

# TUMALO IRRIGATION DISTRICT

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## K. ELECTION POLICY & PROCEDURES

Tumalo Irrigation District was organized pursuant to ORS Chapter 545. The election process for irrigation districts differs from most other districts and the general election procedures in several significant ways, described in ORS 545.135 to ORS 545.171. The process provided in Chapter 545, however, is not complete, and ORS 545.041 and other provisions of that chapter provide that elections be conducted as nearly as practical in accordance with the general election laws. See ORS Chapters 246, 247 and 258 in particular. Further, ORS 545.221 provides that an irrigation district's Board of Directors may establish bylaws, rules, and regulations for the administration of the District.

Pursuant to the authority granted to it, the Board of Directors of Tumalo Irrigation District hereby establishes the following policies and procedures for the conduct of elections by Tumalo Irrigation District.

- I. **ELECTION OFFICIAL.** The Office Manager of Tumalo Irrigation District is designated the Elections Official and shall be responsible for supervising the election process for Tumalo Irrigation District. As used in this policy and procedure, the terms "District" and "TID" mean Tumalo Irrigation District.
- II. **ELECTION PROCEDURES.** The Election Official shall conduct elections in the District in compliance with the election procedures set forth in ORS Chapter 545 and in accordance with the General Election Laws. Where the procedures set forth in ORS Chapter 545 conflicts with the General Election Laws, the procedures set forth in ORS Chapter 545 shall prevail. Decisions of the Election Officer may be appealed in the manner provided in ORS 258.016, et seq.

### III. VOTER REGISTRATION.

A. **Electors.** Electors of TID are entitled to vote within a division of the District as provided in ORS Chapter 545. An elector is a person 18 years of age or older who is the owner or a vendee under a Contract of Sale for the purchase of land situated within the District and subject to charges or assessments of the District, or a corporation, general partnership, limited partnership, limited liability company, public agency, or the Trustee of a Trust that owns land or is the vendee under a Contract of Sale for the purchase of land situated within the District and subject to the charges or assessments of the District. A guardian, administrator, or executor of an estate that owns or is the vendee under a Contract of Sale for the purchase of land situated within the District and subject to the charges or assessments of the District shall be deemed the elector for the land held by such estate.

For the purpose of determining the number of votes that an elector is entitled to pursuant to ORS 545.007(e), land held by a Revocable Trust is deemed owned by the settlor or grantor of the Trust and shall be added to any land held by the settlor or grantor of the Trust outside of the Trust. Further, if the grantor or settlor of the Trust resides within the District, then the votes of that settlor or grantor, including votes for land in the Revocable Trust, shall be voted in the division in which the settlor or grantor resides. (Disregarded Entity Rule)

B. **Elector Registration Form Requirements.** An elector of TID may register to vote or update a registration to vote by delivering to the District's business office, not less than 21 days prior to the

date of the election at which the elector desires to vote, a completed, legible District Elector Registration Form. The form shall require the elector to provide the following information:

- (1) The full legal name of the elector;
- (2) The mailing address of the elector;
- (3) The address of the property within the division the elector is voting;
- (4) The District will verify the recorded Deed or the Contract of Sale for each parcel of land owned. If the most recent deed recorded with the County is not correct, the elector must provide the District with a legible copy of the Deed or Contract of Sale for each parcel of property owned or for which the elector is the vendee within the District;
- (5) If the elector is a corporation, general partnership, limited partnership, or limited liability company, the form shall designate the person authorized to vote on behalf of the elector, and the elector shall provide a Certified Resolution of the Board of Directors of the company, the partners of the partnership, or the members of the limited liability company, or a certified copy of the Bylaws, Partnership Agreement, or Operation Agreement demonstrating that the voter authorized to vote on behalf of the elector is duly authorized to vote by the entity;
- (6) If the elector is a public agency, the Governing Body of the public agency must provide a signed authorization form designating one person to vote for and on behalf of the agency. The authorization remains in effect until it is changed in writing by the Governing Body of the agency. ORS 545.041(4)(d); and
- (7) If the elector does not reside in the District but owns land in more than one division of the District, the elector shall designate which division the elector will vote in. The elector's choice to vote in a particular division is permanent and may not be revoked or changed until the non-resident landowner becomes a resident owner in the District, in which case the elector shall thereafter vote in the division in which the elector's residence is located.

