



HNC ELECTION CODE

(Certified January 6, 2021)

Approved by Referendum
December 18, 2020

Certified True Copy
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PREAMBLE & TITLE

- 1) This Code shall be called Haisla Nation Custom Election Code.

MODE OF ELECTION FOR CHIEF COUNCILLOR AND COUNCILLORS

- 2) The Chief Councillor and Councillors shall be elected by a vote held in accordance with this Code.

COMING INTO FORCE

- 3) This Code comes into force upon the passing of a Ministerial Order proclaiming the removal of the Haisla Nation band from the election provisions of the Indian Act.

INTERPRETATION

- 4) For the purposes of this Code

"Appellant" means an individual who submits an appeal in accordance with this Code with respect to the election.

"Code" means the Haisla Nation (HNC) Election Code.

"Council" means the Haisla Nation Council (HNC) composed of the Chief Councillor and the ten Councillors elected pursuant to this Code.

"By-election" means a special election to fill a position that has become vacant before the expiry of the term.

"Day" means calendar days.

"Candidate" means a band member who is at least 18 years of age on or before the day on which the nomination meeting is held and;

- Is a band member eligible to vote at an election; and,
- Has had his nomination accepted by the Electoral Officer pursuant to the provisions of this Code.

"Code" means the Haisla Nation Custom Election Code.

"Code of Ethics" means guidelines, general rules of behavior and standards which govern the conduct of candidates running for office and their supporters relating to their participation in the Electoral process.

"Complaints and Appeals Board" means the body appointed by a Band Council Resolution in accordance with section 193 of this Code to review and make decisions concerning petitions for removal from office and election appeals.

"Corrupt practices" means any attempt, either direct or indirect, to influence an elector's participation at any stage in the electoral process through bribery, force or intimidation.

"Deputy Electoral Officer" means any person appointed by the Electoral Officer for the purposes of an election to assist him in the election process.

"Duly Convened Meetings" means a minimum quorum of 6 members, including the Chief Councillor

"Election" means a band general election or by-election held pursuant to the provisions of this Code.

"Electoral Officer" means a person, appointed by a Band Council Resolution before each election, who will have the responsibility for conducting the nomination meeting, the election and post-election procedures.

"Elector" means a person who:

- Is a band member; and,
- Is at least 18 years of age on or before the day on which the election is held.

"Haisla Nation Media" means the Haisla Nation's official website, social media and any other forms of modern electronic communication owned, endorsed or otherwise used by the Haisla Nation Council.

"Immediate family" means Mother, Father, Spouse, siblings, Children, Stepchildren, grandchildren and grandparents.

"Mail-in ballot" means a ballot mailed or delivered in accordance with section 133 of this Code.

"Nomination meeting" is the meeting at which persons come forward to nominate and second candidates at the election.

"Oath" means a solemn affirmation.

"Local Resident" refers to the residential status of an Elector who is considered to have his ordinary residence either within IR#2 Kitamaat Village or within the municipal boundaries of the District of Kitimat. One's ordinary residence can be described as:

- The place the person normally eats and sleeps;
- The place the person receives mail;
- The residence of any member of the person's immediate family; and,
- A place in proximity to the place of employment of the person.

A person can only be ordinarily resident in one place at one time, and a person is ordinarily resident in that place until another place of ordinary residence is acquired. One may also be temporary absent from a place of ordinary residence for education, medical or temporary employment reasons.

"Non-Local Resident" refers to the residential status of an Elector who is considered to have his ordinary residence outside of IR#2 Kitamaat Village and outside of the municipal boundaries of the city of Kitimat. One's ordinary residence can be described as:

- The place the person normally eats and sleeps;
- The place the person receives mail;
- The residence of any member of the person's immediate family; and,
- A place in proximity to the place of employment of the person.

A person can only be ordinarily resident in one place at one time, and a person is ordinarily resident in that place until another place of ordinary residence is acquired. One may also be temporary absent from a place of ordinary residence for education, medical or temporary employment reasons.

"Polling station" means a building, hall or room which is selected to be the site for voting to take place.

"Rejected ballots" are those ballots that have been improperly marked and/or defaced by an Elector which are left out the tally of valid ballot cast during the counting of the votes.

"Elector declaration form" means a document that sets out, or provides for:

- The name of an Elector;
- The band membership or registry number of the Elector or, if the Elector does not have a band membership or registry number, the date of birth of the Elector; and,
- The name, address and telephone number of a witness to the signature of the Elector.

"Electors list" means the list of band members eligible to vote at an election.

THE COUNCIL

Composition and Size

- 5) Composition and Size
 - a) The Council shall consist of one Chief Councillor and ten Councillors.
 - b) A maximum of two Councillors of whom may be Non-Local Resident Councillors with the highest votes and the remainder of whom may be Local Resident Councillors
 - c) The Council shall select one of the elected Councillors to serve as the Deputy Chief Councillor.

Meetings

- 6) The first meeting of the Council shall be held not later than 30 days after its election, on a day, hour and place to be stated in a notice given to each member of the Council, and meetings shall thereafter be held on such days and at such times as may be necessary for the business of the Council or the affairs of the band.
- 7) No member of the Council may be absent from meetings of the Council for three consecutive meetings without being authorized to do so by the Council.
- 8) The Chief Councillor or a quorum of Council may summon a meeting of the Council.
- 9) The Clerk to the Council shall notify each member of the Council of the day, hour and place of the meeting at least Seven (7) days prior to the meeting.

Order and Proceedings

- 10) Six (6) members of Council, including the Chief Councillor, present shall constitute a quorum.

- 11) If no quorum is present within 30 minutes after the time appointed for the meeting, the secretary shall call the roll and take the names of the members of Council then present and the Council shall stand adjourned until the next meeting.
- 12) The Chief Councillor shall be the chairman.
- 13) Upon a quorum being present, the chairman shall take the chair and call the duly convened meeting to order.
- 14) In the absence of the Chief Councillor, a chairman shall be chosen from among the members of Council or Haisla Nation Council staff present.
- 15) The chairman shall maintain order and decide all questions of procedure.
- 16) The order of business at each regular meeting as follows:
 - a) Reading (correction, if any) and adoption of the minutes of the previous meeting;
 - b) Business arising from minutes;
 - c) Presentation and reading of correspondence or petitions;
 - d) Presentation and consideration of reports of committees / portfolios;
 - e) New business;
 - f) Set date for next duly convened meeting;
 - g) Adjournment.
- 17) Each resolution shall be presented or read by the mover, and when duly moved and seconded and placed before the meeting by the chairman, shall be open for consideration.

- 18) After a resolution has been placed before the meeting by the chairman, it shall be deemed to be in the possession of the Council, but it may be withdrawn by consent of the majority of the members of Council present.
- 19) When any member of Council desires to speak, he shall address his remarks to the chairman and confine himself to the question then before the meeting.
- 20) In the event of more than one member of Council desiring to speak at one time, the chairman shall determine who is entitled to speak.
- 21) The chairman or any member of Council may call a member to order while speaking, and the debate shall then be suspended, and the member shall not speak until the point of order is determined.
- 22) A member of Council may speak only once on a point of order.
- 23) Any member of Council may appeal the decision of the chairman to the Council and all appeals shall be decided by a majority vote and without debate.
- 24) All questions before the Council shall be decided by a quorum of the Councillors present.
- 25) The chairman shall not be entitled to vote unless the votes are equal, in which case the chairman shall cast the deciding vote.
- 26) Every member of Council present when a question is put shall vote thereon unless the Council excuses him or unless he is personally interested in the question, in which case he shall vote.
- 27) A member of Council who does not vote because of a conflict of interest under section 26 will not be automatically considered to be in favor of the question.
- 28) Whenever a division of the Council is taken for any purpose, each member of Council present and voting shall announce his vote upon the question openly and individually to the Council and, when so requested by any member of Council, the secretary shall record the same.

