

# THE HEILTSUK CUSTOM ELECTION RULES

## GOVERNING

### THE ELECTION OF CHIEF AND COUNCIL

WHEREAS, the Heiltsuk Band (also known as the Heiltsuk Indian Band, the Heiltsuk Nation and Heiltsuk Tribal Council, and formerly known as the Bella Bella Band) (the "Band") is a band pursuant to s. 2(1) of the Indian Act, R.S.C. 1985, c. 1-5, (the "Act");

WHEREAS, the Band is governed by an elected council (the "Council");

WHEREAS, the Council has since 1952, been elected in accordance with section 74 of the Act;

WHEREAS, the members of the Band (the "Membership") have directed that the Council should be elected in accordance with electoral rules reflective of Heiltsuk vision, values and based on its inherent authority to self-determination;

WHEREAS, the Heiltsuk Custom Election Rules (the "Rules") have been developed in accordance with recommendations by the Membership through working groups and community consultations, reviewed and accepted in principle by the Council and approved by the Membership;

AND WHEREAS, the Band's Electors have adopted, by way of a referendum, the Rules for the customary election of the Band's Chief Councillor and Council;

THEREFORE, BE IT HEREBY RESOLVED THAT, upon issuance of a Ministerial order removing the Band from the application of section 74 of the Act, the Council of the Band shall be elected in accordance with these Rules.

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## **1. Effective Date and Coming into Force**

These Rules come into full force upon issuance of a Ministerial order removing the Band from the election provisions of the Act on the \_\_\_\_\_ day of \_\_\_\_\_, 2005.

## **2. Definitions and Interpretation**

In these Rules,

**Amendment Vote** means a vote held in accordance with these Rules to seek community approval for a specific amendment to be brought to these Rules.

**Band** means the Heiltsuk Indian Band.

**Band Member** means a person whose name appears on the Band Membership list, or who is eligible for Band Membership pursuant to the “Membership Rules of the Heiltsuk Indian Band”.

**By-election** means a special Election to fill a Council position.

**Candidate** means a Nominee who has satisfied the requirements for inclusion on the ballot pursuant to these Rules.

**Candidate Acceptance & Declaration Form** means the document which confirms a Nominee’s acceptance of the nomination and confirms his or her eligibility to run for Council in accordance with the Rules.

**Candidate Fee** means a non-refundable fee of \$100.00 dollars paid by the Candidate to the Heiltsuk Tribal Council at the time the Candidate accepts his/her nomination.

**Chief Councillor** means the Candidate elected to Council as Chief Councillor pursuant to these Rules.

**Council** means the governing body of the Band elected pursuant to these Rules, comprised of a Chief Councillor and 11 Councillors (collectively, the “Council members”).

**Councillors** means the 11 Candidates elected to Council as Councillors pursuant to these Rules, of whom 10 are ordinarily resident on the Reserve and 1 is ordinarily resident off the Reserve.

**Deputy Electoral Officer** means a person appointed by the Electoral Officer to assist him/her.

**Election** means an Election or By-election held pursuant to these Rules.

**Electoral Officer** means the person appointed by the Council for the purposes of administering an Election, By-Election or Amendment Vote in accordance with these Rules.

**Electors List** means an alphabetical list of Band Members eligible to vote at an Election, which also includes the Electoral Officer's name, business address, e-mail address, business telephone and facsimile number.

**Good Financial Standing** means making regular and on-going payments to the Band and its entities.

**Heiltsuk Ancestry** means having at least one parent descended from the Heiltsuk Tribes.

**Heiltsuk Custom Election Rules** means these Rules, Schedules and Appendices.

**Heiltsuk Nation Web Page** means the internet web page maintained by the Council on behalf of the Band.

**Mail-In-Ballot** means a ballot mailed or otherwise delivered in accordance with these Rules.

**Nominee** means an Elector who is nominated and seconded at a Nomination Meeting in accordance with these Rules.

**Nomination Form** means the document on which Electors unable to attend the Nomination Meeting in person may nominate eligible persons.

**Nomination Meeting** means a meeting held in accordance with these Rules for the purpose of nominating eligible persons for an Election.

**Notice of Amendment Vote** means the notice provided in accordance with these Rules, which includes information related to an upcoming Amendment Vote.

**Notice of an Election** means the notice provided in accordance with these Rules, which includes information related to an upcoming Election.

**Off-Reserve Councillor** means a member of the Council elected pursuant to the Rules who ordinarily resides Off-Reserve.

**On-Reserve Councillor** means a member of the Council elected pursuant to the Rules who ordinarily resides On-Reserve.

**Ordinary Residence** means the one place where an Elector ordinarily and regularly sleeps except for temporary absences for medical or educational reasons. The words "ordinarily resident" shall be interpreted in accordance with Schedule A.

**Poll** means the casting and recording of votes in accordance with these Rules.

**Polling Site** means the location of the Poll where voting takes place.

**Professional Training** means training in the trades, technical, or other vocational studies and includes apprenticeships and internships.

**Reserve** means Bella Bella Indian Reserve # 1, also known as Waglisla.

**Scrutineer** is an individual appointed in writing by a Candidate to observe voting and counting procedures during an Election.

### **3. General Election and Council Information**

3.1 The first Election for Council pursuant to these Rules shall be called at least 79 days prior to the expiry of the term of office of the current Council.

#### **First Official Meeting**

3.2 The Council elected pursuant to these Rules shall formally take office at its first meeting within one week of the Election. Notice of the first meeting shall be provided to each newly elected member of the Council.

3.3 At the first official meeting, the Chief Councillor and each Councillor shall swear or affirm the Oath of Office and sign the Conflict of Interest and Code of Ethics Guidelines, attached as Appendices A, B and C, respectively.

#### **Council Size and Composition**

3.4 The Council shall consist of 1 (one) Chief Councillor and 11 (eleven) Councillors (10 On-Reserve and 1 Off-Reserve).

### **4. Terms of Office and Timing of Elections**

#### **Chief Councillor**

4.1 The Chief Councillor shall hold office for four years from the date of the Election.

#### **On-Reserve Councillors**

4.2 a) In the first Heiltsuk Custom Election, the five Candidates for On-Reserve Councillor with the 1st to the 5th highest number of votes shall hold office for four years from the date of the Election; and

The five Candidates for On-Reserve Councillor with the 6th to the 10th highest number of votes shall hold office for two years from the date of the Election.

b) In every election thereafter, the term of office for On-Reserve Councillor shall be four years, thus creating a staggered election.

