

KETCIDKAN INDIAN CORPORATION

ORDINANCE 5: SPECIAL ELECTION

PASSED BY THE MEMBERSHIP IN A REFERENDUM VOTE-JANUARY, 1994

The purpose of this Ordinance is to outline and define Election Procedures in accordance with the Ketchikan Indian Corporation Constitution, Article IV: ELECTIONS, as ratified on January 27, 1940.

In the event of a vacancy, when the Tribal Council finds itself without a Quorum, whether by an act of God, by written resignation or other, the remaining Tribal Council members may appoint an additional member or may call a Special Election to fill the vacant seat(s).

SECTION 1: ELECTION JURISDICTION

The boundaries of the Ketchikan Gateway Borough are: "An area encompassing all those islands bounded on the East, North and West by Behm Canal, Behm Narrows and Clarence Strait to its junction with Nichols Passage and on the South by Nichols and Revillagigedo Channel to its Junction with Behm Canal. The designated boundaries extend to the center line of Behm Canal, Behm Narrows, Clarence Strait, Nichols Passage and Revillagigedo Channel, and include all the area of Revillagigedo, Gravina, Pennock, Betton, Grant and other Clover Passage and Naha Bay Islands, Hassler, Gedney, Black, Smeaton, Manzanita, Rudyard and Bold Islands, and all other offshore and adjacent islands and inlets thereto."

SECTION 2: QUALIFICATIONS OF VOTERS

Any resident of Ketchikan Gateway Borough, who is enrolled in the Ketchikan Indian Corporation and has passed his/her eighteenth (18th) birthday is qualified to vote.

SECTION 3: TIME OF ELECTION

03.1 DATE: A Special Election will be held within 21 days of the Tribal Council's call for a Special Election; or in the absence of a Quorum, by a majority vote of the remaining Council members.

03.01.1 All seats filled by way of Special Election, will expire at the next Annual Election, the following January.

03.2 POLLS OPEN: The polls will be open for the purposes of voting from 8:00A.M. To 8:00P.M. On

Election Day. SECTION 4: POLLING PLACE

The Election Administrator will secure a polling place within the area for all Elections.

SECTIONS: NOTICE OF ELECTIONS

05.1 NOTICE OF ELECTION: The administrator will post a notice of each regular election in three (3) public places and/or publish at least twice in one or more newspapers of general circulation in Ketchikan, the first publication to be accomplished at least fourteen (14) days prior to the Special Election.

05.2 EACH NOTICE OF SPECIAL ELECTION WILL INCLUDE:

- 05.02.01 The type of Election, Special;
- 05.02.02 the date of the Election;
- 05.02.03 the hours the polls will be open;
- 05.02.04 where the polls will be located;
- 05.02.05 the offices to which candidates are to be elected;
- 05.02.06 the term of this vacancy;
- 05.02.07 voter qualifications and instructions for enrollment;

SECTION 6: NOMINATION OF CANDIDATES

- 06.1 NOTICE OF COUNCIL SEATS TO BE FILLED: At least fourteen (14) days before a Special Election, the administrator will publish, in one or more newspapers of general circulation in Ketchikan, a notice of offices to be filled at the Election and the manner of making nominations.
- 06.2 NOMINATING PETITIONS: Nominations for the filing of elective offices to the Tribal Council will be made by petition of at least ten (10) qualified voters residing within the Ketchikan Gateway Borough.
  - 06.02.1 Nominating petition forms will be provided by the administrator and will include provision for a statement by the candidate, affirming his qualification to **fill** the office to which he is nominated and his willingness to do so.
  - 06.02.2 Nominating petitions will be completed and filed with the administrator not later than seven (7) days after the initial announcement of the Special Election. The administrator will record on the petition itself, the name and address of the person filing and the date of filing. All petitions which are not withdrawn will be preserved by the administrator for one year.
  - 06.02.3 Within three (3) days after filing of a nominating petition, the administrator will notify the candidate named in the petition and the person who filed it, whether or not the petition is **in** proper form and signed by at least ten qualified voters. **If** the petition is deficient in any way, the administrator will immediately return it to the persons who filed it with a statement certifying how it is deficient. A new petition, or the same petition **if** the deficiency is in the number of signatures, for the same candidate may be filed within the time for filing nominating petitions.
- 06.3 WITHDRAWAL OF PETITIONS: Any candidate nominated may withdraw his nomination at any time during the period for filing nominating petitions by appropriate written notice to the administrator. However, after the period for filing nominating petitions has closed, no nominating petition may be corrected, amended or

withdrawn.

