



**INFORMATION BOOK FOR THE SHÍSHÁLH NATION
REFERENDUM TO BE HELD ON MAY 25, 2019
(ADVANCE POLL - MAY 19, 2019)**

**Proposed Amendments to the Sechelt Band Indian Band
Constitution, 1986 and Adoption of the shíshálh Nation
Election and Referendum Law**

April 15, 2019

THE PURPOSE OF THIS INFORMATION BOOK

The purpose of this Information Book is to provide shíshálh Nation members with information about the Referendum that is being held on May 25, 2019 in relation to the following question:

Do you agree that the proposed amendments to the Sechelt Indian Band Constitution 1986 should be approved, and that the shíshálh Nation Election and Referendum Law, 2019 should also be adopted at the same time?

Why is there going to be a Referendum?

It has been a long term goal of the shíshálh Council to update the shíshálh Constitution and this Council made it a top priority and formed the Constitution Committee to begin the work.

Many reasons for updating the Constitution have been identified, but one of the reasons is that the Constitution does not currently allow shíshálh members who live off Sechelt Band Lands to vote or run for Chief and Council.

The Constitution can only be changed by a referendum of shíshálh members who are eligible to vote, and if approved by Federal Cabinet. If a majority of shíshálh voters who vote in the upcoming referendum vote “yes” to the changes that are being proposed to the Constitution and approve the adoption of the shíshálh Nation Election and Referendum Law at the same time, then Federal Cabinet also needs to approve the changes to the Constitution.

The Constitution does not require a referendum to be held in relation to the proposed shíshálh Nation Election and Referendum Law. However, Council chose to take the Law to a referendum to ensure that it is supported by shíshálh members before they decide to enact the Law. The Law does not require any approvals from Federal Cabinet.

Canada has committed to engage with shíshálh after the May 25, 2019 Referendum to work on Phase II changes to the Constitution. These include:

- Removing the section in the Sechelt Self Government Act requiring cabinet approval for changes to the Constitution
- Shíshálh Nation Lands and Finances
- Membership issues

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A. THE REFERENDUM PROCESS

Steps in process	Explanation
Council Appoints Electoral Officer on April 15, 2019.	This person must not be a member of Council nor an employee working in the principal administrative offices of shíshálh, located at Sechelt
Post Referendum Notice at least 30 days prior to the vote, in a form approved by Council, in places the electoral officer deems necessary	Referendum Information Package will be provided with the Notice
Council gives three readings to shíshálh Nation Election and Referendum Law	
A copy of the List of Band Electors and the location of polling stations will be posted on or before May 1, 2019	Must be posted at least 15 days prior to the voting date. If, within 10 days of the List being posted , a Band Elector applies for a revision to the List and the Electoral Officer is satisfied that a revision to the List is necessary, the Electoral Officer will revise the List
Advance Poll will be held on May 19, 2019	An advance poll may be held between 2:00 pm and 6:00 pm on the Sunday before the day set for voting
Voting Day for Referendum will be May 25, 2019	Polling stations on the day of voting must be open from 9:00 am until 8:00 pm.
On May 25, 2019, after the closing of the polls, the Electoral Officer counts the votes	The Chief must sign the statement showing referendum results and Council must receive a copy of the statement in duplicate
If 50%+ 1 of Band Electors who vote in the Referendum vote YES to the Referendum Question, then the Referendum Question passes and the Referendum Result and the Amended Constitution will be sent to Canada.	Federal Cabinet must approve the amendments to the Constitution after the Referendum, as required by the <i>Sechelt Indian Band Self Government Act</i> . There may be non-substantive minor changes made to the Amended Constitution through the Cabinet approval process (for example, punctuation, inclusion of “and” in place, etc.).
If Federal Cabinet approves the Amended Constitution, then it will come into force.	If the Amended Constitution is approved by Federal Cabinet, shíshálh Nation Chief and Council will adopt the shíshálh Nation Election and Referendum Law. There may be non-substantive minor changes made to the Law (for example, punctuation, inclusion of “and” in place, etc.).

B. A GENERAL SUMMARY OF CHANGES BEING PROPOSED TO THE 1986 SECHELT INDIAN BAND CONSTITUTION

There are three sections that would be changed in the 1986 Constitution if shíshálh Band Electors vote “YES” in the May 25, 2019 Referendum:

- The Definitions Section and use of the definitions throughout the Constitution
- The Elections and Referendum Sections
- The Election of Council Section

Please Note: The Constitution was passed in 1986 but was amended in 1993. This information book refers to the Constitution as the 1986 Constitution.

