

TITLE 11

ELECTIONS

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TITLE 11
ELECTIONS
Chapter 11.01 Elections

11.01.01 Purpose

This chapter shall govern all elections under the Port Gamble S'Klallam Constitution.

[HIST: Source - Resolution No. 79 A 22, passed 3/19/79.]

11.01.02 Date of Elections

Regular elections for members of the Port Gamble S'Klallam Tribal Council shall be held yearly on the second Monday of July, unless the Independence Day holiday weekend interferes, in which case the election shall be held the following Monday. If there is a tie between the two candidates receiving the highest number of votes, a run-off election for that position shall be held two weeks following the election. Elections other than elections of members of the Tribal Council shall be held as necessary.

[HIST: Source - Resolution No. 79 A 22, passed 3/19/79. Amended by Resolution 07-A-127, passed 12/11/07 to change elections from the first Monday to the second Monday of July, and to clarify if there is a tie between two candidates (as opposed to no candidate receiving a majority vote), a run off for the position will be held.]

11.01.03 Eligible Voters

Only members who are over the age of eighteen (18) years of age and who have registered to vote shall be eligible to vote in tribal elections. Except as provided in section 11.01.05, all persons voting in tribal elections must do so by presenting themselves in person at a designated polling place and signing or marking the voter registration list.

Any person who appears at a polling place to vote and who is not personally known as a member of the Port Gamble S'Klallam Tribe to the Election Committee members present must show acceptable identification and proof of membership in the Port Gamble S'Klallam Tribe before he or she may be given a ballot.

[HIST: Source - Resolution No. 79 A 22, passed 3/19/79.]

11.01.04 Registration of Voters

The following requirements shall apply to the registration of voters:

- a) In order to vote in a particular election, a voter must first register to vote. A person may register to vote at any time, including election day, prior to the time he or she votes. Once a person has registered, he or she may keep the registration valid and current by voting once each year.
- b) Registration shall be accomplished by completing a registration card and filing it with the Election Committee. The registration card shall contain the name, address, and birth date of the person desiring to register; Port Gamble S'Klallam enrollment number; the date of registration; signature of the voter and any other information the Election Committee may require. Voter registration cards shall be kept by the Election Committee.
- c) The Election Committee shall check the registration card against the list of tribal members and verify that the person registering is a tribal member before adding his or her name to the list of registered voters.
- d) The Election Committee shall maintain a list of registered voters.

[HIST: Source - Resolution No. 79 A 22, passed 3/19/79. Amended by Resolution 07-A-127, passed 12/11/07 to change validation of registration is maintained by voting annually, and to require providing the voter's enrollment number on the registration]

[Cross Reference: Constitution of the Port Gamble S'Klallam Tribe, Article III, section 4, provides, "Thirty percent (30%) of the registered voters shall constitute a quorum. The number of registered voters for the purpose of this section shall be determined by calculating the average number of persons who voted in the last three Tribal Council elections."]

11.01.05 Absentee Voters

The following requirements shall apply to absentee voters and ballots:

- a) All persons wishing to vote by absentee ballot shall notify the Election Committee of the request no later than one (1) week prior to an election day. The Election Committee may not accept absentee ballot requests that are submitted less than one (1) week before an election day. Absentee ballots shall be requested personally by the voter; no requests for absentee ballots shall be honored from relatives or others purporting to act on behalf of the voter.
- b) The Election Committee shall mail, or deliver in person, absentee ballots to all voters who have made timely application for them.
- c) Persons voting by absentee ballot shall i) deliver their ballots to the Election Committee no later than 7:00 p.m. on election day, or ii) mail their ballots to the Election Committee. If the ballot is mailed, it must be received by 7:00 p.m. on election day.

- d) The Election Committee shall count all absentee ballots and include the votes so counted in the general election tally after the polls close on election day.

