

SN'PINTKTN



CUSTOM ELECTION CODE
2024

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RECITALS

- A. We are the unconquered aboriginal people of this land, our mother; The creator has given us our mother, to enjoy, to manage and to protect; we, the first inhabitants, have lived with our mother from time immemorial; our governments have allowed us to share equally in the resources of our mother; we have never given up our rights to our mother, our mother's resources, our governments and our religion; we will survive and continue to govern our mother and her resources for the good of all for all time;
- B. We are *sqilx^w/syilx/sʔuknaqinx* from *sn'pinktn* who receive our strength from *timix^w* (all living things) and encompass what is good for our livelihood;
- C. We the *sqilx^w/syilx/sʔuknaqinx* from *sn'pinktn* are committed to our language and the teachings of our *captik^wl* (creation stories) and respect that everyone has value and purpose to come together as one;
- D. We the *sqilx^w/syilx/sʔuknaqinx* from *sn'pinktn* assert and rely on our unextinguished inherent right to self-determination, autonomy, and self-governance, including the right to select our leadership and to develop our own governance structures in accordance with our protocols;
- E. We the *sqilx^w/syilx/sʔuknaqinx* from *sn'pinktn* do not accept that which is imposed upon us and which conflicts with our *captik^wl*;
- F. In accordance with our protocols, *sn'pinktn yilmix^wm* (Chief) and *sax^wk^winmaʔm* (Council) have engaged with our members who support the passing of this [*Governance/Custom Election*] Code;
- G. *sn'pinktn yilmix^wm* (Chief) and *sax^wk^winmaʔm* (Council) wish to ensure good governance practices and procedures and follow the will of our members to enact this [*Governance/Custom Election*] Code, 2024.

THEREFORE, the *sn'pinktn yilmix^wm* and *sax^wk^winmaʔm* at duly convened Council meeting enacts as follows:

PART 1: GENERAL

TITLE

1 (1) This Code may be cited for all purposes as *sn'pintktn Custom Election Code*.

DEFINITIONS

2 (1) In this Code, unless the context otherwise requires:

“**Adjudicator**” means a person appointed by council under section 61 to review and make decisions concerning petitions or requests for election appeals or removal from office;

“**appellant**” means an individual who submits an appeal in accordance with this code with respect to an election;

“**Band Administrator**” means the person appointed as Band Administrator under the FAL;

“**by-election**” means a special election held in between general election for the purpose of filling a seat on council that has become vacant;

“**campaign**” means to advocate for the selection of a particular candidate in the election;

“**candidate**” means a *sn'pintktn* member who has accepted a nomination to run for a position of *yilmix^wm* or *sax^wk^winma?m*;

“**captik^wf**” means creation stories that represent and hold the natural laws, customs, values, governance and principles that together, define and inform *sqilx^w/ syilx/ s?uk^wnaqinx* rights and responsibilities to the land and culture;

“**Chief Electoral Officer**” means a person, appointed by a quorum of Council under section 7 who is responsible for conducting an election process;

“**Code**” means this custom election code;

“**Council**” means the elected leaders of *sn'pintktn* and includes the *sax^wk^winma?m* and the *yilmix^wm*;

“**Custom Election Code, 1975**” means the custom *Regulations Concerning the Election of the Chief and Council of the Penticton Indian Band* and *Directions for Voting* which came into force in 1975 subsequent to the removal of *sn'pintktn* from the election provisions of the *Indian Act*;

“**Deputy Electoral Officer**” means a person appointed by council under section 7 to assist the Chief Electoral Officer in conducting an election process;

“**election**” means a *sn'pintktn* election or By-election held pursuant to this code;22

“**electronic voting**” means the system where eligible voters obtain ballots and cast votes using an internet connection;

“**eligible voter**” means a person who:

- (a) is a member on the day of an election; and
- (b) is at least eighteen (18) years of age on the day of an election;

“**FAL**” means the *Penticton Indian Band Financial Administration Law*;

“**mail-in ballot**” means a ballot that is mailed or delivered to the Chief Electoral Officer in accordance with this Code;

“**member**” means a person that is registered on the *sn'pintktn* membership list;

“**membership clerk**” means the employee responsible for maintaining the *sn'pintktn* membership list;

“**nomination meeting**” means a meeting at which eligible voters come forward to nominate and second candidates for an election;

“**nominee**” means a member who has been nominated to run for the position of *yilmix^wm* or *sax^wk^winma?m* but has not yet accepted that nomination;

“**nsyilxcən**” means the original language of *sqilx^w/ syilx/ s?uk^wnaqinx* people;

- (a) “**ordinarily resident on the *sn'pintktn* reserve**” means the residential status of an eligible voter who has their ordinary residence on the reserve, and the following factors are indicators of ordinary residence: the place the person normally eats and sleeps;
- (b) the place where the person receives mail; and
- (c) a place in proximity to the person’s place of employment;

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

A member may be temporarily absent from a place of ordinary residence for education, medical or temporary employment reasons;

“**polling station**” means a building, hall, room or other site at which voting takes place;

“*sax^wk^winma?m*” means the *sn'pintktn* Council members elected in accordance with the *sn'pintktn Custom Election Code*, but does not include the *yilmix^wm* and in *nsyilxcən* means one is trained at a very young age and/or appointed to be a head Chief (hereditary) i.e.;

salmon chief, hunting chief, war chief, gathering of medicines chief, which they had an area of responsibility to;

“*sn'pintktn*” means the Penticton Indian Band and in *nsyilxcən* means a place to gather, a place to come back to, and is the placename for Penticton and surrounding area;

“**special community meeting**” means a meeting held in accordance with section 14 (10) for members to consider the removal of a Council member from office;

“*sqilx*”/ *syilx*/ *s?uk^wnaqinx*” means the people that have inhabited, defended, and cared for their territory, lands, and resources from time immemorial. They speak *nsyilxcən*, share customs, traditions, and a way of life;

“*tmix^w*” means all living things; the animals, plants, medicines, birds, people, etc. that are all attached to the earth. It is the interconnectedness and attachment between all living things. Similarly, two parts together describes the inter-connectedness and attachment between all living things. It is not a collection of individual strands rather, it references that all living things are attached to one thing *that which gives us life*;

“*tmx^wulax^w*” means land; a physical place, that includes the spiritual connection of everything and within; underneath all *tmix^w*. It references the three parts altogether that describe all living things that are inextricably connected like a spiraling thread interconnected with the earth. All living things in this world are interconnected/interdependent in relation to one another with no ending;

“**voters list**” means a list of *sn'pintktn* members who are eligible voters in an election; and

“*yilmix^wm*” means the *sn'pintktn* Chief or the person who is declared by the Chief Electoral Officer to be elected to the position of *yilmix^wm* in accordance with the *sn'pintktn Custom Election Code*, and who is responsible for guiding the people, caring for the land, and in a metaphysical sense for coiling the rope.

INTERPRETATION

3 (1) This Code must be interpreted in a fair, large, and liberal manner.

3 (2) In this Code:

- (a) the use of the word “must” denotes an obligation that, unless this Code provides to the contrary, must be carried out as soon as practicable after this Code comes into effect or the event that gives rise to the obligation;
- (b) unless it is otherwise clear from the context, the use of the word “including” means “including, but not limited to”, and the use of the word “includes” means “includes, but is not limited to”;

- (c) headings and subheadings are for convenience only, do not form a part of this Code and in no way define, limit, alter or enlarge the scope or meaning of any provision of this Code;
- (d) a reference to a statute includes every amendment to it, every regulation made under it and any Code enacted in substitution for it or in replacement of it;
- (e) a reference to a government office includes every successor government office;
- (f) unless it is otherwise clear from the context, the use of the singular includes the plural, and the use of the plural includes the singular;
- (g) unless it is otherwise clear from the context, the use of the masculine includes the feminine, and the use of the feminine includes the masculine;
- (h) where a time is expressed to begin or end at, on or with a specified day, or to continue to or until a specified day, the time includes that day;
- (i) where a time is expressed to begin after or to be from a specified day, the time does not include that day; and
- (j) where anything is to be done within a time after, from, of or before a specified day, the time does not include that day.

APPLICATION

- 4 (1) This Code applies to the election and removal of Council.
- 4 (2) If any provision of this Code is held invalid by a court of competent jurisdiction, the invalid provision must be severed from and must not affect the remaining provisions of this Code.

REPEAL

- 5 (1) The *sn'pintktm* Custom Election Code, 1975 is repealed.

