



ULKATCHO FIRST NATION CUSTOM ELECTORAL CODE

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Definitions

The following definitions shall apply to all of the provisions of the Ulkatcho First Nation Electoral Code.

“appellant” means an individual who submits an appeal in accordance with this Code with respect to an election.

“by-election” means a special election to fill a position on the council that has become vacant.

“candidate” means an Ulkatcho member who:

- (a) Is at least 18 years of age on the day of the nomination meeting
- (b) Has been nominated to be a candidate by the rules of this custom code

“code” means this Ulkatcho First Nation Electoral Code.

“electoral appeal committee” means the people selected to deal with issues related to the election process as well as the recall process between elections.

“corrupt practice” means a direct or indirect bribery or providing a financial or material incentive to an elector in exchange for a vote.

“council” means the body composed of those persons selected pursuant to this code.

“deputy electoral officer” means any person appointed by the electoral officer for the purposes of an election to assist the electoral officer in the conduct of the electoral process.

“elder” means a band member who is at least 65 years of age.

“election” means a general election or by-election of the band using this code.

“electoral officer” means a person appointed by a band council resolution before each election, who has the responsibility of conducting the nomination meeting, the election and the post-election procedures.

“elector” means a person who:

- (a) Is a member of the Ulkatcho Indian Band; and
- (b) Is at least 18 years of age on the day on which the election is held.

“indictable offence” means the most serious offences under the *Criminal Code* which come with more serious punishments. Examples of this type of offence are theft over \$5,000, break and enter, assault, aggravated sexual assault or murder. (To get a list of

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your indictable offences, go to your local police station and ask for a Police Information Check, the replacement for the Criminal Record Check.)

“mail-in ballot” means a ballot mailed or delivered in accordance with section 11 of this code.

“nomination meeting” means the meeting at which persons come forward to nominate and second candidates at the election.

“oath” means a solemn affirmation.

“ordinarily resident on the reserve” refers to the residential status of an elector who is considered to have his ordinary residence on the reserve. A person’s ordinary residence can be described as:

- (a) the place the person normally eats and sleeps;
- (b) the place the person receives mail;
- (c) the residence of the person’s immediate family; or
- (d) a place in proximity to the person’s place of employment.

A person can only be ordinarily resident in one place at one time, and a person is ordinarily resident in that place until another place of ordinary residence is acquired.

A person may also be temporarily absent from a place of ordinary residence for education, medical or temporary employment reasons.

“polling station” means a building, hall or room which is selected as the site at which voting takes place.

“Registrar” means the band employee responsible for maintaining the band’s membership list.

“rejected ballots” means those ballots that have been improperly marked and/or defaced by elector(s) which are not included in the tally of valid ballots cast during the counting of the votes.

“voter declaration form” means a document that sets out, or provides for:

- (a) the name of the elector;

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- (b) the band membership or registry number of the elector or, if the elector does not have a band membership or registry number, the date of birth of the elector; and
- (c) the name, address and telephone number of a witness to the signature of the elector.

“voters list” means the list of band members eligible to vote in an election.

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1.0 PURPOSE

1.1 The purposes of this Code are:

- (a) to recognize and affirm the inherent right of Ulkatcho First Nation to self-government and the authority to adopt electoral process which reflects our culture and traditions;
- (b) to provide a fair, efficient, accessible and transparent electoral system for the purposes of electing Ulkatcho First Nation representatives; and
- (c) to encourage the participation of Ulkatcho First Nation citizens in fundamental democratic processes.

2.0 COMING INTO FORCE

2.1 This Code shall come into force the day following approval by the members in a ratification vote except if there are less than one hundred (100) days until the next election in which case, it shall come into force the day after that election.

3.0 COMPOSITION OF COUNCIL

3.1 The Council of Ulkatcho First Nation shall consist of one (1) Chief and five (5) Councillors.

3.2 The Chief of Ulkatcho First Nation shall be the candidate for Chief who receives the highest number of valid votes cast in an election.

3.3 The Councillors of Ulkatcho First Nation shall be the five candidates for Councillors who receive the highest number of valid votes cast in an election. However, if one of those candidates for Councillor ran for both Chief and Councillor and is one of those five who received the highest number of votes, the Electoral Officer shall exclude that candidate and choose the candidate with the next highest number of votes.

Meetings

3.4 Each member of Council shall have one vote for all duly held Council meetings.

Order and Proceedings

3.5 A majority of the whole council shall constitute a quorum.

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- 3.6 If no quorum is present within 30 minutes after the time appointed for the meeting, the secretary shall call the roll and take the names of the members of council then present and council shall stand adjourned until the next meeting.
- 3.7 The chief of the band shall be the presiding officer at meetings of council.
- 3.8 Upon a quorum being present, the presiding officer shall take the chair and call the meeting to order.
- 3.9 In the absence of the chief, a chairman shall be chosen from among the councillors present until his or her arrival.
- 3.10 The presiding officer shall maintain order and decide all questions of procedure.
- 3.11 The order of business at each regular meeting of the council shall be as follows:
 - (a) reading, correction (if any) and adoption of the minutes of the previous meeting;
 - (b) unfinished business;
 - (c) presentation and reading of correspondence and petitions;
 - (d) presentation and consideration of reports of committees;
 - (e) new business;
 - (f) hearing deputations; and
 - (g) adjournment.
- 3.12 Each resolution shall be presented or read by the mover, and when duly moved and seconded and placed before the meeting by the presiding officer, shall be open for consideration.
- 3.13 After a resolution has been placed before the meeting by the presiding officer, it shall be deemed to be in the possession of the council, but it may be withdrawn by consent of the majority of the council members present.
- 3.14 When any council member desires to speak, he shall address his remarks to the presiding officer and confine himself to the question then before the meeting.
- 3.15 In the event of more than one council member desiring to speak at one time, the presiding officer shall determine who is entitled to speak.
- 3.16 The presiding officer or any council member may call a council member to order while speaking, and the debate shall then be suspended and the council member shall not speak until the point of order is determined.
- 3.17 A council member may speak only once on a point of order.

