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Ketchikan Indian Community Election Code – Ordinance #4

CHAPTER 1. TITLE, PURPOSE, AUTHORITY, AND DEFINITIONS

Section 1.1 Title

a) The following law shall be known as the Ketchikan Indian Community ("KIC") Tribal Election Code ("Election Code").

Section 1.2 Purpose

a) The purpose of this Election Code is to ensure that Ketchikan Indian Community election procedures are:

1. Consistent, fair and efficient, and conducted in accordance with Ketchikan Indian Community constitutional requirements.

b) Nothing in this Election Code is intended to prevent Members from meeting to discuss who should run for office or who Members should vote for.

Section 1.3 Authority

a) The Tribal Council hereby establishes this Election Code under the authority delegated to it by Article V, Section 7 of the Tribal Constitution. The Election Code sets forth the rules and regulations the Tribal Council deems necessary to properly conduct elections.

Section 1.4 Definitions

"Absentee Ballot" is a ballot used by an eligible voter to cast a vote in a Ketchikan Indian Community election from a location other than at the officially established polling locations on Election Day. This ballot is requested in advance of the election and mailed to the eligible voter’s address on record with the Ketchikan Indian Community Enrollment Office, and must be received by the Election Board on the Friday before the election at the close of business hours.

"Ketchikan Indian Community" is the Ketchikan Indian Community (or "KIC"), recognized by the United States as an Indian tribe governed by the Constitution.

"Business Day" is Monday, Tuesday, Wednesday, Thursday, and Friday, excluding recognized Federal or KIC holidays on which the Ketchikan Indian Community Government office is closed.

"Calendar Day" is every day in a month, including weekends and United States and KIC holidays.
“Campaign” is a concerted, organized effort or group of activities in support of, or opposition to, a Candidate for Election or a question to be resolved in a constitutional amendment in an Election.

“Campaign Material” is any document, brochure, advertisement, poster, flier, mailer, yard sign, sticker, button, website, or other material, including social media postings, that is intended to promote or oppose a particular Candidate or a question to be resolved in an Election.

“Campaigning” shall mean any organized, concerted, or regular activities taken in connection with a Campaign, such as canvassing voters, giving speeches or presentations to groups of voters, and all other activities which may reasonably be considered as intending to persuade voters.

“Candidate” shall mean a petitioner or nominee for an elected position whose name is placed on the ballot by the Election Board after successful application.

“Constitution” is the Ketchikan Indian Community Constitution approved by the KIC tribal membership September 28, 2017 and approved by the United States Bureau of Indian Affairs on October 18, 2017.

“Contribution” is a monetary or in-kind donation to a Campaign.

“Defamatory Statement” is a materially false statement made with knowledge of its falsity or with reckless disregard for the truth.

“Duly Elected” means someone who has been elected to a position on the Tribal Council by the Eligible Voters.

“Election” is a General or Special Election.

“Election Board” comprises up to five Eligible Voters of Ketchikan Indian Community who are not Tribal Council Members or Health Board Members and who are appointed by the Tribal Council.

“Election Board Clerk” is an individual appointed by the Election Board responsible for assisting the Election Board in carrying out certain clerical and ministerial tasks associated with conducting an Election.

“Election Challenge” is a dispute that directly challenges the integrity or accuracy of the outcome of an Election, based on a violation of this Election Code or Tribal law, and seeks a new Election.

“Election Campaign Dispute” is a dispute, other than an Election Challenge, that involves an alleged or proven civil or criminal violation of the Election Code or other violation of Tribal law related to a Campaign.
“Election Campaign Dispute Complaint” is a document that the Election Board lodges against a person accused of committing a civil or criminal violation of the Election Code or other violation of Tribal law related to a Campaign, and that is investigated at a hearing before the Election Board.

“Eligible Voter” is a duly enrolled Member who has or will have attained the age of eighteen years as of the date of the Election in which he or she is voting, provided he or she has duly registered with the Tribe and has maintained a current mailing address with the Secretary of the Tribe.

“Enrollment Office” is the functional department within the KIC Tribal Government with administrative responsibility for maintaining the records relating to KIC Tribal enrollment.

“Final Disclosure Statement” is a form disclosing final campaign contribution numbers that is filed with the Election Board within five (5) calendar days after the date of the General Election.

“General Election” is the regularly scheduled election, held on the third Monday of January in conjunction with the annual meeting of the General Membership, to fill one or more vacant or expiring Tribal Council seats, or to consider one or more constitutional amendments, or both.

“In-kind Campaign Contribution” is any contribution that includes any item or personal service received by a Candidate in support of a Campaign, including, without limitation, paper or stamps for mailing, hosting space or providing food and drink for a fundraising event, or public relations and campaign consulting advice.

“Member” is a person meeting the requirements of Article III of the Constitution.

“Membership” is all of the Members.

“Moral Turpitude” Any act or behavior that is the basis of a criminal conviction imposed on a Council Member while serving on the Tribal Council, which act or behavior the Tribal Council concludes by majority vote: (a) gravely violates the sentiment or accepted standards of the Ketchikan Indian Community, and (b) will affect that Council Member in the performance of his or her Council duties.