- 29) Any member of Council may require the question or resolution under discussion to be read for his information at any period of the debate, but not so as to interrupt a member of Council who is speaking.
- 30) The regular meetings shall be open to members of the band, and no member shall be excluded there from except for improper conduct.
- 31) The chairman may expel or exclude from any meeting any band member who causes a disturbance at the meeting.
- 32) The Council may, at the first meeting thereof, appoint in addition to the Committee of the Whole Council the following standing Committees or Portfolios:
 - a) For Housing
 - b) For Treasury Board (Finance)
 - c) For Community Development
 - d) For Health Department
 - e) For Treaty Team
 - f) For Natural Resources
 - i) Fisheries
 - ii) Forestry
 - iii) Environment
 - iv) Lands and Resources
 - g) For Human Resources
 - h) For Executive Committee by default
 - i) The Chief Councillor
 - ii) The Deputy Chief Councillor
 - iii) The Chief Operating Officer
 - i) For Kitlope Management Committee
 - j) For Economic Development
 - k) For Education
- 33) The Council may appoint special committees or additional standing committees on any matters as the interests of the band may require.
- 34) The Chief Councillor shall be a ex officio member of all committees / portfolios and be entitled to vote at all meetings thereof, and other members of the Council

may attend meetings of a committee and may with the consent of the committee take part in the discussion but shall not be entitled to vote.

- 35) The general duties of portfolios and special committees are:
- a) To report to the Council from time to time as often as the interests of the band may require, all matters connected with the duties imposed on them respectively and to recommend such action by the Council in relation thereto as they may deem necessary and expedient; and
 - b) To consider and report upon all matters referred to them by the Council or by the Chief Councillor.
- 36) Meetings of a special committee or portfolios may be called at the request of the chairman of such a special committee or portfolios, or a majority of the committee or, in the absence of the chairman, on request of the Chief Councillor.

TERM OF OFFICE

- 37) The term of office for the position of Chief Councillor and Councillors shall not exceed four years and the term of office will be staggered according to the following:
- a) At the first election held under this Code, one Chief Councillor and ten Councillors shall be elected. The Chief Councillor and the five Councillors elected with the highest number of votes shall hold office for four years. The other five elected Councillors shall hold office for two years.
 - b) The term of office for all officials elected in subsequent elections shall be four years.
 - c) Elections shall be held on the first Monday in June of each successive second year to fill those Council positions becoming vacant in that year.

- 38) The term of office may, under mitigating circumstance, be continued beyond four years if such continuation is approved by 50% of the members of Council. This continuation shall not exceed 3 months or 90 days.
- 39) The term of office for Chief Councillor and Councillors commences when all elected Council members swear the oath within 30 days of their taking office, or of the election. Exceptions can be granted by a quorum of Council for health or family reasons.
- 40) The successful candidate in a by-election shall hold office for the remainder of the original term of the Chief Councillor or Councillor whom he is elected to replace.
- 41) In the event that a successful appeal results in a By-election, the term of the newly elected band Council shall commence on the date all elected Council members swear the oath of office under section 205 of this Code and expires at the end of the original term.

Vacancy

- 42) A Chief Councillor or Councillor position on the band Council may become vacant if, while in office
 - a) The Chief Councillor or Councillor resigns in writing from office on his own accord; or
 - b) The Chief Councillor or Councillor has been unable to perform the functions of his office for more than six months due to illness or other incapacity; or
 - c) The Chief Councillor or Councillor dies; or
 - d) The Chief Councillor or Councillor is removed from office in accordance with section 46 of this Code.

CODE OF ETHICS

- 43) Candidates must campaign
- a) According to the rules and regulations established in this Code and pursuant to the Code of Ethics;
 - b) Without coercion or vote buying;
 - c) Respecting the right and freedom of other parties to organize and campaign, and to reach out to Electors with their messages;
 - d) Respecting the rights of Electors to obtain information from a variety of sources and to attend political rallies;
 - e) Ethically, focusing on political issues and candidate platforms.
 - f) Non-violently, without intimidating opposing candidates, opposition supporters or the media, and without the use of language inciting their own supporters to violence;
 - g) Respecting the freedom of the press to cover the campaign and to express opinions on the campaigns;
 - h) Respecting the Electoral officials and not interfering with the performance of their duties; and,
 - i) Accepting and complying with the official election results and the final decision of the Complaints and Appeal Board.
- 44) Every person is guilty of an offence, as determined by the complaints and appeals board, of this Election Code pursuant to subsections 43 a) and b) that, during an election period, directly or indirectly offers a bribe to influence an Elector to vote or refrain from voting or to vote or refrain from voting for a particular candidate, or during an election period, accepts or agrees to accept a bribe that is offered.
- 45) Every person is guilty of an offence, as determined by the complaints and appeals board, of this Election Code pursuant to subsections 43 a) and b) who, by intimidation or duress, compels a person to vote or refrain from voting or to vote

or refrain from voting for a particular candidate at an election; or by any pretense or contrivance, induces a person to vote or refrain from voting or to vote or refrain from voting for a particular candidate at an election.

REMOVAL OF COUNCIL MEMBERS FROM OFFICE

- 46) The Chief Councillor or a Councillor may be removed from office and be prevented from running for office for up to six years if he:
- a) Violates this Code, his oath of office or the Code of Ethics (section 43);
 - b) Consistently fails to attend regularly scheduled meetings of Council without being reasonably excused from attendance by a quorum of the Council.
 - c) Fails to maintain a standard of conduct expected of a member of Council as per the Rules, Procedures and Regulations of Chief and Council; (attached)
 - d) Has been convicted of an indictable offence since his election;
 - e) Accepts or offers a bribe, forges a Council document or otherwise acts dishonestly in his role;
 - f) Is found criminally negligent in failing to ensure the safety and protection of the community's members and property;
 - g) Abuses his office such that the conduct negatively affects the dignity and integrity of the community or of Council;
 - h) Encourages others to commit any of the above; or
 - i) Engages in such other conduct of such a serious nature that the removal is necessary and appropriate in order to preserve the interest of the Band.

Procedure

- 47) Proceeding to declare a person ineligible to continue to hold the office of Chief Councillor or Councillor shall be initiated by:
- a) Any Elector submitting to the Complaints and Appeals Board a petition on which shall appear:
 - i) the ground pursuant to section 46 of this Code on which removal of a Chief Councillor or Councillor is sought;
 - ii) the evidence in support of the petition;
 - iii) the signature of the petitioner;
 - iv) the signatures of at least 25 of all eligible Electors of the band in support of the petition; and
 - v) a non-refundable filing fee of \$100.00.
 - (b) A majority of Council members passing a Band Council Resolution and submitting a petition to the Complaints and Appeals Board on which shall appear:
 - i) the ground pursuant to section 46 of this Code on which removal of a Chief Councillor or Councillor is sought;
 - ii) the evidence in support of the resolution; and,
 - iii) the signature of all Council members who voted for the removal.
- 48) On receipt of a petition, the Complaints and Appeals Board shall verify that the petition complies with section 47 of this Code. If the petition does not comply, the Complaints and Appeals Board shall so notify the petitioner(s).
- 49) If where the petition complies with section 47 of this Code, the Complaints and Appeals Board shall

- a) Determine that the grounds put forth in the petition are either frivolous in nature or unsubstantiated, and dismiss the petition; or
 - b) Schedule a review hearing, which shall take place within 20 days from the date on which the petition was submitted to the board.
- 50) If where the petition has been dismissed under subsection 49(a), the Complaints and Appeals Board shall inform the petitioner(s) in writing within 10 days of the decision to dismiss and provide a rationale.
- 51) If where the Complaints and Appeals Board schedules a hearing under subsection 49(b), the board shall send a written notice of the hearing by registered mail to Council, the petitioner(s) and the Council member who is the subject of the petition for removal, no later than 14 days before the scheduled date of hearing.
- 52) The written notice described in section 51 of this Code shall set out:
- a) The nature of the hearing and all related particulars;
 - b) The date, time and location of the hearing; and,
 - c) A statement that the petitioner, any member of Council or the Council member who is the subject of the petition for removal may, at the hearing, make a presentation to the board, which may include the presentation of documents and testimonial by witnesses.
- 53) The Complaints and Appeals Board shall conduct a hearing at the time and place set out in the notice provided under section 51 of this Code.
- 54) Within five days of the day on which the hearing under section 53 of this Code is held, the Complaints and Appeals Board shall rule.
- a) That the petition shall be allowed to stand and declare the Council position of the member of Council who is the subject of the petition to be vacant; or

- b) That the petition shall be dismissed.
- 55) The Complaints and Appeals Board shall send, by registered mail, a written notice of the ruling made under section 54 of this Code to Council, the petitioner(s) and the Council member who is the subject of the petition for removal.
- 56) The decision of the Complaints and Appeals Board made under section 54 of this Code is final and binding upon all parties.
- 57) If the Council position is declared vacant under subsection 54(a) of this Code, the Chief Councillor or Councillor in question will be disqualified from being a candidate for up to six years commencing on the date of the ruling made pursuant to section 54 of this Code.

