

**JAMESTOWN S'KLALLAM TRIBE
TRIBAL CODE
TITLE 5 – ELECTION CODE**

(Additional Election Information Under Title 18 – Tribal Council)

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CHAPTER 5.01
Purpose and Authority

Sections:

Section 5.01.01 Mission Statement/Purpose

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Section 5.01.01 Mission Statement/Purpose

The Election Board's mission statement is to encourage integrity and transparency in all Tribal elections. The Election Board will insure that every Tribal citizen has an opportunity to cast a vote for an eligible candidate, as set out in the Tribe's Constitution.

Section 5.01.02 Authority

The authority granted to the Election Board by the Tribal Council is set out in Article V of the Tribe's Constitution.

Section 5.01.03 Integrity

The Election Board members shall, acting in good faith, conduct themselves in an open, professional, lawful, and non-partisan manner; operating in the best interests of the Election Code.

Section 5.01.04 Severability

If any portion of this Title is found, by a court of competent jurisdiction, to conflict with the Tribe's Constitution or applicable provisions of federal law, that portion will be deemed null and void. The remaining provisions of the Title will remain in full force and effect.

GENERAL
Chapter 5.02

Sections:

Section 5.02.01 Title

Section 5.02.02 Elections Board

Section 5.02.01 Title

This Title shall be known and may be cited as the Jamestown S'Klallam Tribal Election Code.

Section 5.02.02 Elections Board

- A. The Tribal Council shall appoint an ad hoc Elections Board (“Board”) whose three (3) members shall each serve a three (3) year term of office. The terms shall be staggered as follows: one of the two positions on the Board with terms that expire on December 31, 2015 will be filled by a member for a *one-time* one (1) year term and the second position will remain a three (3) year term. At the end of the one-time term, the member will resume serving a three (3) year term. Any vacancy on the Elections Board shall be filled by the Tribal Council forty-five (45) days before an election. The newly appointed Elections Board member filling such vacancy will complete the remainder of the term of office to which they were appointed. Within two (2) days after an election, the Elections Board shall certify the election results in writing to the Tribal Council. A staff member from the Tribe’s Accounting Department will be present to audit the counting of ballots by the Board;
- B. The Council shall designate one additional person to serve as an alternate to the Board. This person will attend all Board meetings and all elections as an observer. They will not have voting privileges;
- C. The Board may adopt policies and procedures, subject of the approval of the Council, that will assist it in meeting its obligations and responsibilities under the Tribe’s Constitution and the Tribal Code;
- D. At the discretion of the CEO, other members of the Tribal staff may be assigned to provide administrative support in coordination with the Board;
- E. The Election Board, with the support of the Tribal Council, will:
1. Adhere to Robert’s Rules of Order as a guide for its internal deliberations;
 2. Operate independently, with administrative support;
 3. Be protected from undue influence;
 4. Be qualified to administer an election; and

- 5. Be provided the administrative support to administer an election;
- F. First degree relatives, supervisor/employee and co-habitants shall not serve concurrently on Election Board; and
- G. If during an Election, an Election Board member is a first degree relative, supervisor/employee or co-habitant of the candidate, the Election Board member will recuse themselves and the alternate Election Board member will perform all necessary duties as set forth in this Title.

CHAPTER 5.03
Scheduling of Elections

Sections:

Section 5.03.01 Scheduling of Elections

Section 5.03.01 Scheduling of Elections

The scheduling of elections under this Title shall be as follows:

- A. Regular elections of officers of the Jamestown S'Klallam Tribal Council shall be held, as required by the Tribe's Constitution, the election date to match the date for the federal elections, which are held on the Tuesday after the first Monday of November, each year, unless no Tribal election is required; and
- B. Elections related to referendums, initiatives, petitions and other matters shall be held, as necessary, pursuant to the provisions of the Tribal Constitution and this Title.