1. Definitions Section

WHY ARE THESE CHANGES BEING PROPOSED TO THE CONSTITUTION?

Certain definitions have been added to and used throughout the Constitution because:

- they were not previously included (and should have been);
- they modernize the language in the Constitution and make it easier to read and understand; and
- they are needed to make the Constitution consistent with the shíshálh Nation Election and Referendum Law.

Some of the Changes or Updates to the Definitions include:

- using the term “Voters” instead of “Band Electors” to refer to shíshálh members who are entitled to vote in elections and referendums;
- adding a definition for “shíshálh Nation” so that it can be used throughout the Constitution instead of the outdated *Indian Act* term “Sechelt Indian Band”; and
- adding definitions for “Council”, “Councillor” and “Member”

To review the changes, go to Appendix A: Amended Constitution, Definitions section- Note that these definitions are used throughout the amended Constitution

2. Elections and Referendum Sections

WHY ARE THESE CHANGES BEING PROPOSED TO THE CONSTITUTION?

Constitutions are generally high level documents that set out the principles and laws for governance of a Nation. However, the 1986 Constitution has a lot of detailed processes and procedures about how elections and referendums should be carried out.

The processes and procedures to carry out elections and referendums have been put into a shíshálh Nation Election and Referendum Law because:

- The law can be changed in the future by shíshálh members **without** Canada’s oversight or approval, because no Federal Cabinet approval will be required for the changes; and
- The Constitution will be clearer and focus on important principles and laws related to governance of the shíshálh Nation.

The Constitution still contains key parts about when and how elections and referendums are carried out. Key sections that are in the Constitution include:

- Fifty per cent plus one (50%+1) of shísháhl voters must agree to pass the Election and Referendum Law in a referendum;
- No changes can be made the Elections and Referendum Law by Chief and Council or shísháhl Nation Staff. The only way that the Elections and Referendum Law can be changed is if 50% +1 of shísháhl voters vote yes to future changes, in a referendum;
- If the Election and Referendum Law is inconsistent with the Constitution, it is the Constitution that will trump the Law when they are inconsistent;
- A Voters' List must be kept that lists all eligible shísháhl voters. If someone's name does not appear on the final Voters' List, they will not be able to vote in a shísháhl Election or Referendum; and
- Any Voter may appeal a Referendum (including a membership Referendum), Election or By-Election for certain reasons. These include:
 - there was a violation of the Constitution or the Election and Referendum Law that might have affected the results
 - if a person who was elected to Council and they were not an eligible candidate or they were not properly nominated.

The Constitution also contains some important requirements for holding shísháhl Referendums. These requirements include:

- Council must, 90 days prior to a Referendum, set the date for the Referendum and determine which question or questions will be asked in the Referendum; and
- unless another section of the Constitution says differently, a Referendum will pass if at least fifty per cent plus one (50%+1) of Voters voting in the Referendum vote "YES" to the Referendum Question.
 - Some parts of the Constitution require a higher level of "YES" vote - these are not being changed in the proposed amendments to the Constitution

To review the changes to the Elections and Referendum sections of the 1986 Constitution, go to Appendix A: Amended Constitution, Part I, Divisions (4) and (5)

3. Election of Council Section

WHY ARE THESE CHANGES BEING PROPOSED TO THE CONSTITUTION?

One of the most important changes to this section is allowing shíshálh members who do not live on Sechelt Indian Band Lands to vote in elections for Chief and Council and to run for Chief and Council.

- This change will mean that this section of the Constitution will no longer discriminate against some shíshálh members and will be in line with Canadian law.

Some of the detailed procedures about how to elect and remove Chief and Council have been updated and put into the shíshálh Nation Election and Referendum Law because:

- The law can be changed in the future by shíshálh members **without** Canada's oversight or approval, because no Federal Cabinet approval will be required for the changes; and
- The Constitution will be clearer and focus on important principles and laws related to governance of the shíshálh Nation.

