

**2021 ELECTION RULES AND  
REGULATIONS  
AMENDED APRIL 13, 2021**

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# **ELECTIONS**

## **RULES AND REGULATIONS**

**AMENDED APRIL 13, 2021**

1. **Introduction**

- a. Elections are governed by the Constitution of the Confederated Salish and Kootenai Tribes of the Flathead Reservation. Article III of the Constitution sets forth the number of Council members of the government and District representation. Under Article III, the Tribal Council is the sole judge of qualifications required for being a member of the Council. Article IV of the Constitution outlines procedural requirements for the election process and authorizes the issuance of rules and regulations.
- b. In accordance with Articles III and IV of the Tribes' Constitution, the Tribal Council enacted Ordinance 112A, the Redistricting and Reapportion Ordinance, on February 16, 2021. This Ordinance creates one 'at large' Tribal Council election district in the 2021 election cycle and removes one Tribal Council position from the Mission district at the end of the 2021 election cycle. Ordinance 112A also creates one 'at large' Tribal Council position from the Arlee district at the end of the 2023 election cycle.
- c. Each Tribal Council 'at large' district shall encompass the entire Flathead Indian Reservation.
- d. The total number of Tribal Council representatives shall remain at ten.

2. Election Board (hereafter Board)

- a. The Tribal Council delegates overall responsibility for conducting Tribal elections to the Board. The Board shall interpret laws, rules, and regulations promulgated under the Constitution.
- b. The Board shall consist of the five incumbent Council persons who are not standing for re-election in the Election year. The Tribal Council may designate a Tribal member to perform the duties of a Board member where such Board member is unable to fulfill Board duties or responsibilities due to conflicts of interest or otherwise. Three members of the Board, or their designees, shall constitute a quorum. In the event that a candidate is related to a Board member or designate by blood or marriage, the relationship shall constitute a conflict of interest and that Board member or designate shall abstain from voting on any questions that would affect that candidate or the election in relation to that candidate.
- c. The Board shall be responsible for certification of candidates after the Board has determined the eligibility and qualifications of the candidates.
- d. The Board shall establish a list of names of persons selected to serve as Election Judges. The Board shall promptly notify the persons selected to serve as Judges.

3. Election Staff (hereafter Staff)

- a. The Staff shall consist of the Board, the Director of Financial Management and such administrative personnel as designated by the Board.
- b. The Board shall have the overall responsibility for implementing the rules and regulations governing the proper administration and monitoring of the Election, including the provision of adequate security of the ballots and polling places. A

Schedule of Events and list of eligible candidates, as certified by the Board, shall be posted by the Board prior to any Election.

- c. The Staff shall be responsible for notices being sent to Election Judges and shall issue detailed written instructions to the Election Judges containing appropriate procedures for conducting the election. The Staff shall also provide an orientation meeting for the Election Judges prior to their assumption of duties.
- d. The Staff shall be responsible for implementing procedures for the accurate distribution and receipt of Absentee Ballots and will be responsible for implementing rules of accountability.
- e. The Staff will assist the Tribal membership regarding any questions concerning the Election process.
- f. The Staff will publish a tally of the votes, as certified by the Board, as soon after the election as possible, showing a breakdown of: (1) total votes for each candidate; (2) number of Primary Election write-in votes by District after the Primary Election; and (3) number of absentee votes.

4. Election Judges

- a. Five Election Judges will be selected, but a minimum of three judges shall be at the polls in each District throughout Election Day. In each District, one of the five Judges will be designated as the Chairperson of the Election Judges, one as a Clerk, one as Teller and two as an Alternates. It is mandatory that three Judges remain in each polling place at all times with the fourth and fifth available as alternates.
- b. The Board will ask interested voters to submit their names to be considered for service as an Election Judge. The Board will select Judges from the list of those

who 1) submitted their names to serve as a Judge; 2) are qualified voters, and; 3) reside in the District they are called to serve.

- c. It is desired, though not mandatory, that at least one Election Judge in each District speak the Native language. Every attempt shall be made to assure that Election Judges are not closely related to any candidate running for office.

Closely related is defined as grandparents, parents, siblings, spouse, children.