06.4 CONFLICT OF INTEREST STATEMENT: Refusal or failure to file a "Conflict of interest Statement" at the time of filing a nominating petition will require that the candidate's nominating petition for office be refused by the administrator.

SECTION 7: ELECTION OFFICIALS

07.1 APPOINTMENT OF ELECTION JUDGES: Before any election, the Tribal Council will appoint at least three (3) judges to constitute the Election Board. One judge will act as Chairman and will be primarily responsible for administering the Election. The administrator may appoint up to three (3) Election Clerks, if needed, to conduct an orderly election and to relieve the Election Judges of undue hardship.

07.2 MANDATORY TRAINING FOR ELECTION JUDGES: All Election Officials must attend a training session unless specifically excused for cause. Any appointed official who fails to attend a training session without permission, may not serve on the day of election. If an appointed official is unable or refuses to serve on Election Day, the administrator may appoint a replacement for that official.

07.02.1 Each Election Official must be a qualified voter.

07.02.2 All Election Judges and administrator must subscribe to an oath in the manner prescribed by the administrator prior to the Election.

SECTIONS: BALLOTS- FORM

08.1 PREPARATION OF BALLOTS: Ballots will be prepared as prescribed by law or the Tribal Council. The ballots will be numbered in series, the number being placed in an area set off by perforations, for ease in removal and on a portion of the ballot that can be seen when the manner in which the ballot is marked is concealed.

08.01.1 All candidates to the Tribal Council will be on one ballot. The title of each office to be filled will be followed by the printed names of all candidates for that office. Provision will be made for "Write-Ins" equal in number to the positions to be filled for each office. The names of candidates will be printed as they appear upon the nominating petitions, except that any honorary or assumed title or prefix will be omitted. The words "Vote for not more than \_\_\_\_\_" with the appropriate number will be placed before the lists of candidates for each office.

08.01.2 Each ballot will be marked "OFFICIAL BALLOT" and will show the date of the election.

08.2 DISTRIBUTION OF BALLOTS: The administrator will have the Ballots in his/her possession at least five (5) days before each election. The ballots may be inspected by any candidate whose name is on the ballot, or his authorized agent, and any mistake discovered will be corrected immediately.

**SECTION 9: ELECTION SUPPLIES AND EQUIPMENT**

- 09.1 SUPPLIES: Before the opening of the polls, the administrator will furnish the election board with the registration roll and supply each polling place with sufficient materials for the election.
- 09.2 OBTAINING BALLOTS: The administrator will prepare instructions explaining how to obtain ballots, how to mark them, how to obtain information from election officials and how to obtain new ballots to replace those destroyed or spoiled.
- 09.02.1 These instructions will be printed on cards in large, clear type and will be distributed to the election board to be prominently displayed in the polling place.
- 09.02.2 The administrator will have sample ballots printed on colored paper, identical in form to the official ballots to be used at that polling place; and sample ballots identical to all Official Ballots for the election will be retained in the administrator's office for distribution to the public on request.
- 09.02.3 The administrator will provide a booth at the polling place with appropriate supplies to enable each voter to mark his ballot screened from observation.
- 09.02.4 The ballot box will be placed outside of the voting booths in plain view of the election officials, voters and other persons at the polling place.

**SECTION 10: VOTING PROCEDURE AT THE POLLS**

- 10.1 BALLOT BOX: The election board will open and exhibit the ballot box in the presence of any persons assembled at the polling place before issuing any ballots. The ballot box will then be closed and not opened or removed until the polls have closed.
- 10.2 VOTER REGISTRATION: Each voter will print his name, residence and mailing address in an original register kept by the judges, before receiving his ballot.
- 10.02.1 Signing of the register constitutes a declaration by the voter that he is qualified to vote.
- 10.03.2 If a person's name is not on the register, the person must vote a "Questioned Ballot". This person must take an oath and sign an affidavit in order to vote.
- 10.3 VOTING: Each voter will retire to a private area to mark his ballot. If a voter is blind or otherwise physically unable to mark his ballot, he may request and obtain assistance.
- 10.03.1 Immediately after marking the ballot, the voter will conceal the way in which it is marked and return it to the election judge. The election judge will remove the numbered tab and the voter *will* place his ballot in the ballot box.
- A) A voter may request and will receive assistance of an election judge to place his ballot in the ballot box.

