



Resolution 2026-02-004
Amend 2016-04-010 Election Ordinance Revisions

Approved February 5th, 2026

- WHEREAS** the Samish Indian Nation was federally re-acknowledged by the Assistant Secretary of the Department of the Interior of the United States of America on April 6, 1996;
- WHEREAS** the Samish Tribal Council is empowered to act on behalf of the Samish Indian Nation pursuant to Article VI, Section 2, of the Samish Tribal Constitution, approved November 14, 2003, by Resolution of the Samish Tribal Council and adopted and ratified by Vote of the Samish General Council on March 2, 2004, and recognized by the Assistant Secretary for Indian Affairs, David W. Anderson on April 20, 2004;
- WHEREAS** the health, safety, welfare and education of the citizens and family members of the Samish Indian Nation is the responsibility of the Tribal Council of the Samish Indian Nation;
- WHEREAS** the Tribal Council Ethics Ordinance, § 2.605(e), and the Samish Constitution, Art. VI, Sec. 4(c)(4) provide that Tribal Council members may not serve in office if they have been convicted of a felony offense;
- WHEREAS** in accordance with the Tribal Council Ethics Ordinance and the Samish Constitution, the Samish Elections Ordinance should be updated to require candidates to submit background checks;
- WHEREAS** the Samish Tribal Council has updated the Elections Ordinance in such a manner, with a redline version attached hereto as Attachment A and a clean version as Attachment B;

THEREFORE BE IT RESOLVED by the Samish Tribal Council:

1. Resolution 2016-04-010 is amended to:
2. Approving and authorizing the updated Elections Ordinance as attached.

SAMISH TRIBAL COUNCIL

By:



Thomas D. Wooten
Tribal Council Chairman

CERTIFICATION

The above resolution was duly adopted by the Samish Tribal Council on the 5th day of February, 2026, at which time a quorum was present, by a vote of:
7 FOR, 0 AGAINST, 0 ABSTAIN.

Certified

by:



Nicole M. Smith
Tribal Council Secretary

Ordinance
Samish Tribal Code Chapter 2.02
Elections

Contents

2.02.010 General Provisions	2
(1) Purpose and Authority	2
(2) Election Board.....	2
(3) Qualification of Voters	4
(4) Conduct of Tribal Council Elections	5
(5) Voting Procedure.....	6
2.02.020 Tribal Council	8
(1) Candidates.....	8
(2) Tribal Council Offices Up for Election; Term of Office.....	10
(3) Certification of Election	11
(4) Oath of Office	11
(5) Tribal Council Members as Employees.....	11
2.02.030 Referendum and Initiative Elections.....	12
(1) Referendum or Initiative Petition	12
(2) Petition Requirements	12
(3) Filing of Petition.....	13
(4) Certification of Petition.....	13
(5) Presentation of Petition to Tribal Council	13
(6) Circulation of Petition	13
(7) Validation of Petition	13
(8) Referendum Election	14
(9) Adoption of Referendum or Initiative.....	15
(10) Effective Date of Measure	15
2.02.040 Recall of Tribal Council Member.....	15
(1) Initiation of Recall of Tribal Council Member	15
(2) Recall Election.....	16
(3) Results of Recall Election.....	17
2.02.050 Expulsion of a Tribal Council Member	17
(1) Expulsion.....	17
(2) Notice	17

(3) Opportunity to be Heard.....	17
(4) Grounds for Expulsion.....	17
(5) Decision and Effective Date.....	18
(6) Filling of Vacancies in Tribal Council.....	18
(7) Conflict of Interest.....	18
2.02.060 Ballot Counting, Recount Request and Appeals	18
(1) Ballot Counting.....	18
(2) Recount Requests.....	18
(3) Appeals.....	18

2.02.010 General Provisions

(1) Purpose and Authority

The purpose of this ordinance is to provide for elections as required by Article VIII of the Samish Constitution, originally approved by the Samish Tribal Council on August 10, 1974, and adopted and ratified by the Samish General Council on June 29, 1975 and as amended by the Samish Tribal Council and adopted and ratified by the Samish General Council on March 2, 2004.

(2) Election Board

(a) Authority of the Election Board

The Election Board shall implement all elections conducted pursuant to the authority of the Samish Constitution. The Election Board shall perform other duties set out for it in this Ordinance.

(b) Qualifications; Selection; Term of Office; Compensation; Removal and Vacancies

(i) Qualifications

Election Board members must be eligible to vote in tribal elections in order to serve on the Board. No more than one member of the Election Board shall be from any one recognized Household. The following persons are not eligible to serve the Election Board: current members of the Tribal Council; anyone who resides in the household of a member of the Tribal Council; anyone who plans to seek election to the Tribal Council during his or her term of service on the Election Board; anyone who resides with a candidate for Tribal Council; and, tribal employees and anyone whose parent, brother, sister, child, or grandparent is a candidate for Tribal Council.

Tribal employees may not be assigned any duties which relate to the direct running of a tribal election, other than coordination with Election Superintendent for publication of election timelines in the newsletter, contracting with external Election Vendor, and ensuring Constitution and Ordinance timelines are communicated to all parties.