“Disclosure Statement” is a form filed with the Election Board disclosing campaign contributions.

“Residential Unit” or “Residential Lot” is a unit or lot leased or assigned by KIC to one or more Tribal members, such as KIC apartment units (including common areas) and on lots leased or assigned to Tribal Members under a Tribally-administrated rental or home-ownership program.
“Special Election” is an Election, other than a regularly scheduled General Election, to fill one or more vacant Tribal Council seats or to consider one or more constitutional amendments, or both.

“Spoiled ballot” is any ballot that is torn, damaged, mismarked, unreadable, invalid, or that is otherwise deemed to not comply with the ballot instructions or Tribal law.

“Territory” The territory of the Tribe extends to all lands, islands, waters, airspace, and subsurface interests located within the geographic boundaries of the Ketchikan Gateway Borough but outside of the municipal boundaries of the city of Saxman, notwithstanding the issuance of any patent or right of way.

“Tribal Government Building” is any building or structure that houses the office of any KIC employee, or at which KIC Tribal Government or Community meetings are held, Tribal Government program activities are conducted, or from which Tribal Member services are delivered.

CHAPTER 2. VOTER AND CANDIDATE ELIGIBILITY

Section 2.1 Voter Eligibility

An Eligible Voter has the right to vote in any Election of the Tribe.

Section 2.2 Candidate Eligibility for Tribal Council

An Eligible Voter is eligible to be a Candidate in a Tribal Council Election if he or she:

a) Files ten (10) signatures of Eligible Voters of Ketchikan Indian Community on a Candidate nomination form supplied by the Election Board

b) Possesses a High School diploma or its equivalent;

c) Resides within the Ketchikan Territory;

d) Within the past ten years, has not been convicted of –
   1. a felony criminal offense,
   2. a criminal offense involving theft or fraud of property in excess of $100,
   3. a criminal offense involving violence against persons, or
   4. a criminal offense involving a sex offense;

e) Has not been removed from any Ketchikan Indian Community salaried, elected, or appointed office within the last five (5) years for misconduct that formed the basis of and resulted in a criminal conviction; and
f) Has not been an employee of the Ketchikan Indian Community during the ninety (90) calendar days preceding his or her filing a Candidate nomination form.

g) Has passed a multi panel drug test that are illegal in the State of Alaska, administered by KIC.

Section 2.3 Candidate Declaration Process for Tribal Council

a) Candidate information packets shall be made available to any potential Candidate at the Office of Administration, Tribal Government Office, at least thirty (30) calendar days before the deadline to file the Candidate nomination form.

b) Any Candidate who fails to timely complete all required forms or otherwise fails to meet the deadline and requirements established in this Election Code may not be an Eligible Candidate for the next scheduled Election, except for a write in candidate who meets all other qualifications in Section 2.2.

Section 2.4 Certificate of Candidacy

a) Each Candidate shall be required to certify, by written statement filed with his or her Candidate nomination form, that he or she meets all of the legal candidacy requirements.

b) The Election Board shall review all Candidate applications and shall request additional evidence as required and conduct background investigations to verify that each Candidate meets the requirements in this Election Code and the Constitution for candidacy.

c) The Election Board shall consult with the Ketchikan Indian Community Enrollment Office to verify the enrollment status of each Candidate and to confirm that each Candidate is qualified to hold elected office under Article III of the Constitution.

d) If the Election Board determines that a Candidate is qualified, it shall issue a signed Certificate of Candidacy to the Candidate within fifteen (15) days of its receipt of application from the Candidate.

e) If the Election Board determines that a Candidate is not qualified, it shall notify the Candidate within ten (10) calendar days of its receipt of the facts or legal grounds for his or her ineligibility.

f) The decision of the Election Board as to whether a Candidate is eligible shall be final.

Section 2.5 Candidates and Campaigning

a) The Election Board shall schedule a "Meet the Candidates Forum" in the Ketchikan Gateway Borough, during the week day evenings or on a weekend The
Election Board shall announce the date and location of any "Meet the Candidates Forum" by the deadline for Candidates to declare their candidacies.

b) Campaigning shall be the sole responsibility of the Candidates. No person shall make a Defamatory Statement about another person in connection with a Campaign for Election.

c) No campaigning of any kind may be conducted in, nor may campaign materials be posted in, any Tribal Government Building, Tribal enterprise building, or in the parking lots (including on parked vehicles), or in other common areas (including entrances, sidewalks, and yards), of such buildings or within 100 feet of any Ketchikan Indian Community sponsored events.

d) On Election Day, no campaigning may take place within 100 feet of any building serving as polling places.

e) Tribal members and Candidates may engage in campaign activities on property owned by the Ketchikan Indian Community if the campaign activities occur within residential units or residential lots leased or assigned to Tribal members, such as apartment units (including common areas) and on lots leased or assigned to Tribal members under a Tribally administered rental or home-ownership program.