5. Election Day Enforcement Personnel

- a. Law Enforcement personnel shall be assigned to duty in the vicinity of each polling district on Election Day to assist if necessary.
- b. The Law Enforcement personnel designated for each polling site will pick up the prepared and locked ballot box from Tribal offices to be delivered to each District polling place site by 7:00am.
- b. After the polls have closed Law Enforcement personnel shall deliver the ballot boxes to the Tribal Offices with the ballot box being locked and sealed in accordance with instructions given by the Board for assuring maximum security.

6. Eligibility Requirements for Council Candidates

- a. Any enrolled member of the Confederated Salish and Kootenai Tribes may announce their candidacy for Tribal Council provided the following eligibility criteria are met:
  - (1) The candidate must be at least 21 years of age at the time of filing the application for candidacy and have been enrolled as a member of the Confederated Salish and Kootenai Tribes for at least one year preceding the date of filing;

- (2) The candidate for each of the eight original districts named in the Constitution must have physically and continuously resided with a verifiable address or location (post office box addresses do not qualify as a physical address or location) in their district for at least one year preceding the date of the Primary Election; and
  - (3) The candidate for an 'at large' district seat must satisfy all other candidate requirements, provided, however, that the locale of residence within the Flathead Indian Reservation is not a limiting factor for candidacy for an 'at large' district seat. 'At large' district candidates must, however, still have resided within the boundary of the Flathead Indian Reservation for one year preceding the date of the Primary Election. In addition, candidates who choose to run for an 'at large' district are precluded from running in one of the eight original districts during the same election cycle.
  - (4) The candidate must never have been convicted of a felony (or if convicted of a felony, a full pardon given for that conviction) or impeached from public office.
  - (5) The candidate cannot be a named Plaintiff in any active or pending litigation against the Tribal Government or any Tribal program or Tribal entity.
- b. Each application for candidacy must be accompanied with:
- (1) A non-refundable \$150.00 filing fee; and
  - (2) A signed sworn affidavit attesting to the candidate's qualifications.
- c. The candidates list, as certified by the Board, must be posted by the Staff in each District at least 10 calendar days prior to any election.

- d. Pursuant to Article IV, Section 3, of the Tribal Constitution, write-in candidates shall only be allowed to participate in, and votes cast for write-in candidates shall only be tallied for, the Primary Election. No write-in votes shall be tallied in the General Election due to the Constitutional mandate that write-in candidates are not eligible to run in General Elections. A write-in candidate in a Primary Election must possess the same eligibility qualifications provided in subsection (a) above which other candidates, who declared their candidacy prior to an election and who attested to their qualifications through sworn affidavit, possess. The Board shall request any successful Primary Election write-in candidate to file, within 3 calendar days after a Primary Election, a sworn affidavit attesting to the candidate's qualifications along with a \$150.00 fee in order for the Board to determine and complete certification and declaration obligations for that candidate. If the Board determines that a successful write-in candidate does not meet the eligibility requirements, the next highest vote recipient will be certified as a primary election winner.
- e. Should an issue arise before an election as to the eligibility of candidates, the Board shall proceed to resolve such issue before the election. All issues concerning eligibility must be submitted in writing to the Board by the complaining party prior to consideration. Board decisions regarding candidate eligibility issues may be appealed and decided by the Tribal Council before the election, time permitting. Any candidate eligibility question resolved before the election cannot be the subject of appeal after the election.

**7. Eligibility of Voters**

- a. Any enrolled member of the Confederated Salish and Kootenai Tribes who is or will be 18 years of age or older on the day of any scheduled election shall have the right to vote in the Election provided they have physically resided at a verifiable street address or location (not a post office box) for at least one year on the Flathead Reservation next preceding the Primary Election. "Enrolled member" shall mean that the person's name appears on the official Tribal rolls.
- b. The Staff shall prepare the list of eligible voters from computerized Tribal enrollment records showing the most current physical address of each Tribal member. Should enrollment records show a post office box for any particular voter and a question arises or a complaint is filed with the Board as to that voter's residency, then the Board may require such voter to verify to the Board's satisfaction, a street address or location to determine eligibility.
- c. Eligible voters who have resided in different Districts preceding the Election should make that information known to the Staff for determination as to the voter's correct voting District.
- d. Eligible voters appearing to vote in a District other than shown on the official voting list will be allowed to cast a contested ballot.
- e. Should an issue arise as to the eligibility (exclusion or inclusion) of people on the eligible voters' list, the Board shall proceed to resolve such issue.
- f. Tribal members and their Tribal member spouse who reside off the Reservation for enlisted military or secondary educational purposes shall be entitled to vote during the time they are on active duty or enrolled at least part-time in an educational

program.

