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SECHELT BAND CONSTITUTION

DEFINITIONS

“Act” means the Sechelt Indian Band Self-Government Act;

“Band” means the Sechelt Indian Band;

“Band Council” means the duly elected Chief and Council of the Sechelt Indian Band;

“Band Electors” means all members of the Sechelt Indian Band who are eighteen years of age or older and who are ordinarily resident on Sechelt Lands;

“Band Members” means all members of the Sechelt Indian Band;

“Band Office” means all the principal administrative offices of the Band located at Sechelt;

“Election” means the process by which the Band members elect the Band Council;

“Minister” means the Minister of Indian Affairs and Northern Development;

“Sechelt Lands” means lands transferred to the Sechelt Indian Band pursuant to the Sechelt Indian Band Self-Government Act.

- Membership upon Marriage 6. Where a member of another Indian Band marrying a Sechelt Band Member wants to become a member of the Sechelt Band he or she shall be entitled to Sechelt Band Membership provided that notice of this intention is given to the Band Council within one hundred and twenty (120) days of the marriage. Where a Sechelt Band Member marries a member of another Indian Band that Sechelt Band Member shall have the choice whether to remain a member of the Sechelt Band or to transfer to the spouse's Band if the spouse's Band so allows.
- No entitlement otherwise 7. No person is entitled to be entered in the Sechelt Band List as a member of the Sechelt Indian Band except as provided for in sections 3, 4, 5 and 6 hereof.
- Loss of membership Upon divorce 8. Where a person having no Indian blood has become a member of the Sechelt Band prior to April 17, 1985 on account of marriage to a member of the Band that person having no Indian blood shall no longer be entitled to Band membership upon divorce from the Band Member.
9. Where a person having no Indian blood has become a member of the Sechelt Indian Band prior to April 18, 1985 because of marriage to a member of this Band and that person subsequently has a child or children with another person having no Indian blood, that child or children shall not be entitled to Band membership.
- No other deprivation of Membership 10. No member of the Sechelt Band shall be deprived of his or her Band membership for any cause other than as provided for in section 8.
- Appeal procedure 11. An appeal shall lie to the Supreme Court of British Columbia from a decision of the Sechelt Band Council concerning eligibility to be recorded as a Sechelt Band member on the Sechelt Band List but any decision of the Band Electors pursuant to section 5 shall be final and binding.

DIVISION (2) – BAND LAND REGIME

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| Sechelt Lands held for Band and members | 1. | The Sechelt Lands shall be held by the Band for the use and benefit of the band and its members and, subject to section 24(c) of the Act, no further Certificates of Possession shall be issued. |
| Allocation of residential lots | 2. | The rights, and the procedures to protect those rights, of the Sechelt Indian to use and occupy the lot upon which his or her house is situated shall be provided for by resolution of the Band Council or Band law. The procedure for the issuance of all residential lots available to Sechelt Indians and the settlement of disputes, if any, shall be decided upon by the Band Council and the lots allocated accordingly. |
| Taking of Sechelt Lands for purposes | 3. | <p>(1) Where by an Act of the Legislature of the Province of British Columbia, Her Majesty in right of the Province of British Columbia, a municipal or local authority of a corporation is empowered to take or to use land or any interest therein without the consent of the owner, the power may, with the consent of the Band Council and subject to any terms that may be prescribed by the Band Council, be exercised in relation to Sechelt Lands or any interest therein.</p> <p>(2) Unless the Band Council otherwise directs, all matters relating to compulsory taking or using of Sechelt Lands under subsection (1) are governed by the statute by which the powers are conferred.</p> <p>(3) Wherever the Band Council has consented to the exercise by the Province of British Columbia, the municipal or local authority or a corporation of the powers referred to in subsection (1), the Band Council may, in lieu of the Province, authority or corporation taking or using the Sechelt Lands without the consent of the owners, authorize a transfer or grant of such Sechelt Lands to the Province, or authority or corporation, subject to any terms that may be prescribed by the Band Council.</p> <p>(4) Any amount that is agreed upon or awarded in respect of the compulsory taking or using of Sechelt Lands under this section or that is paid for a transfer or grant of Sechelt Lands pursuant to this section shall be paid to the Band for the use and benefit of the Band members in common.</p> |

- Band approval for Sale of Sechelt Lands
4. (1) Except as provided in section 3, no Sechelt Lands may be mortgage, sold, or otherwise have the title to them transferred, unless the mortgage, sale or title transfer has been first approved in a referendum by a vote 75% in favour by all the Band Electors.
- (2) In the event that a referendum is held under subsection (1), and 50% of those Band Electors voting in the referendum supported the mortgage, sale or title transfer, but 75% of all the Band Electors did not vote in support, then a second referendum may be held. In the event of a second referendum under this subsection, the mortgage, sale or title transfer may be approved by 60% of all the Band Electors.
- Granting of interests in Sechelt Lands
5. The Band, acting through the Band Council, may grant leases, licences, permits, easements, rights-of-way or any other interest in the Sechelt Lands that the Band Council considers desirable and this may be done without the consent of the Band Electors except where:
- (a) the grant of interest is for a term exceeding ninety-nine (99) years;
- (b) the grant of interest is in respect of Sechelt Lands that were previously unimproved.
- The granting of any lease, license, permit, easement, right-of-way or other interest in the Sechelt Lands shall require the approval of 2/3 of the members of the Band Council.
- Band approval for granting of certain interests in Sechelt Lands
6. (1) No lease, licence, permit, easement, right-of-way or other interest in the Sechelt Lands shall be granted for a term exceeding ninety-nine (99) years or in respect of Sechelt Lands that were previously unimproved unless such grant is first approved in a referendum by a vote 50% in favour by all the Band Electors.
- (2) In the event that a referendum is held under subsection (1), and more than 50% of those Band Electors voting in the referendum supported the lease, licence, permit, easement, right-of-way or other interest, but 50% of all the Band Electors did not vote in support, then a second referendum may be held. In the event of a second referendum under this sub-section, the lease, licence, permit, easement, right-of-way or other interest may be approved by 50% of the Band Electors actually voting.
- Legal Surveys
7. All legal surveys carried out on Sechelt Lands shall comply with the provisions of the Canada Lands Surveys Act, R.S.C., 1970, as amended.

Procedure for Referendum 8. The referendum for the purpose of sections 4 ad 6 shall be conducted in the manner provided for in Division (4) of this Part.

DIVISION (3) – NATURAL RESOURCES

Disposition of natural resources 1. Subject to sections 24, 35, 39, 40 and 41 of the Act, the Band has full power to dispose of any rights or interests in all natural resources on, in and under the Sechelt Lands.

Control of natural resources 2. The control over the administration of all natural resources on, in and under the Sechelt Lands is vested in the Band subject to the existing rights thereto, if any, of the Province of British Columbia.

Granting of permits 3. The Band, acting through the Band Council, may grant permits to cut timber on the Sechelt Lands, or to remove minerals, stone, sand, gravel, clay, soil or other substances from the Sechelt Lands and this may be done without the consent of the Band Electors except where:

- (a) the permit is for a term exceeding five (5) years;
- (b) the permit is in respect of Sechelt Lands that were previously in a natural and undeveloped condition.

The granting of any permit under this section shall require the approval of 2/3 of the members of the Band Council.

Band approval for granting of certain permits 4. (1) No permit to cut timber on the Sechelt Lands or to remove minerals, stone, sand, gravel, clay, soil or other substances from the Sechelt Lands shall be granted for a term exceeding five (5) years or in respect of Sechelt Lands that were previously in a natural and undeveloped condition unless such grant is first approved in a referendum by a vote 50% in favour by all the Band Electors.

(2) In the event that a referendum is held under subsection (1), and more than 50% of those Band Electors voting in the referendum supported the permit, but 50% of all the Band Electors did not vote in support, then a second referendum may be held. In the event of a second referendum under this subsection, the permit may be approved by 50% of the Band Electors actually voting.

Procedure for referendum 5. The referendum for the purposes of section 4 shall be conducted in the manner provided for in Division (4) of this Part.

Unauthorized
removal of Band
resources

6. (1) A person who, without the written permission of the Band Council,
 - (a) removes or permits anyone to remove from the Sechelt Lands:
 - (i) minerals, stone, sand, gravel, clay or soil, or
 - (ii) trees, saplings, shrubs, underbrush, timber, Cordwood or hay, or
 - (b) has in his or her possession anything removed from the Sechelt Lands contrary to this section, is guilty of an offence and is liable on summary conviction to a fine not exceeding the amount or term of imprisonment for in the Act.
- (2) Whenever a peace officer or a person authorized by the Band Council believes on reasonable grounds that an offence against subsection (1) has been committed, he or she may seize all goods and chattels by means of or in relation to which he or she reasonably believes the offence was committed. All goods and chattels seized may be detained for a period of three (3) months following the day of seizure unless during that period proceedings under this Constitution in respect of such offence are undertaken, in which case the goods and chattels may be further detained until such proceedings are finally concluded.

