

# **Saik'uz First Nation**

## **ELECTION CODE**



October 30, 2017

# 0.0 TABLE OF CONTENTS

<b>1.0</b>	<b>PREAMBLE AND TITLE.....</b>	<b>1</b>
<b>2.0</b>	<b>DEFINITIONS .....</b>	<b>1</b>
<b>3.0</b>	<b>THE COUNCIL.....</b>	<b>4</b>
	Composition and Size .....	4
	Term of Office.....	5
	Meetings.....	5
	Standing or Special Committees .....	6
<b>4.0</b>	<b>VACANCIES AND REMOVAL FROM OFFICE</b>	<b>6</b>
	Vacancies .....	6
	Removal of Council Member .....	7
	Procedure .....	7
<b>5.0</b>	<b>COMPLAINT AND APPEAL BOARD.....</b>	<b>8</b>
	Composition .....	8
	Functions .....	9
	Procedure .....	9
<b>6.0</b>	<b>APPEAL MECHANISM</b>	<b>11</b>
	Timing.....	11
	Grounds for Appeals.....	11
	Submission.....	11
	Procedure .....	11
<b>7.0</b>	<b>THE ELECTION.....</b>	<b>13</b>
	Election Date .....	13
	Eligibility to Vote .....	13
	Eligibility to Nominate.....	13
	Candidacy .....	13
	Candidate Fee.....	15
	Withdrawal.....	15
	Code Of Ethics for Candidates.....	15
<b>8.0</b>	<b>THE ELECTION PROCESS.....</b>	<b>16</b>
	Pre-Nomination Procedure .....	16
	The Nomination Process .....	20
	Mail-in Nominations Procedures.....	20
	Pre-Election Process .....	22
	Mail-in Ballots.....	23

<b>9.0</b>	<b>ELECTION DAY .....</b>	<b>25</b>
	Counting The Votes .....	28
	Post-Election Process .....	30
	Oath of Office .....	31
<b>10.0</b>	<b>BY-ELECTION .....</b>	<b>32</b>
<b>11.0</b>	<b>ACCELERATED ELECTION.....</b>	<b>32</b>
<b>12.0</b>	<b>AMENDMENTS.....</b>	<b>33</b>

**APPENDICES**

- Appendix A: Council Oath of Office
- Appendix B: Electoral Officer Oath of Office
- Appendix C: Complaint and Appeal Board Oath of Office
- Appendix D: Nomination Form
- Appendix E: Candidate Declaration Form (Chief)
- Appendix F: Candidate Declaration Form (Councilor)
- Appendix G: Mail-in Voting Instructions and Declaration
- Appendix H: Process for Removal of Council Member from Office

## 1.0 PREAMBLE AND TITLE

- 1.1 We, the people of Saik'uz First Nation by virtue of our inherent right and traditional freedom to regulate our own internal affairs, do hereby adopt and declare these provisions as our election rules, provisions, regulations and procedures, as recognized by subsection 2(1) of the *Indian Act*, RSC 1985, c I-5.
- 1.2 Whereas Saik'uz First Nation recognizes the value and contributions of all its members, whether they reside on or off reserve, and the rights of all members to vote in Saik'uz First Nation elections.
- 1.3 We therefore set forth here the Custom Election Code of Saik'uz First Nation as to the election of Chief and Council, and the Council Procedures constituting the Custom Election Code of Saik'uz First Nation.
- 1.4 These election rules, provisions, regulations and procedures are hereby declared by us and will be cited as the **Saik'uz First Nation Election Code**.
- 1.5 This Code will come into force upon registration of an order made by the Minister of Indian Affairs and Northern Development proclaiming the removal of the Saik'uz First Nation from the election provisions of the *Indian Act*, sections 74, 75, 76, 77, 78 and 79
- 1.6 And whereas this Custom Election Code was discussed by the members of Saik'uz First Nation and approved by their vote on **[date to be inserted following approval]**.
- 1.7 Any custom election code or regulation in force in respect of Saik'uz First Nation that pre-dates this code is hereby repealed and shall no longer be of any force or effect in respect of Saik'uz First Nation.

## 2.0 DEFINITIONS

For the purpose of this Election Code:

---

<b><i>Appellant</i></b>	means an individual who submits an appeal in accordance with Section 10 of this code with respect to the election.
<b><i>Band Council</i></b>	means the body composed of those persons selected pursuant to this Election Code.
<b><i>Band Member</i></b>	means a person who is listed on the Saik'uz First Nation membership list as compiled and maintained from time to time by Indigenous and Northern Affairs Canada (INAC) or its successors.

---

<b><i>Band Membership Clerk</i></b>	refers to the person who is responsible for maintaining the Band Membership list.
<b><i>By-Election</i></b>	means a special election held pursuant to this Election Code anytime during the current tenure of a Band Council for the purpose of filling a vacant position or loss of quorum in the office of the Chief or a Councilor prior to the end of the term of office for that Councilor or the Chief.
<b><i>Candidate's Agent</i></b>	means a representative of a Candidate that may also act as an interpreter for reasons of language, hearing impairments, sight restrictions or illiteracy.
<b><i>Election Code</i></b>	means the rules, provisions, regulations and procedures as set out and prescribed in this code for the conduct of an election of the Saik'uz First Nation.
<b><i>Candidate</i></b>	means a person who: <ul style="list-style-type: none"> <li>• is at least eighteen (18) years of age on or before the day on which the nomination meeting is held;</li> <li>• is listed on the Saik'uz First Nation membership list as maintained and compiled from time to time by Indigenous and Northern Affairs Canada (INAC) or its successors ;</li> <li>• has been nominated to be a candidate pursuant to the provisions of this code;</li> <li>• has not been convicted of an indictable offence, a corrupt practice, a breach of trust or an offence relating to an election for a minimum of ten years preceding the day of the election.</li> </ul>
<b><i>Chief</i></b>	means the eligible Elector who is elected pursuant to this Election Code to hold office of the Chief of Saik'uz First Nation.
<b><i>Code of Ethics</i></b>	means guidelines, general rules of behavior and standards established in accordance with section 5.0 of this code, which govern the conduct of candidates running for office and their supporters relating to their participation in the electoral process.
<b><i>Complaint and Appeal Board</i></b>	means a body appointed by a Band Council Resolution in accordance with section 5.0 of this code to review and make decisions concerning petitions for removal from office and election appeals.
<b><i>Corrupt Practice</i></b>	means any wrongful act or omission committed, undertaken or carried out by a person in connection with this Election Code including bribery, harassment, intimidation, or any other wrongful act which could reasonably influence the outcome of an Election.
<b><i>Councilor</i></b>	means the eligible Elector who is elected pursuant to this Election Code to hold office of a Councilor of the Band Council.
<b><i>Council</i></b>	means the duly elected Chief and Councilors in Band Council.

<b>Deputy Electoral Officer</b>	(also referred to as the “deputy”) means the person appointed by the Electoral Officer and approved by Band Council for the purposes of an election to assist him or her in the election process.
<b>Election</b>	means a band general election or By-Election held pursuant to the provisions of this code.
<b>Election Date</b>	means the date for an Election as selected by the Band Council according to section 7.0 of this Election Code.
<b>Elector</b>	means a person who: <ul style="list-style-type: none"> <li>• has attained the age of eighteen (18) years of age on or before the day on which the election is held;</li> <li>• is living on or off reserve; and</li> <li>• is listed on the Saik’uz First Nation membership list as compiled and maintained from time to time Indigenous and Northern Affairs Canada (INAC) or its successors.</li> </ul>
<b>Electoral Officer</b>	means the person appointed by a Band Council Resolution before each election, who will have the responsibility for conducting the pre-election, election and post-election procedures as well as the nomination meeting.
<b>Electorate</b>	means all the Electors on the Elector’s List.
<b>Indictable Offense</b>	Indictable offences are the most serious offences under the Criminal Code and they come with more serious punishments. Examples of this type of offence are theft over \$ 5000.00, assault or murder.
<b>Mail-in Application</b>	means the form of application for an Elector to obtain a Mail-In Ballot. The Mail-in Application will require that the applicant for a Mail-In Ballot include on the application: their legal name and mailing address (including postal code) together with the membership number and date of birth of the Elector; and other relevant information as requested by the Electoral Officer for purposes of identification.
<b>Mail-in Ballots</b>	means a ballot mailed or delivered in accordance with section 8.0 of this Election Code.
<b>Malfeasance</b>	means the wrongdoing or unlawful misconduct by the Electoral Officer or in the office of Chief or Councilor.
<b>Nomination Meeting</b>	means the meeting held in accordance with this Election Code at which persons come forward to nominate and second candidates at an election or do so by mail.
<b>Oath</b>	means a solemn affirmation.
<b>Polling Station</b>	means a building, hall or room which is selected to be the site for voting to take place. Principal Location(s) determined by the Electoral Officer for posting nomination and election results.

