



# ***ISKUT BAND*** **CUSTOM ELECTION CODE**

**Approved March 29, 2019**  
**Section 5.4 Added and Ratified August 12, 2021**



## Preamble

The Iskut Band Council Custom Election Code was approved by membership and came into full force and effect on March 29, 2019.

In Canada, the election of the Chief and Council in First Nation communities can be conducted in one of three ways: 1) under section 74 of the *Indian Act* and the *Indian Band Election Regulations*; 2) under the *First Nations Election Act*; or 3) according to local electoral system based on community values, customs and traditions, often referred to as a "custom code".

The Iskut Band conducts elections for Chief and Council 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.

This Iskut Band Custom Election Code builds upon and expands on the previous Iskut Band election rules and regulations in order to provide broader involvement of Iskut Members in the Iskut electoral system and to provide more clarity with respect to the roles, obligations and conduct of Chief and Council.

This code was developed after consideration of the following:

- Discussion with Iskut Band Members;
- Discussion with Iskut Band Staff;
- Discussions with Department of Indigenous Services Canada staff;
- Other First Nation Election Codes;
- The *Corbière* Decision; and
- The British Columbia *Recall and Initiative Act*.

## 1. Recitals

**WHEREAS** Iskut Chief and Council elections will be community-driven.

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

**WHEREAS** Iskut Band has elected to adopt this 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. Definitions

2.1 In this Code the following terms will have the following meaning:

- a) **“Advisory Committee”** means any committee established by the Council to support the work of the Council and the governance of Iskut Band.
- b) **“Agent”** means an individual appointed by a Candidate to oversee the conduct of the Election to ensure fairness of process.
- c) **“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.
- d) **“Campaign”** means to advocate for the selection of a particular Candidate in the Election.
- e) **“Candidate”** means an Iskut Band Member who:
  - i) is the full age of eighteen (18) years or older on or before the day on which the Nomination Meeting is held;
  - ii) 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;
  - iii) has been nominated to be a Candidate pursuant to the provisions of this Code;
  - iv) does not have a criminal record, unless the charges relate to the exercise and protection of Aboriginal rights and title; and
  - v) has not been disqualified from participating in Elections.
- f) **“Chief”** means the individual elected to the office of the Chief of Iskut Band, in accordance with this Code.
- g) **“Code”** means this Iskut Band Custom Election Code.
- h) **“Councillor”** means an individual elected to the office of Councillor of Iskut Band, in accordance with this Code.

- i) **“Deputy Electoral Officer”** means a person or persons, who i) is not an Iskut Band Member, and ii) is appointed by the Electoral Officer to assist him/her in the Election process.
- j) **“Dispute Resolution Board”** has the meaning set out in Article 18;
- k) **“Elder”** means an Iskut Band Member who is sixty (60) years of age or older.
- l) **“Election”** means any Iskut Band Regular Election or Special Election held pursuant to the provisions of this Code.
- m) **“Electoral Officer”** means the person appointed by the Iskut Band Council before each Election who will have the responsibility for conducting the Nomination Meeting and the Election.
- n) **“Electronic Voting Platform”** means computer software that directs a computer to perform and monitor the required tasks for a person to either register to vote or vote in an Election using an electronic device, such as a computer or mobile phone;
- o) **“Electronic Voting”** means the process of voting in an Election through use of an Electronic Voting Platform;
- p) **“Eligible Elector”** means a person who:
  - i) is a Member of the Iskut Band; and
  - ii) is the full age of eighteen (18) years or older on or before the day on which the Election is held.
- q) **“Immediate Family”** means parents, siblings, and grandparents, including step-parents, step-siblings, step-grandparents, adoptive parents, adoptive siblings, and adoptive grandparents.
- r) **“Iskut Band Council”** or **“Council”** means the body composed of those persons elected pursuant to this Code to represent the interests of Iskut Band, composed of the Chief and Councillors.
- s) **“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.
- t) **“Iskut Band Reserves”** means the reserve lands set aside for the use and benefit of the Iskut Band and its members, including:
  - i) Stikine River Indian Reserve No. 7;
  - ii) Kluachon Lake Indian Reserve No. 1; and
  - iii) Iskut Indian Reserve No. 6.
- u) **“Majority”** means 50% + 1 of votes cast.

- v) **"Nomination"** means a Nomination for election to the office of Chief or Councillor of the Iskut Band in accordance with this Code.
- w) **"Nomination Meeting"** means the meeting that is held on one or more of the Iskut Band Reserves whereby Candidates are nominated by Eligible Electors.
- x) **"Ordinarily Resident"** means the location of an individual's primary residence, 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 will be determined by the facts in each case, and without limiting the foregoing, some of the factors that can be considered are:
  - i) the place the person normally eats and sleeps,
  - ii) the place the person receives personal mail,
  - iii) the residence of the person's Immediate Family, and
  - iv) the place of employment of the person, and if the person is absent from the reserve, the reason for being absent.
- y) **"Polling Station"** means a building, hall or room, which is selected to be the site for voting to take place and can also mean an electronic voting procedure for voting.
- z) **"Ratification Officer"** mean the individual appointed to oversee the conduct of a vote to amend this Code.
- aa) **"Regular Election"** means an Election that is held in accordance with this Code.
- bb) **"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.
- cc) **"Voter"** means any Eligible Elector that has participated in an Election, either by mail-in ballot, Electronic Voting, or at a Polling Station.
- dd) **"Voters' List"** means the list of Iskut Band Members who will be Eligible Electors at the time of the Election.
- ee) **"Youth"** means an Iskut Band Member who is between the ages of 18 and 30.

### 3. Duties of Chief and Council

3.1 Duties and responsibilities of the Iskut Band Council include, but are not limited to the following:

- a) to act in the best interest of all 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 Iskut Band Member meetings.

- c) to provide programs and services to meet the priorities and needs of the Iskut Band Members.
- d) to ensure that the Iskut Band develops policies that are fair, 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.

#### **4. Conflict of Interest**

- 4.1 A conflict of interest arises when the Chief or a member of Council's personal interest conflicts with his or her professional duties as Chief or a member of Council.
- 4.2 Conflicts of interest may be of a personal, financial or other nature.
- 4.3 If the Chief or a Councillor may be in a conflict of interest, they must declare their conflict, or perceived conflict, and remove themselves from discussions relating to the topic and must not vote on any matters in relation to the conflict or perceived conflict.
- 4.4 Iskut Band Council may establish detailed conflict of interest procedures for the management of a real or perceived conflict of interest.
- 4.5 To avoid any perceived conflict of interest, no more than one (1) Immediate Family member will serve on Council at one time.

#### **5. Composition and Term of Office**

- 5.1 The Iskut Band Council will be composed of one (1) Chief and five (5) Councillors.
- 5.2 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 become Ordinarily Resident on one of the Iskut Band Reserves within ninety (90) days of the Election or will be removed from office by Iskut Band Council and a Special Election will be held to elect a new Chief.
- 5.3 Members who are not Ordinarily Resident on one of the Iskut Band Reserves may run for the office of Councillor and, if elected, are not required to be Ordinarily Resident on one of the Iskut Band

Reserves, but must meet all obligations set out in this Code, including without limitation those obligations set out in Article 3.

- 5.4 Any Candidate for the office of Chief or Councillor must be of Tahltan ancestry.
- 5.5 The term of office for each of the Chief and Councillors will be four (4) years from the Regular Election date.
- 5.6 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, or as near to the second week of October as is possible, 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, or as near to the second week of October as is possible, every four (4) years commencing in 2021.

## 6. Pre-Nomination Procedure

6.1 The following provisions will govern matters with respect to the Electoral Officer:

- a) The Iskut Band Council will appoint an Electoral Officer for all Elections.
- b) The Electoral Officer will be appointed not less than seventy-five (75) days before the date selected by the Iskut Band Council as the date on which the Regular Election will be held.
- c) The date of the Nomination Meeting for a Regular Election will be within the forty-five (45) day period before the end of the term of the four (4) years.
- d) The Electoral Officer may serve more than one appointment.
- e) The Electoral Officer must not be an Iskut Band Member.
- f) It will be the responsibility of the Band Manager to make a recommendation for an Electoral Officer to the Iskut Band Council as follows:
  - i) Where Iskut Band has an actively employed and acting Band Manager, the Band Manager will made a recommendation for Electoral Officer to Chief and Council; and
  - ii) If the individual is rejected by Chief and Council or can otherwise not act as Electoral Officer, Chief and Council may receive recommendations for the Electoral Officer from all sources.
- g) The Electoral Officer will be appointed by an Iskut Band Council Resolution containing:
  - i) the Electoral Officer's full name;
  - ii) the date and time for the Nomination Meeting;
  - iii) the type of Election which is to be conducted (Regular Election or Special Election); and

- iv) any special instructions.
  - h) The Electoral Officer will establish an election file and place in this file copies of all documentation associated with the Election. That file will remain open until the appeal period of fourteen (14) days has expired. The file will then be closed and kept at the Iskut Band Office.
  - i) The Electoral Officer may appoint Deputy Electoral Officers and interpreters as he/she deems necessary and will document the details of this in the election file subject to sub-section h).
  - j) The Electoral Officer will, 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 in accordance with section 6.2.
  - k) The Electoral Officer will determine who is an Elector and who is eligible to be a Candidate prior to the Election.
- 6.2 The following provisions will govern matters with respect to Nominations:
- a) The notice of the Nomination Meeting will be posted in the Iskut Band Office.
  - b) The notice of the Nomination Meeting may also be posted, at the discretion of the Electoral Officer, by way of:
    - i) the Iskut Band website;
    - ii) social media channels;
    - iii) mail-outs;
    - iv) radio; and
    - v) in the public places on Iskut Band Reserves.
- 6.3 The notice of Nomination Meeting that is posted in accordance with sub-section 6.1j). will 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.
- 6.4 The Notice of Nomination Meeting that is posted in accordance with sub-section 6.2b) will 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.
- 6.5 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.
- 6.6 The Electoral Officer may, at his/her discretion, revise the Voters' List if they are satisfied that corrections are needed.

## **7. 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 at the Nomination Meeting to accept their Nomination unless:
- a) prior arrangements have been made with the Electoral Officer; and
  - b) the nominee has provided the Electoral Officer with a written letter of acceptance prior to the opening of the Nomination Meeting.

## **8. Nomination Meeting**

- 8.1 At the time and place advertised, the Electoral Officer will declare the Nomination Meeting open for the purpose of receiving the Nomination of Candidates for the positions advertised.
- 8.2 The Electoral Officer will read the duties of Chief and Council, as outlined in section 3 of this Code, to those in attendance at the Nomination Meeting.
- 8.3 The Electoral Officer will 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 will last occur, and thereafter the meeting may be closed at the discretion of the Electoral Officer.

- 8.4 The Electoral Officer will 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. For greater certainty, Nominations cannot be accepted in-writing.
- 8.6 Any Eligible Elector may propose or second the Nomination of any person to serve as the Chief or Councillor, provided that he/she satisfies the requirements of being a Candidate. The Electoral Officer will 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.
- 8.7 No person may be a Candidate for Chief or Councillor of the Iskut Band unless his/her Nomination is moved and seconded by Iskut Band Members.
- 8.8 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 or the Candidate's nomination will be disqualified.

## 9. Post-Nomination Meeting Procedure

- 9.1 The Electoral Officer will, 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 the following:
- a) taking of the Oath of Office, as indicated in section 20;
  - b) receiving a criminal record check that is free of:
    - i) any convictions for criminal indictable offences;
    - ii) any civil court judgements or criminal convictions in respect of any matter involving assault, theft or fraud; and
  - c) is not in arrears to the Iskut Band for an amount exceeding \$1,000.
- 9.2 If the number of Candidates nominated exceeds the number of positions open for election, the Electoral Officer will announce the date of the Election and the date of the All Candidates Meeting.
- 9.3 The Election will be thirty (30) days, or as close to thirty (30) days as possible, following the Nomination Meeting.
- 9.4 The All Candidates Meeting will occur fourteen (14) days, or as close to fourteen (14) days as possible, prior to the Election.
- 9.5 The Electoral Officer and/or his/her Deputy Electoral Officer will, without undue delay, post a notice setting out, for the Polling Station and the All Candidates Meeting, the:
- a) date;

- b) time;
  - c) location; and
  - d) whether any Eligible Voter may vote by mail-in ballot, in-person or by electronic means, if available.
- 9.6 The notice for the Election will 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 will be posted not less than seven (7) days prior to the date scheduled for the meeting.
- 9.8 Such notice will be posted in the Iskut Band Office and in any other manner as deemed necessary or advisable by the Electoral Officer.
- 9.9 The Electoral Officer will 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 one or more of the Iskut Band Reserves.
- 9.11 The Electoral Officer and/or his/her Deputy Electoral Officer will 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 will obtain:
- a) sufficient ballot boxes;
  - b) a sufficient number of ballot papers for the purpose of the Election;
  - c) instruments for marking ballots;
  - 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 methods and locations.
- 9.13 The Electoral Officer and/or his/her Deputy Electoral Officer will construct or erect polling booths at the Polling Station set out in the notice, and the polling booths will be such that the privacy of the Voter is maintained.
- 9.14 The Electoral Officer or his/her Deputy Electoral Officer will, where requested and, in the opinion of the Electoral Officer or the Deputy Electoral Officer, is reasonably required, 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 12. This interpreter will be an Iskut Band Member and will assist such Voter in the presence of the Electoral Officer, and will 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 within forty-eight (48) hours following nomination 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 will 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. Electronic Voting

10.1 The Iskut Band may allow for Electronic Voting.

10.2 When Electronic Voting is available for an Election the following will apply:

- a) Any Voter may vote by Electronic Voting;
- b) Electronic Voting will be confidential and by secret ballot;
- c) Electronic Voting will be available up to and no later than the close of the polls;
- d) The Electoral Officer will ensure that instructions for Electronic Voting are clearly provided on all notices, the Electronic Voting Platform landing page, and available for distribution upon request to Voters.

10.3 The Electronic Voting Platform will have, at a minimum, the following protocols:

- a) Ability to verify each Voter, including a digital signature, form of personal identification, registry number (status card number), and date of birth.
- b) Chief and Council may make additional regulations specific to Electronic Voting pursuant to and in accordance with this Code.

### *Processing and counting of Electronic Ballots*

10.4 After the close of the polls, the Electoral Officer will add the Electronic Voting results to the results of the physical and mail-in polls and will make a declaration certifying the recorded number of Electronic Votes.

## 11. Mail-In Voting

### *Procedure for Electoral Officer*

11.1 Any Eligible Elector may submit a request to receive a mail-in voting package for any Election using the form in Appendix 3.

11.2 The request to receive a mail-in voting package must be received by the Electoral Officer before the day that the Nomination Meeting occurs.

11.3 The Electoral Officer will provide a mail-in voting package to each Eligible Elector that submits a request in accordance with sub-section 11.1.

11.4 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.
- 11.5 It is the sole obligation of Eligible Electors to maintain a current mailing address with the Iskut Band.
- 11.6 The mail-in voting package will be delivered to the most recent address available for the Eligible Elector.
- 11.7 If no current address can reasonably be ascertained for an Eligible Elector, the Electoral Officer will record that fact opposite the Eligible Elector's name on the Voters' List, and the Electoral Officer will be conclusively deemed to have no further responsibility to send a mail-in package to that Eligible Elector.
- 11.8 The Electoral Officer will 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.
- 11.9 The mail-in package will 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 11.8; and
  - h) such other information as the Electoral Officer considers appropriate.
- 11.10 The Electoral Officer will note on the Voters' List the name of every Elector to whom a mail-in package is sent.

*Procedure for Eligible Electors*

- 11.11 Every Eligible Elector who votes by mail-in ballot will:
- 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.
- 11.12 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.
- 11.13 A mail-in ballot that is received later than 8:00 p.m. local time will not be counted and the unopened return envelope will be marked "Rejected".
- 11.14 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 will be set aside and not counted.

*Processing and Counting a Mail-in Ballot*

- 11.15 The Electoral Officer, upon receiving a return envelope within the specified time will, in the full view of at least two (2) witnesses, place on the Voters' List a mark beside the name of the Eligible Elector who returned the mail-in envelope.
- 11.16 On the Voting Day, after the polls have closed, the Electoral Officer will, 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.
- 11.17 If the declaration envelope is enclosed and properly executed, the Electoral Officer will retain the declaration envelopes in a secure manner until the counting of the votes under section 12.
- 11.18 If no declaration is enclosed or if the declaration is not properly executed, the Electoral Officer will:
- 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.
- 11.19 At the time of counting the votes under section 12, the Electoral Officer will, 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.

- 11.20 If the Electoral Officer's initials are verified, the Electoral Officer will deposit the ballot in a ballot box and place a line through the name of the Eligible Elector on the Voters' List.
- 11.21 If the Electoral Officers initials are not verified, the Electoral Officer will:
- 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.

## **12. Voting at Polling Station**

- 12.1 The Electoral Officer, with such appointed Deputy Electoral Officers if any, will be in attendance at the time and place as is set out in the notice.
- 12.2 Neither the Electoral Officer nor any of his/her Deputy Electoral Officers will be allowed to vote in the Election.
- 12.3 The Electoral Officer must strike or mark each Voter's name on the Voter List as they receive their ballot.
- 12.4 The Electoral Officer will, 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 will then lock the box to prevent it from being opened and will place it in view for the reception of the ballots and the box will not be unlocked during the time that the Polling Station is open for voting.
- 12.5 The Electoral Officer will 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 will declare the polls closed.
- 12.6 The Electoral Officer, and his/her Deputy Electoral Officer(s), will 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.
- 12.7 Persons presenting themselves for the purpose of voting will, upon being confirmed by the Electoral Officer or one of his/her Deputy Electoral Officer(s) 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.
- 12.8 When requested, the Electoral Officer will explain the voting procedure to the Eligible Elector.
- 12.9 The Electoral Officer or Deputy Electoral Officer(s) will initial each ballot upon giving it to the Eligible Elector.
- 12.10 Every Eligible Elector voting at the Polling Station, after receiving the ballot, will:
- a) proceed directly to the place provided for marking the ballot;

- b) 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
  - c) immediately return to the Electoral Officer or his/her Deputy Electoral Officer(s) to deposit his/her completed ballot into the ballot box.
- 12.11 While any Voter is in the Polling Station booth, no other person, except as provided in sub-section 9.14, will be allowed in the same booth or be in any position from where they can see how the person is voting.
- 12.12 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.
- 12.13 The Electoral Officer or a Deputy Electoral Officer, will note upon the Voters' List any irregularity in connection with voting and will specifically note on the Voters' List any ballots marked by the Electoral Officer or his/her Deputy Electoral Officer(s), but will not note the Candidate(s) for whom the ballot was cast.
- 12.14 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.
- 12.15 A Voter who has inadvertently dealt with his/her ballot paper(s) in such a manner that it cannot be used to vote, will return it to the Electoral Officer or a Deputy Electoral Officer who will write the word "cancelled" upon the ballot paper(s) and preserve it. A new ballot will be issued to the Voter.
- 12.16 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 12.10, or after receiving the ballots, refuses to vote, will forfeit his/her right to vote in the Election, and the Electoral Officer or a Deputy Electoral Officer will 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 will mark upon the face of the ballots the word "declined" and all ballots so marked will be preserved.
- 12.17 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 will be added to the Voters' List and allowed to vote at the Polling Station.
- 12.18 Every Eligible Elector who is inside the Polling Station at 8:00 pm will be entitled to vote before the poll is closed.

### **13. Agents at Polling Station**

- 13.1 All Candidates will be entitled to not more than one (1) Agent in a polling place at any one time.
- 13.2 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.



**14. Campaigning**

14.1 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.

14.2 For greater certainty, sub-section 14.1 does not include encouraging Iskut Band Members to vote in the Election.

**15. Election Tabulation**

15.1 Immediately following the close of the poll, the Electoral Officer will, 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.

15.2 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 15.1;
- b) "rejected"; and
- c) the initials of the Electoral Officer.

15.3 All rejected ballot papers will be preserved.

15.4 Any Eligible Elector may appeal to the Electoral Officer to have any of the ballots found in the ballot box disallowed.

15.5 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.

- 15.6 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 15.4. 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.
- 15.7 The Electoral Officer will 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.
- 15.8 The written statement prepared in accordance with sub-section 15.7 will then be signed by the Electoral Officer.
- 15.9 For greater certainty, any ballot that contains marks for less than the required number of Candidates will be considered valid and must be counted.
- 15.10 After completing tabulation, the Electoral Officer will announce the names of the Candidate(s) that received the highest number of votes and publicly declare the Candidates elected.
- 15.11 Following the announcement, the Electoral Officer will post the written statement prepared in accordance with sub-sections 15.7 and 15.8 at the Iskut Band Office and other public places as deemed necessary by the Electoral Officer.
- 15.12 The Electoral Officer will 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.
- 15.13 Following the Election announcement, the Electoral Officer will complete and sign an election report, in triplicate, which will 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.
- 15.14 The Electoral Officer will 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.
- 15.15 In the event of a tie vote for Chief, or for the Councillor position receiving the fewest votes, the following will take place:
  - a) a recount will 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 will be final.
- 15.16 If, following a recount as set out in section 14.15 is complete and the vote remains tied, the Candidates that are tied will take part in a Special Election within seven (7) days following the original date of the Election to determine the winner.
- 15.17 The Special Election will be conducted in a similar manner provided for in the procedures set out for an Iskut Band Regular Election in this Code.
- 15.18 In the event of a Special Election for the purpose of deciding a tie, mail-in ballots will not be provided.
- 15.19 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.
- 15.20 No Member may hold more than three (3) proxy votes.

## **16. Vacancies on Council**

- 16.1 A Chief or Councillor's position on the Iskut Band Council may become vacant under the following circumstances, while in office:
  - a) The Chief or Councillor refuses to take the Oath of Office described at Article 23;
  - b) The Chief or Councillor misses two (2) consecutive regular Council meetings without authorization from a quorum of Council;
  - c) the Chief or Councillor is convicted of an indictable offence, unless the charges relate to the exercise and protection of Aboriginal rights and title;
  - d) 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.
  - e) The Chief or Councillor resigns his/her office;

- f) A sitting Councillor is elected to the office of the Chief;
  - g) The Chief of 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 Article 5 of this Code;
  - j) The Chief or Councillor breaches the Code of Ethics and Conduct or is deemed by the Dispute Resolution Board to not have upheld their duties as outlined in Article 6 of this Code.
- 16.2 If vacancy occurs on the Iskut Band Council, and there is more than six (6) months remaining in the Chief or Councillor's term of office, a Special Election must be held in accordance with the provisions of this Code to fill the vacant position.
- 16.3 A vacancy on the Iskut Band Council must be filled within sixty (60) days of the Chief or Councillor's official departure date.
- 16.4 A person filling such a vacancy will, subject to the provisions of this Code, serve until the four (4) year term of the member he/she replaces would have expired.
- 16.5 If, because of an appeal there is a Special Election, the four (4) year term of the newly elected Council members will be deemed to have commenced the day following the date of the Regular Election.
- 17. 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 that the Chief or Councillor has not upheld their duties as outlined in section 3 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;
  - 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 5.2;
  - ii) signed statements from witnesses;
  - iii) written and/or verbal testimony from the individual against whom the complaint has been made; and/or
  - iv) 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 The Dispute Resolution Board will provide notice of its decision to:
- a) the individual(s) who submitted the complaint;
  - b) the Chief or Councillor against whom the complaint has been made;
  - c) the Iskut Band Council; and
  - d) the Iskut Band Members.
- 17.5 If the Dispute Resolution Panel recommends the removal or suspension of the Chief or Councillor, a quorum of the Iskut Band Council will, at a duly convened Iskut Band Council meeting, within seven (7) days of the notice, pass a Band Council Resolution to remove this individual from office and declare the office vacant. The Chief or Councillor who was removed will also be disqualified from being a Candidate at the next Election.

## **18. Complaints and Appeals**

### *Dispute Resolution Board*

- 18.1 A Dispute Resolution Board will be appointed by the outgoing Band Council before the end of their term. The Dispute Resolution Board will 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) a youth who is a Member of the Iskut Band who is familiar with the traditions, values and language of the Nation; and
  - d) the Iskut Band Manager.
- 18.2 The Dispute Resolution Board will 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.

- 18.3 The initial Dispute Resolution Board will, upon their appointment, meet to confirm a terms of reference for the Dispute Resolution Board.
- 18.4 From time-to-time, the Dispute Resolution Board will review and, if deemed advisable, revise the terms of reference.
- 18.5 The members of the Dispute Resolution Board will 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 will be a member of the outgoing Council, or a Candidate for the Council in the upcoming Election.
- 18.6 In the absence of qualified candidates for appointment to the Dispute Resolution Board that meet the criteria set out in sub-section 18.1, Council may appoint other individuals, at their discretion.

*Complaints and Appeals Procedure*

- 18.7 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.
- 18.8 Any appeal of an Iskut Band Election must be submitted in writing, and must contain details verified by affidavit.
- 18.9 A written appeal will be sent by registered mail to the Dispute Resolution Board, c/o the Iskut Band Office.
- 18.10 This notice of appeal must be received at the Band Office within fourteen (14) days of the Election.
- 18.11 Where appeals are received by the Dispute Resolution Board pursuant to this Code:
- a) the Dispute Resolution Board will, 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.
- 18.12 After a review of all of the evidence that it has received, the Dispute Resolution Board will:
- 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 Special Election be called for the positions affected. This Special Election will take the place as soon as possible and will be conducted pursuant to the provisions of this Code. The Dispute Resolution Board will, if necessary, give instructions to the Election Officer on how the problems identified in the appeal can be corrected.

**19. Advanced Polling**

19.1 Advanced polling, when required, may be ordered as part of special instructions given to the Electoral Officer upon his/her appointment by Chief and Council.

19.2 Advanced polling will take place as follows:

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

**20. Oath of Office**

20.1 An Oath of Office will 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, which is attached to this Code as Appendix 2.

**21. Amendments**

21.1 Any proposed changes to this Code must be presented to Iskut Band Council for review and consideration.

21.2 Iskut Band Council may wish to establish a committee, in accordance with sub-section 22.1, to oversee any amendments to the Code.

21.3 If upon review of the proposed changes, 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.

21.4 Notice of the thirty (30) day period for review by the Members will be given by way of:

- a) posted notice in the Iskut Band Office; and
- b) posted notice in public places, at the discretion of Iskut Band Council.

21.5 The notice given in accordance with sub-section 21.4 will 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.
- 21.6 The updated Code will 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.
- 21.7 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 Iskut Band Member.
- 21.8 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.
- 21.9 Any Eligible Elector who is not able to attend the meeting in-person may select another Member to act as his/her proxy.
- 21.10 No Member may hold more than three (3) proxy votes.
- 21.11 The proposed changes will be considered "accepted" where a Majority of those who participate in the vote agree to the proposed changes.
- 21.12 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.
- 21.13 The Iskut Band Council will appoint a Ratification Officer to oversee the vote conducted at the meeting held in accordance with sub-section 21.8.
- 21.14 Notice of the meeting held in accordance with sub-section 21.8 will 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.
- 21.15 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. 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.
- 22. Appointment of Advisory Committees**
- 22.1 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.
- 22.2 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;



*FINAL*



- b) to promote youth involvement; and/or
  - c) to reach elders.
- 22.3 For greater certainty, any Advisory Committee created under sub-section 22.1 will not have decision-making authority.

*FINAL*



Appendix 1:

Code of Ethics and Conduct for the Iskut Band Council

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

The Chief and each Councillor must devote the necessary time and effort in order to properly carry out the roles and responsibilities of Chief and Council.

In performing his/her leadership duties, the Chief and each Councillor is expected to attend every regularly scheduled meeting and, in no event, is to miss 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, Tahltan Nation events 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 act in accordance with decisions made by the collective Iskut Band Council for the benefit of all Members and the Iskut Band.

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 will 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 Members.

A Chief and Councillor must abide by all by-laws, rules and regulations of the Iskut Band Council, British Columbia and Canada, unless acting in the furtherance of the protection of Aboriginal rights and title.

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.

*FINAL*



Appendix 2:  
Chief and Council Oath of Office

**Chief and Council Oath of Office**

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

uphold and comply with this Code, the Code of Ethics and Conduct, and all laws and policies of Iskut Band;

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;

carry out the duties of my office faithfully, honestly, impartially and to the best of my abilities;

keep confidential, both during and after my term of office, any matter or information which, under this Code, the laws of the Iskut Band, or the policies of the Iskut Band is considered confidential; and

always act in the best interests of Iskut Band and the Members in carrying out my duties.

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

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

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

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

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

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

*FINAL*



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 proxy [first/last]: \_\_\_\_\_  
Address: \_\_\_\_\_

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

I, \_\_\_\_\_, do hereby appoint \_\_\_\_\_ to vote on my behalf for the reason that I will 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 applicant

\_\_\_\_\_  
Signature of Witness

*FINAL*



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 will 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