**8. Schedule of Events**

- a. A Schedule of Events shall be prepared prior to each Election which shall appear in the Char-Koosta and shall be posted in all Tribal community centers, Tribal Offices, Bureau of Indian Affairs Offices, Tribal Health buildings and United States Post Offices within the exterior boundaries of the Flathead Reservation.
- b. The Schedule of Events shall include the following information:
  - (1) Opening date for filing application for candidacy.
  - (2) Closing date for filing application for candidacy.
  - (3) Deadline for withdrawing application for candidacy.
  - (4) Certification of candidates.
  - (5) Certification of the voter list.
  - (6) District Board Orientation.
  - (7) Date of Primary Election.
  - (8) Date of General Election.
  - (9) Date for certification of the vote following the Primary Election.
  - (10) Date for certification of the vote following the General Election.
  - (11) Date of oath of office.
- c. The Schedule of Events shall be approved by the Tribal Council no less than 14 calendar days prior to the opening date for filing the application for candidacy.

**9. Absentee Ballots**

- a. Eligible voters shall be allowed to vote by Absentee Ballot in Primary, General and Special Elections.

- b. Absentee Ballots shall be identical to ballots used at the polling place. They will be accompanied by an instruction sheet, one envelope in which to seal the ballot and a return envelope.
- c. All requests for Absentee Ballots must be in writing and signed by the voter. The ballot will be conveyed to the voter by the Staff either in person or by certified mail. The Staff shall be responsible for the printing and safeguarding of all absentee ballots and, when returned, absentee ballots will be kept in a separate ballot box.
- d. The Board shall maintain a chronological listing of all Absentee Ballot requests and ballots that have been distributed and will supply each District polling place with a copy of such listing at or before 7 o'clock a.m. on Election Day.
- e. When absentee voting, the voter shall mark the ballot and place it in the envelope provided and seal it. The envelope shall be signed by the voter. It shall then be returned in person or by standard mail to the Board in the return envelope.
- f. All returned Absentee Ballots must be postmarked no later than the date of the Election and received no later than Tuesday following the Election. The signature of the voter must appear on the envelope provided for such purpose.
- g. Any voter who has previously requested and received an Absentee Ballot but who appears at the polling place instead of utilizing the Absentee Ballot will be allowed to cast a contested ballot.
- h. The Board shall compare the signature on the envelope provided with the signature on the written request on file. If the signatures match, the envelope shall be deposited in the ballot box. In the event a ballot is rejected because of an improper signature, the envelope shall not be opened. If the member votes at their district

polling place, their absentee ballot shall not be opened. The entire unopened, rejected ballot shall be deposited with the rejected contested ballots.

10. Campaigning

a. At no time during working hours in the period between the Primary Election Candidate Filing Deadline and the General Election Polling Day shall:

- (1) Campaign speeches and distribution of campaign materials to persons or entities be allowed in buildings owned or operated by CSKT or its enterprises, BIA, Tribal Health, BLM, SOD, SKHA, or SKC.
- (2) Campaign materials 8" X 11" in size or smaller may be posted on designated public bulletin boards in each tribal office or building. However, Candidates are allowed to rent and campaign at the Senior and Community Centers outside normal business hours of 7:00-5:30PM, Monday through Friday.
- (3) It is the responsibility of the Candidate who wishes to rent CSKT-owned Senior and Community Centers for campaign purposes to obtain the proper authorization from, and make payment to, the Tribal Lands Office.
- (4) Campaigning closer than 500 feet of the building containing the polling place on Election Day. Any campaign materials previously posted inside the designated polling places shall be removed by the Election Judges prior to opening of the polls; candidates must remove any campaign materials and signs that are within the 500 feet of the building the day prior to the election.

