

DRAFT 7.6.20

**SITKA TRIBE OF ALASKA  
ELECTION ORDINANCE**

**ENACTED SEPTEMBER 1, 2000; REVISED SEPTEMBER 27, 2005  
REVISED 2013  
By the Sitka Tribe of Alaska Tribal Council**

**Sitka Tribe of Alaska  
Election Ordinance**

**Commented [DB1]:** TOC to be revised/updated upon approval of this draft at Governance Committee.

Chapter 1– General Provisions ..... 4

    1.01 Purpose.....4

    1.02 Scope of the Ordinance .....4

    1.03 Term of Office .....4

    1.04 Vacancy on Tribal Council .....4

    1.05 Computation of Time.....4

    1.06 Definitions .....5

    1.07 Severability.....7

Chapter 2 – Scheduling of Elections ..... 8

    2.01 Scheduling General Elections .....8

    2.02 Scheduling Special Elections .....8

    2.03 Procedure for re-scheduling an Election .....8

Chapter 3 – Qualifications ..... 9

    3.01 Voter Qualifications .....9

    3.02 Candidate Qualifications .....9

    3.03 Tribal Employees Seeking Election to Tribal Council .....10

    3.04 Election Officials Qualifications .....10

Chapter 4 – Filing for Tribal Office ..... 1241

    4.01 Filing Candidacy Materials ..... 1241

    4.02 Withdrawing Candidacy ..... 1241

    4.03 Testing Eligibility of candidates ..... 1241

Chapter 5 – Ballots ..... 1342

    5.01 Form..... 1342

    5.02 Sample Ballot ..... 1342

    5.03 Final Ballots..... 1442

Chapter 6 – Absentee Voting ..... 1442

    6.01 Absentee Voter Eligibility ..... 1442

    6.02 Absentee Voting by Mail ..... 1443

    6.03 Absentee Voting in Person Prior to Election ..... 1543

    6.04 Mailing of Absentee Ballot ..... 1543

    6.05 How Absentee Ballots are Marked and Returned ..... 1543

    6.06 Cut-Off for Delivery of Absentee Ballots to the Election Supervisor ..... 1544

    6.07 Record of Absentee Ballots ..... 1644

    6.08 Delivery of Absentee Ballots to Polling Place ..... 1644

Chapter 7 – STA General Manager Responsibilities ..... 1645

    7.01 Duty to prepare candidacy materials ..... 1645

    7.02 Duty to prepare voter list ..... 1745

    7.03 Duty to Solicit Election Supervisor Bids ..... 1745

    7.04 Duty to Solicit Interested Tribal Citizens to Serve as Election Judges ..... 1745

    7.05 Duty to Publish Sample Ballot..... 1846

    7.06 Duty to Prepare Timeline Prior to General Election ..... 1846

    7.07 Duty to Prepare Timeline for Special Election ..... 2049

Chapter 8 – Tribal Council Responsibilities ..... 2149

    8.01 Designation of Election Officials & Polling Places ..... 2149

    8.02 Election Proclamation ..... 2149

Chapter 9 – Election Officials ..... 2149

    9.01 Membership, Duties and Powers of the Election Committee ..... 2149

9.02	Duties of Election Workers .....	<del>2220</del>
9.03	Duties of Election Judges .....	<del>2220</del>
9.04	Duties of Election Supervisor .....	<del>2224</del>
9.05	Compensation of Election Officials .....	<del>2422</del>
Chapter 10 – Conduct of Election .....		<del>2422</del>
10.01	Notice of Election .....	<del>2422</del>
10.02	Posting of Voter List .....	<del>2523</del>
10.03	Ballot Boxes .....	<del>2523</del>
10.04	Polling Place Procedures .....	<del>2523</del>
10.05	Canvassing the Votes; Delivery of Ballots; Canvass of Results .....	<del>2725</del>
10.06	Recounts .....	<del>2927</del>
10.07	Intent, Purpose and construction of this Chapter 10 .....	<del>3129</del>
Chapter 11 – Prohibited Practices .....		<del>3129</del>
11.01	Prohibition on Political Persuasion .....	<del>3129</del>
11.02	Prohibition on Use of Force .....	<del>3130</del>
11.03	Prohibition on Undue Influence .....	<del>3230</del>
11.04	STA Employees Prohibition on Campaigning During Working Hours or with STA Resources .....	<del>3230</del>
11.05	STA Tribal Council Members Prohibition on Campaigning with STA Resources .....	<del>3230</del>
Chapter 12 – Certification of Election .....		<del>3230</del>
12.01	Tribal Council Certifies Election .....	<del>3230</del>
12.02	Public Certification .....	<del>3334</del>
12.03	Release of Unofficial Election Results .....	<del>3334</del>
Chapter 13 – Election Protest Guidelines .....		<del>3334</del>
13.01	Challenge of Candidates .....	<del>3334</del>
13.02	Ruling on Challenges of Candidates .....	<del>3334</del>
13.03	Grounds for Challenging Election Results .....	<del>3432</del>
13.04	Process and Ruling on Challenges of Election Results .....	<del>3432</del>
13.05	Duty to prepare and post guidelines regarding process under Section 13.04 .....	<del>3634</del>
13.06	Duty of Tribal Council to appoint the person to represent Sitka Tribe in the event of an Election Protest, the person who will serve as Clerk to Judge, and a person to assist protestors with documents related to protest .....	<del>3634</del>
13.07	Partial Invalidity .....	<del>3735</del>
Chapter 14 – Initiatives and Referendums .....		<del>3735</del>
14.01	Initiatives .....	<del>3735</del>
14.02	Referendums .....	<del>3735</del>
Chapter 15 – Recall Elections .....		<del>3735</del>
15.01	Recall Procedure .....	<del>3735</del>

## **Chapter 1– General Provisions**

### **1.01 Purpose**

This Ordinance is adopted pursuant to Article VI, Section 4 of the Sitka Tribe of Alaska (STA) Constitution, to provide definitive rules and procedures to govern the election of the Tribal Council of Sitka Tribe of Alaska.

### **1.02 Scope of the Ordinance**

The scope of the Ordinance applies to all questions of election rules and procedures, and the Ordinance, along with provisions of the Constitution, are the final authority on all such questions.

### **1.03 Term of Office**

Tribal Council members serve two-year terms, beginning December 1 and ending November 30, except “for cause” as defined in Section 12.01(a) and Chapter 13 of this ordinance. Council members shall be sworn in at the first meeting in December.

### **1.04 Vacancy on Tribal Council**

In the event of a vacancy, the Tribal Council has the authority to appoint a new Council member to fill that vacancy pursuant the Article IV, Section 10, of the STA Constitution. The person to be appointed must meet the eligibility requirements of Section 3.02. The Tribal Council must fill any vacancy within thirty (30) days of the vacancy. The person appointed to fill a vacancy will serve for the remainder of the term of the Council member who vacated the seat.

### **1.05 Computation of Time**

- (a) A deadline under this Ordinance, other than the deadlines in Chapter 13, Election Protest Guidelines, that falls on a weekend day or holiday shall be met on the regular working day prior to the weekend day or holiday.
- (b) Deadlines in Chapter 13 that fall on a weekend day or holiday shall be met the next working day following the weekend day or holiday.