f) Candidates, and all other persons are prohibited from using any Ketchikan Indian Community Government or enterprise property, including, facsimile machines, computers, telephones, the Ketchikan Indian Community Social Media, Ketchikan Indian Community government e-mail, and office supplies for campaign activities. Except as otherwise provided in this section, no campaign-related material will be accepted for publication in the Ketchikan Indian Community Quarterly Report.

g) Ketchikan Indian Community elected representatives are prohibited from using their official positions or access to obtain mailing addresses and email addresses of Ketchikan Indian Community members for the purpose of distributing campaign materials. No Candidate or Candidate supporter may knowingly distribute campaign materials in physical or electronic form to addresses that have been obtained in violation of this subsection.

h) Ketchikan Indian Community Council Members are prohibited from campaigning for or against any Candidate or constitutional amendment while engaging in official Tribal business, while appearing in an official capacity, or in the Ketchikan Indian Community Quarterly Report or other mailing subsidized by Ketchikan Indian Community funds.

i) Candidates or other persons with questions about permissible campaign activities may seek a determination from the Election Board regarding the permissibility of such activities by submitting a written request to the Election Board. Absent
urgent circumstances, the Election Board or its designee shall respond to such requests within fifteen calendar days of the request.

j) At the request of a Candidate who has met all Candidate filing requirements and is certified by the Election Board to be eligible to run for office, the Election Board shall give the Candidate a list of the mailing addresses of Eligible Voter households with the names of the Eligible Voters redacted, if the Candidate has filed the request at least thirty (30) calendar days prior to the Election on the request form supplied by the Election Board.

CHAPTER 3. ELECTION BOARD

Section 3.1 Appointment and Term

a) The Tribal Council shall appoint an Election Board every two (2) years. Members of the Election Board shall serve at the pleasure of the Tribal Council and may be removed without cause.

b) The Election Board shall consist of three (3) to five (5) Election Board Members and two alternates. Each Member of the Election Board must be an Eligible Voter.

c) The Tribal Council shall appoint a Chair from among the Election Board Members.

d) The Election Board members shall select a Vice-Chair and a Secretary from among the Election Board.

e) Each Election Board Member shall serve for a term of two (2) years or until his or her successor is appointed by the Tribal Council. Board Members may be appointed for successive terms.

f) The Tribal Council shall appoint a successor to fill any vacancy on the Election Board whether caused by resignation, removal or inability to serve. The Tribal Council will ordinarily ask an alternate Board Member to fill a vacancy.

g) Any Election Board member who begins to campaign or who files as a Candidate shall immediately resign from the Election Board.

Section 3.2 Officers and Duties

a) Chair. The Chair of the Election Board shall:

1. Schedule all meetings of the Election Board as needed;

2. Provide notice of all meetings to all Election Board Members and alternates;
3. Preside at all Election Board meetings;
4. Supervise the publication of the Initial Notice of Election and Final Notice of Election;
5. Maintain a list of the absentee ballot requests;
6. Prepare a tally sheet to be used at the Election; and
7. Certify the Election results and execute the certification thereof.

b) **Vice-Chair.** The Vice-Chair shall:

1. Assist the Chair as called upon; and,
2. Preside over Election Board meetings in the absence of the Chair;
3. Act temporarily in the role of Chair whenever the Chair is absent or unavailable; and,
4. Prepare a tally sheet to be used at the Election.

c) **Secretary.** The Secretary shall:

1. Assist the Chair as called upon;
2. Prepare a tally sheet to be used at the Election;
3. Work with the Administrative Office to ensure the accuracy and completeness of all Election record keeping;
4. Work with the Tribal Council Secretary to ensure the safe and secure retention of all Election records;
5. Keep minutes of all Election Board meetings;
6. Maintain all records of the Election Board; and
7. Work with the Enrollment Department to ensure the accuracy of the Eligible Voters.

d) **Alternates.** The alternates shall:

1. Serve as an interim replacement for any Election Board member who is absent in order to achieve a quorum, who resigns, is removed, or is otherwise unable to serve.
2. Assist the Election Board, as needed, with Election Day and pre-Election Day activities.
Section 3.3 Board Duties

a) The Election Board shall carry out its duties in compliance with Article V of Ketchikan Indian Community's Constitution, this Election Code, and any additional duties prescribed by the Tribal Council. These duties shall include the following, without limitation:

1. To publish and post notice of all General and Special Elections for seats on the Tribal Council, removal, and constitutional amendments;

2. To prepare both regular and absentee ballots;

3. To send an Election package -- including a ballot and the biography of each Candidate -- via regular mail to all Eligible Voters at least forty-five (45) calendar days before the Election;

4. To compile, before the polls open, a list of Eligible Voters from the list of registered voters maintained by the Secretary of the Tribal Council pursuant to Article III, Section 3 of the Constitution;

5. To supervise Election activity at the polls;

6. To certify the eligibility of Candidates for Elections and to resolve disputes concerning any Candidate's eligibility;

7. To verify the eligibility of every person seeking to vote and to supervise the distribution of one ballot to each Eligible Voter at the polls;

8. To record the name of each Eligible Voter who votes and the number of ballots distributed and cast at an Election;

9. To resolve any disputes that may arise at the polls regarding the balloting procedures and a person's eligibility to vote;

10. To count and validate ballots and record the number of votes cast for each Candidate or question on the ballot;

11. To announce the preliminary results of an Election;

12. To hear and decide any Election disputes and challenges;

13. To investigate and resolve any complaints for violation of this Election Code;

14. To certify the results of all Elections; and

15. To recommend to the Tribal Council any supplemental rules or changes in this Election Code which the Board believes are necessary to achieve the purpose of this Election Code.
b) The Tribal Administrator or his or her designee shall use the services of an independent third party, such as a certified public accounting firm or election-services contractor, to assist the Election Board in carrying out any of the duties assigned to the Election Board.

