



**ISKUT BAND  
CUSTOM ELECTION CODE**

**FINAL FOR MEMBER APPROVAL  
OCTOBER 30, 2018**





## Introduction

In Canada, the election of the Chief and the Councillors in First Nation communities can be conducted in one of three ways. Elections for Chief and Council can be held under section 74 of the *Indian Act*, and the Indian Band Election Regulations, under the *First Nations Election Act*, or according to local electoral system based on community values, customs and tradition. The local electoral system often referred to as a “custom code”.

The Iskut Band conducts community election by way of “custom code”, outside of the *Indian Act* and the Indian Band Election Regulations and the *First Nations Elections Act*. The Iskut Band has the ultimate authority over selection method for its leaders, as well as the proper protocol and conduct of its members of Council.

The Iskut Band Custom Election Code incorporates some of the current rules and regulations of the Iskut electoral system. This code was developed after consideration of the following:

- Discussion with Iskut Band Members;
- Discussion with Iskut Band Staff;
- Discussions with DISC staff;
- Other First Nation Election Codes;
- The Corbiere Decision; and
- The British Columbia Recall and Initiative Act.



## 1.0 PREAMBLE

**WHEREAS** Iskut Chief and Council represent the Iskut Band Members with professionalism, dignity, respect, and a high ethical standard.

**WHEREAS** Iskut Chief and Council is operating in the best interest of the members while being honest, truthful, and fair.

**WHEREAS** Leadership are communicating about matters that are important to all Iskut Band Members.

**WHEREAS** Iskut Chief and Council elections are community-driven.

**WHEREAS** Iskut Band has a government that is locally run.

**WHEREAS** Iskut Band has the option to adopt a custom election code to govern its Chief and Council elections.

**THEREFORE** Iskut Band enacts this Iskut Band Custom Election Code for the benefit of all Iskut Band Members.

## 2.0 Definitions

**“Advisory Committee”** means any committee established by the Iskut Band Council to support the work of the Council and the governance of Iskut Band.

**“Agent”** means an individual appointed by a Candidate to oversee the conduct of the Election to ensure fairness of process.

**“All Candidates Meeting”** means a meeting called for the purpose of providing Eligible Electors with an opportunity to hear each Candidate present on his/her platform.

**“Campaign”** means to advocate for the selection of a particular Candidate in the Election.

**“Candidate”** means an Iskut Band Member who:

- is the full age of eighteen (18) years or older on or before the day on which the nomination meeting is held;
- has been an Iskut Band Member for a period of not less than 6 months immediately preceding the day on which the nomination meeting is held;
- has been nominated to be a Candidate pursuant to the provisions of this Code;
- does not have a criminal record, unless the charges relate to the exercise and protection of Aboriginal rights and title; and
- has not been disqualified from participating in band elections.

**“Chief”** means the individual elected to the office of the Chief of Iskut Band, in accordance with this Code.

**“Code”** means this Iskut Band Election Code.

**“Councillor”** means an individual elected to the office of Councillor of Iskut Band, in accordance with this Code.

**“Deputy Electoral Officer”** means a person or persons, who is not an Iskut Band Member, appointed by the Electoral Officer to assist him/her in the election process.



**“Elder”** means an Iskut Band Member who is sixty (60) years of age or over.

**“Electoral Officer”** means the qualified person appointed by the Iskut Band Council before each election who will have the responsibility for conducting the nomination meeting and the election.

**“Election”** means any Iskut Band Regular Election or Special Election held pursuant to the provisions of this Iskut Band Election Code.

**“Eligible Elector”** means a person who:

- is a Member of the Iskut Band;
- is the full age of eighteen (18) years or older on or before the day on which the Election is held; and
- is not disqualified from voting at band election.

**“Immediate Family”** means parents, siblings, and grandparents, including step-parents, step-siblings, step-grandparents, adoptive parents, adoptive siblings, and adoptive grandparents.

**“Iskut Band Council”** or **“Council”** means the body composed of those persons elected pursuant to this Code to represent the interests of Iskut Band, including the Chief and Councillors.

**“Iskut Band Member”** or **“Member”** means a person whose name appears on the list of registered Members for the Iskut Band and who has a Status Number associated with the Iskut Band.

**“Iskut Band Reserves”** means the reserve lands set aside for the use and benefit of the Iskut Band and its members, including:

- Stikine River Indian Reserve No. 7;
- Kluachon Lake Indian Reserve No. 1; and
- Iskut Indian Reserve No. 6.

**“Majority”** means 50% + 1.

**“Ordinarily Resident”** means an Iskut Band Member who maintains his/her permanent residence on one of the Iskut Band Reserves, recognizing that 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. Ordinarily residence shall be determined by the facts in each case, and without limiting the foregoing, some of the factors that can be considered are:

- the place the person normally eats and sleeps,
- the place the person receives personal mail,
- the residence of the person’s Immediate Family, and
- the place of employment of the person, and if the person is absent from the reserve, the reason for being absent.

**“Polling Station”** means a building, hall or room, which is selected to be the site for voting to take place.

**“Ratification Officer”** mean the individual appointed to oversee the conduct of a vote to amend this Code.

**“Regular Election”** means an Election that is held in accordance with the schedule set out in this Code.

**“Special Election”** means an Election that is held for the purpose of filling a vacancy in the Council or for the purpose of resolving a tie vote.

“**Voter**” means any Eligible Elector that has participated in an Election, either by mail-in ballot or at a Polling Station.

“**Voters’ List**” means the list of Iskut Band Members who will be Eligible Electors at the time of the Election.

