petition signed by not less than 20 registered voters of the Lummi Indian Tribe.

(c) At the time a potential candidate obtains a petition from the enrollment/election staff, the potential candidate shall declare which position he seeks. The enrollment/election staff shall insert the position letter on the petition and record the potential candidate's name under that position in the records of the Election Committee.

(d) Once a potential candidate has obtained a petition for a specific position, he shall not be allowed to change to a different position.

(e) Forms for the petitions can be obtained from the enrollment/election staff beginning on the second Monday in September . Signed petitions shall be accepted during regular working hours until 4:30 p.m. on the fourth Friday in September .

(i) Should any date in this section fall on a Tribal holiday, the date shall be automatically extended to the next business day.

29.03.030 Filing Fees

Each potential candidate must pay a \$25.00 filing fee upon submitting a signed petition to

the enrollment/elections staff. The filing fee will be refunded only if the Election Committee does not approve the potential candidate's petition because it does not meet the requirements of this chapter. Filing fees shall be restricted to help pay for the expenses of the election.

29.03.040 Campaign Conduct

(a) Each candidate shall sign and submit the petition and filing fee and the agreement to abide by the following campaign rules:

(1) Candidate and their supporters shall not gather signatures on the candidate's petition in LIBC administrative, business, education, health, or enterprise offices or working spaces.

(2) Candidate and their supporters shall not campaign within 100 feet of LIBC administrative, business, education, health, or enterprise offices, or working spaces, or election polling stations. "Campaign," for purposes of this sub-section, means the use of words or actions intended to persuade a potential voter to vote for or against a particular candidate or ballot measure. This sub-section shall not apply to a tribally sponsored or approved candidates' forum or public meeting.

(3) Candidate and their supporters shall not post campaign signs within 100 feet of LIBC administrative, business, education, health, or enterprise offices, or working spaces, or election polling stations.

(4) Candidates and their supporters shall not use the Lummi Nation logo, or the logo of any LIBC entity, on any campaign materials.

(5) Candidates and their supporters shall not use LIBC equipment, vehicles, and supplies for campaign efforts.

(b) Any registered voter who feels that any candidate's campaign has violated the campaign rules as described in section (a), above, may submit a grievance to the Tribal Election Committee. The following shall be the procedure to grievance misconduct:

(1) A written complaint shall be submitted to the LIBC Enrollment/Election office within 2 days from the alleged violation. Any documentation of the violation shall be submitted at this time.

(2) The LIBC Enrollment/Election office shall forward the complaint and any accompanying documentation to the Election Committee within one (1) day of receiving the written complaint.

(3) Within 48 hours of receiving the complaint the Election Committee shall determine if the complaint describes conduct that, if found to be true, would violate the campaign rules described in 29.03.040 (a). If the Election Committee determines that the complaint alleges such conduct, the committee shall schedule to hold a hearing.

(4) The hearing shall be held between the 7th and 9th business days from receipt of the written complaint. The candidate must be given written notice of the date and time and a copy of the complaint and accompanying documentation no later than three (3) days prior to the scheduled hearing.

(5) The candidate will be allowed to submit a response to the complaint. Any response from the candidate must be submitted to the Election Committee one (1) day prior to the scheduled hearing. The Hearing shall be limited to the allegations in the Complaint and in the Response to the Complaint.

(6) During the hearing, the complainant and any affected candidate shall have the opportunity to testify before the Committee. the Committee may interview any parties related to the alleged violation and examine any available relating documentation. After review, the Election Committee shall determine if a violation has, or has not, occurred. The decision of the Election Committee shall be decided by majority vote and shall be based on the testimony and evidence presented at the Hearing.

(7) A written copy of the decision shall be provided to both the complainant and any affected candidate. Also the decision shall be included in the certification of the election presented to the LIBC Council.

(8) If a violation is established, the Election Committee may impose fines and penalties (described in 29.03.040 section c.) on the responsible candidate.

(9) The Tribal Election Committee's decision shall be final. There shall be no further appeal or review.

(c) The following shall be the schedule of fines and penalties for violations of 29.03.040 (a):

First Offense	\$250.00
Second Offense	\$500.00
Third Offense	\$1,000.00

A candidate who has an outstanding campaign violation fine imposed by the committee shall be ineligible to be a candidate for council until said fine is paid in full.