### 1.06 Definitions

For purposes of this Election Ordinance, the terms listed below shall have the following meanings:

- (a) "Candidacy Materials." A notice of candidacy setting forth the required qualification information and supplemental criminal background check application for Tribal Council candidates and Election Officials pursuant to Section 4.01.
- ~~(b)~~ "Citizens." An officially enrolled citizen of STA, as defined in the Enrollment Ordinance and Article III of the STA Constitution.
- ~~(b)(c)~~ "Domicile." The true and permanent home of a person, from which the person has no present intention of moving and to which the person intends to return whenever the person is away.
- ~~(c)(d)~~ "Election Committee." The Election Committee shall consist of the Election Supervisor and two Election Judges.
- ~~(d)(e)~~ "Election Judges." The two individuals appointed by the Tribal Council pursuant to Section 8.01 and who qualify pursuant to Section 3.04 to serve as Election Judges.
- ~~(e)(f)~~ "Election Officials." The Election Supervisor, Election Judges, and Election Workers.
- ~~(f)(g)~~ "Election Supervisor." The individual appointed by the Tribal Council pursuant to Section 8.01 and who qualifies pursuant to Section 3.04, to coordinate voting activities and to chair the Election Committee.
- ~~(g)(h)~~ "Election Workers." The individuals appointed by the Election Supervisor pursuant to Section 9.01 and who qualify pursuant to Section 3.04 to serve as Election workers.
- ~~(h)(i)~~ "Holiday" means New Year's Day—First (1<sup>st</sup>) of January, Elizabeth Peratrovich Day—Sixteenth (16<sup>th</sup>) of February, President's Day—Third (3<sup>rd</sup>) Monday in February, Memorial Day—Last Monday in May, Independence Day—Fourth (4<sup>th</sup>) of July, Labor Day—First (1<sup>st</sup>) Monday in September, National Indian Day—Last Friday in September, Indigenous Peoples' Day—Second (2<sup>nd</sup>) Monday in October, Alaska Day—Eighteenth (18<sup>th</sup>) of October, Veteran's Day—Eleventh (11<sup>th</sup>) of November, Thanksgiving Day—Fourth (4<sup>th</sup>) Thursday in November, Day After Thanksgiving—Fourth (4<sup>th</sup>) Friday in November, ~~and~~ Christmas Day—Twenty-fifth (25<sup>th</sup>) of December and Day After Christmas—Twenty-sixth (26<sup>th</sup>) of December.

Formatted: List Paragraph, Left, No bullets or numbering

Formatted: Superscript

Formatted: Superscript

Formatted: Superscript

~~(j)~~(i) "Immediate Family." Immediate family members are any Tribal Council Candidate's or Council member's children (including step or adopted), father, mother, husband, wife, brother/sister, father-in-law, mother-in-law, son-in-law, daughter-in-law, grandparents or grandchildren, sister-in-law, brother-in-law, aunts, uncles, nephews or nieces.

~~(j)~~(k) "Initiative." The right of the voters to propose ordinances for the approval of the Tribal Council.

~~(k)~~(l) "Political Persuasion." To work or exert oneself in a prohibited way to obtain the election of a candidate or party pursuant to Sections 11.01 – 11.03, especially through campaigning, posting signs or otherwise attempting to persuade the public to vote a certain way within 200 feet of a polling location or discussing candidates or ballot issues inside a polling location.

~~(j)~~(m) "Sexual Offense" means rape, sexual assault, sexual abuse of a minor, molestation, exploitation, sexual contact, prostitution, and any other sexual offenses as defined by applicable State, Federal, or Tribal law under which the individual was convicted or pleaded guilty or no contest ~~shall be controlling.~~

~~(m)~~(n) "Crimes of violence" include crimes that have as an element the use, attempted use, or threatened use of physical force against the person or property of another, or any other crime that, by its nature, involves substantial risk that physical force against the person or property of another may be used in the course of committing the crime as detailed in the Criminal Background Check Ordinance 01.04.03(a)(1).

(o) "Crimes against persons" include crimes that have as an element the use, attempted use, or threatened use of physical force or other abuse of a person and includes, but is not limited to homicide, assault, kidnapping, false imprisonment, reckless endangerment, robbery, rape, sexual assault, molestation, exploitation, contact, or prostitution, and other sexual offenses as detailed in the Criminal background Check Ordinance 01.04/03(a)(2).

~~(p)~~ "Crimes of Dishonesty" include a crime where a person acts directly or indirectly to cheat or defraud for monetary gain or wrongfully takes property that belongs to someone else. Dishonesty also includes acts involving lack of integrity or intent to distort, cheat or act deceitfully or fraudulently.  
(n)

- Formatted: List Paragraph, No bullets or numbering
- Formatted: Font: (Default) Arial
- Formatted: Font: (Default) Arial, Font color: Custom Color(RGB(34,34,34))
- Formatted: Font: (Default) Arial, Font color: Custom Color(RGB(34,34,34))
- Formatted: Body Text, Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Tab after: 1" + Indent at: 1"
- Formatted: Font: (Default) Arial, Not Bold, Font color: Custom Color(RGB(34,34,34))
- Formatted: Font: (Default) Arial, Font color: Custom Color(RGB(34,34,34))
- Formatted: Font: (Default) Arial
- Formatted: Indent: Left: 1", No bullets or numbering

~~(e)~~(q) "Sitka Territory." The geographic area described in Article II of the STA Constitution.

(r) "STA." The Sitka Tribe of Alaska, formerly the Sitka Community Association.

~~(p)~~(s) "Question Ballot." A ballot that is voted by a person who claims to be a registered voter, but for whom no evidence of registration at the voting place can be found. A question ballot shall be so designated.

~~(e)~~(t) "Weekend Day" means Saturday or Sunday.

~~(r)~~(u) "Working Day" means Monday through Friday.

#### 1.07 Severability

The provisions of this Ordinance are severable, and should any provision of the Ordinance be determined by a court of competent jurisdiction to be invalid, that determination does not affect the validity of any other provision of this Ordinance.

Formatted: List Paragraph, No bullets or numbering

## **Chapter 2 – Scheduling of Elections**

### **2.01 Scheduling General Elections**

- (a) The general elections of the Tribal Council shall be held in November every year, pursuant to Article VI, Section 1 of the STA Constitution, and shall be held the second Tuesday, except as decreed by emergency Ordinance.
- (b) Notice of the election shall be posted in a public place at least thirty (30) days before the election.

### **2.02 Scheduling Special Elections**

- (a) Special elections shall be held on dates specified by the Tribal Council.
- (b) Notice of special elections shall be posted in a public place at least ten (10) days before the election.

### **2.03 Procedure for re-scheduling an Election**

- (a) General Election

In the event an emergency arises and the general election has to be canceled, the election can be rescheduled with at least ten (10) days public notice of the change. To re-schedule the general election to a date later than the second Tuesday in November, the Council must pass an emergency ordinance pursuant to Article VII, Section 6 of the Sitka Tribe Constitution. The emergency ordinance must state the alternate date for the election and the election must still happen within the month of November.

- (b) Special Election

In the event an emergency arises and a special election has to be canceled, the election can be rescheduled with at least ten (10) days public notice of the change.

## Chapter 3 – Qualifications

### 3.01 Voter Qualifications

- (a) Any Tribal citizen of STA, as determined by Article III of the STA Constitution and the Enrollment Ordinance, is eligible to vote if that citizen:
  - (1) Is eighteen (18) years of age or older;
  - (2) Is duly enrolled as a Tribal citizen of STA; and
  - (3) Has been domiciled within Sitka Territory for at least six (6) consecutive months directly preceding an election.

### 3.02 Candidate Qualifications

To be eligible for nomination and election to the Tribal Council a person ~~shall~~must:

- (a) Be a duly enrolled Tribal citizen of STA;
- (b) Be at least thirty (30) years of age;
- (c) Be domiciled within the Sitka Territory for at least one year directly preceding the election;
- (d) Not have ~~had the privilege of holding elective office been~~ removed or recalled pursuant to Tribal Ordinance or Article IV, Section 8 or 9 of the STA Constitution.
- (e) ~~A person shall be considered to have had the privilege of holding elective office removed if that person has not have~~ been found guilty of, or entered a plea of no contest or guilty to any felony crime, or has been found guilty of, or entered a plea of no contest to a crime of violence or crime against a person (adult or a child) as defined in Section 1.06(m) and 1.06(n), or any crime, felony or misdemeanor, involving a sexual offense as defined in Section 1.06(l).
- (f) Felony crimes referred to in subsection (e) shall not include convictions related to the exercise of inherent tribal rights where the Tribal Council makes a determination by resolution that any such conviction qualifies as a valid exercise of inherent tribal rights.
- (g) It shall be the responsibility of the candidate with any such conviction referred to in subsections (f) ~~and (o)~~ to present the Tribal Council

with a proposed resolution no later than the ~~forty-fifth tenth (4510<sup>th</sup>)~~ day preceding the election. Upon a timely presentation the Tribal Council shall make a determination on any such proposed resolution no later than the ~~thirtieth fifth (305<sup>th</sup>)~~ day preceding the election.