### 3.0 Composition and Term of Office

- 3.1 The Iskut Band Council shall be composed of one (1) Chief and five (5) Councillors.
- 3.2 No more than one (1) Councillor position may be held by an Iskut Band Member that is Ordinarily Resident off of the Iskut Band Reserves.
- 3.3 A Member, who is not Ordinarily Resident on one of the Iskut Band Reserves, may run for the office of the Chief, and if elected, he/she must be Ordinarily Resident on one of the Iskut Band Reserves within ninety (90) days.
- 3.4 The term of office for the Chief and Councillors shall be four (4) years.
- 3.5 The Iskut Band will conduct elections for Chief and Councillors in the following manner:
  - a. the election of Chief of Iskut Band will be held in the second week of October every four (4) years commencing in 2019; and
  - b. the election of Councillors of the Iskut Band will be held in the second week of October every four (4) years commencing in 2021.
- 3.6 If vacancy occurs on the Iskut Band Council, and there is more than six (6) months remaining in the member’s (Chief or Councillor) term of office, then there must be a Special Election held in accordance with the provisions of this Code for the vacant position. A vacancy on the Iskut Band Council must be filled within sixty (60) days of a member’s (Chief or Councillor) official departure date. A person filling such a vacancy shall, subject to the provisions of this Code, serve until the four (4) year term of the member he/she replaces would have expired.
- 3.7 If, because of an appeal there is a Special Election, the four (4) year term of the newly elected Council members shall be deemed to have commenced the day following the date of the Regular Election.

### 4.0 Duties of Chief and Council

- 4.1 Duties and responsibilities of the Iskut Band Council include, but are not limited to the following:
  - a. to act in the best interest of Iskut Band Members.
  - b. to actively consider direction that is given through methods including, but not limited to:
    - i. formal planning processes; and
    - ii. resolutions at Member meetings.
  - c. to provide the best possible programs and services to meet the priorities and needs of the Members.
  - d. to ensure that the Iskut Band develops policy that is fair, honest, equitable and effective.
  - e. to ensure Iskut Band resources and assets are responsibly managed for the benefit of all Iskut Band Members.
  - f. to promote effective communications and engagement with all Iskut Band Members.
  - g. to conduct themselves with a high degree of professionalism.
  - h. to actively support activities associated with the portfolios for which he/she is appointed.



- i. to act in accordance with decisions made by the collective Iskut Band Council, not as an individual.
- j. to attend and participate in all meetings held in the community.
- k. to ensure he/she regularly attends Council meetings in-person and misses no more than two (2) consecutive meetings without the consent of the rest of Council.

## 5.0 Conflict of Interest

- 5.1 To maintain the integrity of the Iskut Band Council, no more than two (2) Immediate Family members shall serve on Council at one time.
- 5.2 A conflict of interest arises when the Chief or a member of Council's private interest conflicts with his or her leadership duties.
- 5.3 Conflicts of interest may be of a personal, financial or other nature.
- 5.4 If the Chief or a Councillor feels he/she may be in a conflict, they must declare their conflict, or perceived conflict, and remove themselves from discussions relating to the topic.
- 5.5 Iskut Band may establish detailed conflict of interest procedures for the management of a real or perceived conflict of interest of a member of the Iskut Band Council.

## 6.0 Pre-Nomination Procedure

- 6.1 The Electoral Officer shall be appointed not less than seventy-five (75) days before the date selected by the Iskut Band Council as the date on which the Election will be held. In the case of a general election, the date of the nomination meeting shall be within the forty-five (45) day period before the end of the term of the four (4) years.
- 6.2 The Electoral Officer may serve more than one appointment.
- 6.3 The Electoral Officer shall not be a Member of Iskut Band.
- 6.4 It will be incumbent upon the Band Manager to make a recommendation for an Electoral Officer to the Iskut Band Council.
- 6.5 The Electoral Officer shall be appointed by an Iskut Band Council Resolution containing:
  - a. the Electoral Officer's full name;
  - b. the date and time for the nomination meeting;
  - c. the type of Election which is to be conducted (Regular Election or Special Election); and
  - d. any special instructions.
- 6.6 The Electoral Officer shall establish an election file and place in this file copies of all documentation associated with the election. That file shall remain open until the appeal period of fourteen (14) days has expired. The file shall then be closed and kept at the Iskut Band Office.
- 6.7 The Electoral Officer shall appoint Deputy Electoral Officers and interpreters as he/she deems necessary and shall document the details of this in the election file subject to sub-section 6.6.
- 6.8 The Electoral Officer shall, at least thirty (30) days before the date set out for the nomination meeting on his/her appointing Band Council Resolution, draft and post a notice of the nomination meeting.
- 6.9 The Electoral Officer shall determine who is an Elector and who is eligible to be a Candidate prior to the Election.
- 6.10 The notice of the nomination meeting shall be posted in the Iskut Band Office.
- 6.11 The notice of the nomination meeting may also be posted, at the discretion of the Electoral

Officer, by way of:

- a. the Iskut Band website;
  - b. social media channels;
  - c. mail-outs;
  - d. radio; and
  - e. in the public places on Iskut Band Reserves.
- 6.12 The notice of nomination meeting that is posted in accordance with sub-section 6.8 shall contain and set out:
- a. the Voters' List;
  - b. which Eligible Electors are eligible to be Candidates;
  - c. the time, date and place of the nomination meeting;
  - d. the position of positions open for election;
  - e. the requirement of a criminal record check to accept a nomination; and
  - f. a copy of this Code.
- 6.13 The notice of nomination meeting that is posted in accordance with sub-section 6.11 shall contain and set out:
- a. the Voters' List;
  - b. which Eligible Electors are eligible to be Candidates;
  - c. the time, date and place of the nomination meeting; and
  - d. the position of positions open for election.
- 6.14 The notice of nomination meeting that is posted in accordance with sub-section 6.11 may, at the discretion of the Electoral Officer, contain a copy of this Code.
- 6.15 Any Eligible Elector may apply to the Electoral Officer to have the Voters' List revised in the event that an Eligible Elector's name is incorrect or has been omitted.
- 6.16 The Electoral Officer may, at his/her discretion, revise the Voters' List if they are satisfied that corrections are needed.