**Off-Reserve Councillor**

- 4.3 The Candidate for Off-Reserve Councillor with the highest number of votes shall hold office for two years from the date of the Election.

**Term of Office after a By-election**

- 4.3 If a Candidate is elected as Chief Councillor or Councillor pursuant to a By-election, he or she shall hold office for the remainder of the term associated with the Council position he or she was elected to fill.

**5. Eligibility of Electors**

- 5.1 In order to be entitled to nominate and vote in an Election, a person must be, as of the date of the Nomination Meeting:
- a) 18 years of age or older;
  - b) a registered Band Member; and
  - c) on the Elector's List.

**6. Eligibility of Candidates**

- 6.1 A Candidate for the office of Chief Councillor must:
- a) have been nominated to be a Candidate pursuant to these Rules;
  - b) be the full age of 25 (twenty-five) years or older on or before the day on which the Election is held;
  - c) be of Heiltsuk Ancestry;
  - d) not have outstanding criminal charges and, if convicted previously, must have completed the sentence at least 5 (five) years prior to the date of the Election, unless he/she provides proof of an official pardon;
  - e) be in Good Financial Standing with the Band and Band entities. A Nominee who is not currently in Good Financial Standing must provide before the date of Election, a written agreement that includes a payment plan approved by the Director of Finance so that he or she is able to demonstrate Good Financial Standing;
  - f) have signed the Candidate Acceptance & Declaration Form attached as Appendix D and paid the Candidate Fee;
  - g) have been a registered Band Member for a period of at least 12 (twelve) months immediately preceding the Election;

- h) be an Elector who is ordinarily resident on the Reserve and has been for at least 12 (twelve) months prior to the date of the Election;
- i) have furthered his or her education through post-secondary studies, or professional training, as confirmed in the sworn Candidate Acceptance & Declaration Form;
- j) provide a one-page biographical profile confirming his or her educational and professional qualifications and other experience; and
- k) have not been found to have violated these Rules.

6.2 A Candidate for the office of On-Reserve Councillor must:

- a) have been nominated to be a Candidate pursuant to these Rules;
- b) be the full age of 21 (twenty one) years or older on or before the day on which the Election is held;
- c) be of Heiltsuk Ancestry;
- d) not have outstanding criminal charges and, if convicted previously, must have completed the sentence at least 5 (five) years prior to the date of the Election, unless he/she provides proof of an official pardon;
- e) be in Good Financial Standing with the Band and Band entities. A Nominee who is not currently in Good Financial Standing must provide before the date of Election, a written agreement that includes a payment plan approved by the Director of Finance so that he or she is able to demonstrate Good Financial Standing;
- f) have signed the Candidate Acceptance & Declaration Form attached as Appendix D and paid the Candidate Fee;
- g) have been a registered Band Member for a period of at least 12 (twelve) months immediately preceding the Election;
- h) be an Elector who is ordinarily resident on the Reserve and has been for at least 12 months prior to the date of the Election;
- i) provide a one-page biographical profile confirming his or her educational and professional qualifications and other experience; and
- j) have not been found to have violated these Rules.

6.3 A Candidate for the office of Off-Reserve Councillor must:

- a) have been nominated to be a Candidate pursuant to these Rules;
- b) be the full age of 21 (twenty one) years or older on or before the day on which the Election is held;
- c) be of Heiltsuk Ancestry;
- d) not have outstanding criminal charges and, if convicted previously, must have completed the sentence at least 5 (five) years prior to the date of the Election, unless he/she provides proof of an official pardon;
- e) be in Good Financial Standing with the Band and Band entities. A Nominee who is not currently in Good Financial Standing must provide before the date of Election, a written agreement that includes a payment plan approved by the Director of Finance so that he or she is able to demonstrate Good Financial Standing;
- f) have signed the Candidate Acceptance & Declaration Form attached as Appendix D and paid the Candidate Fee;
- g) have been a registered Band Member for a period of at least 12 (twelve) months immediately preceding the day on which the Election is held;
- h) be an Elector who is ordinarily resident off reserve and has been for at least 12 months prior to the date of the Election;
- i) have the ability to attend regularly scheduled Council meetings on the Reserve;
- j) provide a one-page biographical profile confirming his or her educational and professional qualifications and other experience; and
- k) have not been found to have violated these Rules.

6.4 An Elector residing on Reserve who wishes to run for both the positions of Chief Councillor and On-Reserve Councillor in an Election may do so, provided that he or she satisfies the requirements of 6.1 and 6.2.

## **7. Appointment of Electoral Officer/ Deputy Electoral Officer**

7.1 The Council shall appoint an Electoral Officer at least 90 days prior to an Election.

7.2 A Deputy Electoral Officer shall be appointed by the Electoral Officer and shall work under his or her direction.

- 7.3 The Electoral Officer and the Deputy Electoral Officer shall conduct themselves in an absolutely impartial manner and must resign their positions if there is a conflict of interest in respect of their relationship with any Candidate. In the event of the resignation of the Electoral Officer, Council shall immediately appoint a replacement. In the event of the resignation of the Deputy Electoral Officer, the Electoral Officer shall immediately appoint a replacement.
- 7.4 The Electoral Officer and the Deputy Electoral Officer shall not be members of Council, Nominees or Candidates in the Election, nor shall they be related by marriage or be members of the immediate family to any Candidate.
- 7.5 For greater certainty, whether a conflict of interest exists in respect of the Electoral Officer, shall be interpreted in accordance with Appendix B.
- 7.6 The Electoral Officer and the Deputy Electoral Officer shall not be entitled to vote in an Election.