- (5) Discussions by employees of the CSKT or its enterprises, the BIA, Tribal Health, BLM, SOD, SKHA, and SKC of the upcoming election or candidates during assigned working hours are prohibited. Any candidate who violates this prohibition is subject to disqualification upon a majority decision of the Board. Any employee who violates this prohibition is subject to disciplinary action pursuant to CSKT's Personnel Ordinance.
- b. Candidates must assume the full financial responsibility for their own campaigns. Materials given out will not carry the endorsement or rejection of the Tribal Council or employees of the Tribes.
- c. Candidates may post signs and distribute campaign materials after the official certification of candidates by the Board through the General Election. Candidates must remove posted signs no later than three days after the Certification following the General Election.
  - (1) It is the responsibility of the Candidate who wishes to place campaign signs on Tribally owned land to obtain a permit from the Tribal Lands Office.

11. **Ballot Boxes**

- a. Ballot boxes shall be prepared in advance and shall contain the following materials:
  - (1) Ballots
  - (2) Pencils - 6
  - (3) Tablets - 4
  - (4) Scotch Tape - 2
  - (5) Stamp Pad
  - (6) Election Resolution

- (7) Constitution/Bylaws
- (8) Voter Lists
- (9) Time Sheets
- (10) Poll Book and Tally Sheets
- (11) Certification of Poll Vote Form
- (12) Ballot Envelopes
- (13) Key to Box, paper clips, thumb tacks, rubber bands
- (14) Official Ballot Stamp
- (15) Map of Voting Districts.

- b. The prepared ballot box shall be inventoried by the Staff and the Board the last working day before the Election and then shall be issued at 7:00 a.m. on Election day to the person designated as the District Election Judge Chairperson along with one set of keys which will be locked inside and sealed after the Election Judges have certified the poll vote.
- c. The locked and sealed ballot boxes shall be returned to the Tribal Administration Offices by a Tribal Police Officer and will remain in the Tribal vault or other locked space until the Board calls for them to be opened for counting and certification by the Board. The ballot boxes can then be stored until the next election.

12. Orientation of Election Judges

- a. The Election Judges will receive instructions and orientation from the Board and/or Staff on or before the last working day prior to Election Day. The Election Judges will receive detailed written instructions prepared and approved by the Board.
- b. The orientation session shall include instructions on the following:

- (1) Inventory of ballot boxes;
- (2) Instructions on processing of wages/mileage/meal stipends and time sheets;
- (3) Review of Tribal Election Resolution and written instructions prepared for District Election Judges;
- (4) Procedure for handling contested ballots;
- (5) Name and phone number of assigned Tribal Police officer;
- (6) Use of alphabetical cards indicating which voters from their District have applied for Absentee Ballots;
- (7) Procedures for certification of poll vote;
- (8) Reminder that "interpreters" will not have access to pen, pencil or other marking device while assisting the voter;
- (9) Use of poll book and tally sheet;
- (10) Instructions for alternates;
- (11) Arrangements for set up/use of polling places; and
- (12) Other pertinent information.

13. Primary Elections

- a. A Primary Election shall be held at least 60 calendar days prior to the General Election. In districts where only two candidates have filed for the same Tribal Council seat a Primary Election shall be held to allow for write-in votes to be cast.
- b. To be a candidate in the Primary Election, a person shall meet the qualifications and follow the process contained in section 6 and shall be certified as qualified by the Board.
- c. Notwithstanding subsection (b) above, during the Primary Election only, voters

shall be allowed to hand write-in on their ballots the name of any person the voter wants elected to office. Votes cast for persons who have not applied for, nor were certified as qualified to participate in the Primary Election shall be counted. Persons who have their names written in on ballots by the voters shall be designated as write-in candidates. Write-in candidates may be named on the ballot of the General Election only if they meet all eligibility requirements as determined by the Board after the Primary Election and if such candidate was one of the top two vote getters in the Primary Election.

- d. Where a write-in candidate receives the votes necessary in the Primary Election to become one of the two candidates eligible to run in the General Election, the Board shall determine whether such write-in candidate meets the necessary minimum constitutional and regulatory qualifications for candidacy eligibility. If the write-in candidate is found not to meet the minimal qualifications, the Board shall declare the qualified candidate receiving the next highest vote in the Primary Election as eligible to run in the General Election.
- e. In Primary Elections, the two candidates receiving the most votes in each voting District, where a Council position is up for election, shall be eligible to run in the General Election.
- f. In the event of a tie between two candidates running for the same seat who received the most votes during a Primary Election, only these two candidates shall be eligible to run in the General Election. No runoff election shall be necessary.
- g. During a Primary Election, where more than two candidates tied for first place, or where one candidate received the most votes and there is a tie for second place, a

run-off Primary Election shall be held before the General Election to determine which two candidates shall be eligible to run in the General Election. Primary run-off elections shall continue to be held until the ties are broken and the two candidates receiving the most votes can be determined. Under no circumstances as a result of the Primary Election(s) shall more than two candidates from any particular voting District be named on the General Election ballot as candidates running for office from that District.