~~(g)(h) It shall be the responsibility of the candidate to disclose any prior discipline, sanction, removal or admonishment from any STA committee, council or appointment.~~

**Commented [DB2]:** As presently drafted the timing presents an issue. Ballots are supposed to be printed well before 10 days before an election. It is too late for a candidate to seek exemption and approval from the Tribal Council and expect to manage the election with public notices and sample ballots in a timely manner. This recommendation offers everyone a chance to seek exemption and approval from the Tribal Council and be on all public notices and ballots.

**Formatted:** List Paragraph, Left, No bullets or numbering

### 3.03 Employees Seeking Election to Tribal Council

- (a) STA employees and employees of BIHA, SNEP or tribal enterprises who meet the qualifications of Section 3.02 of this ordinance may run for office but must resign from employment prior to being sworn in as a Tribal Council member.
- (b) An employee may not campaign for office while on the job and shall continue to perform the duties of his or her job in a timely and efficient manner.
- (c) In the event a Tribal Council member seeks employment at STA the Council member must resign from the Council prior to applying for a job at STA.

### 3.04 Election Officials Qualifications

- (a) The Election Supervisor, Election Judges ~~(2)~~, alternate Judge ~~(1)~~, and Election Workers must be over the age of eighteen and shall not:
  - (1) Be a candidate for tribal office or be a member of the immediate family of a candidate for office;
  - (2) Be a Tribal Council member or a member of the immediate family of a Council member;
  - (3) Be a sponsor of an initiative or referendum or the immediate family of a sponsor;
  - (4) Be an employee of STA; or
  - (5) Ever have been convicted of any felony or any offense involving dishonesty or fraud, as defined by Section 106(o).

~~(b) An Election Official is not required to be a citizen of STA, but the participation of Tribal Citizens is strongly encouraged.~~

**Formatted:** Underline

DRAFT 7.6.20

~~(b)~~(c) At least 45 days before an election, the General Manager must issue a Request for Proposals for Election Officials. The bid shall be evaluated under the STA Procurement Policy procedure.

Formatted: Indent: Left: 1", No bullets or numbering

## Chapter 4 – Filing for Tribal Office

### 4.01 Filing Candidacy Materials

- (a) Any person seeking to become a candidate shall file Candidacy materials with the Election Supervisor or other person designated by the Tribal Council at least thirty (30) days prior to Election Day in a general election and twenty (20) days prior to Election Day in a special election. Candidacy materials consist of the following:
- (1) A notice of candidacy form. The notice of candidacy shall set forth the qualification information required in Section 3.02; and
  - ~~(2)~~ A supplemental criminal background check application for Tribal Council Candidates and Election Officials; and
  - ~~(3)~~ The STA General Manager shall be responsible for the preparation of the Notice of Candidacy Form and shall process the background checks consistent with the policy and process in the STA Background Check Ordinance.
  - ~~(2)~~(4) The Tribal Attorney shall review the criminal background check and shall notify the Election Supervisor of candidate eligibility.
- (b) The Election Supervisor shall note the date, hour and minute of filing.
- (c) After the election, the Election Supervisor shall deliver to the Tribal Attorney all candidacy materials received ~~to the Tribal Attorney~~ for record keeping purposes.

Formatted: List Paragraph, Left, No bullets or numbering

Formatted: Underline

Formatted: List Paragraph, Left, No bullets or numbering

### 4.02 Withdrawing Candidacy

- (a) Until eight ~~(8)~~ days prior to the election, any candidate may withdraw from the election as a candidate. To withdraw, a candidate must submit to the Election Supervisor, a statement signed and dated by the candidate stating their intent to withdraw as a candidate.
- (b) Once a notice of withdrawal is submitted, the candidate cannot later decide to re-enter as a candidate unless the re-filing as a candidate occurs prior to the deadline requirements of 4.01(a).

### 4.03 Testing Eligibility of candidates

The Election ~~Supervisor~~Committee shall confirm the eligibility of each person seeking to become a candidate at least 28 days prior to the

scheduled election in consultation with the Tribal Attorney. If the Election SupervisorCommittee determines that a person is not eligible, the notice of candidacy shall be rejected.

## Chapter 5 – Ballots

### 5.01 Form

- (a) The ballot shall consist of a paper ballot and a stub printed on the same leaf and divided by a perforated line. The ballots shall be uniform in size and color and printed in black ink. The ballots shall include voter instructions.
- ~~(b)~~ (b)—The ballot shall set forth the name of the office and shall list all candidates under each office with the names listed, as the name appears on the candidacy materials or how the individual is legally known in addition to commonly known nick-names, in alphabetical order, and shall provide boxes for the voter’s mark. The ballots shall also set forth places for write-in candidates. Write-in ballots shall be counted for the candidate who’s name most closely reflects the voter’s intent and no other candidate has a name so similar to the name as written to leave reasonable doubt to the voter’s intent.
- (c) Referendum and initiative issues shall be worded clearly and neutrally and shall have boxes labeled “for” or “against” for the voter’s mark.
- (c) The top portion of the ballot above the perforated line is the stub. The face of the stub shall set forth voting instructions for the voter.

Formatted: Indent: First line: 0"

Formatted: Numbered + Level: 1 + Numbering Style: a, b, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Tab after: 1" + Indent at: 1"

### 5.02 Sample Ballot

- (a) At least twenty-five (25) days prior to the scheduled election, the Election Supervisor shall prepare no less than twenty-five (25) sample ballots to be available to the public.
- (b) The Election Supervisor shall ensure aA sample ballot shall be displayed at each polling location the day of the election.
- (c) The General Manager shall ensure aA sample ballot shall also be published in the local newspaper at least twenty one (21) days prior to the scheduled election.

Formatted: Font: (Default) Arial

(d) The General Manager shall ensure a sample ballot shall be displayed at the STA Administrative Building at least twenty one (21) days prior to the scheduled election.

**Formatted:** List Paragraph, Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 1" + Tab after: 1.5" + Indent at: 1.5"

**Formatted:** Font: (Default) Arial

### 5.03 Final Ballots

Upon consultation with the Election Supervisor, the General Manager shall print final ballots. Final ballots must be printed at least fourteen (14) days prior to the scheduled general election.

## Chapter 6 – Absentee Voting

### 6.01 Absentee Ballots

- (a) The General Manager shall develop and make available an application for absentee ballot.
- (b) The General Manager shall include notice of the application for absentee ballot in all public notices and postings of notice of the election and sample ballots.
- (c) The absentee ballots shall be the same ballots as those used on the day of the scheduled election.

**Formatted:** List Paragraph, Left, Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Tab after: 1" + Indent at: 1"

### 6.02 Absentee Voter Eligibility

- (a) A citizen eligible to vote under this section may vote by absentee ballot if the citizen:
  - (1) ~~He~~ has a physical disability or is otherwise physically incapacitated and is unable to vote at the polls;
  - (2) Is a student, a member of the U.S. Armed Forces, or other person who is temporarily living outside Sitka but remains domiciled as set forth in subsection (a); or
  - (3) Is a resident of Sitka who will be temporarily traveling outside of Sitka on the day of the scheduled election.

### 6.032 Absentee Voting by Mail

- (a) A voter eligible to vote by absentee ballot shall file with the Election Supervisor, no earlier than forty-five (45) days prior to an election and no later than twenty (20) days before the election, a completed and signed application for an absentee ballot.
- (b) If a voter files an application to vote an absentee ballot by mail, but is present in Sitka the day of the Election, the voter may vote in

person during regular polling hours. This ballot will be treated as a challenged ballot by the Election Supervisor during the canvass of the vote.