Election Board members must also submit to a criminal history background check, including fingerprinting, before beginning service on the Election Board. The Election Board members

shall submit to fingerprint background checks through the Samish Human Resources Department and in the same manner as tribal employees.

(ii) Selection

The Election Board shall consist of at least three members appointed by the Tribal Council including one member to serve as the Superintendent of the Election and Board. At the Council's meeting in March of each election year, the Council shall review the terms of the Election Board and appoint new members if necessary.

(iii) Term of Office

Election Board members shall each serve a four-year term from the date of appointment and may be removed only for cause.

(iv) Conflict of Interest

Election Board members must abide by the highest standards of conduct in fulfilling their duties and responsibilities as members of the Election Board. They shall carry out their duties and responsibilities in the highest ethical manner. They shall maintain high standards of honesty, integrity, fairness and impartiality in carrying out their duties and responsibilities and shall avoid any actions in their role as Election Board members which would adversely reflect on the Election Board or the integrity and fairness of the election process.

(v) Compensation

Election Board members shall be reimbursed for mileage and other expenses incurred in connection with their official duties. At the discretion of the Tribal Council, the Election Board members may be compensated further for their services.

(vi) Performance of Duties; Removal

Upon accepting the appointment, each member shall sign an oath, which shall become part of the election records, stating that he or she will serve according to the best of his or her ability and shall make every effort to prevent fraud or abuse of the election process. Failure to perform the duties of the Board as set forth in this Ordinance or any other misconduct shall be grounds for immediate dismissal by the Tribal Council.

(vii) Vacancies

In the event of a vacancy on the Election Board, the Tribal Council shall appoint a qualified replacement for the remainder of the term of service.

(c) Duties of the Election Board

The Election Board shall monitor and oversee the conduct of tribal elections within the jurisdiction of the Samish Indian Nation. The Election Board may work with a third-party vendor to conduct the election and utilize voting technologies available to facilitate the fair and efficient administration of the election. The Election Board, or third party vendor under supervision of the Election Board, shall count the ballots in a designated room where counting can be done efficiently and quietly; when the time for voting has expired, shall certify the results of the election; and shall swear in newly elected members of the Tribal Council. The Election Board's duties shall include the following specific actions:

- (i) Certify from time to time and as necessary the list of adult tribal members eligible to vote;
- (ii) Publish the date of the election and the rules related to candidates and announce such date and rules in a General Council newsletter sufficiently in advance of the election to notify all interested tribal members so that candidates can meet the time deadlines in this ordinance;
- (iii) Review candidate's statements as provided in STC 2.02.020(1)(c), and publish a voters pamphlet as provided in STC 2.02.020(1)(e);
- (iv) Approve the form of ballots prepared for the election;
- (v) Facilitate the preparation, mailing and return of mail-in ballots, witness the Enrollment Clerk certify that voters' addresses are correct, and see that ballots are mailed out thirty days in advance of their due date.
- (vi) Conduct in-person voting at the annual Samish General Council meeting, and at other elections as scheduled;
- (vii) Review and approve any election procedures;
- (viii) Implement the disposition of challenged and rejected ballots at the conclusion of tribal voting;
- (ix) Implement the Superintendent's rulings on challenges to the conduct of the election, including defaced ballots, the issuance of new ballots, and failure to vote at the conclusion of tribal voting;
- (x) Count the ballots at the conclusion of tribal voting;
- (xi) Certify the results of the election after the conclusion of voting at the annual General Council meeting;
- (xii) Swear in new Tribal Council members upon the certification of the annual Tribal Council election, at the conclusion of the annual General Council meeting, in a special Tribal Council meeting called by the Tribal Council;
- (xiii) Implement the verification of in-person voters with Tribal Card and Photo ID, and verify signatures of mail-in ballots returned to the Tribe in timely fashion;
- (xiv) Receive and verify candidate, recall, and initiative/referendum petitions on behalf of the Tribal Council Secretary;
- (xv) Implement other matters directly related to the conduct of tribal elections.

(3) **Qualification of Voters**

(a) Who May Vote

Any enrolled member of the Samish Indian Nation who will be 18 years of age or older on the date of a scheduled tribal election shall have the right to vote in a tribal election.

(b) Voters List

The Tribal Enrollment Officer shall update the current list of qualified voters 3 months prior to a Tribal Council election, provide a copy of said list to the Election Board prior to mailing out mail-in ballots, and provide an updated list to the Election Board no later than 5 p.m. on the Thursday before the scheduled election day. The Election Superintendent must witness the Tribal Enrollment Officer's preparation of list of qualified voters. Addresses of voters should be verified by the Enrollment Officer at this time. One copy of all election records including relevant communications and correspondence shall be retained by the Superintendent of the Election for 15 days following each tribal election, returned to Archivist, and destroyed after six months.

(4) Conduct of Tribal Council Elections

(a) Notice

The date of the election and the rules related to candidates shall be published in the tribal newsletter and posted at the Tribal Offices sufficiently in advance of the election to notify all interested tribal members so that candidates can meet the time deadlines provided for in this ordinance. The date of Tribal Council elections shall be the date of the annual General Council meeting which is on the last Sunday of June in even-numbered years, and the polls will be open that day from 8 a.m. to 12 p.m.