14. General Elections

- a. The General Election shall be held every two years no later than the third Saturday prior to the expiration of the terms of office of the members of the Tribal Council.
- b. In accordance with Article IV, Section 3, of the Constitution, only the two candidates for each office receiving the most votes during the Primary Election shall be eligible to run for office in the General Election.
- c. "Eligible to run for office in the General Election" is interpreted to mean that write-in Candidates shall not be eligible to run in the General Election and votes cast for write-in candidates during the general election shall not be counted and no write-in candidate shall be eligible to be sworn in, seated on, and serve on the Tribal Council. Only those votes cast for one of the top two vote getters named on the pre-printed general election ballot shall be counted and only the candidate whose name is preprinted on the general election ballot receiving the most votes shall be eligible to be sworn in, seated on, and serve on the Tribal Council.
- d. Primary Election Candidates who were not one of the top two voter getters in the Primary Election or other persons who did not participate in the Primary Election

will not be allowed to run as write-in candidates in the General Election and therefore they are not eligible to utilize General Election campaign meetings and forums or other Tribal resources and facilities, including the Char-Koosta, for advertising, or otherwise promoting themselves as write-in candidates for the General Election. However, Primary Election Candidates or Tribal Members who are not one of the two top vote getters in the Primary Election may still exercise, at their own expenses, their rights as Tribal Members to voice their opinion(s) at general election campaign meetings and forums, or at their own expense use other Tribal resources and facilities, including the Char-Koosta, as would other Tribal members who are not running for office.

- e. The candidate receiving the plurality of votes in the General Election will be declared the winner.

15. Election Day Procedures

- a. An Staff person shall be in the Tribal Administrative Offices no later than 6:00 a.m.
- b. The Election Judges, including alternates, shall appear at their designated polling place no later than 7:00 a.m.
- c. The Election Judges shall review the instructions relative to their respective delegated duties.
- d. The Election Judges shall prepare each polling place by setting up tables, booths, and the ballot box and poll and tally sheets. The polling place area shall also be checked to assure all campaign material is removed.
- e. The Election Judges shall open the polls at 8:00 a.m. Election Judges must vote before opening the polls either in-person at their designated poll or via absentee

**ballot.**

- f. The Election Judges shall proceed to provide an orderly, secret balloting process in accordance with instructions given. Eligible voters shall be allowed to cast their ballots. In cases where an Election Judge is unsure as to the eligibility of a voter, the Election Judge shall allow the voter to cast a contested vote. The contested vote shall be placed in a sealed envelope by the Election Judge with the Election Judge writing the voter's name, along with the reasons for contesting the vote, on the outside of the envelope.**
- g. All voters must be identified. All voters must be named on the voting list unless casting a contested ballot. If a voter votes in a District other than where they reside, the ballot will be treated as a contested vote and placed in a sealed envelope with the appropriate information written on the outside.**
- h. Any voter who requested and received an Absentee Ballot but who has not returned that ballot and has appeared at the polling place to vote will be allowed to cast a contested vote.**
- i. Non-Election activities will not be allowed in the polling place. The Election Judges shall maintain order and call upon the Tribal Police for assistance if necessary. After casting their vote, voters may not loiter or remain at the polling place.**
- j. Election Judges may take necessary breaks as the polling place workload permits. During such breaks, the Election Judge must remain inside the designated voting place. At least three Election Judges must be on duty at the polling place at all times.**