DIVISION (4) – PROCEDURE FOR REFERENDUM

- Time of referendum
1. (1) Within twelve (12) months of an application for registration as a Sechelt Indian by any person for whom the only way in which he or she can be declared entitled is pursuant to section 5 of Division (1), the Band Council shall hold a referendum. For referenda required to be held pursuant to Part I, Division (2), section 4 and 6, Division (3), section 3, Part II, Division (2), section 17 and under the Act, the Band Council shall hold a referendum on a date it considers suitable. A second vote on any question cannot be held for at least thirty (30) days after the first vote on that question.
 - (2) Referenda to be held for any purpose under the Constitution and to be held pursuant to sections 12 and 21(3) of the Act shall be held in accordance with the procedures provided for in this Division.

- Appointment of Electoral Officer 2. The Band Council shall appoint an Electoral Officer to conduct the referendum and this Electoral Officer shall not be a member of the Band Council nor an employee working in the offices of the Band.
- Posting of Notices 3. (1) The Electoral Officer shall post a notice in a form approved by the Band Council at least thirty (30) days prior to the date of the voting in such places as he or she deems necessary.
- (2) The notice referred to in subsection (1) shall state:
- (a) the date on which the voting shall take place;
- (b) the questions to be submitted to the Band Electors;
- (c) the hours of the day that the Band Electors may vote; and
- (d) the location of the polling booths.
- Other preliminary Responsibilities of Electoral Officer 4. The Electoral Officer shall:
- (a) prepare a list containing in alphabetical order the names of the Band Electors entitled to vote on the referendum and designating the location of the polling booth where each Band Elector shall be entitled to vote;
- (b) post a copy of the list of Band Electors in such places as he or she deems necessary at least fifteen (15) days prior to the date of the voting;
- (c) prepare sufficient ballot papers in the form approved by the Band Council which shall state the question or questions to be submitted to the Band Electors;
- (d) procure a sufficient number of ballot boxes; and
- (e) before the poll is open cause to be delivered to the polling booths the ballot papers and a sufficient number of lead pencils for marking the ballot papers.
- Application for Revision of the list of Band Electors 5. Any Band Elector may apply to the Electoral Officer within ten (10) days of the posting of the list of Band Electors to have the list revised on the grounds that:
- (a) the name of a Band Elector has been omitted therefrom;
- (b) the name of a Band Elector is incorrectly set out therein; or

(c) the name of a person not qualified to vote is included therein.

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| Revision of List | 6. Where the Electoral Officer is satisfied that a revision is necessary in the list of Band Electors, he or she shall make the revision and such revision shall be final. |
| Provision of voting Compartment | 7. The Electoral Officer shall provide a compartment at each polling place where the Band Elector can mark his or her ballot paper free from observation. |
| Witness to ballot boxes | 8. The Electoral Officer shall, immediately before the opening of the poll, open the ballot box and call upon such persons who may be present to witness that it is empty and shall then lock and properly seal the box and place it in view for the reception of the ballots. |
| Times of poll | 9. Where the Band Council considers it desirable, the electoral Officer shall hold an advance poll between the hours of 2:00 o'clock and 6:00 o'clock in the afternoon of the Sunday before the day set for voting on the referendum at which shall be entitled to vote those Band Electors who have bona fide reasons for absence from the Secht Lands on the day set for voting on the referendum. The poll on the day set for voting on the referendum shall be kept open from 9:00 o'clock in the forenoon until 8:00 o'clock in the afternoon. |
| Provision of ballot papers | 10. The Electoral Officer, after satisfying himself or herself that a person presenting himself or herself for the purpose of voting is entitled to vote at the polling place, shall provide such person with a ballot paper on the back of which the Electoral Officer has affixed his or her initials so placed that when the ballot paper is folded the initials can be seen without unfolding the ballot paper. The Electoral Officer shall place on the list of Band Electors a mark opposite the name of every Band Elector receiving a ballot paper. |
| Explanation of voting procedure | 11. The Electoral Officer shall explain the mode of voting to a Band Elector when requested to do so by such Band Elector. |
| Assistance by Electoral Officer | 12. On the application of a Band Elector who is:

(a) not able to read; or

(b) incapacitated by blindness or other physical cause,

the Electoral Officer shall assist that Band Elector by marking his or her ballot paper in the manner directed by the Band Elector and shall place such ballot paper in the ballot box. The Electoral Officer shall make an entry in the list of Band Electors, opposite the name of that Band Elector, that the ballot paper was marked by him or her at the request of that Band Elector and the reasons therefor. |

- Procedure for voting
13. Except as provided in section 12, every Band Elector receiving a ballot paper shall:
- (a) proceed immediately to the compartment provided for marking the ballot paper;
 - (b) mark his or her ballot by placing a cross or check under the work "YES" or "NO" opposite each question stated on the ballot paper;
 - (c) fold the ballot paper so as to conceal the mark or marks on the face of the paper but so as to expose the initials on the back of it; and
 - (d) forthwith deliver it to the Electoral officer for deposit i the ballot box.
- Cancellation of spoiled ballot
14. A Band Elector who receives a soiled or improperly printed ballot paper, or inadvertently spoils his or her ballot paper in marking it shall, upon returning the ballot paper to the Electoral Officer, be entitled to another ballot paper.
- Forfeiture of right to vote
15. A Band Elector who has received a ballot paper and:
- (a) leaves the compartment for marking the ballot paper without delivering the same to the Electoral Officer in the manner provided; or
 - (b) refuses to vote,
- shall forfeit his or her right to vote on the referendum and the Electoral Officer shall make an entry on the list of Band Electors opposite the name of that Band Elector that he or she did not return the ballot paper or refused to vote as the case may be.
- Single voting only
16. The Electoral Officer shall allow only one Band Elector in the compartment for marking ballot papers at any one time.
- Voting before poll closes
17. A Band Elector who is inside the polling place at the time fixed for closing the poll shall be entitled to vote before the poll is closed.
- No interference with voting
18. No person shall interfere or attempt to interfere with a Band Elector when marking his or her ballot paper or obtain or attempt to obtain at the polling place information as to how a Band Elector is about to vote or has voted.

- Maintenance of good order
19. The Electoral Officer shall maintain peace and good order during the voting and for this purpose he or she may enlist the assistance of constables, peace officers or other persons present.
- Appointment of interpreter
20. Whenever the Electoral Officer does not understand the language spoken by a Band Elector he or she shall appoint an swear in an interpreter who shall be the means of communication between him or her and the Band Elector with reference to all matters required to enable such Band Elector to vote.
- Procedures after Close of the pole
21. Immediately after the close of the poll the Electoral Officer, in the presence of a quorum of the Band Council, shall open the ballot box and:
- (a) examine the ballot papers;
 - (b) reject of ballot papers:
 - (i) that have not been supplied by him or her;
 - (ii) that have been marked incorrectly; or
 - (iii) upon which anything appears by which a Band Elector can be identified;
 - (c) count the votes given in favour of and against the question or questions submitted in the referendum; and
 - (d) prepare a statement in writing of the number of votes so given and of the number of ballot papers rejected.
- Statement of the votes at Electoral Officer's poll
22. The statement referred to in section 21(d) shall be:
- (a) signed by the Electoral Officer and by the Chief of the Band;
And
 - (b) filed in the offices of the Band.
- Final statement of result
23. When the results of the voting of all the polls are knows to the Electoral Officer he or she shall:
- (a) immediately prepare a statement in duplicate signed by himself or herself and by the Chief of the Band indicating:
 - (i) the number of Band Electors who were entitled to vote;
 - (ii) the number of Band Electors who voted;
 - (iii) the number of votes cast in favour of and against the question or questions submitted in the referendum; and
 - (iv) the number of rejected ballots; and

- (b) deliver a copy of the statement to the Band Council;
- Destruction of ballot papers 24. The Electoral Officer shall deposit the ballot papers used in the voting in a sealed envelope and retain it for one hundred and twenty (120) days after which time he or she may, unless directed otherwise by the Band Council, destroy them in the presence of two witnesses.
- Appointment of deputy electoral officers 25. For the purposes of carrying out all of his or her duties hereunder the Electoral Officer may appoint one or more deputy electoral officers.
- Majority to approve referendum question 26. The percentage of affirmative votes required to carry any referendum question shall be as provided for in this Constitution or the Act. Where no such percentage is stipulated, the referendum question shall be approved by the affirmative vote of a majority of the Band Electors actually voting on that question.
- Procedure for Appeal 27. Where twenty (20) Band Electors file a signed petition with the Electoral Officer and the band Council within fifteen (15) days of the Electoral Officer's statement of the result alleging either:
- (a) that there was corrupt practice in connection with the referendum; or
 - (b) that the procedures provided for herein were not properly complied with;
- the Electoral Officer shall forthwith refer the matter to the Supreme Court of British Columbia to determine whether the referendum should be held again under the Court's supervision.

DIVISION (5) – BAND MONEY

- Sources of Band Revenue money 1. Sources of Band Revenue money include but are not limited to:
- (a) annual lease revenues;
 - (b) annual equivalent rents arising from pre-payment of leases;
 - (c) fees for permits;
 - (d) interest on investments;
 - (e) interest on loans made from the revenue of the Band;
 - (f) interest on capital funds of the Band;

- (g) donations to the Band;
- (h) British Columbia special payment; and
- (i) administrative fees.

Expenditure of Band Revenue money 2. Band Revenue money shall only be expended in the manner and for the uses provided for in Division (7) of Part II of this Constitution.