CHAPTER 5.04
Voters – Eligibility and Status

Sections:

Section 5.04.01 Voter Eligibility and Status

Section 5.04.02 Registration of Voters

Section 5.04.03 Mail-in Voters

Section 5.04.01 Voter Eligibility and Status

- A. An enrolled citizen of the Tribe who is a minimum of eighteen (18) years of age as of the day an election is to be held (“Eligible Voter”), and who has registered to vote pursuant to the provisions of this Title, shall be qualified to vote in Tribal elections, including those related to referendums, petitions and initiatives, by mail-in ballot;
- B. An Eligible Voter may opt to have their name removed from the Registered Voters list by checking the appropriate box on the Signature Verification Form; and
- C. An Eligible Voter shall be assumed to be mentally competent to cast their vote and sign the Signature Verification Form. No voting by proxy, power of attorney or guardianship will be permitted.

Section 5.04.02 Registration of Eligible Voters

- A. In order to vote in an election for officials, referendums, petitions, initiatives or other matters, an Eligible Voter must register to vote. A person may register to vote at any time, including Election Day, prior to the time they vote;
- B. Registration shall be accomplished by completing the Signature Verification Form and filing it with the Election Board. The Signature Verification Form shall contain the name, address, enrollment number, and birth date of the person desiring to register, a space for them to sign attesting that they are an enrolled citizen of the Tribe, the date of registration and any other relevant information the Election Board may require. Information on the Form will be verified by one of the following methods: 1) by review and certification by a notary, or 2) by checking a copy of a state or federally issued legal ID document with registrant’s photo and signature or a copy of their Tribal Citizen Identification;
- C. The Election Board shall check the Signature Verification Form against the list of enrolled Tribal citizens and verify that the person registering is on the list before adding their name to the list of registered voters; and
- D. The Election Board shall oversee the official list of registered voters of the Tribe, to be maintained by the Enrollment Officer, which list may not be disclosed to anyone outside the Board, except by order of the Tribal court.

Section 5.04.03 Mail-in Voters

- A. The Election Board shall mail ballots to all Eligible Voters when an election is announced by the Tribal Council. It is the responsibility of each individual voter to ensure that the Enrollment Office has their current mailing address;
- B. Ballots mailed in must be received by the Election Board no later than the close of business the day before Election Day and have the citizen's signature and enrollment number on the back of the mailing envelope. If the signature is not on the back of the envelope, the vote will not be deemed valid and will not be counted;
- C. Ballots must be mailed through the United States Postal Service; no hand delivery shall be allowed; and
- D. Mailed in Ballots will be held by United States Postal Service for the Tribe until the day before Election Day.

CHAPTER 5.05
Notice of Elections

Sections:

Section 5.05.01 Notice of Elections

Section 5.05.01 Notice of Elections

- A. Notices of elections for the Tribal Council, initiatives, petitions, referendums or special elections shall be published in the Tribal newsletter and posted in the Administration Building at the Tribal Center and other appropriate Tribal public places. Notices of regular elections for the Tribal Council shall be published and posted at least twenty-one (21) calendar days before the scheduled date of elections. Notice of a run-off election shall be published and posted at least twenty-one (21) calendar days before its scheduled date; and

- B. Each notice shall include the names of all candidates and the offices they seek, and, if applicable, a statement of the issue or issues to be voted on (referendums, petitions, initiatives and other matters). It shall be the duty of the Election Board to ensure all such notices are properly published.

CHAPTER 5.06
Screening and Certification of Candidates

Sections:

Section 5.06.01 Declaration of Candidacy

Section 5.06.02 Screening and Certification of Candidates

Section 5.06.01 Declaration of Candidacy

- A. Each candidate for a position on the Tribal Council shall submit a Declaration of Candidacy at least sixty (60) calendar days prior to each regular election, which includes the information required in Section 5.06.02, below, along with the payment of the filing fee, if required; and
- B. The Declaration of Candidacy must be mailed to the Election Board, care of the Tribe, at 1033 Old Blyn Hwy., Sequim, WA, 98382.