BY-ELECTION

- 58) Unless otherwise provided in this Code, if the office of Chief Councillor or Councillor becomes vacant a by-election may be held at the sole discretion of Council, except where a by-election is necessary to have sufficient Council members to maintain a quorum.
- 59) In any event, the Haisla Nation Council shall within 30 days of any office of Council becoming vacant pass a resolution indicating their decision with regard to section 58, and shall prepare a public notice for posting in a public area of the band administration building, and posting to Haisla Nation media.
- 60) No sitting Council member is eligible to be a candidate in a by-election. If a Council member wishes to be a candidate in a by-election, he must resign his Council position prior to the nomination meeting for the by-election.
- 61) Except as expressly provided otherwise, the rules and procedures in this Code shall apply to by-elections.

PRE-NOMINATION PROCEDURE

Appointment of an Electoral Officer

- 62) The Electoral Officer shall be appointed by the Council through a Band Council Resolution not less than 120 days before the expiration of the Council's term of office.
- 63) The Band Council Resolution for the appointment of the Electoral Officer shall contain his full name, the desired date of election, the type of election which is to be conducted, as well as any special instructions.
- 64) If an Electoral Officer has not been appointed within the time set out in section 62 of this Code, the Electoral Officer shall be appointed by the Chief Operating Officer as soon as possible.
- 65) The Council will appoint an individual to the office of Electoral Officer who:
 - a) Can either be a member of the band or a non-member;
 - b) Has no vested interest in the outcome of the election;
 - c) Is at least 21 years of age; and
 - d) Has experience in the conduct of elections or has received appropriate training.
- 66) In the event that the Electoral Officer cannot fulfill his duties, an existing Deputy Electoral Officer will be chosen by the Council, through a Band Council Resolution, to undertake the duties of the Electoral Officer. In the absence of an existing Deputy Electoral Officer, the Council shall appoint a new Electoral Officer.

Oath of Office

- 67) The Electoral Officer must swear an oath to uphold the office in accordance with this Code.

Responsibilities and Code of Conduct

- 68) The Electoral Officer is responsible for managing and executing all pre-Electoral, Electoral and post-Electoral processes and procedures included in this Code. The Electoral Officer must:
- a) Uphold and abide by the Haisla Nation Custom Election Code and its rules and regulations;
 - b) Remain neutral and professional in the conduct of the duties of office, which includes not providing any preferential treatment or expressing support or opposition for any candidate;
 - c) Not accept anything of value (money, offers of employment, gifts, travel, etc.) in exchange for preferential treatment or access to public official or non-public information;
 - d) Not discriminate against anyone because of religion, sex, age or handicap;
 - e) Use public office facilities to fulfill the terms of office, not for personal or partisan benefit.
 - f) Not pressure or intimidate other officials or personnel to favor a certain candidate;
 - g) Avoid conflict of interests, or the perception of conflict of interests, by abstaining from decision making where there is a personal or private interest in the matter.

ELECTORS LIST

- 69) The Haisla Nation Membership Clerk, or designate, shall prepare a list of eligible voting members at least 90 days before the day in which an election is held of all eligible Electors, including each electors full legal name,

known alias', band membership number, date of birth, residential mailing address and resident status

- 70) The Haisla Band Membership Clerk shall, no later than 79 days prior to the date on which the election is to be held, provide the Electoral Officer with the last known addresses, if any, of all Electors.
- 71) Electors are responsible for providing the Haisla Band Membership Clerk with current contact addresses.
- 72) A deceased elector is removed from the electoral list by the Haisla Band Membership Clerk who is responsible for providing an updated Band Membership list of those who will have attained the age of 18 on the date on which the election is to be held, to the Electoral Officer.
- 73) The contact address shall be used only for purposes of providing notices, mail-in ballots or other election documents to Electors who are entitled to receive them under this Code.
- 74) Except for these purposes, the contact address shall not be disclosed by the Electoral Officer without the consent of the Elector.
- 75) A candidate for election as Chief Councillor or Councillor may obtain from the Electoral Officer a list of the names and the addresses of Electors who have consented to have their addresses released to the candidates.
- 76) As soon as possible, and no less than 72 days before the day on which an election is to be held, the Electoral Officer shall prepare an Electors list containing the names of all of the Electors in alphabetical order.
- 77) The Electoral Officer shall cause to have the Electors list posted in a public area of the Band administration building, on Haisla Nation media, or in other conspicuous places as may be determined by the Electoral Officer, no later than 72 days prior to the date on which the election is to be held.
- 78) On request, the Electoral Officer or Deputy Electoral Officer shall confirm whether the name of a person is on the Electors list.

- 79) A person, or an Elector acting on his own behalf, may, no later than two days prior to the date on which the election is to be held, demonstrate that the name of an Elector has been omitted from or incorrectly set out in the Electors list by presenting in writing to the Electoral Officer evidence from the Haisla Band Membership Clerk that the Elector:
- a) Is entitled to have his name entered on the Electors list;
 - b) Will be at least 18 years of age on the date on which the election is to be held.
 - c) In the event the elector has no identification or lost it, he may provide a sworn affidavit supported by a eligible elector attesting to the individuals membership and age.
- 80) A person may demonstrate that the name of a person not qualified to vote has been included in the Electors list by presenting in writing to the Electoral Officer, no later than 12 days prior to the date on which the election is to be held, evidence that the person:
- a) Is neither on the Haisla Nation (Kitamaat) Indian Registry nor entitled to have his name entered on the Haisla Nation (Kitamaat) Indian Registry;
 - b) Will not be at least 18 years of age on the date on which the election is to be held;
- 81) Where the Electoral Officer believes or has information that a person whose name is on the Electors list is not an Elector, or where an Elector demonstrates to the Electoral Officer that the name of a person not qualified to vote appears on the Electors list in accordance with section 80, the Electoral Officer shall give written notice to the person whose eligibility is challenged by sending said notice by registered mail at least 10 days prior to the date on which the election is to be held.
- 82) The notice given under section 81 shall include the reasons for seeking removal of a name from the Electors list and any supporting documents, and shall provide

notice that a written reply may be sent to the Electoral Officer, which must be received no later than 4 days prior to the date on which the election is to be held.

- 83) After consideration of all information and representations relating to amendments to the Electors list, the Electoral Officer shall add or delete names to the Electors list based on whether persons qualify as Electors.
- 84) The decision of the Electoral Officer under section 83 is final and is not subject to appeal.
- 85) Any person whose name does not appear on the Electors list shall be entitled to vote on election day, provided he presents documentary proof to the Electoral Officer demonstrating his qualifications to the satisfaction of the Electoral Officer. In the case where an individual has no identification, acceptable proof would be a sworn affidavit backed up by a sworn affidavit from an individual on the electoral list attesting to the individual's membership and age.