<b><i>Referendum</i></b>	means a special election wherein the Electors may decide in favour of or against a question deemed by the Chief, a Councilor or a Candidate of extraordinary importance to the Saik'uz First Nation; including the adoption or amendments to this Election Code.
<b><i>Rejected ballots</i></b>	are those ballots that have been improperly marked and/or spoiled by an elector and are consequently left out of the tally of valid ballots during the counting of votes.
<b><i>Reserve</i></b>	means the tract of land, the legal title to which is vested in Her Majesty, which has been set apart by Her Majesty for the use and benefit of the Saik'uz First Nation.
<b><i>Resident</i></b>	<p>refers to the residential status of an elector who is considered to have his ordinary residence on the reserve. Residence can be described as follows:</p> <ul style="list-style-type: none"> <li>• the place a person normally eats and sleeps;</li> <li>• the place the person receives mail;</li> <li>• the residence of the person's immediate family;</li> <li>• a place in proximity to the place of employment of the person.</li> </ul> <p>A person can only be a resident in one place at one time. A person is considered to be a resident in that place until another place of residence is acquired. One may also be temporarily absent from a place of ordinary residence for education, medical or term contract employment reasons.</p>
<b><i>Voter Declaration Form</i></b>	<p>means a document that sets out or provides for:</p> <ul style="list-style-type: none"> <li>• the name, address and telephone number of the Elector;</li> <li>• the Band membership or registry number of the Elector;</li> <li>• the name, address and telephone number of the witness to the signature of the Elector on the Voter Declaration Form.</li> </ul>
<b><i>Voter's List or Elector's List</i></b>	means the list of the Electors eligible to vote in an Election, as prepared by the Band Membership Clerk for the Electoral Officer in accordance with this Election Code Section 7.0

### **3.0 THE COUNCIL**

#### **Composition, Size and Quorum**

3.1 The Council of Saik'uz First Nation shall consist of one (1) Chief and four (4) Councilors.

3.2 Quorum shall be three.

### **Term of Office for the Band Council**

- 3.3 The term of office for the position of Chief shall be for a period not exceeding four (4) years.
- 3.4 The initial term of office for the position of two (2) Councilors shall be for a period not exceeding four (4) years for the two candidates who receive the most votes.
- 3.5 The initial term of office for the position of two (2) Councilors shall be for a period not exceeding two (2) years for the two candidates who receive the next highest votes.
- 3.6 After the initial term of office for Councilors as provided in 3.3 and 3.4 above, Councilors shall be elected for a term of office for a period not exceeding four (4) years with two (2) Councilors being elected every two (2) years.
- 3.7 Band Council shall through a duly signed Band Council Resolution, establish the date on which the election is to be held no later than one hundred (120) days prior to the end of the current term of office. The one hundred and twenty days (120) includes weekends and statutory holidays.
- 3.8 The elected Chief and/or Councilors will assume official duties of their office no later than ten (10) days from the election date or a By-election, as the case may be. The previous Chief and/or Councilors will continue to hold office until the installation of the new Band Council members.
- 3.9 The successful candidate in a By-election shall hold office for the remainder of the original term of the Chief or Councilor whom he/she is elected to replace.
- 3.10 In the event of an appeal, the newly elected council will not assume office until a decision is rendered by the Complaint and Appeal Board. The Chief and Councilors in office at the time of the election shall continue to hold office until the newly elected council is able to take office.

### **Meetings**

- 3.11 The first meeting of the Band Council shall be held **no later** than ten (10) days after it has assumed office. The newly elected Chief shall give notice to each newly elected member of the Band Council advising them of: the date, time and location of the first meeting. Subsequent meetings shall be held on established dates and times as deemed necessary for the business of the Band Council or the affairs of the Saik'uz First Nation.
- 3.12 No member of a Band Council may be absent for more than three (3) consecutive Council meetings without being authorized to do so by the Band Council.
- 3.13 The Chief of the Band or a quorum of Band Council can summon a special meeting of the

Band Council upon providing, where practicable, 24 hours' notice to members of Council.

3.14 The secretary to the Council of Saik'uz First Nation shall notify each member of the Band Council of the date, time and location of the special meeting.

### **Standing or Special Committees**

3.15 The Council may from time to time appoint a standing or special committee for special topics of a minimum of five members for any matter(s) of interest to the Band. The majority of the members of the committee shall make a quorum.

3.16 Standing or special committees are temporary in nature and will not exist past the term of the existing Council that appointed the members. All newly elected councils have the option of appointing standing or special committees. Standing or special committees must be appointed by Band Council Resolution, which clearly indicates the terms of reference to be followed.

3.17 The general duties of a standing or special committee are:

- To report to the Band Council from time to time and as often as the interests of the Band may require on all matters connected with the duties entrusted to them respectively. Also, to recommend all action required by the Band Council in relation thereto that they deem necessary and expedient;
- To consider and provide a written report of all matters referred to them by the Chief and/or Band Council.

3.18 Special meetings of committees may be called at the request of the chairman, or a quorum of the committee or, in the absence of the chairman, on request of the Chief of the Band Council.

3.19 The authority of a standing or special committee is advisory only and duties assigned to the committee must be done in accordance with existing Saik'uz First Nation policies.

## **4.0 VACANCIES AND REMOVAL FROM OFFICE**

### **Vacancies**

4.1 A Chief or Councilor position on the Band Council becomes vacant when, while in office:

- a) the Chief or Councilor resigns in writing from office on his own accord;
- b) the Chief or Councilor dies;
- c) the Chief or Councilor is convicted of an indictable offence.

- 4.2 The Chief and Council are required to hold a by-election if quorum no longer exists. The process for accelerated elections should be followed to ensure continuity in leadership.

### **Removal of Council Members from Office**

- 4.3 The Chief or a Councilor or Candidates may be removed from office if he/she:
- a) violates this code, his or her oath of office or the code of ethics;
  - b) fails to attend three consecutive regular meetings of the Band Council without being reasonably excused from attendance by a quorum of the Band Council;
  - c) fails to maintain a standard of conduct expected of a member of Band Council;
  - d) has been convicted of an indictable offence;
  - e) accepts or offers a bribe, forges a Band Council document or otherwise acted dishonestly in his role;
  - f) was negligent in failing to ensure the safety and protection of the community members and property;
  - g) abuses his/her office such that the conduct negatively affected the dignity and integrity of the community or of the Band Council;
  - h) encourages others to commit any of the above;
  - i) does such other conduct as shall be determined by the Appeals and Complaint Board to be of such a serious nature that the removal is necessary and appropriate;
  - j) has been unable to perform the functions of his office for more than six months due to illness or other incapacity; or,
  - k) is unable to fulfill the terms of office.

### **Procedure**

- 4.4 Proceeding to declare a person ineligible to continue to hold the office of Chief or Councilor may be initiated by:
- a) any elector submitting to the Complaint and Appeal Board a petition on which shall appear and include;
    - i) the grounds pursuant to section 4.3 of this code on which removal of a Chief or Councilor is sought;
    - ii) the evidence in support of the petition;
    - iii) the signature of the petitioner;
    - iv) the signatures of not less than 25% of all eligible electors of the Band in support of the petition; and
  - b) A majority of the Band Council members passing a Band Council Resolution and submitting a petition to the Complaint and Appeal Board on which shall appear;

- i) the ground pursuant to section 4.3 of this code on which removal of a Chief or Councilor is sought;
  - ii) the evidence in support of the resolution; and
  - iii) the signature of all Band Council members who voted for the removal.
- c) A Band Council Member being convicted of a criminal offence and/or incarcerated for aforementioned criminal offence results in automatic removal from office and does not require 25% of the signatures of all eligible electors.

## **5.0 COMPLAINT AND APPEAL BOARD**

### **Composition**

- 5.1 At least 30 days before the date on which the election is to be held, the Band Council shall:
- a) select five (5) members of the Complaint and Appeal Board in accordance with this code; and
  - b) prepare a list of seven (7) additional potential members, five (5) of whom will be Band members and two (2) of whom will not be Band members.
- 5.2 The Complaint and Appeal Board shall be composed of five people:
- a) two of whom will be Elders of the Band.
  - b) two of whom will be Band Members who are not Elders at least 18 years of age, who are eligible to vote in the election.
  - c) another individual (may or may not be a Band member) who is familiar with the election process set out in a community election code and possesses an understanding of legal process of elections on a reserve.
- 5.3 The term of office of the Complaint and Appeal Board shall be from its appointment to the day on which the Band Council selects another Complaint and Appeal Board in accordance with this code.
- 5.4 Upon receipt of an election appeal, a Complaint and Appeal Board member who is considered to be a conflict of interest with any appellant or candidate, or who may be reasonably apprehended to have a bias or conflict in connection with the appeal, shall excuse themselves from the board.
- 5.5 The remaining members of the Complaint and Appeal Board will select additional members as required to attain five (5) people from the list of potential members drawn by the Band Council.
- 5.6 The members of the Complaint and Appeal Board will swear an oath of office and accept their appointment by forwarding a letter of acceptance to the Band Council within five

working days of the appointment.

