

**THE HEILTSUK CUSTOM ELECTION RULES
GOVERNING
THE ELECTION OF CHIEF AND COUNCIL
Amended FEBRUARY 2014**

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.

Table of Contents

1.	EFFECTIVE DATE AND COMING INTO FORCE	4
2.	DEFINITIONS AND INTERPRETATION	4
3.	GENERAL ELECTION AND COUNCIL INFORMATION	5
4.	TERMS OF OFFICE AND TIMING OF ELECTIONS	6
5.	ELIGIBILITY OF ELECTORS	6
6.	ELIGIBILITY OF CANDIDATES.....	7
7.	APPOINTMENT OF ELECTORAL OFFICER/ DEPUTY ELECTORAL OFFICER.....	8
8.	ELECTOR’S LIST AND CONTACT ADDRESSES	9
9.	NOTICE OF NOMINATION MEETING	9
10.	NOMINATION MEETING.....	10
11.	CANDIDATE ACCEPTANCE & DECLARATION FORM AND BIOGRAPHICAL PROFILE.....	11
12.	CANDIDATE FEE.....	12
13.	ACCLAMATION	12
14.	CANDIDATE WITHDRAWAL	12
15.	DECLARATION OF ELECTION	12
16.	NOTICE OF ELECTION	13
17.	BALLOT PREPARATION	13
18.	VOTING BY MAIL-IN BALLOT	13
19.	VOTING PROCEDURES.....	15
20.	CLOSE OF THE POLL/COUNTING OF VOTES	17
21.	ELECTED CANDIDATES.....	19
22.	DISPOSITION OF BALLOTS	19
23.	ELECTION APPEALS.....	19
24.	VACANCIES	21

25. REMOVAL FROM OFFICE22

26. BY-ELECTIONS.....23

27. AMENDMENTS24

28. POSTPONEMENT OF NOMINATION MEETING, BAND ELECTION OR AMENDMENT VOTE...25

APPENDIX A - OATH OF OFFICE26

APPENDIX B - APPENDIX B ~ CONFLICT OF INTEREST GUIDELINES.....27

APPENDIX C - CODE OF ETHICS GUIDELINES28

APPENDIX D - CANDIDATES' ACCEPTANCE AND DECLARATION FORMS29

1. Effective Date and Coming into Force

These Rules, in force since the issuance of the Ministerial Order of September 28, 2006 and as registered on September 29, 2006 (SOR/2006-237), removing the Band from the election provisions of the Indian Act, may be amended from time to time, in accordance with the Amendment provisions set out herein.

2. Definitions and Interpretation

In these Rules,

Amendment Vote means a vote held in accordance with these Rules to seek community approval for amendments 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 payable for each position nominated paid by the Candidate to the Electoral Officer at the time the Candidate accepts his/her nomination(s).

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

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 and includes Band Members who are adopted as children by their Heiltsuk parents.

Heiltsuk Custom Election Rules means these Rules, Schedules and Appendices, and as amended from time to time.

Immediate Family means a person's parents, spouse, child(ren), sibling(s), and grandparents.

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.

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, internships, post-secondary, and other personal or professional development.

Reserve means Bella Bella Indian Reserve # 1, also known as Bella Bella (formerly 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.

4. Terms of Office and Timing of Elections

- 4.1 The Chief and Councillors shall hold office for four years.

Term of Office after a By-election

- 4.2 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.

Extension of term of office

- 4.3 If it is necessary to delay an Election, then the terms of office of those Council members whose positions are up for Election shall be extended until the next Election is concluded.

Timing of Elections

- 4.4 Elections shall be held every two years for six Council positions. For greater certainty, the election cycle which began with the first Heiltsuk Custom Election shall continue with the six Councillors with terms ending in 2014 up for election and the position of Chief and the other five Councillors next up for election in 2016 and so on.

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) if a non-resident on the Reserve, confirm that if elected, he or she will relocate to Bella Bella for the duration of his or her term.
- (i) have furthered his or her personal and professional development through post-secondary studies, or other Professional Training;
- (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 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) provide a one-page biographical profile confirming his or her educational and professional qualifications and other experience; and
- (i) have not been found to have violated these Rules.