Section 5.06.02 Screening and Certification of candidates

All candidates for office on the Tribal Council will be screened and certified as follows:

- A. The Declaration of Candidacy will be reviewed for compliance with the requirements listed below:
 - 1. That they are an Eligible Voter and they intend to run for a particular office;
 - 2. That they have not been convicted of a felony under Tribal, federal or state law, and if they have been convicted, at least five (5) years has passed since completion of the penalty for such offense (penalty shall include any period of restriction on civil rights). Provided, however, if a candidate has been convicted of domestic, elder or child abuse, or a drug felony, they will be barred from running for a position on the Tribal Council for ten (10) years. Persons convicted of child molestation, as that crime is specified in any Tribal, state or federal law, shall be banned for life from candidacy under this Title. Conviction of a misdemeanor or gross-misdemeanor under Tribal, federal or state law shall not be a bar to candidacy;
 - 3. They assent to a background check being conducted on them by the Elections Board, or its designee, to assure compliance with the provisions of this Title and the Tribe's Constitution. The Board will provide each potential candidate with a form to be completed related to the background check. Only information that is necessary to conduct a background check will be required and all information provided will be kept confidential. The Board, or its designee, may interview a potential candidate to confirm that the information provided in the form is accurate and up-to-date.

The first level background check will be a report generated from a search of the National Criminal Database and a criminal database from the various

counties of the last five (5) years of residency of the candidate. If there are no negative findings in the report, per subsection 2, above, then the Board will certify that the individual has passed the background check. If there are any negative findings, a follow-up interview will be conducted with the potential candidate and additional levels of background check may be required to resolve outstanding issues.

There is no cost to a candidate for the background check. It will be processed by members of the Tribe's staff who are qualified to secure background checks.

Background checks will be completed by the Board within twenty-one (21) calendar days of receipt of a properly completed Declaration of Candidacy from a potential candidate, but no later than forty-five (45) calendar days prior to an election. Potential candidates are advised that failure to fully disclose all relevant information in the Declaration may prevent the Board from securing a background check in a timely manner, and may result in them not qualifying for placement on the ballot;

4. Immediate disqualification from placement on the ballot will occur if a potential candidate is found to have knowingly falsified any background information contained in the Declaration. Further, they will be denied their right to run for a position on the Tribal Council for a period of ten (10) years from the date indicated on the Declaration, or if falsification is discovered after they are in office, they will be removed from office and barred for a ten (10) year period from further candidacy; and
 5. The filing fee, if applicable, has been paid by money order or certified check;
- B. No person shall be a candidate for more than one office in each election. No person holding an office may run for another office unless:
1. The term of the currently held office expires on or before the commencement date of the new term of office for which they wish to be a candidate; or
 2. If the term of their currently held office does not so expire, they agree to resign from the currently held office at the time of the election for the new office they are seeking;
- C. If potential candidates pass the background check, then the Election Board shall determine whether each candidate otherwise meets the age, Tribal citizenship and voter registration requirements, and shall accordingly either certify or deny certification to each candidate. The Election Board shall immediately notify, in writing, by certified mail, each person who has been denied certification. A person

who is denied certification for candidacy may appeal to the Tribal Council within five (5) calendar days of receipt of their notification of denial. The Tribal Council shall grant a hearing and review each appealed denial, and shall either affirm the decision of the Election Board or certify the candidate. The Tribal Council shall hold the hearing and make a decision in time for the person's name to be added to the list of candidates, which, in no case shall be later than thirty-one (31) calendar days before the election; and

- D. The Election Board shall add to the list of candidates the names of candidates who have been certified after appeal to the Tribal Council, and no later than thirty-one (31) calendar days before the election, the Board shall publish and post the list in the same places as the original notice of election was published and posted. Each candidate's name shall appear in the form of their enrolled name only.

CHAPTER 5.07
Terms of Officers and Vacancies

Section:

Section 5.07.01 Term of Officers

Section 5.07.02 Staggering of Terms

Section 5.07.03 Tribal Council Vacancies

Section 5.07.01 Term of Officers

Commencing with the election for officer positions to the Tribal Council in calendar year 2011, the terms for each Tribal Council position transition from two (2) year to four (4) year terms with those terms staggered as provided in Article III, Section 3 of the Tribal Constitution. Tribal Council members shall remain in office until their successors are duly elected and installed.