The Oath of Office shall be sworn before the Electoral Officer as follows:

- a) to perform the duties of their office faithfully, impartially and to the best of their abilities;
- b) to comply with the rules and procedures contained in this Code;
- c) to avoid a conflict of interest, or the appearance of a conflict of interest; and
- d) to act in the best interest of the Band.

## **Functions**

- 5.7 The Complaint and Appeal Board shall supervise and administer, in accordance with the provisions of this code:
- a) all election appeals; and
  - b) petitions for the removal of a Band Council member from office.

## **Procedures**

- 5.8 On receipt of a petition or appeal of an election, the Complaint and Appeal Board shall verify that the petition or appeal complies with section 4.4 of this code. If the petition or appeal does not comply, the Complaint and Appeal Board shall so notify the petitioner(s) within 30 days.
- 5.9 In the case where the petition or appeal complies, the Complaint and Appeal Board shall:
- a) determine if the grounds put forth in the petition or appeal is either frivolous in nature or unsubstantiated, and dismiss the petition;
  - b) schedule a review hearing, which must take place within twenty (20) days from the date on which the petition or appeal was submitted to the Complaint and Appeal Board.
- 5.10 In the case where the petition or appeal has been dismissed under subsection 5.9 (a), the Complaint and Appeal Board shall inform the petitioner(s) or appellant (s) in writing and provide a rationale within 30 days.
- 5.11 In the case where the Complaint and Appeal Board schedules a hearing under subsection 5.9 (b), the board shall send a written notice of the hearing by registered mail to the Band Council, the petitioner(s), the electoral officer and the Band Council member who is the subject of the petition for removal or the election appeal.
- 5.12 The written notice described in section 5.11 of this election code shall set out;
- a) the nature of the hearing and all related particulars;

- b) the date, time and location of the hearing; and
- c) a statement that the petitioner, any member of the Band Council or the Council member who is the subject of the petition for removal or the electoral officer may, at the hearing, make a presentation to the Complaint and Appeal Board, which may include the presentation of documents and testimonial by witnesses.

5.13 The Complaint and Appeal Board shall conduct a hearing at the time and place set out in the notice provided under section 5.12 of this code.

5.14 Within five days of the day on which the hearing was held, the Complaint and Appeals Board shall rule:

- a) that the petition shall be allowed to stand and declare the Band Council position of the member of Council who is the subject of the petition to be “vacant”; or
- b) that the petition shall be dismissed; or
- c) if the hearing was in regard to an appeal arising from an election:
  - i) deny the appeal on the grounds that the evidence presented did not confirm an error or violation of this Code, or
  - ii) deny the appeal on the grounds than an error or violation of the Code was confirmed but an error or violation did not affect the result of the election, or
  - iii) uphold the appeal, and direct that a new election be held or that another candidate be declared elected as the case may be, and
  - iv) where appropriate, make recommendations to the First Nation and to the Electoral Officer as how any problem in the appeal can be prevented in future elections.

5.15 The Complaint and Appeal Board shall send, by registered mail, a written notice of the ruling made under this code to Council, the petitioner(s) and the Council member who is the subject of the petition for removal.

5.16 The decision of the Complaint and Appeal Board made under this code is final and binding upon all parties.

5.17 If the Council position is declared vacant under this code, the Chief or Councilor in question will be disqualified from being a candidate for ten (10) years commencing on the date of the ruling made pursuant to this code.

## **6.0 APPEAL MECHANISM**

### **Timing**

- 6.1 A candidate or an elector may, within 30 days from the date on which the election was held, submit an appeal to the Complaint and Appeal Board.

### **Grounds for Appeals**

- 6.2 The appeal must be submitted to the Complaint and Appeal Board and sufficiently outline one or more of the following occurrences:
- a) the person declared elected was not qualified to be a candidate; or
  - b) there was a violation of this code in the conduct of the election that may have affected the result of the election; or
  - c) there was corrupt or fraudulent practice in relation to the election.

### **Submission**

- 6.3 An appeal submitted to the Complaint and Appeal Board must:
- a) be in writing and set out in an affidavit sworn before a notary public or duly appointed commissioner for taking oaths the facts substantiating the grounds for the appeal accompanied by any supporting documentation; and
  - b) be accompanied by a non-refundable deposit in the amount of \$100.00; however the amount shall be refunded if the Appeal Committee finds for the appellant.

### **Procedure**

- 6.4 Within fourteen (14) days of the receipt of the appeal documentation, the Complaint and Appeal Board shall:
- a) in the case where the appeal is accepted, forward a copy of the appeal together with supporting documents by registered mail to the Electoral Officer and to each candidate at the election; or
  - b) in the case where the appeal is not accepted, inform the appellant(s) in writing that the appeal will not receive further consideration.

### **Response to the Allegations**

- 6.5 Any candidate or the Electoral Officer may, within 14 days of the receipt of an appeal, forward to the Complaint and Appeal Board by registered mail a written response to the appeal allegations, together with any supporting documentation.

## **Investigation**

- 6.6 The Complaint and Appeal Board may, if the material that has been filed is not adequate for deciding the validity of the election complained of, conduct further investigation into the matter as deemed necessary.

## **Decision**

- 6.7 After a review of all of the evidence that it has received, the Complaint and Appeal Board shall rule:
- a) that the evidence presented was not sufficiently substantive to determine that:
    - i) a violation of this code has taken place that may have affected; the result of the election;
    - ii) the person declared elected was not qualified to be a candidate; or
    - iii) there was a corrupt or fraudulent practice in relation to the election that may have affected its results,and dismiss the appeal; or
  - b) that all evidence and information gathered allows for the reasonable conclusion that:
    - i) a violation of this code has taken place that might have affected; the result of the election;
    - ii) the person declared elected was not qualified to be a candidate; or
    - iii) there was a corrupt or fraudulent practice in relation to the election that might have affected its results,and uphold the appeal by setting aside the election of one or more Band Council members.
- 6.8 The decision of the Complaint and Appeal Board shall be:
- a) sent to the appellant as well as the Electoral Officer;
  - b) published in the community's newsletter, which is mailed to Band members, or in a separate written notice delivered or mailed to all Band members; and
  - c) posted in at the principal location on the reserve.
- 6.9 The decision of the Complaint and Appeal Board is final and not subject to appeal.

## **7.0 THE ELECTION**

### **Election Date**

- 7.1 The Election date shall be held on Monday March 27, 2019, for one (1) Chief and four (4) Councilors.
- 7.2 An Election will be held on March 25, 2021 for two (2) Councilor positions.
- 7.3 Council will be sworn into office within the first week in April.

### **Eligibility to Vote**

- 7.4 In order to be entitled to vote at an election, an elector must, on the Election Day:
  - a) be at least 18 years of age;
  - b) be included or entitled to be included on the voter's list.

### **Eligibility to Nominate**

- 7.5 In order to be entitled to nominate a candidate at an election, an elector must, on the day of the nomination meeting:
  - a) be at least 18 years of age;
  - b) be included or entitled to be included on the voter's list.
- 7.6 Any elector may propose or second the nomination of any qualified person to serve as the Chief or Councilor:
  - a) by delivering or by mailing a written nomination and a completed, signed and witnessed voter declaration form to the Electoral Officer before the time set for the nomination meeting; or
  - b) orally, at the nomination meeting.
- 7.7 Any elector may nominate or second no more than:
  - a) one eligible person for the office of Chief; and
  - b) the number of eligible persons equivalent to the vacancies for the office of Councilor.

### **Candidacy**

- 7.8 No person shall accept candidacy in an election if that person is not eligible to be a candidate in accordance with this code (refer to "Definitions" of this code for Candidate).

