

**2021 Election Rules and Regulations for the
Lower Elwha Klallam Tribe
Business Committee and Chairperson Elections**

The Lower Elwha Klallam Tribal Election Committee adopts these Rules and Regulations to govern the 2021 Tribal Elections in accordance with the provisions of the Tribe’s Constitution, including in particular, Article III, Section 6, which provides that, “All elections shall be held in accordance with rules and regulations prescribed by an election board appointed by the business committee.” These 2021 Regulations govern the process for nominating candidates for the Tribal Business Committee, electing the Business Committee members, and electing the Chairperson of the Business Committee and Community Council from among the membership of the Business Committee. They have been adapted from the revised Regulations for 2020, which included provisions to protect the health and safety of voters and election staff from the impacts of the COVID-19 outbreak by increasing the emphasis on mail-in or drop-off voting and adopting other forms of social distancing. The Committee reserves the right to make further revisions to the election process in order to adapt further to the COVID-19 outbreak.

The schedule for the 2021 elections is as follows:

April 5 (Monday) – Nominations for Business Committee Candidates.

May 1 (Saturday) – Election of Business Committee members.

May 29 (Saturday) – Election of Chairperson.

Two (2) Tribal Business Committee positions will be elected this year. Candidates will be those eligible Tribal Members who are nominated at the April 5, 2021 Community Council meeting and who accept the nomination.

The Lower Elwha Business Committee Members are as follows:

Council Member:	Year Term Expires:
Anthony Charles	2021
Steve Joaquin Robideau	2021
Frances G. Charles	2022
Russell N. Hepfer	2023
Edward Johnson	2023

1. General Information

1.1 Date of Nominations. Nominations for the Tribal Business Committee position will be accepted at the Lower Elwha Tribal Center at 7:00 PM on Monday, April 5, 2021, to serve as the usual Community Council Meeting. To provide protection against spread of infection, the Election Committee, with any necessary assistance of Tribal Police, may utilize a drive-thru or other socially distanced format, consistent with the status of the COVID infection at that time.

1.2 Date of the General Election. The General Election will be on Saturday, May 1, 2021. There will be a polling place at the Tribal Center, which will be open from 12:00 noon to 8:00 PM. Mail-in ballots shall also be used and all mail-in ballots must be either mailed so as to be received at the official Election Committee Post Office Box (PO Box 1104, Port Angeles WA 98362) by Election Day, May 1, 2021, or delivered to the polling station by the time it closes. Any ballots not received by Election Day **WILL NOT** be counted, regardless when they were mailed or post-marked.

1.3 Date of the Chairperson Election. The Chairperson Election will be on Saturday, May 29, 2021. There will be a polling place at the Tribal Center, which will be open from 12:00 noon to 8:00 PM. Mail-in ballots shall also be used and all mail-in ballots must be either mailed so as to be received at the official Election Committee Post Office Box (PO Box 1104, Port Angeles WA 98362) by the Chairperson Election Day, May 29, 2021, or delivered to the polling station by the time it closes. Any ballots not received by Election Day **WILL NOT** be counted, regardless when they were mailed.

2. Election Committee

2.1 Authority of the Election Committee. The Election Committee has been appointed by the Business Committee in accordance with Article III, Section 6 of the Constitution and By-laws, which states, “All elections shall be held in accordance with rules and regulations prescribed by an election board appointed by the business committee.” The role of the Election Committee is to: develop rules and regulations for all aspects of elections; enforce those rules and regulations and decide election disputes; ensure that only eligible voters cast a ballot; and count the ballots after the Election and certify the results. All disputes about eligibility and all other election matters will be settled by the Election Committee, and the decision of the Election Committee will be final and not subject to any appeal process.

2.2 Composition of the Election Committee. The Election Committee consists of seven (7) members appointed by the Business Committee. For 2021, as of the date of adoption of these Regulations, the current members of the Committee are: Wendy Sampson, Chair; Amy Carter-Matte, Vice-Chair; Emma Bankson, Secretary; Sonja

Elofson, Treasurer; Amy Redner; Corina Bolstrom; and one vacancy. The Election Committee shall remain fully authorized to function, notwithstanding any vacancy, provided that a quorum of three is present at any meeting where action is to be taken.