Chapter 29.04 Elections

29.04.010 Primary Elections

(a) A primary election shall be held 2 weeks before the General Election, at a location authorized by the Lummi Indian Business Council. .

(b) Polls shall be open from 8:00 a.m. to 8:00 p.m. on that date. At least one member of the Tribal Elections Committee and at least one member of the Certifying Committee shall be present during the time the polls are open. Only voters and Committee members are allowed in the voting area. Election Committee and Certifying Committee members may assist disabled voters as necessary to ensure all eligible voters have an opportunity to cast their vote.

(c) All voting at the general and primary elections shall be done by secret ballot.

(d) The two candidates who receive the highest number of votes for each position

shall be certified to the general election. In the event only one or two candidate(s) file for a given position, there shall be no primary election for that position and those candidates shall be certified to the general election.

(e) No write-in ballots shall be cast or counted in any primary election or any other election under this Chapter.

29.04.020 General Elections

(a) The general election shall be held on the Saturday before the first Tuesday in November at a location authorized by the Lummi Indian Business Council.

(b) The polls shall be open from 8:00 a.m. to 8:00 p.m. on that date. At least one member of the Election Committee and at least one member of the Certifying Committee shall be present during the time the polls are open. Only voters and Committee members are allowed in the voting area. Election Committee and Certifying Committee members may assist disabled voters as necessary to ensure all eligible voters have an opportunity to cast their vote.

(c) All voting at the general and primary elections shall be done by secret ballot.

(d) The candidate receiving the highest number of votes for each position shall be elected.

(e) The Certification Committee of the General Council shall certify the results of the election immediately following the counting of the votes and deliver the certification to the Lummi Indian Business Council at its next regular meeting.

(1) As used in this Chapter, the word "certify" shall mean to report to the L.I.B.C. the vote totals for each position together with a listing of all defects or irregularities noted by the Certifying Committee.

(f) No write in ballots shall be cast or counted in any general election or any other election under this Chapter.

29.04.030 Election Challenges to

General Election Results

(a) Any candidate who feels that posted election results for a position on the General Election ballot in which that individual was a candidate are not valid may challenge the election results for that position prior to certification of the election results by the Lummi Indian Business Council. The procedures for filing an election challenge shall be as follows:

(1) The challenge must be submitted in writing to the Election Challenge Review Board by the end of the first working day after posting of election results.

(2) The Board will determine within two business days after posting of election results whether the facts alleged in the challenge, if proven to be true, would affect the outcome of the election for the position in question. If the Board finds that the facts alleged would not affect the outcome of the election, the Board shall issue a written decision denying the challenge.

(3) If the Board determines that the facts alleged may have affected the outcome of the election, the Board shall schedule a hearing to be held within 24 hours of the Board's decision. The Board shall provide written notice to the challenger, to any other candidate affected by the challenge, to the Election and Certifying Committees, and to the Lummi Indian Business Council of the date, time, and location of the hearing and shall provide a copy of the challenge with the notice.

(4) The hearing shall be held and a decision shall be made by the Board prior to certification of the election results by the Lummi Indian Business Council.

(b) Election challenge hearing procedures shall be as follows:

(1) The challenger shall present the facts and arguments in support of the challenge. The challenger may call witnesses and present evidence. The challenger shall have the burden of proof to prove that the posted results of the election for the

position in which the challenger was a candidate are not valid.

(2) Any other candidate affected by the challenge shall have the same opportunity to present facts and arguments in support of the election results and the opportunity to present witnesses and evidence.

(3) The challenger and any other candidate affected by the challenge shall have the opportunity to cross-examine witnesses called by any party.

(4) Election and Certifying Committee representatives shall have an opportunity present facts and arguments relevant to the election challenge and responsive to facts and arguments presented by the challenger or other candidates.

(5) General Council members shall have an opportunity to offer comments which shall be limited to three minutes per individual.

(6) The challenger and any other candidate participating in the hearing shall have the opportunity to make a closing statement.