## **7.0 Nomination Eligibility**

- 7.1 Only Eligible Electors may nominate or second a nomination of a Candidate.
- 7.2 Only Eligible Electors who meet the requirements of a Candidate as set out in this Code may be nominated as a Candidate.
- 7.3 No Eligible Elector can nominate or second more than two (2) Candidates.
- 7.4 A Candidate may run for the position of Chief or Councillor, but not both.
- 7.5 A sitting Councillor may run for the position of Chief but must resign his/her seat as Councillor if elected as Chief.
- 7.6 Subject to section 7.7, all nominated Candidates must declare to accept their nomination before the Electoral Officer prior to the close of the nomination meeting.
- 7.7 Persons must be present to accept their nomination unless prior arrangements have been made with the Electoral Officer and the nominee has provided the Electoral Officer with a written letter of acceptance prior to the opening of the nomination meeting.

## 8.0 Nomination Meeting

- 8.1 At the time and place advertised, the Electoral Officer shall declare the nomination meeting open for the purpose of receiving the nomination of Candidates for the positions advertised.
- 8.2 The Electoral Officer shall read the duties of Chief and Council, as outlined in section 4.0 of this Code, to those in attendance at the nomination meeting.
- 8.3 The Electoral Officer shall keep the nomination meeting open for a minimum of thirty (30) minutes or until such time as all nominations from Eligible Electors then present have been received, whichever shall last occur, and thereafter the meeting may be closed at the discretion of the Electoral Officer.
- 8.4 The Electoral Officer shall maintain order at all times during the nomination meeting and may cause to be removed any person who, in his/her opinion, is disrupting or otherwise interfering with the meeting.
- 8.5 Any Eligible Elector wishing to nominate a Candidate must attend the nomination meeting in-person.
- 8.6 For greater certainty, nominations cannot be accepted in-writing.
- 8.7 Any Eligible Elector may propose or second the nomination of any qualified person to serve as the Chief or Councillor, providing he/she satisfies the requirements of being a Candidate set out in section 2.0 of this Code. The Electoral Officer shall record the name of the Candidate, the nominator, and the seconder and confirm to the meeting that the proposed Candidate is eligible to be elected to the position of Chief or Councillor of the Iskut Band.
- 8.8 No person may be a Candidate for Chief or Councillor of the Iskut Band unless his/her nomination is moved and seconded by persons who are themselves eligible to be nominated.
- 8.9 Upon acceptance of their nomination, the Candidate must demonstrate, within five (5) business days, that he/she has applied to have a criminal record check completed.

## 9.0 Post-Nomination Meeting Procedure

- 9.1 The Electoral Officer shall, if the number of Candidates nominated does not exceed the number of positions open at the end of the meeting, declare such Candidates elected by acclamation subject to a criminal record check and taking of the Oath of Office, as indicated in 19.0.
- 9.2 If the number of Candidates nominated exceeds the number of positions open for Election, the Electoral Officer shall announce the date of the Election and the date of the All Candidates Meeting.
- 9.3 The date of the Election shall be thirty (30) days following the nomination meeting.
- 9.4 The date of the All Candidates Meeting shall occur fourteen (14) days prior to the date of the Election.
- 9.5 The Electoral Officer and/or his/her Deputy Electoral Officer shall, without undue delay, post a notice setting out, for the Polling Station and the All Candidates Meeting, the:
  - a. date;
  - b. time; and
  - c. location.
- 9.6 The notice for the Election shall be posted not less than fourteen (14) days prior to the date scheduled for the Election.
- 9.7 The notice for the All Candidates Meeting shall be posted not less than seven (7) days prior to



- the date scheduled for the meeting.
- 9.8 Such notice shall be posted in the Iskut Band Office and in any other manner as deemed necessary by the Electoral Officer.
  - 9.9 The Electoral Officer shall prepare the Voters' List and post it at the Iskut Band Office.
  - 9.10 There will be established, at the discretion of the Electoral Officer, a minimum of one (1) Polling Station on the Iskut Band's Reserves.
  - 9.11 The Electoral Officer and/or his/her Deputy Electoral Officer shall have ballot papers prepared and place on the ballot papers the full and complete names, listed in alphabetical order, of all the Candidates for Chief or for Councillors.
  - 9.12 The Electoral Officer and/or his/her Deputy Electoral Officer shall obtain:
    - a. sufficient ballot boxes;
    - b. a sufficient number of ballot papers for the purpose of the election;
    - c. instruments for marking;
    - d. a sufficient number of directions-for-voting as may be required; and
    - e. all other equipment as necessary to establish and equip the voting locations.
  - 9.13 The Electoral Officer and/or his/her Deputy Electoral Officer shall construct or erect polling booths at the Polling Station set out in the notice, and the polling booths shall be such that the privacy of the Voter is maintained.
  - 9.14 The Electoral Officer or his/her Deputy Electoral Officer shall, where necessary and when requested, appoint an interpreter for all Voters who are unable to read, or are unable because of blindness or other physical cause, to vote in a manner prescribed by section 11.0. This interpreter will be a Member of the Iskut Band and shall assist such Voter in the presence of the Electoral Officer, and shall place the marked ballots in the ballot box.
  - 9.15 Any Candidate who has been nominated may withdraw his/her nomination at any time.
  - 9.16 A Candidate may withdraw by filing with the Electoral Officer before the forty-eight (48) hour period a written withdrawal of his/her nomination, signed by him/herself in the presence of the Electoral Officer or a Justice of the Peace or a Notary Public or a Commissioner of Oaths, and any votes cast for any withdrawn Candidate shall be null and void. The withdrawal is effective only when the Electoral Officer or his/her Deputy Electoral Officer is in receipt of the written document, and the written document is received before the forty-eight (48) hour time period.

## 10.0 Mail-In Voting

### *Procedure for Electoral Officer*

- 10.1 Any Eligible Elector may submit a request to receive a mail-in voting package for any Regular Election using the form in Appendix 3.
- 10.2 The request to receive a mail-in voting package must be received by the Electoral Officer before the day that the nomination meeting occurs.
- 10.3 The Electoral Officer shall provide a mail-in voting package to each Eligible Elector that submits a request in accordance with sub-section 10.1.
- 10.4 The mail-in voting package will be delivered in a method determined by the Electoral Officer, including but not limited to:
  - a. mail; or
  - b. in-person delivery.