## **8. Elector's List and Contact Addresses**

- 8.1 The Band Registrar shall provide the Electoral Officer, within seven days of his or her appointment, with the names, Band Membership number, date of birth, and residency status (as defined in Schedule A) of all Band Members who will be at least 18 years of age on the date of the Nomination Meeting.
- 8.2 The Band Registrar shall provide the Electoral Officer, within seven days of his or her appointment, with the last known addresses, where available, of those Electors who do not reside on the Reserve.
- 8.3 After an Election, the Electoral Officer shall provide the Band Registrar with any updated addresses for Off-Reserve Electors received during the course of the Election.
- 8.4 Subject to section 8.3, contact addresses shall only be used for the purposes of providing notices, ballots and other documents to Electors and shall not be disclosed by the Electoral Officer without the consent of an Elector.
- 8.5 Prior to the posting of the Notice of Nomination Meeting, the Electoral Officer shall prepare an Electors List containing the names, in alphabetical order, of all Electors.
- 8.6 The Electors List will contain a notation next to the names of those Electors who have been ordinarily resident on the Reserve for at least 12 months prior to the date of the Nomination Meeting.
- 8.7 The Electors List will contain a notation next to the names of those Electors who have been ordinarily resident off the Reserve for at least 12 months prior to the date of the Nomination Meeting.

- 8.8 The Electoral Officer shall post one or more copies of the Electors List in a noticeable place on the Reserve, on the Heiltsuk Nation Web Page if possible, and in any other location deemed appropriate by the Electoral Officer.
- 8.9 Any Elector may apply to the Electoral Officer to have the Electors List revised on the grounds that the name of an Elector set out therein is incorrect, or that an Elector's name has been inadvertently omitted.
- 8.10 If the Electoral Officer is satisfied that the Electors List should be corrected, then the Electoral Officer shall make the necessary correction.

## **9. Notice of Nomination Meeting**

- 9.1 When an Election is to be held, the Electoral Officer shall post a Notice of Nomination Meeting in the form prescribed by these Rules.
- 9.2 The Notice of Nomination Meeting shall contain, at a minimum, the following information:
- a) the date, time, duration and location on the Reserve of the Nomination Meeting;
  - b) the name, phone number and any other contact information for the Electoral Officer;
  - c) the internet address of the Heiltsuk Nation Web Page;
  - d) a statement that any Elector who wishes to obtain a Mail-in Ballot must complete and sign the application to vote by Mail-in Ballot and return it to the Electoral Officer along with proof of identity. The Electoral Officer must receive the application and proof of identity at least 10 days before the day on which the Election is to be held; and
  - e) a statement that if the Elector wants to receive information from Candidates, the Elector must first consent in writing to have his or her address released to the Candidates.
- 9.3 The Notice of Nomination Meeting shall be posted at least 30 days prior to the date of the Nomination Meeting:
- a) in one or more noticeable places on the Reserve; and
  - b) at any other location that the Electoral Officer deems appropriate, including the Heiltsuk Cablevision local channel and Heiltsuk Nation Web Page if possible.

- 9.4 At least 30 days prior to the date of the Nomination Meeting, the Electoral Officer shall mail to those Electors residing off Reserve for whom addresses are known:
- a) the Notice of the Nomination Meeting;
  - b) the Mail-in Voter Declaration to Nominate form;
  - c) a Mail-in Nomination Form;
  - d) the Application to Vote by Mail-In Ballot;
  - e) the consent to release address form; and
  - f) an explanation of how an Elector may participate in the Election, including how to nominate and vote by mail.
- 9.5 Only those Electors residing off the Reserve who advise the Electoral Officer of their intention to participate in the Election by mail shall be sent any further Election information.

## **10. Nomination Meeting**

- 10.1 A Nomination Meeting for an Election shall be held on the Reserve at least 42 days before the date of the Election.
- 10.2 At the time scheduled for the Nomination Meeting, the Electoral Officer shall declare the meeting open for the purpose of receiving nominations and shall manage and conduct the meeting.
- 10.3 At the beginning of the Nomination Meeting, the Electoral Officer shall post and read aloud all written nominations that have been received by mail or otherwise delivered in accordance with these Rules.
- 10.4 The Electoral Officer shall keep the Nomination Meeting open for a period of no more than three hours and nominations shall cease upon the passing of a motion by the Electors present to close the Nomination Meeting.
- 10.5 The Electoral Officer shall maintain order at all times during the Nomination Meeting and may cause to have removed any person who, in his or her opinion, is disrupting or otherwise interfering with the proceedings.
- 10.6 An Elector may nominate an eligible person in writing by completing a Mail-in Voter Declaration to Nominate Form and a Mail-in Nomination Form and ensuring receipt by the Electoral Officer prior to the start of the Nomination Meeting.
- 10.7 All Electors at the Nomination Meeting shall sign the record of attendance.

- 10.8 Each nomination must be moved by an Elector and seconded by another Elector.
- 10.9 Written nominations must be seconded by an Elector in attendance at the Nomination Meeting.
- 10.10 A nomination that has not been seconded prior to the close of the Nomination Meeting shall not stand.
- 10.11 Prior to the close of the Nomination Meeting, the Electoral Officer will confirm the eligibility of each Nominee by verifying that his or her name appears on the Electors List.

## **11. Candidate Acceptance & Declaration Form and Biographical Profile**

- 11.1 No later than 24 hours after the close of the Nomination Meeting, the Electoral Officer will attempt to notify each Nominee and hand deliver, fax or otherwise deliver to each Nominee, the Candidate Acceptance & Declaration Form.
- 11.2 If the Electoral Officer is, after making all reasonable inquiries, unable to notify a Nominee of his or her nomination within the required time, that person's name shall be struck from the list of Nominees.
- 11.3 Nominees who wish to be considered for candidacy shall:
  - a) complete in full and have sworn the Candidate Acceptance & Declaration Form;
  - b) provide the biographical profile described in ss. 6.1(j), 6.2(i), or 6.3(j); and
  - c) provide both a) and b) to the Electoral Officer with the Candidate Fee, no later than 3 days after receiving the Candidate Acceptance & Declaration Form from the Electoral Officer.
- 11.4 Once a Nominee provides a duly executed Candidate Acceptance & Declaration Form, the biographical profile and pays the Candidate Fee to the Electoral Officer, the Nominee becomes a Candidate and his/her name will be included on the Ballot.
- 11.5 Candidate Acceptance & Declaration Forms and the biographical profiles are considered filed with the Electoral Officer when they are received at the Band's administration office.
- 11.6 Nominees who do not file the Candidate Acceptance & Declaration Form and biographical profiles and pay the Candidate Fee within the prescribed time will be deemed to have declined their nomination.
- 11.7 Following the expiration of time for filing the Candidate Acceptance & Declaration Form and biographical profile and payment of the Candidate Fee, the Electoral Officer will post the list of Candidates for each Council position.

