

PIPA NATION OF SANTA YSABEL

ELECTION LAW

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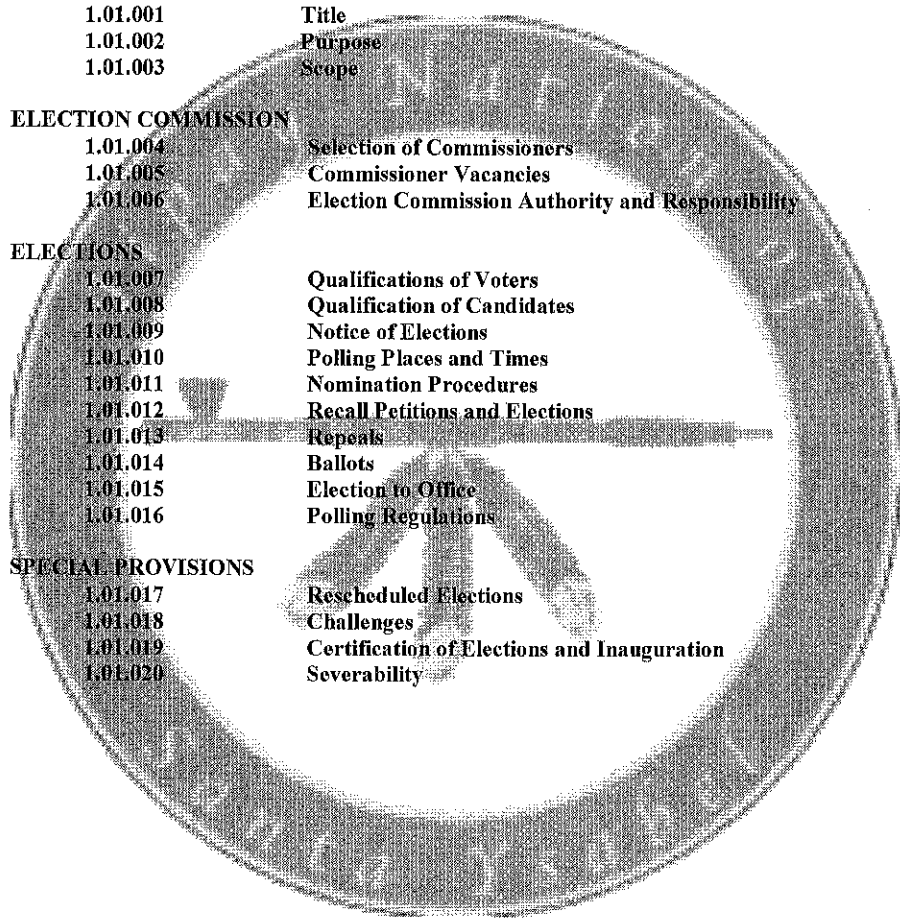
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General Provisions

1.01.001 Title

The following law shall be known as the Amended Santa Ysabel Election Law.

1.01.002 Purpose

The purpose of this law is to ensure that procedures used in the Nation's Elections are legal, consistent, fair and efficient.

1.01.003 Scope

This law shall govern all election procedures including election for Chairman, Vice Chairman, Secretary, Council Members, recalls, recall petitions, and any other ballot issues for the Nation.

Election Commission

1.01.004 Selection of Commissioners

(a) The Election Commission shall be made of five (5) commissioners selected by the General Council at the Regular General Council Meeting in October. If a quorum is present for the October meeting, then the selection shall be considered final and the Commissioners shall immediately take their seats. If a quorum is not present, then the selection shall be continued until the next regularly scheduled General Council meeting, where a quorum of the General Council may approve or deny the selection, or in the absence of a quorum, the selection shall be considered approved by the General Council. The decision of the General Council shall be final.

(b) The Election Commission shall select from among its members a Chairperson. Commissioners shall serve for a term of four (4) years or until they resign, replaced or validly removed.

(c) Commissioners shall be persons who are eligible to vote in tribal elections. No person who is a candidate for elective office, or holds any elective tribal office shall be eligible to serve as a commissioner. Any commissioner who becomes a candidate for tribal office shall be automatically removed from the Election Commission.