PART 2: ADMINISTRATION

POSTING FOR CHIEF ELECTORAL OFFICER AND DEPUTY ELECTORAL OFFICER POSITIONS

- 6 (1) At least six months (6) months prior to the date that the term of office for a current Council is set to expire, the Band Administrator must put out a request for quotes for a Chief Electoral Officer and Deputy Electoral Officer which states that applicants must:
 - (a) if they are a member, provide a written affirmation that they give up any right to participate as an elector, candidate, campaigner or scrutineer in the election or any subsequent by-elections during the term of office to which the election relates;

- (b) be at least eighteen (18) years of age;
- (c) provide a copy of a criminal record check with their application which has been completed within three (3) months of the date of application that shows the applicant has no convictions;
- (d) have direct experience in the conduct of elections, or to have completed education or training related to electoral administration; and
- (e) agree to comply with this code, the *Code of Conduct* and all *sn'pintktn* laws, bylaws, policies, and procedures.

APPOINTMENT OF A CHIEF ELECTORAL OFFICER AND DEPUTY ELECTORAL OFFICER

- 7 (1) The Chief Electoral Officers and Deputy Electoral Officer must be appointed at least five (5) months prior to the date that the term of office for a current Council is set to expire and the appointments must be in writing and:
- (a) include the appointee's full name and address;
 - (b) include the date the election must be held ;
 - (c) include the type of election which is to be conducted;
 - (d) be signed by the Band Administrator; and,
 - (e) be accompanied by a BCR confirming the appointment.
- 7 (2) The Chief Electoral Officer and Deputy Electoral Officer must confirm acceptance of appointment in writing to the Band Administrator.

RESPONSIBILITIES AND ETHICS

- 8 (1) The Chief Electoral Officer is responsible for administering all pre-electoral, electoral, and post-electoral processes and procedures prescribed in this Code.
- 8 (2) The Chief Electoral Officer and Deputy Electoral Officer must:
- (a) refrain from voting in an election or by-election in which they act as Chief Electoral Officer unless it is required that a vote be cast to break a tie;
 - (b) not be a candidate in an election or by-election over which they hold office;
 - (c) swear an oath to uphold the office in accordance with this Code; fulfill the duties and responsibilities of their office under this Code;
 - (d) remain neutral and professional in the conduct of their duties;
 - (e) not provide preferential treatment or express support for or opposition to any candidate;

- (f) not accept anything of value including money, offers of employment, gifts, or travel, in exchange for preferential treatment or access to a public official or non-public information;
 - (g) not discriminate against anyone in the course of their duties;
 - (h) not use public office facilities for personal or partisan benefit;
 - (i) not pressure or intimidate other officials or personnel to favour a certain candidate; and
 - (j) avoid conflicts of interest, or the appearance of conflicts of interest, by not participating in decision making where the Chief Electoral Officer has a conflict of interest in the matter at issue.
- 8 (3) Carry out their duties faithfully, honestly, impartially and to the best of their abilities;
- 8 (4) Keep confidential all personal information they collect in carrying out their duties as Chief Electoral Officer or Deputy Electoral Officer; and
- 8 (5) Always act in the best interests of the community in carrying out their duties.
- 8 (6) If the Chief Electoral Officer cannot fulfill their duties:
- (a) the Deputy Electoral Officer must immediately be responsible for the Chief Electoral Officer's duties and confirm this in writing to the Band Administrator; or
 - (b) in the absence of a Deputy Electoral Officer, the Band Administrator must immediately appoint a new Chief Electoral Officer approved by BCR.

PART 3: COUNCIL

ELECTION FOR *YILMÍXʷM* AND *SƏXʷKʷÍNMAʔM*

- 9 (1) Subject to section 9 (2), the *yilmíxʷm* and *səxʷkʷínmaʔm* must be elected by a vote held in accordance with this Code.
- 9 (2) The Chief Electoral Officer may declare the positions of the *yilmíxʷm* and *səxʷkʷínmaʔm* under section 21(1) or 56(1).

COMPOSITION AND SIZE

- 10 (1) Council elections must be for one (1) *yilmíxʷm* and eight (8) *səxʷkʷínmaʔm*.

TERM OF OFFICE

- 11 (1) Elections for the positions of *yilmíxʷm* and *səxʷkʷínmaʔm* must be held every four (4) years.
- 11 (2) The term of office for a newly elected *yilmíxʷm* and *səxʷkʷínmaʔm* commences on the day the newly elected *yilmíxʷm* and *səxʷkʷínmaʔm* completes the requirements in section 60 and continues until the earlier of:

- (a) another *yilmix^{wm}* or *sax^{wk}winma?m* taking office in their place under this Code;
- (b) the *yilmix^{wm}* or *sax^{wk}winma?m* ceasing to be a member of Council under this Code; or
- (c) four (4) years from the date that the election was held.

11 (3) The successful candidate in a by-election may only hold office for the remainder of the term of office of the *yilmix^{wm}* or *sax^{wk}winma?m* they have been elected to replace.

11 (4) If a Council member is declared disqualified from office or as a result of an election appeal, the replacement candidate must hold office only for the remainder of the term of office of the disqualified Council member.

VACANCY

12 (1) A *yilmix^{wm}* or *sax^{wk}winma?m* position must be declared vacant if:

- (a) the *yilmix^{wm}* or *sax^{wk}winma?m* resigns in writing from office on their own accord;
- (b) the *yilmix^{wm}* or *sax^{wk}winma?m* is unable to perform the functions of their office for more than six (6) months due to illness;
- (c) the *yilmix^{wm}* or *sax^{wk}winma?m* dies;
- (d) the *yilmix^{wm}* or *sax^{wk}winma?m* is removed from office in accordance with this Code; or
- (e) a quorum of Council determines that the *yilmix^{wm}* or *sax^{wk}winma?m* is otherwise unable or unwilling to fulfill the duties or terms of office under section 14 (1).

QUORUM OF COUNCIL

13 (1) Subject to sections 13(2) and 13(3), a quorum is five (5) members of Council.

13 (2) Where five (5) or more members of Council cannot vote due to conflicts of interest, but two (2) or more members of Council are not in conflict, a quorum is a majority of Council not in conflict.

13 (3) Where a total of less than five (5) but two (2) or more members of Council remain in office, a quorum is a majority of the remaining members of Council.

REMOVAL FROM OFFICE

14 (1) The *yilmix^{wm}* or *sax^{wk}winma?m* may be removed from office if they:

- (a) violate this code, their *Oath of Office*, *Oath of Confidentiality*, or *Code of Conduct*;
- (b) fail to attend three (3) consecutive regular meetings of Council without being excused from attendance by a quorum of Council;

- (c) fail to comply with the FAL, *sn'pinktn Governance Code*, or any other law, bylaw, code or regulation in a manner that council determines has caused serious harm to *sn'pinktn* or a member;
- (d) are convicted of an indictable offence since their election that is not related to the exercise of Aboriginal rights or title;
- (e) accept or offer a bribe, forge a Council document, or otherwise act dishonestly in their role;
- (f) are negligent in ensuring the safety and protection of members, *timix^w*, *tmx^wulax^w*, or assets;
- (g) abuse their office such that the conduct negatively affects the dignity and integrity of the community or Council;
- (h) encourage, aid, abet, counsel, command or induce others to commit any of the above acts or omissions; or
- (i) engage in such other conduct as may be determined by a quorum of Council to be of such a serious nature that the removal is necessary and appropriate.

14 (2) Proceedings to remove a *yilmix^{wm}* or *sax^{wk}w'inma?m* from office may be initiated by:

- (a) any eligible voter submitting to the Council a petition setting out:
 - (i) the ground pursuant to section 14(1) on which removal of a *yilmix^{wm}* or *sax^{wk}w'inma?m* is sought;
 - (ii) the evidence in support of the petition;
 - (iii) the signature of the petitioner;
 - (iv) the signatures of at least ten (10) percent of eligible voters in support of the petition; and
 - (v) a non-refundable filing fee of fifty dollars (\$50.00); or
- (b) a *yilmix^{wm}* or a *sax^{wk}w'inma?m* submitting a written request to have the matter considered at Council setting out:
 - (i) the grounds on which removal of a *yilmix^{wm}* or *sax^{wk}w'inma?m* is sought;
 - (ii) the evidence in support removal; and
 - (iii) the signature of the *yilmix^{wm}* and *sax^{wk}w'inma?m* in support of the removal.