[HIST: Source - Resolution No. 79 A 22, passed 3/19/79. Amendments - Resolution No. 84 A 03, passed 2/14/84, amended this section by repealing the requirement that absentee voters state the grounds for the request. Amended by Resolution 07-A-127, passed 12/11/07 so no one other than the voter can request an absentee ballot; to extend the deadline for returning absentee ballots from the Saturday to the Sunday before elections, to require absentee ballots to be returned by 7:00 PM on election day; and to require tally of the votes immediately following poll closure. Resolution No. 20 A 063, passed 7/14/20, amended this section to require persons to request an absentee ballot at least one (1) week before an election day.]

11.01.06 Notice of Elections

Notice of elections shall be published in the Port Gamble S'Klallam Community newsletter and posted in the tribal center and other appropriate public places on the Port Gamble S'Klallam Reservation. Notice of regular elections of officers shall be published and posted at least three weeks before the scheduled date of elections. Notice of run-off election shall be published and posted at least one week before its scheduled date. Notice of other elections shall be published and posted at least two weeks prior to their scheduled dates. Each notice shall include the names of all candidates and the positions they seek, a statement of the issue or issues to be voted on, the location of polling places and the hours when polls will be open. It shall be the duty of the Election Committee to publish all such notices.

HIST: Source - Resolution No. 79 A 22, passed 3/19/79. Amended by Resolution 07-A-127, passed 12/11/07 to remove reference to referendums and to change "offices" to "positions".]

11.01.07 Election Committee

The Election Committee shall be appointed by the Tribal Council and shall consist of at least five (5) tribal members. The Tribal Council shall select members of the Election Committee who, as a group, are fairly and reasonably representative of the community. The members must be eligible voters and may not be candidates for any tribal office or current members of the Tribal Council. In addition to being responsible for publishing the notices required by 11.01.06, the Election Committee shall be responsible for making up ballots, maintaining a list of all registered voters, managing the electronic voting process, and carrying out all other duties necessary for the efficient and proper administration of this chapter. The Tribal Council may appoint the Enrollment Committee to serve as the Election Committee, provided that any member of the Enrollment Committee who is a member of the Tribal Council or who is a candidate for Tribal Council is ineligible to serve at the same time on the Election Committee.

[HIST: Source - Resolution No. 79 A 22, passed 3/19/79. Amendments - Resolution No. 84 A 03, passed 2/14/84, amended this section, "The Business Committee shall select members of the Election Committee who, as a group, are fairly and reasonably representative of the community". The Business Committee made this amendment to reflect the custom and practice of selecting Election Committee members from each of the main families on the reservation. Under the amended section, the discretion of choosing the Election Committee members remains in the sound judgment of the Business Committee. Amended by Resolution 07-A-127, passed 12/11/07 to remove potential conflict of interest provisions by prohibiting current members of Council from serving on the Committee; and by requiring at a minimum of five tribal members to serve on the Committee. Resolution No. 20 A 063, passed 7/14/20, amended this section to include mention of the electronic voting process.]

11.01.08 Selection and Certification of Candidates

The following requirements apply to the selection and certification of candidates:

- a) All candidates for tribal office must be members and eligible voters of the Port Gamble S'Klallam Tribe. At least thirty (30) days prior to each regular election, a person desiring to be a candidate must file a written statement with the Election Committee declaring his or her intention to run for a particular office.
- b) No person shall be a candidate for more than one (1) office in each annual election.
- c) The Election Committee shall determine whether each candidate meets the age and tribal membership requirements, and shall accordingly either certify or deny certification to each candidate. The Election Committee shall immediately notify each person who is denied certification. A person who is denied certification for candidacy may appeal to the Tribal Council within five (5) days of his or her notification of denial. The Tribal Council shall grant a hearing and review each appealed denial, and shall either affirm the decision of the Election Committee or certify the candidate. The Tribal Council shall hold the hearing and make a decision in time for the person's name to be added to the list of candidates, if appropriate, no later than one week before the election.
- d) The Election Committee shall add to the list of candidates the names of candidates who have been certified after appeal to the Tribal Council, and no later than one week before the election shall publish and post the list in the same places as the original notice of election was published and posted.