CHAPTER 4. TRIBAL COUNCIL ELECTIONS

Section 4.1 Initial Notice of General and Special Elections

a) No later than ninety (90) calendar days prior to the Election Date, an Initial Notice of Election for General and Special Tribal Council Elections shall be mailed to all Eligible Voters and posted on the Ketchikan Indian Community website, posted on the Ketchikan Indian Community’s Social Media, and posted in all Ketchikan Indian Community tribal buildings. Mailing shall be made to each Eligible Voter’s last known address as it appears on the list of registered voters maintained by the Secretary of the Tribal Council pursuant to Article III, Section 3 of the Constitution. The Election Board may shorten the ninety (90) day period to no less than thirty (30) days if it deems this necessary to facilitate its administration of the first Election (January 15, 2018) under the newly approved 2017 Constitution.

b) The Notice shall include the following information:

1. The date, time, and place of the Election;
2. The number of seats on the Tribal Council to be filled by the Election;
3. Election-related deadlines; and
4. An absentee ballot request form and instructions.

Section 4.2 Authority to Schedule Elections

a) No Election for Tribal Council, other than one duly scheduled by the Election Board pursuant to its constitutional authority, is permitted by Tribal law.

CHAPTER 5. BALLOTS

Section 5.1 Ballots

a) Candidates for seats on the Tribal Council shall be listed on the ballot alphabetically by last name. A box shall appear next to each Candidate's name so a vote may be marked in the box.

b) Eligible Voters may write in the names of Candidates on a ballot. Before a write-in Candidate who has won an Election may be sworn into office, his or her qualifications and eligibility to hold office shall be reviewed by the Election
Board to ensure the Candidate meets the requirements of the Constitution and all applicable laws.

c) All ballots, both regular and absentee, shall include instructions on how to properly cast the ballot and a statement warning that improper voting or extraneous markings may spoil the ballot and cause the Election Board to not count the ballot.

d) Eligible Voters who require assistance to mark their ballots because of special circumstances such as physical disability or illiteracy may be assisted in voting by an Election Board Member or by a person of the voter's choice.

Section 5.2 Spoiled Ballots

a) A ballot is spoiled when, through extraneous marks or improper voting, the Election Board cannot conclude that a person voted in accordance with the instructions on the ballot and this Election Code.

b) An Eligible Voter may cast one vote per open Tribal Council seat. If an Eligible Voter votes for more Candidates than there are seats open, or casts more than one vote for the same Candidate, the Eligible Voter's entire ballot shall be considered spoiled and shall not be counted.

c) Any Eligible Voter who spoils a ballot shall be entitled to a replacement ballot upon request and surrender of the spoiled ballot to the Election Board or its representative before the polls are closed. No Eligible Voter may receive more than one replacement ballot per Election.

d) Any spoiled ballot that is surrendered shall be separately secured by the Election Board and retained until the time period for Election Challenge has expired.

Section 5.3 Absentee Ballots

a) Any Eligible Voter may request an absentee ballot, so long as such request is received pursuant to the deadline set in the Initial Notice of Election.

b) An absentee ballot request will only be honored with a completed absentee ballot request form, or in accordance with the emergency absentee ballot procedure set forth in this subsection.

c) Each absentee ballot mailed or personally delivered to an Eligible Voter shall be sealed in an envelope, with instructions for the return of the ballot, along with a pre-addressed envelope to the Election Board or its designee which shall be marked on the front "ABSENTEE VOTER BALLOT." The back of the pre-addressed envelope must provide room for the absentee voter to print and sign his or her name and date.
d) Any Eligible Voter may apply for an emergency absentee ballot at any time before 12:00 p.m. on the Friday prior to Election Day if:

1. He or she has become physically disabled as a result of an accident or illness;

2. He or she will be absent on Election Day because of a serious illness or death in the family, which has occurred at a time which has made it impossible to apply for an absentee ballot by the deadline; or

3. Extraordinary circumstances warrant providing the applicant with an absentee ballot.

e) A decision to grant an Eligible Voter’s application for an emergency absentee ballot shall be made by the Election Board in its sole discretion.

f) No absentee ballot shall be counted unless received in hand by the Election Board or their designee before 5 p.m. (Alaska Time) on the Friday before the polls open for the Election.

g) The Election Board, or its designee, shall make and keep a record of absentee ballots requested, delivered, and cast. This record must contain the name of the absentee voter, the address of absentee voter, the date the ballot was issued, and the date the ballot was returned.

h) Any Eligible Voter who received an absentee ballot and who nevertheless appears at the poll to vote in person, may vote at the poll if the Election Board or its designee confirms that the voter in question did not already cast his or her vote by absentee ballot.

i) All absentee ballots received shall be placed in a secure, absentee ballot box under the supervision of the Election Board or its designees.

j) The absentee ballot box will be opened and the absentee ballots will be counted immediately after the ballots from the poll voting box are counted on Election Day.