APPOINTMENT OF DEPUTIES AND INTERPRETERS

- 86) The Electoral Officer shall appoint deputies and interpreters as he deems necessary, who shall work under his direction.
- 87) The Deputy Electoral Officers shall have such powers as described in this Code as well as those powers of the Electoral Officer as are delegated to them by the Electoral Officer.
- 88) A Deputy Electoral Officer shall not be a member of Council or a candidate in the election.
- 89) Every Deputy Electoral Officer shall swear an oath of office to in the form prescribed in this Code – Appendix A:
 - (a) Uphold and comply with the Haisla Nation Custom Election Code;
 - (b) Fulfill the duties and responsibilities of his office under this Code;

- (c) Carry out his duties faithfully, honestly, impartially and to the best of his abilities;
 - (d) Keep confidential, both during and after his term of office, any matter or information which, under this Code, community law or policy, is considered confidential; and
 - (e) Always act in the best interests of the Nation in carrying out his duties.
- 90) The Electoral Officer may make such order and issue such instructions consistent with the provisions of this Code as he may deem necessary for the effective administration of the election.

THE NOMINATION PROCESS

Notice of Nomination Meeting and Mail-in Procedures

- 91) The Electoral Officer shall, at least 45 days before the date on which the nomination meeting is to be held ensure that the notice of nomination meeting is posted in a public area of the Band administration building, on Haisla Nation Media and in at least one local newspaper.
- 92) The Electoral Officer shall, at least 45 days before the date on which the nomination meeting is to be held, mail to every elector:
- a) Notice of Nomination;
 - b) Nomination Form with Instructions; and,
 - c) Elector Declaration Form
- 93) A notice of a nomination meeting shall include:
- a) The date, time, duration and location of the nomination meeting;
 - b) The date on which the election will be held and the location of each polling place;

- c) The name, email address and phone number of the Electoral Officer;
 - d) The statement that any Elector may vote in person, by mail-in ballot or electronically;
 - e) A description of the manner in which an Elector can nominate a candidate, or second the nomination of a candidate; as well as by mail
 - f) The statement that, if the Elector wants to receive information from candidates, the Elector can agree to have his address released to the candidates; and
 - g) Notification of fees required to be submitted by candidates and the deadline to submit such fees.
- 94) The Electoral Officer shall record the names of Electors to whom a notice of the nomination meeting was mailed, the addresses of those Electors, and the date on which the notices were mailed.

Eligibility to Nominate

- 95) In order to be entitled to nominate a candidate at an election, an Elector must, on the day of the nomination meeting:
- a) Be included on the Electors list.
- 96) Any Elector may propose or second the nomination of any qualified person to serve as the Chief Councillor or Councillor, subject to section 95:
- a) By delivering or by mailing a written nomination and a completed, signed and witnessed Elector declaration form to the Electoral Officer before the time set for the nomination meeting; or
 - b) Orally, at the nomination meeting.

Eligibility for Candidacy

- 97) Eligibility for Candidacy:
- a) A candidate for Chief Councillor must be listed on the Haisla Nation (Kitamaat) Indian Registry;
 - b) Have submitted the documents required under section 111 and 113 and paid the deposit required under sections 115 or 116 of this Code; and,
 - c) A candidate for Chief Councillor or Councillor is not eligible for office if he is in arrears (has an outstanding debt) \$500.00 or greater to Haisla Nation Council. The Electoral Officer will get verification in writing from the Haisla Nation Council Chief Operating Officer of all candidates' eligibility within 7 days following the nomination meeting.
- 98) A person may only be a candidate for one of the offices of Chief Councillor and Councillor in any election.

NOMINATION MEETING

- 99) The nomination meeting shall be held at least 42 days prior to the date on which the election is to be held.
- 100) At the time and place set for the nomination meeting, the Electoral Officer shall declare the nomination meeting open for the purpose of receiving the nomination of candidates for the available Council positions.
- 101) The Electoral Officer is responsible for managing and conducting the nomination meeting.
- 102) Immediately following the opening of the nomination meeting, the Electoral Officer shall read aloud all written nominations and secondments that have been received by mail or delivered in accordance with subsection 96(a). Following this announcement, the Electoral Officer will call for oral nominations from eligible Electors present at the nomination meeting.

Duration

- 103) The nomination meeting shall remain open for at least three hours.

Maintaining Order and Security

- 104) The Electoral Officer shall maintain order at all times during the nomination meeting and may cause to be removed, any person who, in his opinion, is disrupting or otherwise interfering with the proceedings.

Nomination Procedure

- 105) Mailed nominations that are not received by the Electoral Officer before the time set for the nomination meetings are void.
- 106) The Electoral Officer shall record the name of the candidate, the nominator and the seconder and confirm to the meeting that the proposed candidate is eligible to be elected to the position of Chief Councillor or Councillor of the band.
- 107) Subject to section 106, a person present at a nomination meeting who is eligible to do so may propose a nomination, may second a nomination made at the nomination meeting, and may second a nomination made in writing.
- 108) Where the same person receives two written nominations for the same office, the second nomination shall constitute a secondment of the first nomination.
- 109) Any Elector may nominate or second no more than:
- a) One eligible person for the office of Chief Councillor; and
 - b) Six eligible persons for the offices of Councillor.
- 110) Where more than the required number of persons are nominated for election as Chief Councillor or Councillors, the Electoral Officer shall, announce that an Election will be held.

CANDIDACY

- 111) If the nominee is present at the nomination meeting, he may sign the following documents:
- a) A notice of acceptance of nomination; and
 - b) A sworn declaration confirming their eligibility as a candidate.
- 112) It is the nominee's sole responsibility to ensure the documents required under section 111 and section 113 are filed with the Electoral Officer as required within 10 days of date on which the nomination meeting was held.
- 113) A person nominated as a candidate for both the office of Chief Councillor and the office of Councillor must declare which office he intends to seek (if any) within 10 days of the date on which the nomination meeting was held.
- 114) No person shall accept candidacy in an election if that person is not eligible to be a candidate in accordance with this Code.

Deposit

- 115) A deposit of \$100 must be posted by all candidates for the position of Chief Councillor within 10 days of the date on which the nomination meeting was held.
- 116) A deposit of \$100 must be posted by all candidates for the position of Councillor within 10 days of the date on which the nomination meeting was held.
- 117) The deposit shall be in the form of cash, money order, or certified cheque.
- 118) If the deposit takes the form of a certified cheque or money order, the instrument shall be made payable to Haisla Nation.
- 119) All funds received as deposits during the election process, including those funds received pursuant to section 117 and 118 of this Code, shall be placed in a special bank account which contains only those funds. The funds shall be held in trust by

the Electoral Officer in this account and then paid out according to the provisions of this Code.

- 120) After the appeal period has expired, in the case where no election appeal has been filed in accordance with this Code, or after all appeals have been decided, the Electoral Officer will issue a cheque in the amount of the deposit under section 115 or 116 of this Code, as the case may be, to each candidate who has received at least 15% of the total votes cast at the election. The remaining funds will be forfeited to the Haisla Nation.
- 121) A nominee, who fails to submit the documents required under section 111 and 113 and the deposit required under sections 115 or 116 of this Code with the Electoral Officer within 10 days of the nomination meeting, shall be removed as a nominee and his name will not be included on the ballot.

WITHDRAWAL

- 122) A candidate may withdraw at any time up to the close of the Poll by submitting a written withdrawal of nomination to the Electoral Officer in the form prescribed in this Code – Appendix B.
- a) If a candidate withdraws after 14 days of the date on which the nomination meeting was held, their name shall remain on the ballot.
- 123) A candidate who withdraws shall forfeit his deposit.
- 124) A candidate who dies before the close of the polls shall be considered to have withdrawn his candidacy.

PRE-ELECTION PROCEDURE

Acclamation

- 125) At the end of the nomination meeting, the Electoral Officer shall

- a) If only one person has been nominated for election as Chief Councillor, declare that person to be elected;
 - b) Where only the minimum required number of persons are nominated for election as Councillors, declare those persons to be elected.
 - c) Provisions a) and b), apply in the event of acclamation's in a by-election
- 126) Where the office of Chief Councillor and all offices of Councillor are filled by acclamation,
- a) The Electoral Officer shall post in a public area of the Band administration building and on Haisla Nation media and mail to every Elector a notice that sets out the names of the persons who have been acclaimed and states that an election will not be held; and
 - b) sections 129 through 195 of this Code do not apply.