- 10.4 QUESTIONED BALLOTS: A voter casting a "Questioned Ballot" will vote in the same manner as other voters.
- 10.04.1 After the election judge removes the identification number from the ballot, the voter with a "Questioned Ballot" will insert the ballot into a small blank envelope, seal it and put the envelope into a larger envelope on which appears the oath and affidavit he previously signed. The large envelope will be sealed and deposited *in* the ballot box.
- 10.04.2 When the ballot box is opened, these envelopes will be counted and compared to the voting list, segregated and delivered to the administrator for delivery to the canvass board.
- 10.5 SPOILED BALLOTS: If a voter improperly marks or otherwise damages a ballot, he may conceal trimaran in which it was marked and return it to an election judge to receive a new ballot.
- 10.05.1 The election officials will destroy the damaged ballot after recording its number and issue anew ballot to the voter.
- 10.05.2 A voter may request a replacement ballot no more than three (3) times.
- 10.6 CLOSING THE POLLS: The election official will announce time remaining fifteen (15) minutes before the polls close. The election official will announce "POLLS ARE CLOSED" at the appropriate time and no further ballots will be issued, except to those voters who were present and waiting their turn to go through the voting procedure.
- 10.7 ACCOUNTING FOR BALLOTS: The election board will account for all ballots issued, used and unused on a form provided by the administrator. All unused ballots will be destroyed before the ballot box is opened.
- 10.07.1 The numbers of ballots spoiled by voters and replaced by election officials will also be on the form.

#### SECTION 11: ABSENTEE BALLOTING & ELIGIBILITY

- 11.1 ELIGIBILITY: Any qualified voter who expects to be absent from the election area,
- 11.01.1 who will be unable to go to the polling place for reasons of physical disability; or
- 11.01.2 who will be unable to be present at the polls because of physical inaccessibility of the polling place, causing undue travel expense, hardship or hazard to the voter; or
- 11.01.3 because of age; or
- 11.01.4 employment may cast an absentee ballot.
- 11.2 APPLICATION FOR ABSENTEE BALLOT:
- 11.01.1 In Person: A qualified voter may apply for an absentee ballot in person on any day after the

ballots are available, but not on Election Day.

- 11.01.2 By Personal Representative: A qualified voter may apply for an absentee ballot through a personal representative on the day of, or not more than twenty (20) days before the election date. The application will be signed by the applicant with a letter from a licensed physician or statement signed by two (2) qualified voters, stating that the applicant is physically disabled and unable to attend the polls.

11.3 ISSUANCE OF ABSENTEE BALLOT: Before delivering any absentee ballot, the administrator will determine the applicant's right to vote and may require the applicant to comply with the questioned ballot procedure.

- 11.03.01 When issuing an absentee ballot, the administrator will enter the number of the ballot issued and date of delivery or mailing on the application.

- 11.03.02 Before the election, the administrator will furnish a list of voters who have been issued absentee ballots to the election board.

- 11.03.1 When the canvass board meets, the administrator will furnish all absentee ballot applications with appropriate notations.

11.4 MATERIALS FOR ABSENTEE VOTING: A small blank envelope and return envelope will be supplied with each absentee ballot.

- 11.04.1 An affidavit declaring the voter's qualification to vote will be printed on the return envelope, followed by an attestation of a witnessing officer or signature of a witness who is at least eighteen (18) years of age.

- 11.04.2 The following notice will appear on the return envelope: "Notice: Return the voted ballot in sealed envelope immediately to the Election Administrator, Ketchikan Indian Corporation, 429 Deermount, Ketchikan, AK 99901; marked 'BALLOT ENCLOSED', to be opened by the canvass board".