- 10.5 The mail-in voting package will be delivered to the most recent address available for the Eligible Elector.
- 10.6 If no current address can reasonably be ascertained for an Eligible Elector, the Electoral Officer shall record that fact opposite the Eligible Elector's name on the Voters' List, and the Electoral Officer shall be conclusively deemed to have no further responsibility to send a mail-in package to that Eligible Elector.
- 10.7 The Electoral Officer shall write on the back of each mail-in ballot the Electoral Officer's initials in such a way that the initials are visible when the ballot is folded.
- 10.8 The mail-in package shall include:
- a. the notice of Election;
  - b. a list of Candidates;
  - c. a list of the contents of the package;
  - d. a letter of instructions;
  - e. a numbered declaration envelope;
  - f. a stamped return envelope addressed to the Electoral Officer;
  - g. the required ballots initialed by the Electoral Officer in accordance with sub-section 10.7; and
  - h. such other information as the Electoral Officer considers appropriate.
- 10.9 The Electoral Officer shall note on the Voters' List the name of every Elector to whom a mail-in package is sent.

*Procedure for Eligible Electors*

- 10.10 Every Eligible Elector who votes by mail-in ballot shall:
- a. mark the ballot by placing a cross ("X") or other mark that clearly indicates the Eligible Elector's intent in the space provided on each ballot opposite the name of the Candidate;
  - b. fold the ballots to conceal the marks and to expose the Electoral Officer's initials on the back of the ballot;
  - c. place the ballot in the numbered declaration envelope and seal the numbered declaration envelope;
  - d. complete and sign the declaration envelope before a witness who is at least nineteen (19) years of age on the date the declaration is completed;
  - e. obtain the signature and address of the witness on the declaration envelope;
  - f. place the completed declaration envelope containing the ballot in the return envelope, and seal the return envelope; and
  - g. return the sealed return envelope to the Electoral Officer by mail, courier or hand-delivery.
- 10.11 A mail-in ballot must be received by an Election Official prior to 8:00 p.m. local time on the date of the Election.
- 10.12 A mail-in ballot that is received later than 8:00 p.m. local time shall not be counted and the unopened return envelope shall be marked "Rejected".
- 10.13 An Eligible Elector who has returned a mail-in ballot may choose to instead vote at a poll, but the mail-in ballot received from that Eligible Elector shall be set aside and not counted.

*Processing and Counting a Mail-in Ballot*

- 10.14 The Electoral Officer, upon receiving a return envelope within the specified time shall, in the full view of at least two witnesses, place on the Voters' List a mark beside the name of the Eligible Elector who returned the mail-in envelope.
- 10.15 On the Voting Day, after the polls have closed, the Electoral Officer shall, in the full view of at least two (2) other persons present, open each return envelope and determine if the declaration envelope is enclosed and properly executed.
- 10.16 If the declaration envelope is enclosed and properly executed, the Electoral Officer shall retain the declaration envelopes in a secure manner until the counting of the votes under section 12.0.
- 10.17 If no declaration is enclosed or if the declaration is not properly executed, the Electoral Officer shall:
  - a. make an entry on the Voters' List opposite the name of the Elector stating that no declaration was enclosed, or that the declaration was not properly executed, as the case may be;
  - b. mark the declaration envelope as "Improper Mail-in Ballot";
  - c. not open the declaration envelope;
  - d. retain the declaration envelope in the election file; and
  - e. record the ballot as spoiled.
- 10.18 At the time of counting the votes under section 12.0, the Electoral Officer shall, after setting aside any mail-in ballots received from an Eligible Elector who has voted at a poll, open the declaration envelope and without unfolding the ballot or disclosing the mark made by the Elector, verify the Electoral Officer's initials.
- 10.19 If the Electoral Officer's initials are verified, the Electoral Officer shall deposit the ballot in a ballot box and place a line through the name of the Eligible Elector on the Voters' List.
- 10.20 If the Electoral Officers initials are not verified, the Electoral Officer shall:
  - a. make an entry on the Voters' List opposite the name of the Elector that the Electoral Officer's initials were not verified;
  - b. mark the declaration envelope as "Improper Mail-in Ballot";
  - c. not deposit the ballot into the ballot box; and
  - d. record the ballot as spoiled.

## **11.0 Voting at Polling Station**

- 11.1 The Electoral Officer, with such appointed Deputies, shall be in attendance at the time and place as is set out in the notice of poll.
- 11.2 Neither the Electoral Officer nor any of his/her Deputies shall be allowed to vote in the election.
- 11.3 The Electoral Officer must strike or mark each Voter's name on the Voter List as they receive their ballot.
- 11.4 The Electoral Officer shall, immediately before the commencement of the poll, open the ballot box(es) and call such persons as may be present to witness that it is empty. He/she shall then lock the box to prevent it from being opened and shall place it in view for the reception of the ballots and the box shall not be unlocked during the time that the Polling Station is open for voting.
- 11.5 The Electoral Officer shall hold the Polling Station booth(s) open from 8:00 am to 8:00 pm on the date of the Election, after which time the, Electoral Officer shall declare the polls closed.