6.3 An Elector who wishes to run for both the positions of Chief Councillor and Councillor in an Election may do so, provided that he or she satisfies the requirements of 6.1 and 6.2. and pays both Candidate Fees of \$100.00 each.

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 and date of birth, 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 non-resident 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 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.
- 8.7 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.
- 8.8 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 for the Heiltsuk Nation webpage or election site ;
- 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 locations that the Electoral Officer deems appropriate, including for example, the Heiltsuk local channel and Heiltsuk Nation website(s), 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) Mail-in Nomination Form;
 - (d) the consent to release address form; and
 - (e) an explanation of how an Elector may participate in the Election, including how to nominate and vote by mail.
- 9.5 It is the responsibility of each Elector residing off Reserve to keep the Electoral Officer informed of his or her address and any change in address.
- 10. Nomination Meeting**
- 10.1 A Nomination Meeting for an Election shall be held on the Reserve at least 47 days before the date of the Election. 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.
- 10.2 At the scheduled time, the Electoral Officer shall declare the Nomination Meeting open for the purpose of receiving nominations and shall manage and conduct the meeting.
- 10.3 All Electors present at the Nomination Meeting shall sign the record of attendance.
- 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 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.
- 10.7 Written nominations may be either seconded by an Elector in writing or by an Elector in attendance at the Nomination Meeting.

- 10.8 Each nomination must be moved by an Elector and seconded by another Elector, but an Elector may not nominate or second him or herself.
- 10.9 A nomination that has not been seconded prior to the close of the Nomination Meeting shall not stand.
- 10.10 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.
- 10.11 The Electoral Officer shall post the list of Nominees as soon as possible after the conclusion of the Nomination Meeting.

11. Candidate Acceptance & Declaration Form and Biographical Profile

- 11.1 No later than 48 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 48 hours, that person's name shall be struck from the list of Nominees.
- 11.3 Nominees who wish to be considered for candidacy shall, for each position they are nominated for:
 - (a) complete in full and have sworn the Candidate Acceptance & Declaration Form;
 - (b) provide the biographical profile described in ss. 6.1(j) or 6.2(h); 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, when they are received by the Electoral Officer.
- 11.6 Nominees who do not file the Candidate Acceptance & Declaration Form and biographical profiles or who fail to 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 profile. 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 there are only as many Candidates for Councillor positions as there are vacancies, and who satisfy the requirements of sections 11 and 12, the Electoral Officer shall declare those Candidates to be duly elected by acclamation.

13.3 For greater certainty, Candidates for the positions of Chief Councillor or Councillor must meet all the eligibility requirements set out in these Rules, 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 and Councillors, the

Electoral Officer shall declare that a Poll(s) will be held and shall state the date, time and the location(s).

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(s) of the Poll(s);
- (b) the list of Candidates for Chief Councillor and Councillors;
- (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 internet site, 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 one ballot and Councillors on a separate ballot, in alphabetical order.

18. Voting by Mail-in Ballot

18.1 The Electoral Officer shall, upon receipt of the Electors list, and known addresses of non-residents and at least 35 days prior to the date of the Election where possible, mail to every Elector ordinarily residing off the reserve for whom he/ she has an address, and who has not indicated they wish to not participate in the election, 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.
- 18.2 An Elector who ordinarily resides on the Reserve and is unable to vote in person on Election day may, at any time up to Election day, request a Mail-in Ballot package from the Electoral Officer.
- 18.3 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.
- 18.4 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.
- 18.5 Where an Elector is unable to vote in the manner set out in section 18.4 of these Rules, the Elector may enlist the assistance of another person to mark the ballot and complete and sign the voter declaration form.
- 18.6 The witness referred to in section 18.4(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.
- 18.7 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.
- 18.8 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 the necessary ballot boxes, with separate boxes to hold the ballots cast for Chief Councillor, Councillors, for the Mail-in ballots, and for the advance Polling Site, if there is one.
- 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 (Bella Bella, BC).
- 19.4 If an advance Polling Site is established in an urban location, the Electoral Officer will provide prior notice of the location, dates and times for the advance poll and all the voting procedures contained in these Rules shall apply.
- 19.5 If an advance poll takes place, the ballots received by the Electoral Officer will remain in their sealed ballot box until the close of the Poll on Election day and will be counted with all other ballots in accordance with these Rules.
- 19.6 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.
- 19.7 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.
- 19.8 The Electoral Officer shall, before the Poll is open, cause to be delivered to the Polling site the ballots, materials for marking the ballots, and a sufficient number of directions for voting.
- 19.9 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.