- k. Election Judges will not be required to give out Election information except as instructed at the orientation session.
- l. The polls will close at 8:00 p.m. on Election Day. However, persons waiting in line to vote at 8:00 p.m. will be allowed to cast their vote.
- m. After the polls have closed, the Election Judges shall certify the vote count. Doors of the polling places shall be locked and only the Election Judges and Law Enforcement personnel shall be present while the vote count is being certified. No interruptions such as phone calls or visitors will be allowed or tolerated.
- n. Certification sheets shall be carefully and accurately filled out and signed by the Election Judge designated as the Chairperson. The certification sheets shall include the following data:
  - (1) Total number of ballots cast;
  - (2) Number of invalid votes;
  - (3) Number of contested votes; and
  - (4) Number of valid votes each candidate received.
- o. The Election Judge Chairperson shall verbally relay the certified poll figures to the Board.
- p. The ballot box shall be sealed with keys, ballots and one copy of the certification sheet locked inside.
- q. Judges time sheets, one copy of the certification, and the name and telephone number of the Judge who will participate in the canvassing of the ballots on the Wednesday following Election Day will be placed in an envelope and attached to the outside of the ballot box.

- r. Law Enforcement personnel shall deliver the sealed ballot box with the attached envelope to the Board at the Tribal Office.
- s. The Board shall prepare a sheet listing the certified poll results for information, distribution and for dissemination to the news media as unofficial election returns.
- t. The Board shall lock up all ballot boxes in the Tribal vault or other secure place located at the Tribal Administration Offices.

16. Contested Ballots

- a. To ensure that only eligible voters vote and that they vote only once and in one District, the following categories of ballots shall be treated as contested ballots:
  - (1) Those cast by persons who previously requested and received Absentee Ballots but who appear at the polling place claiming not to have used the Absentee Ballot.
  - (2) Those cast by persons who claim an eligibility to vote but whose names do not appear on the official voting list.
  - (3) Those cast by persons in a District other than where residency is shown on the official voting list.
  - (4) Those cast by persons whom the Election Judges at the polling place cannot agree whether or not should have been allowed to vote.
- b. Contested ballots shall be placed in a sealed envelope by the Election Judge with the voter's name, enrollment number, and the reason for contesting the vote written on the outside of the envelope. The envelope with the contested ballot shall be placed in the ballot box.
- c. The validity or invalidity of contested ballots shall be determined by the Board after

the election during the Election canvass. If a contested ballot is determined valid by the Board during the canvass, the envelope containing the contested ballot may then be opened. The votes contained on contested ballots deemed valid will be counted in the total tally of the district actually voted in.

- d. Envelopes containing invalidated ballots will not be opened. They will be destroyed after the canvass of votes and after the final certification of the election by the Board.

17. Official Canvassing-Certification of Election

- a. District Election Judges shall certify the results of the poll votes for their respective Districts on Election Day after the polls close.
- b. The Board shall recount and re-certify the poll votes after their official canvassing.
- c. Canvass of the vote's certification shall take place on the first Wednesday following the election.
- d. The Board shall provide the Staff and the Bureau of Indian Affairs a signed, written certification of the results of the election.

18. Certification Procedures

- a. The Board shall ensure that proper procedures are followed, including the following:
  - (1) If there has been a request for recount filed, then the Board must first determine how to handle and resolve the recount request before proceeding further.
  - (2) Only Board members, the Election Judge, Staff, and designated staff members are to be present during canvassing unless the Board decides

otherwise.

- (3) The Board will determine which District's votes are to be counted first, second, third or last. The Board shall ensure that the district Certification from the election day Judges reconciles to the number of votes cast to the number of ballots counted, plus the number of contested ballots in envelopes. If the records match, the Board shall use the certified numbers from the Election Day results provided by the Election Judges so certifying the results. The approved contested ballots from that district will then be opened, counted and added into the totals for that district.
- (4) Those contested ballots that are declared invalid by the Board shall remain unopened until disposition.
- (5) The returned Absentee Ballot envelopes will be counted to see that they match the number indicated by the election records.
- (6) Outer Absentee Ballot envelopes are then opened and inner envelopes removed. The signatures on the inner envelopes and the letters of request for absentee ballot and compared. If the signatures are the same, the Absentee Ballot is declared valid. If the signatures do not match the Ballot is declared invalid.
- (7) Inner envelopes for Absentee Ballots declared valid are opened and ballots are removed and shuffled to lose identity. The Board shall ensure that each inner envelope contains only one absentee ballot. Where envelopes contain more than one absentee ballot, those absentee ballots will be invalidated.
- (8) All ballots (cast, contested and absentee) shall be given to the Election

Board who will read the names of the candidate so marked on each ballot.