**6.043 Absentee Voting in Person Prior to Election**

An eligible voter who will be absent from Sitka on Election Day may go to the Election Supervisor's Office beginning on the 14<sup>th</sup> day prior to the election up until one day prior to the election to vote by absentee ballot. The dates and hours a citizen can vote in person at the Election Supervisor's office are limited to Monday-Friday during regular business hours.

**6.054 Mailing of Absentee Ballot**

- (a) Each absentee ballot shall be sealed in an envelope marked on the outside: "Absentee Ballot Within."
- (b) Absentee ballots shall be mailed certified mail, return receipt requested, or given to the applicant in person and to no one else. When an absentee ballot is delivered in person the Election Supervisor shall obtain a receipt from the person to whom it is delivered.
- (c) The Election Supervisor shall mail all absentee ballots before no later than the fourteenth (14<sup>th</sup>) day preceding the election.

**6.065 How Absentee Ballots are Marked and Returned**

- (a) Upon receipt of the absentee ballot, ~~the voter shall separate the stub from the ballot and~~ shall mark and refold the ballot without assistance, and shall place the ballot ~~and the detached stub~~ in the pre-addressed, return envelope provided, seal the envelope and fill in and sign the statement printed on the back of the envelope certifying that the voter followed the procedure set forth in this subsection.
- (b) The voter shall mail the envelope registered or certified mail, return receipt requested, to the Election Supervisor, or shall personally deliver the envelope to the Election Supervisor. When an envelope is personally delivered, the Election Supervisor shall give the voter a receipt for it.

**6.076 Cut-Off for Delivery of Absentee Ballots to the Election Supervisor**

DRAFT 7.6.20

No absentee ballots shall be counted unless received in hand by the Election Supervisor by closing hour of the polls on Election Day.

**6.087 Record of Absentee Ballots**

- (a) The Election Supervisor shall make and keep a record of ballots mailed or delivered, including:
  - (1) The addressee's name;
  - (2) The address to which the ballot was mailed or delivered;
  - (3) The date and time of return of the ballot and from whom received.
- (b) The Election Supervisor shall preserve all receipts received in connection with mailing or delivery of ballots.

**6.098 Delivery of Absentee Ballots to Polling Place**

- (a) The Election Supervisor shall deliver to the Election Judges all absentee voter ballots sealed and intact together with the applications for such ballots as soon as possible after the polls close.
- (b) Immediately before canvassing commences, the Election Supervisor, in public and in the presence of all persons assembled, shall note on the poll book each absentee ballot and shall open the sealed envelope.
- (c) The Election Supervisor shall remove the stub and deposit it in the box for detached stubs and remove the folded ballot without disclosing its marking and deposit it in the ballot box for counting with the other ballots.

**Chapter 7 – STA General Manager Responsibilities**

**7.01 Duty to Solicit Election Supervisor Bids**

The General Manager or designee shall solicit bids for the position of Election Supervisor in accordance with STA's procurement policy at least seventy-five (75) days prior to the general election and provide the bids to the Tribal Council for review at least sixty (60) days prior to the general election.

**7.02 Duty to Solicit Interested Tribal Citizens to Serve as Election Judges**

The General Manager or designee shall solicit interested Tribal citizens to serve as Election Judges at least seventy-five (75) days prior to the general election and provide the names of the interested Tribal citizens to the Tribal Council for review at least sixty (60) days prior to the general election. If the Election judges chosen end up having a conflict because they are the immediate relative of a Council candidate, the issue should be brought back to the Council to appoint an alternate election judge to serve as judge.

### **7.03 Duty to prepare candidacy materials**

No later than forty-five days (45) days prior to a general election, the General Manager or his or her designee shall ensure that Candidacy materials are ready and available for distribution for any Tribal citizen interested in running for the Tribal Council. Candidacy materials shall be prepared pursuant to the requirements in Section 4.01.

### **7.042 Duty to prepare voter list**

The General Manager shall ensure that the Enrollment Officer prepares a voter list of all eligible voters that meet the eligibility requirements listed in Section 3.02, based on the written and electronic enrollment records of STA. The voter list will be arranged alphabetically and include each voter's name and enrollment number, as well as a space for the voter to sign the list. The enrollment officer and the General Manager will verify the voter list as an accurate reflection of the existing enrollment records of STA by signing and dating the list. The verified voter list will be delivered to the Election Supervisor no later than twenty (20) days prior to the scheduled election and posted according to 10.02.

### **7.03 Duty to Solicit Election Supervisor Bids**

~~The General Manager or designee shall solicit bids for the position of Election Supervisor in accordance with STA's procurement policy at least seventy-five (75) days prior to the general election and provide the bids to the Tribal Council for review at least sixty (60) days prior to the general election.~~

Formatted: Heading 2

### **7.04 Duty to Solicit Interested Tribal Citizens to Serve as Election Judges**

~~The General Manager or designee shall solicit interested Tribal citizens to serve as Election Judges at least seventy-five (75) days prior to the general election and provide the names of the interested Tribal citizens to the Tribal Council for review at least sixty (60) days prior to the general election. If the Election judges chosen end up having a conflict because they are the~~

Formatted: Heading 2

~~immediate relative of a Council candidate, the issue should be brought back to the Council to appoint an alternate election judge to serve as judge.~~

#### 7.05 Duty to Publish Sample Ballot

The General Manager or designee shall publish a sample ballot in the local newspaper at least ~~twenty-one~~<sup>fourteen</sup> (21<sup>14</sup>) days prior to the general election.

#### 7.06 Duty to Prepare Timeline Prior to General Election

(a) The General Manager, or other person designated by the Tribal Council shall be responsible for preparing a timeline detailing the dates and activities that must be followed pursuant to Section 1.05 Computation of Time. The timeline must be prepared, posted in a public place, and distributed to the Tribal Council by August 1 of every year.

(b) The General Manager or other person designated by the Tribal Council shall ensure that all deadlines required by this Ordinance are met. At a minimum the timeline must include the following:

Formatted: No bullets or numbering

- (1) At least seventy-five (75) days prior to the general election, the General Manager or designee shall solicit bids for the position of Election Supervisor. Election Ordinance §7.03.
- (2) At least seventy-five (75) days prior to the general election, the General Manager or designee shall solicit interested Tribal citizens to serve as Election Judges. Election Ordinance §7.04.
- (3) At least sixty (60) days prior to the general election, the Tribal Council issues a Proclamation of a General Election in the local newspaper. Election Ordinance §8.02(a).
- (4) At least sixty (60) days prior to the general election, the Tribal Council must appoint an Election Supervisor and two Election Judges. Election Ordinance § 8.01(a). At that time the Tribal Council shall also designate one alternate from one of the two Election Judges as the alternate Election Supervisor and one alternate Election Judge. Election Ordinance §8.01(b).
- (5) No earlier than sixty (60) days prior to the general election, the Tribal Council shall designate all polling locations. Election Ordinance § 8.01(c).

- (6) No earlier than forty-five (45) days prior to a general election, a voter eligible to vote by absentee ballot may file with the Election Supervisor a completed and signed application for an absentee ballot. Election Ordinance §6.02.
- (7) No later than forty-five (45) days prior to a general election, the General Manager or his or her designee shall have the Candidacy materials available for distribution to interested Tribal Citizens. Election Ordinance §7.01.
- (8) No later than thirty-two (32) days prior to the general election, the Tribal Council shall designate all polling locations. Election Ordinance §8.01(c).
- (9) At least thirty (30) days prior to the general election, a Notice of Election must be posted in a public place. Election Ordinance §2.01; 10.01.
- (10) At least thirty (30) days prior to a general election, any person seeking to become a candidate shall file Candidacy materials with the Election Supervisor. The Election Supervisor shall note the date, hour and minute of filing. Election Ordinance §4.01.
- (11) At least twenty-eight (28) days prior to the general election, the Election Committee and Tribal Attorney must confirm eligibility of each person seeking to be a Tribal Council candidate. Election Ordinance §4.03.
- (12) At least twenty-five (25) days prior to the general election, the Election Supervisor shall prepare twenty-five (25) sample ballots to be available to the public. Election Ordinance §5.02.
- (13) At least fourteen (14) days prior to the general election, the Election Supervisor shall print the final ballots. Election Ordinance §5.03.
- (14) At least twenty (20) days prior to a general election, the Enrollment Officer shall deliver to the Election Supervisor the verified voter list. Election Ordinance §7.02.
- (15) At least twenty (20) days prior to a general election, a voter eligible to vote by absentee ballot shall file with the Election Supervisor a completed and signed application for an absentee ballot. Election Ordinance §6.02.