- 7.9 Only electors who meet the requirements of a candidate as set out in this code may be nominated as a candidate.
- 7.10 A person may only be a candidate for one of the offices of Chief or Councilor in any election.
- 7.11 A person nominated as a candidate for both the office of Chief and the office of Councilor must declare which office he/she intends to seek (if any).
- 7.12 Every person nominated is subject to provide a candidacy fee of \$250.00 for Chief and \$100.00 for Councilor to be considered a candidate. This fee to be paid to the First Nation and a receipt issued. The fee will be refunded in full if the candidate receives more than 5% of the total vote.
- 7.13 Candidates for the position of Chief must hold past experience of at least one term as a Chief or Councilor in order to be nominated as a candidate for the position of Chief.
- 7.14 All candidates must have a reliable method of transportation in order to attend meetings and conduct Band Council business as required.
- 7.15 It is mandatory for all nominees to sign a declaration stating that if they are elected they will submit to drug and alcohol testing prior to swearing the oath of office and assuming an elected position.
- 7.16 To be considered a candidate, the nominee shall sign and submit to the Electoral Officer the following documents by 6 pm, on the third working day following the nomination meeting:
- a) a notice of acceptance of nomination; and
  - b) a sworn declaration confirming their eligibility as a candidate; and
  - c) submit the receipt for the candidate fee of \$250.00 or \$100.00 as required by cash or certified cheque made payable to Saik'uz First Nation; and
  - d) a statement that the candidate confirms that he/she has a reliable method of transportation; and
  - e) a declaration to agree to submit to drug and alcohol testing prior to assuming office, if elected.
- 7.17 If the signed notice of acceptance, sworn declaration, the candidate fee receipt, statement of reliable transportation or driver's abstract and the declaration to submit to drug and alcohol testing are not given to the electoral officer by 6 p.m. on the third working day following the nomination meeting, the person nominated will not be a candidate.
- 7.18 A criminal record check dated not more than three months prior to the day the election is to be held is required from all candidates and shall be provided to the Electoral Officer prior to the day of the election. Failure to provide the criminal record check as required will result in votes cast in that candidate's name not being counted after the close of the poll on election day.

7.19 A nominee not present at the nomination meeting shall file the documents required under section 7.15 with the Electoral Officer by mail or in person by the prescribed deadline.

### **Candidate Fee**

7.20 The receipt from the First Nation for the candidate's fee must be provided to the Electoral Officer. The fee will be returned to all candidates who received a number of votes that is more than 5% of the total ballots cast at the election. For those candidates who did not receive this number of votes the First Nation will retain the fee (s).

### **Withdrawal**

7.21 A candidate may withdraw within three (3) working days of the date on which the nomination meeting was held by submitting a written withdrawal of nomination to the Electoral Officer.

7.22 A candidate who dies before the close of the polls shall be considered to have withdrawn his/her candidacy and the candidate fee will be returned to the estate of the candidate.

7.23 A candidate who withdraws after submitting the candidate fee and before the Election date forfeits the candidate fee.

### **Code of Ethics**

7.24 Candidates may campaign:

- a) according to the rules and regulations established in the legal framework;
- b) without coercion or vote buying;
- c) respecting the rights and freedom of other parties to organize and campaign, and to reach out to voters with their messages;
- d) respecting the rights of voters to obtain information from a variety of sources or attend political rallies;
- e) ethically, focusing on political issues and candidate platforms, instead of engaging in libel or slander;
- f) nonviolently, without intimidating opposing party candidates, opposition supporters or the media, and without the use of language inciting their own supporters to violence;
- g) respecting the freedom of the local press and community radio to cover the campaign and to express opinions on the campaigns;
- h) respecting the electoral officials and not interfering with the performance of their

duties; and

- i) accepting and complying with the official election results and the final decision of the Complaint and Appeal Board.

7.25 A candidate engages in corrupt practice when, during an election period, he/she directly or indirectly offers a bribe to influence an elector to vote or refrain from voting or to vote or refrain from voting for a particular candidate, or during an election period, accepts or agrees to accept a bribe that is offered.

7.26 A candidate engages in corrupt practice, if by intimidation or duress, he/she compels a person to vote or refrain from voting or to vote or refrain from voting for a particular candidate at an election; or by any pretense or contrivance, induces a person to vote or refrain from voting or to vote or refrain from voting for a particular candidate at an election.

## **8.0 THE ELECTION PROCESS**

### **Pre-Nomination Procedure**

#### **Appointment of an Electoral Officer**

8.1 The Electoral Officer shall be appointed by the Band Council through a Band Council Resolution no less than 150 days before the expiration of the term of office of those Band Council members whose positions will be up for election.

8.2 The Band Council Resolution for the appointment of the Electoral Officer shall contain his/her full name, the desired date of election, the type of election, which is to be conducted, as well as any special instructions.

8.3 If an Electoral Officer has not been appointed within the time set out in section 8.1 of this code, the Electoral Officer shall be appointed by the Community Services Director as soon as possible.

8.4 The Band Council will appoint an individual to the office of Electoral Officer that:

- a) is not a member of the First Nation;
- b) has no vested interest in the outcome of the elections;
- c) is at least twenty-one (21) years of age; and
- d) has experience in the conduct of elections and has received appropriate training.

8.5 In the event that the Electoral Officer cannot fulfill his/her duties, an existing Deputy Electoral Officer will be chosen by the Chief and Council, through a Band Council Resolution,

to undertake the duties of the Electoral Officer. In the absence of an existing Deputy Electoral Officer, the Band Council shall appoint a new Electoral Officer.

- 8.6 The Electoral Officer shall provide the Band Council with a list of appointed Deputy Electoral Officers who are trained and have knowledge of the election process. A minimum of two Deputy Electoral Officers will be appointed by the Electoral Officer and approved through Band Council Resolution.

### **Electoral Officer Oath of Office**

- 8.7 The Electoral Officer must sign an oath (see Appendix B) to uphold the office in accordance with this code and to ensure impartiality. This oath must be signed, witnessed and received by the Community Services Director within five working days of being appointed by the Band Council. An Electoral Officer cannot be a candidate in the election nor nominate or second a candidate during the election process.

### **Responsibilities and Ethics**

- 8.8 The Electoral Officer is responsible for the managing and executing all pre-electoral, electoral and post-electoral processes and procedures included in this code. The Electoral Officer must:
- a) uphold the code and abide by the legal framework, its rules and regulations;
  - b) remain neutral and professional in the conduct of the duties of office, which includes not providing any preferential treatment or expressing support or opposition for any candidate;
  - c) not accept anything of value (money, offers of employment, gifts, travel, etc.) in exchange for preferential treatment or access to nonpublic information;
  - d) not discriminate against anyone because of race, religion, sex, age or disability;
  - e) use public office facilities to fulfill the terms of office, not for personal or partisan benefit;
  - f) not pressure or intimidate other officials or personnel to favor a certain candidate;
  - g) avoid conflict of interests, or the perception of conflict of interests, by abstaining from decision making where there is a personal or private interest in the matter.

### **Voter's List**

- 8.9 At least one hundred and twenty (120) days before the day on which an election is to be held, the Electoral Officer shall obtain from the Band Membership Clerk the names of all Band members who: will have attained the age of eighteen (18) on the date on which the election is to be held, the band membership number and date of birth of each elector.
- 8.10 The Band Membership Clerk shall, no later than one hundred and twenty (120) days prior to the date on which the election is to be held, provide the Electoral Officer with the last

known addresses, if any, of all electors who do not reside on the reserve.

- 8.11 Electors will be responsible for providing the Band Membership Clerk with their current contact addresses.
- 8.12 The contact address shall be used only for purposes of providing notices, mail-in ballots or other documents to electors who are entitled to receive them under this code.
- 8.13 Except for these purposes, the contact address shall not be disclosed by the Electoral Officer without the consent of the elector.
- 8.14 A candidate for election as Chief or Councilor may obtain from the Electoral Officer a list of the names and the addresses of electors who have consented in writing to have their addresses released to the candidates.
- 8.15 At least ninety (90) days before the day on which an election is to be held, the Electoral Officer shall prepare a voters list containing the names of all of the electors in alphabetical order.
- 8.16 The Electoral Officer shall post the voters list containing only the names of the electors in a public area of the Band administration building and in other conspicuous places on the reserve, as may be determined by the Electoral Officer, no later than eighty (80) days prior to the date on which the election is to be held.
- 8.17 On request, the Electoral Officer or Deputy Electoral Officer shall confirm whether the name of a person is on the voter's list.
- 8.18 The Electoral Officer shall revise the voter's list upon presentation of documentary proof which demonstrates that:
  - a) the name of an elector has been omitted from the list;
  - b) the name of an elector is incorrectly set out in the list; or
  - c) the name of a person not qualified to vote is included in the list.
- 8.19 A person, or an elector acting on his behalf, may, no later than two days prior to the date of the election, demonstrate that the name of an elector has been omitted from or incorrectly set in the voters list. An individual must present in writing to the Electoral Officer and Band Membership Clerk that the elector:
  - a) is entitled to have his name entered on the Band list;
  - b) will be at least eighteen (18) years of age on the date on which the election is to be held
- 8.20 A person may demonstrate that the name of a person not qualified to vote has been included in the voters list by presenting in writing to the Electoral Officer evidence that the person:
  - a) is neither on the Band list nor entitled to have his or her name entered on the Band

list;

b) will not be eighteen (18) years of age on the date on which the election is to be held:

- 8.21 Where the Electoral Officer believes or has information that a person whose name is on the voter's list is not an elector, or where an elector demonstrates to the Electoral Officer that the name of a person not qualified to vote appears on the voters list in accordance with section 7.0, the Electoral Officer shall give written notice to the person whose eligibility is challenged at least ten (10) days prior to the date on which the election is to be held.
- 8.22 The notice given under section 8.21 shall include the reasons for seeking removal of a name from the voters list and any supporting documents, and shall provide notice that a written reply may be sent to the Electoral Officer, which must be received no later than four days prior to the date on which the election is to be held.
- 8.23 After consideration of all information and representations relating to amendments to the voter's list, the Electoral Officer shall add or delete names to the voter's list based on whether persons qualify as electors.
- 8.24 The decision of the Electoral Officer under section 8.23 is final and is not subject to appeal.
- 8.25 Any person whose name does not appear on the voters list shall be entitled to vote on Election Day, provided he or she presents documentary proof to the Electoral Officer demonstrating his or her qualifications as an elector as per section 7.0.