- 11.8 If, at any time prior to the Election, the Electoral Officer determines that a Candidate does not meet the qualifications as set out in these Rules, the Electoral Officer shall disqualify the Candidate.

## **12. Candidate Fee**

- 12.1 A non-refundable Candidate Fee of one hundred dollars (\$100.00) shall be deposited with the Electoral Officer at the time a Candidate files his or her Candidate Acceptance & Declaration Form and biographical profiles. Payment of the Candidate Fee must be in the form of cash, money order or certified cheque made payable to the Heiltsuk Tribal Council.
- 12.2 The Electoral Officer may extend the time required for payment of the Candidate Fee by a maximum of three days if, taking into consideration the circumstances of the Candidate, the Electoral Officer deems the time limitation to be unreasonable. In such a case, the Candidate must deposit the Candidate Fee within the extended time limit prescribed by the Electoral Officer.

## **13. Acclamation**

- 13.1 In the event that only one Candidate for Chief Councillor satisfies the requirements of sections 11 and 12, the Electoral Officer shall declare that Candidate to be duly elected by acclamation.
- 13.2 In the event that only the required number of Candidates for On-Reserve Councillor satisfies the requirements of sections 11 and 12, the Electoral Officer shall declare those Candidates to be duly elected by acclamation.
- 13.3 In the event that only one Candidate for Off-Reserve Councillor satisfies the requirements of sections 11 and 12, the Electoral Officer shall declare that Candidate to be duly elected by acclamation.
- 13.4 For greater certainty, Candidates for the positions of Chief Councillor, On-Reserve Councillor and Off-Reserve Councillor must meet all the eligibility requirements set out in sections 6.1, 6.2 and 6.3 respectively, prior to the Electoral Officer declaring them to be duly elected by acclamation.

## **14. Candidate Withdrawal**

- 14.1 A Candidate may withdraw at any time after filing his or her Candidate Acceptance & Declaration Form, by filing with the Electoral Officer a written withdrawal of his or her candidacy, signed by the Candidate in the presence of the Electoral Officer or a commissioner for taking oaths, and if said withdrawal is provided after preparation of the Ballots, any votes cast for any such Candidate shall be null and void.

- 14.2 The Candidate Fee is not refundable upon withdrawal.
- 14.3 Notice of any withdrawals received by the Electoral Officer will be posted at the Polling Site.

### **15. Declaration of Election**

- 15.1 If more than the minimum required number of Nominees have satisfied the requirements of sections 11 and 12 and are confirmed as Candidates for Chief Councillor, On-Reserve Councillor or Off-Reserve Councillor, the Electoral Officer shall declare that a Poll will be held on the Reserve and shall state the date, time and the location.

### **16. Notice of Election**

- 16.1 A Notice of Election shall be posted soon as possible following the close of the Nomination Meeting and, in any event, at least 39 days prior to the date of the Election.
- 16.2 The Notice of Election shall contain, at a minimum, the following information:
- a) the date, time and location on the Reserve of the Poll;
  - b) the list of Candidates for Chief Councillor, On-Reserve Councillor and Off-Reserve Councillor;
  - c) the Candidates' biographical profiles;
  - d) the name and contact information for the Electoral Officer; and
  - e) the address of the Heiltsuk Nation Web Page.
- 16.3 A Notice of Election shall be posted in the following locations:
- a) in one or more noticeable places on the Reserve, including the Heiltsuk Band Administration Office; and
  - b) any other location that the Electoral Officer deems appropriate, including the Heiltsuk Nation Web Page and on the Heiltsuk Cablevision local channel where possible.

## **17. Ballot Preparation**

- 17.1 Ballots shall be prepared by the Electoral Officer and shall list the names of the Candidates for Chief Councillor, On-Reserve and Off-Reserve Councillors, as the case may be, in alphabetical order. There shall be separate ballots for each position.

## **18. Voting by Mail-in Ballot**

- 18.1 An Elector who ordinarily resides off the Reserve who wishes to vote by Mail-in Ballot must complete the application to vote by Mail-in Ballot and return it by mail or fax to the Electoral Officer, who must be in receipt of this application no later than 10 days prior to the Election.
- 18.2 An Elector who ordinarily resides on the Reserve and who is unable to vote in person on Election Day may, at any time prior to Election Day, request a Mail-in Ballot package from the Electoral Officer by completing an Application to Vote by Mail-in Ballot.
- 18.3 The Electoral Officer shall, upon receipt of the Application to Vote by Mail-in Ballot, and at least 35 days prior to the date of the Election where possible, mail to every Elector ordinarily residing off the reserve who has returned the Application to Vote by Mail-in Ballot, a Mail-in Ballot package consisting of:
- a) ballot(s) 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) a voter declaration form that states:
    - i) the Membership number and date of birth of the Elector; and
    - ii) the name, address and telephone number of the witness to the signature of the Elector;
  - e) the Notice of Election set out in section 16.2 of these Rules;
  - f) a letter of instruction regarding voting by Mail-in Ballot which includes information advising Electors that they may vote in person at the Polling Site on the day of the Election if they return their Mail-in Ballot to the Electoral Officer at the Polling Site or swear a written declaration that they have lost the Mail-in Ballot; and
  - g) names of any Candidates who were elected by acclamation.

- 18.4 Upon receipt of a request for a Mail-in Ballot package under sections 18.1 or 18.2, the Electoral Officer shall mail or otherwise deliver a Mail-in Ballot package to the Elector whose name appears on the application.
- 18.5 The Electoral Officer shall record on the Electors List those persons who have been provided Mail-in Ballots, including their address and the date on which the package was mailed or otherwise delivered.
- 18.6 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 him or her, opposite the names of up to the maximum number of Candidates required to be Elected;
  - 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 Voter 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 voter declaration form in the postage-paid envelope; and
  - f) mailing or otherwise delivering to the Electoral Officer the sealed envelope, before the close of the Poll on the day of the Election.
- 18.7 Where an Elector is unable to vote in the manner set out in section 18.6 of these Rules, the Elector may enlist the assistance of another person to mark the ballot and complete and sign the voter declaration form.
- 18.8 The witness referred to in section 18.6 (d) of these Rules shall confirm that:
- a) the person completing and signing the Voter Declaration Form is the person whose name is set out in the form; or
  - b) 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.
- 18.9 Upon receipt of a Mail-in Ballot, the Electoral Officer will immediately deposit it into the mail-in ballot box. The mail-in ballot box shall remain locked and properly sealed until the close of the Poll on Election Day.
- 18.10 Mail-in Ballots will be accepted until the close of the poll on election day.