[HIST: Source - Resolution No. 79 A 22, passed 3/19/79. Amended by Resolution 07-A-127, passed 12/11/07 to require candidates submit written intents to run and eliminating the possibility a candidate could be nominated by the General Council at a special meeting called for that purpose; and to remove all reference to "Business Committee" and to reflect the appropriate name as "Tribal Council".]

11.01.09 Term of Office

Members of the Tribal Council shall serve a two year term from the date their election is certified by the Election Committee to the date the election of their successors is certified by the Election Committee. Terms shall be staggered as set forth in the Constitution.

[HIST: Source - Resolution No. 79 A 22, passed 3/19/79. Amended by Resolution 07-A-127, passed 12/11/07 to reflect the New Constitution which requires two year staggered terms.]

11.01.10 Ballots

Ballots may be either in paper or electronic format. Electronic voting shall occur only at the tribal polling place. The following requirements shall apply to ballots:

- a) Ballots shall list all candidates for each Tribal Council position separately and their names in alphabetical order. Voters shall indicate their choice by an "X", by check mark, or by other clear mark. Below the list of candidates for each office, the ballot shall contain a blank space where the voter may write in or type the name of another person in place of the listed candidates. Instructions for marking the ballot shall appear clearly at the top. Voters shall be instructed to vote for no more than one candidate for each office. Voting for more than one candidate for any one position shall invalidate that particular vote.
- b) Ballots for constitutional amendments, advisory votes and other elections, not including elections for Tribal Council members, shall clearly state the issue or issues to be voted on. After each issue there shall be a space or box labeled "FOR" or "YES", and one labeled "AGAINST" or "NO" in which the voter may indicate his or her vote. Instructions for marking a paper ballot shall appear clearly at the top. Instructions for marking an electronic ballot shall appear clearly at the start of the voting process.

[HIST: Source - Resolution No. 79 A 22, passed 3/19/79. Amended by Resolution 07-A-127, passed 12/11/07 to invalidate a vote if more than one candidate is voted for in any one position on that particular vote, and to reflect Constitution amendments, advisory votes and other elections are established in the New Constitution. Resolution No. 20 A 063, passed 7/14/20, amended this section to allow for electronic voting by removing specific requirements that ballots must be marked with an "X" and modifying where instructions should be on a paper vs. an electronic ballot.]

11.01.11 Polls and Polling Regulations

The following requirements apply to the polls:

- a) Polls shall be set up at the S'Klallam Tribal Center on the Port Gamble S'Klallam Indian Reservation and at any other public place on the reservation designated by the Election Committee.
- b) Polls shall be open from 8:00 A.M. to 7:00 P.M. on the day of the election.
- c) No fewer than two (2) members of the Election Committee shall be at each polling place at all times during the hours when the polls are open.
- d) If by reason of blindness, illiteracy, or some other reason a voter is unable to read and mark the ballot unaided, assistance may be rendered by a member of the Election Committee or by a person of the voter's choice, witnessed by a member of the Election Committee.
- e) No person shall campaign for particular candidates or otherwise attempt to persuade or influence voters in the polling places, on or in any tribal building and associated grounds and parking areas or within 200 feet of the polling places.
- f) Each voter shall receive, mark, and return, or submit electronically, no more than one ballot. No voter shall place on the ballot his name or any other mark identifying his ballot. No voter shall display his ballot when marked or otherwise publicize or indicate his vote to persons in the polling place. Every voter shall return his ballot to the appropriate official, submit electronically at the tribal polling place, or place it in the designated receptacle before leaving the polling place.