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- 3.18 Any member of the council may appeal the decision of the presiding officer to the council and all appeals shall be decided by a majority vote and without debate.
- 3.19 All questions before the council shall be decided by majority vote of the Chief and Councillors present; anything less than a majority means the motion did not pass. In case of a tie, the Chief does not have an additional vote.
- 3.20 Every member present when a question is put shall vote thereon unless the council excuses the member or unless the member is personally interested in the question, in which case the member shall declare his or her interest, and may recuse himself or herself or be required to recuse himself or herself by a majority vote of the other council members.
- 3.21 A member of the council who refuses to vote shall be deemed to vote in the affirmative.
- 3.22 Whenever a division of the council is taken for any purpose, each council member present and voting shall announce his vote upon the question openly and individually to the council and, when so requested by any member, the secretary shall record it.
- 3.23 Any member may require the question or resolution under discussion to be read for his information at any period of the debate, but not so as to interrupt a member who is speaking.
- 3.24 The regular meetings of the council shall be open to members of the band, and no member shall be excluded from a regular meeting except for improper conduct and personnel issues.
- 3.25 The presiding officer may expel or exclude from any meeting any person who causes a disturbance at the meeting.
- 3.26 The council may, at its first meeting, appoint in lieu of the committee of the whole council the standing committees in education, housing and public works, finance and health.
- 3.27 The council may appoint special committees on any matters as the interests of the band may require.
- 3.28 A majority of the members of a committee shall be a quorum.
- 3.29 The general duties of standing and special committees are:
- (a) to report to the council from time to time as often as the interests of the band may require, all matters connected with the duties imposed on them and

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recommend such action by the council in relation to those duties as they may deem necessary and expedient; and

(b) to consider and report upon all matters referred to them by the council or by the chief of the band.

- 3.30 Special meeting of committees shall be called at the request of the chairman or a majority of the committee or, in the absence of the chairman, on request of the chief of the band.

4.0 TERM OF OFFICE

- 4.1 The Chief and Council shall hold office for a period of two years, subject to other regulations herein.

5.0 CALLING AN ELECTION

General Elections

- 5.1 Council is normally required to call a General Election no later than one hundred (100) days before its term of office expires.
- 5.2 Council shall call a General Election through a Band Council Resolution which sets the Election Day and selects the Electoral Officer. The Election to be held every two years.
- 5.3 The Band Council Resolution shall be posted at least ninety (90) days before Election Day in one or more conspicuous places on reserve and on the band website, if one exists.

6.0 ELECTION OFFICIALS

Appointment of Electoral Officer

- 6.1 The Electoral Officer shall be appointed by a Band Council Resolution not less than one hundred (100) days before the expiration of the Council's term of office.
- 6.2 In the case of a By-Election, the Electoral Officer must be appointed as soon as practicable.
- 6.3 The Band Council Resolution appointing the Electoral Officer shall contain his or her full name and address, the type of election to be conducted, as well as any special instructions.

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Eligibility of Electoral Officer

- 6.4 The Electoral Officer must be a person who:
- (a) is not a member, family relation, employee, or holder of service contracts with Ulkatcho First Nation; and
 - (b) has no vested interest in the outcome of any vote; and
 - (c) is at least eighteen (18) years of age; and
 - (d) has experience in the conduct of elections and has received appropriate training.

Oath of Office

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

Responsibilities and Ethics

- 6.6 The Electoral Officer is responsible for managing and executing all pre-electoral, electoral and post-electoral processes and procedures included in this Code.
- 6.7 The Electoral Officer may make such orders and issue such instructions consistent with the provisions of this Code as he or she may deem necessary for the effective administration of the Election.
- 6.8 The Electoral Officer must:
- (a) uphold and abide by the rules and regulations established in this Code;
 - (b) remain neutral and professional in the conduct of the duties of his or her office;
 - (c) not accept anything of value in exchange for preferential treatment or non-public information;
 - (d) comply with all human rights legislation, including the British Columbia Human Rights Code;
 - (e) use public office facilities to fulfill the terms of his or her office, and not for personal benefit; and
 - (f) avoid conflicts of interest, or the appearance of conflicts of interest, by

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abstaining from decision making where the Electoral Officer has a personal or private interest in the matter at issue.

Appointment of Deputies

6.9 The Electoral Officer shall appoint Deputy Electoral Officers as necessary, who shall work under his or her direction.