C. Incomplete Form. If the Elector Registration Form is not complete or not legible or fails to include the information required to be submitted by the elector, the Election Official shall make a reasonable attempt to contact the elector and obtain the missing information. The term "reasonable attempt" may include attempting to contact the elector by telephone; first-class mail addressed to the address shown on the Elector Registration Form, if it is legible; or to the address shown on the District's records, if not legible. If the missing information pertains to the description of the land included in the District, the Election Official may review the District's assessment roll for land shown on the assessment roll in the name of the elector, and then obtain copies of the requisite Deeds from the County Clerk's office or other source for each such parcel. If the Election Official is unable to locate any land within the District held in the name of elector as shown on the District's assessment roll, the Election Official shall mail a notice by first-class mail to the address shown on the Elector Registration Form, if legible, notifying the elector that the registration is not complete, and that the District's records show no land owned by the elector in the District.

D. Multiple Ownerships. If the ownership of the land charged by the District is held by a husband and wife, tenants in common, or in other types of multiple ownerships, only one vote shall be allowed on behalf of all of the owners under each multiple ownership. The vote may be cast by any one of the multiple owners. When two or more voters attempt to cast a vote under this provision, only the vote of the voter who first cast a vote shall be counted. If a voter attempting to

cast a vote on behalf of a multiple ownership is not registered to vote, then prior to voting, that voter shall complete an Elector Registration Form and provide all of the information, including copies of Deeds, Memorandum of Contract of Sale, and, if relevant, appropriate Certification by the legal entity of the registrant's authority to vote on behalf of the entity. The Election Official shall have no duty to attempt to supply any missing information, and the voter attempting to vote will not be allowed to vote until the Elector Registration Form is completed and all required information is provided to the Election Official.

E. Certification of Registration. The Election Official shall certify the Elector Registration Form by completing the following information on the form:

- (1) Add the District's parcel number(s) to the form;
- (2) Add the acreage charged by the District in each such parcel;
- (3) Total the acreage owned by the elector;
- (4) Note the number of weighted votes the elector is entitled to cast;
- (5) Note the division in which the elector may vote; and
- (6) Date and initial the form.

F. Continuing Registration. After a completed Elector Registration Form has been received and certified by the Election Official, the registration shall remain in full force and effect until the elector submits an amendment or new Elector Registration Form or until the elector is no longer eligible to vote in the District. The Election Official shall exercise reasonable care to maintain the Elector Registration Forms and the forms shall be available for inspection by other electors of the District upon such rules or processes as the Election Official shall establish to preserve and protect the Elector Registration Forms. No form shall be marked or altered in any manner by any person except the Election Official and the elector. The Election Official shall retain the Elector Registration Form of any elector who is no longer qualified to vote in the District for a period of four years following the date the voter became disqualified due to sale of the land in the District or another reason. When an elector becomes disqualified to vote, the Election Official shall note on the face of the Elector Registration Form that the registration is no longer valid and the reason that it is no longer valid.

#### IV. ABSENT ELECTORS.

A. Alternative Means of Voting. Any duly registered elector may vote by absentee ballot.

B. Registration Process. An elector voting by absentee ballot must first register to vote in the manner provided in section III, above.

E. Ballot Materials. Upon verifying that an applicant for an absentee ballot is a registered elector entitled to vote in the election, the Election Official shall provide to the elector, as described above, a ballot, a secrecy envelope, a return identification envelope, and instructions for marking and returning the ballot. The elector shall mark the ballot, place it in the secrecy envelope, and seal the secrecy envelope. The elector shall then place the secrecy envelope in the return identification envelope and sign the certification printed on the back of the envelope. The face of the envelope shall include the name and address of the elector. The back of the return identification envelope shall be printed with the following certification:

"The undersigned elector of the Tumalo Irrigation District does hereby certify that the elector is qualified to vote in elections of the Tumalo Irrigation District; that the undersigned voter clearly

marked the ballot; and that the undersigned elector has not unnecessarily exhibited the marked ballot to any other voter."

Following said statement, there shall be a signature line, which shall be signed by the voter submitting the ballot. The ballot must be received by the Election Official at the District's office no later than 8 p.m. on the day of the election.

F. Custody of Absentee Ballots. Upon receipt of a return identification envelope containing a marked absentee ballot, the Election Official shall keep it safely in the District's office and, before delivering the return identification envelope containing the ballot to the judges of the District's Board of Election, shall compare the signature of the absent elector, which appears on the back of the return identification envelope, to that of the applicant's Elector Registration Form on file in the District office. If the signature appears to be the same, the return identification envelope for each such absentee ballot shall be deposited in the election box. After 8 p.m., the election judges shall open the election box. The ballot contained in the secrecy envelope shall be counted in the same manner as all other ballots in the ballot box following close of the poll.