Section 5.4 Counting Ballots

a) The counting of ballots, including the determination as to whether ballots are spoiled, shall be conducted by the Election Board or its designee in a location that is open to all Tribal Members.

b) Ballots shall be counted a minimum of two (2) times. The totals must agree at least twice to be valid.

c) The Election Board shall destroy all ballots after any and all challenges have been concluded and the Election results have been certified.
d) All other election records shall be maintained indefinitely.

CHAPTER 6. POLLING PLACES, TIMES, AND REGULATIONS

Section 6.1 Polling Places and Times

a) Election Day shall be set for the third Monday of January at the Annual Membership Meeting for those Tribal Council seats whose term has expired.

b) Polls shall be open for at least twelve (12) hours on Election Day between the hours of 8:00 a.m. and 8:00 p.m. (Alaska Time).

c) The polling place shall be at the same location where the Annual Meeting takes place.

Section 6.2 Polling Regulations

a) Except as otherwise permitted by this Election Code, no person shall campaign or otherwise attempt to influence voters within 100 feet of any Building serving as a polling place or the parking lot used to serve the polling location during hours when the polls are open.

b) Any person who speaks at the annual Membership Meeting during hours when the polls are open shall refrain from campaigning for or against any individual or group of Candidates or ballot questions.

c) Consumption of alcoholic beverages, marijuana, narcotics, or other intoxicants at the polls and on the Tribal government campus on Election Day is prohibited.

d) All Ketchikan Indian Community Elections shall be conducted by secret ballot. The Election Board may, in its discretion, hold an Election to vote on a Constitutional Amendment which shall take place at the polling location at the annual meeting.

e) The Election Board may appoint an individual to serve as the Election Board Clerk. The Election Board Clerk will be responsible for assisting the Election Board in carrying out certain clerical and ministerial tasks associated with conducting Tribal Elections.

Section 6.3 Deadlines

a) Before every General Election, the Election Board shall prominently publish a list of deadlines under the following guidelines:

1. The deadline for mailing the Initial Notice of Election will be ninety (90) calendar days before the election.
2. The deadline for declaring for candidacy will be sixty (60) calendar days before the Election;

3. The deadline for returning absentee ballot request forms will be sixty (60) calendar days before the Election;

4. The deadline for mailing absentee ballots to the Members will be thirty (30) calendar days before the election;

5. The deadline for the Election Board’s receipt of a valid absentee ballot is the last Friday at the end of business hours prior to the Election.

b) The deadlines listed in subparagraphs 1-4 of the immediately preceding subsection a) may be shortened by the Election Board as much as by two-thirds each stated period if the Election Board deems this necessary to facilitate its administration of the first Election (January 15, 2018) under the newly approved 2017 Constitution.

CHAPTER 7. PROHIBITED CONDUCT

Section 7.1 Criminal Violations

a) No person shall, either directly or indirectly, give, lend, or promise money or other valuable consideration to or for a person as an inducement to influence the manner of voting by a person or as a reward to refrain from voting.

b) No person shall, either directly or indirectly, discharge or threaten to discharge an employee of the person or the person's employer for the purpose of influencing the employee's vote at an Election.

c) No person shall make a Defamatory Statement about another person in connection with a Campaign for Election.

d) No person shall attempt, by means of bribery, menace or other corrupt means or device, either directly or indirectly, to influence a voter's free act of voting for Candidates of the voter's own choice, or to deter a voter from voting.

e) No person shall, in connection with an Election, falsely impersonate another person, or vote or attempt to vote under the name of another person, or attempt to induce another person to impersonate another person or attempt to vote under the name of another.

f) No person shall knowingly and willingly give false information to establish his or her eligibility to vote, or give false information in connection with an application for voter registration, an application for absentee voting, a candidacy declaration.
g) No person shall, either directly or indirectly, knowingly violate or induce another person to violate any provision of this Election Code with the specific intention of, or for the purpose of, interfering with, or casting doubt upon the integrity of, an election or a Candidate's campaign.

h) Except where an authorized member of the Election Board is involved in the counting of ballots, no person who has possession of an absentee ballot shall do any of the following:

1. Open the envelope containing the ballot;
2. Make any marking on the ballot;
3. Alter the ballot in any way;
4. Destroy or dispose of the ballot; or
5. Substitute another ballot for the absentee ballot.

Section 7.2 Penalties for Criminal Violations

a) If the Election Board believes that a person has violated any of the provisions of this Election Code or any criminal law, it shall consult with legal counsel for KIC identified by the Tribal Administrator and then refer the matter, with recommended action, to the Tribal Council or to appropriate law enforcement authorities.