[HIST: Source - Resolution No. 79 A 22, passed 3/19/79. Amended by Resolution 07-A-127, passed 12/11/07 to close the polls one hour earlier to recognize the Committee is mostly elders and to allow time to tally the votes; and to prohibit campaigning on or in the tribal buildings and associated grounds during polling hours. Resolution No. 20 A 063, passed 7/14/20, amended this section to allow for electronic voting by allowing a voter to return a ballot by submitting it electronically at the tribal polling place.]

11.01.12 Counting of Ballots

Members of the Election Committee shall count the paper ballots and print out and tally the electronic voting results immediately following the close of the polls. No other person shall participate in the counting of the ballots. All members of the Election Committee who are present shall witness the counting of each ballot and shall review the electronic voting results. Each member shall keep a record of the count. Any disparity shall be resolved immediately by counting again. As soon as practicable, the Election Committee shall certify the election results in writing to the General Council. Any candidate may, by written request to the Election Committee, obtain a recount when in the opinion of the Election Committee a vote is so close as to justify a recount or there is some

evidence of irregularity sufficient to justify a recount. Any request for a recount shall be made no later than 48 hours after the close of the polls.

[HIST: Source - Resolution No. 79 A 22, passed 3/19/79. Amended by Resolution 07-A-127, passed 12/11/07 to require all members of the Committee to witness and document ballots and to submit a report to General Council; and requires any disparity to be resolved immediately. Resolution No. 20 A 063, passed 7/14/20, amended this section to include language to allow for the counting of electronic votes.]

Chapter 11.02 Recall of Tribal Council Members

11.02.01 Grounds for Recall

Tribal Council members shall be subject to recall only for cause. The following are sufficient grounds for recall:

- a) The commission of an unlawful act or any wrongful conduct affecting the performance of official duties, or
- b) Performance of an official duty in an improper manner.

[HIST: Source - Resolution No. 84 A 03, passed 2/14/84. Amended by Resolution 07-A-127, passed 12/11/07 to change references from Community Council Offices to Tribal Council Members.]

11.02.02 Starting a Recall

Recall proceedings shall be initiated by preparing a typed charge against the Tribal Council member. The charge must contain the following information to be valid:

- a) The name of the Tribal Council member and the title of his or her office;
- b) A statement of the acts complained of, giving a detailed description including the date, location, and nature of each act; and
- c) The signatures of five members of the Tribe who state, under oath before the Judge or Judicial Officer of the Tribe that they have personal knowledge that believe the contents of charge are true.

[HIST: Source - Resolution No. 84 A 03, passed 2/14/84. Amended by Resolution 07-A-127, passed 12/11/07 to require personal knowledge that the contest are true instead of requiring a belief that the contents of the charge to be true.]

11.02.03 Filing the Charge

The charge shall be filed with the Clerk of the Community Court, or the Judge or Judicial Officer of the Port Gamble S'Klallam Tribe.

[HIST: Source - Resolution No. 84 A 03, passed 2/14/84]

11.02.04 Determining Whether the Charge is Valid

Upon filing the charge, the Judge or Judicial Officer shall review it to determine: 1) whether it meets the requirements of section 11.01.02, and 2) whether the acts complained of, if taken as true, constitute grounds for recall under section 11.02.01. If both criteria set forth above are met, the Judge or Judicial Officer shall, within ten (10) days of filing, prepare a statement to be placed on the petitions and ballots including the name of the Tribal Council member, his or her position and a concise statement of the charge. If the charge is deficient, the Judge or Judicial Officer shall so notify the persons making the charge.

[HIST: Source - Resolution No. 84 A 03, passed 2/14/84]

11.02.05 Petitions

The Clerk of the Community Court shall prepare petitions with the statement prepared under section 11.02.04 on the top of each. The petitions shall then be made available to the persons making the charge. The persons making the charge shall have not more than 30 days to gather signatures of one third of the registered voters of the Port Gamble S'Klallam Tribe. The petitions must then be submitted to the Election Committee who shall determine whether the signatures are valid. Failure to gather the valid signatures of one third of the registered voters shall result in the invalidation of the recall process.