- 14 (3) Within five (5) days of receiving a petition or request under section 14(2), Council must:
- (a) place the matter on the agenda for the next regular meeting of Council; and
 - (b) in writing by hand or by registered mail, notify the petitioner or requestor and the *yilmix'wm* or *sax'wk'winma?m* who is the subject of the petition or request, of the date and time at which a Council meeting will be held to review the petition.
- 14 (4) The *yilmix'wm* or *sax'wk'winma?m* who is the subject of the petition or request, and the petitioner or requestor, have a right to provide submissions at the Council meeting at which the petition or request is being reviewed.
- 14 (5) Council may request the production of any records or the attendance of any witnesses at the meeting of Council at which the petition or request for removal of the *yilmix'wm* or *sax'wk'winma?m* is being reviewed.
- 14 (6) The *yilmix'wm* or *sax'wk'winma?m* who is the subject of the petition or request must not vote on any matter related to the petition or request.
- 14 (7) Within five (5) business days of the Council meeting at which the petition or request is reviewed Council must:
- (a) declare that insufficient evidence was produced to support a removal of the *yilmix'wm* or *sax'wk'winma?m* under review from office and that the *yilmix'wm* or *sax'wk'winma?m* under review will not be removed from Council; or
 - (b) declare that the *yilmix'wm* or *sax'wk'winma?m* under review will be removed from Council and that the position held by the *yilmix'wm* or *sax'wk'winma?m* who is under review is vacant; or
 - (c) refer the matter to a vote of members at a special community meeting.
- 14 (8) Council must provide written notice of a decision made under section 14 (7) setting out the:
- (a) decision;
 - (b) reasons for decision; and
 - (c) process for filing an appeal to the Adjudicator.
- 14 (9) Council must deliver a written notice under section 14 (8) by hand or registered mail to:
- (a) the petitioner or requestor; and
 - (b) the *yilmix'wm* or *sax'wk'winma?m* who is the subject of the petition or request.
- 14 (10) If Council refers a petition or request to a vote at a special community meeting:

- (a) the special community meeting must be held within thirty (30) days of the Council meeting at which the petition was reviewed; and
- (b) the petition or request is deemed approved if fifty percent plus one (1) of those eligible voters who participate in the special community meeting cast a vote in favour of the petition or request.

PART 4: NOMINATIONS

NOMINATION DEADLINES

- 15 (1) A nomination meeting for the position of *yilmixʷm* is to be held in the third week of August in an electoral year and at least seventy (70) days before the expiration of the term of the current *yilmixʷm*.
- 15 (2) A nomination meeting for *səxʷkʷinmaʔm* is to be held in the fourth full week of October in an electoral year and held at least sixty (60) days before the expiration of the term of current Council.

NOTICE OF NOMINATION MEETINGS

- 16 (1) The Chief Electoral Officer must, at least fourteen (14) days before the date that a nomination meeting is to be held, post a notice of the nomination meeting:
 - (a) in at least two (2) conspicuous places on the reserve;
 - (b) on the *sn'pinktn* website and social media platforms; and,
 - (c) in the *sn'pinktn* newsletter.
- 16 (2) A notice of a nomination meeting must include:
 - (a) the date, time, duration, and location of the meeting;
 - (b) notice that the voters list will be read by the Chief Electoral Officer at the nomination meeting; and
 - (c) a description of the way an eligible voter can nominate a candidate, or second the nomination of a candidate.

ELIGIBILITY TO BE NOMINATED AS A CANDIDATE

- 17 (1) To be entitled to run as a candidate, an eligible voter must:
 - (a) be at least eighteen (18) years of age on or before the day of an election;
 - (b) be a member on or before the day of an election;

- (c) consent to a criminal record search within five (5) days of being nominated;
- (d) confirm in writing to the Electoral Officer that they have received a copy of this Code and the *sn'pinktn* Governance Code;
- (e) not have been removed from office or employment with *sn'pinktn* due to a contravention of the FAL;
- (f) not have been being terminated from office or employment with *sn'pinktn* or *sn'pinktn* related bodies for just cause related to theft or fraud;
- (g) not have a criminal conviction for an indictable offence, unless:
 - (i) they have been granted a pardon; or
 - (ii) the conviction is related to the defence of Aboriginal rights and title;
 - (iii) not owe any debt to *sn'pinktn*, unless they have a debt repayment agreement that was entered into at least six (6) months prior to the day of an election.

17 (2) If a candidate for the position of *yilmix^wm* is not successful in securing that position, the candidate may be nominated for *sax^wk^winma?m*.

ELIGIBILITY TO NOMINATE A CANDIDATE

18 (1) To be able to nominate a candidate a person must be:

- (a) present at the nomination meeting in person, by video, or teleconference; and
- (b) an eligible voter.

NOMINATION MEETING

19 (1) After the floor opens for nominations, the nomination meeting must remain open for at least thirty (30) minutes.

19 (2) The Chief Electoral Officer must maintain order during a nomination meeting and may remove any person who, in their opinion, is disrupting or otherwise interfering with the proceedings.

19 (3) The Chief Electoral Officer must open a nomination meeting by announcing:

- (a) the positions on Council that are vacant and open for nominations;
- (b) the eligibility criteria for eligible voters wishing to run as candidates and for persons wishing to nominate someone to run as a candidate;
- (c) that each eligible voter who is eligible to nominate a candidate may only nominate one (1) person to run as a candidate; and

- (d) that the floor is open for nominations.

NOMINATION PROCEDURE

20 (1) A candidate must be nominated and seconded by an eligible voter but:

- (a) a candidate must not nominate or second themselves; and
- (b) an eligible voter must not nominate more than one candidate at each nomination meeting.

20 (2) When an eligible voter makes a nomination, the Chief Electoral Officer must:

- (a) record the name of the nominee, the nominator, and the seconder;
- (b) ask those present at the meeting if they have any reason to believe that the nominee may not be eligible to be a candidate in an election; and
- (c) record any reasons provided by those present at the meeting for why a nominee may not be eligible to run as a candidate.

RESULTS OF NOMINATION MEETING

21 (1) At the end of a nomination meeting, the Chief Electoral Officer must:

- (a) if only one (1) person has been nominated for the position of *yilmix^{wm}* and no person has raised a belief that the nominee may not be eligible to run as a candidate, declare that person to be elected by acclamation and that an election will not be held;
- (b) if only eight (8) persons are nominated as *sax^{wk}winma?m* and no person has raised a belief that a nominee may not be eligible to run as a candidate, declare those persons to be elected by acclamation and that an election will not be held; and
- (c) where more than the required number of persons are nominated for *yilmix^{wm}* or *sax^{wk}winma?m*, announce that an election will be held and the date of that election.

21 (2) A candidate who is elected by acclamation must not take office until the expiration of the term of office of the outgoing *yilmix^{wm}* or *sax^{wk}winma?m*.

NOTICE OF ACCLAMATION

22 (1) If a candidate is declared elected by acclamation, the Chief Electoral Officer must, within seven (7) days of the nomination meeting, post a notice of that candidate's election and the date the candidate will take office in the following places:

- (a) at least two (2) visible places on the reserve;
- (b) on the *sn'pintkn* website and social media platforms; and

- (c) in the *sn'pintktn* community newsletter.

PART 5: CANDIDATES

ACCEPTING CANDIDACY

23 (1) Within five (5) days of being nominated, a nominee must:

- (a) complete and sign a notice of acceptance of nomination;
- (b) complete and sign a declaration confirming their eligibility to be a candidate;
- (c) submit a non-refundable candidacy fee of four hundred dollars (\$400) to the Chief Electoral Officer to offset the costs of the election;
- (d) the Chief Electoral Officer may only refund the candidacy fee if circumstances outside of the control of the candidate which could not have been reasonably anticipated by the candidate at the time of the payment of the candidacy fee cause the candidate to withdraw before the election; and
- (e) complete and submit a criminal record search form to the local police station naming the Chief Electoral Officer as a party to receive a copy of the completed criminal record search by mail at the following address:

Penticton Indian Band
841 Westhills Dr.
Penticton, BC, V2A 0E8

WITHDRAWAL OR DEEMED WITHDRAWAL OF A CANDIDATE

24 (1) A candidate may only withdraw their candidacy up until fourteen (14) days prior to the election date by submitting a written withdrawal of nomination to the Chief Electoral Officer.

24 (2) A candidate must be deemed to have withdrawn their candidacy and the candidate with the next highest number of votes will be elected to the position, if:

- (a) the candidate dies before the close of the polls or within two (2) weeks of being elected;
- (b) the candidate's criminal record search shows that the candidate has a criminal conviction for an indictable offence that they have not been granted a pardon for and that is not related to the defence of Aboriginal rights and title; or
- (c) the candidate became ineligible for office in the period between nomination and election;
or
- (d) the candidate was disqualified from office after the election under sections 60 or 73.

CAMPAIGNING CONDUCT

- 25 (1) Candidates may campaign up until the day prior to the election date.
- 25 (2) While campaigning, a candidate must:
- (a) not use coercion or vote-buying;
 - (b) respect the rights and freedoms of other candidates to organize and campaign;
 - (c) respect the rights of eligible voters to obtain information from a variety of sources and to attend political meetings;
 - (d) act ethically, focusing on political issues and candidate platforms;
 - (e) act in a non-violent manner and refrain from intimidating opposing candidates, supporters, or the media;
 - (f) respect the freedom of the press to cover the campaign and to express opinions on the campaign; and
 - (g) respect and not interfere with the duties of the Chief Electoral Officer, Deputy Electoral Officer or polling clerks.
- 25 (3) On the day an election is held, a candidate may not:
- (a) campaign;
 - (b) distribute campaign-related materials;
 - (c) attempt to interfere with or influence any eligible voter in marking their ballot; or
 - (d) attempt to obtain information as to how an eligible voter is about to vote or has voted at the polling station or within five hundred (500) meters of the polling station.