Many of the same principles have been kept in the Council Election Section of the Constitution, but the language has been modernized. The principles that have been kept in the Constitution are:

- Council will consist of 4 Councillors and 1 Chief;
- Chief and Council will serve a term of 3 years;
- Chief and Council will be elected by secret ballot by the procedures that are set out in the Constitution and the Election and Referendum Law;
- To qualify as a candidate for Chief and Council, a person must:
 - be a shishalh member;

- qualify as a Voter;
- be properly nominated in accordance with the Constitution and the Election and Referendum Law;
- comply with all relevant requirements set out in the Constitution and the Election and Referendum Law; and
- If a person is elected, they must swear an oath of office and will not be allowed to take office until they've sworn the oath of office.

The Constitution allows for the Chief and individual Councillors to be removed from office and the procedures for doing that are now set out in the Election and Referendum Law.

To review the changes to the Election to Council section of the 1986 Constitution, go to Appendix A: Amended Constitution, Part II, Division (1)

C. A GENERAL SUMMARY OF THE PROPOSED SHISHÁLH NATION ELECTION AND REFERENDUM LAW

WHY HAS THE ELECTION AND REFERENDUM LAW BEEN CREATED?

The 1986 Constitution has a lot of detailed processes about how elections and referendum should be carried out but some of the sections were not very clear and there were gaps.

The procedures about how to carry out elections and referendums have been put into a shíshálh law because:

- The law can be changed in the future by shíshálh members **without** Canada's oversight or approval, because no Federal Cabinet approval will be required for the changes;
- The Constitution will be clearer and focus on important principles and laws related to governance of the shíshálh Nation; and
- The language and processes in the Election and Referendum Law have been modernized.

Below is a general summary of some of the key sections of the shíshálh Nation Election and Referendum Law (which will be called the "Law" in the section below).

1. Term of Office and Election Date (section 6)

- The term of office for Council is 3 years
- The Law says when Council's term of office starts and ends
- The Law makes it clear that the term for all members of Council expires at the same time, even if they weren't elected at the same time

2. Appointment of Electoral Officer, Deputy Electoral Officer(s) and Arbitrator (section 7)

- Council is responsible for appointing an Electoral Officer and an Arbitrator at least 90 days before an Election, Referendum or By-Election.
- If Council fails to appoint the Electoral Officer and an Arbitrator, the Chief Administrative Officer will promptly do so.
- To avoid possible conflicts of interest, the Electoral Officer and the Arbitrator **cannot** be:
 - shíshálh Nation members;
 - members of Council;
 - salaried employees of shíshálh Nation; or
 - hold other contracts for services with shíshálh Nation at the time of the Election, Referendum or By-Election.
- The Deputy Electoral Officer(s) can be a shíshálh Nation member, but cannot be a member of Council or a candidate in that Election.
- The Arbitrator, Electoral Officer and Deputy Electoral Officer(s) must all swear oaths of office.
- The Arbitrator, Electoral Officer and Deputy Electoral Officer(s) can be removed from office if:
 - they breach their obligations under the oaths of office; or
 - if they engage in a Corrupt or Fraudulent Practice.

3. Voter Contact Information and Voters' List (sections 8 and 9)

Below are how Voters' Lists will be prepared in the future, if the Law is approved in the May 25, 2019 Referendum.

- All Voters are solely responsible for ensuring that the Membership Administrator has their current contact information.

- A “Voter” in the Law is a person on the shíshálh Nation’s Membership List who is at least 18 years of age on the date of an Election, Referendum or By-Election.
- The Electoral Officer will use the Voters’ contact information to put together the Voters’ List for Elections and Referendums.
- The Electoral Officer will post the Voters’ List no later than 60 days prior to the Election, Referendum or By-Election.
- If a person’s name does not appear, or correctly appear, on the Voters’ List, there is a process for applying to the Electoral Officer to have your name added to, or changed on, the Voters’ List. There is also a process to apply to have a name removed from the Voters’ List if a person believes someone was incorrectly added to the Voters’ List.
- The Electoral Officer will post a final Voters’ List prior to the date on which an Election, Referendum or By-Election will be held. If your name is not on the final Voters’ List you will not be able to vote in that Election, Referendum or By-Election.

4. Notice of Election, Referendum or By-Election (section 11)

At least 60 days prior to the Election, Referendum or By-Election the Electoral Officer will post a notice, which will include, among other things:

- the places where copies of the Voters’ List will be posted or published;
- contact information for the Electoral Officer and Arbitrator; and
- for Elections, the date, time and location of the Nomination Meeting to nominate candidates;
- for Referendums, the question or questions to be asked.