- 11.6 The Electoral Officer, and his/her Deputies, shall maintain order at all times in the Polling Station and may cause to be removed any person who anyway interferes, disrupts or attempts to influence the orderly conduct of the poll.
- 11.7 Persons presenting themselves for the purpose of voting shall, upon being confirmed by the Electoral Officer or one of his/her Deputies as an Eligible Elector, be given a ballot for the election of a Chief and/or for the election of Councillors, upon which to register his/her votes.
- 11.8 When requested, the Electoral Officer shall explain the voting procedure to the Eligible Elector.
- 11.9 The Electoral Officer or Deputy Electoral Officer shall initial each ballot upon giving it to the Eligible Elector.
- 11.10 Every Eligible Elector voting at the Polling Station, after receiving the ballot, shall:
- proceed directly to the place provided for marking the ballot;
  - mark his/her ballot by placing an "X" or other mark that clearly indicates the Voter's choice, in the space provided on each ballot; and
  - immediately return to the Electoral Officer or his/her Deputy Electoral Officer to deposit his/her completed ballot into the ballot box.
- 11.11 While any Voter is in the Polling Station booth, no other person, except as provided in sub-section 9.14, shall be allowed in the same booth or be in any position from where they can see how the person is voting.
- 11.12 If the Voter requests that the Electoral Officer mark his/her ballot for them, the Electoral Officer must have another person witness that the ballot is being marked according to the Voter's choices.
- 11.13 The Electoral Officer or a Deputy Electoral Officer, shall note upon the Voters' List any irregularity in connection with voting and shall specifically note on the Voters' List any ballots marked by the Electoral Officer or his/her Deputy Electoral Officer, but shall not note the Candidate(s) for whom the ballot was cast.
- 11.14 The Electoral Officer must then mark on the Voters' List, opposite the Voter's name, that he/she was requested to mark that ballot for that Voter.
- 11.15 A Voter who has inadvertently dealt with his/her ballot paper(s) in such a manner that it cannot be used to vote, shall return it to the Electoral Officer or a Deputy Electoral Officer who shall write the word "cancelled" upon the ballot paper(s) and preserve it. A new ballot will be issued to the Voter.
- 11.16 A person who has received ballots and who leaves the Polling Station without delivering the same ballots as received to the Electoral Officer or a Deputy Electoral Officer in the manner provided for in sub-section 11.10, or after receiving the ballots, refuses to vote, shall forfeit his/her right to vote in the Election, and the Electoral Officer or a Deputy Electoral Officer shall make an entry in the Voters' List in the column for remarks opposite the name of such person to show that such person received the ballots and declined to vote. If this person returns his/her ballot after having left the Polling Station, the Electoral Officer or the Deputy Electoral Officer shall mark upon the face of the ballots the word "declined" and all ballots so marked shall be preserved.
- 11.17 Any person who is a Member of the Iskut Band and over the age of eighteen (18) years, but whose name does not appear on the Voters' List, may present identification or other evidence of membership to be verified by the Electoral Officer or a Deputy Electoral Officer, and if the Electoral Officer or Deputy Electoral Officer is satisfied that the person is eligible to vote pursuant to this Code, the person shall be added to the Voters' List and allowed to vote at the Polling Station.
- 11.18 Every Eligible Elector who is inside the Polling Station at 8:00 pm shall be entitled to vote

before the poll is closed.

## **12.0 Agents at Polling Station**

- 12.1 All Candidates shall be entitled to not more than one (1) Agent in a polling place at any one time.
- 12.2 Any Agent appointed by a Candidate must:
  - a. act on behalf of only one (1) Candidate; and
  - b. not Campaign on behalf of any Candidate while at the Polling Station.

## **13.0 Campaigning**

- 13.1 No Candidate, or person acting on behalf of a Candidate, may Campaign:
  - a. inside the Polling Station or within 10 meters of the Polling Station;
  - b. on the day of the Election; or
  - c. in the twenty-four (24) hours prior to the Election.
- 13.2 For greater certainty, sub-section 13.1 does not include encouraging Iskut Band Members to vote in the Election.

## **14.0 Election Tabulation**

- 14.1 Immediately following the close of the poll, the Electoral Officer shall, in the presence of such Candidates or their Agents, and any Eligible Electors as may be present, open the ballot box or boxes and examine the ballots and reject any ballot that:
  - a. is not initialed by the Electoral Officer or a Deputy Electoral Officer;
  - b. has more votes than there are vacancies for that position (either for Chief or for Councillors);
  - c. has any marks by which the Voter can be identified;
  - d. in the Electoral Officer's opinion, does not give a clear indication of the Voter's preference; and
  - e. in the Electoral Officer's opinion, does not meet the requirements to be included in the final count.
- 14.2 The Electoral Officer will record the reason for rejecting the ballot and will mark the back of the rejected ballot with following:
  - a. the number on the ballot corresponding to the reason why the ballot has been rejected in accordance with those reasons provided for in section 14.1;
  - b. "rejected"; and
  - c. the initials of the Electoral Officer.
- 14.3 All rejected ballot papers shall be preserved.
- 14.4 Any Eligible Elector may appeal to the Electoral Officer to have any of the ballots found in the ballot box disallowed.
- 14.5 The Electoral Officer will take note of any objections made by any Eligible Elector to any of the ballots found in the ballot box and decide any questions arising out of the objection.
- 14.6 The Electoral Officer will record such objections and, at his/her discretion, choose to allow or disallow a ballot in consideration of the objection presented by the Eligible Elector in sub-section 14.4. He/she will then mark upon the back of the ballot with:

- a. a number corresponding to the record of objections,
  - b. “allow” or “disallow”, as the case may be, and
  - c. the initials of the Electoral Officer.
- 14.7 The Electoral Officer shall count the votes given for each Candidate from the ballots that have not been marked as “rejected” or “disallowed” and make a written statement of:
- a. the number of votes given to each Candidate;
  - b. the number of ballots rejected and/or disallowed; and
  - c. the number of spoiled ballots.
- 14.8 The written statement prepared in accordance with sub-section 14.7 shall then be signed by the Electoral Officer.
- 14.9 For greater certainty, any ballot that contains marks for less than the required number of Candidates shall be considered valid and must be counted.
- 14.10 After completing tabulation, the Electoral Officer shall announce the names of the Candidate(s) that received the highest number of votes and publicly declare the Candidates elected.
- 14.11 Following the announcement, the Electoral Officer shall post the written statement prepared in accordance with sub-sections 14.7 and 14.8 at the Iskut Band Office and other public places as deemed necessary by the Electoral Officer.
- 14.12 The Electoral Officer shall place all the ballot papers in an envelope, seal it, sign it and keep it in a safe place for ninety (90) days. After ninety (90) days, provided that there are no appeals, the ballots may be destroyed in front of a witness.
- 14.13 Following the election announcement, the Electoral Officer shall complete and sign an election report, in triplicate, which shall contain:
- a. a list of all Candidates for Chief and/or Councillor;
  - b. a copy of the final Voters' List with notations;
  - c. the number of ballots cast;
  - d. the number of votes for each Candidate;
  - e. the number of assisted or interpreted Voters;
  - f. the number of cancelled ballots;
  - g. the number of declined ballots; and
  - h. the number of rejected and/or disallowed ballots.
- 14.14 The Electoral Officer shall file one copy of his/her election report at the electoral office and forward one copy each to:
- a. British Columbia Regional Office of Indigenous and Northern Affairs Canada; and
  - b. Iskut Band Manager.
- 14.15 In the event of a tie vote for Chief, or for the Councillor position receiving the fewest votes, the following shall take place:
- a. a recount shall be held by the Electoral Officer within 24 hours of the Election, in the presence of all of the affected Candidates or a person chosen by the individual Candidate to attend on their behalf; and
  - b. the results shall be final, subject to a successful appeal.
- 14.16 If a tie vote still results after the recount, the Candidates that are tied shall take part in a