OFFENCES RELATED TO CAMPAIGNING

- 26 (1) A person who contravenes any of the campaign restrictions listed in section 25 (3) is guilty of an offence.
- 26 (2) A person who is guilty of an offence under section 26 (1) is liable to a fine of not more than one thousand dollars (\$1,000.00) which must be paid to the *sn'pintkn* Elders Group.

ALL-CANDIDATES FORUM

- 27 (1) Immediately after a nomination meeting has occurred, the Chief Electoral Officer must:
- (a) arrange the date, time, and place for an all-candidates forum;

- (b) contact each candidate and invite them to participate in an all-candidates forum; and
 - (c) confirm the names of those candidates who agree to participate in an all-candidates forum.
- 27 (2) An all-candidates forum must take place no more than twenty-one (21) days after a nomination meeting has occurred.
- 27 (3) At least seven (7) days before an all-candidates forum, the Chief Electoral Officer must post an all-candidates forum notice:
 - (a) in at least two (2) visible places on the reserve;
 - (b) on the *sn'pintkn* website and social media platforms; and
 - (c) in the *sn'pintkn* newsletter.
- 27 (4) An all-candidates forum notice must:
 - (a) provide details on the date, time, and location of the all-candidates forum; and
 - (b) invite eligible voters to submit questions to the Chief Electoral Officer no later than the day before the all-candidates forum which the Chief Electoral Officer may ask at the all-candidates forum.
- 27 (5) The Chief Electoral Officer must moderate the all-candidates forum and:
 - (a) ensure each candidate is provided no more or less than five (5) minutes to speak in relation to their election platform;
 - (b) ask the candidates questions that are submitted by eligible voters, or that directly relate to the of Council or the affairs of *sn'pintkn*, and allow each candidate equal response time;
 - (c) open the floor to eligible voters who may ask questions that are directly related to the vacant role or the affairs of *sn'pintkn*;
 - (d) provide each eligible voter who takes the floor no more three (3) minutes on the floor; and
 - (e) allow each candidate equal response time to eligible voter questions.
- 27 (6) The Chief Electoral Officer must ensure that minutes are taken at the all-candidates forum.
- 27 (7) At the request of an eligible voters, the Chief Electoral Officer must provide the eligible voters with the minutes that are taken at an all-candidates forum.

PART 6: VOTERS

VOTERS LIST

- 28 (1) At least four (4) months before the current *yilmix^{vm}* term expires, the Chief Electoral Officer must obtain the *sn'pinktn* member numbers and dates of birth of all members who will be eligible voters on election day from the membership clerk.
- 28 (2) Eligible voters are responsible for providing the membership clerk with their current addresses.
- 28 (3) An eligible voter's address must be used by the Chief Electoral Officer only for the purpose of providing notices, mail-in ballots or other election documents to eligible voters who are entitled to receive them under this code.
- 28 (4) The Chief Electoral Officer must not disclose eligible voter personal information unless doing so is required by law or an eligible voter has provided their consent in writing to the Chief Electoral Officer to disclose that information for another specific purpose.
- 28 (5) At least ninety (90) days before the day that an election is to be held, the Chief Electoral Officer must:
- (a) prepare a voters list in alphabetical order that contains the names of all eligible voters;
 - (b) post the voters list in a public area of the *sn'pinktn* administration building; and
 - (c) post the voters list in such other visible places on the reserve as may be determined by the Chief Electoral Officer.
- 28 (6) On request by an eligible voter, the Chief Electoral Officer or Deputy Electoral Officer must confirm whether the eligible voter's name is on the voters list.
- 28 (7) The Chief Electoral Officer must revise the voters list upon presentation of written evidence which demonstrates that:
- (a) the name of an eligible voter has been omitted from the voters list;
 - (b) the name of an eligible voter 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.
- 28 (8) No later than five (5) days prior to the date that an election is to be held, a person, or an eligible voter acting on their behalf, may demonstrate that their name has been omitted from or incorrectly set out in the voters list by presenting the Chief Electoral Officer with written evidence from the membership clerk that the eligible voter:
- (a) is entitled to have their name entered on the *sn'pinktn* membership list; and

- (b) will be at least eighteen (18) years of age on the date of the election.
- 28 (9) A person may demonstrate that the name of a person not qualified to vote has been included on the voters list by presenting the Chief Electoral Officer with written evidence that the person:
- (a) is neither on the sn'pintktn membership list nor entitled to have their name entered on the sn'pintktn membership list; or
- (b) will not be at least eighteen (18) years of age on the date that an election is to be held.
- 28 (10) Where the Chief Electoral Officer believes that a person whose name is on the voters list is not an eligible voter, the Chief Electoral Officer must give written notice to the person whose eligibility is challenged at least ten (10) days before the date of the election that:
- (a) provides notice to the person that their eligibility is being challenged;
- (b) includes the reasons for seeking the removal of the name from the voters list and any supporting documents; and
- (c) provides notice that any reply must be received by the Chief Electoral Officer at least five (5) days prior to the date that an election is to be held.
- 28 (11) The Chief Electoral Officer must determine all the eligibility of any individual to vote and must only include eligible voters on the voters list.
- 28 (12) The decision of the Chief Electoral Officer under section 28 (11) is final and is not subject to appeal.

RIGHT TO VOTE

- 29 (1) An eligible voter whose name appears on the voting list may vote in accordance with this code and:
- (a) in person at a polling station on polling day;
- (b) in person at an advance polling station during the advance polling period;
- (c) by mail-in ballot; or
- (d) by electronic voting if available.
- 29 (2) A person whose name does not appear on the voting list must be entitled to vote on election day if they present written proof to the Chief Electoral Officer that they are an eligible voter.

PART 7: PRE-ELECTION PROCEDURES

ELECTION DEADLINES

- 30 (1) An election for the position of *yilmix^{wm}* must be held in the third week of October in an electoral year and at least thirty (30) days from the date of the nomination meeting for the position of *yilmix^{wm}*.
- 30 (2) An election for *sax^{wk}w'inma?m* must be held in the second week of December in an electoral year and at least thirty (30) days from the date of the nomination meeting for *sax^{wk}w'inma?m*.

NOTICE OF ELECTION

- 31 (1) If a nomination meeting is held and the position of a *yilmix^{wm}* or *sax^{wk}w'inma?m* is not declared by acclamation, the Chief Electoral Officer must, within seven (7) days of the nomination meeting, post a notice of election in the following places:
- (a) at least two (2) visible places on the reserve;
 - (b) on the *sn'pintkn* website and social media platforms; and
 - (c) in the *sn'pintkn* community newsletter.
- 31 (2) A notice of election must include:
- (a) candidate names;
 - (b) election date;
 - (c) times when the polling station(s) and advanced poll(s) will open and close;
 - (d) location(s) of polling station(s);
 - (e) information about electronic voting, if available;
 - (f) time and location for counting of the votes; and
 - (g) a statement that the voters list is posted for public viewing and its location.
- 31 (3) The notice of election must be updated as soon as possible after a candidate's name is withdrawn under section 24.

SET-UP POLLING STATIONS

- 32 (1) The Chief Electoral Officer must establish at least one (1) polling station on the reserve.
- 32 (2) The Chief Electoral Officer may appoint security to maintain order in the polling station.

- 32 (3) The Chief Electoral Officer must ensure that an interpreter is available at each polling station to assist voters who have difficulty reading or understanding English.
- 32 (4) Before the polling station is open, the Chief Electoral Officer must ensure each polling station is supplied with:
- (a) ballot boxes which must be constructed so that ballots can be inserted into them, but so that ballots cannot be withdrawn unless the box is opened;
 - (b) a voting compartment for each ballot box that allows eligible voters to mark their ballots free from observation by others;
 - (c) enough ballots for each eligible voter to vote;
 - (d) instruments or electronic equipment for marking ballots;
 - (e) voting instructions for each voting compartment;
 - (f) all equipment and personnel necessary to establish and equip the polling stations; and
 - (g) the final voters list.
- 32 (5) The Chief Electoral Officer must set up a station for candidate scrutineers to sit near the polling stations, away from the ballot booths, and away from the location of the Chief Electoral Officer and Deputy Electoral Officer.

PART 8: BY-ELECTIONS

BY-ELECTION REQUIRED

- 33 (1) If a current *sax'w'k'inma?m* wishes to be a candidate for *yilmix'w'm* in a by-election, they must resign their Council position in writing to the Band Administrator prior to the nomination meeting for the by-election.
- 33 (2) The position of a *sax'w'k'inma?m* who resigns under section 33 (1) will be voted on at the same by-election that is being held for the position of *yilmix'w'm*.
- 33 (3) A resignation under section 33 (1) is binding.
- 33 (4) Except as expressly provided otherwise in this code, the rules and procedures for elections must apply to by-elections.

BY-ELECTION DEADLINES

- 34 (1) If the office of *yilmix'w'm* is vacant and more than eighteen (18) months remain in that *yilmix'w'm* term, a by-election for must be held within four (4) months of the date that the position is declared vacant.