- (9) A person designated by the Board will verify that the correct names are called.
- (10) Appropriate distinguishable first, last, middle or nick names shall be chosen to avoid confusion of names that may sound the same.
- (11) A person that is designated by the Board shall keep tally on a chalk board placing a check mark next to a candidate's name each time a candidate's name has been called.
- (12) The chalk board tally person shall call out the tally each time a candidate receives a five mark or multiple thereof. The other Board members will also keep tally.
- (13) Any Board member may cause a check or recount of the tally to be held or may request that the count be slower.
- (14) Periodic pauses will be taken in the count to allow persons involved to remain alert and ready and to insure that all persons agree to the chalk board count.
- (15) Ballots that contain markings other than the routine x's or checkmarks or more x's or checkmarks than are allowed shall be reviewed by the Board for validation, invalidation. All voters must cast their ballots by placing a hand-written x or checkmark next to the candidate of the voter's choice or, during the Primary Election, by hand-writing in the name of the person not named on the ballot but whom the voter wishes to be elected. Any other form of casting a vote on a ballot (e.g., placing a sticker on the ballot, handwriting

in a person's name on a ballot in a general election, etc.), or other tampering of a ballot, shall cause the Board to declare the vote invalid due to defacement for the District the defaced vote pertains to and such defaced vote will be excluded from the tallying of votes for that District. Each Board member shall audibly vote on each ballot in question.

- (16) After the last ballot has been counted the tally will be checked, and only if each Board member agrees upon the tally, will those results be certified.
- (17) A different vote count by any of the Board members shall cause the ballots to be recounted.
- (18) The Board shall observe the same procedures for certifying the count for the remaining Districts.
- (19) Validated Absentee Ballots are counted last using the same procedure as used to count the validated contested ballots.
- (20) All ballots and envelopes are to be immediately returned to the Board for storage.
- (21) If a vote count difference of three votes or less occurs between a Council person elect and a person who was not elected, a recount of both valid poll and valid absentee ballots is mandatory.
- (22) The candidate who received the most votes will be declared elected.
- (23) In the event of a tie between candidates in the General Election, a run-off election will be held no later than 10 calendar days after Election Day.

19. Appeals; Standing; Grounds

- a. Candidates or any eligible voter having standing may challenge or appeal the conduct of or result of any Primary or General Election or the right of any elected candidate to be seated on the Tribal Council. Standing is defined as being an aggrieved person who was directly and/or personally injured by official action or inaction in the conducting of an election which in the judgment or discretion of the Board resulted in a candidate or candidates being elected which candidate(s) would not have been elected but for such official action or inaction.
- b. The grounds for challenge or appeal of an election may be based upon any of, but is not limited to, the following grounds:
  - (1) The ineligibility of a successful candidate;
  - (2) The ineligibility of voters who voted in the contested election or the exclusion of voters eligible to vote but were denied the right to vote in the contested election;
  - (3) Misconduct by the Board, Board Member, Designate, Election Judge, Staff, or any other official in administering an election either before or after Election Day;
  - (4) The candidate certified as elected, or any person acting on behalf of such certified candidate, has given or offered a bribe, reward, compensation or other benefit to the Board, Board Member, Designate, Judge, staff, or any other official administering an election for the purpose of influencing, obtaining or achieving a particular result in the election at issue; or

- (5) Illegal votes were counted or legitimate votes were discarded, or an otherwise erroneous vote count was conducted, which resulted in the wrong candidate being certified as elected.

20. Appeal Process

- a. Every appeal or challenge to an election must be brought before the Board by a person who has standing. The Board may summarily dismiss any appeal brought by an individual who does not have standing.
- b. Appeals of Primary Elections must be filed with the Board by 5:00 p.m. on the 3rd working day following certification by the Board of the two candidates declared eligible to run in the General Election. Appeals filed after this time and date may be summarily dismissed by the Board.
- c. Appeals of General Elections must be filed with the Board by 5:00 p.m. on the 3rd working day following certification by the Board of the candidate declared the winner in the General Election. Appeals filed after this time and date may be summarily dismissed by the Board.
- d. Appeals shall:
  - (1) Be made in writing and signed by the person(s) bringing the appeal;
  - (2) Contain the name and residence of the person(s) bringing the appeal along with a statement of standing; and
  - (3) Contain a detailed and specific description of the issue(s), matter(s) or action/misconduct being complained of, giving the dates, times, persons and witnesses involved who have knowledge of the facts or who are alleged to

have caused the action complained of, and any other information which will be helpful or necessary for the Board to make a decision on the appeal(s).