CHAPTER 8. ELECTION DISPUTES

Section 8.1 Election Campaign Dispute Hearings

a) An Election Campaign Dispute is a dispute, other than an Election Challenge, that involves an alleged or proven civil or criminal violation of the Election Code or other violation of Tribal law related to a Campaign.

b) Any Eligible Voter may file an Election Campaign Dispute with the Election Board only within three (3) calendar days of the date the alleged Election Code violation took place but only before the Election polls close and Election voting is concluded. The Election Campaign Dispute may be registered on a form provided by the Election Board, accessible from the Ketchikan Indian Community website, and at the Tribal Administrative Offices.

c) The Election Board shall log each Election Campaign Dispute, and investigate any incident it reasonably believes constitutes a material violation of the Election Code, either on its own initiative or after a timely Election Campaign Dispute is registered by an Eligible Voter. The Election Board shall provide a response to the Eligible Voter who filed the Election Campaign Dispute within three (3) business days of receiving the Election Campaign Dispute Complaint.
d) If the Election Board reasonably believes that a Candidate or other Member materially violated the Election Code, the Election Board may file its own Election Campaign Dispute Complaint and provide notice of the same to the accused person, provided that such Election Campaign Dispute Complaint, however, shall be lodged only within three (3) calendar days of the date the alleged Election Campaign violation took place and only before the Election polls close and Election voting is concluded.

e) All Election Campaign Dispute hearings shall be on the record and minutes shall be kept. The Election Board shall provide every opportunity to allow the accused person to appear at the hearing at a mutually agreeable time. If the accused person is unable or unwilling to appear in a timely manner, the Election Board shall hold the hearing without the participation of the accused person.

f) The accused person is entitled to counsel of his or her choice at his or her own expense. The accused person shall be entitled to present evidence, examine all evidence considered by the Election Board, and cross-examine all witnesses.

g) The hearing shall be conducted by the Election Board within three business days of the date any Election Campaign Dispute Complaint is filed. The accused, and any Eligible Voter filing the Election Campaign Dispute Complaint, may appear as a witness.

Section 8.2 Resolution of Election Campaign Disputes

a) Following the hearing on an Election Campaign Dispute Complaint and after consultation with KIC legal counsel identified by the Tribal Administrator, the Election Board shall deliberate and, absent exceptional circumstances to be determined by the Board, shall issue a final decision, in writing, no later than two (2) business days following the hearing.

b) The decision on an Election Campaign Dispute Complaint shall take into account the following considerations: (a) the nature of the infraction; (b) whether the Election Board has sanctioned the person for similar conduct or violations; (c) whether the conduct was intentional or knowing; (d) the extent to which the violation impacts the integrity of the election; and (e) any other relevant considerations.

c) Any penalty imposed by the Election Board must be no more onerous than reasonably required to remedy the harm resulting from the violation or to deter future similar conduct. Any penalty involving the removal of a Candidate’s name from the ballot may be imposed only if the Election Board finds that the violation involved an intentional or knowing violation of the Election Code by the Candidate himself or herself that caused irreparable harm to the integrity of the election process.

d) The Election Board’s decision on an Election Campaign Dispute Complaint shall be final and non-reviewable.

Ketchikan Indian Community Election Code (Ordinance #4)
(December 6, 2017 Revision)
CHAPTER 9. ELECTION CHALLENGES

Section 9.1 Election Challenge Procedure

a) An Election Challenge is a dispute that directly challenges the integrity or accuracy of the outcome of an Election, based on a violation of this Election Code.

b) Any Eligible Voter may file an Election Challenge and seek a new election.

c) The Election Challenge must be presented to Ketchikan Indian Community's Election Board by hand delivery by the close of business the following Friday.

d) In all cases, the challenger shall have the burden of proving, by clear and convincing evidence, that the challenged conduct violated one or more provisions of this Election Code and that it affected the fairness and integrity of the Election process to such an extent that it influenced the outcome of the Election.

e) The Election Board has the authority to investigate any Election Challenge presented to it, including by reviewing relevant evidence and taking testimony. The Election Board shall not make assumptions or decisions based on hearsay alone.

f) Due to the urgent nature of an Election Challenge, there will be no Election Board Hearing held to resolve the Election Challenge, unless the Election Board deems a Hearing to be necessary.

Section 9.2 Decision

a) Within five (5) calendar days of receipt of the Election Challenge, the Election Board shall render, after consultation with KIC legal counsel identified by the Tribal Administrator, a decision by a majority vote of the Election Board at a meeting at which a quorum of the Election Board is present, which decision shall either affirm the Election Board's original certification of Election results, or shall modify the Election results and issue a new certification of results, or shall withdraw its certification of Election results and immediately refer the Election Challenge to the Tribal Council to decide the appropriate course of action. The Chair shall provide Notice of the decision of the Election Board to the Tribal Council and the affected Candidates, which decision of the Election Board shall be considered final but reviewable by the Tribal Council.

b) If there is a tie vote of the Election Board, the Election Challenge shall be considered denied and the Election Board's original certification of Election results shall be considered affirmed.

c) No member of the Election Board who is a party to the Election Challenge or has a spouse, parent, child or sibling who is a party to an Election Challenge may
participate in the deliberations or vote on the Election Challenge as an Election Board Member.

d) Should the Election Challenge be upheld after review by the Tribal Council, a new election shall be conducted within forty-five (45) calendar days of the decision upholding the Challenge. The slate of Candidates shall be the same as the original Election, except that any Candidates who were duly elected in the original Election and not affected by, or subject to, the Challenge, shall be considered elected and need not stand for the new election.