[HIST: Source - Resolution No. 84 A 03, passed 2/14/84]

11.02.06 Recall Election

If the Election Committee determines that the petitions contain enough valid signatures under section 11.02.05, it shall call a special election within 30 days of that determination. The special election shall be governed by the procedures set forth in section 11.01.03 (eligible voters), 11.01.04 (registration of voters), 11.01.05 (absentee voters), 11.01.06 (notice of elections), 11.01.07 (election committee), 11.01.11 (polls and polling regulations), and 11.01.12 (counting ballots). Ballots shall have the name of the Tribal Council member, his or her position, a statement of the charges as prepared by the Judge or Judicial Officer and a brief statement of the consequences of a recall.

[HIST: Source - Resolution No. 84 A 03, passed 2/14/84]

11.02.07 Results of Election

If a majority of all votes cast in the recall election is for the recall of the Tribal Council member charged, the office shall be declared vacant. An election shall be called to fill the vacancy. The election shall be called as soon as practicable, and shall be governed by the procedures set forth in sections 11.01.03, 11.01.04, 11.01.05, 11.01.06, 11.01.07, 11.01.08, 11.01.10,

11.01.11, and 11.01.12. The term of office for those candidates who successfully fill a vacancy shall be the same as the term of the Tribal Council member they replace. The person who was recalled shall not be eligible to be a candidate in an election to fill the vacancy.

[HIST: Source - Resolution No. 84 A 03, passed 2/14/84. Amended by Resolution 07-A-127, passed 12/11/07 to require an election for a vacancy, whereas previously a recalled position would have been filled by the non-voting council member, and now disallows a recalled member from being eligible to fill the vacancy.]

Chapter 11.03 Constitutional Amendments

11.03.01 Proposing a Constitutional Amendment- Two Meetings and an Election Required

- a) An amendment to the Port Gamble S'Klallam Constitution may be proposed at any regular or special meeting of the General Council, at which a quorum is present. The proposal must be submitted in writing, and within the time limits set forth for inclusion on the General Council agenda.
- b) Once an initial proposal has been considered at a General Council meeting, it may be acted upon at the next semi-annual General Council meeting, at which a quorum is present. The proposal must again be submitted in writing, and within the time limits set forth for inclusion on the General Council agenda.
- c) If approved by a majority of those present, voting by a ballot vote, at the second General Council meeting, the Tribal Council shall call an election upon the proposed amendment, under procedures set forth under this Title.

[HIST: Source - Resolution No. 07-A -27, passed 12/11/07 to add new section reflecting the New Constitution.]

11.03.02 Thirty Percent of Registered Voters Required.

The Port Gamble S'Klallam Constitution may be amended by a majority vote of the eligible voters of the General Council, who vote at an election called by the Tribal Council, for the purpose; provided, that at least thirty percent (30%) of the registered voters, cast votes in such election. The number of registered voters for the purpose of this section shall be determined by calculating the average number of persons who voted in the last three Tribal Council elections.

[HIST: Source - Resolution No. 07-A -27, passed 12/11/07 to add new section reflecting the New Constitution.]

Chapter 11.04 Initiatives [Reserved]

Constitution Sections for Reference:

ARTICLE VII -- AMENDMENTS

Section 1. This Constitution may be amended by a majority vote of the eligible voters of the General Council, who vote at an election called for the purpose; provided, that at least thirty percent (30%) of the registered voters cast votes in such election.

Section 2. At any regular or special General Council meeting, amendments to this Constitution may be proposed to be acted upon at the next semi-annual General Council meeting. If approved by a majority vote at such meeting, the Tribal Council shall call an election upon the proposed amendment, under procedures set forth under Tribal Law.

- E. Exercise the power of legislative initiative under procedures set out under Tribal Law.
- F. Exercise the power of recall of Tribal Council members under procedures set out under Tribal Law.

Section 2. Elections and Term of Office.

- A. Tribal Council elections shall be held in July each year under procedures set forth under Tribal Law.