Eligibility of Deputies

6.10 A Deputy Electoral Officer must be a person who:

- (a) has no vested interest in the outcome of any vote; and
- (b) is at least eighteen (18) years of age, and
- (c) has experience in the conduct of elections or appropriate training

Responsibilities and Ethics

6.11 The Deputy Electoral Officer shall have such powers as described in this Code as well as those powers as delegated to the Deputy by the Electoral Officer.

6.12 In the event the Electoral Officer cannot fulfill his or her duties, an existing Deputy Electoral Officer shall be appointed by a Band Council Resolution, to undertake the duties of the Electoral Officer.

Oath of Office

6.13 Every Deputy Electoral Officer must swear an oath to uphold the office in accordance with this Code.

Appointment of the Electoral Appeal Committee

6.14 If appealing an improper election process as detailed in section 6.4 through 6.13, the Electoral Appeal Committee shall consist of:

- (a) One (1) person selected by the member leading the appeal and
- (b) One (1) trained and experienced electoral officer who is not the electoral officer who conducted the election being appealed. The electoral officer for the appeal committee shall be selected by Chief and Council within three (3) working days on the advice of the Executive Director. If Chief and council does not appoint in this time period, the electoral officer for the Appeal Committee shall be appointed by the Executive Director

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6.15 In the case of recall for removal of office, the Electoral Appeal Committee shall consist of

- (a) One (1) person chosen and appointed by the person filing for the appeal and/or recall
- (b) One (1) person chosen and appointed by the person subject to appeal and/or recall

Oath of Office

6.16 The Electoral Appeal Committee must uphold the office in accordance with this Code and professional practice.

7.0 VOTERS

Eligibility to Vote

7.1 Eligible voters must be:

- (a) a registered band member of Ulkatcho First Nation as recorded in its membership list maintained by Aboriginal Affairs and Northern Development Canada; and
- (b) at least eighteen (18) years of age or older on Election Day.

7.2 Each voter is only eligible to vote once on Election Day.

Voter's List

7.3 At least seventy-two (72) days before the day on which an election is to be held, the Electoral Officer shall obtain from the band the names, band membership numbers, addresses and dates of birth of all band members who will have attained the age of eighteen (18) years of age on the date on which the election is to be held.

7.4 All electors are responsible for providing the Registrar with their current addresses.

7.5 An elector's address shall be used by the Electoral Officer only for the purpose of providing notices, mail-in ballots or other election documents to electors who are entitled to receive them under this Code.

7.6 The Electoral Officer shall not disclose an elector's address without the consent of the elector.

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- 7.7 A candidate for election as Chief or Councillor may obtain from the Electoral Officer a list of the names and addresses of electors who have consented to have their addresses disclosed to candidates.
- 7.8 At least sixty (60) days before Election Day, the Electoral Officer shall prepare a voters list containing only the names of all of the electors in alphabetical order.
- 7.9 At least sixty (60) days before the Election, the Electoral Officer shall post one or more copies of the voters list in a conspicuous place on reserve, on the band website, if one exists, and in any other location he or she deems appropriate.
- 7.10 The Electoral Officer shall revise the voters list upon presentation of documentary evidence which demonstrates that:
- (a) the name of an elector has been omitted from the voters list;
 - (b) the name of an elector is incorrectly set out in the voters list; or
 - (c) the name of a person not qualified to vote is included in the voters list.
- 7.11 A 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's satisfaction.
- 7.12 The decision of the Electoral Officer under this section is final and is not subject to appeal.

8.0 NOMINATION

Notice of Nomination Meeting

- 8.1 The Electoral Officer shall, at least thirty (30) days before the date on which the nomination meeting is to be held:
- (a) post a notice of the nomination process in at least one conspicuous place on reserve and on the band website, if one exists; and
 - (b) mail a notice of nomination process to every elector who does not reside on the reserve for whom the band has an address and whose name appears on the voters list.
- 8.2 A notice of nomination process shall contain at minimum:
- (a) a description of the manner in which an eligible elector may become a candidate in accordance with this Code;

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- (b) a statement the nominations may be made in person at the nomination meeting or by mail, e-mail, fax or hand delivering a nomination form to the Electoral Officer prior to the commencement of the nomination meeting;
 - (c) the time, date, and location of the nomination meeting;
 - (d) the location for receipt of Nomination Forms;
 - (e) the name and contact information for the Electoral Officer;
 - (f) a form for requesting a mail in ballot along with a stamped envelope addressed to the Electoral Officer;
 - (g) the statement that, if the elector wants to receive information from candidates prior to the election, the elector can agree to have his or her address released to the candidates; and
 - (h) the address of the band website, if one exists.
- 8.3 The Electoral Officer shall record the names of electors to whom a notice of the nomination process was mailed, the addresses of those electors, and the date on which the notices were mailed.

Eligibility of Nominees

- 8.4 Any registered band member of Ulkatcho First Nation is eligible to be nominated to become the Chief or a Councillor provided that he or she:
- (a) is at least eighteen (18) years of age or older on Election Day;
 - (b) is not an undischarged bankrupt person; and
 - (c) has not been convicted of indictable offence for which a pardon has not been entered;
- 8.5 Notwithstanding paragraph (c) of this section, any conviction of an indictable offence which in the opinion of the Electoral Officer was committed in pursuit, defence, or exercise of Aboriginal rights does not disqualify such a nominee from being a candidate.