IMPORTANT

If the Law is passed, in future elections and referendums, Voters who **are not Ordinarily Resident** on Sechelt Lands are entitled to vote by mail-in ballot if they apply for a mail-in ballot at least 30 days prior to the Election, Referendum or By-Election.

Voters who **are Ordinarily Resident** can also apply to vote by mail-in ballot if they are unable to vote in person because of a disability.

What does Ordinarily Resident mean? The place where, in the settled routine of a person's life, that person regularly, normally or customarily lives.

The Electoral Officer is responsible for sending a package to all Voters who have requested to vote by mail-in ballot.

The law also has processes for electronic voting if shíshálh decides to make arrangements to have electronic voting in the future.

5. To Run for Chief and Council (section 12)

To run for office, a person must:

- qualify as a Voter and be properly nominated in accordance with the Law and the Constitution;
- not be currently serving a jail sentence;
- not have been removed or resigned from office during the previous term;
- not be overdue in the payment of a debt to the shíshálh Nation or any shíshálh Entity without a payment plan or other arrangement for repayment; and
- not been convicted of an **Indictable Offence**, or a **Summary Offence** that involves physical or sexual violence toward another person, within 10 years prior to his or her nomination may run for office. The only exceptions are if that person was

convicted of a Summary Offence involving physical violence against another person during an act of civil disobedience in support of Aboriginal rights or title of the shíshálh Nation, or if they were granted a record suspension (pardon) for a Summary Offence.

What is the difference between an Indictable Offence and Summary Offence?	
“Indictable Offence” is defined in the Law as meaning offences that are strictly indictable in the Criminal Code of Canada and hybrid offences under the Criminal Code of Canada where Crown counsel has elected to treat the offence as indictable.	“Summary Offence” is defined in the Law as meaning offences that are strictly summary offences in the Criminal Code of Canada or in other legislation, and hybrid offences in the Criminal Code of Canada of other legislation where Crown counsel has elected to treat the offence as a summary offence.

6. Nominations (Section 12)

- At least 60 days prior to an Election or By-Election for Council, the Electoral Officer will post notice of the Nomination Meeting.
- The Nomination Meeting must be held at least 45 days prior to the Election or By-Election.
- In order to be nominated as a candidate, you must be physically present at the Nomination Meeting.
- The Nomination Meeting will be open for at least 2 hours.

The nomination process:

- any Voter may propose or second a nomination but no Voter may nominate or second more than two persons to serve as Chief and no more than two persons to serve as Councillors;
- after nominating or seconding a candidate, the Voter will sign a Nomination Declaration confirming his or her nomination or seconding of the candidate; and
- all persons nominated must sign a Notice of Acceptance of Nomination and deliver it to the Electoral Officer before the Nomination Meeting closes.
- If a person nominated fails to hand in their Acceptance of Nomination and a Criminal Record Check, they will not be eligible to be a candidate.

7. All-Candidates Meeting (section 13)

Within 5 days of the Nomination Meeting, all candidates must deliver a Candidate Package to the Electoral Officer on Sechelt Lands.

The Candidate Package will contain:

- an updated resume;
- a list of relevant experience and training; and
- a statement setting out the candidate's reasons for running for Council.

All Candidates Meeting

The All-Candidates Meeting is open to shíshálh Members **only** and each Member will be given a copy of each candidate's Candidate Package.

8. Voting (sections 15, 16 and 17)

- A Voter who is voting by mail-in ballot must follow the instructions sent to them by the Electoral Officer.
- For voting in-person, Polling Stations will be open from 9am - 8pm on the date of the Election, Referendum or By-Election.
- An Advance Poll will be held on the Sunday before the Election, Referendum or By-Election from 2pm - 6pm - any Voter may vote at the Advance Poll if they can't or don't want to vote on the actual Election or Referendum day.

Voting on Election Day:

- the Electoral Officer may appoint security, and request that security remove any person who is acting in a way that is in violation of the Law;
- each candidate may appoint a maximum of 2 Scrutineers;
- all voting will be by secret ballot and no Voter can authorize another person to vote for them, unless a Voter requires assistance;

- If a Voter requires assistance, the Electoral Officer or a Deputy Electoral Officer may mark the ballot on behalf of that Voter;
- if a Voter is inside the Polling Station after the poll is closed, they will be allowed to vote.