DRAFT 7.6.20

- (16) At least fifteen (15) days prior to a general election, the General Manager, or his or her designee, must post a Voter list and a Notice of Polling Locations in the STA Tribal Office and other conspicuous public places. Election Ordinance §10.02.
- (17) Before the fourteenth (14<sup>th</sup>) day preceding the general election, the Election Supervisor must mail, certified return-receipt requested, all absentee ballots. Election Ordinance §6.04(c).
- (18) At least fourteen (14) days prior to the general election, the General Manager or designee shall publish a sample ballot in the local newspaper. Election Ordinance §4.02; 7.05.
- (19) At least fourteen (14) days prior to a general election, the Tribal Council must appoint a person to represent STA in the event of a protest, a person to serve as clerk to the judge, and a person to assist protestors. Election Ordinance §13.06.
- (20) At least fourteen (14) days prior to a general election, the Election Supervisor will provide in-person absentee voting to eligible absentee voters. Election Ordinance §6.03.
- (21) Before the tenth (10<sup>th</sup>) day preceding the general election, any qualified voter may challenge the eligibility of any candidate to hold office by filing with the Election Supervisor a written affidavit setting forth the ground for the challenge. Election Ordinance §13.01.
- (22) At least seven (7) days prior the general election, the Tribal Attorney or other person designated by the Tribal Council shall be responsible for preparing and posting guidelines regarding the process for protesting the election results. Election Ordinance §13.05.
- (23) At least five (5) days prior to the general election, if the eligibility of a candidate is challenged, the Election Committee shall rule on the question presented regarding eligibility of the candidate. Election Ordinance §13.02.

**7.07 Duty to Prepare Timeline for Special Election**

DRAFT 7.6.20

In the event of a special election, the General Manager will present a proposed timeline for election deadlines to the Tribal Council for review at least 25 days prior to the scheduled special election.

## **Chapter 8 – Tribal Council Responsibilities**

### **8.01 Designation of Election Officials & Polling Places**

- (a) The Tribal Council shall appoint an Election Supervisor and two (2) Election Judges who may also serve as Election Workers qualified under section 2.04 at least sixty (60) days before a general election and as soon as practicable before a special election.
- (b) The Council shall also designate one (1) alternate Election Judge to serve in the event that an Election Judge cannot or will not fulfill his/her duties.
- (c) The Tribal Council shall designate all polling locations no earlier than sixty (60) days prior to the Election and no later than thirty-two (30~~2~~) days prior to the general election.

### **8.02 Election Proclamation**

- (a) The Tribal Council shall issue a proclamation of a general election sixty (60) days prior to the election, which will be printed in the local newspaper.
- (b) As early as practicable, but not less than ten (10) days before a special election, the Tribal Council shall issue a proclamation of the special election.

## **Chapter 9 – Election Officials**

### **9.01 Membership, Duties and Powers of the Election Committee**

- (a) The Election Supervisor and the Election Judges shall constitute the Election Committee. The Supervisor and Judges shall each have one equal vote. The alternate Judge shall be a non-voting member of the Committee, unless and until one of the Judges does not or cannot fulfill his/her duties.
- (b) The Election Committee shall canvass votes as provided in Section 10.05.

- (c) The Election SupervisorCommittee shall test the eligibility of candidates as provided in Section 3.02 of this Ordinance, and shall rule on challenges to a candidate's qualifications pursuant to Section 13.02.
- (d) The Election Committee shall rule on protests of the election results as provided in Section 13.04.
- (e) The Election Committee shall serve as the recount board pursuant to Section 10.06.

**9.02 Duties of Election Workers**

- (a) The Election Supervisor and/or Election Workers shall be present at the polling place on Election Day one (1) hour before the polls open and shall remain until after the polls close.
- (b) Before receiving any ballots, the Election Workers must publicly open and exhibit the ballot box and remove any contents. The boxes must then be closed and locked, and must not be removed from the polling place during the election hours as provided in Section 10.04 or opened until after the polls are finally closed.
- (c) The Election Workers shall be responsible for all duties detailed in Chapter 9 and Section 10.054 and for ensuring polling place procedures are followed.

**9.03 Duties of Election Judges**

- (a) Election Judges shall serve on the Election Committee and be responsible for all the duties of the Election Committee in Section 9.01.
- (b) The Election Judges may also serve as Election Workers and have all the same duties as Election Workers as described in Section 9.02.

**9.04 Duties of Election Supervisor**

- (a) The Election Supervisor shall be responsible for all requirements for conducting the election as described in Chapter 10.
- (b) The Election Supervisor shall hire Election Workers that meet the eligibility requirements as specified in Section 3.04 at least five days

prior to the election. The Election Supervisor shall ~~have require~~ all Election Workers submit ~~to the Tribal Attorney (or in the absence of a Tribal Attorney — other staff person designated by the Tribal Council) a supplemental criminal background check application for Tribal Council Candidates and Election Officials to a background check consistent with the STA Background Check Ordinance~~ to verify that the Worker has not been convicted of any felony offense or any offense involving dishonesty or fraud. The Tribal Attorney will report the results of criminal background check screenings to the Election Supervisor.

- ~~(e)~~(d) The Election Supervisor shall ensure that the Election Judges appointed by the Tribal Council meet the eligibility requirements and as specified in Section 3.04. The Election Supervisor shall ~~require~~ have all Election Judges submit ~~to the Tribal Attorney a supplemental criminal background check application for Tribal Council Candidates and Election Officials to a background check consistent with the STA Background Check Ordinance~~ to verify that the Judge has not been convicted of any felony offense or any offense involving dishonesty or fraud. The Tribal Attorney will report the results of criminal background check screenings to the Election Supervisor. The Election Supervisor will notify the Tribal Council of any appointed judge who is ineligible to serve in a timely manner and request the appointment of another judge.
- ~~(d)~~(e) The Election Supervisor is responsible for the formatting and printing of all ballots and sample ballots.
- ~~(e)~~(f) The Election Supervisor shall provide all necessary election equipment and supplies, including locking ballot boxes, private polling booths, ballots, poll lists, and necessary office supplies, and deliver all supplies to the polling locations before the opening of the polls.
- ~~(f)~~(g) The Election Supervisor shall ~~create poll books utilizing~~ the verified voter list ~~from the Enrollment Officer to confirm voter identity~~ for each polling location and for absentee voting pursuant to Chapter 6 of this Ordinance. The ~~poll book~~ voter list shall contain the name, enrollment number, date of birth, address of each voter, and a signature space.
- ~~(g)~~(h) The Election Supervisor shall post instructions for marking ballots and for handling spoiled ballots at each of the voting places.
- (h) The Election Supervisor shall be knowledgeable about this Ordinance, enforce its provisions, and provide training to the Election

Judges and Election Workers so that all provisions are followed. The training will include specific instruction on how to identify and prevent political persuasion activities, how to provide assistance to voters without influencing voter decision-making, and review the responsibilities of the election workers and election judges for the day of the election.

- (i) The Election Supervisor shall be responsible for canvassing the vote pursuant to Section 10.05 and for the management of a recount pursuant to Section 10.06.
- (j) The Election Supervisor shall be responsible for all aspects of absentee voting pursuant to Chapter 6.
- (k) The Election Supervisor shall have custody and responsibility for all registration books, records, voter list and poll books, tally lists, and other election materials.