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Nomination Meeting

- 8.6 Nominations for candidates must be held at a duly called Ulkatcho First Nations community meeting scheduled at least forty (40) days prior to the date of the Election and chaired by the Electoral Officer.
- 8.7 The Electoral Officer shall maintain order and security at the Nomination Meeting and may remove any individual causing a disturbance.
- 8.8 The Nomination Meeting shall remain open for a minimum of one hour and a maximum of three hours.
- 8.9 Nominations for candidates must be moved and seconded by Ulkatcho First Nation band members during the duly called meeting or as required on the nomination form which can be received by mail.
- 8.10 Each Ulkatcho First Nation band member may only nominate or second a nomination once for Chief. Similarly a band member may not nominate or second for one Councillor candidate.
- 8.11 Nominations may be made in person at the nomination meeting, by fax, mail or e-mail to the Electoral Officer. The Electoral Officer will read out any written nominations received prior to the nomination meeting at the commencement of the nomination meeting.
- 8.12 Individuals cannot nominate themselves as a candidate.

Acclamation

- 8.13 If the number of nominees to be a candidate does not exceed the number of positions to be filled at the closure of the Nomination Meeting, then the Electoral Officer shall declare the candidates duly elected by acclamation.

Acceptance of Nomination

- 8.14 No person shall accept candidacy in an election if that person is not eligible to be a candidate in accordance with this Code.
- 8.15 Nominated candidates must file a completed Acceptance of Nomination Form with the Electoral Officer no later than 5:00 p.m. the day following the nomination meeting. The Acceptance of Nomination Form must be in the prescribed format and include the agreement of the nominee to abide by:
- a) the Oath of Office, and
 - b) Contract between Elected Officials and Community, and
 - c) the Policies and Regulations of Ulkatcho First Nation, and
 - d) an undertaking to provide a Police Record Check within 6 days (which is 7

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days of the nomination meeting)

- 8.16 Acceptance of Nomination Forms must be witnessed by the Electoral Officer, a Deputy Electoral Officer, or a Commissioner for Oaths and contain the valid signature of the nominee.
- 8.17 Once the Acceptance of Nomination Form has been properly submitted and the Electoral Officer has satisfied him or herself that the nominee is an eligible candidate in accordance with this Code, the nominee becomes a candidate.
- 8.18 The names of candidates will be posted no later than forty-eight (48) hours after the closing of the nomination acceptance period. The notice will be posted in one or more conspicuous places on reserve as well as forwarded to various locations off reserve including the Carrier Chilcotin Tribal Council (Williams Lake), Friendship Centre Kelowna, Friendship Centre Kamloops, Friendship Centre Prince George, Friendship Centre Quesnel, and Vancouver Friendship Society and on the band website, if one exists.

Withdrawal of Candidate

- 8.19 A candidate may withdraw his or her candidacy at any time up to the closing of the polls on Election Day by submitting a written withdrawal of candidacy to the Electoral Officer.
- 8.20 If a candidate withdraws after the ballots for the election have been prepared, his or her name shall remain on the ballot and any ballots cast for that candidate will be void.

9.0 NOTICE OF ELECTION

- 9.1 As soon as practicable after the closing of the acceptance of nominations, the Electoral Officer shall post a Notice of Election in one or more conspicuous places on reserve as well as forwarded to various locations off reserve including the Carrier Chilcotin Tribal Council (Williams Lake), Friendship Centre Kelowna, Friendship Centre Kamloops, Friendship Centre Prince George, Friendship Centre Quesnel, and Vancouver Friendship Society and the band website, if one exists.
- 9.2 This notice shall include at minimum:
 - (a) the date of the election;
 - (b) the names of the nominees;
 - (c) the process for requesting a mail-in ballot;

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- (d) the times at which the polling station(s) will open and close;
- (e) the location of the polling station(s);
- (f) the time and location of the counting of the votes; and
- (g) a statement that the voters list is posted for public viewing and its location.

10.0 CANDIDATES' PUBLIC FORUM

- 10.1 Each candidate must participate in the Candidates Public Forum which will be held between 42 days prior (the nomination meeting) and 37 days (last day to withdraw) prior to the date of the Election
- 10.2 The date and location of the Candidates' Public Forum will be posted by the Electoral Officer for no less than fourteen (14) calendar days in one or more conspicuous places on reserve as well as forwarded to various locations off reserve including the Carrier Chilcotin Tribal Council (Williams Lake), Friendship Centre Kelowna, Friendship Centre Kamloops, Friendship Centre Prince George, Friendship Centre Quesnel, and Vancouver Friendship Society and on the band website, if one exists.
- 10.3 The Band will appoint an Elder or such other person to conduct the Candidates Public Forum and may appoint security personnel who shall maintain order and security at the Public Forum and may remove any individual causing a disturbance.
- 10.4 The order of speeches will be determined by random draw.
- 10.5 Candidate speeches will be limited to a maximum of ten (10) minutes per individual with an additional five minutes for questions.
- 10.6 When a candidate for Chief is presenting his or her speech and answering questions, no other candidate for chief will be present; similarly when a candidate for Councillor gives their campaign speech and answers questions, no other candidate for Councillor will be present in the room.
- 10.7 Those candidates who are late or do not attend the Candidates Public Forum, or fail to comply with nomination requirements will be deemed to have withdrawn their candidacy. The Electoral Officer shall be notified forthwith in this circumstance.