(b) Ballots

- (i) The Election Board shall coordinate the preparation of the ballot and approve the final ballot prior to the ballot being printed. The names of the certified candidates shall be in an alphabetical order. The ballot shall contain the following instructions:

YOU MAY VOTE FOR ONE (1) CANDIDATE FOR EACH TRIBAL COUNCIL POSITION LISTED. PLACE AN "X" BY THE NAME OF EACH PERSON YOU WISH TO VOTE FOR. YOU MAY NOT GIVE ANY CANDIDATE MORE THAN ONE (1) VOTE. ANY BALLOT WITH MORE THAN 1 VOTE FOR A SINGLE TRIBAL COUNCIL POSITION SHALL BE INVALID! WRITE-IN CANDIDATES ARE NOT ALLOWED AND THE INCLUSION OF A WRITE-IN CANDIDATE'S NAME SHALL INVALIDATE YOUR BALLOT. IF YOU NEED ASSISTANCE, THE ELECTION BOARD WILL HELP YOU.

- (ii) Official ballots shall be printed on white paper with black ink, in BOLD letters and use 14-point size font on the entire ballot. Ballots shall also be numbered and bar-coded. Sample ballots may be printed on colored paper and shall be clearly labeled "sample ballot" and shall not be counted if placed in the ballot box. The vote will be conducted by both mail-in voting and in-person voting, which shall take place on the day of the election at the General Council meeting.
- (iii) Whenever election activities under this Ordinance are conducted, all members of the Election Board shall be present. No persons, other than Election Board members operating in their official supervisory capacity or an independent third party, shall remain or loiter in the voting area when voting is taking place, mail-in ballots are being processed, or votes are counted. In the case of an emergency, if at least two Election Board members are not available, the Tribal Chairman shall appoint and swear in acting Election Board members to conduct the election. The Election

Board shall have authority to remove any person from the premises who violates this provision.

- (iv) Two persons from the Election Board, or the third party contractor hired by the Superintendent with the consent of the Tribal Council, shall at all times control and oversee and call the vote, handle sign in and hand out of ballots and oversee placement of ballots in ballot box.

(5) Voting Procedure

Voters may cast their ballots by mailing it, casting it in person on the day of the Election, or delivering or causing the completed ballot to be brought to the polling place on the day of the Election. The polling place at the General Council Meeting will be the only location where tribal members will be able to vote in person. As used in this Ordinance, the term “mail-in” includes delivery of a ballot through the United States Postal Service or hand delivery of ballots to the Election Board polling location prior to the close of the polling place on election day.

(a) Mail-in voting.

- (i) Distribution of mail-in ballots. Mail-in ballots will be mailed to tribal members on the list of qualified voters 30 days before the scheduled date of the tribal election. Each tribal member eligible to vote and who has a valid current address at the time of the mailing will be mailed a mail-in ballot. The date or dates of mailing a mail-in ballot shall be logged by the Election Board or third-party vendor.
- (ii) Voting Procedure. Mail-in ballots must be physically received at the Election Board’s designated location by close of business on the Saturday before the General Council meeting or by the date and time set by the Election Board for other elections under this ordinance. Ballots that are not mailed must be received by the Election Board no later than the time set for the polls to close on the day of the election.
- (iii) Casting Vote. When voting, the mail-in voter shall mark the ballot and place it in the inner envelope and seal it. The inner envelope shall then be placed in the outer envelope and sealed. The outer envelope shall then be signed by the voter. The outer envelope shall then be returned by mail to the Election Board in the return envelope to the PO Box approved by the Election Board. The Election Board shall publicize this address to tribal voters and shall include this address on the return envelope.
- (iv) Collection of Mail-in Ballots. All mail-in ballots will be collected by the Election Board on the Saturday before election day at close of business, time to be updated and posted bi-annually in election materials. The Election Board shall collect ballots from the PO Box and deposit them in the ballot box prior to in-person voting on Election day. As possible, the Election Board shall verify signatures on mail-in ballots before depositing them in the ballot box. On election day, the Election Board will count the mail-in ballots along with ballots cast in person at the polling place.

(b) In-person voting.

- (i) Exclusion of public. No person other than Election Board members acting in their official capacity or third-party vendor representatives shall remain or loiter in the voting area when in-person voting is taking place,

or when mail-in ballots are being processed. The Election Board shall have authority to order the removal of any person from the premises who violates this provision.

(ii) Voting Procedure. One Election Board member shall verify the identity of in-person voters while another Election Board member shall hand out ballots and supervise the ballot box.

(A) The in-person voter shall provide proof of identity a member of the Election Board. The Election Board member shall verify the person's identity and shall confirm that the individual has not already cast his or her ballot. If the voter is unable to sign his or her name, the Election Board member, after verifying the identity of the person, shall write "unable to sign" by the voter's name. After verifying the individual is eligible to vote, a ballot will be provided to the individual. The voter shall then mark the ballot in a private area designated by the Election Board. The voter may receive assistance from the Election Board in voting if he or she requests. The voter shall deposit the ballot in the locked ballot box.