1.01.005 Commissioner Vacancies

If, for any reason, there is a vacancy on the Election Commission it shall be filled by the General Council at the next Regular General Council Meeting. If a quorum is present for this meeting, then the selection made by the General Council shall be considered final and the Commissioner(s) shall immediately take their seats. If a quorum is not present, then the selection shall be continued until the next regularly scheduled General Council meeting, where a quorum of the General Council may approve or deny the selection, or in the absence of a quorum, the selection shall be considered approved by the General Council. The decision of the General Council shall be final.

1.01.006 Election Commission Authority and Responsibility

The Election Commission shall have the authority and responsibility:

- (a) To verify the names of persons signing petitions to determine that each signature is that of an eligible voter and to ensure that each voter signed once;
- (b) To submit the original copy of a verified petition to the Office of Records Management (ORM) for storage as a public record of the Nation;
- (c) To publish and post notice of all elections;
- (d) To supervise and carry out the preparation of ballots;
- (e) To mail and receive absentee ballots;
- (f) To compile and maintain a list of eligible voters at least 30 days before each election;
- (g) To provide a copy of the list of eligible voters to General Council Members upon receipt of a valid written request;
- (h) To supervise activity at the polls;
- (i) To verify the eligibility of every person who wishes to vote and to distribute one ballot to each eligible voter;
- (j) To keep the ballot box secure;
- (k) To verify the eligibility of candidates for office and to certify the qualifications of each candidate prior to the election;
- (l) To keep a record of persons who vote and of the number of ballots distributed and cast at an election;
- (m) To resolve any disputes which may arise at the polls regarding a person's eligibility to vote or balloting procedure;
- (n) To count and validate ballots and record the number of votes cast for each candidate or for each option on the ballot;
- (o) To certify the results of the election in writing immediately after the close of polls;
- (p) To conduct the First Election in accordance with the procedures set forth in the Constitution and in applicable law.
- (q) The Election Commission can recommend changes to this law that will ensure that procedures used in the Nations elections are legal, consistent, fair and efficient.

Elections

1.01.007 Qualification of Voters

All persons who have reached the age of 18 years or older on or before the date of election, who are enrolled members of the Nation shall be eligible to vote in elections governed by this ordinance.

1.01.008 Qualification of Candidates

The first working day of July a notice will be sent to all members of the Nation with qualifications for candidacy.

The Tribal Council is comprised of a Chair, Vice Chair, Secretary and four (4) Council Members.

(a) To be candidates for the position of Chairman, Vice Chairman, Secretary and two (2) of the Council Member positions (Resident Council Members):

- (1) Be a Member of the Nation;
- (2) Be Eighteen (18) years of age or older;
- (3) Reside within the Territory of the Nation for at least one year immediately prior to the election;
- (4) Not have a criminal conviction involving theft or embezzlement of funds;
- (5) Not be convicted of a felony within the last ten (10) years preceding the election or a misdemeanor within the last seven (7) years preceding the election.

(b) To be a candidate for the remaining two (2) Council Member (Non Resident Council Members) positions a person shall:

- (1) Be a Member of the Nation;
- (2) Be Eighteen (18) years of age or older;
- (3) Not have a criminal conviction involving theft or embezzlement of funds;
- (4) Not be convicted of a felony within the last ten (10) years preceding the election or a misdemeanor within the last seven (7) years preceding the election.

1.01.009 Notice of Elections

(a) Notice of all regular elections shall be published on the first working day of the August immediately preceding voting day. Publication shall be made in a notice or tribal newsletter, which shall be sent to all eligible voters. The same notice shall be posted at the tribal hall and at other public places within the Territory of the Nation. The notice shall specify that nominations for the

open positions shall be held at the Regular General Council Meeting in September, the offices to be filled, the date, hour, and place of the election.