2.3 Staff Assistance to the Election Committee. The Lower Elwha Enrollment Officer provides services to the Election Committee by verifying tribal membership lists to help determine voter eligibility and registration but does not participate in the other activities, deliberations, and decisions of the Committee. In addition, the Office of Tribal Attorney provides legal advice and services to the Election Committee, and the Tribal Police provide security and traffic control when necessary.

2.4 Quorum of Committee. Three (3) members of the Election Committee constitute a quorum at the Election Committee Meetings, and when a quorum is present the Committee is fully empowered to take any action within the scope of its authority.

3. Eligibility to Vote and Run for Office

3.1 Constitutional Provisions. Article III, Section 4 of the Lower Elwha Community Constitution and By-laws “Constitution”), as modified by Amendment II, provides that “All members of the Lower Elwha Tribal Community age eighteen (18) and over are eligible to vote in all elections regardless of place of residence.” Article III, Section 1 states that the Community Council consists of “all qualified voters of the community.” Article III, Section 2, as amended, provides that Business Committee members are to be elected from the membership of the Community Council.

3.2 Eligibility to Vote, Nominate Candidates, and Serve on Business Committee. All members of the Lower Elwha Tribal Community age eighteen (18) and over, and regardless of place of residence, shall be eligible to nominate candidates, vote in the 2021 elections, and run for and serve on the Business Committee.

3.3 Eligibility for Chairperson. In accordance with Article III, Section 2 of the Constitution, only the five Business Committee Members, including the two to be elected in the May 1, 2021 Business Committee Election, shall be eligible to be elected Chairperson in the May 29, 2021 Chairperson Election and shall be listed on the ballot for that election.

3.4 Equal voting rights for all voters. All tribal members age eighteen (18) and over, regardless of place of residence, shall have equal voting rights—provided that, in order to exercise the right to vote, each eligible voter must register as provided in Rule 4.3 below.

4. Voter Lists and Registration

4.1 Certified Voter Lists. Prior to the Election a list of all enrolled Tribal Members who are 18 years and older will be certified and supplied by the Enrollment Officer of the Lower Elwha Klallam Tribe, to be used by the Election Committee for reference in determining who is eligible to vote. Due to COVID-19-related restrictions on tribal facilities, a copy of the approved list will not be posted in the Tribal Center or other tribal facilities, but will be mailed to all tribal members age 18 or older and may also be requested by sending an email to election@elwha.org or by calling 360-912-1565.

4.2 Responsibility of Voters to Maintain Current Address. Each voter is ultimately responsible to maintain his or her address with the Enrollment Department and to notify the Committee or Enrollment Department that he or she is entitled to vote. Each family is encouraged to verify that all eligible voters in the family appear on the eligible voters list, and that an updated current address for each voter is provided to the Enrollment Department. In order to be eligible to register to vote by mail, a voter must provide his or her current address to the Enrollment Department by not later than April 5, 2021.

4.3 Voter Registration. A voter must register in order to vote in elections. An important purpose of this registration requirement is so that the Election Committee will have a valid, current signature on file against which to compare a voter signature on a mail-in ballot. Therefore, the voter registration form must be filled out completely and legibly, because this information will be compared with the voter signature and other information on the voter affidavit used for mail-in ballots. The Election Committee reserves the right to require a new signature for a registered voter in the event the signature on the registration form is illegible or the voter's signature on an affidavit in a previous election does not match the signature on the registration form.

4.3.1 Any voter who was registered to vote in the 2020 elections shall not be required to register again for 2021 but shall be deemed registered for 2021. Any voter who was not registered to vote in 2020, or who has only become eligible to vote since the 2020 election, may register for 2021 by returning a signed voter registration form, which will be mailed to all potentially eligible voters. In order to register so as to be eligible to receive and vote by mail-in ballot, a voter must be registered by April 5, 2021, except that any voter who registers at the polling place on the day of the General Election shall be eligible to receive a mail-in ballot for the Chairperson Election. To register by mail, a voter must mail the registration form to the following address: Lower Elwha Klallam Tribe – Attention: Enrollment Officer, 2851 Lower Elwha Road, Port Angeles, WA, 98363. The form must be received by no later than April 5, 2021. Unregistered voters may also register and vote at the polling

place on the date of the Business Committee Election, May 1, 2021, and on the date of the Chairperson Election, May 29, 2021.