Sources of Band Capital money 3. Sources of Band Capital money include but are not limited to:

- (a) money from the sale of Sechelt Lands;
- (b) money from the sale of other capital assets of the Band; and
- (c) royalties from the sale of non-renewable resources.

Expenditure of Band Capital money 4. Band Capital money shall be expended in the manner and for the uses provided for in Division (7) of Part II of the Constitution.

Control and management of Band money 5. The Band, acting through its Band Council, shall be solely responsible for the collection, control and management of both Band Revenue money and Band Capital money.

PART II – THE BAND COUNCIL

DIVISION (1) – ELECTION OF BAND COUNCIL

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| First Election | 1. | The Band Council shall be elected for a three (3) year term of office. |
| Size of Band Council | 2. | The Band Council shall consist of one Chief and four Councillors. The number of Councillors shall be increased from time to time for the next Election as specified by Band law so as to ensure that there is always one Councillor for every one hundred and twenty (120) Band Members ordinarily resident on the Sechelt Lands. |
| Votes required | 3. | Both the Chief of the Band and the Councillors of the Band shall be elected by a majority of the votes of the Band Electors. |
| Qualifications for candidacy | 4. | No person may be a candidate for election as Chief or Councillor unless:

(a) he or she is a Band Elector;

(b) his or her nomination is moved and seconded by persons who are themselves Band Electors; and

(c) no court has given judgement against him or her in civil proceedings for the recovery of debt by the Band or any of its wholly-owned companies, trusts, societies or other related entities. |
| Appointment of Electoral Officer | 5. | For Elections the Band Council shall be responsible for appointing the Electoral Officer, designating the date of the Election, the nomination place and one or more voting places, all of which shall be done as least one (1) month before the expiry of the term of office. |
| Posting of notice for nomination meeting | 6. | When an Election is to be held, the Electoral Officer shall post a notice of a meeting of the Band Electors for the purpose of nominating candidates for election; such notice shall be posted in one or more conspicuous places in each electoral section as least six (6) clear days prior to the date of the proposed nomination meeting and at least twelve (12) clear days prior to the date set for the Election. |
| Alternative fixing of nomination meeting | 7. | Where it is not practicable to hold a meeting for the nomination of candidates in accordance with the provisions of section 6, the Band Council may order that the meeting be held on a day not less than six (6) clear days before the day on which the Election is to be held. |

- Conduct of nomination meeting 8. At the time and place specified in the notice the Electoral Officer shall declare the meeting open for the purpose of receiving nominations, and any person who is a Band Elector may propose or second the nomination of any duly qualified person to serve as Chief or a Councillor, provided that the person so nominated is present to accept the nomination or has provided to a Band Member who is present at the meeting a signed written statement of his or her willingness to stand for election. The meeting shall remain open for not less than two (2) hours after commencement when, if the number of persons nominated to serve on the Band Council does not exceed the requisite number, the Electoral Officer shall declare the persons so nominated to be duly elected.
- Closing of nomination meeting 9. The Electoral Officer shall not close the nomination meeting until such business as he or she considers may properly be brought before it has been disposed of.
- Declaration of poll 10. In the event of more than the required number of persons being nominated for Chief and Councillors, the Electoral Officer shall declare that a poll will be held and shall name the time and the place where such poll shall be taken.
- Posting of poll 11. Whenever a poll is to be taken, the Electoral Officer shall, without any unreasonable delay after the nomination meeting, cause to be posted in one or more conspicuous places within each electoral section a notice to that effect in the form prescribed by the Band Council.
- Preparation of voters' list 12. The Electoral Officer shall prepare a voters' list containing the names, in alphabetical order, of all Band Electors.
- Posting of Voters' list 13. The Electoral Officer shall post one or more copies of the voters' list in a conspicuous place in the electoral section, and where the Sechelt Lands are divided into more than one section he or she shall post one or more copies of the voters' list in a conspicuous place in each section.
- Correction of voters' List 14. Any Band Elector may apply to have the voters' list revised on the ground that the name of a Band Elector is incorrectly set out therein or the name of a person not qualified to vote is included therein. If the Electoral officer is satisfied that the voters' list should be corrected, he or she shall make the necessary correction therein.
- Preparation of ballot papers 15. Ballot papers shall be prepared in the form approved by the Electoral Officer containing the names of the candidates for Chief and for Councillors, which names shall be listed on the ballot papers in alphabetical order.

- Withdrawal of candidacy
16. Any candidate who has been nominated may withdraw for valid cause at any time after his or her nomination, but no later than forty-eight (48) hours before the time of the opening of the poll, by filing with the Electoral Officer a written withdrawal of his or her nomination, signed by himself or herself in the presence of the Electoral Officer, a Justice of the Peace, a Notary Public, or a Commissioner for Oaths, and any votes cast for any such candidate shall be null and void.
- Preparation of balloting
17. The Electoral Officer shall procure or cause to be procured as many ballot boxes as there are polling places, and shall cause to be prepared a sufficient number of ballot papers for the purpose of the Election.
- Procedures before the poll opens
18. The Electoral Officer shall, before the poll is open, cause to be delivered to any of his or her deputies the ballot papers, materials for marking the ballot papers, and a sufficient number of directions for voting as may be deemed necessary by the Electoral Officer. The Electoral Officer shall provide a compartment at each polling place where the Band Electors can mark their ballot papers free from observation, and he or she may appoint a constable to maintain order at such polling place.
- Times of poll
19. The poll shall be kept open on the day of the poll from 9:00 o'clock in the forenoon until 8:00 o'clock in the afternoon. Where the Band Council considers it desirable, the Electoral Officer shall hold an advance poll between the hours of 2:00 o'clock and 6:00 o'clock in the afternoon of the Sunday before the day of the poll at which shall be entitled to vote those Band Electors who have a bona fide reasons for being unable to attend the Sechelt lands for the purpose of voting on the day set for the poll.
- Agents for each candidate
20. A candidate shall be entitled to not more than two (2) agents in a polling place at any one time.
- Voting by ballot
21. Voting at all elections shall be by ballot in the manner provided in section 27.
- Security of ballot box
22. The Electoral Officer shall, immediately before the commencement of the poll, open the ballot box and call such persons as may be present to witness that it is empty; he or she shall then lock and properly seal the box to prevent it from being opened without breaking the seal and shall place it in view for the reception of the ballots, and the seal shall not be broken nor the box unlocked during the time appointed for taking the poll.

- Determination of right to vote 23. At the request of any candidate or his or her agents or any Band Elector, an oath or affirmation in the form approved by the Electoral Officer as to his or her rights to vote shall be administered to any person tendering his or her vote in any Election. Where a person presents himself or herself for the purpose of voting, the Electoral Officer shall, if satisfied that the name of such person is entered on the voters' list of the polling place, provide him or her with a ballot paper on which to register his or her vote.
- Marking of voters' list 24. The Electoral Officer shall cause to be placed in the proper column of the voters' list a mark opposite the name of every Band elector receiving a ballot paper.
- Refusal of ballot paper 25. No person who has refused to take the oath or affirmation referred to in section 23 when requested to do so shall receive a ballot paper or be permitted to vote.
- Explanation of voting 26. The Electoral Officer may and when requested to do so shall explain the mode of voting to a Band Elector.
- Procedure for voting 27. Each person receiving a ballot paper shall forthwith proceed to the compartment provided for marking ballots and shall mark his or her ballot paper by placing a cross or check mark opposite the name of the candidate or candidates for whom he or she desires to vote; he or she shall then fold the ballot papers so as to conceal the names of the candidates and the marks on the face of the paper but so as to expose the initials of the Electoral Officer, and in leaving the compartment shall forthwith deliver the ballot paper to the Electoral Officer who shall, without unfolding the ballot paper, verify his or her initials and at once deposit it in the ballot box in the presence of the Band Elector and of all other persons entitled to be present in the polling place.
- Band Electors to vote singly 28. While any Band Elector is in the compartment for the purpose of marking his or her ballot paper, no other person shall, except as provided in section 29, be allowed in the same compartment or be in any position from which her or she can see the manner in which such Band Elector marks his or her ballot paper.
- Assistance by Electoral Officer 29. The Electoral Officer, on the application of any Band Elector who is unable to read or is incapacitated by blindness or other physical cause from voting in the manner prescribed by section 27, shall assist such Band Elector, whether at the polling place or in the hospital, by marking his or her ballot paper in the manner directed by the Band Elector in the presence of the agents of the candidates and of no other person, and place such ballot in the ballot box. The Electoral Officer shall state in the voters; list in the column for remarks opposite the name of such Band Elector the fact that the ballot paper was marked by him or her at the request of the Band Elector and the reasons therefor.