(b) Notice of all runoff elections shall be published on the first working day immediately following voting day. Publication shall be made in a notice or tribal newsletter, which shall be sent to all eligible voters. The same notice shall be posted at the tribal hall and at other public places within the Territory of the Nation. The notice shall specify the offices to be settled by runoff, the names of the candidates, the date, hour, and place of the election.

(c) **Special Elections**

(1) Notice of all elections to repeal or modify any legislation or budget shall be published on the first working day following the submission and verification of a valid repeal petition. Publication shall be made in a notice or tribal newsletter, which shall be sent to all eligible voters. The same notice shall be posted at the tribal hall and at other public places within the Territory of the Nation. The notice shall specify the offices to be filled, the date, hour, and place of the election.

(2) Notice of all removal elections shall be published on the first working day following a valid vote for removal by the Tribal Council. Publication shall be made in a notice or tribal newsletter, which shall be sent to all eligible voters. The same notice shall be posted at the tribal hall and at other public places within the Territory of the Nation. The notice shall specify the offices to be filled, the date, hour, and place of the election.

(3) Notice of all recall elections shall be published on the first working day following the submission and verification of a valid recall petition. Publication shall be made in a notice or tribal newsletter, which shall be sent to all eligible voters. The same notice shall be posted at the tribal hall and at other public places within the Territory of the Nation. The notice shall specify the offices to be filled, the date, hour, and place of the election.

1.01.010 Polling Places and Times

(a) **Election Dates**

(1) Regular elections for Chairman, Vice Chairman Secretary and all Council Members shall be held on the first Sunday in November ~~every four~~(4)in even numbered years when the offices of Tribal Council Members become available.

(2) Runoff elections, if necessary, shall be held on the first Sunday of the month following an election where two candidates have tied or no candidate for a position received a majority of the votes cast.

(3) Repeal elections shall be held at the first properly convened Regular Meeting of the General Council following the submission and verification of a valid repeal petition.

(4) An election to remove an elected official shall be held at the first properly convened Regular Meeting of the General Council following a valid vote for removal by the Tribal Council.

(5) An election to recall an elected official shall be held at the first properly convened Regular Meeting of the General Council which is at least thirty (30) days after the submission and verification of a valid recall petition.

(b) Polls shall be open from 10:00 a.m. until 6:00p.m or as otherwise designated by the Election Commission.

(c) Balloting in all elections shall take place on the Santa Ysabel Reservation, at a location to be determined in advance and specified in the notice.

1.01.011 Nomination Procedures

(a) Candidates for election at a Regular Election to the positions of Chairman, Vice Chair Secretary and all Council Members shall be nominated from the floor at the September Regular General Council Meeting ~~in even numbered every four (4) years when the offices of Tribal Council Members become available.~~

(b) Candidates for election to a vacant position shall be nominated at the next Regular Meeting of the General Council following the vacancy unless otherwise required by the Constitution.

(c) No person may be nominated unless that person is present at the meeting to accept nomination or unless that person submits a letter of acceptance to the Election Commission who shall present the letter at the meeting. All nominations must be supported by a second person.

(d) No candidacy shall be valid until the nominee files proof of qualifications with the Election Commission and the Election Commission verifies their eligibility. Nominees shall have thirty (30) days prior to nomination to provide proof of eligibility to the Election Commission. The Election Commission shall have thirty (30) days from the date of filing to verify the eligibility of a nominee.

1.01.012 Recall Petitions and Elections

(a) A Commissioner shall be present at all Regular and Special Meetings of the General Council with official recall petition forms and an updated voter list containing the names and addresses of the adult Members of the General Council. Upon the receipt of a valid request for a recall petition by an adult Member of the General Council, the Election Commission shall provide the Member with an official recall petition and a copy of the updated voter list. A request for an official recall petition shall be in writing and shall contain the name and signature of the General Council Member requesting the petition, and the name(s) and position(s) of the official(s) being recalled. A separate petition must be used for each official being recalled. No more than three (3) officials may be recalled at the same time.

(b) An official recall petition shall have a clearly designated beginning date, before which no signatures shall be valid, and return date when the petition shall be submitted to the Election Commission. The petition shall also contain the signature of the Commissioner authorizing its release. The return date shall give the requesting General Council Member thirty (30) days to gather signatures and return the petition. No names shall be added or removed after the return date.