If the voter accidentally makes a mistake on or destroys his or her ballot, a new ballot shall be issued to the voter only upon return of the spoiled ballot, with the correction noted in the records. The spoiled ballot shall be retained in the rejected ballot box and "spoiled" shall be written on it. The spoiled ballot shall be segregated by the Election Board in the rejected ballot box, and shall be destroyed along with the other ballots at the conclusion of the election process after all challenges have been resolved, or after all appeals, if any, have been completed.

(B) Hand-delivered ballots. Ballots in external envelopes with tribal member signatures may be hand delivered to the polling location, with the signatures verified if possible, and placed in the ballot box.

(c) Counting Returns.

(i) Immediately after the poll closes, the Election Board shall secure the ballot box in a place where tampering cannot take place. No ballots shall be counted until the official count takes place. Immediately after the polls are closed at 12 p.m., the Election Board will count the ballots cast in the election. The Board must validate that each ballot was cast by verifying the identity of the person who cast each ballot based on the signature on the ballot. The term "signature" as used in this ordinance may include a unique electronic identifier assigned to each eligible tribal voter. In the event that the voter's signature cannot be verified, the Board shall reject the ballot, place it in the rejected ballot box and shall not count it.

(ii) After the procedures related to rejected ballots as set forth in STC 2.02.010(5) have been completed, and any challenges to rejected or spoiled ballots have been resolved, the Election Board shall count the votes cast in a separate room, subject to the provisions of STC 2.02.060(1).

- (iii) The Election Board shall review and certify the results of the election once the vote count has been completed, and notify the Tribal Council that the returns are ready to be reported. The Superintendent will announce the results at the General Council meeting and cause the results to be posted in a public place. Recount requests must be made according to STC 2.02.060(2) and must be made after the results of the election are certified, but before the winning candidates are sworn in. Winning candidates shall take office in accordance with STC 2.02.020(4). Ballot measures shall take effect in accordance with STC 2.02.030(10).
- (d) Rejected Ballots
 - (i) For purposes of this subsection the term “challenge” means the dispute, by a tribal voter at the General Council meeting, of the rejection of a mail-in ballot by the Election Board.
 - (ii) Immediately upon the closing of the polls and before the ballots are counted, the Election Board shall open the rejection box and allow any interested tribal voter to challenge the rejection of a mail-in ballot. A challenge shall be resolved at the time it is made.
 - (iii) If the result of a challenge is that a rejected ballot is valid, the outer envelope shall be opened, and the inner envelope deposited in the main in ballot box in the same manner as other mail-in ballots.
 - (iv) Unchallenged rejected ballots shall remain unopened and be destroyed after the election has been certified and the 15-day timeline for filing an appeal of the election has run, except that if an appeal is filed, the rejected ballots will be destroyed at the conclusion of the appeal. The decision of the Election Board as to rejected ballots shall be final, subject to an election appeal to the Tribal Court.
- (e) Destruction of ballots. All ballots cast in an election will be destroyed after the election has been certified and either the time for appeal has passed, or all appeals, if any, have been completed.
- (f) Certification of the Election. The Election Board shall certify the results of the election as follows. When the votes in all valid ballots have been counted and the Election Board verifies that the vote count is accurate, and any recount has been completed, the Election Board shall deliver its certification of the election to the Tribal Council.
- (g) Tie Vote. In the event of a tie vote in an election for Tribal Council, the winner will be determined by flipping a coin under the supervision of the Election Board. Heads or Tails may be called by the candidate with the oldest birthdate.

2.02.020 Tribal Council

(1) Candidates

(a) Qualifications

Any duly enrolled member of the Samish Indian Nation who will be 21 years of age or older on the date of the election and whose primary residence is within the State of Washington may run for office. No more than one member of a household may run for

office in any one year. If two members of a household file to run for office and one does not voluntarily withdraw, the Election Board shall choose one member by random lot who shall be a candidate that year. The Tribal Council shall be the sole judge of the qualifications of its members. Felony convictions shall be a disqualification for Tribal Council candidacy.

(b) Background Checks

Potential Tribal Council candidates are required to submit to criminal history background checks. The background check must include information on the candidate's felony convictions as required by the Tribal Council Ethics Ordinance, § 2.605(e), and the Samish Constitution, Art. VI, Sec. 4(c)(4). The Election Board shall maintain a list of approved agencies for candidate background checks and instructions on obtaining the necessary information. Background checks shall be performed at potential candidates' expense. Background checks must be completed and submitted to the Human Resources Department at least sixty (60) days prior to the annual General Council meeting. The results of potential candidates' background checks shall be confidential in all circumstances. If the potential candidate's background check does not reveal disqualifying information, the Human Resources Department shall maintain potential candidates' background in confidential, locked storage for seven (7) years after which, the documents are destroyed. If the background check contains disqualifying information, the Human Resources Department shall inform the Elections Committee that the potential candidate is not eligible for election but shall not reveal any other information to the Election Committee. The Human Resources Department will keep any disqualified candidate's background check for thirty (30) days in case of an appeal after which the Human Resources Department shall destroy the disqualified candidate's background check.