- Cancellation of spoiled ballot
30. A Band Elector who has inadvertently dealt with his or her ballot paper in such a manner that it cannot be conveniently used shall, upon returning it to the Electoral Officer, be entitled to obtain another ballot paper and the Electoral Officer shall thereupon write the word "Cancelled" upon the spoiled ballot paper and preserve it.
- Forfeiture of right to vote
31. Any person who has received a ballot paper and who leaves the polling place without delivering the ballot paper to the Electoral Officer in the manner provided or if, after receiving the ballot paper, refuses to vote, shall forfeit his or her right to vote at the Election, and the Electoral Officer shall make an entry in the voters' list in the column for remarks opposite the name of such person to show that such person received the ballot paper and declined to vote, and the Electoral Officer shall mark upon the face of the ballot paper the word "Declined" and all ballot papers so marked shall be preserved.
- Voting before poll closes
32. Every Band Elector who is inside the polling place at the time fixed for closing the poll shall be entitled to vote before the poll is closed.
- Procedures after opening ballot box
33. Immediately after the close of the poll the Electoral Officer shall, in the presence of such of the candidates or their agents as may be present, open the ballot box and
- (a) examine the ballot papers and reject all ballot papers
 - (i) that have not been supplied by him or her;
 - (ii) by which votes have been given for more candidates than are to be elected; or
 - (iii) upon which anything appears by which the Band Elector can be identified;
- but no word, letter or marks written or made or omitted to be written or made by the Electoral Officer on a ballot paper shall void it or warrant its rejection;
- (b) declare a ballot paper containing the names of candidates for more than one office, on which votes are given for more candidates for any office than are to be elected, to be void as regards all the candidates for such office; but such ballot paper shall be good with regard to the votes for any other office in respect to which the Band Elector has not voted for more candidates than are to be elected;
 - (c) subject to review or recount on an election appeal, take a note of any objection made by any candidate or his or her agent to any ballot paper found in the ballot box and decide any question arising out of the objection;

- (d) number such objection 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;
 - (e) count the votes given for each candidate from the ballot papers not rejected and make a written statement of the number of votes given to each candidate and the number of ballot papers rejected and not counted by him or her, which statement shall then be signed by him or her and such other persons authorized to be present as may desire to sign the statement.
- Declaration of those elected 34. Immediately after the completion of the counting of the votes the Electoral Officer shall publicly declare to be elected the candidate or candidates having the highest number of votes, and he or she shall post in some conspicuous place the statement signed by him or her showing the number of votes cast for each candidate.
- Procedure in the event of a tie vote 35. Where it appears that two or more candidates who would otherwise have been elected have an equal number of votes, the Electoral Officer shall hold a further poll not less than fifteen (15) days and not more than thirty (30) days after the Election at which the Band Electors shall be asked to vote for one of the two or more candidates who had an equal number of votes in the Election.
- Statement of results by Electoral Officer 36. The Electoral Officer shall prepare a statement in duplicate showing the total number of votes cast for each candidate, the number of rejected ballots and the number of the candidates duly declared elected. A copy of this statement shall be retained in the offices of the Band. The statement shall be signed by the Electoral Officer and such of the candidates or their agents as are present and desire to sign it.
- Retention of ballot papers 37. The Electoral Officer shall deposit all ballot papers in sealed envelopes with the Band Council which shall retain them in its possession for eight (8) weeks when, unless otherwise directed by a court of competent jurisdiction, it shall destroy the ballot papers in the presence of two witnesses who shall make a declaration that they witnessed the destruction of those ballot papers.
- Secrecy of voting 38. Every person in attendance at a polling place or at the counting of the votes shall maintain and aid in maintaining the secrecy of the voting.
- No interference with voting 39. No person shall interfere or attempt to interfere with a Band Elector when marking his or her ballot paper or obtain or attempt to obtain at the polling place information as to how a Band Elector is about to vote or has voted.

- Appointment of deputy electoral officers 40. For the purposes of the Election, the Electoral Officer may appoint one or more deputy electoral officers and they shall enjoy equivalent powers to the Electoral Officers but shall be under his or her charge and direction.
- Right to vote 41. The Electoral Officer and any deputy electoral officer shall have the right to vote in the Election.
- Vacancy in office of Chief or Councillor 42. The office of Chief or Councillor becomes vacant when:
- (a) The person who holds the office:
 - (i) is convicted of an indictable offence;
 - (ii) dies or resigns his or her office; or
 - (iii) is or become ineligible to hold office by virtue of this Constitution, or
 - (b) the person who holds the office has been absent from meetings of the band Council for three (3) consecutive meetings without being authorized to do so by the Band Council, or
 - (c) the person who holds the office was guilty, in connection with an Election, of corrupt practice, accepting a bribe, dishonesty or wrongful conduct.
- Holding of special election 43. Where the office of Chief or Councillor becomes vacant more than three (3) months before the date when another election would ordinarily be held, a special election may be held in accordance with this Constitution to fill the vacancy.
- Appeal procedure 44. Any Band Elector alleging that there was corrupt practice in connection with the Election or that there was a violation of this Constitution that might have affected the result of the Election or that a person nominated to be a candidate in the Election was ineligible to be a candidate may refer the matter to the Supreme Court of British Columbia for adjudication.
- Penalties for contravention 45. Every person who
- (a) attempts to interfere with the security of the ballot box pursuant to section 22 of this Division,
 - (b) makes an untrue statement as to his or her right to vote pursuant to section 23 of this Division,
 - (c) interferes with the maintenance of secrecy of voting pursuant to section 38 of this Division,

- (d) interferes or attempts to interfere with a Band Elector when marking his or her ballot paper or obtains or attempts to obtain at a polling place information as to how a Band Elector is about to vote or has voted pursuant to section 39 of this Division.

is guilty of an offence and is liable on summary conviction to such penalties as are defined by Band law.

DIVISION (2) – MEETINGS

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| Meeting of Band Council | 1. An inaugural meeting of the Band Council shall be held each year in the afternoon of the first Monday after March 1. Thereafter the Band Council shall meet as it may decide or as provided in this Constitution. |
| Place of Band Council Meetings | 2. Meetings of the Band Council shall take place within the Sechelt Lands. |
| Notice of special meeting | 3. (1) A notice of the day, hour and place of a special meeting of the Band Council, being a meeting other than a statutory, regular or adjourned meetings, shall be given twenty-four (24) hours at least before the time of meeting by posting a copy of the notice at the regular Band Council meeting place and by leaving one copy for each member of the Band Council at the place to which he or she has directed notices to be sent. Notice may be waived by unanimous vote of all the members of the Band Council. Each copy of the notice shall be signed by the Chief.

(2) Two (2) or more members of the Band Council may, in writing, request the Chief to call a special meeting.

(3) Where the Chief, within twenty-four (24) hours after receiving the request, refuses or neglects to call the special meeting to be held within seven (7) days after he or she received the request, or where the Chief is absent, two (2) or more members of the Band Council may call a special meeting for any purpose they deem necessary and they shall sign the notice. |
| Attendance of public at meetings | 4. All regular meetings of the Band Council shall be open to the Band members and no eligible person shall be excluded, except for improper conduct. If in the opinion of the Band Council the public interest so requires, persons other than Councillors and officers, or persons other than Councillors, may be excluded from a special meetings. |

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| Expulsion | 5. | The Chief or other person presiding may expel and exclude from a meeting of the Band Council a person he or she considers guilty of improper conduct. |
| Quorum of Band Council | 6. | A quorum of the Band Council shall be a majority of the members of the Band Council. |
| Majority decision | 7. | All acts authorized or required by this Constitution to be done by the Band Council, and all other questions, including adjournment, that may come before the Band Council shall, except where otherwise provided, be done and decided by a majority of the members of the Band Council and a record thereof shall be kept for inspection by Band Members. |
| Chief to preside at meeting | 8. | The Chief, if present, shall preside at meetings of the Band Council. Any member of the Band Council may preside in committee of the whole. |
| Conflict of interest | 9. | A member of the Band Council shall disclose to the Band Council any financial interest that he or she has in any matter before the Band Council and shall not take part in deliberations of the Band Council on that matter or vote on that matter unless a majority of members present at the meeting agree to allow that member to participate in the discussion and vote on the matter. |
| Voting | 10. | Where the votes of the members of the Band Council then present, including the vote of the Chief or other persons presiding, are equal for and against a question, the question shall be negative, and it shall be the duty of the member presiding to so declare. The same procedure applies in committee of the whole. |
| Points of order | 11. | The Chief or the member presiding at a meeting of the Band Council shall preserve order and decide points of order which may arise, subject to an appeal to the other members of the Band Council then present. |
| Appeal | 12. | (1) On an appeal by a Councillor from the decision of the Chief, the question shall be immediately put by him or her, and decided without debate, "Shall the Chair be sustained?" and the Chief shall be governed by the vote of the majority of the members then present, excluding himself or herself. In the event of the votes being equal, the question shall pass in the affirmative. The names of the members of the Band Council voting for or against the question shall be recorded in the minutes. |

- (2) If the Chief refuses to put the question “Shall the Chair be sustained” the Band Council shall immediately appoint a member to preside temporarily. He or she shall proceed in accordance with sub-section (1). A resolution or motion carried under this subsection is as binding as if carried under subsection (1).