## V. CHALLENGE OF VOTE.

A. Parties Entitled to Challenge a Vote. Any Election Board member, or elector, or Election Official present at the time of voting may challenge a voter offering to vote and may challenge any absentee vote where the Board member, elector, or Election Official knows or reasonably believes the voter is not qualified as an elector of the District.

B. Statement of Challenge. Any voter challenging a ballot shall, under oath before the Election Official, complete a written and numbered Statement of Challenge in the form provided by the District. The Statement shall contain the name and residence address of the challenger, the name of the voter challenged, and the statement of facts upon which the challenge is based. A voter challenging an elector must make their challenge known to the Election Board prior to the time the ballot is placed in the ballot box.

C. Procedure on Challenge of Ballot. When a ballot is challenged and the elector is present at the poll, after marking the ballot, the elector shall place the ballot in a secrecy envelope and deliver it to the Election Official. The challenger shall promptly complete the Statement of Challenge. If a challenge is to an absentee ballot, the challenger shall complete the form before 5 p.m. on the date of the election.

D. Review of Challenge. The Election Official shall write on the secrecy envelope the number of the Statement of Challenge so that the ballot can be identified in the event that the challenge is upheld and deposit the secrecy envelope in the ballot box. The Election Official shall then examine the challenge and determine if the voter is validly registered to vote and if the vote was properly cast. The ballot shall be counted only if the Election Official determines the voter is validly registered and entitled to vote. If the challenge is valid, then the secrecy envelope containing the number of that challenge shall be removed from the ballot box by the election judges. It shall be strung unopened in the same manner that ballots are strung and shall be retained in the same manner as ballots that are counted. If the Election Official determines that the voter is entitled to vote, then the election judges shall open the secrecy envelope and deposit the ballot in the ballot box prior to counting the ballots, taking care to not disclose how the ballot was voted, so that it cannot be determined how any particular duly registered elector voted. If the Election Official cannot reasonably determine prior to the close

of the poll that the voter was entitled to vote, then the secrecy envelope shall not be opened, but shall be strung in the same manner as the ballots and sealed in the ballot box following completion of counting of the votes by the election judges.

E. Notice to Challenge Voter. Promptly upon receiving a challenge to a vote, the Election Official shall attempt to contact the voter and advise the voter of the challenge. Such contact shall be made by telephone, if the Election Official has a telephone number for the voter, or by first-class mail addressed to the last-known address of the voter as shown on the District's records. The voter shall have ten days to file a sworn statement, which shall include all of the information required by the District's Elector Registration Form, but shall also require the voter's statement, describing the location of the claimed land and the precise acreage for which the voter is claiming ownership. The voter shall promptly return the sworn statement to the Election Official, and upon receipt of the voter's sworn statement, the Election Official shall attempt to verify the voter's voting qualifications under the Irrigation District Law.

F. Canvas of Returns. The board of directors of the district shall meet the first Monday following each election to canvas the returns. Provided, however, that in the event that a ballot is challenged and if the voter and Election Official are unable to comply with paragraph E., above, on or before the day of the election, then the date for canvassing returns provided in ORS 545.149 shall be deemed to have been continued to the sixth business day following the first Monday after the election. If the voter's sworn statement was received by the District's Election Official and if the Election Official had a reasonable opportunity to determine that the voter was entitled to vote, then at the time it canvasses the votes, the Board of Directors shall open the secrecy envelope and count the challenged ballot. If the voter does not return the sworn statement or if the Election Official is not reasonably able to confirm that the voter was entitled to vote, then the secrecy envelope shall remain sealed, and the ballot enclosed therewith shall not be considered during the canvas of the votes, and the unopened secrecy envelope shall remain strung with the ballots cast in the election.

## VI. OTHER ELECTION PROVISIONS.

A. Americans with Disabilities Act. The District will make reasonable accommodations to enable any disabled elector to vote in an election in which the elector is registered and qualified to vote. The Election Official shall assist the elector in the registration process, as is reasonably required to complete the process within the timelines of the registration process. A disabled elector may vote by absentee ballot, and the Election Official may make such ballot available to the elector, as reasonably appropriate, including taking the materials outside the location of the precinct to allow the elector to mark the ballot and place it in the secrecy envelope and the return identification envelope. The ballot shall then be processed in the same manner as absentee ballots. As appropriate, the Election Official shall also provide reasonable accommodations to electors who have sight or hearing disabilities.

B. Election Day Procedures. Each election shall be conducted under the supervision of the Election Official and Election Board, as provided in ORS 545.139 to 545.145, inclusive, as further defined by this procedure. The Election Official shall provide to the Election Board the oath of office, certification forms, and other forms and materials required by the law and this policy to conduct a valid election.