#### **9.05 Compensation of Election Officials**

- (a) Election Supervisor

The Election Supervisor will be compensated at a rate approved by the Tribal Council.

- (b) Election Judges and Election Workers

The Election Judges and Election Workers will be compensated at a rate set by the Election Supervisor.

### **Chapter 10 – Conduct of Election**

#### **10.01 Notice of Election**

- (a) The Election Supervisor shall publish and post notice of elections as set forth under Chapter 2. Such notice shall state:
  - (1) The date and time of the election;
  - (2) The names of all candidates and the offices they seek;
  - (3) Referenda and initiatives;
  - (4) Instructions for absentee voting; and
  - (5) The locations of polling places.

### 10.02 Posting of Eligible Voter List

At least fifteen (15) days prior to a general election, and at least five (5) days prior to a special election, the General Manager, or his or her designee, shall post the Eligible Voter list and a notice of polling locations in the STA Tribal Office and other conspicuous public places.

### 10.03 Ballot Boxes

The Election Supervisor shall deliver to each polling location the ballot boxes, which shall be uniform in character, each with a lock or means of sealing, and fitted with one opening only of sufficient size to admit a single folded ballot. The Election Judges/Workers shall hold the keys to the boxes and the Election Supervisor shall hold a duplicate key.

### 10.04 Polling Place Procedures

- (a) The polls shall open at 8:00 a.m. and shall remain open until 8:00 p.m. of that same day, provided that when all registered voters have voted the polls shall close.
- (b) Each voter must present valid state or tribal government issued identification and sign the voter list before voting.
  - 1. The Election Worker shall verify the voter's address, and if the government issued identification has a different address than that listed in the Voter ListPoll Book, verify with the Voter the voter's accurate current address, and so note the correct address in the Voter ListPoll Book.
  - 2. If the voter cannot write his/her name, he/she shall sign by mark before two witnesses. The Election Workers shall mark an "X" opposite the voter's name in the register to indicate that the voter has voted and shall give the voter a ballot.
  - 3. If a voter attests that he or she is a tribal citizen, but is not on the Voter list, the Election Worker shall add at the end of the Voter ListPoll Book the person's full name, current address and telephone number, and enrollment number, if known, and the voter shall sign the voter list and the voter shall be allowed to vote a "question ballot," according to the provisions of Section (f) below.
  - 4. If a voter does not have valid government issued identification, the person shall be directed to the STA offices to receive valid government issued identification on election day. The person must return to the polling location by the 8:00 p.m. of that same day in order to cast his or her ballot.

Alternatively, the Election Supervisor and one member of the election staff may confirm the identity of the voter and treat their ballot as a "question ballot" until the voter returns to the voting place with a valid identification, upon which time the ballot shall be removed from "question" status and shall be treated like a standard ballot.

- (c) Upon receipt of a ballot, the voter shall retire to a private voting booth or other designated places and vote his/her ballot in secret. Only one (1) person shall occupy a voting booth at one time, except as provided in subsection (d). The voter must mark and case his/her ballot without leaving the polling place.
- (d) Any voter who cannot read the English language, is blind, or has some other disability which makes him/her unable to mark the ballot, may upon request, be assisted by two (2) Election Workers in marking the ballot. The Workers shall neither by word, action, or expression influence or attempt to influence the voter.
- (e) Any voter who spoils a ballot shall be entitled to a new ballot upon surrender of the spoiled ballot to an Election Worker. No voter shall receive more than one additional ballot. An Election Worker shall place the name of the voter and the Worker/s initials on the back of the spoiled ballot. All spoiled ballots shall be kept in a separate envelope, securely sealed and marked "Spoiled Ballots." All spoiled ballots shall be accounted for separately on the tally sheets.
- (f) Any voter whose name does not appear on the Voter list must vote a "question ballot." After the Election Worker has added the individual and the individual's pertinent contact information to the Poll Book, the Election Worker shall give the individual a ballot and a large envelope, and have the individual mark his or her ballot and place the "question ballot" in a sealed envelope on which the voter shall write his or her name, and any aliases or former names used, the individual's current contact phone number(s), and sign his or her name across the seal. The Election Worker shall verify that the Voter marked the envelope as required, and that such writing is legible.
- (g) No person shall take or remove from the voting place any ballot, ballot box, or other voting records or materials, except as authorized under this Ordinance.
- (h) There shall be no activities that qualify as prohibited political persuasion as defined in Sections 11.01 -11.03.

- (i) There shall be no loitering in the polling places during voting hours.
- (j) At the close of the polling places, the Election Supervisor or the designated representative of the Election Supervisor shall pick up all ballot boxes from all polling places.

**10.05 Canvassing the Votes; Delivery of Ballots; Canvass of Results**

- (a) After the polls close and after the absentee ballots are deposited in the ballot box the Election Committee shall immediately proceed to canvass the votes. The canvass shall be open and in the presence of the public and shall be continued without adjournment until completed and the results publicly declared.
- (b) To canvass, after the Election Supervisor delivers the absentee ballots to the polling place, in accordance with Section 6.08 of this ordinance, the Judges shall open the ballot box and remove the ballots unopened. If two (2) or more ballots are found folded together to present the appearance of a single ballot, they shall be laid aside until the count of the ballots is completed. The number of ballots shall be compared to the number of names on the voter registration list. If, on comparison and further considering the appearance of ballots which are laid aside as noted above, the Election Committee decides that ballots thus folded together were voted by one voter, such ballots must be rejected; otherwise they must be counted.
- (c) If the number of ballots cast in the ballot box is found to exceed the number of names marked on the voter list as having voted, this fact shall be noted on the tally sheets by the Election Judges. If more than one polling book exists, then the Election Supervisor shall compare the two books to ensure that one individual did not cast more than one ballot.
- (d) All "question ballots" located in the ballot box shall be given to STA's Enrollment Officer to verify eligibility. The Enrollment Officer shall reference the written and electronic enrollment records of STA to determine if the voter is an enrolled tribal citizen. The results of such verification shall be presented to the Election Committee. If the Election Committee deems a "question ballot" to be cast by an eligible voter, the vote shall count. If the Election Committee deems a "question ballot" has been cast by an ineligible voter, then the ballot will be rejected as illegal.
- (e) The Election Committee shall count and ascertain the number of votes cast for each candidate, office and issue. In making such

count, the ballots must be opened one at a time by one of the Judges and the content must be distinctly read aloud by the Judge who opens the ballots. As the ballots are read, the Election Supervisor and the other Judge, independently, shall tally on a tally sheet the number of votes for each person, office and issue. The tally sheets must then be compared and their correctness ascertained. The Committee immediately thereafter, shall set down the total number of votes received by each person for the several offices and for each issue as shown by the tally sheets. No ballot or vote rejected by the Committee shall be included in the official count.

- (f) Any ballot rejected as ~~improper/legal~~ by the Election Committee shall be initialed on the back of the ballot by the Election Supervisor and Election Judges before it is set aside as provided in subsection (g).
- (g) The ballots, as soon as read, or rejected for ~~impropriety/legality~~, must be set aside by one of the Judges. After all legal ballots are counted, the set aside ballots must be carefully sealed in an ~~n strong~~ envelope, each of the Election Committee members writing his/her name across the seal.
- (h) Each candidate shall be entitled to one watcher who shall not be compensated by the Council. The watcher may watch the counting and tallying of the votes, and may challenge any ballot as it is counted and tallied. The Election Committee shall immediately rule on the challenge of a ballot. The Election Committee shall write the word "CHALLENGED", their decision on the challenge and their initials on the back of any challenged ballot.
- (i) The Election Committee shall place ~~in a strong outer envelope~~ the sealed envelope containing the ballots, all check lists, and the voter registration book ~~in an envelope, and the detached stubs from voted ballots~~. The ~~outer~~ envelope shall be sealed and each member of the Election Committee shall sign his/her name on the outside of the envelope. The ~~outer~~ envelope and its contents ~~and the key to the ballot box held by the member of the Election Committee~~ shall be placed in the ballot box. The ballot boxes shall then be all locked or sealed and placed in the custody of the Election Supervisor.
- (j) Upon completion of this canvass the Election Committee shall meet the following day, complete the Election Committee's written certificate of election returns, and report the results to the Tribal Council for review and certification at the next regular Council meeting