Current tribal employees and/or committee members who have submitted FBI background checks within the last three (3) years may rely on those background checks but must submit a statement attesting to the fact that they have not been subject to any felony criminal convictions since the date of their last background check.

Tribal Council members must resubmit to background checks every three (3) years by completing the fingerprint cards with the Human Resources Department in the same manner and procedure as employees or Committee members subject to such checks.

Candidates who are elected to Tribal Council and Tribal Council members who resubmit to the background check process herein, may be reimbursed for the cost of fingerprinting.

(c) Filing Candidacy Petitions

Candidates must file petitions of their candidacy with the Election Board Superintendent on a form to be provided by the Election Board. Candidates must submit a petition signed by at least ten (10) legal voters. The candidacy petition must be filled out in full and signed and received by the Election Board no later than close of business on the day that is forty-five (45) days before the scheduled date of the annual General Council meeting. Candidacy petition forms may be obtained by contacting the Election Superintendent or downloaded from the Tribal Web page. The Election Board shall

communicate the list of official candidates to the Tribal Council within 24 hours of the closing date for filing candidacy petitions.

(d) Candidate Statement

Candidates shall be allowed to submit a statement, not to exceed 300 words and a photo (at candidate's discretion), at the same time they submit their candidacy petitions. If the Election Board approves the candidate's candidacy, the candidate's statement will be included in the voter's pamphlet for the election...

(e) Review by Election Board

The Election Board shall review all candidate petitions and notify an applicant of any disqualifications within three days after the filing deadline in order to give the candidate opportunity to appeal in writing as to the reason for disqualification. The Election Board shall, after reviewing any appeals, determine which candidates meet the qualifications. The Election Board shall post a list of certified candidates in the Samish Tribal Office and in the tribal newsletter and on the web site no later than 20 days after the filing deadline.

(f) Voter's Pamphlet

After the Election Board has certified the candidates for the election, the Board will prepare a voter's pamphlet. The Board will include the names of the certified candidates along with the candidates statement arranged alphabetically by last name for each position, and shall be sent to all qualified tribal voters along with notification of the election and the procedure for submitting mail-in ballots.

(g) Write-In Candidates Prohibited

No write in candidates shall be allowed.

(h) Withdrawal

Notice of withdrawal from candidacy shall be filed with the Election Board no less than 30 days prior to the election in the form prescribed and approved by the Election Board.

(2) **Tribal Council Offices Up for Election; Term of Office**

(a) Tribal Council Positions

The governing body of the Samish Indian Nation, known as the Samish Tribal Council, shall be composed of the following offices:

- Position #1 - Chairman
- Position #2 - Vice-Chairman
- Position #3 - Secretary
- Position #4 - Treasurer
- Position #5 - Council member #1
- Position #6 - Council member #2
- Position #7 - Council member #3

(b) Election of Tribal Council Members

Candidates must apply to run for specific officer positions. The election for positions 5 through 7 shall be an open election, with the candidates receiving the most votes filling those positions in order.

(c) Sequence of Elections

Elections for Tribal Council shall be held every even calendar year on the date of the annual General Council Meeting.

(d) Term of Office

The terms of office for all Tribal Council positions shall be four years. Tribal Council positions shall be staggered so that approximately half of the Tribal Council is up for election every two years. The position of Tribal Chairman, Secretary and two Tribal Council positions will be elected at one election and the Vice-Chairman, Treasurer and one Tribal Council member position at the alternating election. Whenever a vacancy in a Tribal Council position occurs and the position is filled, the person filling the vacancy shall serve in that position until the next regularly scheduled election for that position.

(3) Certification of Election

The Election Board is responsible for certifying the results of the election. After the process provided for in STC 2.02.010(5) is followed and the valid ballots are counted, the Election Board shall certify the election and shall deliver its certification of the election to the existing Tribal Council, and At the conclusion of the General Council meeting, the existing Tribal Council shall call a Special Tribal Council meeting at which the Election Superintendent or his or her designee shall schedule the swearing in of the new Tribal Council members on the day of the election or within 30 days. The Tribal Council seated at the time of election shall remain in office until the newly elected Council members are sworn in.

(4) Oath of Office

The Election Superintendent or his or her designate shall administer the oath of office to each new Tribal Council member at which time the Tribal Council member will begin his or her term of office. No Tribal Council member shall assume office until an oath has been taken.

(5) Tribal Council Members as Employees

Nothing shall prohibit a tribal employee from becoming a candidate for tribal office or from working as a tribal employee while serving as a member of the Tribal Council. The Tribal Council Rules of Procedure Ordinance and the Personnel Policies shall include language to prevent a conflict of interest from arising out of such employment. As used in this section, the term "tribal employee" means a person who is employed by tribal government under the authority of the General Manager, Controller, or HR Director of the Tribe on a full-time or part-time basis. Nothing in this chapter shall prevent an employee from seeking election to the Tribal Council or prevent a Tribal Council member from applying for employment with the Tribe.