There are also certain things people **cannot do** at the Polling Station on the day of an Election, Referendum or By-Election, including:

- distributing printed materials except those which were prepared by the Electoral Officer; or
- interfering with or attempting to influence any Voter’s vote or attempt to obtain information about how a Voter has voted.

9. After the Close of Polls and Recounts and Ties (sections 18 and 19)

Once the polls have closed on the date of an Election, Referendum or By-Election, the Electoral Officer will:

- set aside any ballots that are rejected and count all valid ballots;
- complete a recount of ballots if the difference in votes is 5 votes or less, including a tie; and
- publicly declare the final results, once all recounts are counted (if there are any).

What happens if there is a tie vote in a Referendum?	What happens if there is a tie vote in an Election for Council?
In a Referendum, if after a recount a tie remains for any question, the question will not pass.	In an Election or By-Election, if after a recount a tie remains, a By-Election will be held for the candidates who received an equal number of votes.

10. Candidate Requirements after the Close of Polls (section 20)

After the close of polls, all candidates who have been elected must swear an oath of office. Any candidate who **does not** do so within 10 days of being elected will **not** be able to assume office, and the person receiving the next highest number of votes will be declared to be elected.

11. Appeals of Voting Result (section 22)

In an Election, Referendum or By-Election, any Voter may appeal the result by delivering a notice of appeal to the Chief Administrative Officer.

Every notice of appeal must set out all facts in an affidavit and be accompanied by supporting documentation and a filing fee of \$250. If the appeal is successful, the filing fee will be refunded in full.

The notice of appeal can ask that the Election or By-Election be declared invalid because:

- the person elected was not eligible to be a candidate;
- the person elected was not nominated in accordance with the procedures set out in the Constitution or the Law;
- there was a violation of a provision of the Constitution or the Law in the conduct of the Election or By-Election that might have affected the result of the Election or By-Election; or
- there was a Corrupt or Fraudulent Practice in relation to the Election or By-Election.

For a Referendum, any Voter may request that the Referendum be declared invalid on the grounds that:

- there was a violation of a provision of the Constitution or the Law in the conduct of the Referendum that might have affected the result of the Referendum; or
- there was a Corrupt or Fraudulent Practice in relation to the Referendum.

Within 45 days of receiving the notice of appeal from the Chief Administrative Officer the Arbitrator will confirm or invalidate the Election, Referendum or By-Election.

The Arbitrator will publicly post written reasons for their decision.

12. Removal from Office and Council Vacancies (sections 22, 23 and 24)

A member of Council will be removed from office by Council resolution if Council has information sufficient to believe that the person:

- during his or her term in office, was convicted of an Indictable Offence, or a Summary Offence of a violent or sexual nature, unless the Summary Offence was an act of civil disobedience in support of Aboriginal rights or title of the shíshálh Nation, organized or approved by Council, or a record suspension (pardon) has been granted;
- has been absent from three consecutive duly convened Council meetings without being authorized by Council to do so;
- authorized an expenditure, loan, borrowing, guarantee, indemnity or investment contrary to the Constitution;
- has become overdue in the payment of a debt to the shíshálh Nation or any shíshálh Entity without a payment plan or other approved arrangement;
- engaged in a Corrupt or Fraudulent Practice during the Election in which he or she was elected to Council; or
- breached his or her obligations under the Council Oath of Office.

A member of Council can also be removed by a Referendum. A Voter may apply for a Referendum if they believe a member of Council has breached their obligations under the Law and Constitution. The Arbitrator will determine if a Referendum should occur.

13. By-Elections (section 25)

- A By-Election will be held if a member of Council is removed from office, or a position on Council becomes vacant, or a tie occurs in an Election.
- No By-Election will be held where there are less than 6 months remaining in the term of the Council member or members whose office has become vacant unless more than two Council seats are vacant. If more than two Council seats become vacant, the next Election will be called early (within 90 days) so that the seats can be filled.