- 4.3.2** If an elder or disabled voter requires special assistance in filling out a voter registration form, please call the Enrollment Officer to schedule an appointment to provide assistance in filling out the registration form.

5. Nominations

5.1 Nominations Procedures. Any eligible voter, whether or not registered, may appear at the April 5, 2021 Community Council Meeting and nominate an eligible tribal member to run for the Business Committee in the 2021 Election. *See* Rule 3.2 regarding eligibility. The Community Council Meeting will begin at 7:00 PM. Representatives of the Election Committee shall attend the Community Council Meeting and shall record the names of the nominees; the person making the nomination shall provide a phone number or other contact information for the nominee so that he or she may be informed of the nomination and the opportunity to accept in accordance with Rule 5.3 below. The Committee shall consult with the Enrollment Officer to verify that each nominee is eligible.

5.2 Limit of Nominees. No person may nominate a greater number of candidates than the number of positions on the Business Committee that are up for election in a given year. In 2021, no person may nominate more than two (2) candidates. After nominating a candidate, a person may not withdraw that nomination in order to nominate any other candidate. A nominated candidate may decline a nomination, but in that case the person who made the nomination will not be provided an opportunity to make a replacement nomination.

5.3 Acceptance of Nomination. Nominees may attend the nominations at the Community Council Meeting but are not required to. In order to accept the nomination and actually appear on the ballot, each nominee must provide written acceptance of the nomination to the Election Committee. Acceptance may be done in one of three ways: (1) at the Community Council Meeting on April 5, 2021, by handing in the completed acceptance form to the Election Committee; (2) by sending the completed form in an email to election@elwha.org not later than 5:00 PM on April 7, 2021; or (3) by delivering to the Election Drop Box at the Elwha Justice Center by not later than 5:00 PM on April 7, 2021. If a nominee fails to provide this written acceptance by that deadline, his or her name will not appear on the ballot, but will still be eligible for election to the Business Committee as a write-in candidate as provided in Rule 6.2 below.

5.4 Candidate Letters. The Committee will prepare a mailing including a letter or statement to the voters from each nominated candidate for the Business Committee election. Any nominee who desires to use this service may submit the written

statement to the Committee in one of three ways: (1) at the Community Council Meeting on April 5, 2021, by handing in the statement to the Election Committee; (2) by sending it via email to election@elwha.org not later than 5:00 PM on April 7, 2021; or (3) by delivering it to the Election Drop Box at the Elwha Justice Center by not later than 5:00 PM on April 7, 2021. If a nominee fails to provide this written statement by that deadline, the Committee will not distribute the statement to the voters.

6. Form of Ballots

6.1 Business Committee Election Ballot. The ballot for the Business Committee election shall display the names of all candidates in alphabetical order of last name. There will also be a space on the ballot for indicating a write-in candidate. A voter shall mark the box for not more than two (2) candidates on any ballot, including any write-in. If a ballot shows any vote for more than two (2) candidates, including any write-in candidate, it will be declared invalid by the Election Committee and it will not be counted. For 2021, the two candidates for Business Committee receiving the highest total number of votes shall be elected to the Business Committee.

6.2 Write-In Candidates for Business Committee. An eligible voter may write-in the name of any person who is eligible to hold office as an alternative to voting for a nominated candidate in the Business Committee election.

6.3 Chairperson Election Ballot. The ballot for the Chairperson election shall display the names of all five (5) Business Committee members, including any newly elected member, in alphabetical order. A voter may vote for only one candidate for Chairperson. If a ballot shows a vote for more than one (1) Chairperson candidate it will be declared invalid by the Election Committee and will not be counted. The candidate receiving the highest total number of votes shall be elected Chairperson.

6.4 No Write-In Candidates for Chairperson. There will be no write-in vote in the Chairperson Election, because only the five Business Committee members are eligible.

7. Mail-In Ballot Procedures

7.1 Distribution of Mail-In Ballots. Ballots for the Business Committee election will be mailed to all registered voters one week after the Committee has confirmed all nominations in accordance with Rule 5.3. Ballots for the Chairperson election will be mailed out promptly after the Business Committee election results are certified. The ballots will be mailed to the address currently on file. If a voter has not provided any address, no ballot will be mailed to that voter. A voter who receives no mail-in ballot may still vote at the polling place on Election Day provided he or she is eligible. When using a mail-in ballot, voters must follow the voting instructions for filling out

the ballot and using and signing the voter affidavit. Voters must sign the voter affidavit, and either mail their ballots back in the official envelope addressed to the Post Office Box address listed on the return envelope or deliver to the polling station on Election Day.

7.2 Receipt or Delivery of Mail-In Ballots—Business Committee Election. The official voting envelope for the Business Committee election must be received at the official election Post Office Box by the Business Committee Election Day, May 1, 2021. Any official voting envelope received after that date **will not** be counted in the official count of the 2021 Business Committee Elections. Mail-in ballots may also be delivered to the polling place on Election Day. Mail-in ballots that are delivered in any way other than as set forth in this section, such as by delivery to the receptionist at the Tribal Center, will not be counted.

7.3 Receipt or Delivery of Mail-In Ballots—Chairperson Election. The official voting envelope for the Chairperson election must be received at the official election Post Office Box by the Chairperson Election Day, May 29, 2021. Any official voting envelope received after that date **will not** be counted in the official count of the 2021 Chairperson Election. Mail-in ballots may also be delivered to the polling place on Election Day. Mail-in ballots that are delivered in any way other than as set forth in this section, such as by delivery to the receptionist at the Tribal Center, will not be counted.

7.5 Committee Handling of Mail-In Ballots—Security. Tribal police officers will check the Post Office Box weekly and transport the ballots received there to be placed in the primary locked ballot box to be maintained at the Tribal Police Station. The officers who transport these ballots will log them in each week, stating the number of ballots received from the Post Office Box and signing the log-book. The ballots collected in this manner shall not be opened until all votes are counted after the polls have closed on Election Day. The post office box will be checked one final time, late in the afternoon of Election Day, to pick up any ballots that were delivered to the post office box that day.

7.6 Chain of Custody for Ballots. The Election Committee shall retain a printing company to produce all mail-in and polling station ballots. The printing company shall be required to deliver the ballots directly to a professional mailing service, which will mail the ballots to all registered voters on the list to be maintained by the Enrollment Officer. In addition, the printing company will be required to hand-deliver to the Tribal Police station the new ballots to be used at the polling station on each of the two election days. Tribal Police shall maintain custody of these ballots under secure conditions in the evidence room until Election Day, when Tribal Police shall transport the ballots and ballot box to the polling station.

8. Polling Station Procedures

The Election Committee reserves the right to modify the 2021 polling station procedures to increase emphasis on mail-in or drop-off voting (such as drive-thru process) and to adopt other forms of social distancing, in order to protect the tribal community while still being able to conduct an election.

- 8.1 Verification of Registration; Voter Affidavit.** At the polling station on the day of either the Business Committee or Chairperson Election, the Election Committee shall verify the registration of each voter and require each voter to sign a voter affidavit in order to receive his or her ballot. The Election Committee shall require a prospective voter to provide acceptable identification if that prospective voter is not known to the Committee members administering the election and is unable to provide the pieces of identifying information set forth on the voter registration form.
- 8.2 Ballot Boxes.** There shall be two ballot boxes used at the Polling Place. The primary ballot box shall be used for ballots voted in person on the day of the election, and shall be set up in a location at the discretion of the Committee in a way to provide security and to prevent any use of this primary ballot box for deposit of hand-delivered mail-in ballots. There shall also be a secondary ballot box for hand-delivery of mail-in ballots, set up at the discretion of the Committee.
- 8.3 Minimum Presence of Committee Members at Polling Place.** Not fewer than three (3) members of the Election Committee shall be at the polling place while it is open for voting. They shall have authority to question and to investigate the eligibility of each individual to vote, to decide all questions pertaining validity of ballots or any other election matter, and to interpret and apply these voting regulations.
- 8.4 Unauthorized Persons Prohibited.** No person, except for members of the Election Committee, the Committee's advisors as designated under these regulations or separate action of the Committee, or duly assigned Police Officers, may participate or loiter at or otherwise disturb the Election Committee or voters when Elections are in process.
- 8.5 Voters in Need of Assistance.** If by blindness, illiteracy, or some other reason a voter needs someone to read or explain the ballot, said assistance shall be rendered or witnessed by a member of the Election Committee.
- 8.6 Role of Police Department.** The Lower Elwha Police Department is authorized to enforce these regulations at the request of the Election Committee, including but not limited to the restrictions against electioneering, and to ensure peace and order at the polling place and during the counting of ballots, resolution of challenges by the

Committee, and certification of election results. The Lower Elwha Police Department shall:

- 8.5.1** Provide two locked ballot boxes, one for deposit of ballots voted on-site, which the officer will ensure is completely empty prior to the beginning of on-site voting on the day of the election, and the other with accumulated mail-in ballots, into which shall be deposited mail-in ballots that are hand-delivered to the polling place on Election Day.
- 8.5.2** Provide an officer immediately available during the time of the official count of the ballots, including mail-in ballots, for each Election to assist as required by the Election Committee in the counting of the ballots. The Business Committee Election count will be May 1, 2021, and the Chairperson Election count will be May 29, 2021.
- 8.5.3** Provide a secure storage area for Election materials and retain the ballots and other materials until archived or disposed of in accordance with Rule 9.9.

9. Vote Count and Certification of Results

- 9.1 Closing of Polling Station.** At the time for the closing of the polling station, the Tribal Police officers shall secure the end of the voter line and shall allow all voters already waiting at that time to cast their ballots. Tribal Police shall assist in securing the ballot boxes in the building when the polling station is closed. No voter who arrives after the polling station is closed may vote, either at the polling station or by delivering a mail-in ballot.
- 9.2 Counting of Ballots.** The Election Committee, assisted by Tribal Police, will count the ballots promptly after the polling place closes for both the Business Committee and Chairperson Elections. The Committee and its members may not release any preliminary results or projections prior to the posting of the certified results.
- 9.3 Participation in Vote Count.** All members of the Committee shall participate in the vote count unless excused by the Committee for a genuine emergency or unless recused from a particular matter by rules of the Committee that apply equally to all members of the Committee.
- 9.4 Vote-Count Procedures.** The Committee shall arrange in advance for one or more Tribal Police Officers to be present not later than when the polling station closes to assist with the vote count and to provide security. If the designated Officer does not arrive on time, the Committee is to secure the ballot box and polling station and await the Officer's arrival before opening the ballot box and counting the ballots. Upon the Officer's arrival, the vote-count will proceed as follows:

- 9.4.1** The Officer will unlock both ballot boxes, remove all the ballots, and maintain the mail-in and poll ballots separately. The poll ballots will be set aside to be counted and the Officer, with any necessary assistance he or she may request from the Committee, will first open the mail-in ballots.
- 9.4.2** Each mail-in ballot outer envelope will be opened and the enclosed, signed voter affidavit will be removed and displayed. The Committee will compare the voter affidavits with the signatures on the list of registered voters to be maintained by the Enrollment Officer and with the polling station voter affidavit list, in order to determine compliance with Rule 9.5 below. Until this process is completed, the inner mail-in ballot envelopes containing the actual ballots will not be opened.
- 9.4.3** Once all mail-in affidavits have been validated and approved, the secured mail-in ballot envelopes will be placed with the polling station ballots to be counted. The verified mail-in ballots and polling station ballots will then be mixed together so that when the ballots are counted it cannot be determined whether any individual ballot was voted as a mail-in or as a polling station ballot.
- 9.4.4** The Police Officer will read each ballot to the Committee for tallying and counting.
- 9.4.5** The Committee will tally and count the votes. The Committee will recount as many times as necessary to ensure accuracy. A recount will be taken automatically if a margin is ten votes or fewer.