## **19. Voting Procedures**

- 19.1 The Electoral Officer shall procure four ballot boxes, one each for the ballots cast for Chief Councillor, On-Reserve Councillor, Off-Reserve Councillor and for the Mail-in ballots and shall cause to be prepared a sufficient number of ballots for the purpose of taking votes.
- 19.2 The Electoral Officer or the Deputy Electoral Officer shall, immediately before the commencement of the Poll, open the ballot boxes, except the mail-in ballot box, and call such persons as may be present to witness that they are empty; the Electoral Officer shall then lock and properly seal the boxes to prevent them being opened without breaking the seals and shall place them in view for the receipt of the ballots and the seals shall not be broken nor the boxes unlocked during the time appointed for taking the Poll.
- 19.3 All Elections shall be held on the Reserve (Waglisla, BC).
- 19.4 Every person in attendance at the Polling Site or at the counting of the votes shall maintain and aid in maintaining the secrecy of the voting.
- 19.5 No person shall interfere or attempt to interfere with an Elector when marking his or her ballot, or obtain or attempt to obtain at the Polling Site information as to how an Elector is about to vote or has voted.
- 19.6 The Electoral Officer shall, before the Poll is open, cause to be delivered to the Deputy Electoral Officer the ballots, materials for marking the ballots, and a sufficient number of directions for voting.
- 19.7 The Electoral Officer or the Deputy Electoral Officer shall provide a polling booth at the Polling Site where the Electors can mark their ballots in privacy.
- 19.8 The Poll shall be kept open from 8:00 am until 8:00 p.m. of the same day, at which time the doors shall be locked, but those Electors still inside the Polling Site shall be allowed to vote.
- 19.9 A Candidate may authorize a maximum of two persons to serve as his or her Scrutineer during the Poll. A Scrutineer must present to the Electoral Officer upon request, written verification signed by the Candidate that the he or she has been authorized to serve as the Candidate's Scrutineer.
- 19.10 Voting at all Band Elections shall be by secret ballot in the manner set forth in these Rules.
- 19.11 Electors who attend the Polling Site for the purposes of voting shall sign a register kept by the Electoral Officer or the Deputy Electoral Officer.
- 19.12 Where an Elector attends the Poll for the purpose of voting, the Electoral Officer or Deputy Electoral Officer shall, if satisfied that the name of such person is

entered on the Electors List, provide the Elector with a ballot on which to register his or her vote.

- 19.13 The Electoral Officer may request identification from an Elector for the purpose of confirming his or her identity.
- 19.14 The Electoral Officer or Deputy Electoral Officer shall, in the appropriate column of the Electors List, make a mark opposite the name of every Elector receiving a ballot.
- 19.15 The Electoral Officer or Deputy Electoral Officer may, and when requested to do so shall, explain the mode of voting to an Elector.
- 19.16 Each Elector receiving a ballot shall:
  - a) immediately proceed to the voting booth provided for marking ballots;
  - b) mark his or her ballot by placing an "X" or other mark that clearly indicates the Elector's choice but does not identify him or her, opposite the names of up to the maximum number of Candidates required to be Elected;
  - c) fold the ballot so as to conceal the names of the Candidates and the marks on the face of the ballot but so as to expose the initials of the Electoral Officer or Deputy Electoral Officer; and
  - d) deliver the ballot to the Electoral Officer or Deputy Electoral Officer, who shall, without unfolding the ballot, verify his or her initials, and deposit it in the proper ballot box in the presence of the Elector and of all other persons entitled to be present at the Polling Site.
- 19.17 While an Elector is in the voting booth for the purpose of marking his or her ballot, no other person shall, except as provided in section 19.18, be allowed in the same voting booth or be in any position from which the manner in which an Elector marks his or her ballot can be seen.
- 19.18 One person of the Elector's choice, including the Electoral Officer or Deputy Electoral Officer, shall be permitted to accompany the Elector in the voting booth if he or she requires physical assistance to vote.
- 19.19 Where a ballot is cast in accordance with section 19.18, the Electoral Officer or the Deputy Electoral Officer shall note on the Electors List, in the column for remarks opposite the name of such Elector, the fact that the ballot was marked by another person at the request of the Elector, or that another individual accompanied the Elector in the voting booth, along with the name of the other person and the reasons for the request.
- 19.20 An Elector who has inadvertently dealt with his or her ballot in such a manner that it cannot be conveniently used shall, upon returning it to the Electoral Officer

or Deputy Electoral Officer, be entitled to obtain another ballot, and the Electoral Officer or Deputy Electoral Officer shall write the word "cancelled" upon the spoiled ballot, preserve it and record the circumstances.

- 19.21 An Elector who has received a ballot and who leaves the Polling Site without delivering the ballot to the Electoral Officer or Deputy Electoral Officer in the manner provided, or if, after receiving the ballot, refuses to vote, shall forfeit his or her right to vote at the Election, and the Electoral Officer or Deputy Electoral Officer shall make an entry on the Electors List in the column for remarks opposite the name of such Elector to show that he or she received the ballot and declined to vote.