2.02.030 Referendum and Initiative Elections

(1) Referendum or Initiative Petition

(a) Definitions

- (i) “Referendum” means the referral of a matter by the Tribal Council to the qualified voters of the Samish Indian Nation Council to be voted on by the same.
- (ii) “Initiative” means the referral of a measure by members of the General Council, through a petition process, to be voted on by the qualified voters of the Samish Indian Nation.

(b) Referendum

The referendum process allows the Tribal Council to refer proposed legislation to the General Council for its binding vote, and allows the General Council, on its own, to uphold or overturn legislation that has been passed by the Tribal Council. Upon the receipt and validation of a properly certified and completed petition, an election will be held on the referred measure in accordance with the procedures set forth in this ordinance, provided, that such election shall be called by the Tribal Council immediately upon notice received from the Election Board that a properly certified and completed referendum petition has been received and verified, and provided further, that such referendum election shall be within 60 days after the Election Board has notified the Tribal Council in writing that a valid petition has been received.

(c) Petition Requirements

To be valid, a referendum petition must be signed by at least one-quarter of the General Council of the Samish Indian Nation.

(2) Petition Requirements

(a) Sponsor

Each petition must have at least one sponsor with whom all correspondence and communication with the Election Board shall take place. The sponsor(s) must be a tribal member eligible to vote and his or her name must appear on each petition signature page along with mailing address and phone number.

(b) Purpose and Measure

Each petition signature page must contain the statement that "THE PURPOSE OF THIS PETITION IS TO HAVE A GENERAL COUNCIL ELECTION ON THE FOLLOWING MEASURE" followed by, in the case of a referendum, the number and date of adoption of the measure to be referred and a summary of it. In addition, each page of the petition must include a statement showing the date on which the Election Board approved the petition form. Each petition signature page must have attached to it a complete copy of the proposed measure or measures to be referred.

(c) Forms

The Election Board may issue a suggested form of petition for use by tribal members, but any petition which meets the requirements of this section shall be sufficient for filing with the Election Board.

(3) Filing of Petition

Petitions shall, before circulation, first be filed by the sponsor with the Election Board by hand delivery or mail, for review and approval as to form. The day the Petition actually is received shall control in computing time. Upon the filing of a petition for referendum, the Election Board shall forward a copy of the proposed or referred measure to the tribal attorney for review. The tribal attorney shall review the measure solely for the purpose of determining whether or not, if adopted, it would be valid under the Samish Constitution. The tribal attorney shall issue an opinion on the constitutionality of the measure within one week of receiving it, along with supporting reasons for that opinion.

(4) Certification of Petition

The Election Board shall review all petitions for compliance with all the requirements set forth in this ordinance. If the attorney issues an opinion in accordance with STC 2.02.030(3) that any initiative or referendum measure is constitutional, and the other requirements of this ordinance are met, the Election Board shall certify the petition. The Election Board shall make its certification determination within one week after receiving the legal opinion of the tribal attorney.

(5) Presentation of Petition to Tribal Council

Upon certification of the petition by the Election Board, the Election Board shall present the petition to the Tribal Council at its next regular meeting. The Tribal Council may, at its discretion, consider the measure contained in a referendum petition and may adopt it. If the Tribal Council does not adopt the measure contained in the referendum petition, the petition must meet the requirements of STC 2.02.030(6) and (7) before an election is held under STC 2.02.030(8).

(6) Circulation of Petition

Petitions may be circulated once they have been certified. Persons asked to sign the petition must be given sufficient opportunity to read the summary of the measure and the attached complete copy of the measure and must be advised that they must be an eligible tribal voter in order to sign.

(7) Validation of Petition

(a) Submission of Petition

Sponsors of a petition may file completed petitions at any time within 90 days of certification. The Election Board must verify the number and genuineness of the signatures, that at least one-fourth of all eligible voters have signed and that the petition is filed within 90 days of certification. If the requirements of this ordinance are met, the Election Board shall so verify, and the petition shall be validated.

(b) Signatures

The name of each signer must be printed and the signature must be in ink. The date of signing must be noted. Signers must be eligible to vote in tribal elections as set forth in STC 2.02.010(3) of this ordinance in order for their signature on a referendum petition to be valid.

(c) Verification

On the front of each signature page shall be a statement, signed by the person who circulated that page, stating that he or she circulated the signature page with a complete copy of the measure attached, and that the signatures on it are true and authentic to the best of his or her knowledge.