Section 5.07.02 Staggering of Terms

The Chairperson and the Secretary shall be elected, commencing with the election in calendar 2011, in odd-numbered years, and every four (4) years thereafter. The Vice-Chairperson and Treasurer shall be elected every four (4) years, commencing with the election in 2012. The Councilperson (who was elected to a four (4) year term in the election of 2012), shall be elected to a one-time five (5) year term in the election of 2016 and, commencing with the election in 2021, to four (4) year terms thereafter.

Section 5.07.03 Tribal Council Vacancies

As provided in the Tribal Constitution, if a position on the Tribal Council becomes vacant within the regular term, the Tribal Council will appoint an interim member, who meets the qualifications of a candidate for election under this Title, to serve until the following election for the vacated position.

CHAPTER 5.08

Petitions

Sections:

Section 5.08.01 Types of Subject Matter Petitions

Section 5.08.02 Labeling of Petitions by Status

Section 5.08.03 Definitions

Section 5.08.04 Procedures for Preparing and Submitting a Petition to the Board

Section 5.08.05 Procedures for Evaluating a Draft Petition by the Board

Section 5.08.06 Determination by Board on Petition

Section 5.08.07 Procedures for Processing a Circulating Petition

Section 5.08.08 Determination on Circulating Petition

Section 5.08.09 Finding and Recommendation on Valid Petition

Section 5.08.10 Election on Valid Petition

Section 5.08.01 Types of Subject Matter Petitions

There are three types of subject matter petitions Tribal citizens may submit to the Tribal Council under the Tribe's Constitution and this Title:

- A. An Initiative Petition, which is used to propose changes to the Tribal Code;
- B. A Constitutional Amendment Petition, which is used to propose an amendment to the Constitution; and
- C. A Recall Petition, which is used to recall a member of the Tribal Council.

Section 5.08.02 Labeling of Petitions by Status

Depending on where it is in the process set out in this Title, a given subject matter petition will be labeled differently, as follows:

- A. "Draft Petition" means a petition that has been prepared and submitted by a petitioner which has not been declared a "Circulating Petition" by the Board;
- B. "Circulating Petition" is a Draft Petition that has been approved by the Board as meeting the requirements of this Title for a Circulating Petition and for which the petitioner may solicit signatures; and
- C. "Valid Petition" means a Circulating Petition that has been certified by the Board as meeting the requirements of this Title for a Valid Petition and for which an election will be called by the Council.

Section 5.08.03 Definitions

The following terms shall apply in this Chapter:

- A. "Lead Petitioner" means a Tribal citizen, registered to vote under this Title, who desires to submit a petition to the Tribal Council, pursuant to the Constitution and this Title, and who has registered with the Board as a petitioner. The Lead Petitioner shall provide the

Board with their enrollment number, a valid phone number, an email address, if applicable, and a mailing address;

- B. “Active Period” means the period during which a Circulating Petition is active and for which signatures may be solicited. The Active Period starts on the Registration Date and runs for sixty (60) calendar days;
- C. “Filing Fee” means the fee collected by the Board from a Lead Petitioner under this Chapter. The fee will be set, from time-to-time, by the Council, upon recommendation of the Board, to cover the costs of processing a petition, including mailing costs to Tribal citizens for a Circulating Petition, etc.;
- D. “Registration Date” is the date a Registration Number is assigned by the Board to a Circulating Petition;
- E. “Registration Number” is the number assigned by the Board to a Circulating Petition once it is accepted by the Board; and
- F. “General Impact Statement” or “GIS” is the evaluative statement prepared by the Lead Petitioner, or their consultant, for each Draft Petition. It will set out the Lead Petitioner’s analysis and perspective on the potential impact of the Draft Petition. The Board will append to the GIS the position of the Council majority on the petition (i.e., supported, opposed, or neutral). If a Draft Petition becomes a Circulating Petition, the GIS, which will be summarized on each page of the petition, will be submitted to Tribal citizens when it is circulated for signatures.