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| Absence of Chief | 13. Where the Chief or the acting Chief, if any, is absent from a meeting of the Band Council, the members then present shall choose a member to preside. That member has, for the purpose, all the powers and is subject to the same rules as the Chief. |
| Meeting of the Band | 14. The Band Council shall convene at least one meeting of the Band Members every four (4) months and thirty (30) days’ notice of this meeting shall be posted in a conspicuous place at the offices of the Band. In the event that a meeting of the Band Members is not held when required by this section, any ten (10) Band members shall have the right to present to the Band Council a petition requesting that a meeting of the Band Members be convened forthwith and the Band Council shall give thirty (30) days notice of such meeting within five (5) days of receipt of the petition. |
| Quorum at meetings of Band | 15. At any properly convened meeting of the Band, a majority of Band Electors personally present shall be able to transact all business that comes before the meeting. |
| Responsibility for Band meetings | 16. The Band Council shall have responsibility for all matters concerning the conduct of meetings of the Band. |
| | 17. (1) In issues determined by the Band Council to be of great importance to the Band, the Band Council shall submit a question or questions for determination in a referendum.

(2) Without limiting the generality of the foregoing, a referendum shall be held at which the question will be the settlement of the Band’s Comprehensive land claim. At this referendum the question shall be approved by the affirmative vote of a majority of the Band Members who are eighteen years of age or older and who actually vote on this question. |

DIVISION (3) – OFFICERS AND EMPLOYEES

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| Powers and duties of Chief | 1. The Chief is the head and chief executive officer of the Band and shall perform any duties assigned to him or her by this Constitution or by the Band. He or she shall chair all meetings of the Band Council and the Band. |
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| Acting Chief, temporary | 2. The Band Council may appoint one of its members to be acting Chief. He or she has, during the absence, illness or other disability of the Chief, all the powers and is subject to the same rules as the Chief. |
| Acting Chief, on vacancy | 3. Where the office of Chief become vacant, the Band Council shall appoint a member to be acting Chief, and he or she shall continue in office until another Chief is elected or appointed. |
| Officers and employees | 4. The Band Council may provide by law for the officers and employees that may be deemed necessary to carry on the good government of the band and the provisions of this Constitution, and may prescribe their powers, duties and responsibilities, subject to this Constitution. |
| Terms of employment | 5. The Band Council may, in the same or a separate law, or by a collective or other agreement, fix officers' and employees' remuneration and other benefits, hours of work and other conditions of employment, and the manner of appointment, promotion and dismissal. |
| Termination of employment | 6. (1) Subject to a contract of employment, the engagement of an employee may be terminated, if engaged on <ul style="list-style-type: none"> (a) a monthly or longer basis, on one month's notice in writing; (b) a weekly basis, on one week's notice; or (c) a daily or hourly basis, on one day's or one hour's notice. (2) An employee may be dismissed without notice for cause. |
| Sickness or other benefits | 7. Without restricting the generality of section 5, the Band Council may by law provide the whole or part of the premium for: <ul style="list-style-type: none"> (a) a contract for medical services provided on a group basis for employees or employees and their dependents; (b) a benefit, accident, sickness or life insurance policy insuring employees of the Band on a group insurance basis against accident, sickness or death; (c) an accident insurance policy insuring members of the Band Council, on a group insurance basis, against accident while on |

Official business for the Band.

- Bonding employees 8. Those employees designated by the Band Council shall be bonded, for the obligation, in the amount, and with the surety the Band Council directs. The premium, if any, shall be paid by the Band.

DIVISION (4) – FINANCIAL CONTROLS

- Establishment of bank accounts 1. The Band Council shall establish separate accounts in a chartered bank, trust company or credit union for:
- (a) Band Revenue money and Federal Transfer payments;
 - (b) Band Capital money.
- Signing Officers 2. (1) The Band Council shall authorize three (3) persons, two (2) of whom shall be members of the Band Council, to sign cheques and other bills of exchange or transfers drawn on the accounts.
- (2) All persons authorized as signing officers shall be bonded.
- No expenditure without authorization 3. (1) The Band Council shall only expend monies or commit itself, by contract or otherwise, to expend monies where such expenditure is authorized by this Constitution and under a Band law or Band Council resolution.
- (2) Any omission by the Band Council of the procedures provided for in subsection (1) shall not affect the validity of the contract, but a report of the circumstances of that omission shall be given to the Band Members at the next meeting of the Band.
- Budget committee 4. The Band Council may establish a Budget committee, two (2) members of which shall be members of the Band Council.
- Investment of surplus money 5. (1) Money surplus to current needs may be invested in short term interest bearing deposits and the interest so earned shall be considered Band Revenue money.
- (2) All expenditures must be in accordance with the budgets approved pursuant to Division (7) of this Part.
- (3) An expenditure not provided for in the annual budget of the Band is not lawful.

- Year end
6. The year end of the band shall be March 31.
- Financial Statements
7. Within three months after the end of each fiscal year, the Band council shall prepare a detailed statement of the financial position of the Band, prepared in conformity with generally accepted accounting principles, and copies thereof shall be made available at the band Office for inspection by Band Members.
- The treasurer
8. (1) The Band Council may appoint a treasurer, who, in addition to the duties and powers prescribed by the Band council, is responsible to the band
- (a) for keeping or supervising the keeping of all funds and securities of the Band;
 - (b) for receiving all money paid to the Band;
 - (c) for disbursing the Band funds in accordance with the procedures laid down by the law of the Band Council;
 - (d) for keeping or supervising the keeping of a full account of all money received, receivable, disbursed and expended by him or her or by another person for the Band;
 - (e) for keeping or supervising the keeping of a full account of all assets and liabilities, and of all transactions affecting the financial position of the Band;
 - (f) for preparing interim financial statements under any local government regulations; and
 - (g) for compiling and supplying information on financial affairs required by the Government of Canada or, if applicable, the Province of British Columbia.
- (2) The treasurer may inspect the records of and direct an officer of the Band or of an administrative body handling local government funds, in matters involving his or her responsibility.
- (3) It is a good defence to any action brought against the treasurer for unlawful expenditure of Band funds if it is proved that he or she, in writing, over his or her signature, warned the Band Council that in his or her opinion the expenditure would be unlawful.

- (4) If the Band Council does not appoint a treasurer as aforesaid, the Band Council shall be responsible for carrying out the duties listed in subsection (1) hereof.

DIVISION (5) – PASSAGE OF LAWS

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| Procedure law | 1. | <ol style="list-style-type: none">(1) The Band Council shall by law regulate its meetings and their conduct.(2) A law relating to the procedure of the Band Council shall not be altered except by law passed at a regular meeting of the Band Council pursuant to a notice in writing given and openly announced at an earlier regular meeting.(3) A law relating to procedure may include provision for:<ol style="list-style-type: none">(a) the manner and extent for a reading of a law; and(b) suspension of the rules of procedure to permit two or more readings at one meeting of the Band Council. |
| Acts require law or resolution | 2. | <p>An act or proceeding of the Band Council is not valid unless it is authorized or adopted by Band law, where so required, or otherwise by resolution at a meeting of the Band Council.</p> |
| Laws: procedure law | 3. | <p>Subject to this Division, the Band Council shall by law provide for the procedure to be followed in passing laws including a procedure for challenging those laws. Every law passed by the Band Council shall be reconsidered not less than one day after third reading and before adoption.</p> |
| Approval or assent | 4. | <p>Where under this Constitution a law requires the assent of the Band Electors the assent shall be obtained after the law has been given third reading by the Band Council and before it is adopted.</p> |
| Return of law for reconsideration | 5. | <ol style="list-style-type: none">(1) The Chief may, at any time within one month after its adoption, return for reconsideration a law, resolution or proceeding of the Band Council which has not had the assent of the Band Electors, has not been reconsidered by the Band Council under subsection (3) or has not been acted on by an officer, employee or agent of the Band.(2) The Chief may state his or her objections to the Band Council. The secretary of the meeting shall record in the minute book the objections, suggestions or amendments of the Chief. |

- (3) The Band Council shall, as soon as convenient, consider the objections, and either reaffirm or reject the law resolution or proceeding, and if rejected, it is deemed to be repealed and is of no force or effect whatever.
- (4) The rejected law, resolution or proceeding shall not be reintroduced to the Band Council for six (6) months, except with the unanimous consent of the Band Council.
- (5) The conditions which applied to the passage of the original law, resolution or proceeding apply to its rejection.