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11.0 MAIL-IN BALLOTS

- 11.1 The Electoral Officer shall, at least thirty-five (35) days prior to Election Day mail to every elector who is not ordinarily resident on the reserve for whom the band has an address and to every elector whose application to vote by mail-in ballot has been received, a mail-in ballot package consisting of:
- (a) the notice of election; and a letter of instruction regarding voting by mail-in ballot;
 - (b) a ballot initialled on the back by the Electoral Officer;
 - (c) an inner postage-paid return envelope, pre-addressed to the Electoral Officer;
 - (d) a second inner envelope marked “ballot” for insertion of the completed ballot;
 - (e) 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) the name, address and telephone number of the witness to the signature of the elector;
- 11.2 An elector who is ordinarily resident on the reserve and who is unable to vote in person on Election Day may request a mail-in ballot package from the Electoral Officer.
- 11.3 An elector not residing on the reserve who has not received a mail-in ballot package may request a mail-in ballot package from the Electoral Officer.
- 11.4 The Electoral Officer shall indicate on the voters list that a ballot has been provided to each elector to whom a mail-in ballot was mailed or otherwise provided and keep a record of the date on which, and the address to which, each mail-in ballot was mailed or otherwise provided.
- 11.5 Mail-in ballots that are not received by the Electoral Officer before the close of polls on Election Day shall not be counted.

12.0 ELECTION DAY

Scrutineers

- 12.1 Each candidate shall be entitled to have one Scrutineer in the polling station at

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any one time. Scrutineers must not lobby or intimate anyone.

- 12.2 A letter of authorization, signed by the candidate must be provided to the Electoral Officer before the opening of the polling stations on Election Day.

Election Day Conduct

- 12.3 Only election officials and those persons casting ballots, authorized as Scrutineers, or assistants for the elderly or disabled may be present in the polling station.
- 12.4 On Election Day, no person shall:
- (a) distribute any election related material in print, by electronic text or any social media such as twitter or Facebook;
 - (b) interfere with or influence an elector in marking his or her ballot;
 - (c) obtain or attempt to obtain information on how an elector is about to vote; or
 - (d) disrupt the voting or election process in any manner.

13.0 VOTING

Polling Stations

- 13.1 The Electoral Officer shall determine the number and location of polling stations. Voters may cast their ballots in person at one or more polling stations on reserve from 8:00 a.m. to 8:00 p.m. on Election Day.
- 13.2 Polling stations at all other locations if determined by the Electoral Officer, will be open according to the hours each agency is willing to support. Notice of location and hours of these polling stations will be posted at each agency by the Electoral Officer in accordance with the requirements of this Code.

Voting Procedure

- 13.3 The Electoral Officer or Deputy Electoral Officer(s) shall, upon the elector presenting acceptable identification and if the person's name is set out in the voters list, place his or her initials on both the ballot for Chief and the ballot for Councillors and provide them to the elector.
- 13.4 The Electoral Officer or Deputy Electoral Officer(s) shall mark on the voters list the name of every person receiving a ballot paper.

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- 13.5 The Electoral Officer or Deputy Electoral Officer(s) shall, when requested to do so, explain the method of voting to the elector.
- 13.6 An elector may on one occasion only per ballot, return a ballot to the Electoral Officer for a blank ballot if a mistake is made.

Assisting an Elector

- 13.17 At the request of any elector who is unable to vote in the manner set out, 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 that elector as a witness and shall place the ballot in the ballot box.
- 13.18 The Electoral Officer or Deputy Electoral Officer shall note on the voters list opposite the name of an elector requiring assistance, the fact that the ballot paper was marked by him/her at the request of the elector and the reasons therefore.

Closing of the Polling Station

- 13.19 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.

14.0 COUNTING BALLOTS

Opening Mail-in Ballots

- 14.1 At the close of the polls, the Electoral Officer or Deputy Electoral Officer shall, in the presence of any candidates or Scrutineers, or members of the public who are present, open each mail-in envelope without opening the ballot envelope.
- 14.2 The Electoral Officer or Deputy Electoral Officer will reject the ballot if:
- (a) it is not in the proper form with the necessary accompanying documents;
 - (b) the name of the elector set out in the voter declaration form is not on the voters list; or
 - (c) the voters list shows that the elector has already voted.
- 14.3 In any other case, the Electoral Officer or Deputy Electoral Officer shall place a mark on the voters list opposite the name of the elector set out in the voter declaration form, open the ballot envelope and deposit the ballot in a ballot box.

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Counting the Ballots

- 14.4 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 Scrutineers, and members of the public who are present, open all ballot boxes and examine each ballot.
- 14.5 The Electoral Officer or Deputy Electoral Officer shall supply all persons present and those who so request with a tally sheet to keep their own tally of the votes.
- 14.6 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.
- 14.7 A Deputy Electoral Officer shall mark a tally sheet in accordance with the names being called out for the purpose of arriving at the total number of votes cast for each candidate.