- (k) The Election Committee's certificate of election returns may be released to the public by the General Manager pending official certification by the Tribal Council.
- (l) In the event of a tie vote for an office, a run-off election between or among the candidates tied for office shall be held pursuant to the special election timelines established in this Ordinance.
- (m) The Election Supervisor shall be responsible for the security of the ballots and election materials after delivery to him/her. Except when the results of the election are being canvassed under Section 10.05, or are being recounted under Section 10.06, the ballots and election materials shall be placed in the ballot boxes and the ballot boxes secured in an office under the control of only the Election Supervisor.
- (n) Unless instructed otherwise by the Tribal Council, nine (9) months after the date of the election, the Election Supervisor shall be responsible for destroying the envelope containing the ballots, all check lists, and the voter registration book, ~~and the detached stubs from voted ballots.~~

#### 10.06 Recounts

- (a) No recount of votes in any tribal election shall be made except in accordance with the provisions of this Section.
  - (1) Any candidate defeated by a margin not exceeding one percent (1%) of the total votes cast for all candidates in the same office, or by a margin not exceeding seven (7) votes, whichever is greater, or who is tied with another candidate for an office, may, within three (3) days after the official canvass, file with the Election Supervisor a written request that the votes for the office be recounted.  
A recount under this subsection shall be without charge to any candidate.
  - (2) The votes deciding an issue presented at a referendum or initiative, by a margin not exceeding one percent (1%) of the total votes cast for or against the issue, or by seven (7) votes, whichever is greater, may be recounted upon request by resolution of the Tribal Council presented to the Election Supervisor within three (3) days after the official canvass. The expense of the recount shall be a Tribal expense.

DRAFT 7.6.20

- (b) The Election Committee, immediately upon receipt of a lawful request for a recount, shall act as the recount board. The recount board may request clerical assistance from the Tribal offices.
- (c) The Election Supervisor shall fix the recount within three (3) days after he/she receives the request for a recount. The recount shall be held in the Tribal offices. The Election Supervisor shall promptly notify, by telephone or messenger confirmed by certified letter, each candidate affected by the recount of the times and places of the recount.
- (d) Any recount shall be open to the public and the news media but the audience may be limited to prevent interference with the procedures.
- (e) Each candidate affected by a recount may be present at the recount, personally or by a representative, and shall have full opportunity to witness the opening of all ballot boxes and the count of all ballots.
- (f) If the recount is on a referendum or initiative issue, one qualified voter from each side of the question may be present to represent each side.
- (g) The Election Supervisor shall be responsible for management of the recount.
  - (1) The Election Supervisor shall produce the ballots, and deliver them in sealed ballot boxes to the Election Judges.
  - (2) One Judge shall read aloud each ballot for the offices for which the recount is made. As the ballots are read, the two (2) other members of the recount board shall write the votes cast for each individual on previously prepared tally sheets.
  - (3) After a recount is completed, the tally sheets shall be compared and the correctness of the tallies ascertained. Then, the totals for each candidate or each issue shall be compiled and checked for accuracy.
- (h) Recounts shall continue until the two tallies have identical totals. At that point the recount is finished. The new count shall be delivered to the Tribal Council immediately.
- (i) When the recount has been finished, the ballots shall be restored to the ballot boxes. The Election Judge shall lock or seal the ballot box and deliver the box to the Tribal Council. The Council shall secure the box with the other ballot materials as set forth in Section 4.09(k).

- (j) Unless instructed otherwise by the Tribal Council, nine (9) months after the date of the recount, the Election Supervisor shall be responsible for destroying the envelope containing the ballots, all check lists, the voter registration book, and the detached stubs from voted ballots.

#### **10.07 Intent, Purpose and construction of this Chapter 10**

The intent and purpose of this Chapter is to establish procedures for fair elections and to ensure the secrecy and sanctity of the ballot. This Chapter shall be construed to accomplish such purpose and intent. Cognizance shall be given to substantial compliance, want of form shall not cause an action or document to be invalid if the intent is clear. Technicalities, as such, shall not be employed to construct or impede elections, or cause confusion, or loss of confidence in the election system.

### **Chapter 11 – Prohibited Practices**

#### **11.01 Prohibition on Political Persuasion**

- (a) During the hours the polls are open, no person who is in the polling place or within two hundred (200) feet of the entrance to the polls may engage in political persuasion.
- (b) The Election Supervisor will post warning notices on the front entrance of each polling place explaining the prohibition on political persuasion.
- (c) The Election Supervisor and Election Judges shall not, during their appointments as Supervisor and Judges, campaign for a candidate, post signs or host a website in favor of a candidate or candidates, or otherwise advocate for a candidate or attempt to persuade a person to vote a certain way.
- (d) No Election Officials, including the Election Supervisor, Election Workers and Election Judges, may discuss any issue or candidate on the ballot, including write-in candidates, while working at the polls or within 200 feet of the poll entrance. If a voter asks an Election Official for his/her opinion on a candidate or issue, the Election Official will not respond and will inform the voter of the prohibition on political persuasion.

#### **11.02 Prohibition on Use of Force**

No person shall directly or indirectly use or threaten the use of force, coercion, or violence to induce or compel a person to vote or not vote for a particular candidate or issue.

#### **11.03 Prohibition on Undue Influence**

- (a) No person shall give or promise to give money or other valuable things with the intent to influence that person to vote or not vote for a particular candidate or issue.
- (b) Providing refreshment of any kind on election day by any candidate or group supporting a question on the ballot is strictly prohibited and is considered an attempt to influence voters.
- (c) The provision of refreshments by any person seeking to influence others to sign or not to sign a petition for a ballot initiative is strictly prohibited and is considered an attempt to influence voters.

Formatted: Indent: Left: 0.5"

#### **11.04 STA Employees Prohibition on Campaigning During Working Hours or with STA Resources**

No STA employee will support or promote any political activity or interest during work hours or with the use of any STA resource. This specifically prohibits employees from the use of STA computers, email, office supplies, or offices during or after regular office hours, to influence a person to vote or not to vote for a particular candidate or issue.

#### **11.05 STA Tribal Council Members Prohibition on Campaigning with STA Resources**

No current STA Tribal Council member will support or promote any political activity or interest with any STA resource. This specifically prohibits Tribal Council members from the use of STA computers, email, office supplies, during or after regular office hours, to influence a person to vote or not to vote for a particular candidate or issue.

### **Chapter 12 – Certification of Election**

#### **12.01 Tribal Council Certifies Election**

At the first regular meeting of the Tribal Council after the election, the Council will meet and certify the returns. The certification may be postponed for cause as determined by the Council from day to day, but not exceeding three postponements. The certification will be by motion and the results will be set forth in the minutes of the meeting. In the case of a

recount, the certification of the recount may be postponed until the next regular Council meeting following the recount. Upon certification, tribal staff will issue a written certificate of election to the winning candidates.

- (a) "For Cause" means a protest of election, on-going recount, or other challenge of election, but does not mean dissatisfaction with valid election results.

#### **12.02 Public Certification**

The Tribal Council's certification of all election returns will be made in public by examining the Election Committee's certificate of returns and compiling these along with the count of valid absentee and challenged ballots.

#### **12.03 Release of Unofficial Election Results**

General Manager may release unofficial election results to the media prior to official certification of the election by the Tribal Council and will contact candidates with unofficial results.

### **Chapter 13 – Election Protest Guidelines**

#### **13.01 Challenge of Candidates**

- (a) Any qualified voter may challenge the eligibility of any candidate to hold office by filing with the Election Supervisor, not later than the tenth (10<sup>th</sup>) day preceding the election, a written affidavit setting forth the ground for the challenge. Grounds for Challenges of the candidates are limited to issues of eligibility and citizenship status.
- (b) The Election Supervisor shall promptly notify the challenged candidate and furnish him/her with a copy of the affidavit of challenge.