- 34 (2) If the office of a *səx'k'winmaʔm* is vacant and more than eighteen (18) months remain in that *səx'k'winmaʔm* term, a by-election for that vacant position must be held within four (4) months of the date that the position is declared vacant.

BY-ELECTION NOT REQUIRED

- 35 (1) If the position of the *yilmixʷm* is declared vacant and there are less than eighteen (18) months remaining in the term of office a by-election must not be held and the remaining Council must appoint a *səx'k'winmaʔm* to act as *yilmixʷm*.
- 35 (2) If a *səx'k'winmaʔm* position is declared vacant and there is less than eighteen (18) months remaining in the term of office, a by-election must not be held.
- 35 (3) Despite sections 35(1) and 35(2), if Council vacancies result in a quorum of less than five (5) people and there are less than eighteen months (18) months but more than six (6) months remaining in the term of office, a by-election must be held.

PART 9: BALLOTS

PAPER BALLOTS

- 36 (1) The Chief Electoral Officer must prepare ballots setting out:
- (a) the position or positions being voted on;
 - (b) instructions for marking the ballot, including number of candidates that must be voted for;
 - (c) the candidates' names in alphabetical order by surname with a box beside each candidates' name for the eligible voter to mark their vote in;
 - (d) the back of each ballot must be numbered;
 - (e) where two (2) or more candidates have the same name, the Chief Electoral Officer must add to the ballots the necessary additional information required to distinguish between those candidates; and
 - (f) at the request of a candidate, a ballot may include a candidate's commonly used nickname or *nsyilxcən* name.

NOTICES TO ELIGIBLE VOTERS LIVING OFF RESERVE

- 37 (1) At least ninety (90) days prior to an election, the Chief Electoral Officer must mail every eligible voter who is not ordinarily resident on the reserve a notice of election to request mail-in ballots consisting of:
- (a) a copy of the notice of election;

- (b) instructions for electronic voting, if available; and
 - (c) the requirement that a request for a mail-in ballot be received by the Chief Electoral Officer at least thirty (30) days prior to an election.
- 37 (2) At least thirty (30) days prior to an election, an eligible voter who is not ordinarily resident on reserve may make a written request to the Chief Electoral Officer for a mail-in ballot.
- 37 (3) At least twenty (20) days prior to an election, an eligible voter who is not ordinarily resident on the reserve and who has requested but not received a mail-in ballot package may make a written request to the Chief Electoral Officer for a replacement mail-in ballot package.
- 37 (4) At least twenty (20) days prior to an election, an eligible voter who is ordinarily resident on the reserve and who is unable to vote in-person may make a written request to the Chief Electoral Officer for a mail-in ballot package.

DISTRIBUTION OF MAIL-IN BALLOTS

- 38 (1) A mail-in ballot package must include:
- (a) a ballot initialed by the Chief Electoral Officer and numbered on the back;
 - (b) an inner postage-paid return envelope, pre-addressed to the sn'pintktn Administration Office and marked do not open;
 - (c) a second envelope that fits inside the postage-paid return envelope, pre-addressed to the Chief Electoral Officer and marked "ballot";
 - (d) A voter declaration form, including:
 - (i) the date the declaration form is filled out;
 - (ii) the name of the eligible voter;
 - (iii) the eligible voter member number;
 - (iv) the eligible voter date of birth;
 - (v) a statement that by signing the declaration form, the eligible voter declares that they are the person named on the envelope and that they know of no reason why they may be ineligible to vote in an election;
 - (vi) the eligible voter signature;
 - (vii) the name, address and telephone number of a person who witnessed the eligible voters signature;

- (viii) the notice of election; and
- (ix) a letter of instruction setting out:
 - (A) the method of voting by mail-in ballot;
 - (B) that the mail-in ballot must be received prior to an election date;
 - (C) that mail-in ballots that are not received prior to an election date will not be counted in the votes;
 - (D) that eligible voter may vote in person at any polling station on the day of an election if:
 - (I) they return their mail-in ballot to the Chief Electoral Officer at the polling station; or
 - (II) they swear a written declaration before the Chief Electoral Officer that they have lost their mail-in ballot.

- 38 (2) The Chief Electoral Officer must send a mail-in ballot package as described in section 38 (1) to only one (1) location, with a return address to the Chief Electoral Officer and:
- (a) at least twenty-eight (28) days prior to an election, to every eligible voter who has made a written request under section 37 (2) and 39 (3);
 - (b) immediately, to every eligible voter who has made a written request under section 37 (4).

DUTY TO DOCUMENT MAIL-IN BALLOT PACKAGE DISTRIBUTION

- 39 (1) The Chief Electoral Officer has a duty to document the following on the voters list:
- (a) all eligible voter requests for mail-in ballots, including the:
 - (i) name of the eligible voter;
 - (ii) date the request is received, and
 - (iii) whether the request is an initial request or a request for a replacement mail- in ballot package;
 - (b) all mail-in ballot packages sent to an eligible voter, including:
 - (i) the name and address of the Eligible Voter to whom a mail-in ballot package is sent;
 - (ii) the date a mail-in ballot package is sent out;

- (iii) the number on the back of the ballot in each mail-in ballot package; and
- (iv) whether the mail-in ballot package is an original package or a replacement package.

PART 10: SPECIAL VOTING

VOTING BY MAIL-IN BALLOT

40 (1) To vote by mail-in ballot an eligible voter must:

- (a) place a mark, which does not identify the eligible voter, on the ballot opposite the name of the candidate or candidates for whom he or she desires to vote;
- (b) fold the ballot in a manner that conceals the names of the candidates or any marks and that exposes the Chief Electoral Officer's initials on the back;
- (c) put the ballot in the second envelope that fits inside the postage-paid return envelope and seal that envelope;
- (d) complete and sign the voter declaration form in the presence of a witness who is eighteen (18) years of age or older and have the witness sign the voter declaration form confirming that the eligible voter is the individual who signed the form;
- (e) put the second envelope and the completed, signed and witnessed voter declaration form into the postage-paid envelope; and
- (f) ensure the mail-in ballot is received by the Chief Electoral Officer before the close of polls on election day.

40 (2) If an eligible voter cannot vote in person due to an unforeseen emergency, they may, in writing, authorize an individual to assist them and may request that the Chief Electoral Officer or Deputy Electoral Officer provide a mail-in voting package to the individual they have authorized.

40 (3) An individual who has been appointed under section 40 (2) who submits a mail-in ballot on behalf of an eligible voter must attest in writing:

- (a) that the eligible voter is the person whose name is set out in the ballot; and
- (b) that the ballot was marked according to the directions of the eligible voter; and
- (c) provide their name, address, and phone number for the Chief Electoral Officer.

RECEIVING MAIL-IN BALLOTS

41 (1) The Band Administrator must ensure that a logbook is created to record the receipt of all mail-in ballots as received based on the list of mail-in ballots that have been circulated.

41 (2) *sn'pinktn* employees receiving mail-in ballots must, as soon as possible:

- (a) ensure that the mail-in ballot is, and remains, sealed and unopened;
- (b) stamp “received” the date a mail-in ballot is received;
- (c) record the mail-in ballot number as received on the logbook; and
- (d) deposit the sealed and unopened mail-in ballot in the mail-in ballot box for the Chief Electoral Officer.

41 (3) The Chief Electoral Officer must keep the mail-in ballot box locked in the vault at the *sn'pinktn* Administration Office until the day of the election.

ELECTRONIC VOTING

42 (1) Council may authorize electronic voting.

42 (2) Council may enact regulations for electronic voting by BCR.

42 (3) If electronic voting is authorized:

- (a) any eligible voter who registers for electronic voting may vote by electronic voting;
- (b) an eligible voter who has voted electronically may not also vote in person or by mail-in ballot;
- (c) electronic voting must be confidential and by secret ballot;
- (d) the electronic voting period may include an advance voting period;
- (e) the electronic voting period must end no later than the close of polls on election day; and
- (f) the Chief Electoral Officer must ensure that instructions for electronic voting are provided on all election notices, online, and available for distribution upon request to eligible voters.

42 (4) The electronic voting includes:

- (a) registration instructions;
- (b) secure identity verification;
- (c) confirmation of eligibility to vote;
- (d) voting instructions and information;
- (e) secure electronic ballots which include:

- (i) the position(s) being voted on;
 - (ii) instructions for marking the electronic ballot, including:
 - (A) number of candidates that must be voted for;
 - (B) the candidate names; and
 - (C) how an eligible voter must record their vote;
 - (iii) the secure electronic transmission of the names of the eligible voters who have voted electronically to the Chief Electoral Officer or Deputy Electoral Officer, but not how they have voted, on an ongoing basis prior to the close of polls; and
 - (iv) the secure electronic transmission of the electronic ballot results to the Chief Electoral Office or Deputy Electoral Officer prior to the close of polls.
- 42 (5) Prior to the counting of ballot cast by mail-in ballot or in-person voting, the Chief Electoral Officer or Deputy Electoral Officer must determine if any eligible voter has submitted duplicate ballots.
- 42 (6) The results of electronic voting shall be disclosed and counted prior to the counting of ballots cast by mail-in ballot or in-person voting.