11.5 CASTING AN ABSENTEE BALLOT: When the voter receives an absentee ballot, he may proceed:

- 11.05.1 to mark the ballot in secret,
- 11.05.2 place the ballot in the small blank envelope,
- 11.05.3 place the small envelope in the larger envelope; and
- 11.05.4 sign the voter's certificate on the back of the larger envelope, in the presence of a witness
- A) who is at least eighteen (18) years of age; or
  - B) before an election judge, or
  - C) notary public; or
  - D) other person qualified to administer oaths, who will sign as a witness.

- 11.05.05 The voter will then return the ballot properly enclosed in the envelopes to the administrator, postmarked no later than the day of the election, who will retain it for delivery to the canvass board.
- 11.6 ABSENTEE VOTING IN PERSON: When receiving the absentee ballot in person, the voter will:
  - 11.06.1 mark the ballot in secret,
  - 11.06.2 place the ballot in the small blank envelope,
  - 11.06.3 place the small envelope in the larger envelope, and
  - 11.06.4 sign the voter's certificate on the back of the larger envelope, in the presence of the administrator who will sign as witness and retain the ballot for the canvass board.

## SECTION 12: COUNTING BALLOTS

- 12.1 RECONCILING USED & UNUSED BALLOTS: The election board will account for all ballots issued, used and unused, on a form provided by the administrator.
  - 12.01.1 The numbers of ballots spoiled by voters and replaced by election officials will also be recorded on the form.
    - 12.01.02 All unused ballots will be destroyed before the ballot box is opened.
- 12.2 OPENING THE BALLOT BOX: Immediately following the closing of the polls and the disposition of unused ballots, the election official will open the ballot box and count the number of ballots cast.
  - 12.02.1 The number of ballots cast will agree with the number of signatures on the registry (making necessary adjustments for the number of ballots required to present each voter with all offices and propositions).
  - 12.02.2 Election officials will explain any discrepancies to the best of their ability, in writing, for delivery to the administrator.
- 12.3 BALLOTS COUNTED IN FULL VIEW: The ballot box will be opened and the ballots counted in full view of any persons present. The public may not be excluded from the area in which ballots are counted. The chairman of the election board will not permit anyone present to interfere in any way or to distract the appointed officials from their duties. No one other than appointed election officials may handle the ballots.
- 12.4 TALLY OF VOTES: The administrator will provide forms and supplies for the tally of votes. The election board will canvass and count the votes according to the rules for determining marks on ballots in a manner that allows watchers to see the ballots when opened and read.
  - 12.04.1 No person handling the ballot after it has been taken from the ballot box and before it is placed in the envelope for delivery to the administrator, may remove the ballot from the immediate

vicinity of the polls Or have a marking device in hand.

**SECTION 13: CANVASS OF RETURNS**

- 13.1 **CANVASS BOARD:** The three (3) election officials appointed by the Tribal Council, will constitute the election canvass board for that election. All members of the canvass board must take an oath as prescribed by the administrator prior to beginning their duties.
- 13.2 **DUTIES OF CANVASS BOARD:** Immediately following election, or as soon as possible, the canvass board will meet in public session and canvass all election returns. The canvass may be postponed for cause from day to day, but there will be no more than three (3) such postponements.
- 13.02.1 In full public view, the canvass board will judge the applicability of absentee and questioned ballots, will open and tally those accepted and compile the total votes cast in the election.
- 13.02.2 The canvas; of the ballot vote counted by the election board will be accomplished by reviewing the tallies of the recorded vote, to check for mathematical error, comparing totals from the tally sheet to certificate of returns. All obvious errors found by election canvass board in the transfer of totals will be corrected in the canvass board Certificate of Returns and reported to the Tribal Council as having been corrected.
- 13.5 **CERTIFICATE OF RETURNS:** The three election judges will tally the votes, prepare and sign the Certificate of Returns to be included with the counted ballots in a sealed envelope. This envelope will be returned to the administrator to be preserved unopened, unless the Tribal Council orders a recount.
- 13.05.1 If in the opinion of the canvass board, a mistake has been made in the return which is not clearly an error in the transfer of results from the tallies to Certificate of Results, the canvass board may recommend to the Tribal Council that a recount of results be made.
- 13.6 **ABSENTEE BALLOTS:** Absentee ballots must be postmarked and received by the administrator before the date and hour of the canvass to be counted. Ballot envelope received after that time will not be opened but will be marked "Invalid", with the date and hour of receipt noted, and will be preserved for one year with other ballots of the election.
- 13.7 **COUNTING QUESTIONED AND ABSENTEE BALLOTS:**
- 13.07.1 Questioned and Absentee ballots will be counted as follows:
- A) No ballot will be counted if the voter has failed to properly execute the certificate; or
  - B) the officer or other person authorized by law to administer the oath fails to affix his signature; or
  - C) if the voter fails to enclose his marked ballot inside the small envelope provided.
- 13.07.2 The administrator or member of the canvass board may challenge the name of an absentee voter if he has good reason to suspect that the voter is not qualified to vote, is disqualified or has voted at the same election. The person making the challenge will specify the basis of the challenge in writing.