- 19.10 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.
- 19.11 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.
- 19.12 Voting at all Band Elections shall be by secret ballot in the manner set forth in these Rules.
- 19.13 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.
- 19.14 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.
- 19.15 The Electoral Officer may request identification from an Elector for the purpose of confirming his or her identity.
- 19.16 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.
- 19.17 The Electoral Officer or Deputy Electoral Officer may, and when requested to do so shall, explain the mode of voting to an Elector.
- 19.18 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.
- 19.19 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 19.20, 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.

- 19.20 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.
- 19.21 Where a ballot is cast in accordance with section 19.20, 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.
- 19.22 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.
- 19.23 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 or 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, including the ballot box from the advance urban Polling Site, if applicable, 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.

Recount Procedure

20.3 Where it appears that the difference in the number of votes cast between Candidates is 3 or less, any Candidate may within 24 hours of the ballot count, ask the Electoral Officer to conduct a recount of the valid ballots, and the recount will take place as soon as possible thereafter.

Tie Vote Procedure

20.4 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.

20.5 If after a recount there remains a tie vote between two or more Candidates, 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.

20.6 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.

21. Elected Candidates

Chief Councillor

- 21.1 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.
- 21.2 After an Election, the Candidates running for Councillors positions with the highest number of votes cast in their favor shall be declared Councillors of the Band.

Notice of Outcome

- 21.3 If after counting the ballots, the same Candidate is elected as both Chief Councillor and Councillor, he or she must be notified forthwith and accept one position or the other and the Candidate with the next highest votes will be declared either Chief Councillor or Councillor, as the case may be.
- 21.4 Immediately after the completion of the counting of votes, or as soon as is practicable, 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 also publish this statement on the internet.

22. Disposition of Ballots

- 22.1 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.
- 22.2 At the expiration of the eight-week period referred to in section 22.1, 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.

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, in a sealed envelope to the Executive Director of the Band. An appeal fee of \$200.00 must accompany the Appeal.
- 23.3 The Appeals Committee shall be appointed by the Executive Director at least 30 days before the Election. The Appeals Committee shall be comprised of five members: a youth, a Hemas, an Elder and two community resource people that are not Band Members, as well as a recorder. The Appeals Committee shall designate one of its members as the chair person.
- 23.4 No member of the Appeals Committee will be from the Immediate Family of any Candidate.
- 23.5 The quorum of the Appeals Committee shall be three members and provided there are three or more members present at a meeting, the Appeal Committee is authorized to act and carry out its duties under the Rules.
- 23.6 When an appeal is received by the Executive Director, he or she shall, within 2 days, deliver the sealed appeal to the Chairperson of the Appeals Committee who will then forward a copy of the appeal to each member of the Appeals Committee.
- 23.7 The Chairperson of the Appeals Committee shall ensure that there is a recorder available to attend all meetings. The recorder's duties will include keeping meeting minutes, preparing correspondence and the decision of the Appeal Committee, filing and copying all documentation related to the Appeal and upon completion of the Appeal, storing all the documentation in a secure location.
- 23.8 The Appeals Committee shall firstly determine whether the appeal is valid and if it has been submitted in accordance with section 23.1; once that determination is made, the Appeal Committee shall advise the Candidate(s), the Electoral Officer and the Electors, that an appeal has been filed.
- 23.9 If the Appeal Committee determines, without further review or investigation, that the appeal is frivolous or lacks reasonable grounds, the appellant will be informed in writing and no further action taken by the Appeal Committee.
- 23.10 In the case where the appeal contains grounds that may lead to a conclusion that an elected person was ineligible to be a Candidate, he or she shall not be sworn into office pending resolution of the appeal. All other elected Candidates shall be sworn into office and considered the elected Council.
- 23.11 Any Candidate and/or the Electoral Officer may, within 14 days of the receipt of the appeal, deliver to the Chairperson of the Appeals Committee 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.
- 23.12 Any Candidate who is the subject of a valid appeal may request a hearing, which will be scheduled by the Appeal Committee.