Special Election within seven (7) days following the original date of the Election to determine the winner.

- 14.17 The Special Election shall be conducted in a similar manner provided for in the procedures set out for a Regular Election in this Code.
- 14.18 For greater certainty, in the event of a Special Election for the purpose of deciding a tie, mail-in ballots cannot be provided.
- 14.19 Any Eligible Elector who is unable to cast a ballot in-person may select another Member to act as his/her proxy in the Special Election using the form provided in Appendix 3.
- 14.20 No Member may hold more than three (3) proxy votes.

## **15.0 Complaints and Appeals**

### *Iskut Band Election Dispute Resolution Board*

- 15.1 An Iskut Band Election Dispute Resolution Board shall be appointed by the outgoing Band Council before the end of their term. The Dispute Resolution Board shall be composed of:
  - a. an Elder who is also a Member of the Iskut Band;
  - b. a person who is not a Member of the Iskut Band, over 21 years of age, of good character and reputation, and who does not have a vested interest in the outcome of the election;
  - c. an adult Member of the Iskut Band who is familiar with the traditions, values and language of the Nation;
  - d. a person who is not a Member of the Iskut Band, and who is a member of the local RCMP; and
  - e. the Iskut Band Manager.
- 15.2 The Dispute Resolution Board shall supervise and administer all election appeals and complaints pertaining to the real or perceived violation of the Code of Conduct and Ethics of Iskut Band Chief and/or Council, in accordance with the provisions of this Code.
- 15.3 The Dispute Resolution Board shall, upon their appointment, meet to confirm a terms of reference for their conduct.
- 15.4 The members of the Dispute Resolution Board shall hold office until a new board is appointed by the outgoing Iskut Band Council, excluding the Chief, before the end of their term. No member of the Dispute Resolution Board shall be a member of the outgoing Council, or a Candidate for the Council in the upcoming Election.
- 15.5 In the absence of qualified candidates for appointment to the Dispute Resolution Board that meet the criteria set out in sub-section 15.1, Council may appoint other individuals, at their discretion.

### *Complaints and Appeals Procedure*

- 15.6 A Candidate, or any Voter, may within fourteen (14) days of the Election, appeal the Election if he/she has grounds for believing that there was an error or violation of process that might have affected the outcome of the Election.
- 15.7 Any appeal of an Iskut Band Election must be submitted in writing, and must contain details verified by affidavit.
- 15.8 A written appeal shall be sent by registered mail to the Dispute Resolution Board, c/o the Iskut Band Office.
- 15.9 This notice of appeal must be received at the Band Office within fourteen (14) days of the Election.

- 15.10 Where appeals are received by the Dispute Resolution Board pursuant to this Code:
- a. the Dispute Resolution Board shall, within seven (7) days of the end of the fourteen (14) day appeal period, forward a copy of all appeals received together with supporting documents by registered mail to each Candidate in the Election and to the Electoral Officer.
  - b. any Candidate or the Electoral Officer may, within fourteen (14) days of the receipt of the appeal(s), forward to the Dispute Resolution Board, by registered mail, a written response to the appeal allegations, together with any supporting documentation.
  - c. the Dispute Resolution Board may conduct or authorize such further investigation into the appeal allegations as it deems appropriate and necessary.
- 15.11 After a review of all of the evidence that it has received, the Dispute Resolution Board shall:
- a. deny the appeal on the grounds that the evidence presented did not reveal an infraction of this Code, or on the grounds that an infraction of this Code was revealed but the infraction did not affect the result of the Election; or
  - b. confirm the appeal, and direct that a new Election be called for the positions affected. This new Election shall take the place as soon as possible and shall be conducted pursuant to the provisions of this Code. The Dispute Resolution Board shall, if necessary, give instructions to the Election Officer on how the problems identified in the appeal can be corrected.

## 16.0 Vacancies on Council

- 16.1 A Chief or Councillor's position on the Iskut Band Council may become vacant if, while in office:
- a. The Chief or Councillor in question misses two (2) consecutive regular Council meeting without authorization from a quorum of Council;
  - b. the Chief or Councillor in question is convicted of an indictable offence, unless the charges relate to the exercise and protection of Aboriginal rights and title;
  - c. The Chief changes his/her residence so that he/she is no longer Ordinarily Resident on one of Iskut Band's reserves during the term of office.
  - d. The Councillor in question changes his/her residence so that he/she is no longer Ordinarily Resident on one of Iskut Band's reserves during the term of office, if there is already a Councillor of the Iskut Band Council who is Ordinarily Resident off-reserve;
  - e. The Chief or Councillor resigns his/her office;
  - f. A sitting Councillor is elected to the office of the Chief;
  - g. The Chief or Councillor dies;
  - h. The Chief or Councillor is declared medically incapable by a medical professional;
  - i. The Chief or Councillor is removed from their position pursuant to section 17.0 of this Code;
  - j. The Chief or Councillor breaches the Code of Ethics and Conduct or does not uphold their duties as outlined in Section 4 of this Code.
- 16.2 If a situation described in sub-section 16.1 occurs, a motion must be presented at a duly convened Iskut Band Council meeting calling for the position of the Chief or Councillor in question to become vacant. Thereafter, a Band Council Resolution outlining the situation and calling the position to become vacant must be signed by quorum of the Iskut Band Council. If the position is declared vacant, the Chief or Councillor in question will also be disqualified from

being a Candidate at the next election.