(c) A petition requesting a vote to recall an elected official shall be signed by at least Twenty-five percent (25%) of all eligible voters and shall include the printed name, address and date of signature.

(d) Upon receipt of a recall petition on or before its return date, the Election Commission shall have ten (10) days to verify the signatures. If the Election Commission determines that the petition meets the requirements of this section, it shall schedule the requested recall vote for the next Regular General Council Meeting which is at least thirty (30) days after the date of the verification of the recall petition.

(e) If a majority of the persons casting the ballots vote to recall an elected official, the position shall be declared vacant.

1.01.013 Repeals

(a) A repeal is a vote of the General Council to reverse or modify any law or budget within thirty (30) days of its passage.

(b) A Commissioner shall be present at all Regular and Special Meetings of the General Council with official repeal petition forms and an updated voter list containing the names and addresses of the adult Members of the General Council. Upon the receipt of a valid request for a repeal petition by an adult Member of the General Council, the Election Commission shall provide the Member with an official repeal petition and a copy of the updated voter list. A request for an official repeal petition shall be in writing and shall contain the name and signature of the General Council Member requesting the petition, and the law or budget at issue. A separate petition must be used for each law or budget that the General Council Member wants repealed.

(c) An official repeal petition shall have a clearly designated beginning date, before which no signatures shall be valid, and return date when the petition shall be submitted to the Election Commission. The petition shall also contain the signature of the Commissioner authorizing its release. The return date shall be the day that is 30 days from the passage of the law or budget that is at issue. No names shall be added or removed after the return date.

(d) A petition requesting a repeal shall be signed by Twenty-five percent (25%) of all eligible voters, and shall include the voter's name, address and date of signature.

(e) Upon receipt of a repeal petition on or before its return date, the Election Commission shall have ten (10) days to verify the signatures. If the Election Commission determines that the petition meets the requirements of this section, it shall schedule the requested repeal vote for the next properly convened Regular General Council Meeting.

(f) If a majority of the persons casting the ballots vote to repeal the law or budget, the law or budget is repealed.

1.01.014 Ballots

(a) The Election Commission shall prepare the ballot form for each election. Eligible candidates for each office shall be listed on the ballot alphabetically by their last names. In an

election to repeal a law or budget, the Commission shall prepare a separate ballot for each law or budget up for repeal and said ballot shall state in clear and understandable terms the substance of the matter to be voted upon. Write-in votes will be only from the list of qualified candidates.

(b) Voters shall vote for as many candidates as there are positions to be filled. If a person votes for more candidates than there are positions open, that portion of the ballot shall be invalid. Positions are to be filled by 2 non-resident and 5 resident Council Member candidates.

(c) All elections shall be by secret ballot.

(d) It shall be the responsibility of the Election Commission to place clear and understandable instructions on each ballot. For Chairman, Vice Chairman, Secretary and Council Member elections, a sample of the actual ballot to be used in the election shall be published not later than thirty days (30) prior to the date of the election and mailed to each adult Member of the General Council.

(e) The counting of ballots shall be open to all tribal members. Ballots shall be counted a minimum of three times. The totals must agree at least twice to be valid. Ballots shall be secured in a locked container and will be destroyed one (1) year after the election.

(f) The Election Commission shall inform the Bureau of Indian Affairs in writing of the election results.

1.01.015 Election to Office

Offices for which elections are held shall be filled in the following way:

(a) The candidates for Chairman, Vice Chairman and Secretary who receive a majority of the votes cast in the Regular Election shall be seated; provided, that if no candidates for Chairman, Vice Chairman or Secretary receive a majority of the votes cast for each respective position, then a Runoff Election for the candidates who receive the two highest number of votes cast shall be held on the first Sunday in December. A tie vote in a Regular Election shall be decided in a Runoff Election. The candidates for Chairman, Vice Chairman and Secretary who receive the highest number of votes cast in the Runoff Election shall be seated.