To review the shíshálh Nation Election and Referendum Law, go to Appendix B

APPENDIX A

**THE SECHELT INDIAN BAND CONSTITUTION, 1986 WITH PROPOSED
CHANGES HIGHLIGHTED**

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SHÍSHÁLH NATION CONSTITUTION

DEFINITIONS AND INTERPRETATION

(a) In this Constitution, the following words have the following meanings:

“Act” means the *Sechelt Indian Band Self-Government Act*, S.C. 1986, c. 27, as may be amended or replaced from time to time;

“Administration Building” means the main administration building for the shíshálh Nation;

“By-Election” means a by-election held to fill a Council vacancy pursuant to this Constitution and the shíshálh Nation Election and Referendum Law;

“Chief” means the candidate duly elected to Council as Chief pursuant to Part II of this Constitution and the shíshálh Nation Election and Referendum Law;

“Chief Administrative Officer” means the person appointed by Council to be the Chief Administrative Officer for shíshálh Nation;

“Council” means the collective of the shíshálh Nation Chief and Councillors duly elected pursuant to Part II of this Constitution and the shíshálh Nation Election and Referendum Law;

“Councillor” means a candidate duly elected to Council as a Councillor pursuant to Part II of this Constitution and the shíshálh Nation Election and Referendum Law;

“Election” means the process by which the Members elect Council;

“Electoral Officer” means a person appointed under the shíshálh Nation Election and Referendum Law to conduct an Election, Referendum or By-Election;

“Indian” means a person who has the legal status of an Indian under the *Indian Act*;

“Indian Band” means an Indian Band or First Nation, other than the shíshálh Nation, recognized under the *Indian Act*, R.S.C. 1985, c. I-5 or other federal legislation;

“Majority” means at least fifty per cent plus one (50%+1);

“Members” means all persons who are eligible for membership in the shíshálh Nation and who are registered on the Membership List maintained by shíshálh Nation pursuant to Part I, Division (1) of this Constitution;

“Membership List” means the list of persons who are registered Members, maintained pursuant to Part I, Division (1) of this Constitution;

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

“Ordinarily Resident” means the place where a person regularly, normally or customarily lives;

“Referendum” means a referendum held pursuant to this Constitution and the shíshálh Nation Election and Referendum Law;

“Sechelt Lands” means lands transferred to the shíshálh Nation pursuant to the Act;

“shíshálh Nation” means the Sechelt Indian Band recognized under s. 5(1) of the Act;

“shíshálh Nation Election and Referendum Law” means the law enacted by the Council, and approved by Voters pursuant to a Referendum, setting out the processes to be followed in shíshálh Nation Referendums, Elections and By-Elections;

“Voter” means a person who is on the shíshálh Nation’s Membership List and who is 18 years of age at the time a shíshálh Nation Referendum, Election or By-Election vote is held;

“Voters’ List” means an alphabetical listing of Voters that includes the name, business address, e-mail address, business telephone and facsimile number of the Electoral Officer and the location of the polling station(s), made pursuant to Part 1, Division (4), section 2;

- (b) Wherever the singular, or masculine, or the term “person” is used in this Constitution, it is deemed to include the plural, feminine, body corporate, Band or other entity where the context so requires;
- (c) The preambles, headings and sub-headings within this Constitution are for convenience only, do not form a substantive part of this Constitution, and are not to be used to define, limit, alter or enlarge the scope or meaning of any other provision of this Constitution.

PART I – THE SHÍSHÁLH NATION

DIVISION (1) – SHÍSHÁLH NATION MEMBERSHIP

- shíshálh
Membership List
1. The Membership List shall be maintained by the Council in the offices of the shíshálh Nation. There shall be entered in the Membership List the name of every person who is a member of the shíshálh Nation.
- First Band List
2. The first Membership List shall comprise members of the shíshálh Nation as recorded in the Membership List maintained by the shíshálh Nation upon the date of enactment of the Act. This first Membership List shall be added to and amended as hereinafter provided.
- General Entitlement
to be entered
3. (1) A person is entitled to be entered in the Membership List if he or she is:
- (a) the natural child of a member of the shíshálh Nation unless the parents of that child are a non-Indian and a widowed shíshálh Nation Member who has no Indian blood; or
 - (b) a member of another Indian Band who was originally a Member of the shíshálh Nation provided that he or she simultaneously resigns his or her membership in that other Indian Band;
- (2) Where a member of another Indian Band is legally adopted by a shíshálh Nation Member that member of the other Indian Band shall be entitled to shíshálh Nation membership.
- Entitlement under
Indian Act
4. A person is entitled to be entered in the Membership List as a member of the shíshálh Nation if he or she is entitled to be registered as an Indian and a member of the shíshálh Nation under paragraphs 6(1)(a), 6(1)(c), 6(1)(d), 6(1)(e), 6(1)(f) or 6(2) of the Indian Act R.S.C., 1970.
- Entitlement by Band
Vote
5. A person is entitled to be entered in the Membership List as a member of the shíshálh Nation if 75% of the Voters vote in favour of his or her entitlement to be registered during a Referendum of the shíshálh Nation called for this purpose. If less than 75% of the Voters but more than 50% of the Voters who actually vote in the first Referendum vote in favour of a person's entitlement to be entered that person shall be entitled to a second vote on his or her application for membership to the shíshálh Nation, and this second vote shall take place within twelve (12) months of the first and shall require a vote in favour of 75% of the Voters who actually vote. The Referendum to be held for the purposes of this section shall be conducted in the manner provided for in Divisions (4) and (5) of this Part.