## 17.0 Removals

- 17.1 Any Eligible Elector may launch a complaint against the Chief or a Councillor if he/she has grounds for believing that there was a violation of the Code of Ethics and Conduct in Appendix 1 of this Code or if the Chief or Councillor has not upheld their duties as outlined in section 4.0 of this Code.
- 17.2 The application for the issuance of a removal must be made to the Dispute Resolution Board and contain the following:
- a. The name of the Iskut Band Chief or Councillor;
  - b. The name and residential address of the applicant, and a secondary applicant;
  - c. A statement, not exceeding 200 words, setting out why, in the opinion of the applicants, the removal of the Iskut Band Council member is warranted;
  - d. A solemn declaration from each applicant stating that he/she is not disqualified under this Code from making the application; and
  - e. Any other information that may be prescribed by the Dispute Resolution Board.
- 17.3 After a review of all of the evidence that it has received, the Dispute Resolution Board may:
- a. request further information and/or evidence to support the claim, including but not limited to:
    - i. further written documentation beyond the statement provided for in clause 15.3.c;
    - ii. signed affidavits from witnesses;
    - iii. a petition of Eligible Electors;
    - iv. written and/or verbal testimony from the individual against whom the complaint has been made; and/or
    - v. other information at the discretion of the Dispute Resolution Board;
  - b. find no grounds for removal based on the evidence presented; and/or
  - c. find that there was sufficient evidence against the Chief or Councillor and recommend his/her removal.
- 17.4 If the Iskut Band Election Dispute Resolution Board acts in accordance with clause 15.4.b or 15.4.c, they shall provide notice of the decision to:
- a. the applicants of the complaint;
  - b. the Chief or Councillor against whom the complaint has been made;
  - c. the Iskut Band Council; and
  - d. the Members.
- 17.5 If the Dispute Resolution Panel recommends the removal or suspension of the Chief or Councillor, the Iskut Band Council will, within seven (7) days of the notice given under clause 15.5.c, pass a Band Council Resolution to remove this individual from office.

## 18.0 Advanced Polling

- 18.1 Advanced polling, when required, may be ordered as part of special instructions given to the Electoral Officer upon his/her appointment by Iskut Band Council.
- 18.2 Advanced polling shall take place as follows:



- a. the advanced poll shall be held no less than seven (7) days following the nomination, and not before the All Candidates Meeting;
- b. the advanced poll shall follow all procedures prescribed for the regular poll,
- c. All ballots from the advanced poll shall be kept in a sealed box and the sealed box shall only be opened and the ballots therein counted during the ballot count for the Regular Election; and
- d. The advanced polls shall be open not less than two (2) and not more than four (4) hours, unless otherwise determined at the discretion of the Electoral Officer.

## 19.0 Oath of Office

- 19.1 An Oath of Office shall be taken by each newly elected Chief and Councillor at the first meeting of the Iskut Band Council held within thirty (30) days of the date of the Election.

## 20.0 Amendments

- 20.1 Any proposed changes to this Code must be presented to the Iskut Band Council for review and consideration.
- 20.2 Council may wish to establish a committee, in accordance with sub-section 21.0, to oversee any amendments to the Code.
- 20.3 If upon review of the proposed changes, the Iskut Band Council supports the amendments, they will sign a Band Council Resolution declaring that the amendments are ready for the review of the Members during a thirty (30) day period for review.
- 20.4 Notice of the thirty (30) day period for review by the Members shall be given by way of:
  - a. posted notice in the Iskut Band Office; and
  - b. posted notice in public places, at the discretion of the Iskut Band Council.
- 20.5 The notice given in accordance with sub-section 20.4 shall include:
  - a. date, time, and location for the meeting where the vote will be taken;
  - b. summary of the proposed changes to the Code;
  - c. information about how Members can view the full Code; and
  - d. any other information as deemed necessary by the Iskut Band Council.
- 20.6 The updated Code shall be made available to the Members in the following ways:
  - a. posted in full in the Iskut Band Office; and
  - b. posted in full on the Iskut Band website.
- 20.7 Any Eligible Elector may request a copy of the updated Code in the following ways:
  - a. printed and available for pick-up at the Iskut Band Office; and
  - b. printed and sent by mail at the request of the Eligible Elector.
- 20.8 For the Code to take effect, a meeting of the Eligible Electors must be held and a vote by secret ballot must be taken at that meeting.
- 20.9 Any Eligible Elector who is not able to attend the meeting in-person may select another Member to act as his/her proxy.
- 20.10 No Member may hold more than three (3) proxy votes.
- 20.11 The proposed changes will be considered "accepted" where a Majority of those who participate in the vote agree to the proposed changes.



- 20.12 Quorum for any amendment to this Code will consist of a minimum of twenty-five (25) Eligible Electors who are not members of the Council.
- 20.13 The Iskut Band Council shall appoint a Ratification Officer to oversee the vote conducted at the meeting held in accordance with sub-section 20.8.
- 20.14 Notice of the meeting held in accordance with sub-section 20.8 shall be posted in the Iskut Band Office and other public places, as deemed necessary by the Ratification Officer at least fourteen (14) days prior to the meeting.
- 20.15 The Iskut Band Council may approve, by Band Council Resolution, any minor amendments to this Code ( including typographical errors, punctuation, etc.), procedures (including the Oath of Office and procedural rules for meeting of the Iskut Band Council), forms, and other administrative rules for the better administration of this Code.
- 20.16 For greater certainty, a vote of Eligible Electors is not required for the approval of procedures or administrative tools to support the administration of this Code.