BALLOTS

- 127) The Electoral Officer shall prepare ballot papers setting out:
- a) The names of the candidates nominated for election as Chief Councillor, in alphabetical order by surname, then by first name; and
 - b) The names of the candidates nominated for election as Councillor, in alphabetical order by surname, then by first name and residency.
- 128) Where two or more candidates have the same name, the Electoral Officer shall add to the ballots such additional information as is necessary to distinguish between those candidates. The ballot may, at the request of the candidate, include a candidate's commonly used nickname.
- 129) On the 15th day following the nomination meeting the Electoral Officer shall finalize the ballot(s) to be used in the election, activate electronic voting and release mail-in ballot voting packages.

NOTICE OF THE ELECTION

- 130) On the day following the nomination meeting, the Electoral Officer shall cause to have posted in a public area of the Band administration building and on Haisla Nation Media the entire list of nominees, their nominators and seconders and the offices for which they are nominated.
- 131) The Electoral Officer shall cause the Election Notice to be posted on the sixteenth (16th) day following the nomination meeting is posted in a public area of the Band administration building, on Haisla Nation Media and in at least one local newspaper.
- 132) The election notice shall include:
- a) The date of the election;
 - b) The time(s) at which the polling station(s) will open and close;
 - c) The location of the polling station(s),
 - d) The time and location of the counting of the votes;
 - e) The names of the candidates for Chief Councillor and Councillor;
 - f) A statement that the Electors list is posted for public viewing and its location; and,
 - g) The notice should confirm that voters can vote in person, by mail-in ballot, electronically, and information included on how to obtain a mail-in ballot.

MAIL-IN BALLOTS

- 133) The Electoral shall ensure that every non-resident, for whom a residential mail address has been provided, shall automatically be sent a mail in ballot voting

package. Any resident Elector who wishes to obtain a mail-in voting package may request to vote by mail-in ballot voting package directly from the Electoral Officer and return it to the Electoral Officer. Each mail-in ballot package to the elector who so requests shall consist of:

- a) ballot(s) for Chief Councillor and Councillors initialed on the back by the Electoral Officer;
- b) An inner postage-paid return envelope, pre-addressed to the Electoral Officer;
- c) A second inner envelope marked "ballot" for insertion of the completed ballot;
- d) An Elector declaration form which shall set out:
 - i) the name of the Elector;
 - ii) the membership number and date of birth of the Elector; and address and phone number; and
 - iii) the name, address and telephone number of the witness to the signature of the Elector;
- e) The notice of election as set out in section 131 of this Code; and
- f) A letter of instruction regarding voting by mail-in ballot which shall also include:
 - i) a statement advising Electors that they may vote in person at any polling station on the day of the election if they return their mail-in ballot to the Electoral Officer at the polling station or swear a written declaration before the Electoral Officer, a justice of the peace, notary public or duly appointed commissioner for taking oaths that they have lost the mail-in ballot;

- ii) the Electoral Officer must receive the mail-in ballot before the close of the polls on election day; and
 - iii) a list of the names of any candidates who were acclaimed (if applicable).
- 134) Any Elector who is unable to vote in person on election day may, prior to the date on which the election is to be held, request a mail-in ballot package from the Electoral Officer.
- 135) The Electoral Officer shall indicate on the Electors list that a ballot has been given to each Elector to whom a mail-in ballot was mailed or otherwise provided and keep a record of the date on which, and the addresses to which, each mail-in ballot was mailed or otherwise provided.
- 136) An Elector shall vote by mail-in ballot by:
- a. Placing an "X" or other mark that clearly indicates the Elector's choice but does not identify the Elector opposite the name of the candidate or candidates for whom he desires to vote;
 - b. Folding the ballot in a manner so as to conceal the names of the candidates or any marks, but exposes the Electoral Officer's initials on the back;
 - c. Placing the ballot in the inner envelope and sealing the envelope;
 - d. Completing and signing the Elector declaration form in the presence of a witness who is at least 18 years of age;
 - e. Placing the inner envelope and the completed, signed and witnessed Elector declaration form in the postage-paid envelope;
 - f. Delivering, mailing or otherwise ensuring receipt by the Electoral Officer of the envelope before the close of polls on the day of the election.

- 137) Where an Elector is unable to vote in the manner set out in section 136 of this Code, the Elector may enlist the assistance of another person to mark the ballot and complete and sign the Elector declaration form in accordance with that section.
- 138) A witness referred to in section 137 of this Code shall attest to:
- a) The fact that the person completing and signing the Elector declaration form is the person whose name is set out in the form; or
 - b) The fact that the Elector is the person whose name is set out in the form and that the ballot was marked according to the directions of the Elector.
- 139) Mail-in ballots that are not received by the Electoral Officer before the close of polls on the day of the election shall not be counted, nor recorded in any manner.

ELECTRONIC VOTING

Minimum Voting Procedural Requirements

- 140) The Electoral Officer shall ensure that instructions for electronic voting are clearly provided on all notices, the electronic voting platform landing page, and available for distribution upon direct request from any elector.
- 141) The electronic voting platform must operate across all digital platforms (smart phones, tablets, laptops and personal computers) and across all major operating systems.
- 142) To cast an electronic vote, the elector shall:
- a) visit the landing page (or home page) of the electronic voting platform;
 - b) confirm their eligibility to participate using electronic voting;
 - c) complete the elector registration process;
 - d) declare their intent and desire to vote electronically;

- e) complete the authentication and elector verification process;
 - f) mark their electronic ballot(s); and
 - g) confirm their electronic vote.
- 143) During the electronic vote process set out in this section the Electoral Officer will:
- a) receive an email notification confirming the elector registration.
 - b) receive an email notification confirming the elector voted electronically.
 - c) mark the elector as having voted electronically on the Voters list.
- 144) Where the elector has voted electronically the elector shall not be permitted to vote in person or by mail-in ballot.

Minimum Electronic Voting Platform Requirements

- 145) The Electoral Officer shall ensure electronic voting platform is populated by the Voters list at least 60 days prior to the vote.
- 146) The Electoral Officer shall have administrative access to the electronic voting platform to view and download daily reports and detailed activities reports.
- 147) Individual voting results shall remain secret at all times and individual elector choices shall be encrypted in such a way as to ensure voter anonymity.
- 148) At a minimum the electronic voting platform shall exceed the threshold of elector verification and due diligence for mail-in ballots, and at minimum shall require for each elector:
- a) A digital signature (or equivalent);
 - b) A unique personal identification number (PIN);
 - c) A registry number (status card number); and
 - d) Their date of birth.

- 149) Automated email notifications shall be generated in real-time to the Elector and Electoral Officer of all and any activity associated with an Elector using the electronic voting platform, including:
- a) attempted registration and/or voting;
 - b) completed elector registration;
 - c) completed voting;
 - d) failed registration and/or vote;
 - e) system or communication failures, interruptions or lost data.
- 150) Daily detailed activity reports shall be generated via email to the Electoral Officer.
- 151) At the official close of the poll the Electoral Officer shall be able to access the tabulated electronic vote results.
- 152) All electronic voters list, ballots and confidential voter information shall be deleted and wiped from the servers of the electronic voting platform, and certification to this effect will be provided by the Electoral Officer.
- 153) Once an elector has voted once electronically, they cannot vote again electronically, and shall be restricted from doing so again by the electronic voting platform program Code.
- 154) Electronic voting will end automatically at the official close of the electronic poll and the electronic voting platform will no longer be accessible by voters.

Certification of the Electronic Vote Results

- 155) After the close of the polls the Electoral Officer shall add the Electronic Voting results to the results of the physical polls and mail-in ballots and shall make a declaration certifying the recorded number of Electronic Votes.

Council May Make Regulations

- 156) Without contravening any part of this Code, Council may make regulations governing electronic voting procedures.