## **20. Close of the Poll/Counting of Votes**

- 20.1 As soon as is practicable after the close of the Poll, the Electoral Officer or Deputy Electoral Officer shall, in the presence of any Candidates or their Scrutineer(s) who are present, unlock the Mail-in Ballot box, open each envelope contained therein and, without unfolding the ballot,
- a) reject the ballot if:
    - i) it was not accompanied by a Voter Declaration Form, or the Voter Declaration Form is not signed or witnessed;
    - ii) the name of the Elector set out in the voter declaration form is not on the Electors List, or
    - iii) the Electors List shows that the Elector has already voted;
  - b) and in any other case, place a mark on the Electors List opposite the name of the Elector set out in the voter declaration form, and deposit the ballot in the correct box (Chief Councillor, On-Reserve or Off-Reserve Councillor) to ensure that that the Mail-in Ballots are indistinguishable from the other ballots.
- 20.2 Immediately after the Mail-in Ballots have been deposited in the correct ballot boxes in accordance with section 20.1, the Electoral Officer or Deputy Electoral Officer shall, in the presence of any Candidates or their Scrutineer(s) as may be present, open each of the ballot boxes and:
- a) examine the ballots and reject any ballots that:
    - i) have not been supplied by the Electoral Officer or Deputy Electoral Officer;
    - ii) show more votes than permitted for the office in question; or
    - iii) identify the voter.
  - b) take note of any objection made by any Candidate or his or her Scrutineer to any ballot found in a ballot box and decide any questions arising out of the objection;

- c) number such objection and place a corresponding number on the back of the ballot with the word "allowed" or "disallowed", as the case may be, with the Electoral Officer's initials; and
- d) count the votes given for each Candidate from the ballots not rejected and make a written statement of the number of votes given to each Candidate and the number of ballots rejected and not counted, which shall then be signed by the Electoral Officer and such other persons authorized to be present as may desire to sign the statement.

**Procedure where equal number of votes cast**

- 20.3 Where it appears that two or more Candidates have an equal number of votes, the Electoral Officer shall immediately conduct a recount of the valid ballots.
- 20.4 If the recount does not determine a successful Candidate, then the Electoral Officer shall decide the vote by:
- a) placing each of the tied Candidates' names on a blank paper,
  - b) instructing the Deputy Electoral Officer to fold, initial and place the papers into an empty ballot box; and
  - c) drawing one of the papers.
- 20.5 The Candidate whose name appears on the paper drawn by the Electoral Officer shall be declared the successful Candidate. Otherwise the Electoral Officer shall not be entitled to vote.

**Elected Candidates**

**Chief Councillor**

- 20.6 After an Election, the Candidate for Chief Councillor who receives the highest number of votes cast in his or her favor shall be declared the Chief Councillor of the Band.

**On-Reserve Councillors**

- 20.7 a) In the first Election, the ten Candidates for the position of On-Reserve Councillor with the highest number of votes cast in their favor shall be declared the On-Reserve Councillors of the Band.
- b) After the first Election, the five Candidates for the position of On-Reserve Councillor with the highest number of votes cast in their favor shall be declared the On-Reserve Councillors of the Band, as the terms for the On-Reserve Councillors will be staggered.

**Off-Reserve Councillor**

- 20.8 After an Election, the Candidate for Off-Reserve Councillor with the highest number of votes cast in his or her favor shall be declared the Off-Reserve Councillor of the Band.

### **Notice of Outcome**

- 20.9 Immediately after the completion of the counting of votes, the Electoral Officer shall publicly declare to be elected the Candidate or Candidates having the highest number of votes in accordance with these Rules, and the Electoral Officer shall also post in some noticeable place on Reserve a statement signed by him or her showing the number of votes cast for each Candidate and if possible publish this statement on the local TV channel.

### **21. Disposition of Ballots**

- 21.1 The Electoral Officer shall deposit all ballots in envelopes, seal the envelopes, initial over the seal and retain them in his or her possession for eight weeks.
- 21.2 At the expiration of the eight-week period referred to in section 21.1, the Electoral Officer shall destroy the ballots in the presence of two witnesses who shall make a written declaration that they witnessed the destruction of said Ballots.

### **22. Disqualification of a Candidate after the Election**

- 22.1 If, after an Election, it comes to the attention of the Electoral Officer that an elected Candidate was not qualified in accordance with sections 6.1, 6.2 or 6.3, then that elected Candidate shall be removed from office and the Candidate receiving the next highest number of votes for that position shall be declared elected.

### **23. Election Appeals**

- 23.1 Within 30 days after an Election, an appeal may be filed in writing by any Candidate or Elector, if they have reasonable grounds to believe that:
- a) there was corrupt practice in connection with the Election;
  - b) there was a violation of these Rules that might have affected the result of the Election; or
  - c) a Candidate declared elected was:
    - i) not nominated in accordance with these Rules; or
    - ii) not qualified to be a Candidate.
- 23.2 An appeal is filed by forwarding the grounds and particulars of the appeal, in an affidavit, either by registered mail or in person, to the Executive Director of the Band. An appeal fee of \$200.00 must accompany the Appeal.

- 23.3 Where an appeal is received by the Executive Director pursuant to section 23.2, the Executive Director shall, within 7 days of the receipt of the appeal, forward a copy of the appeal and any supporting documents to the appointed Appeals Committee.
- 23.4 The Appeals Committee shall be appointed by the Executive Director at least 90 days before the Election. The Appeals Committee shall be comprised of one youth, an Elder, a Hemas, and two community resource people that are not Band Members, as well as a recorder.
- 23.5 The Appeals Committee shall firstly determine whether the appeal is valid and if it has been submitted in accordance with section 23.2. Once that determination is made, the Appeal Committee shall forward to all Candidate(s) the appeal and supporting documents.
- 23.6 Any Candidate and/or the Electoral Officer may, within 14 days of the receipt of the appeal, deliver to the Executive Director by registered mail or in person, a sworn affidavit in response to the particulars set out in the appeal, with any supporting documents relating thereto.
- 23.7 Any Candidate who is the subject of the Appeal may apply to be heard by the Appeal Committee.
- 23.8 The Appeal Committee may, if the material that has been filed is not adequate for deciding the appeal, conduct further investigation into the matter as the Appeal Committee deems necessary, in such manner as it deems expedient and said investigation may be held by the Appeal Committee or by a designated person.
- 23.9 Where the Appeal Committee designates a person to assist in an investigation, that person shall submit a report of the outcome of the investigation to the Appeal Committee for consideration.
- 23.10 The Appeal Committee may direct the Executive Director to set aside the Election of a Chief Councillor, an On-Reserve Councillor and/or an Off-Reserve Councillor if the Appeal Committee is satisfied, after considering all the evidence, that:
- a) there was corrupt practice in connection with the Election;
  - b) there was a violation of these Rules that might have affected the result of the Election; or
  - c) an Elector nominated to be a Candidate in the Election was ineligible pursuant to these Rules.
- 23.11 If the Appeal Committee is satisfied that the grounds alleged in the appeal do not constitute grounds outlined in section 23.1, it shall dismiss the appeal and notify the appellant and the Candidates of the reasons thereof in writing.