## **21.0 Appointment of Advisory Committees**

- 21.1 The Iskut Band Council may, at their discretion, choose to establish an Advisory Committee(s) to support Council decision-making and/or the governance of Iskut Band.
- 21.2 The structure, purpose and duties of each Advisory Committee will be determined by Council at the time it is established, and may include, but not be limited to the following purposes:
  - a. to ensure family representation;
  - b. to promote youth involvement; and/or
  - c. to reach elders.
- 21.3 For greater certainty, any Advisory Committee created under sub-section 21.1 will not have decision-making authority.



## **Appendix 1: Code of Ethics and Conduct for the Iskut Band Council**



## Code of Ethics and Conduct for the Iskut Band Council

A Chief and Councillor must demonstrate concern for the welfare and needs of the Iskut Band Council and be prepared to devote the time and effort to carry out the Councillor's roles and responsibilities.

In performing his/her leadership duties, a Chief and Councillor is expected to miss no more than two (2) consecutive regularly scheduled meetings.

A Chief and Councillor should demonstrate active involvement in the community, such as attending community events, program activities, department open houses, and other such activities.

A Chief and Councillor must be able to communicate using a variety of accepted set of tools and technologies, or be willing to learn how to operate them.

A Chief and Councillor must not engage in any act or activity that would bring Iskut Band Council or any of its programs into disrepute.

A Chief and Councillor must not act as an individual but in accordance with decisions made by the collective Iskut Band Council.

A Chief and Councillor must not directly or indirectly interfere with any service delivery processes and decisions of the various programs delivered by Iskut Band Council, and in particular, a specific client or family receiving services under such programs.

A Chief and Councillor is expected to be courteous, polite, respectful, and approachable to all Members.

A Chief and Councillor shall work to ensure that the integrity and dignity of the Iskut Band Council and all of its programs are maintained at all times in the community.

A Chief and Councillor must be honest and forthright in dealings with fellow Members of the Iskut First Nation.

A Chief and Councillor must not be seen intoxicated state in public, which includes online spaces, such as social media.

A Chief and Councillor must abide by all by-laws, rules and regulations of the Iskut Band Council.

A Chief and Councillor must not use his/her position on Council for personal gain or profit or for the personal gain or profit for friends and family.

A Chief and Councillor must treat all Iskut Band Council business as confidential.

A Chief and Councillor must not engage in any illegal activities and should immediately notify the Council and resign from his/her position if he/she is charged and convicted of any offense under the Criminal Code of Canada, unless it is related to Aboriginal Rights, or the Iskut Band Council specifically waives the requirement of such resignation.

Failure to abide by the above standards will result in immediate dismissal.



**Appendix 2: Chief and Council Oath of Office**



### Chief and Council Oath of Office

I, \_\_\_\_\_ [name] do solemnly swear that I will:

- (a) uphold and comply with this Code, the Code of Ethics and Conduct, and all laws and policies of Iskut Band;
- (b) fulfil the duties and responsibilities of my office under this Code, the Code of Ethics and Conduct, and all laws and policies of Iskut Band;
- (c) carry out the duties of my office faithfully, honestly, impartially and to the best of my abilities;
- (d) keep confidential, both during and after my term of office, any matter or information which, under this Code, the laws of the First Nation or policy, is considered confidential; and
- (e) act always in the best interests of Iskut Band in carrying out my duties.

Name of Chief or Councillor: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Name of Witness: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_



**Appendix 3: Application to Vote by Proxy**



**Iskut Band Council**

***APPLICATION TO VOTE BY PROXY***

[For the purpose of participating in Special Elections and Amendments]

Name of applicant [first/last]: \_\_\_\_\_  
Address: \_\_\_\_\_

Name of appointed proxy [first/last]: \_\_\_\_\_  
Address: \_\_\_\_\_

Topic of vote: \_\_\_\_\_  
Date of vote: \_\_\_\_\_

I, \_\_\_\_\_, do hereby appoint  
\_\_\_\_\_ to vote on my behalf for the reason that I shall be unable to  
participate during the hours fixed for voting.

I, the person named above as the applicant, hereby declare that the information given above is true  
and that I have not appointed any other proxy, nor authorized any Candidate to appoint a proxy for  
me at this election, and to the best of my knowledge, my name appears on the Voters' List.

I acknowledge that this proxy will be acted upon unless revoked by me in writing or by my  
attendance at the vote.

Declared at \_\_\_\_\_ [address],  
the \_\_\_\_\_ [day] of \_\_\_\_\_ [month], \_\_\_\_\_ [year].

\_\_\_\_\_  
Signature of applicant

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

**Consent of Proxy Voter**

I, the person named above as the voting proxy, am on the Voters' List for the Iskut Band. I do  
hereby accept such appointment and declare that the number of appointments that I have received  
does not exceed those allowed for in the Iskut Band Custom Election Code.

Declared at \_\_\_\_\_ [address],  
the \_\_\_\_\_ [day] of \_\_\_\_\_ [month], \_\_\_\_\_ [year].

\_\_\_\_\_  
Signature of proxy voter

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



## **Appendix 4: Application to Receive Mail-in Voting Package**



**Iskut Band Council**

***APPLICATION TO RECEIVE MAIL-IN VOTING PACKAGE***

[For the purpose of participating in Regular Elections]

Name of applicant [first/last]: \_\_\_\_\_

Address: \_\_\_\_\_

Date of Election: \_\_\_\_\_

I, \_\_\_\_\_, do hereby request to receive a mail-in voting package to participate in the election taking place on the date given above, as I shall be unable to reach the Polling Station during the hours fixed for voting.

I, the person named above as the applicant, hereby declare that the information given above is true, and to the best of my knowledge, my name appears on the Voters' List.

Declared at \_\_\_\_\_ [address],  
the \_\_\_\_\_ [day] of \_\_\_\_\_ [month], \_\_\_\_\_ [year].

\_\_\_\_\_  
Signature of applicant

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