EQUIPMENT FOR THE ELECTION

- 157) The Electoral Officer shall, before the polling station is open, supply the polling station with:
- a) Sufficient ballot boxes;
 - b) A sufficient number of ballots;
 - c) A sufficient number of voting compartments enabling Electors to mark their ballots free from observation;
 - d) Instruments for marking;
 - e) A sufficient number of voting instructions as may be required;
 - f) All other equipment as necessary to establish and equip the voting locations; and
 - g) The final Electors list.

Polling Stations

- 158) The Electoral Officer shall establish the primary polling station in Kitamaat Village and may establish multiple polling stations.
- 159) The Electoral Officer shall provide multiple voting compartments in the polling station(s) where Electors can mark their ballots free from observation and the Electoral Officer may appoint security to maintain order in the polling station.

ELECTION DAY

160) The Electoral Officer shall not be allowed to vote in the election.

Candidate's Agent

161) A candidate shall be entitled to not more than two agents in the polling station at any one time.

162) A candidate's agent must present a letter of authorization to the Electoral Officer or the Deputy Electoral Officer, signed by the candidate, in order to be permitted to remain in the polling station.

Polling Hours

163) The polling station shall be open from 9 a.m. until 8 p.m. local time on the day of the election.

Verification of the Ballots Box

164) The Electoral Officer or Deputy Electoral Officer shall, immediately before the commencement of the poll,

- a) Open the ballot box and call such persons as may be present to witness that it is empty and complete a written statement to that effect, verified by a witness;
- b) Properly seal the ballot box in a manner preventing it from being opened without breaking the seal; and
- c) Place the ballot box in public view for the reception of the ballots.

Secrecy and Security

165) Voting shall be by secret ballot.

166) No Elector may vote by proxy or authorize another person to vote on his behalf.

- 167) The Electoral Officer or Deputy Electoral Officer shall maintain order at all times in the polling station and may cause to be removed any person who in anyway interferes, disrupts or attempts to influence the orderly conduct of the poll.
- 168) No person shall, on the day the election is held, on the premises of the polling station:
- a) Distribute any election related printed materials, or any campaign material, except such materials as may be distributed by the Electoral Officer or Deputy Electoral Officer for the purpose of conducting the election;
 - b) Attempt to interfere with or influence any Elector in marking his ballot; or
 - c) Attempt to obtain information as to how an Elector is about to vote or has voted.

Voting Procedure

- 169) Each person, on arriving at the polling station, shall give his name to the Electoral Officer or Deputy Electoral Officer.
- 170) The Electoral Officer or Deputy Electoral Officer shall, if the person's name is set out in the Electors list, place his or initials on both the ballot for Chief Councillor and the ballot for Councillor and provide them to the Elector.
- 171) The Electoral Officer or Deputy Electoral Officer shall cause to be placed in the proper column of the Electors list a mark opposite the name of every person receiving a ballot.
- 172) An Elector who has voted electronically shall not be permitted to vote in person, or by mail in ballot. Conversely, an elector who has voted in person or by mail in ballot shall not be able to vote electronically.
- 173) An Elector to whom a mail-in ballot was mailed or provided for in this Code may obtain a ballot and vote in person at a polling place if,

- a. The Elector returns the mail-in ballot to the Electoral Officer or Deputy Electoral officer; or
 - b. Where the Elector has lost the mail-in ballot, the Elector provides the Electoral Officer or Deputy Electoral Officer with a written affirmation that the Elector has lost the mail-in ballot, signed by the Elector in the presence of the Electoral Officer, Deputy Electoral Officer, a justice of the peace, a notary public or a commissioner for oaths.
- 174) The Electoral Officer or Deputy Electoral Officer shall, when requested to do so, explain the method of voting to the Elector.
- 175) After receiving a ballot, an Elector shall,
- a) Immediately proceed to the compartment provided for marking ballots;
 - b) Mark the ballot, by placing an "X" or other mark that clearly indicates the Elector's choice but does not identify the Elector, opposite the name of the candidate or candidates for whom he desires to vote;
 - c) Fold the ballot in a manner that conceals the names of the candidates and any marks, but exposes the initials on the back; and
 - d) Deliver the ballot to the Electoral Officer or Deputy Electoral Officer.
- 176) On receipt of a completed ballot, the Electoral Officer or Deputy Electoral Officer shall, without unfolding the ballot, verify the initials placed on it and deposit it in the ballot box in the presence of the Elector and any other persons entitled to be present at the polling station.
- 177) While an Elector is in the compartment for the purpose of marking his ballot, no other person shall, except as provided in section 161 of this Code, be allowed in the same compartment or be in any position from which he can see the manner in which the Elector marks his ballot.

Voting Irregularities

- 178) At the request of any Elector who is unable to vote in the manner set out this Code, the Electoral Officer or Deputy Electoral Officer shall assist that Elector, in the presence of another Elector selected by the Elector as a witness, by marking the Elector's ballot in the manner directed by the Elector, and placing the ballot in the ballot box.
- 179) The Electoral Officer or Deputy Electoral Officer shall note on the Electors list opposite the name of such Elector the fact that the ballot was marked by him at the request of the Elector and the reasons therefore.
- 180) An Elector who has inadvertently dealt with his ballot in such a manner that it cannot be conveniently used shall, on one occasion only, upon returning it to the Electoral Officer or Deputy Electoral Officer, be entitled to obtain another ballot. The Electoral Officer or Deputy Electoral Officer shall write the word "cancelled" upon the spoiled ballot and preserve it.
- 181) Any person who has received ballots and who leaves the polling place without delivering the same to the Electoral Officer or a Deputy Electoral Officer in the manner provided, or after receiving the ballots, refuses to vote, shall forfeit his right to vote at the election, and the Electoral Officer or Deputy Electoral Officer shall make an entry in the Electors list in the column for remarks opposite the name of such person to show that such person received the ballots and declined to vote, and the Electoral Officer or Deputy Electoral Officer shall mark upon the face of the ballots returned to him the word "declined" and all ballots so marked shall be preserved.

Closing of the Polling Station

- 182) Every Elector who is inside the polling station at the time fixed for closing the poll shall be entitled to vote before the poll is closed.

COUNTING OF THE VOTES

Opening Mail-in Ballots

- 183) At the time published in the notice prepared under section 130 of this Code for the counting of the votes, the Electoral Officer or Deputy Electoral Officer shall, in the presence of any candidates or their agents, open each envelope containing a mail-in ballot that was received before the close of the polls and, without unfolding the ballot'
- a) Reject the ballot if
 - i) it was not accompanied by a Elector declaration form, or the Elector declaration form is not signed or witnessed,
 - ii) the Elector declaration form does not contain a date of birth or a band number that matches the information contained for that Elector on the Electors list;
 - iii) the name of the Elector set out in the Elector declaration form is not on the Electors list, or
 - iv) the Electors list shows that the Elector has already voted; or
 - b) In any other case, place a mark on the Electors list opposite the name of the Elector set out in the Elector declaration form, and deposit the ballot in a ballot box.

Counting the Votes

- 184) The Electoral Officer shall determine the most effective and efficient manner in which to count, tabulate and report the election results
- 185) The Electoral Officer shall establish a counting procedure, which is observable by the candidate's agents, which verifies and authenticates each ballot cast, and which provides a full audit of the counting process.
- 186) The counting procedure shall be open to any member wishing to observe in a quiet and peaceful manner – the member shall not in anyway interrupt or otherwise interfere with the Electoral Officer, Deputy Electoral Officer or the counting procedure in any manner or fashion whatsoever.