23.12 The decision of the Appeal Committee is final.

## **24. Vacancies**

- 24.1 The office of the Chief Councillor or Councillor becomes vacant if the person who holds office:
- a) dies;
  - b) resigns;
  - c) is unable to perform his or her duties of office for three (3) or more months due to illness or other incapacity;
  - d) is convicted of a criminal offence;
  - e) as Chief Councillor or On-Reserve Councillor, ceases to maintain ordinary residence on the Reserve; or
  - f) as Off-Reserve Councillor, ceases to maintain ordinary residence off the Reserve.

## **25. Removal from Office**

- 25.1 A Chief Councillor or Councillor may be removed from office if he or she:
- a) has been absent from three Council meetings within a one year period without just cause or prior authorization from Council;
  - b) fails to uphold the Oath of Office or breaches the Code of Ethics;
  - c) fails to remove him/herself from a Conflict of Interest situation;
  - d) accepts or offers a bribe, forges a Council document or otherwise acts dishonestly in his or her role;
  - e) encourages others to commit any of the above; or
  - f) is no longer in Good Financial Standing by failing to make regular and on-going payments to the Band and Band entities, or by being in default of the written agreement and payment plan as provided in ss. 6.1(e), 6.2 (e) or 6.3(e).
- 25.2 The proceedings to remove a Chief Councillor or Councillor pursuant to section 25.1 shall be commenced by receipt by the Council of a Petition for Removal (the "Petition") signed by at least 35% of the Electors.

- 25.3 A Petition shall also set out the facts substantiating the grounds for removal of the Chief Councillor or Councillor and shall be accompanied by any supporting documentation and a fee of \$1000.00. The fee will be used to offset the costs associated with considering the Petition.
- 25.4 Upon receipt of the Petition, a Removal Committee shall be appointed forthwith by the Executive Director. The Removal Committee shall be comprised of one youth, an Elder, a Hemas, and two community resource people that are not Band Members, as well as a records keeper.
- 25.5 The Removal Committee shall firstly determine whether the grounds contained within the Petition fall within section 25.1. Once that determination is made, the Removal Committee shall forthwith deliver a copy of the Petition to the affected Chief Councillor or Councillor.
- 25.6 The Chief Councillor or Councillor who is the subject of the Petition may, within 14 days of the appointment of the Removal Committee, deliver to the Removal Committee by registered mail or in person, a sworn affidavit in response to the Petition with any supporting documents relating thereto.
- 25.7 The Chief Councillor or Councillor who is the subject of the Petition may request to be heard by the Removal Committee.
- 25.8 In the course of considering the Petition, the Removal Committee may, if the material that has been filed is not adequate for deciding whether removal is justified, conduct further investigation into the matter as may be deemed necessary, in such manner as it deems expedient and said investigation may be conducted by the Removal Committee or by a designated person.
- 25.9 Where the Removal Committee designates a person to assist in an investigation, that person shall submit a report of the outcome of the investigation to the Removal Committee for consideration.
- 25.10 Where the Removal Committee is satisfied, after considering all the evidence, that removal of the Chief Councillor or Councillor is justified pursuant to the grounds in section 25.1, the Council will be so advised by the Removal Committee and will resolve by motion that the Chief Councillor or Councillor at issue be removed from office.
- 25.11 The decision of the Removal Committee is final.
- 25.12 A Chief Councillor or Councillor who is removed from office shall not be permitted to be nominated for a position on Council for a period of two consecutive terms after the removal.

## **26. By-elections**

- 26.1 If a Chief Councillor or Councillor vacates or is removed from office less than 15 months prior to the end of his or her term, the unsuccessful Candidate with the next highest votes for the same position at the last Election will be requested to fill the vacancy, and if he or she is not available, a By-election shall be held within 90 days on which the position was declared vacant.
- 26.2 If a Chief Councillor or Councillor vacates or is removed from office more than 15 months prior to the end of his or her term, a By-election will be held in accordance with these Rules to fill the vacancy.
- 26.3 No By-election shall be held if there are less than three months remaining in the term of the Chief Councillor or Councillor who vacates or is removed from office, except where a By-election is necessary to have sufficient Council members to maintain a quorum.
- 26.4 No Councillor is eligible to be a Candidate in a By-election held for the position of Chief Councillor unless he or she resigns from Council prior to the Nomination Meeting for the By-election.
- 26.5 Except as expressly provided otherwise, the procedures in these Rules shall apply to By-elections.

## **27. Amendments**

- 27.1 These Rules may be added to, repealed or otherwise amended by a majority of the Electors participating in an Amendment Vote, at a duly held meeting such as the annual general meeting (AGM) of the Band, with such a meeting to be held on Reserve.
- 27.2 The Council on its own accord, or after considering the proposal of a Band Member, may propose any amendment to these Rules.
- 27.3 The Council will appoint an Electoral Officer to carry out the necessary Amendment vote preparation and procedures as set out in this section.
- 27.4 The notice of proposed amendment shall be posted at least 90 days prior to the date of the meeting to decide on the proposed amendment, in one or more noticeable places on the Reserve and on the Heiltsuk local channel and on the Heiltsuk Nation Web Page if possible.
- 27.5 The Notice of Amendment Vote shall, at a minimum, contain the following information:
- a) the date, time and location on the Reserve of the vote to amend or repeal a provision of these Rules; and

- b) a copy of the proposed amendment(s) or a summary of the proposed amendment(s)
- 27.6 At least 30 days prior to the date of the Amendment Vote meeting, the Electoral Officer shall send by mail to Electors ordinarily residing off Reserve:
  - a) the Notice of Amendment Vote; and
  - b) an application to vote on the proposed amendment(s) by Mail-in Ballot.
- 27.7 Electors ordinarily residing off Reserve who wish to participate in the Amendment Vote must complete the application to vote and return it by mail or fax to the Electoral Officer in order to receive a Mail-in Ballot.
- 27.8 An Elector who is ordinarily resident on the Reserve and who is unable to vote in person at the Amendment Vote meeting may, at least 10 days prior to the date of the meeting, apply to the Electoral Officer for a Mail-in Ballot.
- 27.9 The vote count will take place at the end of the meeting and Mail-in Ballots received prior to the end of the meeting shall be included in the count.
- 27.10 A proposed amendment shall be considered approved, and these Rules shall be amended accordingly, if a majority of the Electors casting votes at the Amendment Vote meeting and by Mail-in Ballot vote in favour of the said amendment.
- 27.11 An amendment that is approved in accordance with this section shall take effect as follows:
  - a) where the amendment is approved at least six months prior to the date of the next scheduled Election, it shall come into force immediately; or
  - b) where the amendment is approved less than six months prior to the next scheduled Election, it shall come into force after the conclusion of the Election.