ADVANCE IN-PERSON POLLING

- 43 (1) The Chief Electoral Officer must establish an advance polling station, open from 8 a.m. until 8 p.m., at least seven (7) business days prior to an election.
- 43 (2) The Chief Electoral Officer or Deputy Electoral Officer must follow the polling station requirements set out in section 32, and the voting procedures set out in part 11 to administer the advance polling station.
- 43 (3) The advance polling ballot box must be locked in the vault at the *sn'pintkn* Administration Office:
- (a) from 8 p.m. until 9 a.m. each day of the advance polling period; and
 - (b) from 8 p.m. on the last day of the advance polling period until the advance polling ballots are counted.

PART 11: ELECTION DAY

SCRUTINEERS

- 44 (1) Each candidate is entitled to have a maximum of two (2) scrutineers present in the designated area at the polling station.

44 (2) A scrutineer must:

- (a) provide the Chief Electoral Officer or Deputy Electoral Officer with a letter signed by the candidate nominating them as a scrutineer;
- (b) be an eligible voter;
- (c) not campaign in the polling station;
- (d) not be a candidate; and
- (e) remain in the designated area.

IN-PERSON POLLING VOTING HOURS

45 (1) Voting hours and polling station must open times not later than 8:00 a.m. and remain open until at least 8:00 p.m. pacific time on the day of an election.

VERIFICATION OF THE BALLOT BOX

46 (1) Immediately before the commencement of the poll, the Chief Electoral Officer or Deputy Electoral Officer must:

- (a) open each ballot box and call such persons as may be present to witness and verify in writing that each ballot box is empty;
- (b) lock and properly seal each ballot box in a manner preventing it from being opened without breaking the seal; and
- (c) place each ballot box in a voting compartment that allows eligible voters to mark their ballots free from observation by others.

SECRECY OF IN-PERSON VOTING AND SECURITY OF POLLING STATIONS

47 (1) In-person voting must be by secret ballot.

47 (2) The Chief Electoral Officer or Deputy Electoral Officer must maintain order in the polling stations and must have any person who in any way interferes, disrupts, or attempts to influence the orderly conduct of the poll removed from the polling station.

VOTING PROCEDURE

48 (1) The only persons who may be present at a polling station on a polling day are:

- (a) the Chief Electoral Officer and Deputy Electoral Officer;
- (b) the polling clerks;

- (c) two (2) scrutineers for each candidate; and
 - (d) eligible voters.
- 48 (2) On arrival at the polling station, each eligible voter must:
 - (a) give their name to the Chief Electoral Officer or Deputy Electoral Officer; and
 - (b) provide photo identification or, upon request by the Chief Electoral Officer or Deputy Electoral Officer, have their identify verified by written declaration signed by the *sn'pintktm* membership clerk, the Band Administrator, or legal counsel.
- 48 (3) If the eligible voter's name is set out in the voters list, the Chief Electoral Officer or Deputy Electoral Officer must:
 - (a) initial a ballot;
 - (b) write the number on the back of the ballot down in the proper column of the voters list next to that eligible voter's name; and
 - (c) provide the ballot to the eligible voter.
- 48 (4) An eligible voter who has already been provided with a mail-in ballot may obtain a ballot and vote in person at a polling station if:
 - (a) the eligible voter returns the mail-in ballot to the Chief Electoral Officer or Deputy Electoral Officer; or
 - (b) where the eligible voter has lost the mail-in ballot, the eligible voter must sign a written declaration in front of the Chief Electoral Officer that the eligible voter has lost the mail-in ballot.
- 48 (5) At the request of an eligible voter, the Chief Electoral Officer or Deputy Electoral Officer must explain to the eligible voter the method of voting and the voting procedure.
- 48 (6) After receiving a ballot, an eligible voter must:
 - (a) immediately proceed to the compartment provided for marking ballots using the instrument provided;
 - (b) mark the ballot by placing a mark that clearly indicates the eligible voter's choice for the exact number of vacant seats listed;
 - (c) ensure that the marks they make on a ballot do not identify them as the eligible voter;
 - (d) fold the ballot in a manner that conceals the names of the candidates and any marks, but exposes the Chief Electoral Officer's initials on the back; and

- (e) deliver the ballot to the Chief Electoral Officer or Deputy Electoral Officer.
- 48 (7) On receipt of a completed ballot, the Chief Electoral Officer or Deputy Electoral Officer must, without unfolding the ballot:
 - (a) verify the initials placed on the ballot; and
 - (b) deposit the ballot in the ballot box in the presence of the eligible voter and any other persons entitled to be present at the polling station.
- 48 (8) Except where an interpreter or assistant is required in accordance with this Code, while an eligible voter is in the compartment for the purpose of marking their ballot paper, no other person is allowed in the same compartment or to be in any position from which they can see the way the eligible voter marks their ballot paper.
- 48 (9) Where an interpreter or an assistant is required, they may, at the eligible voter's request, be permitted to remain with the eligible voter requiring assistance throughout the voting process set out in section 48 (8).
- 48 (10) Where an eligible voter is unable to vote in the manner set out in section 48 (6), they may request that the Chief Electoral Officer or Deputy Electoral Officer assist them by marking that eligible voter's ballot in a manner consistent with the eligible voter's wishes and placing the ballot in the ballot box.
- 48 (11) Where the Chief Electoral Officer or Deputy Electoral Officer assists an eligible voter in marking their ballot under section 48 (10):
 - (a) such assistance must be provided in the presence of a witness selected by the eligible voter; and
 - (b) the Chief Electoral Officer or Deputy Electoral Officer must make an entry on the voters list in the column for remarks opposite the name of that eligible voter to show that the ballot paper was marked by them at the request of the eligible voter and the reasons therefore.

VOTING IRREGULARITIES

- 49 (1) A ballot that does not record a vote cast for each vacant position shall be considered incomplete and a spoiled ballot.
- 49 (2) An eligible voter who has dealt with their ballot paper in such a manner that it cannot be conveniently used may return it to the Chief Electoral Officer or Deputy Electoral Officer and request another ballot paper one time only.
- 49 (3) Where an eligible voter makes a request under section 49 (2), the Chief Electoral Officer or Deputy Electoral Officer must:

- (a) write the word “cancelled” upon the rejected ballot paper and preserve it; and
 - (b) issue a new ballot to the eligible voter in accordance with section 49 (2).
- 49 (4) Any eligible voter who receives a ballot and leaves the polling station without delivering the same to the Chief Electoral Officer or Deputy Electoral Officer in the manner provided, or who refuses to vote and leaves their ballot in the voting compartment or elsewhere at the polling station, must forfeit their right to vote in the election.
- 49 (5) Where an eligible voter forfeits their right to vote pursuant section 49 (4), the Chief Electoral Officer or Deputy Electoral Officer must:
 - (a) make an entry on the voters list in the column for remarks opposite the name of that elector to show that the eligible voter received a ballot and declined to vote; and
 - (b) mark upon the face of the ballot, if it is available, the word “declined,” and preserve the ballot.

EMERGENCY PROXY VOTE

- 50 (1) In the case of a sudden emergency, the Chief Electoral Officer may authorize a proxy to vote on behalf of an eligible voter’s who has the legal capacity to instruct the proxy.
- 50 (2) The Chief Electoral Officer must confirm that the proxy is voting as directed by the eligible voter and authorize any use of a proxy in writing.

CLOSING THE POLLING STATION

- 51 (1) Every eligible voter who is inside the polling station at the time fixed for closing the poll must be entitled to vote before the poll is closed.

DEPOSITING MAIL-IN BALLOT VOTES

- 52 (1) Mail-in ballots that are not received by the Chief Electoral Officer before the close of polls on the day of an election must not be deposited in the ballot box and must not be counted.
- 52 (2) Immediately after the close of polling stations on election day, the Chief Electoral Officer or Deputy Electoral Officer must open each envelope containing a mail-in ballot that was received before the close of the polls and without unfolding the ballot:
 - (a) verify the envelope includes a completed voter declaration;
 - (b) verify that the eligible voter has not already voted;
 - (c) mark on the voters list that a vote has been cast for that eligible voter;
 - (d) verify the ballot includes the initials of the Chief Electoral Officer; and

- (e) deposit the ballot into the ballot box; or
- (f) reject the ballot and state out loud the reason for such rejection, if:
- (g) the ballot was not accompanied by a voter declaration form, or the voter declaration form is incomplete or is not signed or witnessed;
- (h) the name of the eligible voter set out in the voter declaration form is not on the voters list;
- (i) the voters list shows that the eligible voter has already voted; or
- (j) the ballot does not have the initial of the Chief Electoral Officer.