#### **13.02 Ruling on Challenges of Candidates**

- (a) The Election Supervisor Committee shall rule on the question presented by a challenge of the eligibility of a candidate. The Election Supervisor Committee shall rule on each challenge of a candidate in a general election at least five (5) days before the election date, and in a special election as soon before the election date as practicable.

- (b) Any appeal of the Election ~~Supervisor~~Committee's decision to the Tribal Court shall not delay or otherwise impede the election dates established pursuant to this Ordinance.

### 13.03 Grounds for Challenging Election Results

Any qualified voter may challenge alleged violations of the Election pursuant to this ordinance.

### 13.04 Process and Ruling on Challenges of Election Results

- (a) The following schedule shall be followed in the event of an election protest:

- (1) Process before Election Committee

- a. A written protest must be filed with the Election Supervisor within three (3) days following the filing of the Election Committee's written certificate of the election with the Tribal Council, or recount, which-ever is later.
- b. The Election Supervisor shall immediately convene the Election Committee to investigate any challenges.
- c. A written decision by the Election Committee must be delivered by the Election Supervisor to the Tribal Council and the protestor within three (3) days after the Election Supervisor receives the protest.

- (2) Expedited process in Tribal Court (if appealing the decision of the Election Committee)

To the extent it is not inconsistent with this Ordinance, the Code Governing Tribal Court Rules and Civil Procedure shall apply.

- a. The Plaintiff must file a Complaint and Summons with the Tribal Court and Defendant within three (3) days of the Election Supervisor's decision.
- b. The Defendant must file an Answer to the Complaint with the Tribal Court and Plaintiff within three (3) days of receiving the complaint and summons.
- c. A pretrial conference shall be scheduled to occur no later than seven (7) days after the Answer is filed with the Court.

- d. If a trial is necessary, the trial shall occur within five (5) days after the pretrial conference. The Judge shall make a ruling within (2) days after the trial.
- (3) Expedited process in the Appellate Court (if appealing the decision of the Tribal Court Judge)

To the extent it is not inconsistent with this Ordinance, the Appellate Code shall apply.

- a. Within three (3) days of the entry of final judgment by the tribal court, the party against whom judgment was made must file a Petition for Appeal with the Clerk of the tribal court. The Petition shall be accompanied by a brief in support of the petition.
- b. Within two (2) days of the filing of the Petition for Appeal, the Court of Appeals shall convene to consider whether to hear the appeal. This meeting shall be in chambers, and not of record. There is no absolute right to appeal, and the Court of Appeals may dismiss the Petition if it seems frivolous or without merit. If the Petition is deemed to have merit and is within the scope of the Court of Appeals power to review, it shall issue an order granting consideration of the appeal.
- c. Within three (3) days of granting the appeal, the Court of Appeals shall schedule whatever briefing, oral arguments, and other hearings it deems appropriate.
- d. A proposed decision of the Court of Appeals shall require a majority vote of the Justices in attendance of the particular appeal.
- e. The Court of Appeals shall convene upon two days notice of the Governing Council.
- f. No Council member who served as the Tribal Court Judge on the matter being appealed shall be a member of the Appellate Court.
- g. No member of the Council when presiding as judge of the Appellate Court shall be in conflict with or a party to any case before the court.

**13.05 Duty to prepare and post guidelines regarding process under Section 13.04**

The Tribal Attorney or other person designated by the Tribal Council shall be responsible for preparing easily understandable guidelines regarding the process detailed in Section 13.04 so that a tribal citizen wishing to file a protest can easily ascertain what is required to protest election results. The guidelines must be posted at least seven (7) days prior to the election.

**13.06 Duty of Tribal Council to appoint the person to represent Sitka Tribe in the event of an Election Protest, the person who will serve as Clerk to Judge, and a person to assist protestors with documents related to protest.**

- (a) At the Regular Council meeting immediately ~~least fourteen (14) days~~ prior to an election the Tribal Council shall appoint a person who will represent Sitka Tribe and the Election Supervisors decision in the event of a protest. Code Governing Tribal Court Rules and Civil Procedure Chapter 1, Section 1.2. This person need not be an attorney, the person must, however, be a member of the Tribal Court Bar. Code Governing Tribal Court Rules and Civil Procedure Chapter 1, Section 1.4 and 1.5. This person shall not assist any protestor with completing documents related to the protest.
- (b) At the Regular Council meeting immediately ~~least fourteen (14) days~~ prior to an election, the Tribal Council shall appoint an STA staff member who will serve as clerk to the judge. This clerk to the judge cannot assist protestors with completing documents related to the protest. Any information about the Tribal Court case shall be confidential and the Council shall not ask this person about the case. In addition, this person shall not attend Council meetings related to the protest.
- (c) At the Regular Council meeting immediately ~~least fourteen (14) days~~ prior to an election, the Tribal Council shall appoint a person who shall assist any protestor with completing documents related to the protest. This person shall not be the Tribal Court Clerk or the individuals appointed in sections (a) and (b) above.
- (d) Any protestor is entitled to have an attorney, who is a member of Sitka Tribal Court Bar, assist them with their case. However, the costs of the attorney shall be at their own expense. The Tribal Attorney shall not be the attorney for any protestor.

### **13.07 Partial Invalidity**

- (a) A vote on one or more issues or candidates, which is rejected as illegal shall not affect the validity of the vote on other offices or issues on the same ballot.
- (b) In the event that an election is found to be illegal or partially illegal, the election or illegal portion of the election shall be re-run pursuant to the special election timelines established in this Ordinance.

## **Chapter 14 – Initiatives and Referendums**

### **14.01 Initiatives**

Pursuant to Article VII Section 7 of the STA Constitution, any citizen of STA may sponsor an initiative to enact a proposed Tribal ordinance. See Section 1.06(j) of this Ordinance for a definition of initiative.

### **14.02 Referendums**

Pursuant to Article VII, Section 7 of the STA Constitution, any citizen of STA may sponsor a referendum to approve or reject enactments, laws, or Ordinances enacted by the Tribal Council.

## **Chapter 15 – Recall Elections**

### **15.01 Recall Procedure**

- (a) A petition asking for the recall of a Tribal Council member, pursuant to Article IV, Section 9 of the STA Constitution, must set forth the reasons for the recall and be signed by at least thirty percent (30%) of the eligible voters as listed on the voter registration list and presented to the Tribal Council.
- (b) Within thirty (30) days of receipt of the petition, the Tribal Council shall call a special election to consider the recall of the named Council member, provided that if a general election is to be held within thirty (30) days the recall shall be put to the voters in such election.
- (c) The Council member shall be removed from office if a majority of the vote favors recall in an election in which thirty percent (30%) of the eligible voters vote.

DRAFT 7.6.20

- (d) No Council member may be subjected to recall proceedings more than once in the course of his/her term.

### CERTIFICATION

This Ordinance was originally enacted by an emergency vote of 6 for 0 against and 3 absent, at a special meeting of the Sitka Tribe of Alaska Tribal Council on September 1, 2000 at which a quorum was present;

This Ordinance was amended by an emergency vote of 8 for 0 against and 1 absent, at a special meeting of the Sitka Tribe of Alaska Tribal Council on September 27, 2005 at which a quorum was present.

This Ordinance was further amended by a vote of 7 for 0 against 2 absent and 0 abstentions, at a regular meeting of the Sitka Tribe of Alaska Tribal Council on July 18, 2007 at which a quorum was present.

This Ordinance was further amended by a vote of 8 for 0 against 1 absent and 0 abstentions, at a regular meeting of the Sitka Tribe of Alaska Tribal Council on June 19, 2013, at which a quorum was present.

\_\_\_\_\_  
Michael Baines  
Tribal Council Chairman

ATTEST:

\_\_\_\_\_  
Lillian Feldpausch  
Tribal Council Secretary