(c) At the close of the hearing, the Board shall retire to review the facts and evidence and make their determination. The Board shall issue a written decision upholding or denying the challenge within 24 hours of the close of the hearing. The Board's decision to uphold a challenge shall be decided by a consensus of the full Board and shall be based on findings of willful misconduct in the conduct of the election in question that changed the election results. Findings of mistakes or inadvertent errors in the conduct of the election shall not be sufficient to sustain an election challenge. The Board's written decision shall be provided to all parties required to be given notice of the hearing. The Board's decision shall be final. There shall be no further appeal or review.

(d) If the challenge is denied, the Certifying Committee shall promptly certify the election results to the Lummi Indian Business Council. If the challenge is upheld, the Board's decision shall identify the source of the willful

misconduct. If the willful misconduct is the conduct of the winning candidate, the Board shall declare that candidate stricken from the ballot, and new election results for the position in question shall be posted declaring the other candidate as the winner. If the Board decision identifies the source of the willful misconduct is not the conduct of a candidate, the Board shall declare the election results invalid and shall conduct a re-vote of the same slate of candidates to be held within seven days of the Board's decision. A re-vote shall be conducted and supervised by the Election Committee and the Certifying Committee in the same manner that General Elections are conducted and supervised.

Chapter 29.05 Absentee Procedures

29.05.010 Absentee Ballots Authorized

In both the primary and general elections, absentee balloting shall be allowed. Absentee ballots must be filed with the election committee prior to the close of voting on the day of election. No ballots received after the close of voting shall be counted, even though they were mailed prior to the end of voting. Absentee ballots must be mailed or hand-delivered to the elections committee.

29.05.020 Absentee Ballot Regulations

(a) Each person applying for an absentee ballot must fill out and sign an application. No absentee ballots will be issued unless the application is completed. An application form may be faxed or emailed to a voter at their request. Applications shall be available during regular working hours until 4:30 P.M. on the Friday before the election. Completed absentee applications must be delivered to the Enrollment/Election Office either in person, by mail or fax. The voter's signature on the application shall be the equivalent of signing the voting list at the time of voting. If an application is requested by mail, fax or email the election committee shall enter the voter's name on the voters' list as though the voter had signed the list. The voter shall be deemed to have voted at the time the absentee ballot is picked up by him or mailed or otherwise delivered to him.

(b) The signature on the absentee application shall be compared with the individual's

signature on the registration list.

(c) When a proper application is received by the election/enrollment staff, a ballot shall be issued in the name of the applicant. A list of persons who have received a ballot shall be kept.

(d) The absentee ballot shall consist of a paper ballot listing the names of the candidates by position, an instruction sheet, an inner envelope and an outer envelope.

(e) When voting, the voter shall mark his ballot and place it in the inner envelope and seal it. The inner envelope is then placed inside the outer envelope and sealed. The outer envelope is then signed and delivered to the election/enrollment staff and/or committee.

(f) The election committee shall compare the signature on the outer envelope with the signature on the application and the signature on the registration list. If the signatures match, the outer envelope shall be opened and the inner envelope shall be deposited in the absentee ballot box.

(g) In the event that a ballot is rejected because of an improper signature, the outer envelope shall not be opened. The entire rejected ballot shall be deposited in a separate, secure box. At the closing of the polls, the election/enrollment committee shall open the rejection box and allow any interested voter to challenge the rejection of any ballot. If a challenge is granted, the outer envelope shall be opened and the inner envelope deposited in the absentee ballot box in the same manner as other absentee ballots. Unchallenged, rejected ballots shall be destroyed unopened after the election has been certified.

(h) The absentee ballot box shall not be opened until the close of voting on the day of the election and until the challenges are resolved. When the ballot box is opened, the inner envelopes shall be opened and the ballots counted. In the event that a voter has voted for more than one candidate for any given position, the vote for that position shall be invalidated but the remainder of the ballot shall be counted.

(i) If an eligible voter is sick or shut-in and unable to get to the polls on election day, one member of the election/enrollment committee and one member of the General Council certifying committee shall go to the voter's residence at the voter's request, on Monday through Friday, during the week preceding the election. They shall take an absentee application and ballot with them to the voter.

Chapter 29.07 Recall

[Repealed Resolution 93-43, March 23, 1993][Note: See Resolution 97-147 and 97-151 for Recall procedures].

Title29res2008-117