Ballots Not Counted

- 14.8 In examining the ballots, the Electoral Officer or Deputy Electoral Officer must reject any ballots that:
 - (a) have not been issued by the Electoral Officer or Deputy Electoral Officer, and
 - (b) do not give a clear indication of the elector's intention; and
 - (c) contain more votes than there are candidates to be elected.
- 14.9 The Electoral Officer or Deputy Electoral Officer shall note on the back of each ballot rejected the reason for rejection and also note that reason on a form.
- 14.10 Subject to review on recount, the Electoral Officer or Deputy Electoral Officer shall note any objections made by any candidate or his or her Scrutineer to any of the ballots found in the ballot box and decide any questions arising out of the objection. The decision of the Electoral Officer or Deputy Electoral Officer shall be final.

Other Polling Stations

- 14.11 Immediately upon completion of the counting of the ballots at a polling station other the principal polling station managed by the Electoral Officer, the Deputy Electoral Officer(s) shall transmit the results by facsimile to the Electoral Officer.

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Tie

- 14.12 If it is not possible to determine the successful candidate(s) for either a Chief or Councillor position due to an equal number of votes being cast, the Electoral Officer shall conduct a recount in the presence of all those present in the polling station.
- 14.13 If the recount fails to determine a successful candidate, the Electoral Officer shall place the names of the candidates who have an equal number of votes in a container, draw a name from the container and cast a ballot in the name of the candidate whose name has been drawn in order to break the tie.

15.0 POST ELECTION PROCEDURES

Notice of Results

- 15.1 After completing the counting of the votes and establishing the successful candidates, the Electoral Officer shall declare candidates elected.
- 15.2 Following the declaration of elected candidates, the Electoral Officer shall complete and sign an election report which shall contain:
- (a) the names of all candidates;
 - (b) the number of ballots cast for each; and
 - (c) the number of rejected ballots.
- 15.3 Within twenty-four (24) hours after completion of the counting of the votes, the Electoral Officer shall:
- (a) sign and post the election report in those places set out in this Code, including the band website, if one exists; and
 - (b) forward a copy of the election report to the Band Administrator.
- 15.4 Within 4 days after completion of the counting of the votes, the Electoral Officer shall:
- (a) mail a copy of the election report to every elector of the band who does not reside on the reserve and for whom the band has an address;
 - (b) forward a copy of the election report to Indigenous and Northern Affairs Canada (INAC).

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Storage of Election Materials

- 15.5 The Electoral Officer shall store all election materials, including ballots in a secure location until after the deadline for Appeals has lapsed.

16.0 ELECTION APPEALS PROCEDURE

- 16.1 Within thirty (30) days after the day of the Election, any Eligible Voter may appeal the results of the election on the grounds that:
- (a) there was corrupt or fraudulent practice in connection with the Election; or
 - (b) there was a violation of this Election Code that might have affected the outcome of the Election; or
 - (c) a person nominated to be a candidate in the Election was ineligible to be a candidate.
- 16.2 All appeals shall be in writing and forwarded by registered mail to the Appeal Board, together with a deposit of \$100.00, in the form of cash, certified cheque, or money order. An Eligible Voter may file an appeal by hand delivering the appeal and deposit to the Appeal Board at the UFN administration office. Upon receipt of the appeal documents, the Administrator shall issue a receipt for the appeal as proof of filing. The appeal document must contain all particulars and information supporting the appeal. It is the exclusive responsibility of the Eligible Voter filing an appeal to provide the relevant evidence. The grounds for Appeal should be stated clearly and precisely and include references to any relevant section(s) of this Election Code.
- 16.3 The Appeal Board shall, within seven (7) clear days of the receipt of an appeal, forward a copy, together with all supporting documents to:
- (a) the Electoral Officer,
 - (b) each candidate in the election, and
 - (c) the Council.
- 16.4 The Electoral Officer or candidates may, within fourteen (14) days of receipt of the appeal, forward to the Appeal Board a written response, together with any supporting documents.
- 16.5 The Appeal Board shall take such steps as it feels are necessary to secure all pertinent facts relating to the Appeal, including obtaining affidavits setting out relevant facts.
- 16.6 Within sixty (60) days of receipt of an appeal, the Appeal Board shall render a decision on the validity of the appeal and the action to be taken as a result, which may include:

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- (a) upholding the appeal and calling a further Election for all or some of the positions;
- (b) upholding the appeal and declaring the candidate(s) with the next highest number of votes elected;
- (c) acknowledging there was a violation of the Code, but deciding that no action be taken because the outcome of the election was not affected;
- (d) making recommendations for amendment(s) to this Election Code to apply to future Elections; or
- (e) dismiss the appeal.

The Appeal Board shall report the decision and recommendations to the appellant, the Electoral Officer, all candidates and the Council. The decision of the Appeal Board is final.

- 16.7 If the decision of the Appeal Board requires that another election be held, such election shall respect the provisions of this code.
- 16.8 If the appeal is upheld, the deposit of \$100 will be immediately refunded to the appellant. If the appeal is denied, the deposit is forfeited and is to be used to off-set the costs of the election.

