

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.