## **28. Postponement of Nomination Meeting, Band Election or Amendment Vote**

- 28.1 If a death occurs in the Heiltsuk community between the date of the posting of the Notice of Nomination Meeting and the date of the Election, it shall be within the discretion of the Electoral Officer to postpone the Nomination Meeting or the Election to the next business day following the funeral or memorial service or to another date deemed appropriate by the Electoral Officer.
- 28.2 Where a death occurs in the Heiltsuk community within one week of an Amendment Vote, the Council or the Electoral Officer may reschedule the Amendment Vote to the next business day or to another date deemed appropriate.

28.3 Where a Nomination Meeting, an Election Poll or an Amendment Vote is postponed in accordance with these Rules, notice of this postponement provided at least 3 days prior to the original date for the Nomination Meeting, Election Poll or Amendment Vote shall be deemed to be sufficient.

**SCHEDULE A: Guidelines for Determining Residency for the Purposes of an Election**

These guidelines are to assist the Electoral Officer should questions of residency arise during the Election process.

- A. An Elector who is away from the Reserve for educational, training or medical reasons, and who intends to return to the Reserve (especially where family is on the Reserve), is considered ordinarily resident on the Reserve for Election purposes.
- B. An Elector who has a house on the Reserve and moves either alone or with his or her family to a seasonal type job off the Reserve, but who intends to return to the Reserve at the end of his or her seasonal employment, is considered ordinarily resident on the Reserve. The same guideline applies to the members of the Elector's family.
- C. An Elector with a full time job off the Reserve, who maintains his or her primary residence off the Reserve, is considered to be ordinarily resident off the Reserve for Election purposes, no matter how frequently he or she visits the Reserve.
- D. An Elector who is separated from his or her family, which is on the Reserve, and who maintains his or her primary residence off the Reserve, is considered to be ordinarily resident off the Reserve for Election purposes.
- E. An Elector who maintains his or her primary residence off the Reserve, and who returns to the Reserve for short visits with friends or relatives, is considered to be ordinarily resident off the Reserve for Election purposes.
- F. It is the responsibility of the Candidate to clarify residency with the Electoral Officer upon request.

## **Appendix A ~ Oath of Office**

I, (Name of Chief Councillor/Councillor) do solemnly swear or affirm that I will duly and faithfully and to the best of my skill and knowledge, execute the duties, authority and trust placed in me as a member of the Heiltsuk Tribal Council on behalf of the Heiltsuk Nation.

**Appendix B ~ Conflict of Interest Guidelines**

A conflict of interest is any situation where:

- a) a Chief Councillor or Councillor’s personal interest or gain; or
- b) the interest of a close friend, spouse, family member, business associate, corporation or partnership in which a member holds a significant interest, or a person to whom the Chief Councillor or Councillor owes an obligation,

could influence the Chief Councillor or Councillor’s decisions and impair his or her ability to act in the best interests of the Heiltsuk Nation.

**What to do When a Conflict of Interest Arises:**

- a) Members of the Heiltsuk Tribal Council must take all reasonable measures to avoid conflicts of interest.
- b) Where a Chief Councillor or Councillor finds himself or herself in a conflict of interest situation, real or perceived, that person must immediately disclose the conflict in writing to the Heiltsuk Tribal Council or a person designated by the Heiltsuk Tribal Council. It is important to make the disclosure when the conflict first becomes known.
- c) If a Chief Councillor or Councillor is in doubt about whether he or she is or may be in a conflict of interest, he or she shall request the advice of the Heiltsuk Tribal Council or a person designated by the Heiltsuk Tribal Council.
- d) The Heiltsuk Tribal Council must immediately consider the conflict of interest situation brought to their attention and review with the Chief Councillor or Councillor at issue how to best resolve the conflict.
- e) The Heiltsuk Tribal Council will consider any conflict of interest situation which is declared, and act on the appropriate response to the situation. This response may include:
  - I. Dismissing the alleged conflict in writing;
  - II. Requiring action on the part of the Chief Councillor or Councillor;
  - III. An investigation if deemed necessary; or
  - IV. Such other measures as the Heiltsuk Tribal Council considers appropriate.

\*\*\*\*\*

I hereby agree to comply with the provisions of these conflict of interest guidelines while I serve as a Chief Councillor or Councillor of the Heiltsuk Tribal Council.

\_\_\_\_\_  
NAME

DATE

\_\_\_\_\_  
WITNESS

DATE

**Appendix C ~ Code of Ethics Guidelines**

Members of the Heiltsuk Tribal Council shall:

- conduct themselves in a manner which reflects the highest standards of integrity, frankness and responsibility.
- act in a truthful and honest manner in all dealings while being aware of the need for compassion and discretion.
- treat all individuals as equal regardless of their gender, race, age, rank or culture
- recognize that Council discussions are privileged and confidential and that Council members must refrain from exploiting such information for personal gain, with the understanding that the decisions of Council meetings are open for public knowledge and scrutiny.

**Section 2 ~ Compliance Measures**

Where the Chief Councillor or Councillor does not comply with the Code of Ethic Guidelines, he or she may be subject to such appropriate measures as may be determined by a quorum of the Heiltsuk Tribal Council and in accordance with s.25 of the Rules, including where applicable:

1. requiring an action on the part of the councilor;
2. commencing an investigation if deemed necessary; or
3. other measures the Heiltsuk Tribal Council considers appropriate.

\*\*\*\*\*

I hereby agree to comply with the provisions of the Code of Ethics Guidelines while I serve as a Chief Councillor or Councillor of the Heiltsuk Tribal Council.

\_\_\_\_\_  
\_\_\_\_\_  
NAME

DATE

\_\_\_\_\_  
\_\_\_\_\_  
WITNESS

DATE

## **Appendix D ~ Candidates' Acceptance and Declaration Forms**

- for Chief Councillor
- for On-Reserve Councillor
- for Off-Reserve Councillor