- 23.13 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.
- 23.14 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.
- 23.15 The Appeal Committee must provide its decision in writing within 30 days of receiving the appeal.
- 23.16 The Appeal Committee may direct the Executive Director to set aside the Election of a Chief Councillor or Councillor if the Appeal Committee is satisfied, after considering all the evidence, that:
- (a) there was corrupt practice 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.
- 23.17 If the Appeal Committee allows an appeal, it shall take into account all the circumstances and:
- (a) may set aside the Election and order that a new Election be called;
 - (b) disqualify the Candidate who was the subject of the appeal and order that the Candidate with the next highest votes replace him or her; or
 - (c) make any other order to correct the violation of the Rules that promotes the fair, efficient and orderly administration and governance of the Heiltsuk Tribal Council.
- 23.18 If the Appeal Committee orders that another Election be held, the Council in office immediately before the Election will remain in effect until the conclusion of the subsequent Election.
- 23.19 If the Appeal Committee decides that there was no violation of the Rules as alleged in the appeal, it shall dismiss the appeal.
- 23.20 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; or
- (d) is convicted of a criminal offence;

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) or 6.2(e).

25.2 The Council with the assistance of the Executive Director, will monitor the conduct of its members and attempt to address concerns which may arise in relation to sections 25.1 a) to f) above.

25.3 If warranted, Council may initiate the removal process, if agreed by consensus and confirmed through a Band Council Resolution ("BCR"). The BCR shall be forwarded to the Executive Director who shall then appoint a Removal Committee to consider and decided the removal request in accordance with these Rules.

25.4 Removal proceedings may also be commenced by a Petition for Removal (the "Petition") signed by at least 35% of the Electors.

25.5 A Petition shall 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.

25.6 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 recorder.

- 25.7 No member of the Removal Committee will be from the Immediate Family of the Chief Councillor or Councillor being considered for removal.
- 25.8 The quorum of the Removal Committee shall be three members and provided there are three or more members present at a meeting, the Removal Committee is authorized to act and carry out its duties under the Rules.
- 25.9 The Removal Committee shall firstly determine whether the grounds contained within the BCR or Petition fall within section 25.1. Once that determination is made, the Removal Committee shall forthwith deliver a copy of the BCR or Petition to the affected Chief Councillor or Councillor.
- 25.10 The Chief Councillor or Councillor who is the subject of the BCR or Petition, may within 14 days, deliver to the Removal Committee by registered mail or in person, a sworn affidavit in response to the BCR or Petition with any supporting documents relating thereto.
- 25.11 The Chief Councillor or Councillor who is the subject of the BCR or Petition, may request to be heard by the Removal Committee.
- 25.12 In the course of considering the BCR or 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.
- 25.13 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.
- 25.14 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.
- 25.15 The decision of the Removal Committee shall be made within 30 days of their appointment and the decision of the Removal Committee is final.
- 25.16 A Chief Councillor or Councillor who is removed from office shall be ineligible to run for 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 after the position is 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.
- 27.2 The Council on its own accord, or after considering suggested amendments submitted by the membership, may recommend amendments to these Rules.
- 27.3 The Council will appoint an Electoral Officer to conduct an Amendment Vote according to the same voting procedures as for Elections as set out in these Rules.
- 27.4 The Notice of Amendment Vote shall be posted at least 45 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 Amendment Vote; 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 those Electors ordinarily residing off Reserve for whom he or she has addresses:
 - (a) the Notice to Amendment Vote ; and
 - (b) a Mail-in Ballot and instructions.

- 27.7 An Elector who is ordinarily resident on the Reserve and who is unable to vote in person on the day of the Amendment Vote may request a Mail-in Ballot from the Electoral Officer.
- 27.8 The vote count will take place upon the close of the Amendment Vote and Mail-in Ballots received prior to the close of voting shall be included in the count.
- 27.9 Proposed amendments to the Rules shall be approved, and the Rules shall be amended accordingly, if a majority of the Electors casting ballots either in person or by Mail-in Ballot vote in favour of the proposed amendments.
- 27.10 Amendments to the Rules that are approved by a majority of the Electors casting ballots shall take effect immediately.

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 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.

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 - 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 councillor;
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 Councillor