### **Appointment of Deputies and Interpreters**

- 8.26 The Electoral Officer shall appoint deputies and interpreters as he/she deems necessary, who will work under his/her direction. The Electoral Officer may appoint an interpreter for the purposes of assisting electors whose first language is not English or experience vision or literacy problems. All Deputy Electoral Officers appointed must be sanctioned through Band Council Resolution.
- 8.27 The Deputy Electoral Officers shall have such powers as described in this code as well as those powers of the Electoral Officer as are delegated to them by the Electoral Officer. The term of a Deputy Electoral Officer ends once the newly elected Chief and Council Assumes office and all post- election procedures are complete.
- 8.28 A Deputy Electoral Officer shall not be a member of the Band Council or a candidate in the election.
- 8.29 Every Deputy Electoral Officer shall swear an oath of office to:
- a) uphold and comply with this code and all the laws of the community;
  - b) fulfill the duties and responsibilities of their office under this code;
  - c) carry out their duties faithfully, honestly, impartially and to the best of their abilities;
  - d) keep confidential, both during and after their term of office, any matter or

information which, under this code, community law or policy, is considered confidential: and

- e) always act in the best interests of the community in carrying out their duties.

8.30 The Electoral Officer may make such order and issue such instructions consistent with the provisions of this code, as he/she may deem necessary for the effective administration of an election.

## **The Nomination Process**

### **Notice of Nomination Meeting and Mail-in Procedures**

8.31 The Electoral Officer shall, at least 30 days before the date on which the nomination meeting is to be held, post a notice of nomination meeting in at least one conspicuous place on the reserve.

8.32 The Electoral Officer shall, at least 30 days before the date on which the nomination meeting is to be held, mail a notice of the nomination meeting and a voter declaration form to every elector who does not reside on the reserve at the last known address.

8.33 A notice of a nomination meeting shall include:

- a) the date, time, duration and location of the nomination meeting;
- b) the date on which the election will be held and the location of each polling place;
- c) the name and phone number of the Electoral Officer;
- d) the statement that any voter may vote by mail-in ballot; and
- e) a description of the manner in which an elector can nominate a candidate, or second the nomination of a candidate; the statement that, if the elector wants to receive information from candidates, the elector can agree to have his or her address released to the candidates.

8.34 The Electoral Officer shall record the names of electors to whom a notice of the nomination meeting was mailed, the addresses of those electors, and the date on which the notices were mailed.

### **Nomination Meeting**

8.35 The nomination meeting shall be held at least 42 days prior to the date on which the election is to be held.

8.36 At the time and place set for the nomination meeting, the Electoral Officer shall declare the nomination meeting open for the purpose of receiving the nomination of candidates for the available Chief and/or Council positions.

- 8.37 The Electoral Officer is responsible for managing and conducting the nomination meeting.
- 8.38 Immediately following the opening of the nomination meeting, the Electoral Officer shall read aloud all written nominations and seconded nominations that have been received by mail in.

#### **Duration of Nomination Meeting**

- 8.39 The nomination meeting shall remain open for at least three (3) hours.

#### **Maintaining Order and Security**

- 8.40 The Electoral Officer shall maintain order at all times during the nomination meeting and may be required to remove any person who, in his/her opinion, is disrupting or otherwise interfering with the proceedings.
- 8.41 There is zero tolerance for any individual who is physically or verbally abusive at a nomination meeting, exhibits disruptive behaviour or is under the influence of drugs and/or alcohol. The Electoral Officer will procure the assistance of the Vanderhoof Police Department if required to remove any individual from the premises. Should the incident be too disruptive, the Electoral Officer has the authority to end the nomination meeting and reschedule it to the following day.
- 8.42 Only Saik'uz First Nation band members are eligible to participate in nomination meetings or act as a candidate's agent.

#### **Nomination Procedure**

- 8.43 Mailed nominations are void if they are not received by the Electoral Officer before the deadline or established time set for commencement of the nomination meeting.
- 8.44 The Electoral Officer shall ensure the names of the candidate, the nominator and the seconder are recorded. The Electoral Officer shall confirm at the nomination meeting that the proposed candidate is eligible to be elected to the position of Chief or Councilor of the Band Council.
- 8.45 A person present at a nomination meeting who is eligible to do so may second the nomination of any person nominated in writing.
- 8.46 Where the same person receives two written nominations for the same office, the second nomination shall constitute a seconder toward the first nomination.
- 8.47 Any elector may nominate or second no more than
- a) one eligible person for the office of Chief; and
  - b) the number of eligible persons equivalent to the vacancies for the office of Councilor.

- 8.48 At the end of the nomination meeting, the Electoral Officer shall:
- a) if only one person has been nominated for election as Chief, declare that person to be elected;
  - b) if the number of persons nominated to serve as Councilors does not exceed the number to be elected, declare those persons to be elected; and
  - c) where more than the required numbers of persons are nominated for election as Chief or Councilors, announce that an election will be held.
- 8.49 Should a situation occur such as a natural disaster or a power outage that would prevent the nomination meeting from being held in the planned location, the meeting may be relocated to an alternate site in the community. However, should an emergency be declared within the community, the nomination meeting may be postponed until a later date. The Electoral Officer shall ensure that a notice of the rescheduling of any nomination meeting will appear in the community flyers and the website.
- 8.50 On the day following the nomination meeting, the Electoral Officer shall post in at least one principal location on the reserve a list of nominees, their nominators and seconders and the offices for which they are nominated.

## **Pre-Election Procedure**

### **Acclamation**

- 8.51 Where the office of Chief and/or all offices of Councilor are filled by acclamation,
- a) the Electoral Officer shall post in at least one conspicuous place on the reserve, and mail to every elector who does not reside on the reserve, a notice that sets out the names of the persons who have been acclaimed and states that an election will not be held for that position.
  - b) In the event of acclamation of the councilor positions the Electoral Officer shall proceed with an election to determine which councilors, based on the number of votes per candidate, will serve a four year term and which will serve a two year term.

### **Ballots**

- 8.52 The Electoral Officer shall prepare ballot papers setting out:
- a) the names of the candidates nominated for election as Chief, in alphabetical order by surname; and
  - b) the names of the candidates nominated for election as Councilors, in alphabetical order by surname.
- 8.53 Where two or more candidates have the same name, the Electoral Officer shall add to the ballots such additional information as is necessary to distinguish between those candidates.

The ballot may, at the request of the candidate, include a commonly used nickname.

### **Notice of the Election**

8.54 The election shall be held at least 42 days from the day on which the nomination meeting was held.

8.55 The Electoral Officer shall, within three days from the day on which the nomination meeting was held, post a notice of election in at least one conspicuous place on the reserve.

8.56 The notice shall include:

- a) the date of the election;
- b) the times at which the polling stations will open and close;
- c) the location of the polling;
- d) the time and location of the counting of the votes; and
- e) a statement that the voters list is posted for public viewing and its location.

### **Mail-in Ballots**

8.57 The Electoral Officer shall, at least 35 days prior to the date on which the election is to be held, mail to every elector who is not ordinarily resident on the reserve at the last known address; a mail-in ballot package consisting of:

- a) ballots relevant to the election 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 for insertion of the completed ballots;
- d) a voter declaration form which shall set out:
  - i) the name of the elector;
  - ii) the membership number and date of birth of the elector; and
  - iii) a voter declaration form to be witnessed, certifying the identity and signature of the elector.
- e) the notice of election; and
- f) a letter of instruction regarding voting by mail-in ballot which shall also include:
  - i) a statement advising electors that they may vote in person at any polling station on the day of the election if they return their mail-in ballots to the Electoral Officer at the polling station or swear a written declaration before the Electoral Officer, a justice of the peace, notary public or duly appointed commissioner for taking oaths that they have lost the mail-in ballots.

8.58 An elector who is ordinarily resident on the reserve and who is unable to vote in person on

election day may, at least 10 days prior to the date on which the election is to be held, request a mail-in ballot package from the Electoral Officer.