Section 5.08.04 Procedures for Preparing and Submitting a Petition to the Board

- A. A Lead Petitioner is designated;
- B. The Lead Petitioner will be given a petition template form/guide to be used for preparing their Draft Petition; and
- C. Once the Lead Petitioner submits their Draft Petition to the Board, along with the filing fee (“Petition Filing Fee”) and receives a Registration Date and Number from the Board, it becomes a Draft Petition subject to review and evaluation by the Board.

Section 5.08.05 Procedures for Evaluating a Draft Petition by the Board

The Board, upon receipt of a Draft Petition, will commence both its technical and substantive evaluation of it. The Board shall have thirty (30) days to conduct its evaluation and, if the need arises, may request a reasonable extension of time from the Council to carry out its duties under this section.

The technical evaluation shall include the following:

- A. Is the petition limited to one subject matter;

- B. Is the full description of the subject matter set out on each signature page of the petition;
- C. Does it specify the proposed effective date, which can either be the date it is approved by the Tribal citizens in an election, or some later date;
- D. Does the signature attestation to the petition provide that the party signing is a registered voter of the Tribe on the date the petition is signed;
- E. Does the attestation specify that the Tribal Citizen has received a copy of the GIS along with the Circulating Petition; and
- E. Is there provision for the party signing the Circulating Petition to print their name under the signature line, to enter their enrollment number, and to enter the date they signed the Circulating Petition?

Section 5.08.06 Determination by Board on Petition

Once the Board completes its evaluation under the preceding section, it will do one of the following, in writing:

- A. Inform the Lead Petitioner that the Draft Petition qualifies as a Circulating Petition; or
- B. Inform the Lead Petitioner that their Draft Petition has failed to meet the minimum requirements for a Circulating Petition, that it has been rejected, and that they are free to resubmit it.

Section 5.08.07 Procedures for Processing a Circulating Petition

If the Board makes a determination, pursuant to Section 5.08.06 A., above, that the Draft Petition qualifies as a Circulating Petition, the Board will proceed as follows:

- A. Enter into its records a Registration Number and Registration Date for the Circulating Petition and inform the Lead Petitioner, in writing, that the Active Period for the Circulating Petition has commenced and that they may proceed with soliciting signatures for the Circulating Petition. The Registration Date becomes the **Controlling Date**;
- B. Inform the Lead Petitioner that they must turn over all signed Circulating Petitions to the Tribal Council by the end of the Active Period by bringing the document(s) to the next scheduled Tribal Council meeting; and the Tribal Council will turn over all signed Circulating Petitions to the Election Board within three (3) calendar days of receipt; and
- C. Mail, to all registered voters of the Tribe, the Circulating Petition which has been prepared by the Lead Petitioner and placed into unsealed envelopes. The mailing will include instructions as to where the signed Circulating Petitions must be returned and the end date (based on the **Controlling Date**) for their return, in order for them to be counted.

Section 5.08.08 Determination on Circulating Petition

Within thirty (30) days after the Tribal Council turns over to the Board a Circulating Petition it has received, the Board shall evaluate whether the Circulating Petition has met the requirements of this Title to be classified as a Valid Petition, as follows:

- A. Verify that one-third (1/3) of the registered voters of the Tribe signed the approved Circulating Petition, as that fraction/percentage is determined on the Controlling Date;
- B. Insure that all copies of the Circulating Petition, meeting the requirements of subsection A. of this section, were returned to the Tribal Council by the end of the Active Period, i.e., they were postmarked as of the end date of the Active Period;
- C. Insure that each signed and submitted Circulating Petition has met all the technical requirements set out in this Chapter;
- D. Insure that there are no duplicate filings by registered voters of the Circulating Petition;
- E. Insure that Circulating Petitions were signed by qualified parties only; and
- F. Compare all signatures and enrollment numbers against Signature Verification Forms.