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| Law to be signed | 6. | Where a law is adopted by the Band Council, it shall be signed by the Chief or other member presiding at the meeting when it was adopted. |
| Resubmitting rejected laws | 7. | If a law which requires the assent of the Band Electors does not receive their assent, no other law for the same purpose shall be submitted to the Band Electors within a period of six (6) months from the last submission. |
| Effective date of law | 8. | A law adopted by the Band Council is in force from the date of the adoption or from a subsequent date fixed by the law. |
| Register of Band laws | 9. | The Band Council shall keep at the Band Office a register of all Band laws, which register shall be available for inspection during normal business hours. |
| Disqualified member present | 10. | A law, resolution or other proceeding of the Band Council shall not be set aside or declared invalid by reason only that a person sitting or voting as a member of the Band Council is not qualified for office, was not qualified at the time of his election or subsequent to his or her election ceased to be qualified or became disqualified. |
| Effect of invalid election on status | 11. | Where the election of the Band Council has been set aside or declared invalid, the election of a Councillor has been set aside, the office of a Councillor has been disclaimed, or a Councillor has been declared disqualified from holding office, a law, contract or other proceeding adopted, made or taken by the Band Council prior to the order, disclaimer or declaration shall not, if otherwise within the jurisdiction and powers of the Band Council, be invalidated or attacked by reason only of the order, disclaimer or declaration. |

DIVISION (6) – FEDERAL TRANSFER PAYMENTS

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| Federal Transfer payments – operations and maintenance | 1. | Pursuant to section 33 of the Act, the Band shall negotiate and enter into agreements with the Minister to transfer funds for operations and maintenance by way of grants over such period of time and subject to such terms and conditions as are specified in the agreements, and the elements of such agreements should embody the principles of cost-sharing, volume and price. |
| Federal Transfer payments capital | 2. | Pursuant to section 33 of the Act, the Band shall negotiate and enter into agreements with the Minister to transfer capital moneys by way of grant over such period of time and subject to such terms and conditions as are specified in the agreements and the elements of such agreements should embody the principles of cost-sharing, volume and price. |

DIVISION (7) – BUDGETS

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| Band budgets | 1. | Prior to February 28, the Budget Committee shall present to the Band Council the Band budget for the ensuring fiscal year. |
| Budget for Band Revenue | 2. | The Band Revenue budget shall show sources of Band Revenue money as indicated in Division (5) of Part I and expenditures in detail as indicated in section 6 hereof. |
| Budget for Band Capital | 3. | The Band Capital budget shall show sources of Band Capital money as indicated in Division (5) of Part I and expenditures in detail as indicated in section 7 hereof. |
| Budget for Federal Transfer payments | 4. | <p>(1) The budget for Federal Transfer payments, determined under Division (6) section 1 of this Part and the expenditures in detail as indicated in section 8 hereof.</p> <p>(2) The budget for Federal Transfer payments, capital, shall show the amount determined under Division (6) section 2 of this Part and expenditures in detail as indicated in section 9 hereof.</p> |
| Approval of Band budgets | 5. | <p>(1) Upon approval by the Band Council, the budget shall be placed before the Band Electors for review and amendment at a special general meeting, such meeting to be held no later than the last day of February.</p> |

- (2) Subsequent to the special general meeting provided for in subsection (1) but no later than March 15, the Band Council shall ratify the budget for the ensuing year.
- (3) Changes to the budget must be presented to the Band Electors at a special general meeting for review and amendment and subsequent to that meeting the Band Council shall ratify the amended budget.

Band Revenue -
expenditures

6. (1) Band Revenue money expenditures include but are not limited to:
 - (a) administration of Band programs;
 - (b) contributions to the Sechelt Indian Band Housing Program;
 - (c) community services including food, fish, emergency assistance, burials and recreation grants;
 - (d) jointly funded programs;
 - (e) supplements to Band programs;
 - (f) loans or grants to Band Members for the purposes of housing or economic development;
 - (g) economic development;
 - (h) Band planning;
 - (i) charitable donations;
 - (j) provision for asset replacement; and
 - (k) for any other purpose that in the opinion of the Band Council is for the benefit of the Band.
- (2) In addition to the uses itemized in subsection (1), a provision for contingencies in an amount not exceeding five percent (5%) of the estimated annual Band Revenue may be provided for in the annual budget.

Band Capital
expenditures

7. Band Capital money expenditures include but are not limited to:
 - (a) construction or improvement of roads, bridges and water courses on Sechelt Lands;

- (b) construction or improvement of outer boundary fences on Sechelt Lands;
- (c) purchase of land for use by the Band as new Band lands or as an addition to Sechelt Lands;
- (d) purchase for the Band of the interest of a member of the Band in the Sechelt Lands;
- (e) purchase of vehicles, machinery, and other equipment for the Band;
- (f) construction on or in connection with the Sechelt Lands of such improvements or work as in considers will be of permanent value to the Band or will constitute a capital investment;
- (g) loans to Band Members on terms deemed suitable by the Band Council for the purpose of promoting the livelihood of the Band; and
- (h) for any other purpose that in the opinion of the Band Council is for the benefit of the Band is deemed in its nature to be a capital expenditure.

Federal Transfer payments, operations and maintenance expenditures

- 8. (1) Expenditures of money transferred pursuant to section 1 of Division (6) of this Part include but are not limited to:
 - (a) administration of Band programs;
 - (b) operation of Band-owned schools and education support services;
 - (c) contractual payments to the local school board in accordance with the terms and conditions of the Federal/Provincial Master Tuition Agreement;
 - (d) payments as necessary for provision of local government services;
 - (e) shelter and special needs payments to eligible Band Members;
 - (f) job creation;
 - (g) joint-funded programs;
 - (h) payments of health premiums t the Provincial Government;

- (i) Band planning;
- (j) economic development;
- (k) Sechelt Lands and Estates; and
- (l) for any other purpose that in the opinion of the Band Council is for the benefit of the Band.

(2) Payments required under subsections (1)(b), (c), (e) and (h) are to be considered a mandatory budget requirement and cannot be circumvented or eliminated by procedures set out in section 5 hereof.

(3) Expenditures which are capital in nature cannot be made from this money.

Federal Transfer payments, capital expenditures

9. (1) Expenditures of money transferred pursuant to section 2 of Division (6) of this Part include but are not limited to:
- (a) transfers to the Sechelt Indian Band Housing Program;
 - (b) construction or improvement of roads, bridges and water courses on Sechelt Lands;
 - (c) construction or improvement of outer boundary fences on Sechelt Lands;
 - (d) purchase of land for use by the Band as new Sechelt Lands or as an addition to Sechelt Lands;
 - (e) purchase for the Band of the interest of a Band Member in Sechelt Lands;
 - (f) purchase of vehicles, machinery and other equipment for the Band;
 - (g) construction on or in connection with Sechelt Lands of such improvements or works as it considers will be of permanent value to the Band or will constitute a capital investment;
 - (h) payment to local school district for negotiated share of capital construction;
 - (i) transfers to special reserves for future capital projects; and

(j) for any other purpose that in the opinion of the Band Council is for the benefit of the Band and is deemed in its nature to be a capital expenditure.

(2) Transfers pursuant to subsection 1(a) are to be considered a mandatory budget requirement and cannot be circumvented or eliminated by the procedures set out in section 5 hereof.

Federal Transfer payments – mandatory programs

10. With respect to section 8 and 9 hereof, the Band shall make expenditures only as may be permitted by, and subject to the terms and conditions of, agreements which may be entered into with Her Majesty the Queen in right of Canada for the provision of federal transfer payments.

DIVISION (8) – BORROWING

Band may obtain loans

1. (1) The Band may obtain loans individually not exceeding two million five hundred thousand (2,500,000) dollars nor collectively at any time exceeding ten (10) million dollars.
- (2) The loans shall be for either local municipal works including but not limited to roads, sewers, water systems and community buildings or economic development projects.
- (3) The loans shall be number consecutively.
- (4) Loans shall be amortized over a period of less than three (3) years or greater than thirty (30) years with respect to municipal works loans and no greater than twenty (20) years in respect to economic development loans. Notwithstanding the provisions of this subsection, the band may obtain short term demand loans as may be approved at a meeting of Band Members.
- (5) Interest payable annually on municipal works loans shall be equivalent to the prevailing rates for loans for such purposes but, if financed internally, shall be repaid at rates set by the Band Council.

Loan authorization law

2. (1) Upon completion of all necessary technical studies, including alternatives considered and design criteria relating to the proposed project, the Band Council shall adopt a loan authorization law for the specific project subject to the assent of the Band Electors.
- (2) The law shall provide for the following:

- (a) the amount of debt;
- (b) the amount of unused credit prior to paragraph (a);
- (c) the term of the debt and the interest rate applicable;
- (d) the purpose of the proposed work;
- (e) the time schedule of the project;
- (f) the source or sources of repayment
- (g) assurances that the works meet all legislation and construction codes required by each body of competent jurisdiction; and
- (h) authorization for creation of a sinking fund into which all related funds are deposited.

Investment of funds 3. Money in a sinking fund which cannot immediately be applied against the debt because no part of the debt or obligation is yet payable, may be invested or reinvested by the Band Council in:

- (a) securities of Canada or a province;
- (b) securities guaranteed for interest and principal by Canada or a province;
- (c) investments guaranteed by a chartered bank; and
- (d) deposits in or evidence of debt of a credit union or a trust company.

Sources of funds for debt retirement 4. Sources of debt retirement funds include but are not limited to

- (a) special levy on the Band electors;
- (b) transfer allocations from Federal Government;
- (c) transfers from Band Revenue money;
- (d) transfers from Band Capital money;
- (e) payments from the profits or net cash flow of an economic development project; and
- (f) a combination of the foregoing.

Comprehensive
loan authorization
law

5. (1) Instead of a loan authorization law for one purpose, the Band Council may adopt a comprehensive loan authorization law to borrow money to carry out works and services during a period, not exceeding ten (10) years, determined by the Band Council.
- (2) The total amount proposed to be borrowed under the law must have the assent of the Band Electors to a question setting out the dates of commencement and termination of the period, the total amount proposed to be borrowed under the law and the works and services determined by the Band Council.
- (3) the question may be in the following or similar form:

Do you assent to the Band Council having the power, during a (number of years in period) year period commencing on _____ (month, day, 19__, to adopt laws for borrowing, from time to time, of money not to exceed a total of (number of dollars proposed to be borrowed) dollars to carry out the following projects: (List the works and services and the money to be allocated for each.)?