- 8.59 An elector not residing on the reserve who has not received a mail- in ballot package may, not later than 10 days prior to the date on which the election is to be held, request a ballot package from the Electoral Officer.
- 8.60 Upon receipt of a request for a mail-in ballot package, the Electoral Officer shall mail or deliver a mail-in ballot package to the elector.
- 8.61 The Electoral Officer shall indicate on the voters list that ballots have been provided to each elector to whom the mail-in ballots were mailed or otherwise provided to and keep a record of the date on which, and the addresses to which, each mail-in ballot was mailed or otherwise provided.
- 8.62 An elector shall vote by mail-in ballot by:
- a) placing an X or other mark that clearly indicates the elector's choice but does not identify the elector;
  - b) folding the ballots in a manner so as to conceal the names of the candidates or any marks, but exposes the electoral initials on the back;
  - c) placing the ballots 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;
  - f) delivering, mailing or otherwise ensuring receipt by the Electoral Officer of the envelope before the close of polls on the day of the election.
- 8.63 Where an elector is unable to vote, the elector may enlist the assistance of another person to mark the ballot and complete and sign the voter declaration form in accordance with that section.
- 8.64 A witness shall attest to:
- a) the fact that the person completing and signing the voter declaration form is the person whose name is set out in the form; or
  - b) the fact that the elector is the person whose name is set out in the form and that the ballot was marked according to the directions of the elector.
- 8.65 Mail-in ballots that are not received by the Electoral Officer before the close of polls on the day of the election shall not be counted.

## **Equipment for the Election**

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

### **Polling Stations**

- 8.67 The Electoral Officer will establish at least one polling station on the reserve.
- 8.68 The Electoral Officer shall provide a voting compartment in the polling station where electors can mark their ballots free from observation and the Electoral Officer may appoint security to maintain order in the polling station.

## **9.0 ELECTION DAY**

### **Electoral Officer and Deputies**

- 9.1 The Electoral Officer shall not be allowed to vote in the election unless to break a tie. Deputy Electoral Officers are allowed to cast a vote.

### **Candidate's Agent**

- 9.2 A candidate shall be entitled to not more than two agents in the polling station at any one time.
- 9.3 An agent must present a letter of authorization to the Electoral Officer or the Deputy Electoral Officer, signed by the candidate, in order to be permitted to remain in the polling station.

### **Polling Hours**

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

### **Verification of the Ballots Box**

- 9.5 The Electoral Officer or Deputy Electoral Officer shall, immediately before the commencement of the poll,
- a) open the ballot box and call such persons as may be present to witness that it is empty and complete a written statement to that effect, verified by a witness;
  - b) lock and properly seal the ballot box in a manner preventing it from being opened without breaking the seal; and
  - c) place the ballot box in public view for the reception of the ballots.

### **Secrecy and Security**

- 9.6 Voting shall be by secret ballot.
- 9.7 No elector may vote by proxy or authorize another person to vote on his or her behalf.
- 9.8 The Electoral Officer or Deputy Electoral Officer shall maintain order at all times in the polling station and may cause to be removed any person who in anyway interferes, disrupts or attempts to influence the orderly conduct of the poll.
- 9.9 No person shall, on the day the election is held, on the premises of the polling station:
- a) distribute any election related printed materials except such materials as may be distributed by the Electoral Officer or Deputy Electoral Officer for the purpose of conducting the election;
  - b) attempt to interfere with or influence any elector in marking his or her ballot; or
  - c) attempt to obtain information as to how an elector is about to vote or has voted.

### **Voting Procedure**

- 9.10 Each person, on arriving at the polling station, shall give his or her name to the Electoral Officer or Deputy Electoral Officer.
- 9.11 The Electoral Officer or Deputy Electoral Officer shall, if the name is set out in the voters list, place his or her initials on both the ballots and provide them to the elector.
- 9.12 The Electoral Officer or Deputy Electoral Officer shall cause to be placed in the proper column of the voters list a mark opposite the name of every person receiving ballots.
- 9.13 An elector to whom mail-in ballot package was mailed or provided may obtain ballots and vote in person at a polling place if,
- a) the elector returns the mail-in ballots to the Electoral Officer or Deputy Electoral Officer; or

- b) where the elector has lost the mail-in ballots, the elector provides the Electoral Officer or Deputy Electoral Officer with a written affirmation that the elector has lost the mail-in ballots, signed by the elector in the presence of the Electoral Officer, Deputy Electoral Officer, a justice of the peace, a notary public or a commissioner for oaths.
- 9.14 The Electoral Officer or Deputy Electoral Officer shall, when requested to do so, explain the method of voting to the elector.
- 9.15 The Electoral Officer, when requested to do so, may appoint an interpreter.
- 9.16 After receiving the ballots, an elector shall:
- a) immediately proceed to the compartment provided for marking ballots;
  - b) mark the ballots by placing an X or other mark that clearly indicates the elector's choice but does not identify the elector opposite the name of the candidate or candidates for whom he or she desires to vote;
  - c) fold the ballots in a manner that conceals the names of the candidates and any marks, but exposes the initials on the back; and
  - d) deliver the ballots to the Electoral Officer or Deputy Electoral Officer.
- 9.17 On receipt of a completed ballot, the Electoral Officer or Deputy Electoral Officer shall, without unfolding the ballots, verify the initials placed on them by the Electoral Officer and deposit it in the ballot box in the presence of the elector and any other persons entitled to be present at the polling station.
- 9.18 While an elector is in the compartment for the purpose of marking his/her ballot paper, no other person shall, except as provided in section 9.19 be allowed in the same compartment or be in any position from which he/she can see the manner in which the elector marks his ballot paper.

### **Voting Irregularities**

- 9.19 At the request of any elector who is unable to vote in the manner set out in section 9.16 of this code, the Electoral Officer or Deputy Electoral Officer shall assist that elector by marking his/her ballot in the manner directed by the elector in the presence of another elector selected by the elector as a witness and place the ballot in the ballot box.
- 9.20 The Electoral Officer or Deputy Electoral Officer shall note on the voters list opposite the name of such elector the fact that the ballot paper was marked by him/her at the request of the elector and the reasons therefore and record the names of the witness.
- 9.21 An elector who has inadvertently dealt with his/her ballot paper in such a manner that it cannot be conveniently used shall, on one occasion only, upon returning it to the Electoral

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

- 9.22 Any person who has received ballots and who leaves the polling place without delivering the same to the Electoral Officer or a Deputy Electoral Officer in the manner provided, or after receiving the ballots, refuses to vote, shall forfeit his right to vote at the election. The Electoral Officer or Deputy Electoral Officer shall then make an entry in the voters list in the column for remarks opposite the name of such person to show that such person received the ballots and declined to vote. The Electoral Officer or Deputy Electoral Officer shall mark upon the face of the ballots the word "declined", and preserve these ballots.

### **Closing of the Polling Station**

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

### **Counting the Votes**

#### **Opening Mail-in Ballots**

- 9.24 At the time published in the notice prepared in accordance with section 8.56 for the counting of the votes, the Electoral Officer or Deputy Electoral Officer shall, in the presence of any candidates or their agents who are present, open each envelope containing a mail in ballot that was received before the close of the polls and, without unfolding the ballot,
- a) reject the ballot if:
    - i) it was not accompanied by a voter declaration form: or the voter declaration form is not witnessed by a commissioner of oaths;
    - ii) the voter declaration form does not contain a date of birth or a Band number that matches the information contained for that elector on the voters list;
    - iii) the name of the elector set out in the voter declaration form is not on the voters list, or
    - iv) the voters list shows that the elector has already voted in person; or
  - b) in any other case, place a mark on the voters list opposite the name of the elector set out in the voter declaration form, and deposit the ballot in a ballot box.

#### **Counting the Ballots**

- 9.25 The Electoral Officer or Deputy Electoral Officer shall supply other Deputy Electoral Officers and all persons present and who so request with a tally sheet to keep their own tally of the votes.
- 9.26 Immediately after the mail-in ballots have been deposited in the ballot box, the Electoral

Officer or Deputy Electoral Officer shall, in the presence of any candidates or their agents who are present, open all ballot boxes and examine each ballot.

9.27 The Electoral Officer or Deputy Electoral Officer shall call out the names of the candidates for whom the votes were cast on all valid ballots.

9.28 A Deputy Electoral Officer shall mark a tally sheet in accordance with the names being called out of the candidates for the purpose of arriving at the total number of votes cast for each candidate.

### **Ballots not Counted**

9.29 In examining the ballots, the Electoral Officer or Deputy Electoral Officer must reject any ballots that:

- a) do not contain the initials of the Electoral Officer or Deputy Electoral Officer;
- b) do not give a clear indication of the intention of the voter;
- c) contain more votes than there are candidates to be elected; or
- d) or contain a mark by which the voter can be identified.

9.30 The Electoral Officer or Deputy Electoral Officer shall attach a note to each ballot rejected which outlines the reason for rejection.

9.31 Subject to review on recount or on an election appeal, the Electoral Officer or Deputy Electoral Officer shall take a note of any objections made by any candidate or his agent to any of the ballots found in the ballot box and decide any questions arising out of the objection.