Section 5.08.09 Finding and Recommendation on Valid Petition

Once the Board completes its analysis under the preceding section, it will make its finding and recommendations on the Circulating Petition, as follows:

- A. If the Board determines that the Circulating Petition is a Valid Petition, then the Board will send its finding to the Council.; or
- B. If the Board determines that the Circulating Petition is not a Valid Petition, the Board will send its finding to the Council and recommend that the petition be rejected. No Tribal citizen may resubmit a petition on the same subject for twelve (12) months from the date that the Circulating Petition was rejected.

Section 5.08.10 Election on Valid Petition

When an election is deemed warranted under this Chapter, the Council shall call for such election, as provided for in this Title and the Tribal Constitution within sixty (60) calendar days.

If a majority of the registered voters approve a Valid Petition, then the subject matter of the petition will become effective as of the date of the election unless a later effective date is specified in the petition.

If a majority of the registered voters disapprove a Valid Petition, then the Board shall inform the Council that the Valid Petition was defeated. No Tribal citizen may resubmit a petition on the same subject matter for twelve (12) months from the date of the election on a disapproved petition.

CHAPTER 5.09
Campaigning and Electioneering

Sections:

Section 5.09.01 Campaigning and Electioneering

Section 5.09.01 Campaigning and Electioneering

- A. The Tribe shall not disclose to any person outside of the Tribe the names of Tribal citizens and their addresses and other personal information held by the Tribe except upon request of a Tribal citizen that their personal information be released. In order to assist candidates for Tribal Council, the Election Board shall, subject to the terms and conditions of this Title, mail any and all campaign material through the U.S. Post office or other available means to Tribal citizens if such material is given to it by the candidates upon request of those candidates. Such material will be sent to the last known address of each Tribal citizen on file with the Tribe. Candidates will be responsible for all costs of mailing of their campaign materials. Costs shall include an administrative fee, as determined by the Elections Board, which shall include the mailing costs billed to the Board by the mailing service hired by the Board and all actual photocopy and postage costs.

Campaign letters and materials shall be provided to Elections Board no sooner than (one hundred twenty) (120) calendar days prior to election and not later than twenty-one (21) calendar days prior to election. The Elections Board will have up to ten (10) calendar days to process campaign literature to mailing service;

- B. Nothing in this Code shall prevent or limit a candidate at their own expense from posting campaign material in the Tribal newsletter, if the newsletter is generally available to Tribal citizens for publication, or in any other media outlet available to them or undertaking any other act to campaign for Tribal Council. Nothing herein shall prevent a candidate at their own expense from contacting any Tribal citizen or mailing or distributing anything to any Tribal citizen; and
- C. The provisions in this Chapter are intended to limit access to the lists of Tribal citizen names and their addresses, but are not intended to otherwise limit a candidate's ability to campaign for Tribal Council.

CHAPTER 5.10

Ballots

Sections:

Section 5.10.01 Ballots

Section 5.10.02 Election Results and Counting of Ballots

Section 5.10.03 Recounting Process

Section 5.10.01 Ballots

- A. The Election Board shall prepare, or cause to be prepared, all Ballots each of which shall include a random water mark. The Ballot shall be printed on white paper with black ink;
- B. Ballots shall list all candidates for each office separately and in alphabetical order by Tribal enrollment surname. There shall be a box or space in which the voters shall indicate their choice by an “X” filling in a box or checkmark. Instructions for marking the ballot shall appear clearly at the top of the form. Voters shall be instructed to vote for no more than one (1) candidate for each office;
- C. Ballots for a measure (“Measure”) shall clearly state the issue or issues to be voted on. For each separate issue, there shall be a space or box labeled “FOR” or “YES” and one labeled “AGAINST” OR “NO” in which the voter may indicate their vote by an “X” filling in a box or checkmark. Instructions for marking the ballot, sealing the secrecy envelope and signing of the outer envelope shall be clearly stated on the ballot. If amendments to the Tribal Constitution are being proposed, and the amendments are linked, then the linked amendments will be voted on as one Measure;
- D. Ballots shall be mailed at least twenty-one (21) calendar days before the scheduled date of the election;
- E. The Election Board shall record to whom ballots have been mailed; and
- F. The Election Board shall designate for voters a Post Office Box, rented by the Tribe for elections only, where ballots are to be mailed. Ballots must be received at the Post Office not later than five (5) PM the Monday prior to Election Day.