- (4) The total money authorized to be borrowed by law shall not exceed the amount in the question.
- (5) The Band Council may, by law adopted by 2/3 of the members and with the assent of the Band Electors, vary the works services and allocations.

Handling of
loan proceeds

6. (1) Money drawn under each loan authorization law shall be deposited to an account in a savings institution and money not immediately required may be invested as detailed in section 3 hereof.
- (2) Interest earned under subsection (1) shall be considered money relating to the loan.
- (3) Any surplus remaining after completion of the project may be
- (a) transferred to the sinking fund authorized in the law; or
 - (b) applied against the loan firstly in payment of any interest accrued since the date of the loan advance and then to reduce the principal amount of the debt.

Separate accounting 7.

Separate accounting shall be made of all activities relating to each loan and its related sinking fund.

Use of loan for other purposes

8. Use of the loan or the sinking fund related to the loan for any purposes other than authorized by the law by any member of Band Council or its employees or agents shall cause that individual or individuals to be personally liable for the amount.
9. The Band Council may obtain loans as necessary for working capital for operational purposes provided that such loans are fully repaid within twelve (12) months.

DIVISION (9) – COMPREHENSIVE CLAIM SETTLEMENT

1.
 - (1) The monetary component of any settlement of the Band's comprehensive land claim shall be deposited in a fund to be called the Sechelt Prosperity Fund.
 - (2) Sechelt Prosperity Fund investment shall be restricted to government guaranteed securities and Schedule "A" chartered bank acceptances.
2. The annual interest earned on the Sechelt Prosperity Fund shall be allocated on each anniversary of the establishment of the Sechelt Prosperity Fund as follows:
 - (1) 30% shall be reinvested in the Sechelt Prosperity Fund;
 - (2) 40% shall be deposited to a fund to be called the Sechelt Dividend Fund;
 - (3) 20% shall be deposited to a fund to be called the Sechelt Economic Development Fund;
 - (4) 10% shall be deposited to the Band Revenue account.
3.
 - (1) On each anniversary date of the establishment of the Sechelt Property Fund, the entire amount of the Sechelt Dividend Fund shall be distributed per capita to the Band Member.
 - (2) A Band Member shall be entitled to the dividend described in subsection (1) if his or her name appears on the Sechelt Band List sixty (60) days prior to the distribution date.
 - (3) Dividends payable to Band Members who are minors shall be deposited in a separate trust account and invested only in government guaranteed securities. The dividend credited to a minor, together with accrued interest, shall be disbursed to the minor on his or her 18th birthday.

4. (1) Annual expenditures from the Sechelt Economic Development Fund shall be limited to 50% of the balance of the Fund.
- (2) The Band Council may authorize expenditures from the Sechelt Economic Development Fund for the following purposes:
 - (a) investment in share capital of private and public companies;
 - (b) investment in conventional secured mortgage loans;
 - (c) secured business loans;
 - (d) investment in joint ventures;
 - (e) for any other activity deemed by the Band Council to be economically beneficial to the Band or Band Members.
5. Proceeds from the resources sharing component of any comprehensive claim settlement shall be deposited to the Band Capital account and expended in accordance with section 4 hereof.

DIVISION (10) – AUDITOR

Auditor

1. (1) The band Council shall appoint an auditor to audit the accounts and transactions of the Band and of every administrative body, trust or corporation handling Band money, or Federal Transfer payments, for which no statutory audit provision is made.
- (2) The auditor shall be a member, or a partnership whose partners are members in good standing of the Canadian Institute of Chartered Accountants, or the Certified General Accountants Association of British Columbia.
- (3) The band Council shall notify, in writing, the auditor and the Governor in Council promptly of each appointment and termination of an auditor.
- (4) Where, in the opinion of the Governor in Council, an auditor has discharged his or her duties in a negligent manner, he or she may require the Band Council to dispense with the auditor's services and to appoint another auditor.

- (5) Termination is not effective until a successor is appointed.
- Auditor may appeal termination 2. (1) Where the engagement of an auditor is terminated, the auditor within one month of notification may appeal in writing from the Band Council's decision to the Governor in Council who may confirm or set aside the termination. The auditor shall file a copy of his or her notice of appeal with the Band Council.
- (2) The Band Council shall not appoint another auditor until the time allowed for an appeal by the auditor has elapsed or, if an appeal has been made, until the appeal has been dealt with.
- Failure to appoint an auditor 3. Where the Band Council fails or neglects to appoint an auditor, the Governor in Council may, on one month's notice to the Band Council of his or his intention to do so, appoint an auditor. The Governor in Council may fix the remuneration to be paid to the appointee by the Band and may limit the duration of the appointment.
- Duties of auditor 4. (1) The auditor shall make an examination that enables him or her to report to the Band Electors under this section.
- (2) The auditor has a right of access in all times to every record, instrument, account and any other component of the financial reporting system of the Band or of any other administrative body handling Band affairs or money.
- (3) The auditor is entitled to require from members of the Band Council or any other administrative body, from officials and employees of the Band, or any other administrative body, any information or explanation necessary to perform his or her duties. Every Band Council member, official or employee and every member or servant of any other administrative body handling Band Revenue or Band Capital money or Federal Transfer payments shall make available all necessary records referred to in subsection (2) necessary for an audit or required by the auditor, and shall give him or her every reasonable facility and furnish full information and explanations about the affairs of the Band or administrative body necessary for the performance of his or her duty.
- (4) The auditor shall submit a report to the Band Council on the annual financial statements for the Band, and any other administrative body. The Band Council shall provide a copy of this report to the Governor in Council or the Minister as the case may be.

- (5) He or she shall state in his or her report whether his or her examination included a general review of accounting procedures and test of accounting records and other supporting evidence he or she considered necessary under the circumstances and whether in his or her opinion the financial statements present fairly the financial position of the Band, and other administrative bodies at the end of their respective fiscal years, and the results of their operations for the year then ended, in accordance with generally accepted accounting principles applied on a basis consistent with that of the previous year. He or she shall separately report each disbursement, expenditure or other transaction lacking proper authority under this Constitution. He or she shall further state that his or her review was made in accordance with generally accepted auditing standards.
- (6) The annual financial statements shall be presented in form and content usual to the accountability requirements of the Band with regards to Band Revenue and Capital money and the accountability requirements of the Federal Government with regards to the Federal Transfer payments for operation and maintenance money and capital money.
- (7) The annual financial report is to be completed by the 30tgh day of June each year for the preceding fiscal year.

PART III – LAWS

DIVISION (1)

Note: The powers in sections labelled with an * have been transferred to the Sechelt Indian Government District by Order-in-Council P.C. 1987-2125.

Access to and residence on Sechelt Lands

1. The Band Council shall have the right to make laws in relation to access to, and residence on, Sechelt Lands, subject to:
 - (a) the following persons having the right to reside on Sechelt Lands:
 - (1) lessees;
 - (2) permittees;
 - (3) Band Members, subject to the availability of housing within the Band subdivisions, and subject to the allocation of a residential lot pursuant to Part I Division 2, section 2 of this Constitution
 - (4) lawfully married husbands or wives of persons referred to in subsection (a)(3).

All other persons may only reside on Sechelt Lands pursuant to a law of the Band Council; and

- (b) the following persons having the right of access to Sechelt Lands:
 - (1) lessees and his or her invitees;
 - (2) permittees and those granted a right of access under the permit;
 - (3) Band members;
 - (4) lawfully married husbands or wives of persons referred to in subsection (b)(3);
 - (5) a person who is authorized by a government body or any other public body established by or under an Act of Parliament, an Act of the Legislature of British Columbia or a law of the Band Council to perform a public function, establish, operate or administer a public service, construct or operate a public installation or conduct a technical survey thereon;

- (6) a member of the public seeking access to the public facilities and installations situated on Sechelt Lands; and
- (7) a person authorized in writing by, or pursuant to a law of, the Band Council.

Zoning and land use planning in respect of Sechelt Land *2.

The Band Council shall have the right to make laws in relation to zoning and land use planning in respect of Sechelt Lands subject to:

- (a) the Band Council adopting such provisions of the municipal Act of British Columbia as it may require for the purposes of zoning and land use planning in respect of Sechelt Lands. Without limiting the generality of the foregoing, the Band Council, by law, may provide for a separate community plan in respect of those areas of the Sechelt Lands occupied only by Band members; and
- (b) such provisions and laws including and containing standards and rights at least equivalent to those prevailing in the Province of British Columbia from time to time. Without limiting the generality of the foregoing, such provisions and laws shall include:
 - (1) procedures for the adoption and amendment of zoning laws and development laws, including the holding of public hearings on the establishment, amendment or repeal of such laws or plans; and
 - (2) the procedures for the issuance of building and development permits, including the right of appeal to an independent board as appointed by the Band Council.

Expropriation, for community purposes, of interests in Sechelt Lands by the Band 3.