- A) If the ballot is refused, the administrator will return a copy of the statement of the challenge to the voter.
  - B) All rejected ballots will be placed in a separate envelope with statements of challenge labeled "Rejected Ballots" and will be transmitted to the Tribal Council with the Election Certificates and other returns.
- 13.07.3 The canvass board, by majority vote, may refuse to accept the challenge and count the ballot of a person properly challenged.
- 13.07.4 If the ballot is not refused, the large envelope will be opened, the smaller inner envelope will be placed in a container and mixed with other blank absentee ballot envelopes, or in the case of counting questioned ballots, with other blank questioned ballot envelopes.
- A) The mixed smaller blank envelopes will be drawn from the container, opened and counted according to the rules of determining properly marked ballots.
- 13.07.5 The canvass board, upon completion of the canvass, will prepare a Certificate of Results of votes cast by absentee, questioned and regular ballots. The canvass board will prepare and submit a written report of the results to the Tribal Council.

#### SECTION 14: CERTIFICATION OF ELECTION

- 14.1 **TRIBAL COUNCIL DETERMINES VALIDITY OF ELECTION:** Seven (7) days following the election and completion of the canvass, the Tribal Council will meet in public session to receive the report of the election canvass board. If after considering said report, the Council determines that the election was valid, this conclusion will be declared and entered into the Minutes of the meeting together with the total number of votes for each candidate and "FOR" or "AGAINST" each proposition or question.
- 14.2 **INVALIDATING THE ELECTION:** If the election canvass board reports a failure to comply with provisions of law or Tribal Resolutions, or if illegal election practices are sufficient to change the outcome of the election, the Tribal Council may declare the entire election invalid and order a new election.
- 14.3 **RECOUNTS:** The Tribal Council may order a recount of votes if the election canvass board reports an apparent discrepancy in the returns. Such recount will be conducted immediately by election officials at the meeting of the Tribal Council.
- 14.4 **TIE VOTE:** In case of failure to elect because of a tie vote, the Tribal Council will direct the canvass board to recount the votes. If there is still a failure to elect because of a tie after the recount, the Tribal Council will direct the election be determined fairly, by lot, from among the candidates tying at this meeting of the Tribal Council.
- 14.5 **CERTIFICATION OF ELECTION TO THOSE ELECTED:** Upon certification of a valid election, the Tribal Council will direct the administrator to deliver a certificate of election, signed by the administrator and authenticated by the seal of the Ketchikan Indian Corporation, delivered to each person elected.

#### SECTION 15: ELECTION RECOUNTS

- 15.1 **APPLICATION BY CANDIDATE:** An application for a recount may be filed with the administrator no later

than 4:00P.M., seven (7) days following the election by a defeated candidate or ten qualified voters who believe there has been a mistake made by an election official or the canvassing board.

15.01.1 The application will state the reason the applicant feels a recount should be held, that the candidate or ten persons are qualified voters and notarized signatures of the candidate or ten persons.

15.2 **TRIBAL COUNCIL AUTHORIZES RECOUNT:**The Tribal Council, upon receipt of the application for recount, will appoint a recount board of three or more qualified voters to recount the ballots of said election. The rule governing the counting of marked ballots will apply (see 11.03- 11.04). The recount will be conducted in public.