Section 5.10.02 Election Results and Counting of Ballots

- A. At least two (2) Election Board members and one (1) Tribal Security Personnel or Enforcement Officer shall pick up the ballots at the Post Office after the final sorting for the day prior to Election Day. Ballots collected from the Post Office shall be placed in a locked Ballot Box, with a numbered seal, to be held at the Tribal headquarters, until ballots are to be counted;

- B. Received Ballots shall meet these requirements:
1. The ballot shall have been placed within the white secrecy envelope and sealed;
 2. The white sealed secrecy envelope shall have been placed within the larger return envelope and sealed. No markings shall have been made on the white secrecy envelope which would identify the voter, or it shall be considered invalid; and
 3. The signature area on the back of the return envelope must be filled in and match the voter's signature in the Signature Verification Form. If the signature does not match, it is invalid. If no signature is on the back of the return envelope, it is invalid;
- C. Ballots, at all times, with the exception of counting of the votes, shall be kept in a locked Ballot Box;
- D. Counting of ballots will be conducted at the Tribal offices, at 1033 Old Blyn Highway, Sequim, WA;
- E. Ballots will be counted on Election Day, the Tuesday after the first Monday of November;
- F. The stack method of counting ballots shall be used. Three duplicate numbers will serve as the corrected number;
- G. If a vote for an office is "voided" the remaining votes on that ballot shall be counted;
- H. No fewer than two (2) Election Board members and the CFO, or their designee, will be present at all times during the counting of the ballots;
- I. Winning results shall be determined by the highest number of votes cast for a candidate for a given office;
- J. If there is a tie for an office or for a Measure, a run-off election for that office or Measure shall be held within forty-five (45) calendar days following the election;
- K. The results of the election shall be verbally announced to the Tribal Council and Candidates upon completion of the count of votes on Election Day, and certified and posted by the Election Board in the Tribal Administrative Office no later than the Monday following the election;

- L. If the run-off election is tied, the Chairperson of the Election Board will flip a coin, with the Vice-Chair of the Election Board deciding which candidate or which side of the Measure is heads and the Secretary of the Election Board will record the winner;
- M. The Election results become official upon three (3) calendar days after the Election date or when all challenges have been resolved, whichever is later; and
- N. Official Election documents will be retained for three (3) years in a fireproof locked cabinet at the Tribal Office with the Tribe's Accounting Office retaining a key.

Section 5.10.03 Recount

- A. An automatic recount shall be initiated when there is a 1% (one percent) or less difference in the votes for any candidate or Measure;
- B. Any registered Voter or Candidate may, by written request to Election Board, request a recount of an election. Each request for a recount shall include the Candidate's or Voter's name, address and Tribal enrollment number. Any request for a recount shall be made within three (3) calendar days after the Board has posted the Election results;
- C. Each request for a recount shall be accompanied by a One Hundred Dollars (\$100.00) fee by money order, certified check, personal check or cash. If the recount shows a change in the election results, the Board shall refund fee to the party that requested the recount;
- D. Only one recount shall be made for any Election for which a recount is requested. If there is more than one request for a recount, the request first received by the Board shall be considered the request for a recount. If a request for a recount is filed, the Chair of the Election Board, within three (3) calendar days, shall notify all parties as to the date of the recount within five (5) calendar days;
- E. The CFO, or their designee, in the presence of at least two (2) members of the Election Board, shall open the Ballot Box and the Election Board shall then conduct the recount. One (1) authorized watcher of the requesting candidate may observe the recount; and
- F. The completion of a recount shall be as follows:
 - 1. The Election Board shall notify all parties of the recount results;
 - 2. The Election Board shall certify the results of the recount to the Tribal Council; and
 - 3. The results from the recount shall become the official result of the Election.