17.0 RECALL OF ELECTED CHIEF AND COUNCILLOR(S) BY MEMBERS

- 17.1 Any Ulkatcho First Nation band member eighteen (18) years of age or older at the last election may start a petition to recall any member of Council by submitting to the Electoral Appeal Committee:
- (a) a signed and witnessed statement of not more than two hundred (200) words detailing why, in the opinion of the applicant, the Chief or Councillor should be recalled; and
 - (b) describing how the Chief and/or Councillors have failed to meet their obligations as listed in section 19.1
 - (c) a non-refundable \$100 processing fee.
- 17.2 After receiving the submitted statement, processing fee and verifying the status of the applicant, the Electoral Appeal Committee will initiate, as soon as possible up to five business days, the drafting of a petition to recall an elected official.
- 17.3 Upon the completion of the petition, the Electoral Appeal Committee shall provide the Chief or Councillor subject to the recall with written notice of the allegations and a copy of any evidence or statements made in support of the recall.
- 17.4 The Chief or Councillor subject to the recall will have fourteen (14) days to

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provide the community with any material he or she wishes to have considered in response to the allegations and the opportunity to hold a community meeting.

- 17.5 The applicant pursuing the recall will have twenty-one (21) days to collect signatures of more than fifteen (15%) percent of individuals who were eligible to vote in the last election.
- 17.6 Volunteers may help the applicant canvas for signatures.
- 17.7 Persons canvassing for signatures shall not:
- (a) solicit signatures from ineligible persons;
 - (b) sign a petition in the name of another person; or
 - (c) provide false or misleading information regarding the nature of the recall.
- 17.8 Once the applicant obtains the necessary number of signatures and the petition is submitted, the Electoral Appeal Committee has seventy-two (72) hours to verify the signatures on the petition.
- 17.9 If the Electoral Appeal Committee confirms the applicant has obtained the required number of valid signatures, a recall vote must take place as soon as possible after the recall petition has been accepted and an Electoral Officer appointed.
- 17.10 The procedures and regulations for a recall vote will follow the applicable processes contained herein.

18.0 EFFECT OF RECALL

- 18.1 Should the majority, fifty percent plus 1 (50%+1), of the votes cast be in favour of a recall, the member of Council subject to the recall will cease to hold office.
- 18.2 Any member of Council who ceases to hold office as a result of the recall process will be ineligible to hold office for a minimum of the balance of the current term and one additional term thereafter.

19.0 REMOVAL FROM OFFICE BY CHIEF AND COUNCIL

- 19.1 A Chief or Councillor may be removed from office with a unanimous vote of the remaining Council members if he or she:
- (a) violates the Code of Ethics, Terms of Office or Oath of Confidentiality;

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- (b) fails to attend three (3) consecutive duly called Council meetings without being reasonably excused by a majority of Council;
 - (c) is convicted of an indictable offence while in office, except in the pursuit or defence, of Aboriginal rights;
 - (d) accepts or offers a bribe, forges a Council document, or otherwise commits serious acts of dishonesty in his or her role;
 - (e) uses his or her office for personal financial gain or for the benefit of his or her family or friends to the detriment of the Band; or
 - (f) conducts themselves in a manner which negatively affects the integrity of the community or Council.
- 19.2 In the event that a Chief or a Councillor is to be considered for removal, the remaining members of Council will provide the affected Chief or Councillor with:
- (a) written notice of the allegations and a copy of any evidence or statements made in support of the removal;
 - (b) fourteen (14) days in which to provide the remaining members of Council with any material he or she wishes to have considered in response to the allegations; and
 - (c) the opportunity to attend a meeting with the remaining members of Council to state his or her position.
- 19.3 In considering the removal of the affected Chief or Councillor, remaining members of Council may deliberate in private but must provide written reasons outlining how they arrived at their decision. These reasons must be provided within fourteen (14) days of the decision.
- 19.4 Any member of Council who ceases to hold office as a result of the removal process will be ineligible to hold office for a minimum of the balance of the current term and one additional term thereafter.

20.0 VACANCY IN AN OFFICE

- 20.1 A vacancy is created when the person who holds office:
- (a) dies or resigns from office;
 - (b) is convicted of an indictable offence under the *Criminal Code of Canada*;

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(c) becomes incapacitated and is prevented from carrying out their duties as an elected official for more than (6) six months.

20.2 To fill the vacancy, Council shall offer the position to the person in the last election who has the next highest number of votes. If that person declines, a by-election shall be held to fill the vacancy. Council shall have the discretion to not make an appointment where less than six (6) months remain in the term of office.

21.0 AMENDMENT PROCEDURES

21.1 No Chief, Councillor or Council may by any unilateral act, amend or rescind any provision of this Code.

21.2 However, if a Canadian court of law or a Human Rights Tribunal makes a decision that finds this Custom Code to be no longer fully compliant, this code shall be amended to conform to the new ruling without having to go through the process described below. Instead, the Ulkatcho will work with an Electoral Officer and legal counsel to amend this custom code. Any such amendment may be delayed to take effect if there is insufficient time to make the change prior to the start of the next election or by-election. The need for the change and the final change shall be announced to the community in suitable media such as a written notice on the bulletin board, in the newsletter and the website.

21.3 The process for amendments to this Code may be initiated by:

(a) a written request from an eligible elector and setting out the specific area in this Code proposed for amendment; or

(b) a Band Council Resolution.

21.4 Upon receipt of an amendment proposal, 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.

21.5 Notice of any amendment shall be:

(a) Published in the community's newsletter, if one exists, website if one exists,

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delivered or mailed to band electors for whom the band has an address; and

(b) Posted in the locations provided for in this Code.