9.32 The Electoral Officer or Deputy Electoral Officer shall tally the number of objections to ballots raised and place a corresponding number on the back of the ballot paper with the word "allowed" or "disallowed" as the case may be, with his/her initials.

### **Other Polling Stations**

9.33 Immediately upon completion of the counting of the ballots at a polling station other than that considered the principal polling station managed by the Electoral Officer, the Deputy electoral shall transmit the results to the Electoral Officer.

### **Tie**

9.34 If it is not possible to determine a successful candidate for either a Chief or Councilor position due to an equal number of votes being cast (i.e., tie vote), the Electoral Officer shall establish a time for the conduct of a recount and publicly announce this time in the presence of all those present in the polling station.

- 9.35 A recount conducted must be conducted within 24 hours of the announcement by the Electoral Officer, in the presence the candidates and their agents who wish to attend.
- 9.36 At the time established the Electoral Officer will conduct a recount of the valid ballots.
- 9.37 In the event of a tie the Electoral Officer shall break the tie by placing the names of the candidates having the same number of votes on a paper and place each in a receptacle. Without looking, he shall draw as many papers as there are positions available. The candidate whose name appears on the pieces of paper the Electoral Officer has drawn from the receptacle shall constitute the candidates for whom the Electoral Officer shall cast a vote.

## **Post-Election Process**

### **Announcement**

- 9.38 After completing the counting of the votes and establishing the successful candidates, the Electoral Officer shall declare to be elected the candidates or candidates having the highest number of votes.
- 9.39 Following the declaration of elected candidates the Electoral Officer shall complete and sign an election report which shall contain:
- a) names of all candidates;
  - b) the number of ballots cast for each;
  - c) the number of rejected ballots;
  - d) the name of the candidates declared elected and the positions to which they were elected;
  - e) the date the election was held.
- 9.40 Within four days of the counting of the votes, the Electoral Officer shall:
- a) sign and post, at principal locations, the election report prepared in accordance with this code;
  - b) mail a copy of the election report to every elector of the Band who does not reside on the reserve;
  - c) forward a copy of the election report to the Band administrator and the Complaint and Appeal Board; and
  - d) forward a copy of the election report to the British Columbia regional office of the Indigenous and Northern Affairs Canada

## **Retention of Ballots and Other Election Material**

- 9.41 The Electoral Officer shall deposit all ballot papers in sealed envelopes, including those rejected, spoiled and unused, and shall retain, in a secured cabinet, these ballots and all materials in connection with the election.
- 9.42 All ballots and materials such as voter's list, spoiled ballots, and tally sheets retained in accordance with this code shall be retained for 45 days from the date on which the election was held or until a decision on an appeal is rendered, whichever date is later, after which time the Electoral Officer may, unless otherwise directed by the Band Council, destroy them in the presence of two witnesses who shall make a declaration that they witnessed the destruction of those papers.

## **Chief and Councilor Oath of Office**

- 9.43 At the earliest possible opportunity, elected members of council must attend one or more opportunities to learn about their roles and responsibilities, and to learn the fundamentals of First Nations governance.
- 9.44 Each candidate who has been elected will have (1) Elder to sign and bear witness.
- 9.45 A candidate who has been elected Chief or Councilor shall, within ten days of the electoral declaration, swear an oath of office (see Appendix A) before the Electoral Officer, a justice of the peace, notary public or duly appointed commissioner for taking oaths, and at a public meeting for membership, swearing to:
- a) uphold and comply with this code, the code of ethics and all laws of the community;
  - b) fulfill the duties and responsibilities of his/her office under this code, the code of ethics and all laws of the community;
  - c) carry out his/her duties faithfully, honestly, impartially and to the best of his/her abilities;
  - d) keep confidential, both during and after his/her term of office, any matter or information which, under this code, the laws of the community or policy, is considered confidential; and
  - e) always act in the best interests of the community in carrying out his/her duties.
- 9.46 Where a candidate elected as Chief or Councilor cannot, due to illness or other valid reason, swear the oath of office within the time prescribed in this code, he/she or an elector acting on his behalf may file a petition with the Electoral Officer for an extension of the time to swear the oath of office.
- 9.47 The Electoral Officer receiving a petition shall determine whether the circumstances justify an extension and shall provide the candidate making the request written notice of the

decision, and where applicable, the extension period. The extension period shall be determined by the Electoral Officer.

- 9.48 No person elected as Chief or Councilor shall be permitted to assume their office until they have sworn and filed with the Electoral Officer the oath of office.
- 9.49 If a person elected as Chief or Councilor fails to file the sworn oath of office with the Electoral Officer on or before the specified time period, the Electoral Officer shall declare the office vacant.
- 9.50 The Electoral Officer shall give notice in writing to the elected candidate whose office is declared vacant and to the elected Chief and Council.
- 9.51 Unless the vacancy occurring results in a situation where the Band Council can no longer form a quorum, the position shall remain vacant until such time as a by-election is called by Band Council.

## **10.0 BY-ELECTION**

- 10.1 Unless otherwise provided in this election code, in the event that the office of Chief or Councilor becomes vacant, a By-election may be held.
- 10.2 No By-election shall be held if there are less than three (3) months remaining in the term of the Band Council member whose office has become vacant, except where a By-election is necessary to have sufficient Band Council members to maintain a quorum.
- 10.3 No sitting Band Council member is eligible to be a candidate in a By-election. If a Band Council member wishes to be a candidate in a By-election, he must resign his current Band Council position prior to the nomination meeting for the By-election.
- 10.4 Except as expressly provided otherwise, the rules and procedures in this election code shall apply to By-elections.

## **11.0 ACCELERATED ELECTIONS**

- 11.1 The Band Council may hold an accelerated election if quorum of the Band Council is no longer able to attain quorum.
- 11.2 For Accelerated Elections, the Band Council will appoint an Electoral Officer at least 50 days before the election date. The Electoral Officer will acquire from the Membership Clerk the

list of electors from the last known address already prepared for the last election.

- 11.3 The Electoral Officer will post the notice of nomination meeting at least 10 days before the nomination meeting and the list of electors in at least one conspicuous place in the community and:
- 11.4 The Electoral Officer shall also publish the notice of nomination meeting in a newspaper with the largest circulation among members
- 11.5 The nomination meeting should be held no later than 30 days before the date of the election.
- 11.6 Where a candidate withdraws less than 30 days before the election, the candidate's name shall remain on the mail out ballot due to the timeliness of the process.
- 11.7 The Electoral Officer shall follow the same procedures as indicated in section 8.57 in preparing the mail in ballots however with accelerated timelines.

## **12.0 AMENDMENTS**

- 12.1 The process for development and passage of amendments to this code, which does not include Appendices, may be initiated by:
  - a) a petition presented to the Band Council, signed by a simple majority (50 % plus 1) of all eligible electors setting out the specific area in this code proposed for amendment; and
  - b) a Band Council Resolution.
- 12.2 Upon receipt of an amendment proposal the Band Council shall prepare a notice that sets out:
  - a) a summary of the proposed amendments to this code;
  - b) a statement that the full copy of the proposed amendments can be obtained at the Band administration office; and
  - c) a description of the amendment process.
- 12.3 The notice shall be:
  - a) published in the community's newsletter, delivered or mailed to Band electors, or by separate notice delivered or mailed to all Band electors; and
  - b) posted in at least one conspicuous place on the reserve.
- 12.4 Band electors may, within 14 days of publication of the notice, provide comments

concerning the proposed amendments in writing to the Band Council.

- 12.5 Following receipt of comments concerning the proposed amendments, the Band Council shall review comments and make changes to the proposed amendments, as they deem necessary in order to arrive at a final amendment proposal.
- 12.6 The Band Council shall submit the final amendment proposal to a community plebiscite.
- 12.7 Should the majority of the votes cast at a plebiscite be in favour of the proposed amendments being brought to the code, the Band Council shall amend the code accordingly.
- 12.8 Elections held under the amended code shall take place no sooner than 100 days from the community plebiscite.



APPENDIX A  
**Saik'uz First Nation**  
Chief & Council  
**OATH OF OFFICE**

We, the newly elected Chief and Council, do hereby swear that as elected officials of Saik'uz First Nation, we will do our very best to carry out the duties of our positions honestly and conscientiously and to the best of our abilities, remembering that our primary function is to serve the community as a whole.

We hereby agree to familiarize ourselves with all band government policies and to abide by these policies and regulations. We also agree to adhere to the following terms of this Oath of Office:

We will promote and maintain at all times, in our actions and words, the integrity of Saik'uz First Nation and its' programs, government, staff and members.

We will be prompt and conscientious in the performance of our duties.

We will take initiative to find ways of fulfilling our duties effectively and economically.