(b) The candidates for the two (2) Resident Council Member offices who receive the highest number of votes for the available seats and receive a majority of the votes cast in the Regular Election shall be seated; provided, that if any of the winning candidates for such offices do not receive a majority of the votes cast, then a Runoff Election for the available office(s) not receiving a majority of the votes cast in the Regular Election shall be held on the first Sunday in December for such candidates who receive the two highest number of votes cast for the available offices.

(c) The candidates for the two (2) non-resident Council Member offices who receive a majority of the votes cast in the Regular Election shall be seated; provided, that if any of the winning candidates for such offices do not receive a majority of the votes cast, then a Runoff Election for the available office(s) not receiving a majority of the votes cast in the Regular Election shall be held on the first Sunday in December for such candidates who receive the two highest number of votes cast for the available offices.

1.01.016 Polling Regulations

- (a) Voting in elections governed by this ordinance shall be by secret, written ballot.
- (b) Electioneering and loitering is prohibited 100 ft from polling area on the tribal center grounds or at the polling place during hours when the polls are open.
- (c) Voters who are unable to mark a ballot without assistance because of such special circumstances as physical disability or illiteracy may be assisted in voting by Commissioner or by a person of the voter's choice.
- (d) Consumption of alcoholic beverages, marijuana, narcotics, or other intoxicants at the polls and on tribal grounds is prohibited. No person who is clearly intoxicated or under the influence of drugs shall be permitted to cast a ballot.
- (e) Voting for all elections shall take place at a place to be designated by the Election Commission, where care shall be taken to provide for a private and confidential voting environment. No less than two Commissioners shall be present at all times. One Commissioner shall control the sign-in sheet and shall hand out the ballots, and another shall secure the ballot box.
- (f) If a voter makes a mistake or otherwise spoils a ballot a new ballot may be issued to the voter. The spoiled ballot shall immediately be marked "SPOILED" by a Commissioner and signed by two Commissioners.
- (g) The Election Commission shall provide an absentee ballot to an eligible voter upon written request. Absentee ballots may be requested not later than twenty (20) days prior to the election and the Election Commission shall send out ballots to those requesting them no later than ten (10) days prior to the election. To be valid, an absentee ballot must be sent by U.S. mail or hand delivered by the eligible voter, and must be received by the Election Commission prior to 4:30 p.m. on the day preceding the day of the election.

Special Provisions

1.01.017 Rescheduled Elections

If an election challenge under Section 1.01.018 is valid, the Election Commission shall schedule another vote to take place within thirty (30) days of the challenge being upheld. The rescheduled election shall comply with the regular election procedures except the time period for notice of the election may be reduced to three days.

1.01.018 Challenges

Any adult Member of the Nation may challenge the results of an election by filing a protest with the Election Commission within three calendar days of certification. The Election Commission shall render a final determination on any protest within three days of receipt of a protest setting forth in writing separate findings of fact and conclusions of law.

1.01.19 1.01.019 Certification of Elections and Inauguration

(a) _____ The Election Commission shall certify the results of an election immediately upon the close of the polls and the official counting of the ballots. Certification shall take place the night of the election.

(b) Once the ballot count is complete, the Election Commission shall issue a Certificate of Election. At a minimum the Certificate of Election shall contain:

(1) The totals for each count conducted by the Election Commission;

(2) The name of the winner, if applicable, for every open Tribal Council position or the names of the candidates for each open position requiring a runoff election;

(a) (3) Signatures of each Election Commission Member certifying the accuracy of the results.

~~(b)(c)~~ Unless it receives a challenge to an election as provided in Section 1.01.018, the Tribal Council shall accept Election Commission certification of an election and the Election Commission shall inaugurate newly elected officials at the beginning of the first Regular General Council Meeting following the election. Outgoing officials shall serve until the new officials are inaugurated or, in the case of a Regular Election, until the first business day of January in the year following the November and/or December elections.

1.01.020 Severability

If any provision in this ordinance is determined by a court of competent jurisdiction to be invalid, such a determination shall not render invalid the remaining provisions.