The Band Council shall have the right to make laws in relation to expropriation, for community purposes, of interests in Sechelt Lands by the Band, subject to the following:

- (a) where laws made under section 4 are in force, the Band may, subject to and in accordance with those laws, for community purposes expropriate any right or interest in its land or in any building situated thereon, except for a right or interest of her Majesty the Queen in right of Canada or British Columbia;
- (b) the right of the Band to expropriate pursuant to this Division does not restrict any right that the Band has to acquire by mutual agreement, rights or interests in land or buildings;

- (c) the Band shall, subject to and in accordance with Laws made under section 4, pay compensation to holders of rights or interests expropriated pursuant to this Division;
- (d) the Band Council shall make fair and reasonable laws respecting substantive or procedural aspects of expropriations permitted by this Park, which shall include, without limiting the generality of the foregoing, laws respecting:
 - (1) procedures governing expropriation, including the taking of possession, compulsory taking of possession and transfer of title;
 - (2) entitlement to compensation, determination of the amount of compensation and the method of payment of compensation;
 - (3) contesting or disputing
 - (i) the right of the Band to expropriate and
 - (ii) the amount of compensation awarded to the Expropriated party; and
 - (4) rights of appeal to an independent board as appointed by the Band Council; and
- (e) such laws shall include and contain standards and rights at least equivalent to those prevailing in the Province of British Columbia from time to time.

Use, construction
maintenance, repair
and demolition of
buildings and
structures on Sechelt
Lands

- *4. The Band Council shall have the right to make laws in relation to use, construction, maintenance, repair and demolition of buildings and structures on Sechelt Lands, subject to:
- (a) the Band Council adopting such provisions of the Municipal Act of British Columbia as it may require for the purpose of making laws concerning the use, construction, maintenance, repair and demolition of buildings and structures on Sechelt Lands; and
 - (b) such provision and laws including and containing standards and rights at least equivalent to those prevailing in the Province of British Columbia from time to time. Without limiting the generality of the foregoing, the Band Council shall adopt the National or Provincial Codes with respect to building, electrical energy, gas, fire services and other matters related to the exercise of its authority set out herein.

- Taxation for local purposes, of interest in Sechelt Lands, and of occupants and tenants of Sechelt Lands, including assessment, collection and enforcement procedures and appeals relating thereto
- *5. The Band Council, in the exercise of its taxation powers, shall have the right to make laws providing for taxation, for local purposes, of interests in Sechelt Lands, and of occupants and tenants of Sechelt Lands i respect of their interest in those lands, including assessment, collection and enforcement procedures and appeals relating thereto, subject to:
- (a) the Band Council adopting such provisions of the laws of British Columbia, as it may require, in respect of such taxation;
 - (b) such provisions and laws including and containing standards and rights at least equivalent to those prevailing from time to time in the Province of British Columbia. Without limiting the generality of the foregoing, such provisions and laws shall include procedures for the assessment and collection of taxes, the enforcement of laws, and appeals relating thereto;
 - (c) there being no law concerning the taxation of tenants on Sechelt Lands unless the Province of British Columbia has either withdrawn from such taxation or has suspended its right to tax those tenants; and
 - (d) the restriction that no law so made by the Band Council shall have the effect or purpose of imposing an income tax on those who reside on, are occupants of, or tenants on, Sechelt Lands.
- Administration and management of property belonging to the Band
6. The Band Council, in exercise of its administration and management powers, shall have the right to make fair and reasonable laws with respect to the control and management of property belonging to the Band.
- Preservation and management of natural resources on Sechelt Lands
7. The Band Council shall have the right to make laws providing for the preservation and management of natural resources on Sechelt Lands, subject to:
- (a) such laws containing and including standards and rights at least equivalent to those prevailing in the Province of British Columbia from time to time. Without limiting the generality of the foregoing, such law shall include:
 - (1) procedures for the operation of resource development by application to, and permit by the Band Council, including the holding of public hearings related thereto; and
 - (2) procedures for the appointment of a Band inspector for resource development; and

(b) the Band authority as set out in Division 3 of Part I of this Constitution.

Preservation, protection and management of fur-bearing animals, fish and game on Sechelt Lands

8. The Band Council, by law, may provide for the Band to enter into contracts or other mutually acceptable arrangements for joint management with other jurisdictions in respect of the preservation, protection and management of fur-bearing animals, fish and game on Sechelt Lands.

Public order and safety on Sechelt Lands

*9. the Band Council shall have the right to make fair and reasonable laws for the protection of public order and safety on Sechelt Lands, including those for the control of noise, animals, waste disposal and places of amusement. Such provisions and laws, particularly with respect to waste disposal, shall include and contain standards and rights at least equivalent to those prevailing in the Province of British Columbia from time to time.

Construction, maintenance and management of roads and the regulation of traffic on Sechelt Lands

*10. The Band Council shall have the right to make laws in relation to construction, maintenance and management of roads and the regulation of traffic on Sechelt Lands, subject to:

- (a) the Band Council adopting such provisions of the laws of the Province of British Columbia and regulations ancillary thereto as it may require in respect of the construction, maintenance and management of roads and the regulation of traffic on Sechelt Lands; and
- (b) such provisions and laws including and containing standards and rights at least equivalent to those prevailing in the Province of British Columbia from time to time.

Operation of businesses, professions and trades on Sechelt Lands

*11. The Band Council shall have the right to make laws in relation to the operation of businesses, professions and trades on Sechelt Lands, subject to:

- (a) the Band Council adopting such provisions of the Municipal Act of British Columbia as it may require in respect of the operation of businesses, professions and trades on Sechelt Lands; and
- (b) such provisions and laws including and containing standards and rights at least equivalent to those prevailing in the Province of British Columbia from time to time. Without limiting the generality of the foregoing, such provisions and laws shall include:

- (1) procedures for the licencing of businesses, imposition of licence fees, and collection of licence fees; and
- (2) classification of business according to business type.

Prohibition of the sale, barter, supply manufacture or possession of intoxicants on Sechelt Lands and any exceptions to a prohibition of possession

12. The Band Council shall have the right to make laws prohibiting the sale, barter, supply manufacture or possession of intoxicants on Sechelt Lands. A law may not be made under this section unless it is first assented to by a majority of the Band Electors who voted at a special meeting of the Band called for the purpose of considering the law.

Imposition on summary conviction of fines or imprisonment for the contravention of any law made by the Band Government

- *13. The Band Council shall have the right to make laws in relation to the imposition on summary conviction of fines or imprisonment for the contravention of any law made by the Band Council, subject to:

the law of the Band Council specifying a maximum fine or a maximum term of imprisonment, or both, the maximum fine not exceeding \$2,000.00 and the maximum term of imprisonment.

- * NOTE: Power is transferred only in relation to laws made pursuant to sections 2, 4, 5, 9, 10, 11 and 18 of this Division.

Devolution, by testate or intestate succession, of real property of Band Members on Sechelt Lands and personal property of Band Members ordinarily resident on Sechelt Lands

14. The Band Council shall have the right to make laws in relation to devolution, by testate or intestate succession, or real property of Band Members on Sechelt Lands and personal property of Band Members ordinarily resident on Sechelt Lands subject to:
- (a) The Band Council adopting such laws of the Province of British Columbia as it may require, concerning the devolution, by testate or intestate succession, or real property of Band Members on Sechelt Lands and personal property of Band Members ordinarily resident on Sechelt Lands;
 - (b) no such law coming into effect until the first day of April, 1988;
 - (c) any such law providing that, in the event of intestacy, the administrator of the estate shall be appointed by the Band Council; and

- (d) such laws including and containing standards and rights at least equivalent to those prevailing in the Province of British Columbia from time to time. Without limiting the generality of the foregoing, such laws shall include:
- (1) procedures for the granting of administration and amendments required thereto;
 - (2) designation of powers, responsibilities, obligations and liabilities of administrators and requirement for security related thereto;
 - (3) provisions relating to the devolution of estates;
 - (4) procedures for the appointment of an administrator by the Band Council;
 - (5) provisions with respect to insolvent estates; and
 - (6) provisions with respect to rules of law, legal procedures, evidence and appeals with respect to the administration of estates.

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| Financial administration of the Band | 15. The Band Council shall have the right to make fair and reasonable laws with respect to the financial administration of the band for the purpose of implementing the Band's authority as set out in Division 4, Division 6 and Division 7 of Part II of the Band Constitution. |
| Conduct of Band elections and referenda | 16. The Band Council shall have the right to make fair and reasonable laws with respect to the conduct of Band elections and referenda for the purpose of implementing the Band's authority as set out in Division 4 of Part I and Division 1 of Part II of the Band Constitution. |
| Creation of administrative bodies and agencies to assist in the administration of the affairs of the Band | 17. The Band Council shall have the right to make laws to create administrative bodies and agencies to assist in the administration of the affairs of the Band for the purpose of implementing the Band's authority as set out in the Band Constitution. |
| Matters related to the good government of the Band, its members or Sechelt Lands | <p>*18. The Band Council shall have the right to make fair and reasonable laws with respect to matters related to the good government of the Band, its members or Sechelt Lands for the purpose of implementing the Band's authority as set out in the Band Constitution.</p> <p>* NOTE: Power transferred only in relation to good government of Sechelt Lands.</p> |

19. The Band Council shall have the right to make laws in relation to health services on Sechelt Lands. Such laws shall include and contain standards and rights at least equivalent to those prevailing in the Province of British Columbia from time to time.