- 21.6 Electors may, within 30 days of publication of the notice, provide comments concerning the proposed amendments in writing to the Council.
- 21.7 Following receipt of comments concerning the proposed amendment, Council shall review the comments and make such changes to the proposed amendments as they deem necessary in order to arrive at a final amendment proposal.
- 21.8 The Council shall submit the final amendment proposal to a community vote by referendum.
- 21.9 Should the majority of the votes, fifty percent (50%) plus 1 vote, be in favour of the proposed amendments, Council shall amend the Code accordingly.
- 21.10 Any amendment passed 100 days or more prior to an election shall apply to that election. Any amendment passed less than 100 days prior to an election shall take effect after the election.
- 21.11 For greater certainty, this amendment process does not apply to amendments of the Appendices of this Code.

22.0 Forms

- 22.1 The forms reproduced in the attached Appendices are intended to be a guide only and other formats may be utilized by the Electoral Officer provided those formats include the information required by the forms reproduced in the Appendices.
- 22.2 Additional forms not included here are mainly internal to the Electoral Officer's work or supplemental to the main process. (Examples: Time calculator, report forms and tally sheets). Most can be adapted from INAC's election guide appendices. Additional form-s can be added as needed.
- 22.3 Appointment of the Electoral Officer should be done with Ulkatcho's standard format Band Council Resolution.
- 22.4 After a declaration of the elected officers is made, other forms used in swearing in the elected officials are supplemental to this Electoral Code. Please refer to existing forms.

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APPENDIX A

NOMINATION FORM

I, _____, of Ulkatcho First Nation, band number _____
hereby nominate _____
_____ for the position of _____.

(phone number of nominee)

I declare that that, to the best of my knowledge, I believe that the person nominated is eligible to be a candidate in accordance with the Ulkatcho First Nation Electoral Code.

DATED THIS _____ day of _____, 20_____.

Signature of Elector

Telephone number

Seconded by:

Name of Elector Seconding

Signature of Elector Seconding

Telephone number

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APPENDIX B

ACCEPTANCE OF NOMINATION FORM

I, _____, being a member of the Ulkatcho First Nation, band number _____, having been nominated as a candidate for the position of _____, at the Ulkatcho First Nation nomination meeting held at _____, on _____, 20____, and being qualified to hold such office under the Ulkatcho First Nation Electoral Code, formally accept my nomination.

I do solemnly declare that I:

1. am a member of Ulkatcho First Nation
2. am at least eighteen (18) years of age or older on Election Day;
3. am not an undischarged bankrupt person; and
4. have not been convicted of an indictable offence in the last five (5) years for which a pardon has not been entered, except in the pursuit or defence of Aboriginal rights and title.

In accepting this nomination, I agree to abide by the Oath of Office, Contract between Elected Officials and Community, and the Policies and Regulations of Ulkatcho First Nation.

DATED THIS _____ day of _____, 20_____.

Signature of Nominee

Signature of Electoral Officer

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APPENDIX C

WITHDRAWAL OF CANDIDACY

I, _____, being a member of the Ulkatcho First Nation,
band number _____ having been nominated as a candidate for the
position of _____, in the Election scheduled for
_____, 20_____, hereby withdraw my name as a candidate
for this position.

DATED THIS _____ day of _____, 20_____.

Signature of Candidate

Telephone number

Name of Witness

Signature of Witness

Telephone number

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APPENDIX D

**ELECTORAL OFFICIAL
OATH OF OFFICE**

I, _____, solemnly declare that in the performance of my duties as a(n) _____, I will do my utmost to serve Ulkatcho First Nation and members of the community with impartiality, integrity, and honesty.

In carrying out my duties, I will remain neutral and professional. I will avoid conflicts of interest, or the appearance of a conflict of interest, by abstaining from decision making where I have a personal or private interest in the matter. I will not accept anything of value in exchange for preferential treatment, information, goods, or services. I will adhere to principles of natural justice and comply with all human rights legislation.

I swear to abide by the provisions of the Ulkatcho First Nation Electoral Code.

DATED THIS _____ day of _____, 20_____.

Signature of Electoral Official

Name of Witness

Signature of Witness

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APPENDIX E

VOTER DECLARATION FOR MAIL-IN BALLOT

In order for your vote to be counted, this declaration must accompany your sealed ballot envelope. This declaration must be signed and witnessed by someone who is at least 18 years of age or older.

In the matter of the election held by Ulkatcho First Nation, held on _____, 20____ I, _____, solemnly declare that:

1. I am a member of Ulkatcho First Nation
2. I am 18 years of age or older on Election Day
3. My band member number is _____
4. My date of birth is _____
5. My current mailing address is

6. I am not aware of any reason why I would be disqualified from voting in this election.

DATED THIS _____ day of _____, 20_____.

Signature of Elector

Telephone number

Name of Witness

Signature of Witness

Address of Witness

Telephone number

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APPENDIX F

APPOINTMENT OF SCRUTINEER

I, _____, being nominated as a candidate for the position of
_____, in the Ulkatcho First Nation Election scheduled for
_____, 20____, hereby appoint the following person to act
as a Scrutineer on my behalf.

The Scrutineer may observe the polling procedure during the day of the vote and the counting of the ballots.

Name of Scrutineer

Signature of Candidate

Date