CHAPTER 10. VOTE COUNTING

Section 10.1 Election to Office

a) The open positions on the Tribal Council in each Election shall be filled by the persons who receive the highest number of votes.

b) If one open position has a longer term than another, the person who receives the higher number of votes shall serve the longer term.

Section 10.2 Ties

a) In the event of a tie, and where the breaking of a tie is necessary to determine the outcome of an election, the Election Board shall schedule a runoff Election within forty (45) calendar days between those Candidates who tied.

b) If a runoff Election produces another tie, the Tribal Council shall select the winner by majority vote of the Tribal Council. If one or both of the Candidates is an incumbent, he or she must abstain from the vote.

Section 10.3 Certification of Votes

a) Within twelve (12) hours of when the voting polls are closed, the Election Board shall complete the official count of all ballots cast and determine the preliminary results. The Election Board Chair shall immediately issue a preliminary certification of results identifying the presumptive winning Candidate or Candidates, pending expiration of the Dispute and Challenge period and resolution of any Dispute and/or Election challenge.

b) The preliminary certification of the Election results shall be posted in a conspicuous place within Tribal Government Offices and on Ketchikan Indian Community social media.

c) Upon the expiration of any period of time in which any Election Dispute or Election Challenge can be brought and resolved, such certification by the Election Board shall be considered final and the Tribal Council shall adopt such certification results at a Special Meeting called for the purpose of confirming the Election results.

Ketchikan Indian Community Election Code (Ordinance #4)
(December 6, 2017 Revision)
CHAPTER 11. REMOVAL

Section 11.1 Removal Procedures

A Tribal Council member may be removed from membership on the Tribal Council by a majority vote of the Tribal Council, or by a majority vote of the Eligible Voters at any annual meeting or special meeting called for that purposes, but only for one of the grounds listed in Article VI, Section 4 of the Constitution.

CHAPTER 12. CONSTITUTIONAL AMENDMENTS

Section 12.1 Amendment Procedures

a) A constitutional amendment petition may only be circulated by a Member of Ketchikan Indian Community and shall be signed by a minimum of thirty (30) percent of the eligible voters in Ketchikan Indian Community.

b) The petition shall be presented to the Election Board for signature verification. If the Election Board determines that the constitutional amendment petition is valid, the Tribal Council shall call an election for the amendment of the Constitution.

c) In the absence of a petition, the Tribal Council may call a constitutional election by a majority vote of the entire Tribal Council.

d) Within ninety (90) days of receipt of Tribal Council authorization to hold a constitutional amendment election, the Election Board shall provide notice to all eligible voters of a Special Election to consider the constitutional amendment, including the date, time, and place of the Special Election.

e) If a General or Special Election is already scheduled within one hundred twenty (120) days, the constitutional amendment Special Election shall be held on the same day as the scheduled Election.

f) The notice shall identify the ballot procedures to be utilized in the Special Election, including absentee ballot procedures and deadlines (if applicable).

g) Unless otherwise noted, Special Election disputes, recounts, challenges, absentee ballots, and the like shall be handled in the same way as in General Elections.

h) The Special Election ballot must include or attach the full language of the constitutional amendment as it was received or proposed by the Tribal Council. The Election Board may, for clarity or for other purposes, include a short summary of the amendment. The summary shall not advocate for or against the amendment.

i) The Constitution may be amended only by a majority of the Eligible Voters of Ketchikan Indian Community at an Election called for that purpose, provided that at least thirty (30) percent of the Eligible Voters vote in the Election.
Section 12.2 Constitutional Amendment Elections

a) On Election Day, the Election Board shall determine whether at least fifty (50) percent of the total number of Duly Registered Voters voting in the most recent annual election conducted by the Tribe.

b) The Election Board will announce tentative results and issue a final report for the Constitutional Amendment Special Election in the same way as for General Elections. The final report will include a statement as to whether thirty (30) percent of the registered Tribal voters cast ballots.

c) The constitutional amendment shall pass if it is supported by a majority of the persons voting in the Special Election or Regular Election and if at least thirty (30) percent of the Eligible Voters of Ketchikan Indian Community voted. Otherwise, it shall be rejected.

d) The determination of the Election Board as to whether the constitutional amendment was approved or disapproved shall be final, confirmed by the Tribal Council, and, if approved, forwarded by the Tribal Council to the BIA for approval.