We will maintain a positive, cooperative attitude in dealing with fellow Councilors, Employees, and Band Members and will work as a team towards the betterment of the Band.

We will conduct ourselves, at all times, in a manner which will bring credit to the Band Council and the membership which will enhance our community.

We will continue to work towards self-improvement and professional development through training, workshops and materials.

We will attend all Band Council meetings and all other meetings and workshops, punctually and unless there is a valid reason for lateness or absence we will notify the Operations Manager or Chief in advance.

Chief and Council will work together in a respectful, constructive manner and shall respect and support all resolutions passed by Council.

We will not use the information obtained as a result of our elected positions for personal gain or allow personal interests to compete with those of Council.



APPENDIX B  
**Saik'uz First Nation**  
 Electoral Officer  
**OATH OF OFFICE**

I, \_\_\_\_\_ hereby accept the office of Electoral Officer of the Saik'uz First Nation. I do solemnly swear (or affirm) that I will carry out my responsibilities as Electoral Officer in accordance with the Saik'uz First Nation Custom Election Code impartially, honestly, conscientiously, and to the best of my abilities.

SWORN BEFORE ME at _____	)	
British Columbia, on the _____ day of	)	_____
_____ 20 _____	)	Signature of Electoral Officer
_____	)	
A commissioner for taking affidavits for British Columbia	)	



APPENDIX C  
**Saik'uz First Nation**  
Complaint & Appeal Board

**OATH OF OFFICE**

**We, the newly appointed members of the Complaint and Appeal Board do hereby swear to:**

perform the duties of the Board, faithfully, impartially and to the best of our abilities and;

to comply with the rules and procedures contained in the Saik'uz First Nation Election Code and;

to avoid a conflict of interest, or the appearance of a conflict of interest; and

to act in the best interest of the Band.



APPENDIX D  
**Saik'uz First Nation**  
 Nomination Form

I, \_\_\_\_\_, a member of Saik'uz First Nation, hereby nominate  
 \_\_\_\_\_ for the position of \_\_\_\_\_ of  
 Saik'uz First Nation in the upcoming **[circle one]** By-election / General Election.

\_\_\_\_\_  
 Signature

6	1	5								
---	---	---	--	--	--	--	--	--	--	--

Member number

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Date of birth

\_\_\_\_\_  
 Telephone number

\_\_\_\_\_  
 Address

I, \_\_\_\_\_, a member of Saik'uz First Nation, hereby second the  
 nomination of \_\_\_\_\_ for the position of \_\_\_\_\_ of  
 Saik'uz First Nation in the upcoming **[circle one]** By-election / General Election.

\_\_\_\_\_  
 Signature

6	1	5								
---	---	---	--	--	--	--	--	--	--	--

Member number

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Date of birth

\_\_\_\_\_  
 Telephone number

\_\_\_\_\_  
 Address



APPENDIX E  
**Saik'uz First Nation**  
Candidate Declaration Form  
**(Chief position)**

I, \_\_\_\_\_, **[circle one]** Accept / Decline the nomination for the position of Chief in the upcoming Saik'uz First Nation Election.

I declare that I have held at least one term (2 years) as a Councilor and I am eligible to be a candidate as set out in 7.8 thru 7.18 of the Saik'uz First Nation Election Code.

*If I am elected and prior to swearing the oath of office I declare that I will:*

1. submit to drug and alcohol testing; and
2. provide a criminal record check dated not more than three months before Election Day.

I am submitting the candidate fee of \$100 and providing my driver's abstract as proof of my valid BC driver's license.

I make this solemn declaration conscientiously and believing it to be true.

\_\_\_\_\_  
Signature of Nominee

\_\_\_\_\_  
Signature of Electoral Officer

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date



APPENDIX F  
**Saik'uz First Nation**  
Candidate Declaration Form  
**(Councilor position)**

I, \_\_\_\_\_, **[circle one]** Accept / Decline the nomination for the position of Councilor in the upcoming Saik'uz First Nation Election.

I declare that I am eligible to be a candidate as set out in 7.8 thru 7.18 of the Saik'uz First Nation Election Code.

*If I am elected and prior to swearing the oath of office I declare that I will:*

1. submit to drug and alcohol testing; and
2. provide a criminal record check dated not more than three months before Election Day.

I am submitting the candidate fee of \$100 and providing my driver's abstract as proof of my valid BC driver's license.

I make this solemn declaration conscientiously and believing it to be true.

\_\_\_\_\_  
Signature of Nominee

\_\_\_\_\_  
Signature of Electoral Officer

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date



## APPENDIX G

# Saik'uz First Nation

## Mail-in Voting Instructions & Declaration

Dear Elector of the Saik'uz First Nation,

A General Council Election for the Saik'uz First Nation is currently underway. As a member of the Saik'uz First Nation who will be 18 years or older as of Election Day, you are entitled to vote in the General Council Election. Included in this package are the following items to permit you to cast your vote in the election by mail-in ballot:

- a) a Notice of Election;
- b) a ballot, initialed by the Electoral Officer;
- c) a ballot envelope;
- d) a copy of the Declaration of Identity form; and
- e) a postage-paid envelope addressed to the Electoral Officer.

In order to vote by mail-in ballot, you must do the following:

1. On the portion of the ballot dealing with the election of Chief, mark an "X" in the box next to the name of the candidate of your choice for Chief of the Saik'uz First Nation. You must choose only one candidate for Chief.
2. On the portion of the ballot for the election of Councilors, mark an "X" in the four boxes next to the name of the four candidates of your choice for the office of Councilor of the Saik'uz First Nation. If this is an election for two council positions then only mark two boxes.
3. Refold the ballot in the same way as you received it, so that the Electoral Officer's initials on the back of the ballots are visible.
4. Place the ballot in the ballot envelope and seal the envelope.
5. Complete the Declaration of Identity form and sign it in the presence of a witness who is at least 18 years of age, who must complete the "witness" section of the form.
6. Place both the sealed ballot envelope and the completed Declaration of Identity inside the postage-paid and pre-addressed envelope, and seal the envelope.
7. Mail the postage-paid and pre-addressed envelope. Do this as soon as possible as your ballot must be received by the Electoral Officer no later than 8 p.m. on Election Day. Mail-in ballots received after this time will not be counted. If you are not confident that your ballot will arrive in time, you may wish to send it by courier or deliver it to the Electoral Officer personally.

Although you have received this mail-in voting package, you may choose to vote on the day of the election in person at any polling station indicated on the Notice of Election. If you choose to vote in person on the day of the election, any mail-in ballot you may have submitted will be rejected.

Yours truly,

[Name of Electoral Officer]  
Electoral Officer for the Saik'uz First Nation

## DECLARATION OF IDENTITY

*In order for your vote to be counted by mail-in ballot, this declaration must be completed and signed by you and a witness who is at least 18 years old, and must be returned to the Electoral Officer with your sealed ballot envelope.*

In the matter of an election held by the Saik'uz First Nation, held according to the Saik'uz First Nation Custom Election Code,

I have read and understood the mail-in package sent to me. In marking the Ballot, I have voted freely and without compulsion or undue influence of anyone.

I, \_\_\_\_\_, solemnly declare that I am a member of the Saik'uz First Nation and I will be at least 18 years of age on or before the date of the upcoming election. I make this solemn declaration conscientiously believing it to be true and knowing that it has the same force and effect as if made under oath.

### ELECTOR

### WITNESS

X

\_\_\_\_\_  
Signature of Elector

\_\_\_\_\_  
Declared before me at (city, province)

\_\_\_\_\_  
Date

\_\_\_\_\_  
on (date) \_\_\_\_\_

\_\_\_\_\_  
Band number of Elector

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Date of birth of Elector

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Telephone Number of Elector

\_\_\_\_\_  
Telephone Number of witness

\_\_\_\_\_  
Address of Elector

\_\_\_\_\_  
Address of Witness



APPENDIX H  
**Saik'uz First Nation**  
Procedures for Removal of Council Member  
from Office

**Procedure**

Proceeding to declare a person ineligible to continue to hold the office of Chief or Councilor may be initiated by:

- a) any elector submitting to the Complaint and Appeal Board a petition on which shall appear and include;
  - i) the grounds pursuant to section 4.3 of this code on which removal of a Chief or Councilor is sought;
  - ii) the evidence in support of the petition;
  - iii) the signature of the petitioner;
  - iv) the signatures of not less than 25% of all eligible electors of the Band in support of the petition; or
- b) A majority of the Band Council members passing a Band Council Resolution and submitting a petition to the Complaint and Appeal Board on which shall appear;
  - i) the ground pursuant to section 4.3 of this code on which removal of a Chief or Councilor is sought;
  - ii) the evidence in support of the resolution; and
  - iii) the signature of all Band Council members who voted for the removal.
- c) A Band Council Member being convicted of a criminal offence and/or incarcerated results in automatic removal from office and does not require 25% of the signatures of all eligible electors.