COUNTING OF THE VOTES

53 (1) The following persons may be present for the counting of votes:

- (a) any person who is a candidate;
- (b) any person who is a scrutineer; and
- (c) any eligible voter.

53 (2) The Chief Electoral Officer must supply a tally sheet to the Deputy Electoral Officer and provide a method of recording the votes which is both visible and audible to all persons present or attending online for the counting of the votes.

53 (3) Votes must be counted immediately after the polling station closes and all the mail-in ballots have been deposited in the ballot box and as the Chief Electoral Officer or Deputy Electoral Officer must:

- (a) declare the recorded number of electronic votes and the number of votes each candidate has received;
- (b) declare the recorded number of mail-in ballots;
- (c) declare the recorded number of in person votes;
- (d) open all ballot boxes and empty their contents onto a table;
- (e) examine each ballot and determine if any ballots are spoiled if they:
 - (i) do not contain the initials of the Chief Electoral Officer or Deputy Electoral Officer;
 - (ii) do not give a clear indication of the eligible voter's intention;
 - (iii) contain more or fewer votes than there are candidates to be elected;

- (iv) eligible voter; or
- (v) contain a mark by which the eligible voter can be identified.
- (f) state out loud whether the ballot is accepted or rejected;
- (g) call out the names of the candidates for whom the votes are cast on the ballot if the ballot is accepted;
- (h) attach a note to each rejected ballot setting out the reason for rejection and place the ballot in a large envelope which must be sealed once all the votes have been counted and tallied; and
- (i) mark the results of each ballot on a tally sheet.

FINAL VOTE TALLY

- 54 (1) Once all ballot results of have been recorded on the tally sheet Deputy Electoral Officer must provide the Chief Electoral Officer with a final tally of:
- (a) the number of ballots which have been spoiled or rejected; and
 - (b) the final tally of votes for each candidate.

TIE VOTE

- 55 (1) If it is not possible to determine a successful candidate due to a tie vote, the Chief Electoral Officer must conduct a recount immediately in the presence of the candidates and their scrutineers who wish to attend.
- 55 (2) If the recount under section 55 (1) results in a second tie vote, the Chief Electoral Officer must immediately cast their ballot to break the tie by:
- (a) placing the name of each candidate having the same number of votes on a separate piece of paper that is of equal size and weight, and placing each piece of paper in a box or other receptacle; and
 - (b) drawing as many papers as there are positions available out of the box or receptacle.
- 55 (3) If the Chief Electoral Officer is not an eligible voter, the Deputy Electoral Officer must cast their ballot following the process under section 55 (2).

ANNOUNCEMENT

- 56 (1) After completing the counting of the votes and confirming the successful candidates, the Chief Electoral Officer must declare the candidate(s) having the highest number of votes elected, subject to the requirements of section 60.

ELECTION REPORT

- 57 (1) Immediately after declaring the elected candidates, the Chief Electoral Officer must complete and sign an election report comprising:
- (a) the names of all candidates;
 - (b) the number of ballots cast for each candidate;
 - (c) the number of spoiled ballots; and
 - (d) the number of rejected ballots.

PART 12: POST-ELECTION PROCEDURES

POST ELECTION REPORT

- 58 (1) Within five (5) business days after declaring the elected candidates, the Chief Electoral Officer must:
- (a) post the election report on the sn'pintktn website;
 - (b) post the election report in at least one (1) visible place on the reserve;
 - (c) publish the election report in the *sn'pintktn* community newsletter;
 - (d) forward a copy of the election report to the Band Administrator; and
 - (e) forward a copy of the election report to Indigenous Services Canada.

RETENTION OF BALLOTS AND OTHER ELECTION MATERIAL

- 59 (1) The Chief Electoral Officer must deposit all ballot papers in sealed envelopes, including those rejected, spoiled and unused, and retain all ballots and materials in connection with an election until the later of:
- (a) forty-five (45) days from the date that an election was held; and
 - (b) the date a decision on an appeal is rendered under Part 13.
- 59 (2) After the time in section 59 (1) has passed and unless directed otherwise by Council, the Chief Electoral Officer may destroy the materials identified in section 59 (1) in the presence of two (2) witnesses who must make a declaration that they witnessed the destruction of those materials.
- 59 (3) The Chief Electoral Officer must provide the summary report of the election, including dates, times, locations, candidates, candidate biographies, voting results, minutes, and recordings and provide the report to the Band Administrator for proper recording and storage.

PREREQUISITE TO TAKING OFFICE

- 60 (1) Within five (5) days of being elected each candidate declared elected must complete the following documents which must be witnessed by the Band Administrator:
- (a) agree in writing to uphold all declarations made by the *sqilx^w/syilx/ s?uknaqinx* people, including the *Okanagan Nation Declaration*;
 - (b) agree in writing to abide by the *sn'pintktn Governance Code* and execute the following appendices to the *sn'pintktn Governance Code*:
 - (i) the *sn'pintktn Council Oath of Office*;
 - (ii) the *sn'pintktn Council Oath of Confidentiality*;
 - (iii) the *sn'pintktn Council Code of Conduct*; and
 - (iv) a written disclosure of interests as required by clause 114 of the FAL.
- 60 (2) Council may grant an extension to the time period set out in section 60 (1) for extenuating circumstances such as illness or emergency.
- 60 (3) An extension granted under section 60 (2) must not exceed thirty (30) days unless the *yilmix^wm* or *sax^wk^winma?m* is medically unable to complete the section 60 (1) requirements within this time period and provides a medical note to Council confirming this.
- 60 (4) If a *yilmix^wm* or *sax^wk^winma?m* does not comply with section 60 (1) within the required time period, the Council must inform the Chief Electoral Officer and the Chief Electoral Officer must declare the *yilmix^wm* or *sax^wk^winma?m* disqualified from taking office and declare the candidate with the next highest number of votes elected.
- 60 (5) If a *yilmix^wm* or *sax^wk^winma?m* is disqualified from taking office under section 60 (1), the Band Administrator must give written notice of disqualification to *yilmix^wm* or *sax^wk^winma?m* who has been disqualified and information on appeals.
- 60 (6) Within thirty (30) days of being elected, the *yilmix^wm* or *sax^wk^winma?m* must hold a swearing-in ceremony and feast and publicly confirm that they will serve and act in the best interests of the members.

PART 13: APPEALS**COMPLAINTS AND APPEALS**

- 61 (1) Council must appoint an Adjudicator at least fifty (50) days before the date that an election is to be held.
- 61 (2) An Adjudicator must confirm in writing to Council that they have accepted their appointment.

61 (3) To be eligible to be appointed as an Adjudicator, a person must:

- (a) be a practicing lawyer in British Columbia; and
- (b) not have previously acted for the *sn'pintktn* except as an Adjudicator.

61 (4) The Adjudicator's term of office must commence on the date of their appointment and continue until they resign or are removed by Council.

ADJUDICATOR OATH OF OFFICE

62 (1) The Adjudicator must execute an oath of office that states that they will:

- (a) abide by the rules and regulations established in this code;
- (b) remain neutral and professional in the conduct of their duties;
- (c) not accept anything of value from a member, including but not limited to, money, offers of employment, gifts, and travel;
- (d) not unlawfully discriminate against anyone;
- (e) avoid conflicts of interest, or the appearance of conflicts of interest; and
- (f) withdraw from their position if they have a personal or private interest in the matter at issue.

ADJUDICATOR DUTIES AND RESPONSIBILITIES

63 (1) The Adjudicator must supervise and administer hearings that address election appeals and removals from office.

APPEAL HEARINGS

64 (1) The Adjudicator may hold any combination of written, electronic, and oral hearings.

GROUND FOR APPEAL

65 (1) The following persons may submit a notice of appeal to the Adjudicator:

- (a) an elected candidate who has been disqualified from office in accordance with this Code;
- (b) a *yilmix^wm* or *səx^wk^íwinmaʔm* who has been removed from office in accordance with this Code;
- (c) a candidate or eligible voter who has reasonable grounds to believe that:
 - (i) a candidate declared elected was not qualified to be a candidate; or

- (ii) the candidate declared elected violated this code in a manner that might have affected the result of an election.

NOTICE OF APPEAL

- 66 (1) A notice of appeal must be submitted if the appeal is related to the results of an election, within seven (7) days from the date of an election.
- 66 (2) A notice of appeal must be submitted if the appeal is related to the disqualification of and elected candidate, within seven (7) days from the date of the disqualification.
- 66 (3) A notice of appeal must be submitted if the appeal is related to the removal of a *yilmix'm* or *sax'kw'inma?m*, within seven (7) days from the date of removal.
- 66 (4) A notice of appeal must be in the form of an affidavit, sworn before a notary public or duly appointed commissioner for taking oaths, setting out the facts substantiating the grounds for the appeal, including:
 - (a) the decision that is being appealed;
 - (b) why the decision should be changed;
 - (c) the outcome requested;
 - (d) the name, address, and telephone number of the appellant;
 - (e) if the appellant has an agent to act on the appellant's behalf in respect of the appeal, the name of the agent and a telephone number at which the agent may be contacted during regular business hours; and
 - (f) an address for delivery of any notices in respect of the appeal.
- 66 (5) A notice of appeal must be signed by the appellant or the appellant's agent and attach all supporting valid documentation.