CHAPTER 13. ELECTION OATHS

a) Before taking office, each member of the Election Board shall take an oath of office to carry out the member’s duties faithfully and not let the member’s preferences in an election influence the member’s actions as a member of the Election Board. The oath of office shall affirm that the member shall be recused from acting in any situation in which the member’s impartiality might reasonably be questioned; and that the member will not engage in, sanction, or permit conduct which could prevent a fair Election.

b) Should a dispute arise as to whether an Election Board member has violated the member’s oath of office, such dispute shall be handled in the same manner as Election Disputes are handled in this Election Code. Any Election Board member whose impartiality might reasonably be questioned shall be recused from taking part in the Election Dispute investigation or decision.

CHAPTER 14. INITIATIVES AND REFERENDUMS

CHAPTER 15. Initiatives

CHAPTER 16. A registered Tribal voter may propose a resolution, ordinance, or other action by presenting an Initiative Petition, signed by a minimum of thirty (30) percent of the eligible voters, to the Election Board.

CHAPTER 17. Any proposed resolution, ordinance, or other action involving or affecting the jurisdiction of Ketchikan Indian Community, the approval of the budget, appropriations for tribal government institutions, or the approval
of leases, contracts, or commercial transactions, along with any Tribal Council statute or resolution involving the same subjects, are excluded from this Section and not subject to initiative.

CHAPTER 18. A valid Initiative Petition must include the following information:

CHAPTER 19. A clear and concise statement describing the proposed resolution, ordinance, or other action;

CHAPTER 20. A copy of the proposed ordinance sought to be enacted, or the existing ordinance sought to be repealed, through the initiative process;

CHAPTER 21. A separate signature line for each signatory, containing the printed name, signature, address, Tribal ID number, and date of signature;

CHAPTER 22. The printed name, signature, address, Tribal ID number, and date of signature of the circulator of the petition; and

CHAPTER 23. A statement to be signed by the circulator of the petition certifying that the signatures on the petition were collected in compliance with these rules.

CHAPTER 24. The Election Board shall determine the validity of the petition within thirty (30) calendar days of receipt. Only properly completed signatures will be counted.

CHAPTER 25. Upon a determination of validity, the Election Board shall present the proposed resolution, ordinance, or other action to the Tribal Council. The Tribal Council may review and revise the proposal for clarity and to conform to proper formatting, but may not alter the substance of the resolution.

CHAPTER 26. If the Tribal Council fails to pass the amended Initiative Petition within thirty days of receipt, it shall return the amended petition to the Election Board for consideration by the eligible voters at a Special Election.

CHAPTER 27. Referendums

CHAPTER 28. The Tribal Council, by majority vote, may submit a proposed resolution, ordinance, or other action for a Referendum election.

CHAPTER 29. Following Tribal Council approval, the Tribal Council shall submit the proposed resolution, ordinance, or other action to the Election Board for consideration by the eligible voters at a Special Election.

CHAPTER 30. Referendum and Initiative Election Procedures

CHAPTER 31. Within thirty (30) calendar days of receipt from the Tribal Council of either a valid Initiative Petition or a valid Referendum, the Election Board
shall provide notice to all eligible voters of a Special Election to consider the Referendum or Initiative, including the date, time, and place of the Referendum/Initiative Special Election.

CHAPTER 32. If a General or Special Election is already scheduled within ninety (90) days, the Referendum/Initiative Special Election shall be held on the same day as the scheduled Election. In all other circumstances, the Referendum/Initiative Special Election must be held at least thirty (30) days, but no more than ninety (90) days, from receipt.

CHAPTER 33. The notice shall identify the ballot procedures to be utilized in the Special Election, including absentee ballot procedures and deadlines (if applicable).

CHAPTER 34. Unless otherwise noted, Special Election disputes, recounts, challenges, absentee ballots, and the like shall be handled in the same way as in General Elections.

CHAPTER 35. The Special Election ballot must include or attach the full language of the resolution, ordinance, or other action as it was received by the Tribal Council. The Election Board may, for clarity or for other purposes, include a short summary of the ballot proposal. The summary shall not advocate for or against the proposal.

CHAPTER 36. On Election Day, the Election Board shall determine whether at least thirty (30) percent of the registered Tribal voters cast ballots. Failure to achieve at least thirty (30) percent of registered voter Eligible Voters casting ballots, the proposed initiative or referendum shall not be adopted.

CHAPTER 37. The Election Board will announce tentative results and issue a final report for the Special Election in the same way as for General Elections. The final report will include a statement as to whether thirty (30) percent of the registered Tribal voters cast ballots.

CHAPTER 38. The Referendum or Initiative shall pass if it is supported by a majority of the persons voting in the Special Election.

CHAPTER 39. The determination of the Election Board as to whether the Referendum or Initiative passed or was rejected shall be final.

CHAPTER 40. Any statute or resolution enacted by Initiative or Referendum under this Section shall take effect ten (10) days after certification of the election by the Election Board. Such an Initiative or Referendum is binding on the sitting Tribal Council until it expires by its own terms or is amended by further action of the voters.
a) In the event any sentence, paragraph, or section of this Election Code is held to be unconstitutional or otherwise invalid, the remaining sentences, paragraphs, and sections shall remain valid and presumed consistent with the Constitution.