- e. The Board may summarily dismiss any appeal brought by any person who fails to timely provide all the elements contained in subsection (d) above.
- f. Where appeals have been timely filed, if any, the Board shall set a place, time and date to hear the appeal(s). The time and date of the hearings shall be set by the Board as expeditiously as possible, but shall not be set later than three (3) working days following the deadline for appeals to be timely filed. Once the Board determines the place, date and time to hear appeals, the Board shall notify the appellants in writing of this information. The Board shall also post notice to the membership of the Tribes about the hearings. The persons appealing the election shall be responsible for bringing any material, documents or witnesses needed to make a presentation before the Board.
- g. On the date of the hearings, the Board shall proceed first to hear and decide issues of standing and then, if standing is found, to hear appeals. No formal rules of civil procedure need be followed during these hearings. The persons appealing the election shall be allowed to make arguments and present documents, witnesses or other material to make their case for standing and if standing is found, to make their case on the merits of the appeal. If no standing is found, the Board shall proceed to dismiss the appeal. If standing is found, the Board shall proceed to make their decision on the merits of an appeal as soon as possible after the hearing. Any decision, and the reason(s) therefore, shall be reduced to writing.

- h. In making a decision on standing or on the merits of an appeal, the Board may: 1) dismiss the appeal for lack of standing or as lacking merit; 2) dismiss the appeal for failing to meet any procedural requirements for filing an appeal; or 3) take whatever action is appropriate to remedy the situation.**
- i. Once the time frames for this appellate process have past for the Primary and General Elections, and the Board has made its decision in relation to any appeal(s), the Board is without the jurisdiction to hear or decide any further issues, contests or appeals dealing with the election at issue.**
- j. If a person bringing an appeal is dissatisfied with the Board's decision, the appealing party may bring the appeal before the Tribal Council for final determination. The appeal to the Tribal Council shall be filed with the Board by 5:00 p.m. within two (2) working days of the Board's decision. Any appeal filed after this time shall not be considered by the Tribal Council and the Board's decision on the issue shall stand. On a timely filed appeal, the Tribal Council, pursuant to Article III, Section 7, of the Constitution and Article I, Section 4, of the Bylaws, has the final authority to decide the merits of standing or merits of the appeal itself as the case may be.**
- k. On any appeal properly before it, the Tribal Council shall set the process, time, date, and place for hearing the appeal(s), including standing, and may take any action or implement any remedy which is necessary to settle the appeal(s) including implementing those remedies which the Board has under subsection (h) above.**
- l. The decision of the Tribal Council is final as to election appeals.**

21. Oath of Office

The Council elect shall be officially sworn in and seated on the Tribal Council on the first Council meeting in January after the General Election.

22. Residency after Being Sworn In

Once a candidate is sworn into office to serve on the Tribal Council representing the district from which the candidate was successfully elected, such candidate/tribal council member shall personally and physically live and reside within such District elected from for the duration of the term the Council member was elected for. Any violation or alleged violation of this residency requirement shall be settled within the discretion of the Tribal Council pursuant to Article III, Section 7 of the Tribal Constitution.

23. Forms Used In Tribal Election

- (1) Schedule of Events
- (2) Application and Affidavit of Candidate
- (3) Certification of Candidates
- (4) Absentee Ballot Request
- (5) Individual Letters
- (6) Official Ballot
- (7) Change of Address (District) Request
- (8) Instructions for Voters
- (9) Absentee Ballot Envelope
- (10) Return Envelope for Sealed Envelope with Absentee Ballot
- (11) Mailing Envelope
- (12) Inventory of Ballot Boxes

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- (13) Time/Mileage Sheets for District Board
  - (14) District Election Judges Certification of Poll Votes
  - (15) Board Certification of Election
  - (16) Listing of Voters by District
  - (17) Poll/Tally Books
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