APPLICATION FEE

- 67 (1) An appellant must pay an application fee with the notice of appeal in the amount of one hundred dollars (\$100.00), to be paid by certified cheque or money order in the name of the Penticton Indian Band.

ACCEPTING OR REJECTING THE APPEAL

- 68 (1) Within five (5) business days of receiving a notice of appeal, the Adjudicator must:
 - (a) accept the appeal and forward a copy of the appeal and all supporting documents, by hand or registered mail, to:

- (i) if it is an election appeal, the respondent, Chief Electoral Officer, Council, Band Administrator, and each candidate;
 - (ii) if it is an appeal of a disqualification decision, the Chief Electoral Officer, Council and Band Administrator; and
 - (iii) if it is an appeal of a removal, to the Council and Band Administrator; or
- (b) dismiss the appeal and inform the applicant in writing, by hand or registered mail, that the appeal will not receive further consideration because:
- (i) the application is not within the jurisdiction of the Adjudicator;
 - (ii) the application was not filed within the applicable limitation period;
 - (iii) the application is frivolous, vexatious, and trivial or gives rise to an abuse of process;
 - (iv) the application was made in bad faith or filed for an improper purpose or motive; or
 - (v) there is no reasonable prospect the application will succeed.

SUMMARY DISMISSAL

- 69 (1) At any time after a notice of appeal is filed, the Adjudicator may dismiss all or part of the appeal if the Adjudicator determines that any of the considerations in section 68 (1) (b) apply.
- 69 (2) Before dismissing all or part of a notice of appeal under section 69 (1), the Adjudicator must give the applicant an opportunity to make written submissions or otherwise be heard.
- 69 (3) If the Adjudicator dismisses all or part of notice of appeal under section 69 (1), the Adjudicator must inform the Appellant and any respondent of their decision in writing and give reasons for that decision.

SUBMISSIONS

- 70 (1) Within fourteen (14) days of receiving a copy of a notice of election appeal from the Adjudicator, a respondent must:
- (a) provide the Adjudicator with a written response to the appeal allegations that must be less than ten (10) pages in length, together with any supporting documentation, setting out that the respondent:
 - (i) admits all or part of the allegations made against them, or
 - (ii) opposes all or part of the allegations made against them, or

- (iii) by hand or registered mail, deliver to the Adjudicator a written request to make an oral submission in response to the appeal allegations.

70 (2) Within fourteen (14) days of receiving a copy of a notice of appeal of a removal or disqualification decision from the Adjudicator, the Chief Electoral Officer or *sn'pinktn* representative authorized by Council may provide the Adjudicator with a written response to the appeal allegations that must be less than ten (10) pages in length, together with any supporting documentation, setting out that they:

- (a) admit all or part of the allegations made against them, or
- (b) opposes all or part of the allegations made against them, or
- (c) by hand or registered mail, deliver to the Adjudicator a written request to make an oral submission in response to the appeal allegations.

70 (3) If a respondent makes a written request under section 70 (1) paragraph (b) or 70 (2) paragraph (b), the Adjudicator must:

- (a) set a date, time, and location for the oral submission;
- (b) provide the respondent with a written notice setting out the date, time, and location for the oral submission; and
- (c) conduct an oral submission hearing.

70 (4) The maximum length of time allowed for an oral submission must be thirty (30) minutes.

ADMISSIBILITY OF EVIDENCE

71 (1) The Adjudicator may receive and accept information that they consider relevant, necessary, and appropriate, whether the information would be admissible in a court of law.

ORDERS FOR INFORMATION

72 (1) At any time before or during an appeal, but before deciding, the Appeal Adjudicator may make an order requiring a person:

- (a) to attend an oral or electronic hearing to give evidence on oath or affirmation or in any other manner that is admissible and relevant to an issue in an appeal, or
- (b) to produce for the Adjudicator a document or other sufficient evidence in the person's possession or control, as specified by the Adjudicator, that is admissible and relevant to an issue in an application.

POWER TO MAKE FINAL ORDERS

- 73 (1) After hearing an election appeal, the Adjudicator must render a decision and make a final order that:
- (a) the appeal is dismissed because sufficient evidence does not exist to confirm that:
 - (i) the person declared elected was not qualified to be a candidate;
 - (ii) the person declared elected violated this Code in a manner that might have affected the result of an election.
 - (b) the election of one or more candidates is declared vacant because sufficient evidence did exist to confirm that:
 - (i) the person declared elected was not qualified to be a candidate; or
 - (ii) the person declared elected was disqualified from holding office.
- 73 (2) After hearing an appeal regarding a Council or community decision by members to remove a *yilmix^{wm}* or *sax^{wk}winma?m*, the Adjudicator must render a decision and order that:
- (a) the *yilmix^{wm}* or *sax^{wk}winma?m* is not removed from office because sufficient evidence does not exist to confirm the allegations against that *yilmix^{wm}* or *sax^{wk}winma?m*; or
 - (b) the *yilmix^{wm}* or *sax^{wk}winma?m* is removed from office because sufficient evidence does exist to confirm the allegations against that *yilmix^{wm}* or *sax^{wk}winma?m*.

WRITTEN ORDER AND REASONS FOR DECISION

- 74 (1) The Adjudicator must:
- (a) send a copy of their order and written reasons for their decision to the person who initiated the appeal and all respondents to the appeal; and
 - (b) retain a copy of their order and written reasons for their decision.
- 74 (2) The order of the Adjudicator is final and not subject to appeal.
- 74 (3) The decision of the Adjudicator must be available to members by request.

PART 14 – AMENDMENTS AND RATIFICATION

MINOR AMENDMENTS

- 75 (1) Council may amend this Code by Band Council Resolution to correct errors, omissions, or inconsistencies in this Code.

PETITION TO MAKE MAJOR AMENDMENTS

76 (1) All other amendments to this Code must be initiated by:

- (a) an eligible voter submitting to the Council a petition setting out:
 - (i) the proposed amendments to the Code;
 - (ii) the signature of the petitioner; and
 - (iii) the signatures of at least ten (10) percent of Eligible Voters in support of the petition; or
- (b) a *yilmix^{wm}* or *sax^{wk}winma^{am}* submitting a request to have the matter considered at Council, setting out:
 - (i) the proposed amendments to the Code; and
 - (ii) signed by the *yilmix^{wm}* or *sax^{wk}winma^{am}* in support of the amendments.
- (c) Within five (5) business days of receiving a petition for an amendment to this Code, Council must:
 - (i) place the matter on the agenda for the next regular meeting of Council that must occur at least twenty (20) days after receipt of the petition; and
 - (ii) in writing by hand or by registered mail, notify the petitioner or requestor of the date and time that a Council meeting will be held to review the petition or request.

76 (2) At the Council meeting in which the petition or request for amendment is considered Council may direct the development of proposed amendments to this Code.

76 (3) This Code may be repealed or amended in the same manner in which it is enacted.

CUSTOM ENACTMENT

77 (1) This *sn'pinktn Custom Election Code*, comes into force and effect on the date it is passed by a quorum of Council and published. The Code was:

- (a) Read a first time by Council at a duly convened meeting held on the XX;
- (b) Presented to the Elders Group at a meeting on XX;
- (c) Presented to the members at a *sn'pinktn* meeting on XX;
- (d) Read a second time by Council at a duly convened meeting held on; XX and approved for moving forward with a vote to seek member consent on XX;
- (e) Read a third time on XX to members at a *sn'pinktn* meeting; and

(f) Received a positive vote from at least fifty (50) percent plus one (1) of the votes cast by eligible voters on XX.

77 (2) The Council is empowered to act on behalf of *sn'pinktn* and met in quorum at a duly convened Council meeting XX where we accepted the results of the XX member vote, and hereby passed this *sn'pinktn Custom Election Code*.

77 (3) Voting in favour of the Code are the following members of the Council:

| | | |
|--|--|---|
| | _____ | |
| | yilmix^wm Greg Gabriel | |
| _____ | | _____ |
| səx ^w k ^w inmaʔm Timothy Lezard | | səx ^w k ^w inmaʔm Dolly Kruger |
| _____ | _____ | _____ |
| səx ^w k ^w inmaʔm Suzanne Johnson | səx ^w k ^w inmaʔm Vivian Lezard | səx ^w k ^w inmaʔm Fred Kruger |
| _____ | _____ | _____ |
| səx ^w k ^w inmaʔm Charlene Roberds | səx ^w k ^w inmaʔm Lesley Gabriel | səx ^w k ^w inmaʔm Clint Gabriel |