Section 5.10.04 Contesting Election Results

- A. In the event of any alleged violation of election procedures, any qualified voter, within thirty (30) calendar days of the posting of election results, may file a Petition of Contest with the Tribal Court. The Petition of Contest must be based on a specific violation of Tribal law or applicable federal law;
- B. An election shall not be set aside by the Tribal Court, pursuant to a Petition of Contest, unless it is confirmed by the Court that:
 - 1. The number of votes taken from a Candidate, elected by reason of the cause of the contest, would reduce the legal votes of that person below the number of legal votes given to a competing Candidate; or
 - 2. There was mistake or fraud in the counting of Ballots and the losing Candidate would have been elected if all Ballots not counted because of the mistake or fraud had been cast for the losing Candidate; or
 - 3. In the case of a Measure, the number of votes taken from the approval or rejection by reason of the contest would reverse the outcome of the election; or
 - 4. Mistake or fraud in the counting of Ballots and the outcome of the election on a Measure would have been reversed if all the Ballots not counted because of the mistake or fraud had been cast for approval or rejection of a Measure;
- C. A Petition of Contest shall be filed with the Tribal Court clerk and shall specify the cause of the contest and be verified in the manner required for the verification of the complaints in civil cases under the Tribal Code;
- D. The proceedings shall be conducted pursuant to the Tribal Court's Rules of Civil Procedure for an action not triable by a jury;
- E. When a Petition of Contest is filed with the Clerk of the Tribal Court, the Clerk shall publish a notice stating that the Petition has been filed. The notice shall be published in the next issue of the Tribe's newsletter;
- F. Not later than two (2) calendar days after the Petition of Contest is filed with the Clerk of the Tribal Court, the petitioning party shall also file a copy of the Petition with the Candidate who is the subject of the Petition if the Petition involves the election of a Candidate and in all cases with the Chair of the Tribal Council;
- G. The Tribal Court shall fix a time for a hearing on the Petition of Contest that is not later than the forty-fifth (45th) calendar day after the petitioning party provides the notices required by Section F, hereof. Not later than the thirtieth (30th) calendar day before the

hearing the Tribal Court shall give written notice of the hearing to each party to the proceeding. The contest proceeding shall take precedence over all other business on the Tribal Court's docket, except proceedings for emergency custody of a child;

- H. The Tribal Court shall hear and determine the proceedings without a jury, and the practice and procedure otherwise applicable to civil cases shall govern the proceeding;
- I. After the contest hearing, the Tribal Court shall render a judgment affirming or setting aside the Election results;
- J. If the Tribal Court sets aside the election of an incumbent, the office shall be declared vacant;
- K. If the Tribal Court sets aside the election of a person, the Court shall order a special election to be conducted according to the provisions of this Title, except that the election shall be held on a date to be set by the Court;
- L. Effect of a successful contest involving a Measure:
 - 1. After the hearing, the Tribal Court shall render a judgment affirming or setting aside the approval or rejection of the Measure; and
 - 2. If the judgment sets aside the approval or rejection of a Measure, the Tribal Court shall declare the Measure to be resubmitted at a special election conducted in accordance with this Title and held on a date set by the Court; and
- M. The Tribe shall bear the costs of any special election.

CHAPTER 5.11
Codification and Amendments

Sections:

Section 5.11.01 Codification

Section 5.11.02 Amendments

Section 5.11.01 Codification

Title 5 Elections was created with Resolution #28-99 (April 6, 1999), and codified as a Title in this code on February 18, 2005.

Section 5.11.02 Amendments

This Title was amended with Resolution #72-99 (November 16, 1999), Resolution #40-02 (October 28, 2002), Resolution #31-03 (June 20, 2003), Resolution 18-11 (April 27, 2011), Resolution #27-12 (July 24, 2012), Resolution #41-12 (August 21, 2012), Resolution #09-13 (February 26, 2013), Resolution #24-14 (August 28, 2014), Tribal Council meeting (May 7, 2015), Phone Poll (May 19, 2015), Resolution #15-15 (May 26, 2015).