15.02.1 Upon completion of the recount, the results will be certified to the Tribal Council. The Tribal Council will declare the final election results and direct the administrator to deliver a certificate of election, signed by the administrator and authenticated by the seal of the Ketchikan Indian Corporation, to each person elected.

15.02.3 The candidate or ten persons applying for the recount will pay all expenses incurred, if the recount fails to reverse any original count, or if the difference between the winning and losing vote is more than two percent.

15.3 **FURTHER APPEAL:** If a candidate or any person has reason to believe the recount is in error may appeal to the Tribal Council within ten (10) days after the Tribal Council has declared the election results. Info such action is taken within ten (10) days, the election declaration will stand.

#### SECTION 16: CONTEST OF ELECTION

16.1 **GROUND FOR CONTESTING AN ELECTION:** A defeated candidate or any ten (10) qualified voters may contest the election of any person or the approval or rejection of any proposition upon one or more of the following grounds:

16.01.1 Misconduct, fraud or Corruption of an election official sufficient to change the result of the elections; or

16.01.2 disqualification of the person under provision of the By-laws or resolution; or

16.01.3 existence of a corrupt election practice as defined by the laws of the state, sufficient to change the results of the election.

16.2 **WHO MAY CONTEST AN ELECTION:** The defeated candidate or one or more of the voters initiating a contest will deliver a written notice of contest to the Tribal Council at the Certification of Election Meeting; or with the administrator no later than 4:00P.M., seven (7) days following the election. The notice of contest will specify the election being contested, the grounds of contest and notarized signatures of the candidate or qualified voters contesting.

16.3 **TRIBAL COUNCIL'S ROLE IN CONTESTED ELECTIONS:** upon receiving a valid notice of contest, the

Tribal Council will appoint an investigation board to conduct the required investigation. The public will be allowed to attend all investigative proceedings.

- 16.03.1 After considering the investigative reports and any other evidence presented, the Tribal Council will determine whether the grounds for contest were valid and whether any illegally cast votes could have affected the election results.
- 16.03.2 If the election results would not be affected, the Tribal Council will declare the election valid.
- 16.03.3 If the contest involves other proven prohibited practices, the Tribal Council will exclude the votes. If this exclusion does not affect the election results, the Tribal Council will declare the election valid.

**SECTION 17: ELECTION COSTS**

17.1 EXPENSES:Ketchikan Indian Corporation will pay all necessary election expenses including:

- 17.01.01 securing polling place;
- 17.01.02 providing a ballot box;
- 17.01.03 ballots;
- 17.01.04 voting booths or screens;
- 17.01.05 other supplies such as pencils, etc.; and
- 17.01.06 any wages to election officials;
  - A) the Ketchikan Indian Corporation will pay each election board member ten dollars (\$10.00) per hour for time spent at election duties, including receiving instructions.
  - B) The election board chairman and members of the canvass board will be paid twelve dollars (\$12.00) per hour for time spent at election duties.

**SECTION 18: PRESERVATION OF ELECTION BALLOTS, PAPERS & MATERIALS**

The administrator will preserve all election certificates, petitions, registers, all voted ballots and nominating petitions filed for one year after the election. These election materials will then be forwarded to the Bureau of Indian Affairs. Certificates of the canvass board are to be preserved as permanent records of the Ketchikan Indian Corporation and a copy forwarded to the Bureau of Indian Affairs.

**SECTION 19:SEATING NEWLY ELECTED COUNCIL MEMBERS**

19.1 SWEARING IN NEW MEMBERS: At the Public Meeting (14.01), following the canvass board’s report to the

Tribal Council and providing there are no disputes over the Election Results, the Tribal Council will swear in and seat the newly elected members.

- 19.2 AGENDA: Election Results
- Acceptance by Tribal Council Swearing
- In of New Council Members
- Announcement of Next Meeting

SECTION20: SEVERABILITY

If any part of this Ordinance is held to be invalid, the remainder shall continue to be in full force and effect.

SECTION21: REFERENDUM

Upon adoption of this Ordinance by the Ketchikan Indian Corporation Tribal Membership, this document may not be added to or in any other way changed, except by the Tribal members in a Referendum vote at the Annual Election.