(8) **Referendum Election**

- (a) Upon validation of the petition by the Election Board and receipt of notice of such validation by the Tribal Chairman, the referendum shall be set for election within 60 days, provided, that if a referendum petition is validated by the Election Board and received by the Tribal Chairman within 30 days of a scheduled General Council meeting, the election shall be scheduled for that date.
- (b) The Election Board is responsible for setting the election date for a referendum election within the time frames established by the Samish Constitution and this Ordinance. An election under this section may be held on specific date and time with absentee ballots allowed or it may be held entirely by absentee ballot.
- (c) If a specific date is set for a physical polling location, the polls shall be open for at least four hours. Mail-in ballots are due by 5:00 p.m. on the day before the date set for the election. Challenges to rejected ballots must be made immediately following the closing of the polls on the date set for the election. The procedures set out in STC 2.02.010(5) shall be followed. Recount requests must be made according to STC 2.02.060(2) and must be made after the results of the election are certified, but before the matter in the referendum is put into effect.
- (d) Voting Procedure
 - (i) The voter shall first show photo ID issue by a governmental entity, and the election staff shall next verify that the voter's name appears on the list of eligible tribal voters. The voter will be asked to sign his or her ballot and, if possible, the election staff shall verify the voter's signature. If the voter is unable to do so, the Election Board member shall write "unable to sign" by that name. The voter shall then mark the ballot in a private area to be designated by the Election Board member. The voter may receive assistance from the Election Board member in voting if requested. The voter shall fold the ballot when completed and deposit it in the locked ballot box.
 - (ii) If the voter accidentally makes a mistake on or destroys his or her ballot, a new ballot shall be issued to the voter only upon return of the spoiled ballot, with the correction noted in the records.
 - (iii) The spoiled ballot shall be retained and "spoiled" shall be written on it.
- (e) If the election will be held by mail-in ballot only all ballots must be received by 5:00 p.m. on the date set for the election. Challenges to rejected ballots must be made immediately following the closing of the polls on the date set for the election, which, in the case of an all-mail-in ballot election, shall be at 5:00 p.m. The procedures set out in STC 2.02.010(5) shall be followed.
- (f) Official ballots shall be printed on white paper with black ink in BOLD letters and use 14-point size font on the entire ballot. Ballots shall be numbered. Sample ballots may be printed on colored paper and shall be clearly labeled "sample ballot" and shall not be counted if placed in the ballot box.

(g) Returns

Immediately after the polls are closed, the Election Board shall secure the ballot box in a place where tampering cannot take place. No mailed ballots shall be counted until the official count takes place. Immediately after the polls are closed at 12 p.m., and after the procedures related to rejected ballots as set forth in subsection STC 2.02.010(5)(d) have been completed, the Election Board shall count the votes cast in a separate room subject to the provisions of 2.02.060(1). The Election Board shall review and certify the results of the election, deliver the results to the Chairman of the Tribal Council, and post the results in a public place. Recount requests must be made according to 2.02.060(2) and must be made after the results of the election are certified, but before the matter in the referendum is put into effect. Ballot measures shall take effect in accordance with STC 2.02.030(10).

(9) **Adoption of Referendum or Initiative**

A majority vote of those voters actually voting shall be required for the adoption of any measure by the General Council, provided that at least one-third of qualified tribal voters cast ballots. In the event that there are conflicting measures placed upon the ballot, the ballot shall state that the voter may vote for as many measures as he or she chooses. In the event that more than one measure receives a majority of the votes cast, the measure receiving the greatest number shall be adopted and no further election shall be held without full compliance with the requirements of this ordinance.

(10) **Effective Date of Measure**

Unless a measure submitted to the General Council specifies a later date of effect, any measure passed by General Council election shall become effective upon certification of the election by the Election Board.

2.02.040 Recall of Tribal Council Member

(1) **Initiation of Recall of Tribal Council Member**

(a) Filing of Petition

Every person elected to tribal council office in the Samish Indian Nation shall be subject to recall upon receipt and validation of a petition of at least one-quarter of the General Council. Filing and circulation of a recall petition shall follow the provisions of this ordinance, provided, that the petition shall not require a sponsor, and provided further, that a recall petition shall not require review and opinion by the tribal attorney. No particular form of petition shall be required so long as the Election Board determines that the petition reasonably notifies any potential signer that a recall election is contemplated. A recall petition shall be for only one Tribal Council member.

(b) Certification and Circulation of Recall Petition

A recall petition must be submitted to the Election Board before it is circulated for signature. The Election Board shall certify the form of recall petition within seven days of receipt. The Election Board may adopt a form of recall petition for use by tribal members, but such form shall not be a requirement for a recall petition to be determined valid. Circulators of a recall petition shall have 90 days from the date of certification to collect signatures and turn in completed petitions. The Election Board, at the same time

a recall petition is certified, shall certify the number of valid signatures for a recall election to be called.

(c) Return of Petitions

Completed recall petitions shall be turned in to the Election Board at one time. Upon receipt of a recall petition by the Election Board, no additional petitions or signatures shall be accepted, and no signatures may be withdrawn. The submitted petitions shall be the sole and exclusive determinant of whether a recall election must be called.

(d) Board Review of Petition

The Election Board shall review and verify the genuineness of signatures on the recall petitions, using available tribal records. The Election Board shall have access to tribal records for purposes of performing its duties under this section. Upon verification of at least the minimum number of signatures on a recall petition, the Election Board shall validate the petition and notify the Tribal Council that a recall election must be called within 30 days.

(2) **Recall Election**

(a) The Election Board is responsible for setting the election date for a recall election within the time frames established by the Samish Constitution and this Ordinance. An election under this section shall be conducted by mail.

(b) Challenges to rejected ballots must be made immediately following the closing of the polls on the date set for the election. The procedures set out in STC 2.02.010(5) shall be followed. A recount request must be made according to STC 2.02.060(2) and must be made after the results of the election are certified, but before position is declared vacant.