Ballots not Counted

- 187) In examining the ballots, the Electoral Officer or Deputy Electoral Officer must reject any ballots that:
- a) Do not contain the initials of the Electoral Officer or Deputy Electoral Officer;
 - b) Do not give a clear indication of the Elector's intention;
 - c) Contain more votes than there are candidates to be elected; or
 - d) Contain a mark by which the Elector can be identified.
- 188) The Electoral Officer or Deputy Electoral Officer shall attach a note to each ballot rejected which outlines the reason for rejection.
- 189) Subject to review on recount or on an election appeal, the Electoral Officer or Deputy Electoral Officer shall take a note of any objections made by any candidate or his agent to any of the ballots found in the ballot box and also to any decision of the Electoral Officer or his Deputy Electoral officer to reject a ballot under section 187 and decide any questions arising out of the objection.
- 190) The Electoral Officer or Deputy Electoral Officer shall number objections to ballots raised pursuant to section 189 of this Code and place a corresponding number on the back of the ballot with the word "allowed" or "disallowed", as the case may be, with his initials.

Other Polling Stations

- 191) Immediately upon completion of the counting of the ballots pursuant to this Code at a polling station other than that considered the principal polling station managed by the Electoral Officer, the Deputy Electoral Officer shall transmit the results to the Electoral Officer.

Tie

- 192) If it is not possible to determine the successful candidate(s) for either a Chief Councillor or Councillor position due to an equal number of votes being cast (i.e., tie vote), the Electoral Officer shall establish a time for the conduct of a recount and publicly announce this time in the presence of all those present in the polling station.
- 193) A recount conducted pursuant to section 176 must take place within 24 hours of the announcement by the Electoral Officer, in the presence the candidates and their agents who wish to attend.
- 194) At the time established pursuant to section 176 the Electoral Officer will conduct a recount of the valid ballots.
- 195) If the recount fails to determine a successful candidate, in order to break the tie the Electoral Officer shall place the names of the candidates having the same number of votes on a separate piece of paper and place each in a receptacle. Without looking, he shall draw as many papers as there are positions available. The candidate(s) whose name(s) appears on the piece(s) of paper the Electoral Officer has drawn from the receptacle shall constitute the successful candidate(s).

POST-ELECTION PROCEDURES

Announcement

- 196) After completing the counting of the votes and establishing the successful candidates, the Electoral Officer shall declare to be elected:
 - a) for the position of Chief Councillor, the candidate having the highest number of votes;
 - b) A maximum of two Councillors of whom may be Non-Local Resident Councillors with the highest votes and the remainder of whom shall be Local Resident Councillors; and

- c) for the positions of Local Resident Councillors, a minimum of eight candidates having the highest numbers of votes
- 197) Despite section 196, a candidate for the office of Non-Local Resident Councillor shall only be declared to be elected if he was in the top ten in the election. If less than two candidates for the office of Non-Local Resident Councillor were in the top ten in the election, then the Electoral Officer shall declare to be elected.
- a) for the office of the Chief Councillor, the candidate having the highest number of votes;
 - b) for the office of Non-Local Resident Councillor, the candidates in the top ten in the election, if any; and
 - c) for the offices of Local Resident Councillor, the candidates having the highest number of votes such that the total number of Councillors declared to be elected is ten.
- 198) Following the declaration of elected candidates made pursuant to this Code, the Electoral Officer shall complete and sign an election report which shall contain:
- a) The names of all candidates;
 - b) The number of ballots cast for each; and
 - c) The number of spoiled, rejected or cancelled ballots.
- 199) Immediately after completion of the counting of the votes, the Electoral Officer shall cause to have posted the election results at the polling location, in a public area of the Band administration building and on Haisla Nation Media, and shall within five (5) days submit a detailed election report the election report to the Band administration, and:
- a) Shall within five (5) days submit a detailed election report the election report to the Band administration.

RETENTION OF BALLOTS AND OTHER ELECTION MATERIAL

- 200) The Electoral Officer shall deposit all ballots in sealed envelopes, including those rejected, spoiled and unused, and shall retain these ballots and all materials in connection with the election.
- 201) All ballots and materials retained in accordance with section 200 of this Code shall be retained for 45 days from the date on which the election was held or until a decision on an appeal is rendered, whichever date is later, after which time the Electoral Officer may, unless directed otherwise by the Council of the band, destroy them in the presence of two witnesses who shall make a declaration that they witnessed the destruction of those papers.

CHIEF COUNCILLOR AND COUNCILLOR OATH OF OFFICE

- 202) A candidate who has been elected Chief Councillor or Councillor shall, within thirty days of the Electoral Officer's declaration under section 196 or section 197 of this Code, swear an Oath of Office in form prescribed in this Code – Appendix C - to;
- a) Uphold and comply with this Code, and
 - b) Fulfill the duties and responsibilities of his office as per the Rules, Regulations and Procedures for Chief and Council.
- 203) Where a candidate elected as Chief Councillor or Councillor cannot, due to illness or other valid reason, swear the oath of office within the time prescribed in section 200 of this Code, he or an Elector acting on his behalf may file a petition with the Electoral Officer for an extension of the time to swear the oath of office.
- 204) The Electoral Officer receiving a petition under section 203 of this Code shall determine whether the circumstances justify an extension and shall provide the candidate making the request written notice of the decision, and where applicable, the extension period.

- 205) No person elected as Chief Councillor or Councillor shall be permitted to assume his office until he has sworn and filed with the Electoral Officer the oath of office required under this Code.
- 206) Any person elected as Chief Councillor or Councillor fails to file the sworn oath of office with the Electoral Officer on or before the specified time period, the Electoral Officer shall declare the office vacant.
- 207) The Electoral Officer shall give notice in writing to the elected candidate whose office is declared vacant under this Code and to the elected Chief Councillor and Council.
- 208) Unless the vacancy occurring under this Code results in a situation where the Council can no longer form a quorum, the position shall remain vacant until such time as a by• election is called by Council.

COMPLAINTS AND APPEALS BOARD

Composition

- 209) The Complaints and Appeals Board shall be composed of three members as follows:
 - a. A Haisla Nation member age 65 years old or older;
 - b. A person, at least 21 years of age, who is not a member of the band and who does not have a vested interest in the outcome of an election appeal or a petition for the removal of a Council member from office; and
 - c. A band member, at least 21 years of age.

All members of the Complaints and Appeals Boards shall possess an understanding of the principles of natural justice.

- 210) At least 100 days before the date on which the election is to be held, the Council shall:

- a. Select the members of the Complaint and Appeal Board in accordance with section 193, and
 - b. Draw a list of 3 additional potential members.
- 211) The term of office of the Complaints and Appeals Board shall be from its appointment under section 210 until the day on which the Council selects another Complaints and Appeals Board in accordance with this Code.
- 212) Upon receipt of an election appeal in accordance with this Code, any Complaints and Appeals Board member who is immediate family of any appellant or candidate, or who may be reasonably apprehended to have a bias or conflict in connection with the appeal, shall excuse himself from the board.
- 213) The remaining members of the Complaints and Appeals Board will select additional members as required to attain three from the list of potential members drawn by the Council in accordance with section 209
- 214) The members of the Complaints and Appeals Board shall execute an oath of office and accept their appointment by forwarding a letter of acceptance to the Council.

Functions

- 215) The Complaints and Appeals Board shall supervise and administer, in accordance with the provisions of this Code
- a) All election appeals;
 - b) Petitions for the removal of a Council member from office; and,
 - c) An appeal of a declaration of vacancy.

ELECTION APPEAL MECHANISM

Timing

- 216) A candidate or an Elector may, within 30 days from the date on which the election was held, submit an appeal to the Complaints and Appeals Board.

Grounds for Appeals

- 217) The appeal submitted pursuant to this Code must sufficiently outline one or more of the following occurrences:
- a) The person declared elected was not qualified to be a candidate;
 - b) There was a violation of this Code in the conduct of the election that might have affected the result of the election; or
 - c) There was corrupt or fraudulent practice in relation to the election.

Submission

- 218) An appeal submitted to the Complaints and Appeals Board must:
- a) Be in writing and set out in an affidavit sworn before a notary public or duly appointed commissioner for taking oaths the facts substantiating the grounds for the appeal accompanied by any supporting documentation; and
 - b) Be accompanied by a deposit in the amount of \$100.00.