9.5 Validity of Signatures. The Committee will compare voter signatures on a voter's affidavit of the mail-in ballots with existing examples of voter signatures on voter registration forms. If there is no signature on the affidavit, or if the voter instructions have not been followed so that it is not possible to determine the intent of the voter, such ballot will not be counted. If the signature on the affidavit does not match a signature on file for that voter, such ballot will not be counted. Consistent with Rule 4.3 above, the Election Committee reserves the right to require a new signature for a registered voter in the event the signature on the registration form is illegible or the voter's signature on an affidavit in a previous election does not match the signature on the registration form.

9.6 Candidates with Highest Vote Totals Elected. Consistent with Article III, Section 2 of the Constitution, as amended, the candidate or candidates elected to office shall be determined as follows: The two candidates for Business Committee receiving the highest total number of votes in the Business Committee election shall be elected to the Business Committee. The candidate receiving the highest total number of votes in the Chairperson Election shall be elected Chairperson.

9.7 Certification and Presentation of Results. The results of the election will be officially certified by signature of the Election Committee Chair and of all Election Committee Members who participated in the count. The official certified results will

be posted on the front window of the Tribal Center, shared via multi-media, and presented to the Business Committee at the first regular Community Council Meeting following the Election, or to the Business Committee offices on that same date in the event that Community Council meeting is canceled or postponed.

9.8 Tie Votes; Run-Off Election. In case of a tie between two or more Business Committee candidates (except where there is a tie between the two candidates with the highest total votes, in which case both candidates, and no one else, will be elected), such that a run-off is needed to determine which of the candidates who finished in a tie shall be elected to the Business Committee, or between two or more candidates for Chairperson, a run-off Election will be held by secret ballot on the Saturday immediately following the respective Election. Voting would take place at the Lower Elwha Tribal Center from 12:00 PM to 8:00 PM. Mail-in ballots will not be used for such a run-off due to the amount of time that would take to prepare. If a run-off is needed for the Business Committee Election, this may cause a one-week delay in the Chairperson Election.

9.9 Ballot Security and Destruction after Election. After certification of the results, the ballots will be secured by the Tribal Police in case a recount is requested or required, for a minimum of three (3) days, after which they will be archived. The ballots will be retained for a minimum of two (2) years. After two (2) years the Election Committee will determine whether there are any unresolved election issues that require continued retention of the ballots. Once the Committee has determined that the ballots are no longer needed, it shall provide written notice of that determination to the Police Department, and designate in writing at least two members of the Committee who will be responsible for appearing at the Police Station and destroying the ballots. These designated Committee members shall make a written record that the ballots have been destroyed.

10. Election Contests

10.1 Procedures for contesting vote count or election results. Within three (3) days following the announcement of the results of an election, any qualified voter may challenge the vote count or Election results by submitting a signed statement to election@elwha.org setting forth his or her grounds for the challenge, together with the substantiating evidence thereof. If the Election Committee determines that the evidence shows that these Rules were violated and that the objections on which the challenge is based are valid, the Election Committee shall take appropriate action as needed. Minor violations that do not affect the outcome of an election will not result in a new election.

10.2 Challenge Does Not Stay Next Election. The filing of a challenge to the Business Committee election does not automatically stay the process for the

Chairperson election unless and until so determined and announced in writing by the Committee.

11. Prohibited Conduct

Electioneering Defined and Prohibited. Delivering voters to the polling station, or picking them up, is permitted but the following activities are not:

- 11.1** In the Tribal Center Building at 2851 Lower Elwha Road, or in the Parking Lot thereof, NO PERSON may suggest or persuade or attempt to suggest or persuade any voter FOR or AGAINST any candidate OR engage in any practice which interferes with the freedom of voters to exercise their voting rights or which disrupts or obstructs the polling place.
- 11.2** There will be no display of campaign signs or circulation of campaign flyers in the Tribal Center or any other tribal facility, or in the parking lots or premises thereof, during the election season from April 5, 2021, through the final determination of the Chairperson election.

*Approved by 5-0 vote of the Election Committee
At Its Duly Called and Noticed Meeting of February 5, 2021.*