(c) Voting Procedure

All ballots must be received by 5:00 p.m. on the date set for the election. Challenges to rejected ballots must be made immediately following the closing of the polls on the date set for the election, which, in the case of an all-mail-in ballot election, shall be at 5:00 p.m. The procedures set out in STC 11.02.010(5) shall be followed.

(d) Form of Ballot

The ballot used in a recall election shall contain the question: "Shall _____ be recalled from office in the Samish Indian Tribe?" And shall contain a space opposite such question, in which shall appear the words "Yes - No." Official ballots shall be printed on white paper with black ink in BOLD letters and use 14-point size font on the entire ballot. Ballots shall be numbered or bar-coded. Sample ballots may be printed on colored paper and shall be clearly labeled "sample ballot" and shall not be counted if placed in the ballot box.

(e) Returns

Immediately after the polls are closed, the Election Board shall secure the ballot box in a place where tampering cannot take place. After the procedures related to rejected ballots as set forth in STC 2.02.010(5)(d) have been completed, the Election Board shall count the votes cast in a separate room subject to the provisions of STC 2.02.060(1). The Election Board shall review and certify the results of the election, deliver the results to

the Chairman of the Tribal Council, and post the results in a public place. Recount request must be made according to STC 2.02.060(2) and must be made after the results of the election are certified, but before the position is declared vacant.

(3) Results of Recall Election

The Election Board shall conduct the recall election, and compile the results, as set forth elsewhere in this ordinance. A majority of those voting in the recall election shall be sufficient to accomplish recall of a Tribal Council member. Upon certification of a recall election, if a majority of those voting are in favor of recall of the Tribal Council member named, the Tribal Council position shall immediately be declared vacant and filled as specified elsewhere in this ordinance.

2.02.050 Expulsion of a Tribal Council Member

(1) Expulsion

The Tribal Council may, by a vote of five members of the entire Tribal Council, after due notice and an opportunity for a hearing before the Tribal Council which is open to the membership, expel any Tribal Council member for dereliction of duty or gross misconduct.

Any member so expelled shall have the right to appeal his or her expulsion to the tribal courts, with full review of all matters involved.

(2) Notice

Upon the motion to expel, duly made by a Tribal Council member, the Tribal Council may, by majority vote, adopt a resolution giving the Tribal Council member in question notice that he or she is the subject of a motion to expel, the reasons for the motion and setting a date for a special Tribal Council meeting to consider the matter.

(3) Opportunity to be Heard

The Tribal Council member in question shall have the opportunity and right to be heard on his or her own behalf at the special Tribal Council meeting set in accordance with STC 2.02.050(2). There shall be full and complete discussion of all the aspects of the charges of neglect of duty or gross misconduct prior to Tribal Council action.

(4) Grounds for Expulsion

The Tribal Council is the sole judge of the qualifications of its members, and may adopt any grounds for expulsion of said members. Such grounds shall be adopted by resolution of the Tribal Council, shall be listed in this section, and shall not be effective until 30 days after enactment. Grounds for expulsion include the following:

- (a) Any officer or member of the Tribal Council who shall absent him or herself from any three consecutive regular or special Tribal Council meetings without sufficient reason may be expelled by a vote of five members of the Tribal Council;
- (b) Any officer or member of the Tribal Council who, while in office, is convicted of a felony by any federal, state or Indian court may be expelled from office by a vote of five members of the Tribal Council.

(5) **Decision and Effective Date**

Any Tribal Council decision to expel shall be by a vote of at least five members of the Tribal Council and shall be effective immediately.

(6) **Filling of Vacancies in Tribal Council**

Pursuant to Article VIII, Section 6 (3) of the Constitution, upon any vacancy occurring in the Tribal Council by virtue of resignation, removal, recall or death, the Tribal Council, by majority vote, shall fill the position from any persons interested that meet the requirements to run for Council.

(7) **Conflict of Interest**

Any Tribal Council member who is the subject of a recall petition or motion for expulsion or removal under this ordinance shall not take part in any deliberation of the Tribal Council regarding such action, and shall not vote in any Tribal Council action which may, directly or indirectly, pertain.

2.02.060 Ballot Counting, Recount Request and Appeals

(1) **Ballot Counting**

A tribal voter may request to be present when election ballots are counted. A tribal voter's presence in the room where the ballots are counted is subject to procedures adopted by the Election Superintendent to ensure that no tampering of the ballots occurs and that the ballots are counted in an efficient manner.

(2) **Recount Requests**

A tribal voter may make a request for a recount of the ballots in an election to the Election Superintendent. A recount request must be made after all valid ballots have been counted and the results certified by the Election Superintendent, but before the winning candidates are sworn in or the initiative or the results of a recall election take effect. A fee of \$100 must be presented to the Election Superintendent at the time the request is made.

(3) **Appeals**

Any final decision of the Election Board, including certification of any tribal election, or the Tribal Council under this ordinance may be appealed to the Tribal Court under the rules of appellate procedure. An appeal of a final decision under this Ordinance must be filed within 15 days of the decision.