Procedure

- 219) Upon receipt of an election appeal, the Complaints and Appeals Board shall
- a) In the case where the appeal is submitted in accordance with section 202, forward a copy together with supporting documents by registered mail to the Electoral Officer and to each candidate at the election; or

- b) In the case where the appeal is not submitted in accordance with section 202, inform the appellant(s) in writing that the appeal will not receive further consideration.

Response to the Allegations

- 220) Any candidate, witness, or the Electoral Officer may, within 14 days of the receipt of the appeal(s), forward to the Complaints and Appeals Board by registered mail a written response to the appeal allegations, together with any supporting documentation.

Investigation

- 221) The Complaints and Appeals Board may, if the material that has been filed is not adequate for deciding the validity of the election complained of, conduct such further investigation into the matter as deemed necessary by:
 - a) Appointing a third-party investigator
 - b) Request additional documentation from appellants
 - c) Gather statements from witnesses, all additional information must be shared with all interested parties in the appeal, with time for those parties to respond before making the final decision.

Decision

- 222) After a review of all of the evidence that it has received, the Complaints and Appeals Board shall render a decision no later than 120 days after officially receiving the appeal:
 - a) That the evidence presented was not sufficiently substantive to determine that:

- i) a violation of this Code has taken place that might have affected the result of the election;
- ii) the person declared elected was not qualified to be a candidate; or
- iii) there was a corrupt or fraudulent practice in relation to the election that might have affected its results,

and dismiss the appeal; or

- b) That all evidence and information gathered shows on a balance of probabilities for the reasonable conclusion that:
 - i) a violation of this Code has taken place that might have affected the result of the election;
 - ii) the person declared elected was not qualified to be a candidate; or
 - iii) there was a corrupt or fraudulent practice in relation to the election that might have affected its results,

and uphold the appeal by setting aside the election of one or more Council members.

- 223) The decision of the Complaints and Appeals Board made pursuant to this Code shall be:
- a) Sent as a separate written notice delivered to all interested parties in the appeal; and
 - b) Published in the Councils newsletter,
 - c) Posted on the Haisla Nation media; and
 - d) Posted in public area of the band administration building.

- 224) The decision of the Complaints and Appeals Board is final and not subject to appeal.

AMENDMENTS

- 225) The process for development and passage of amendments to this Code may be initiated by:
- a) A petition presented to Council, signed by at least 50% of all eligible Electors and setting out the specific area in this Code proposed for amendment; or
 - b) A Band Council Resolution.
- 226) Upon receipt of an amendment proposal in accordance with section 225 of this Code, Council shall prepare a notice that sets out:
- a. A summary of the proposed amendments to this Code;
 - b. A statement that the full copy of the proposed amendments can be obtained at the Council office; and
 - c. A description of the amendment process.
- 227) The notice provided for in section 226 of this Code shall be:
- a) Published in the Council's newsletter and
 - b) Posted on the Haisla Nation media; and
 - c) Posted in public area of the band administration building.
- 228) Electors may, within 30 days of publication of the notice outlined in section 227 of this Code, provide comments concerning the proposed amendments in writing to Council.

- 229) Following receipt of comments concerning the proposed amendments pursuant to section 225 of this Code, Council shall review comments and make changes to the proposed amendments as they deem necessary in order to arrive at a final amendment proposal.
- 230) The Council shall submit the final amendment proposal to a band membership vote.
- 231) Should the majority of the votes cast be in favor (50% plus 1) of the proposed amendments being brought to the Code, Council shall amend the Code accordingly.
- 232) Elections held under the amended Code shall take place no sooner than 79 days from the band membership vote.
- 233) Council may at any time make corrections to the Code regarding grammar, section referencing, formatting, tense, and spelling at anytime to the Code by resolution, and must post the resolution specifying any correction(s) in a public area of the band administration building and on Haisla Nation media.

Appendix A

Electoral Officer Oath of Office

I, _____, have been duly appointed as the Chief Electoral Officer for the _____ Haisla Nation Council elections and hereby do solemnly swear to uphold and implement the Haisla Nation Custom Election Code and further shall;

- a) uphold its rules and regulations;
- b) remain neutral and professional in the conduct of the duties of office, which includes not providing any preferential treatment or expressing support or opposition to any candidate or a particular general or referendum question;
- c) not accept anything of value (money, offers of employment, gifts, travel, etc.) in exchange for preferential treatment or access to a public official or non-public information;
- d) not discriminate against anyone because of religion, sex, age or handicap;
- e) use public office facilities to fulfill the terms of office, not for personal or partisan benefit;
- f) not pressure or intimidate other officials or personnel to favour a certain candidate or a particular general or referendum question;
- g) avoid conflict of interests, or the perception of conflict of interests, by abstaining from decision making where there is a personal or private interest in the matter.

AND I MAKE THIS SOLEMN DECLARATION conscientiously believing it to be true and knowing that it is of the same force as if made under oath and by virtue of the *Canada Evidence Act*.

DECLARED BEFORE me at _____)
 _____ of _____ in the)
 Province of British Columbia, this _____)
 day of _____, 20__)

A Commissioner for Oaths in and for the)
 Province of British Columbia)

 Electoral Officer

Appendix B

Candidate Withdrawal Form

Candidates wishing to withdraw their candidature must do so pursuant to section 122 of the Code. If you withdraw on or before _____, _____ your name will not appear on the Ballot.

In order to withdraw you must do so in writing, and the Candidate must sign their declaration to withdraw in the presence of the Electoral Officer, or Justice of the Peace, or Notary, or Commissionaire for Oaths. The properly completed document must be submitted to the Electoral Officer prior to the close of the Polls.

Print Your Legal Name Band / Status Number

Address where you are normally resident

Phone number and alternate contact, email address if available

I, _____ hereby withdraw my name as a
Candidate for the Office of CHIEF / COUNCILLOR (circle only one) for the Haisla Nation General Election
being held _____.

Signature of Candidate

Date

SIGNATURE WITNESSED BY:

Print Name of Witness

Phone Number

Signature of Electoral Officer or Justice of the Peace or Notary or Commissionaire for Oaths

Appendix C

Oath of Office

I, _____, a duly elected member of the Haisla Nation Council (HNC), declared that, in carrying out my duties as _____, I will:

- Respect and support the governing principles as outlined in the Constitution of the Haisla Nation Council (HNC).
- Respect and support the B-Laws, Election Code, Code of Ethics, Code of Conduct, Polices and decisions of the Council and membership.
- Exercise the powers of my office and fulfill my responsibilities in good faith and in the best interest of all members.
- Exercise these responsibilities, at all times, with due diligence, care, and skill in a reasonable and prudent manner.
- Keep confidential all information that I learn about clients, personnel and any other matters determined by council to be matters of confidence.
- Conduct myself in the spirit of cooperation and respect for the collective decisions of the Council and to set aside my personal self-interest for the best interests of the Council.
- Immediately declare any conflict of interest that may come to my attention.
- Immediately resign my position as a Councillor in the event that I, or my colleagues in the Council, have concluded that I have breached my “Oath of Office”.
- Shall immediately cease to hold the position in the event of a conviction of an indictable offence as outlined in the Criminal Code of Canada- this is not intended to cover activities or offences of a non-violent nature related to the defense of Aboriginal Rights and Title.
- Shall not speak on behalf of Haisla Nation Council or make decisions or commitments without a unified body (one voice).

Oath of Office and Confidentiality

Respect for confidentiality is the cornerstone of trust and confidence as well as the traditional and legal obligation. Haisla Nation Council (HNC) must at all times respect the confidentiality of any members or clients and/or circumstances that might identify members or clients.

Similarly, all matters dealt with by Haisla Nation Council (HNC) I during in-camera meetings related to personnel must be held in strictest confidence. Confidentiality means Haisla Nation Council (HNC) may not refer such to anyone including immediate family members. The duty of confidentiality continues indefinitely after any elected official leaves the Haisla Nation Council (HNC).

As a member of Haisla Nation Council (HNC), I swear to uphold the Oath of Office and Confidentiality, sworn and declared on this _____ day of _____, _____.

Signature

Date:

Witness Signature

Date:

