



Upper Nicola

# Upper Nicola Band

## Custom Election Regulations

Revision Date:  
Prior Amendments:

Revision Date: February 3, 2020

February 3, 2020  
December 21, 2010  
September 29, 2005  
November 8, 2007

# Upper Nicola Band

## Custom Election Regulations

### Preamble

WHEREAS the Upper Nicola Band has the inherent authority to adopt by way of Custom, a method for electing Chief and Council, as recognized by subsection 2(1) of the Indian Act, R.S.C. 1985, c. 1-5, and as was recognized by the same subsection of the *Indian Act*, R.S.C. 1970, c. 1-6;

AND WHEREAS the Upper Nicola Band Election Regulations were amended on June 24, 1999, September 29, 2005 and November 8, 2007; December 21, 2010.

WE THEREFORE set forth here the custom of the Upper Nicola Band as to the Election of Chief and Council, constituting the **Upper Nicola Band Custom Election Regulations**;

THEREFORE the provisions found in the *Indian Act*, R.S.C. 1985, c. 1-5, and its predecessor, the *Indian Act*, R.S.C. 1970, c. 1-6, respecting the Band Elections of Chiefs and Band Councils, being sections 74, 75, 76, 77, 78, and 79 inclusive, do not and shall not apply to the Upper Nicola Band;

AND WHEREAS following a consultation process with the members of the Upper Nicola Band amendments to these Custom Election Regulations were proposed and, as a result, these Custom Election Regulations were wholly amended with the consent of the majority of the eligible Electors on January 8, 2020, at a General Band Meeting.

The effective date of these wholly amended and recognized **Upper Nicola Custom Election Regulations** shall be declared by the Upper Nicola Band and shall no later than one month following the date of the amendment, being January 8, 2020.

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## PART 1 – SHORT TITLE

1. These regulations may be cited as the Upper Nicola Band (UNB) Custom Election Regulations.

## PART 2 – INTERPRETATION

In these Custom Election Regulations:

“**Affidavit**” means a written statement confirmed by oath or affirmation

“**Agent**” means a person acting on behalf of a candidate

“**Appellant**” means an individual who submits an appeal in accordance with these Regulations with respect to an election

“**Band**” means the Upper Nicola Band

“**By Election**” or “**Special Election**” means a special election to fill a vacant council position

“**Candidate**” means an eligible person nominated for the office of Chief or Council according to the requirements set out in these Regulations, Part 7

“**Candidates’ Code of Ethics**” means guidelines, general rules of behavior and standards established in accordance with Appendix “E” of these Regulations, which govern the conduct of candidates running for office and their supporters relating to their participation in the electoral process

“**Chief Councillor**” means the Councillor who is elected by his fellow Councillors to carry out the duties and responsibilities of the Chief’s office, where the office of the Chief becomes vacant less than one (1) year before the date of the next scheduled election

“**Corrupt Practices**” means bribery direct or in direct, or providing a financial or material incentive to an elector in exchange for a vote

“**Councillor**” means the body composed of those persons selected pursuant to these Regulations

“**Custom**” means arising out the inherent power of the band, not from a delegation under the *Indian Act*

“**Deputy or Deputies**” means any person appointed by the Tribunal Committee to assist the electoral officer in an election

“**Election**” means a band election, or a special election held under these Regulations

“**Elector**” means a person who qualifies under Part 5(3)

“**Election Irregularity**” means any matter, proceeding, administrative decision or discretion that is contrary to these Regulations or is contrary to the spirit and intention herein

“**Electoral Officer**” means a person, appointed by the Tribunal Committee to assist the electoral officer in an election

“**Indictment**” means any indictment as that term is used in the Criminal Code of Canada, and includes: (a) an information or count therein, (b) a plea, replication or other pleading, and (c) any record thereof

“**Members**” or “**Membership**” means the membership of the UNB

“**Minister**” means the Minister of Indigenous Services Canada

“**Nomination Meeting**” means the meeting at which UNB members come forward to nominate and second candidates

“**Oath**” means a solemn affirmation

“**Offence**” means an Indictment, and the commission or any omission in connection with an Election.

“**Official Voters List**” means a list of eligible electors of the UNB members, Part 5(3)

“**Poll**” means the casting and recording of votes in accordance with these Regulations

“**Polling Station**” means a building, hall or room, which is selected as the site at which voting takes place

“**Registrar**” means the Officer of the Department of Indian Affairs responsible for the UNB’s membership list

“**Regulations**” refers to the Upper Nicola Band Custom Election Regulations

“**Rejected Ballots**” refers to Part 13(4)

“**Reservation(s)**” means the Indian Reserves as defined by the Indigenous Services Canada Registry for the Upper Nicola Band

“**Scrutineer(s)**” means a candidate’s official appointed representative to view the election process

“**Special Election**” means an election referred to in Part 19

“**Tribunal Committee**” means the electors of the UNB who will guide the UNB through the electoral process

“**UNB**” means the Upper Nicola Band

“**Vote**” means to cast a ballot for an UNB candidate for the office of Chief and/or Council

## **PART 3 – THE COUNCIL**

### **Composition and Size**

1. Unless otherwise ordered by an UNB Custom Election amendment, the Council of the UNB shall consist of one (1) Chief and nine (9) Councillors.
2. Mode of Election of Chief and Councillors:
  - a) The Chief and nine (9) Councillors shall be elected by a vote held in accordance with these Regulations.
3. The first meeting of the Council shall be held not later than ten (10) business days after the Public Declaration on a day, hour, and place to be stated in a notice given to each member of the council, and meetings shall thereafter be held on such days and at such times as may be necessary for the business of the council or the affairs of the UNB.

## **PART 4 – ELECTION SCHEDULE AND TIMELINES**

1. On an Election year, at a General Band Meeting the following will be appointed or announced:
  - a) Tribunal Committee on or before November 15; and
  - b) Electoral Officer and three (3) Deputies on or before January 15.
2. Nomination Schedule:
  - a) On the last Thursday of January, the Electoral Officer shall post a Nomination Notice, Part 6(1-2) for a Chief and Councillors and post The Official Voters List, Appendix C; and
  - b) The nomination meeting will be held on the second Thursday of February. The nomination meeting must not exceed one (1) hour.
3. Post Nomination:
  - a) Withdrawal – may be at the nomination meeting or not less than twelve (12) calendar days by 4:30pm PST before the opening of the Advance Poll, Part 7(4);
  - b) Candidate Notification: The Electoral Officer must within three (3) calendar days notify the candidates, in letter form, inform the person of their nomination for office of Chief or Council and provide information on the Regulations;
  - c) Criminal Record Search results must be submitted by two (2) weeks of the nomination meeting by 12:00 noon to the Electoral Officer;
  - d) All candidates are required to read and sign the Code of Ethics (Appendix E) within two (2) weeks of the Nomination Meeting by 12:00 noon PST; and
  - e) The Electoral Officer shall decide upon candidate's eligibility within two (2) weeks plus one (1) day of the Nomination Meeting.
4. Election Schedule:

When an Election is to be held, the Electoral Officer shall:

  - a) Post, no later than eight (8) days following the end of the Nomination Meeting, an Election Notice in accordance with Part 6(5).

5. Polls (In person and electronic voting) shall be open from 8:00am PST until 8:00pm PST for the:

- a) Advance Poll which shall be held the second Saturday of March; and,
- b) Election Day which shall be held on the third Saturday of March.

6. Public Declarations by:

- a) Acclamation: If the number of persons nominated to serve as Chief and/or one or more Council positions does not exceed the number to be elected, the Electoral Officer shall upon satisfaction that the candidate was duly and properly nominated declare those of the nominees elected by acclamation who meet the criteria of Part 7.
- b) Election: The Electoral Officer shall within one (1) day of the counting of ballots, Part 5(7), post on all public buildings and in other conspicuous places within the reservations where there are residences the Election Results, Appendix F.

7. Counting of Ballots:

- a) Sunday @ 9:00 a.m. immediately following the Election; and
- b) Place to be determined by the Tribunal Committee and the Electoral Officer

8. Election Appeals:

- a) An appeal must be submitted within forty-eight (48) hours, as required Part 16;
- b) When the Tribunal Committee receives an appeal under Part 16(1), the Tribunal Committee shall, within forty-eight (48) hours of the receipt of the appeal, forward a copy of the appeal together with all supporting documents by registered mail to the Electoral Officer and to each of the candidates in the election;
- c) Any candidate may, within seventy-two (72) hours of the receipt of the copy of the appeal, forward to the Tribunal Committee by registered mail or hand delivery a written response, verified by affidavit, to the appeal, together with any supporting documents; and
- d) Response to the appeal: The Tribunal Committee shall announce their ruling within two (2) weeks of the date on which the Electoral Officer was notified of the appeal:
  - i. Within forty-eight (48) hours of the ruling, the Tribunal Committee shall report on the ruling in letter form to each of the candidates and to the appellant(s); in addition, the appeal ruling will be published in the next UNB newsletter and/or post in all public UNB administration buildings at the Douglas Lake Indian Reserve, Quilchena Indian Reserve, and the Nicola Tribal Association buildings.

9. Destroy the Ballots:

- a) The Tribunal Committee shall, after eight (8) weeks have passed since the election, destroy the ballots and other election material, as deemed necessary, in the presence of two (2) witnesses; witnesses must sign a declaration stating they witnessed the destruction of the ballots.

10. Special Election:

- a) As decided upon at a General Band Meeting, Part 18(2).

11. Timelines:

- a) Unless otherwise stated the timelines refer to regular business working hours as 8:30am PST to 4:30pm PST.



## **PART 5 – PRE-NOMINATION**

### 1. The Tribunal Committee and Electoral Officers:

- a) The Tribunal Committee shall be appointed in accordance with the Tribunal Committee Roles and Responsibilities (Appendix A); and
- b) An Electoral Officer shall be appointed in accordance with Electoral Officer Roles and Responsibilities (Appendix B).

### 2. The duty of Electoral Officials:

- a) Prior to and throughout the Election, the Electoral Officials must conduct an election in strict compliance of the Regulations, the Tribunal Committee Terms of Reference (Appendix A), and the Electoral Officers Terms of Reference (Appendix B).

#### b) A disqualified member is a person who is not eligible to vote for the following reasons:

- i. Not a Band Member;
- ii. Incarcerated at the time of the Custom Election; or
- iii. At the Voting Place, left with the ballot or refused to vote.

### 3. Eligibility of Electors:

- a) A member of the Upper Nicola Band who is eighteen (18) years of age on the day of the Nomination Meeting and has not otherwise been disqualified;
- b) A disqualified member is a person who is not eligible to vote for the following reasons:
  - i. Not a band member;
  - ii. Incarcerated at the time of the Custom Election; or
  - iii. At the Voting Place, left with the ballot or refused to vote.

### 4. Each valid nomination form shall have a mover and a seconder along with three (3) other eligible electors, Part 6(3), who must sign the candidate's Nomination Form, Appendix D. The Electoral Officer shall read aloud all valid nominations.

### 5. The Official Voters List (Appendix C) must be prepared by the Electoral Officer. The following guidelines apply:

- a) By elector's surname, listed in ascending alphabetical order;
- b) Posted Official Voters List will include only the electors' registered name. The date of birth and band membership number must not be posted; and
- c) Posted in all public UNB service buildings at the Douglas Lake Reserve, Quilchena Reserve and the Scw'exmx Tribal Association Building.

### 6. Amendments of the Official Voters List:

Only the Electoral Officer shall amend the Voters List upon presentation of valid evidence and in accordance with Part 6(3) up to and including Election Day:

- a) Valid evidence required: original, valid and legal picture identification, including a Status Card or government picture identification. The identification must be photocopied and validated by signature of the Electoral Officer and the Elector that it is a true copy;
  - b) Unregistered entry: An elector's name has been omitted;
  - c) Correction: The name, band membership number, and/or date of birth must be corrected;
  - d) Removal: A person not qualified to vote; Part 5(3) is included:
    - i. Where the Electoral Officer believes or has information that a person whose name is on the Official Voters List, or where an elector demonstrates to the Electoral Officer that the name of a person not qualified to vote appears on the List, the Electoral Officer shall give written notice to the person, if possible, whose eligibility is challenged at least ten (10) days prior to the date on which the election is to be held, or as soon as practicable after that time.
- 7) The most current amended list shall be the Official Voters List on the day of the Advance Poll and Election Day.

## **PART 6 – NOMINATION FOR GENERAL BAND ELECTIONS**

1. The Nomination Notices and Election Notice shall be:
  - a) Posted in all public UNB administration buildings at the Douglas Lake Reserve, Quilchena Reserve and the Scw'exmx Tribal Association Building; and
  - b) Published in the local newspaper with the largest circulation.
2. The Nomination notice will include the following:
  - a) Date, time, location, duration of meeting;
  - b) Requirements of nominees and nominators;
  - c) Official Voters List or instructions as to how to receive it or view a copy of it;
  - d) Statement indicating that the Electoral Officer shall not disclose an elector's address without the consent of the elector;
  - e) Date and place for Advance Poll, Election, and the counting of the votes; and
  - f) Electoral Officers name and contact information.
3. Each valid nomination form shall have a mover and a seconder along with three (3) other eligible electors, Part 5(3), who must sign the candidate's Nomination Form, Appendix D. The Electoral Officer shall read aloud all valid nominations.
4. Acclamation or Election:
  - a) a) If an acclamation is to be declared for the Chief and/or one or all of the Council positions, proceed with Part 7, Part 8, and Part 15; and
  - b) If more than the required number of persons is nominated for Chief and Council, the Electoral Officer shall declare than an Election be held.
5. The Election Notice will include the following:
  - a) Date, time, and locations of the Advance Poll and Election;
  - b) The names of the candidates and the positions which each is contesting, the nominations, and the seconders;
  - c) Part 6(2c-f); and
  - d) The names of those acclaimed, if applicable.

6. A candidate for election as Chief or Councillor may obtain from the Electoral Officer a list of the names (and addresses) of electors who have consented to have their personal information disclosed to candidates.

## **PART 7 – ELIGIBILITY FOR NOMINATION FOR CHIEF OR COUNCILLOR**

1. A person may be nominated for the office of Chief or Councillor provided that:
  - a. Part 5.3 Eligibility of Voters requirements are met
  - b. The Candidate is not an undischarged bankrupt
  - c. The Electoral Officer and the Deputy Officers are prohibited from nominating or seconding the nomination of a candidate
  - d. The Candidate is not disqualified, Part 8
  - e. The Candidate has been a registered UNB member for two (2) years prior to the Nomination Meeting
2. A member of the Tribunal Committee or members of the Electoral Officials forfeit their right to nominate or be nominated, to be a Candidate, and to run for the Office of the Chief and/or Council.
3. Employee and/or Contractor
  - a) No Candidate shall be ineligible for nomination by reason only of his or her employment with the Upper Nicola Band or by reason of contractual relations then ongoing with the Upper Nicola Band
  - b) In the event that the Candidate is elected to the office of Councillor, he or she shall have forty-eight (48) hours within which to decide whether or not to take office, by notice to the Electoral Officer
  - c) In the event that the candidate elects to take office, as elected, then:
    - i. He or she shall resign his or her employment with the Band or with the Band owned entity, upon the first to occur of the earliest reasonable time, or the Band or the Band owned entity successfully finding a suitable replacement;
    - ii. He or she shall apply for, and the Band shall grant or cause to be granted to his or her, a leave of absence from employment with the Band or the Band owned entity for the period commencing upon the earliest reasonable time for commencing the leave, and finding a suitable replacement, and ending upon the first anniversary following the councillor's departure as an elected official;
    - iii. He or she shall finish up and complete all contracts then in place with the Band or the Band owned entity, and shall not engage in any further contracts with the Band during the term of election; and
    - iv. He or she shall finish and complete any and all contracts that he or she may have with the contractors supplying goods or services to the Band, and shall not engage in any further contracts with any person supplying goods or services to the Band during the term.
4. Withdrawal of Candidates:
  - a) A Candidate who has been nominated may withdraw his/her nomination at any time, but not less than twelve (12) calendar days by 4:30pm PST before the opening of the Advance Poll, by:
    - i. Filing a written withdrawal in the presence of the Electoral Officer; or
    - ii. Filing a written withdrawal notarized by a justice of the peace, a notary public or a commissioner for oaths.
  - b) The death of a Candidate on or before the Advance Poll or the Election constitutes the Candidates withdrawal. In any event, any votes cast for the candidate are null and void.

5. Acclamation

- a) Where the office of Chief and/or all offices of Councillors are filled by acclamation, the Electoral Officer shall:
  - i. Reserve the right to determine if Parts 9 to 14 & 16-18 apply
  - ii. Proceed with Public Declaration, Part 15

## **PART 8 – DISQUALIFICATION**

1. Criminal Record Search:

The nominees must submit the original CONSENT FOR DISCLOSURE OF CRIMINAL RECORD INFORMATION (from Merritt RCMP detachment, or the closest RCMP attachment to individuals address) by personal delivery to or by registered mail to the Electoral Officer, Part 4(3c).

- a) The Electoral Officer shall review the candidate’s Criminal Record Search and based on the guidelines outlined in Appendix I, determine the candidate’s eligibility to run for the office of Chief or Councillor
- b) All Criminal Records Searches shall be disposed of as per Part 4(9a).

2. Financial Arrears:

- a) No nominee shall be eligible to be a candidate for the office of Chief or Councillor if in financial arrears over and above one dollar (\$1.00) with the UNB and entities.
- b) If a nominee’s financial affairs to the Upper Nicola Band and entities are in “good standing” for at least one (1) year immediately prior to the nomination date, he or she is eligible to be a candidate for the office of Chief or Councillor.
- c) A candidate who fails to pay all debts in full shall not be a candidate in the election and his or her name shall not appear on the election ballot.

3. Holding two offices is prohibited.

No person may hold the office of Chief and Councillor at the same time.

4. Documentation:

- a) A candidate, who fails to file all the mandatory documents in accordance with these Regulations, including the Candidates Code of Ethics and Criminal Record Search, shall not be a candidate in the election, and his or her name shall not appear on the election ballot.

5. Meeting with candidate:

If a candidate is disqualified, the Electoral Officer shall meet privately with the candidate and remove his or her name from the list of candidates.

## **PART 9 – MANNER IN WHICH VOTING SHALL BE CARRIED OUT**

1. The Electoral Officer shall have two (2) sets of ballots prepared listing:

- a) The names of the candidates for Chief in ascending alphabetical order; and
- b) The names of the candidates for Councillors in ascending alphabetical order.

2. Where two (2) or more candidates have the same legal name, the Electoral Officer shall add to the ballots such additional information as is necessary to distinguish between these candidates. The ballot may at the request of the candidate include a candidate's commonly used nickname or alias.
3. For the Advance Poll and the Election, the Electoral Officer must ensure each voting place is adequately supplied with:
  - a) Two (2) ballot boxes: one (1) for the Chief's ballots and one (1) for the Councillor's ballots;
  - b) A sufficient number of ballots and ballot boxes for the election;
  - c) A sufficient number of stamps for marking the "X" on the ballots;
  - d) A telephone to validate, confirm and inform the other polling station of voters who are casting their vote at a secondary voting place in order to prevent election irregularities;
  - e) One or more voting booths where the electors can mark their ballots in secrecy;
  - f) A sufficient number of voting instructions as may be required;
  - g) All other equipment necessary to establish and equip the voting locations; and
  - h) The amended Official Voters List.
4. The Electoral Officer shall provide a voting compartment in the polling station where electors can mark their ballots free from observation.
5. The Electoral Officer shall use his or her best efforts to ensure that there is an Official Nsyilxcen translator at each voting place to translate for those electors who have difficulty understanding or speaking English or who choose to access the Nsyilxcen translator.
6. The Electoral Officer may appoint security or an RCMP Constable to maintain order at the voting place.
7. Each candidate shall be entitled to not more than two (2) agents or scrutineers in a voting place at any one time.
  - a) The Electoral Officer shall give each agent or scrutineer a written statement of the Regulations that govern all persons in the voting place, including a copy of the Candidates Code of Ethics (Appendix E).
8. Verification of the Ballot Box:
  - a) The Electoral and/or Deputy Officer shall, immediately before the start of voting (Advance Poll and Election), open the ballot boxes and ask at least two (2) eligible electors, Part 5(3), to witness by their signatures on the seal that the ballot boxes are empty;
  - b) The Electoral and/or Deputy Officer shall then lock and properly seal the ballot boxes to prevent them from being opened without breaking the seal, and place them in plain view for the reception of the ballots; and
  - c) The seal shall not be broken and the ballot boxes must not be unlocked while voting is taking place.

## **PART 10 – THE VOTING PLACE**

1. The Electoral Officer shall establish at least one (1) polling station on each of Quilchena Indian Reserve #1 and Douglas Lake Indian Reserve #3.
2. When an elector arrives at the voting place, the Electoral Officer or Deputy Officer shall confirm that the elector's name is on the Official Voters List.

- a) The elector must provide valid identification, at least one of the following:
  - i. Indian Status Card;
  - ii. BC Identification;
  - iii. Social Insurance Number;
  - iv. BC Services Card; or
  - v. Valid Drivers' License.
- b) If the elector does not have valid identification, the Electors' Oath of Affirmation, Appendix G, must be signed and witnessed by a second party who can verify the electors' identification, the elector without identification, and one of the Electoral Officials.
- c) If the elector and/or witness refuse to sign the Oath of Affirmation, the person shall be disqualified from voting.

3. Voting will be by secret ballot.

4. No elector may vote by proxy or authorize another person to vote on his or her behalf.

5. The Electoral Officer or Deputy Officer will then:

- a. Demonstrate to the elector how to handle and return the ballot after voting;
- b. Initial a ballot and provide the elector with a ballot on which to register his or her vote; and
- c. When requested to do so, explain to a voter how to vote.

6. The Electoral Officer or Deputy Officer shall place a mark beside the electors' name and highlight the name of every voter who receives a ballot.

7. Each eligible elector shall:

- a) Be provided with a ballot after he or she has initialed in the place provided on the Official Voters List to indicate that he or she has received a ballot;
- b) Proceed to the voting booth;
- c) Mark his or her ballot by stamping an "X" mark opposite the name of the candidate(s) for whom he or she chooses to vote;
- d) Fold the ballot so as to conceal the names of the candidate(s) and any mark on the face of the ballot, but so as to expose the initial of the Electoral Officer or Deputy Officer;
- e) Deliver the ballots to the Electoral Officer or Deputy Officer; and
- f) The Electoral Officer and/or Deputy Officer shall then, without unfolding the ballot, verify his/her initials and deposit the ballot into the ballot box in the presence of the voter and everyone else in the voting place.

8. Secrecy of Voting:

Every person in attendance at a voting place or at the counting of the votes must maintain the secrecy of the voting.

- a) No person shall interfere or attempt to interfere with a voter, who is marking his or her ballot, or obtain or attempt to obtain information at the voting place about how a voter intends to vote or has voted;
- b) Distribute any election-related printed materials except such materials as may be distributed by the Electoral Officer or Deputy Officer for the purpose of conducting the election; or
- c) If the Electoral Officer deems a person to be in violation of Part 10(8a-b), the Electoral Officer, Deputy Officer(s), or the Constable present shall immediately remove that person from the voting place.

## 9. Voting Irregularities:

- a) The Electoral Official upon a request for assistance from any voter who cannot read, requires instructions in Nsyilxcen, or is otherwise disabled shall assist the elector in the voting booth and place the ballot into the ballot box for the elector;
  - i. The Electoral Officer and/or Deputy Officer(s) shall write in the Official Voters List opposite the name of the elector who received assistance, in the column for remarks, the fact that he or she marked the ballot as the request of the elector and the reason(s) for doing so.
- b) An elector who has inadvertently damaged his or her ballot to the extent that it cannot be used shall, upon returning it to the Electoral Officer, be given another ballot, and the Electoral Officer shall write the word "cancelled" on the spoiled ballot and preserve it for the vote count; or
- c) An elector who has received a ballot, and who leaves the voting place without delivering the ballot to the Electoral Officer, or refuses to vote, shall forfeit his or her right to vote in the Election, and the Electoral Officer shall make an entry in the Official Voters List in the column for remarks opposite the name of the person, to show that the person received the ballot and declined to vote, in which case the Electoral Official shall mark the word "declined" on the face of the ballot and preserve the ballot for the vote before the poll is closed.

## 10. Closing of the Polling Station:

Every elector who is inside the voting place at the time posted for closing the poll shall be entitled to vote before the poll is closed.

## 11. Postponement of meeting, election, or amendment vote:

At the discretion of the Electoral Officer during the Election Period any meeting, poll or vote may be postponed:

- a) In the event of a death in the community, to the day after the funeral or memorial service, or to another appropriate day, if the meeting, poll or vote would have conflicted with the funeral or memorial service;
- b) In the event of weather conditions that might pose a risk to electors, to the next day on which conditions are no longer considered creating an undue risk; and
- c) The Electoral Officer shall make every reasonable effort to ensure that the electors are advised of the change and new date.

## **PART 11A - ELECTRONIC VOTING CONTRACTOR RESPONSIBILITIES**

11A.1 The Electronic Voting Contractor will provide an Electronic Vote Management platform that shall provide the following:

- a) a secure SSL web-based platform for Eligible Voter registration, electronic voting and vote management along with data encryption provisions to secure and protect personal voter data and voting event activities;
- b) web based access and management of the voting event activities and voters list for the Ratification Officer;
- c) web based access and observation of the voting event activities and voters list for the Verifier;
- d) web based registration and voting support for Eligible Voters and technical support the Ratification and Verification Officers;
- e) multiple physical polling station vote management integrations, including the ability to enter vote result manually following the close of polls;

- f) mail in ballot vote management integrations, including the ability to enter vote result manually following the close of polls;
- g) a complete electronic audit record of each Eligible Voters interaction with the voting platform accessible by the Eligible Voter, Ratification Officer and Verifier; and
- h) a final voting event tabulation and finalization by the Ratification Officer, including the electronic posting of results.

11A.2 The Electronic Voting Platform will ensure that:

- (a) individual Electronic Voting results will remain secret at all times and individual voter choices shall be encrypted in such a way as to ensure voter anonymity;
- (b) once a Registered Voter has voted once by Electronic Voting using their personal credentials, they cannot vote again by Electronic Voting using the same credentials, and will be restricted from doing so again by the Electronic Voting Platform;
- (c) automated email notifications are generated in real-time to the voter, Verifier and Ratification Officer of all and any activity associated with a voter using the electronic voting platform, including:
  - i. Registration;
  - ii. confirmation of registration;
  - iii. delivery of electronic voting instructions;
  - iv. delivery of personal PIN (Personal Identification Number);
  - v. notification of vote recorded; and
  - vi. notification of the voting events final results.

11A.3 At a minimum, Electronic Voting procedures will exceed the threshold of verification and due diligence for Mail-in Ballots, and at minimum will require for each Eligible Voter:

- (a) confirmed registration status;
- (b) their date of birth;
- (c) their PIN (Personal Identification Number); and
- (d) their registry number (status card number).

11A.4 The Electronic Voting Contractor will, in a timely manner, provide by email to each Eligible Voter who has registered for Electronic Voting:

- (a) a website address which Eligible Voters can use to vote electronically;
- (b) a unique voter identification code PIN; and
- (c) instructions for voting electronically.

11A.5 The Electronic Voting Contractor will provide the Ratification Officer and Verifier with electronic notifications of:

- a) real-time updates of each electronic vote cast;
- b) a daily summary of voting event activities (at approximately 6pm); and,
- c) any unresolved Eligible Voter use or interface errors.

11A.6 The Electronic Voting Contractor will provide the Ratification Officer and Verifier with timely notification of any system or communication failures, interruptions or lost data.

11A.7 The Ratification Officer will provide the list of Eligible Voters, in the precise manner and format prescribed the Electronic Voting Contractor, on the last Thursday of January, prior to the first Regular Voting Day. The Electronic Voting Contractor will immediately upload the list on the Electronic Voting Platform.



- 11A.8 Following the close of all Polling locations at the time prescribed and once finalized by the Ratification Officer, the Electronic Voting Contractor will provide for a complete tabulation of all voting results:
- a) by location;
  - b) by type; and
  - c) a summary of overall voting results.

## **11B - ELECTRONIC VOTING**

11B.1 An Eligible Voter may cast a ballot by Electronic Voting.

11B.2 To cast an Electronic Vote, an Eligible Voter will:

- (a) enter the website address provided;
- (b) confirm their name, date of birth, and Band registry number;
- (c) be provided the opportunity to update their personal contact information;
- (d) confirm their desire to be engaged electronically;
- (e) confirm their eligibility to participate using Electronic Voting;
- (f) declare their intent to vote electronically;
- (g) confirm their Electronic Registration and intent to vote electronically by entering their PIN (Personal Identification Number), Date of Birth and Registration (Treaty/Status) number;
- (h) open the link to their electronic ballot sent by email and make their Electronic Vote by selecting between YES or NO; and
- (i) confirm their Electronic Vote.

11B.3 Immediately after an Electronic Vote is completed the electronic Voters List will be automatically be updated with the exact time, and date that the electronic vote was properly cast and recorded for the Eligible Voter.

11B.4 Immediately after an Electronic Vote is completed an email will be automatically generated by the Electronic Voting Platform that confirms the vote of the Eligible Voter was properly received and recorded to:

- a) the Eligible Voter;
- b) the Ratification Officer; and
- c) the Verifier.

11B.5 Upon receipt of the email notification, the Ratification Officer will:

- (a) confirm that the voter has registered in accordance with this Ratification Process and will record the registration;
- (b) confirm that no other Mail-in Voting Package, in-person, or electronic vote was received for the same voter; and
- (c) record the date when the electronic vote was received.

11B.6 Where the Ratification Officer is notified of an incomplete or failed electronic voter registration or vote, the Ratification Officer will contact the voter immediately with alternative voting solutions, including Mail-in Ballot or voting in person.

11B.7 Electronic Voting will end automatically at 8:00PM PST, and the Electronic Voting Platform will no longer be accessible by voters. Electronic Voting must be completed by this time.

- 11B.8 Immediately upon the closing of the poll on the last Regular Voting Day or, if applicable, the Additional Polling Day, the Electronic Voting Contractor will upon the voting event finalization by the Ratification Officer have automatically emailed to each electronic voted elector, the Verifier and Ratification Officer a link to a web page which summarizes the Electronic Voting results, and make the information accessible on the Electronic Voting Platform.

## **PART 12 – CLOSURE OF THE VOTING PLACE**

1. Immediately after the close of the polls, the Electoral Officer shall at the closure of the Advance Poll and the Election:
  - a) Ensure there are at least two (2) scrutineers available to witness the closure process;
  - b) Close the poll;
  - c) Lock the ballot boxes;
  - d) Seal the ballot boxes with an Official Statement of Seal witnessed by at least two (2) scrutineers;
  - e) Official Statement of Seal must be signed by the Electoral Officer and at least two (2) scrutineers;
  - f) The Electoral Officer and/or Deputy Officer shall take the sealed and locked ballot boxes to a secured room in one of the UNB service buildings to be held there until the close of the Custom Election. The Tribunal Committee and the Electoral Officer will determine the location for storing the ballot boxes; and
  - g) The ballot boxes will be stored until the counting of votes.

## **PART 13 – COUNTING OF VOTES**

1. The Electoral Officer shall have all of the ballot boxes delivered to the place where votes are to be counted.
2. The opening of the ballot boxes must be witnessed by any candidate, scrutineer or elector who is present.
3. The Electoral Officer or Deputy Officer shall supply the other Deputy Electoral Officers with an UNB Custom Election Tally Sheet to keep a tally of the valid and rejected votes for official records.
4. The Electoral Officer and the third-party verifier shall then examine and announce the validity of all ballots and reject any ballots that:
  - a. Have not been supplied by the Electoral Officer and/or Deputy Officer;
  - b. Have votes marked which surpass the number of candidates to be elected;
  - c. Do not have the initials of the Electoral Officer or a Deputy Officer;
  - d. Do not give clear indication of the elector's intention;
  - e. Upon which anything appears by which the voter can be identified;
  - f. The Electoral Officer in his or her discretion advises or decides; and
  - g. Write a note on each ballot which outlines the reason for rejection.
5. The Electoral Officer shall call of the names of the candidates for whom the votes were cast on all valid ballots.
6. An eligible elector may request a recount based on the following:
  - a) Official tally results are not the same and equal; or
  - b) Community member tally results are not consistent with the official tally results.

7. When the votes have been counted, the Electoral Officer and the third-party verifier shall complete and sign:
  - a) An official Custom Tally Sheet, Appendix H;
  - b) The time of Public Declaration must be accurately noted in case of an appeal;
  - c) The Custom Election Results, Appendix F; and
  - d) The Deputies, the third-party verifier, along with the Candidates who are present, shall sign the Custom Tally Sheet, Appendix H, and the Election Results, Appendix F, as witness.
8. The Electoral Officer or Deputy Officer shall take a note of any objection made by any candidate or scrutineer
9. to any of the ballots found in the ballot box and decide any questions arising out of the objection.
10. The Electoral Officer or Deputy Officer shall number objections to ballots raised pursuant to the preceding section and place a corresponding number on the back of the ballot paper with the word “allowed” or “disallowed”, as the case may be, with his or her initials.

### **PART 14 – EQUAL NUMBER OF VOTES**

1. Where two (2) or more candidates have an equal number of votes, it shall only be necessary to break the tie where the tie is at first place for Chief or the last Councillor to be elected.
2. When it is necessary to break a tie, the Electoral Officer shall re-count the valid votes for the tied candidates only. If there is still a tie after the recount, then:
  - a) For Chief position, the Electoral Officer shall call for a Special Election, Part 19; and
  - b) For the last Councillor position after the official count has been declared, the eligible electors present will cast another vote to break the tie for the Councillor position. The electors present shall by majority vote determine whether the vote to break the tie will be by show of hands or by ballot.
3. This will be supervised by the Electoral Officer and third-party verifier.

### **PART 15 – PUBLIC DECLARATION**

1. Where the office of Chief and/or all offices of Councillors are filled by acclamation and/or election, the Electoral Officer shall:
  - a) Post, on all public buildings UNB service buildings at the Douglas Lake reserve, Quilchena Reserve and the Scw'exmx Tribal Association building a notice that sets out the council position and the names of the candidates who have been acclaimed; and
  - b) Publish the notice in the local newspaper with the largest circulation than an election for the acclaimed council positions will not be held.
2. Immediately after the completion of the counting of the valid votes, the Electoral Officer shall publicly declare:
  - a) The total votes for each Chief and Council candidate; and
  - b) The Chief and Council candidates having the highest number of votes and declare their success to serve the required term as Chief or Council of the Upper Nicola Band.

### **PART 16 – HANDLING OF ELECTION MATERIALS**

1. The Electoral Officer shall deliver in a sealed ballot box to the Tribunal Committee for safekeeping:
  - a) All ballots; and
  - b) Journals and all materials gathered throughout the election process.

2. The Tribunal Committee shall keep the Official Custom Election Results, the Electoral Officials official journals, and all materials pertaining to the election.
3. Election Appeal:  
Only the Tribunal Committee shall open the Records Box and the sealed ballot box containing all of the ballots and election materials before eight (8) weeks after the date of the election has passed and only at a meeting of the Tribunal Committee duly convened to consider an election appeal.

## **PART 17 – ELECTION APPEALS**

### 1. Timing and submission:

An appeal must be submitted by registered mail or hand delivered to any Tribunal Committee member, together with a non-refundable fee of \$100.00 by cash or certified cheque:

- a) Within forty-eight (48) hours after a Public Declaration (Part 15); and
- b) In accordance with Part 21(2).

### 2. Grounds for Appeals:

An appeal must sufficiently outline one or more of the following:

- a) A person running as a candidate in the election was ineligible to be a candidate as defined in Part 7;
- b) A person declared elected but was not qualified to be a candidate;
- c) That there was a violation of this code in the conduct of the election that might have affected the result of the election; or
- d) There was corrupt or fraudulent practice in connection with the election.

### 3. Procedure:

Upon receipt of an election appeal, the Tribunal Committee:

- a) In the case where the appeal is not submitted in accordance with Part 16(1-2), inform the appellant(s) in writing that the appeal will not receive further consideration; and
- b) May, if the material that has been filed is not adequate for deciding the validity of the appeal, conduct further investigation into the matter that Tribunal Committee deems necessary, in any manner that Tribunal Committee deems appropriate.

### 4. Investigation:

If the Tribunal Committee is not able to reach a decision, based on the details of the appeal and any information provided in response, the Tribunal Committee may:

- a) Unseal the records box and review any material which may help reach a decision;
- b) Call for more evidence from the parties; and
- c) Designate a third party to conduct an investigation into the appeal. The third-party person shall:
  - i. Submit a detailed report of the investigation to the Tribunal Committee within seven (7) days of the date on which the Tribunal Committee notified the candidates and the Electoral Officer of the appeal.

5. Decision:

After a review of the evidence, the Tribunal Committee shall rule:

- a) That the evidence presented was sufficient or not sufficiently substantive to determine that:
- i. A violation has taken place that might have affected the result of the election;
  - ii. The person declared elected was not qualified to be a candidate; or
  - iii. There was a corrupt or fraudulent practice in relation to the election that might have affected its results and dismiss the appeal or uphold the appeal by setting aside the election of one or more council members.

b) The Tribunal Committee's ruling on an appeal shall be final and not subject to appeal. If a person believes the Tribunal Committee has not dealt with the matter in a fair, open, and timely manner, that person has the option of resorting to the courts.

6. Where the Tribunal Committee has not ruled on an appeal before the new Chief and Council is scheduled to take office, the incumbent Chief and Council shall remain in office by a motion at a Special Band Meeting until the Tribunal Committee announces its ruling.
7. In the event that an issue should arise that these Regulations is unable to address or resolve, the Tribunal Committee shall be the final arbiter.

### **PART 18 – CORRUPT PRACTICE**

1. When the Tribunal Committee rules that there was corrupt practice within seven (7) days notice of the counting of votes, the Committee must call an UNB General Band Meeting and at the meeting provide the members with a full report of the irregularities and findings related to the election.
2. When the Tribunal committee deems that an election has an election irregularity, the Tribunal Committee has the authority to:
  - a) Void the election of a Chief and Councillor;
  - b) Call for the vacancy to be filled by way of a special election; and
  - c) Shall inform the candidate who had the next highest number of votes after the last candidate to be elected to fill the vacant Councillor position.

### **PART 19 – SPECIAL ELECTIONS**

1. In the event of a special election or a by election the same process as General Elections will apply. It must be clearly stated it is a Special Election.
2. At a General Band Meeting, the members will decide the Election Schedule and Timelines.
3. No sitting council member is eligible to be a candidate in a by election. If a council member wishes to be a candidate in a by-election, he or she must resign the current council position prior to the nomination meeting for the by-election.
  - a) If the Chief wishes to be a Councillor, he or she must resign as Chief.
  - b) If a Councillor wishes to be a Chief, he or she must resign as Councillor.

## PART 20 – TERM OF OFFICE

1. The term of office for Chief and Council are subject to Part 20(2) & Part 20(3) of these Regulations.
2. The term elected Chief and Council will be three (3) years.
3. The term of office for a Chief and Councillors elected under these Regulations shall:
  - a) Commence at 12:01am PST on the Monday following the Election and subject to any vacancy arising under this Custom-Election Regulations; and
  - b) Expire at 12:00am (midnight) PST on the Sunday following the election of Chief.
4. The Upper Nicola Band Chief and Council Oath of Office must be signed prior to taking office.

## PART 21 – VACANCIES

### 1. Removal from office:

The Chief or a Councillor may be removed and becomes vacant when the person holding that office:

- a) Violates these Regulations or the Oath of Office, Appendix J;
- b) Is charged and/or convicted of an offence under the *Criminal Code of Canada*, Appendix I will apply;
- c) Dies, or resigns from Council;
- d) Is no longer able to fulfill his or her roles and duties due to ill health;
- e) Not be in or declared to be in personal bankruptcy under the *Bankruptcy Act* (Canada) during the Term of Office;
- f) Suspends or defaults payments with the Upper Nicola Band, Part 8(2);
- g) Fails to attend three (3) consecutive duly called General Band Meetings or fails to attend three (3) consecutive General Chief and Council Meetings; or
- h) Fails to attend three (3) consecutive duly called meetings of the Council, including General Band Meetings, or assigned committee(s) or portfolio designation, if applicable.

### 2. Procedure:

Proceedings to declare a person ineligible to continue to hold the office of Chief or Councillor shall be initiated by:

- a) Any elector submitting to the Tribunal Committee a petition on which shall appear:
  - i. The ground pursuant to the proceeding section on which removal of a Chief or Councillor is sought;
  - ii. The evidence in support of the petition;
  - iii. The signature of the petitioner;
  - iv. The signature of at least 25% of all eligible electors of the band in support of the petition; and
  - v. A non-refundable filing fee of \$100.00.
- b) A majority of council members passing a band council resolution and submitting a petition to the Tribunal Committee on which shall appear:
  - i. The ground pursuant to the preceding section on which removal of a Chief or Councillor is sought;
  - ii. The evidence in support of the resolution; or
  - iii. The signatures of all Council members who voted for the removal.

- c) On receipt of a petition, the Tribunal Committee shall verify that the petition complies with Part 21(1). If the petition does not comply, the Tribunal Committee shall so notify the petitioner(s).
- d) In a case where the petition complies with Part 21(1), the Tribunal Committee shall:
- i. Determine that the grounds put forth in the petition are either frivolous in nature or unsubstantiated, and dismiss the petition; or
  - ii. Schedule a review hearing, which shall take place within thirty (30) days from the date on which the petition was submitted to the Committee.
- e) In a case where the petition has been dismissed under the preceding section, the Tribunal Committee shall so inform the petitioner(s) in writing and provide the reasoning(s).
- e) In a case where the Tribunal Committee schedules a hearing under Part 20(1), the Committee shall send a written notice of the hearing by registered mail to the Chief and Council, the petitioner(s), and the Chief or Council member who is subject of the petition for removal.
- g) The written notice described in the preceding section shall set out:
- i. The nature of the hearing and all related particulars;
  - ii. The date, time and location of the hearing; and
  - iii. A statement that the petitioner(s), and member of the Council or the Council member who is subject of the petition for removal may, at the hearing, make a presentation to the Committee, which may include the presentation of documents and testimony by witness.
- h) The Tribunal Committee shall conduct a hearing at the time and place set out in the notice provided under Part 21 (2g).
- i) Within five (5) days of the day on which the hearing under the preceding section is held, the Tribunal Committee shall rule:
- i. That the petition shall be allowed to stand, and declare the council position of the member of Council who is the subject of the petition to be vacant; or
  - ii. That the position be dismissed.
- j) The Tribunal Committee shall send, by registered mail, a written notice of the ruling made under the preceding i) section to Council, the petitioner(s) and the Council member who is the subject of the petition for removal.
- k) The decision of the Tribunal Committee made under Part 21(2i) is final and binding upon all parties.
- l) If the council position is declared vacant under Part 21(2i), the Chief or Councillor removed from office shall be disqualified from being a candidate for six (6) years commencing on the date of the Committee's ruling.
3. In case of a removal from office or a vacancy of the Council position with:
- a) Six or less months until the next election – the general membership at the earliest General Band Meeting may provide a motion to leave the position(s) vacant;
  - b) More than six months until the next election – The Tribunal Committee shall review the record of the votes each candidate received in the last election, and shall invite the candidate who had the next highest number of votes after the last candidate to be elected, to fill the vacant Councillor position for only the remaining term of office for the position in question; and

- c) More than one (1) year before the date of the next scheduled Election, the general membership at the earliest GBM shall provide a motion to call for a Special Election and shall be held in accordance with these Regulations to fill the vacancy.

4. Any vacancies or resignation by Chief or Councillor(s) are not eligible to run for office for three (3) fiscal years. After which time that potential candidate has the opportunity to meet with the Tribunal Committee for a hearing on eligibility to run for a Chief or Council position.

## **PART 22 – ADMINISTRATION OF REGULATIONS**

1. The UNB may, by General Band Meetings and motions, issue instructions, as it deems necessary from time to time, for the effective administration of these regulations.
2. Any amendments that are required for the purposes of these regulations shall be administered upon the direction of the UNB at a General Band Meeting and shall be governed by the Chief and Council.
3. Only the Tribunal Committee upon the direction of the UNB shall make amendments to these regulations.
4. Any person who is found to be in violation of the provisions of these regulations is subject to the penalties.

## **PART 23 – AMENDMENTS**

1. The UNB Custom Election Regulations may be amended by way of the following steps:
  - a) A submission by an eligible elector is hand delivered or by registered mail to the Chief, Council member, or a member of the Tribunal Committee for review;
  - b) Persons who propose the amendments must be eligible, Part 5(3); and
  - c) Decision made from a duly convened General Band Meeting and supported by the majority of eligible electors present.

2. Public notification:

All proposed amendments shall be discussed at a duly convened General Band Meeting.

- a) The proposed amendments shall be posted for thirty (30) days in one or more conspicuous places on each of the reservations where there are residences;
- b) The membership shall vote on the proposed amendments at a General Band Meeting or a Special Band Meeting; and
- c) The vote shall be determined by the majority of the votes cast by the Electors.

3. Adoption of amendment(s):

The amendments adopted at the General Band Meeting shall be printed for distribution.

- a) All previous copies of the Custom Election Regulations shall be destroyed, except for two (2) original copies for the records; one (1) to be kept at the Band Administration Office and one (1) to be kept by the Tribunal Committee; and
- b) The Chief and Councillors shall sign the amended UNB Custom Election Regulations and submit a copy to:
  - i. The minister of Indian Affairs;
  - ii. The Director General of INAC B.C. Regional Office; and
  - iii. Upper Nicola Band Administration and Election Files.



Official Amendments Authorized on this day: February 3, 2020

By the presiding Chief and Council pursuant to the Custom Election Regulations Part 23.

Chief Harvey McLeod



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Councillor Brian Holmes



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Councillor Dennis MacDonald

---

Councillor David Lindley



---

Councillor Wallace Michel



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Councillor Clarine Paul

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## Appendix 'A' Tribunal Committee Roles and Responsibilities

The Tribunal Committee should not be elected just before an election. Rather, it should be a permanent stable, and well respected institution, with the knowledge and experience needed to guide the Upper Nicola Band (UNB) through the electoral proceed and the transfer of authority from the out-going Chief and Council to the new Chief and Council.

### **Selection Process:**

Elected by the electors of the Upper Nicola Band members.

### **Term of Office:**

Forty-four (44) month term- so that overlaps the Term of Office (Part 19) of the Chief and Council

### **Composition:**

At least five (5) UNB members that fit the following criteria:

1. At least one (1) Elder (65+ years);
2. At least one (1) Woman;
3. At least one (1) Man;
4. At least one (1) UNB member with a basic understanding of Syilx Language; and possibly
5. As an option, at least one (1) person younger than twenty-five (25) years of age

### **Roles and Responsibilities:**

The Tribunal Committee must:

1. UNB Custom Election Regulations and the electoral process:
  - a) Conduct an election in strict compliance with the UNB Custom Election Regulations and with the highest level of integrity and professionalism:
    - i) Must agree, by signature, to uphold the office in accordance with these Regulations;
  - b) Supervise the UNB elections, including Special Elections;
  - c) Remain neutral and professional in the conduct of the duties of office:
    - i) Refrain from providing any preferential treatment or expressing support for or opposition to any candidate;
    - ii) Not accept anything of value (including but not limited to money, offers of employment, gifts, travel) in exchange for professional treatment or access to public official or non-public information;
    - iii) Not to discriminate against anyone because of race, religion, sex, age or disability;
    - iv) Use public office facilities to fulfill terms of office only, and not for personal or partisan benefit;
    - v) Not pressure or intimidate other officials or personnel to favor a certain candidate; and
    - vi) Avoid conflicts of interest, by abstaining from decision making where personal or private interest in the matter at issue.
2. Electoral Officer and the Deputy Officers:
  - a) Recruitment – The Tribunal Committee issues a call for expressions of interest for an Electoral Officer and Deputy Electoral Officers, Part 4(1b):
    - i) In the event that the Electoral Officer cannot fulfill the duties, an existing Deputy Electoral Officer shall be appointed by the Tribunal Committee to undertake the duties of the Electoral Officer. In the

absence of an existing Deputy Electoral Officer, the Tribunal Committee shall appoint a new Electoral Officer.

b) Training – Trains, tests and appoints a number of perspective Electoral Officers well before the next scheduled election.

c) In addition to training based on the Regulations, training for request for assistance is required;

d) Conduct an awareness and leadership workshop for perspective candidates before the nomination meeting;

e) If an Electoral Officer has not been appointed within the time set out in Part 4(1b) the Electoral Officer shall be appointed by the Director of Operations.

3. Voting Procedure :

a) Assist, supervise and approve the development of the Voters List including the Official Voters List.

b) Documentation:

i) Maintain a journal to document the election process, including Appeals and Special Elections;

ii) Provide each of the Electoral Officer with a journal;

iii) Ensure the safety and confidentiality of the documents and voter information; and

iv) Safely store all necessary documents.

c) Determine and take the necessary action to resolve:

i) Election Appeals; and

ii) Petitions for the removal of a Council Member from office.

---

As a member of the Tribunal Committee, Upper Nicola Band Custom Election Regulations, I,

\_\_\_\_\_, have read, understand, and agree to abide by the upper Nicola Band Custom Election Regulations, Tribunal Committee Roles and Responsibilities, and the Electoral Officer Roles and Responsibilities.

\_\_\_\_\_  
Print Name- Tribunal Committee member

\_\_\_\_\_  
Signature of the Tribunal Committee Member

\_\_\_\_\_  
Print Name- Witness

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

\_\_\_\_\_  
Date

## Appendix 'B' Electoral Officer Roles and Responsibilities

The Electoral Officer position is the most important position in the electoral process; therefore, the Electoral Officer must be perceived to be beyond reproach and above UNB politics in order for the members to have confidence in the electoral process.

The process for selecting the Electoral Officer and Deputy Electoral Officer must lead to a greater awareness of and more respect for the electoral process. It must also provide an early reminder of an impending election; thereby, encouraging more UNB members to get involved in the political process.

### Selection Process:

1. The Tribunal Committee selects and trains Electoral Officers, Appendix A
2. Before the nomination meeting the Electoral Officer must take a refresher course on the UNB Custom Election Regulations. The Tribunal Committee runs the refresher course and invites perspective candidates and scrutineers to attend.

### Term of Office:

For the entire electoral process: from the date of appointment until the date on which the new Chief and Council takes office- which includes the election appeal period.

### Roles and Responsibilities:

The Electoral Officer is accountable to the Tribunal Committee. The Electoral Officer must:

1. UNB Custom Election Regulations and the electoral process:
  - a) Conduct an election in strict compliance with the UNB Custom Election Regulations, and with the highest level of integrity and professionalism.
    - i) Must agree, by signature, to uphold the office in accordance with these Regulations
    - ii) Have the Deputy agree, by signature, to uphold the office accordance with these Regulations
  - b) Remain neutral and professional in the conduct of the duties of office:
    - i) Refrain from providing any preferential treatment or expressing support for or opposition to any candidate;
    - ii) Not accept anything of value (Including but not limited to money , offers of employment, gift, travel) in exchange for preferential treatment or access to public official or non-public information;
    - iii) Not discriminate against anyone because of race, religion, sex, age, or disability;
    - iv) Use public office facilities to fulfill the terms of office only, and not for personal or partisan benefit;
    - v) Not pressure or intimidate other officials or personnel to favour a certain candidate; and
    - vi) Avoid conflicts of interest, or the appearance of conflicts of interest, by abstaining from decision making where a personal or private interest in the matter at issue.
2. Deputy Officers:
  - a) the Electoral Officer shall supervise the Deputy Officers.
3. Voting procedure:
  - a) Prepare the Voter's List, including the Official Voter's List, conduct the Nomination Meeting, oversee the voting and count the votes;

- b) Documentation:
  - i) Maintain a Journal to document the total election process, including decisions, Appeals and Special Elections;
  - ii) Ensure the safety and confidentiality of the documents and elector information;
  - iii) safely store all necessary documents; and
  - iv) Proceed with handling of Election Materials, Part 16.
- c) Identification:
  - i) Wear name tags showing their name and title during the Advanced poll, the Election, and the Counting of the Votes;
- d) Appeals:
  - i) Assist with the resolution of election appeals;
- e) Security:
  - i) Maintain order and ensure security at all times during the entire election process.

As the  Electoral Officer or  Deputy Officer of the Upper Nicola Band,  
 I, \_\_\_\_\_, have read, understand, and agree to abide by the  
 Upper Nicola Band Custom Election Regulations, and the Electoral Officer Roles and Responsibilities.

\_\_\_\_\_  
 Print Name- Electoral Officer or Deputy Officer

\_\_\_\_\_  
 Signature of the Electoral Officer or Deputy Officer

\_\_\_\_\_  
 Print Name- Tribunal Committee Witness

\_\_\_\_\_  
 Signature of the Tribunal Committee Witness

\_\_\_\_\_  
 Date

## Appendix 'C' Official Voters List

### Part 5(3) Eligibility of Voters:

To be eligible to vote for a candidate for Chief and Council of the Band, an elector must meet the following criteria:

- a) A member of the Upper Nicola Band who is eighteen (18) years of age on the day of the Nomination Meeting and has not otherwise been disqualified;
- b) A disqualified member is a person who is not eligible to vote for the following reasons:
  - i. Not a Band Member;
  - ii. Incarcerated at the time of the Custom Election; or
  - iii. At the Voting Place, left with the ballot or refused to vote.

Part 5(5) The Official Voters List (Appendix C) must be prepared by the Electoral Officer. The following guidelines apply:

- a) By elector's surname, listed in ascending alphabetical order;
- b) Posted Official Voters List will include only the voter's registered name. The date of birth and band membership number must not be posted; and
- c) Posted in all public Upper Nicola Band service buildings at Douglas Lake Reserve, Quilchena Reserve and the Secw'xmx Tribal Association Building.



## Appendix 'D' Nomination Form

### Part 5(3) Pre-Nomination:

#### Eligibility of Electors:

To be eligible to nominate or vote for a candidate for Chief and Councillor of the Band, an elector must meet the following criteria:

- a) A member of the Upper Nicola Band who is eighteen (18) years of age on the day of the Nomination Meeting and has not otherwise been disqualified;
- b) A disqualified member is a person who is not eligible to vote for the following reasons:
  - i. Not a band member;
  - ii. Incarcerated at the time of the Custom Elections;
  - iii. At the voting place, left with the ballot or refused to vote.

### Part 7 Eligibility for Nomination for Chief or Councillor:

#### 1. A person may be nominated for the office for Chief or Councillor provided that:

- a) Part 5(3) Eligibility of Voters requirements are met;
- b) The candidate is not an undischarged bankrupt;
- c) The Electoral Officer and the Deputy Officers are prohibited from nominating or seconding the nomination of a candidate;
- d) The candidate is not disqualified, Part 8; and
- e) The candidate has been a registered UNB member for two (2) years prior to the Nomination Meeting.

#### 2. A member of the Tribunal Committee or members of the Electoral Officials forfeit their right to nominate or to be nominated, to be a candidate, and to run for the Office of the Chief and/or Council.

#### 3. Employee and/or contractor:

- a) No candidate shall be ineligible for nomination by reason only of his or her employment with the Upper Nicola Band or by reason of contractual relations then ongoing with the Upper Nicola Band;
- b) In the event that the candidate is elected to the office of councillor, he or she shall have forty-eight (48) hours within which to decide whether or not to take the office, by notice to the Electoral Officer;
- c) In the event that the candidate declines to accept his or her election, the Electoral Officer shall declare the next most successful candidate, amongst all those who ran for councillor;
- d) In the event that the candidate elects to take office, as selected, then:
  - i. He or she shall resign his or her employment with the Band or with the Band owned entity, upon the first to occur of the earliest reasonable time, or the Band or Band owned entity successfully finding a suitable replacement;
  - ii. He or she shall apply for, and the Band shall grant or cause to be granted to him or her, a leave of absence from employment with the Band or Band owned entity for the period commencing upon the earliest reasonable time for commencing the leave, and finding a suitable replacement, and ending upon the first anniversary following the councillor's departure as an elected official;
  - iii. He or she shall finish up and complete all contracts then in place with the Band or Band owned entity, and shall not engage in any further contracts with the Band during the term of election; and



- iv. He or she shall finish and complete any and all contracts that he or she may have with the contractors supplying goods or services to the Band, and shall not engage in any further contracts with any person supplying goods or services to the Band during the term.

## Part 8 – Disqualification

### 1. Criminal Record Search:

The nominees must submit the original CONSENT FOR DISCLOSURE OF CRIMINAL RECORD INFORMATION. (Merritt detachment) by personal delivery or by registered mail to the Electoral Officer, Part 4(3b).

- a) The Electoral Officer shall review the candidates Criminal Search and based on the guidelines outlined in Appendix I determine the candidate's eligibility to run for the office of Chief or Councillor; and
- b) All Criminal Record Searches shall be disposed of as per Part 4(9a).

### 2. Financial Arrears:

- a) No nominee shall be eligible to be a candidate for the office of Chief or Councillor if in financial arrears over and above one dollar (\$1.00) with the UNB and entities;
- b) If a nominee's financial affairs to the Upper Nicola Band and entities are in "good standing" for at least one (1) year immediately prior to the nomination date, he or she is eligible to be a candidate for the office of Chief or Councillor; and
- c) A candidate who fails to pay all debts in full shall not be a candidate in the election and his or her name shall not appear on the election ballot.

### 3. Holding two offices prohibited.

No person may hold the office of Chief and Councillor at the same time.

### 4. Documentation:

- a) A candidate, who fails to file all the mandatory documents in accordance with these regulations, including the Candidates Code of Ethics and the Criminal Record Search, shall not be a candidate in the Election, and his or her name shall not appear on the election ballot.

### 5. Meeting with candidate:

If a candidate is disqualified, the Electoral Officer shall meet privately with the candidate and inform the candidate of the disqualification and the reasons for the decision.

- a) The Electoral Officer shall immediately announce the disqualification of the candidate and remove his or her name from the list of candidates.

**CANDIDATE INFORMATION**

Name:	Band Number:
Moved by:	Signature:
Seconded by:	Signature:
Electors (3):	
Name:	Signature:
Name:	Signature:
Name:	Signature:

\_\_\_\_\_  
Electoral Officer – Print name

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

\_\_\_\_\_  
Date

Revision Date:  
Prior Amendments:

February 3, 2020  
December 21, 2010  
September 29, 2005  
November 8, 2007

## Appendix 'E' Candidates' Code of Ethics

**As a candidate, I agree to:**

1. Uphold and abide by the UNB Custom Election Regulations;
2. Remain professional and focus on the issues;
3. Not provide or promise anything of value (including but not limited to money, offers of employment, gifts, travel) in exchange for a vote;
4. Not discriminate against anyone because of race, religion, sex, age, or disability;
5. Use public office facilities to fulfill the terms of office only, and not for unwarranted personal or partisan benefit;
6. Not pressure or intimidate others for favouritism during the election; and
7. Not campaign or place signage within the polling stations or within one hundred (100) metres of polling station(s).

**I understand that:**

1. Every person is guilty of an offence who, during an election period, directly or indirectly offers a bribe to influence an elector to vote or refrain from voting or to vote or refrain from voting for a particular candidate, or during an election period, accepts or agrees to accept a bribe that is offered.
2. Every person is guilty of an offence who, by intimidation or duress, compels a person to vote or refrain from voting or to vote or refrain from voting for a particular candidate in an election, or by any pretence or contrivance, includes a person to vote or refrain from voting or to vote or refrain from voting for a particular candidate in an election.

**As a candidate for  Chief or  Councillor of the Upper Nicola Band,**

**I, \_\_\_\_\_, understand and agree to abide by the Upper Nicola Band Custom Election Regulations.**

**I, \_\_\_\_\_, agree to have all, if any, financial arrears disclosed to the Electoral Officer for eligibility reasons only.**

**In addition, I will do my utmost to encourage, to advise and to expect my scrutineers and/or agents to conduct themselves in a manner conducive with the UNB Custom Election Regulations.**

\_\_\_\_\_  
**Print the name of the Candidate**

\_\_\_\_\_  
**Signature of the Candidate**

\_\_\_\_\_  
**Print the name of the Electoral Officer or Deputy Officer**

\_\_\_\_\_  
**Signature of the Electoral Officer or Deputy Officer**

\_\_\_\_\_  
**Date**

Revision Date:  
Prior Amendments:

February 3, 2020  
December 21, 2010  
September 29, 2005  
November 8, 2007

## Appendix 'F' Custom Election Results

### Candidates for Chief

Last Name	First Name	Total Votes	Candidates Signature, if present at the Counting of the Votes	If applicable, by Acclamation Part 6(4)
1				
2				
3				
4				
5				

### Candidates for Council

Last Name	First Name	Total Votes	Candidates Signature, if present at the Counting of the Votes	If applicable, by Acclamation Part 6(4)
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				

Revision Date:  
Prior Amendments:

February 3, 2020  
December 21, 2010  
September 29, 2005  
November 8, 2007

<b>Total number of ballots rejected, in accordance with Part 13(4):</b>	
a) Have not been supplied by the Electoral Officer and/or Deputy	
b) Have votes marked which surpass the number of candidates to be elected	
c) Do not have the initials of the Electoral Officer or a Deputy Officer	
d) Do not give clear indication of the elector's intention	
e) Upon which anything appears by which the voter can be identified	

**WITNESSES:**

\_\_\_\_\_  
Print Name of the Electoral Officer

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

\_\_\_\_\_  
Print Name of the Deputy Officer

\_\_\_\_\_  
Signature of the Deputy Officer

\_\_\_\_\_  
Print Name of the Deputy Officer

\_\_\_\_\_  
Signature of the Deputy Officer

\_\_\_\_\_  
Print Name of the Deputy Officer

\_\_\_\_\_  
Signature of the Deputy Officer

\_\_\_\_\_  
Date

## Appendix 'G' Electors' Oath of Affirmation

### PART 10 THE VOTING PLACE

2. When an elector arrives at the Voting Place, the Electoral Officer or Deputy shall confirm that the elector's name is on the Official Votes List.

a) The elector must provide valid identification, at least one, of the following:

- i. Indian Status Card
- ii. BC Identification
- iii. Social Insurance Number
- iv. Care Card
- v. Valid Drivers License;

b) If the elector does not have valid identification, the Electors' Oath of Affirmation must be signed and witnessed by a second party who can verify the elector's identification, the elector without identification, and one of the Electoral Officials; and

c) If the elector and/or witness refuse to sign the Oath of Affirmation, the person shall be disqualified from voting.

As an eligible voter of the Upper Nicola Band, I _____, do solemnly declare and affirm that:		
_____	_____	_____
Name	Date of Birth	Indian Status Number
Qualifies as an Eligible Voter, Part 5(3) of the Upper Nicola Band Custom Election Regulations.		

Print

Name of Voter

Signature of voter

\_\_\_\_\_

\_\_\_\_\_

Print Name of Second Party

Signature of Second Party

\_\_\_\_\_

\_\_\_\_\_

Print Name of the Electoral Officer

Signature of Electoral Officer

\_\_\_\_\_

\_\_\_\_\_

Date

\_\_\_\_\_

## Appendix 'H' Custom Election Tally Sheet

Name or Initial																				
10																				
20																				
30																				
40																				
50																				
60																				
70																				
80																				
90																				
100																				
110																				
120																				
130																				
140																				
150																				
TOTAL																				

## Appendix 'I Criminal Record Search Results Guidelines

All Criminal Record Search Results are to be held in the strictest of confidence using the “**only as necessary**” protocol in sharing and discussing the information in determining eligibility of the candidates for Office of Chief and/or Council for the Upper Nicola Band.

Procedure:

1. Candidate is provided with a copy of the Royal Canadian Mounted Police **CONSENT FOR DISCLOSURE OF CRIMINAL RECORD INFORMATION** form.
  - a) Parts 1,3, and 4 to be completed by the candidate;
  - b) Part 2 to be completed by the Electoral Officer;
  - c) Category of Information for Disclosure: *No. 3 only*;
  - d) The candidate is required to deliver the form to the RCMP and pick up the completed form from the RCMP; and
  - e) The *original* CONSENT form, completed by the RCMP, must be submitted to the Electoral Officer, Part 4(3c).
2. If a Criminal Record Search results in a:
  - a) **None located**: no further criminal record investigation will follow.
  - b) “**\*\*\*May or may not exist\*\*\***”: The following procedures apply:
    - i. Meet with the applicable candidate to discuss the reason of the results;
    - ii. Contact the RCMP to validate the charges and/or convictions;
    - iii. The charges and/or convictions will be reviewed based on:
      - 1) The charges (Summary Charges, Indictable Charges, or Dual Charges);
      - 2) Relevance;
      - 3) Recency;
      - 4) Severity;
      - 5) Perceived threat to community members, especially the youth and the elders; and
      - 6) Perceived threat to the Upper Nicola Band administration;
  - c) If the convictions and/or charges arose from “the assertion of First Nations’ rights or title”, the conviction will be reviewed based on Procedure 4(a) of the CRC Guidelines.



All Criminal Record Search Results are to be held in the strictest of confidence using the “**only as necessary**” protocol in sharing and discussing the information in determining eligibility of the candidates for Office of Chief and/or Council for the Upper Nicola Band.

Procedure:

1. Candidate is provided with a copy of the Royal Canadian Mounted Police **CONSENT FOR DISCLOSURE OF CRIMINAL RECORD INFORMATION** form.

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- b) Part 2 to be completed by the Electoral Officer;
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- a) **None located**: no further criminal record investigation will follow.
- b) “\*\*May or may not exist\*\*”: The following procedures apply:
  - i. Meet with the applicable candidate to discuss the reason of the results;
  - ii. Contact the RCMP to validate the charges and/or convictions;
  - iii. The charges and/or convictions will be reviewed based on:
    - 1) The charges (Summary Charges, Indictable Charges, or Dual Charges);
    - 2) Relevance;
    - 3) Recency;
    - 4) Severity;
    - 5) Perceived threat to community members, especially the youth and the elders; and
    - 6) Perceived threat to the Upper Nicola Band administration;
- c) If the convictions and/or charges arose from “the assertion of First Nations’ rights or title”, the conviction will be reviewed based on Procedure 4(a) of the CRC Guidelines.

## Appendix 'J' UNB Chief and Council Oath of Office

The Oath of Office states general rules for the Chief and Council to maintain high standards of professional service and conduct. This Oath binds the Council to perform their duties conscientiously and in good faith at all times. This Oath informs the public of the standards of ethical conduct for which the Council are responsible.

### THE PRINCIPLES OF THE UPPER NICOLA BAND AND CHIEF AND COUNCIL OATH OF OFFICE:

1. **Will act with INTEGRITY:**
  - a) Speak and act towards others with respect and dignity and deal judiciously with others, always mindful of their individual rights and sensibilities; co-operate and treat others with respect, honesty, and fairness, and recognize and accept the rights of others to hold values and beliefs that differ from their own;
  - b) Clearly state or conduct themselves in a manner where a reasonable person as certain whether they are speaking or acting on behalf of the UNB or acting or speaking as an individual;
  - c) Avoid Conflict of Interest by not using their position for their person gain or private gain for a friend, relative or other persons with whom they are affiliated and disclose any known or potential conflicts of interest;
  - d) Will make or endorse decisions that will positively affect the UNB;
  - e) Strive to provide informed decisions based on sound management practices;
  - f) Develop and maintain competency in band management; and
  - g) Engage in life-long learning to enhance their leadership skills.
2. **Will act with LOYALTY:**
  - a) Be loyal to the Upper Nicola Band and its mission statement.
3. **Will act with RESPECT:**
  - a) Conduct themselves respectfully;
  - b) Treat each other with professionalism, courtesy, and respect;
  - c) Support and protect diversity of opinion; and
  - d) Advocate safety, protection, inclusion, and acceptance.
4. **Will act with HONOUR and TRUST:**
  - a) Avoid any conduct that could lead a reasonable person to conclude that the individual might be biased or motivated by personal gain or private interest in the in the performance of duties.
6. **Will act with CONFIDENTIALITY:**
7. Respect the confidential nature of information concerning band members and will not disclose to an unauthorised persons or organization, without the express consent, any confidential, privileged, or non-public information entrusted to them.

With the spirit of our ancestors and future generations I, \_\_\_\_\_, solemnly declare:

- To lead the people of the Upper Nicola Band with unity and respect of our traditional and cultural values and laws;
- To create an environment that promotes a higher quality of life for all through responsibility, accountability, social, health, education, and economic development; and
- To become familiar with this Oath of Office, to understand its application with regard to my conduct, to adhere to its principals and use the UNB Oath of Office as a guideline in conducting UNB business.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date