Membership upon Marriage	6. Where a member of another Indian Band marrying a shíshálh Nation Member wants to become a Member of the shíshálh Nation, he or she shall be entitled to shíshálh Nation Membership provided that notice of this intention is given to the Council within one hundred and twenty (120) days of the marriage. Where a Member marries a member of another Indian Band that Member shall have the choice whether to remain a member of the shíshálh Nation 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 on the Membership List as a member of the shíshálh Nation 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 shíshálh Nation prior to April 17, 1985 on account of marriage to a Member of the shíshálh Nation, that person having no Indian blood shall no longer be entitled to shíshálh Nation membership upon divorce from the Member. 9. Where a person having no Indian blood has become a Member of the shíshálh Nation prior to April 17 1985 because of marriage to a Member of the shíshálh Nation 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 shíshálh Nation membership.
No other deprivation of Membership	10. No Member of the shíshálh Nation shall be deprived of his or her shíshálh Nation 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 Council concerning eligibility to be recorded on the Membership List but any decision of the Voters pursuant to section 5 shall be final and binding, subject to any Referendum appeal provisions set out elsewhere in this Constitution or the shíshálh Nation Election and Referendum Law.

DIVISION (2) – shíshálh NATION LAND REGIME

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| Sechelt Lands held for Members | 1. The Sechelt Lands shall be held by the shíshálh Nation for the use and benefit of the 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 Member to use and occupy the lot upon which his or her house is situated shall be provided for by resolution of the Council or shíshálh Nation law. The procedure for the issuance of all residential lots available to Members and the settlement of disputes, if any, shall be decided upon by the Council and the lots allocated accordingly. |
| Taking of Sechelt Lands for purposes | 3. <ol style="list-style-type: none">(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 Council and subject to any terms that may be prescribed by the Council, be exercised in relation to Sechelt Lands or any interest therein.(2) Unless the 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.(3) Wherever the 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 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 Council.(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 shíshálh Nation for the use and benefit of the Members in common. |

shíshálh Nation
approval for
Sale of Sechelt
Lands

4. (1) Except as provided in section 3, no Sechelt Lands may be mortgaged, 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 Voters.
- (2) In the event that a Referendum is held under subsection (1), and 50% of those Voters voting in the Referendum supported the mortgage, sale or title transfer, but 75% of all the Voters did not vote in support, then a second Referendum may be held. In the event of a second Referendum under this sub-section, the mortgage, sale or title transfer may be approved by 60% of all the Voters.

Granting of
Interests in Sechelt
Land

5. The shíshálh Nation, acting through the Council, may grant leases, licences, permits, easements, rights-of-way or any other interest in the Sechelt Lands that the Council considers desirable and this may be done without the consent of the Voters 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 Council.

shíshálh Nation
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 Voters.
- (2) In the event that a Referendum is held under subsection (1), and more than 50% of those Voters voting in the Referendum supported the lease, licence, permit, easement, right-of-way or other interest, but 50% of all the Voters 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 Voters 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 and 6 shall be conducted in the manner provided for in Divisions (4) and (5) of this Part.

DIVISION (3) – NATURAL RESOURCES

Disposition of natural resources 1. Subject to sections 24, 35, 39, 40 and 41 of the Act, shíshálh Nation 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 shíshálh Nation subject to the existing rights thereto, if any, of the Province of British Columbia.

Granting of permits 3. The shíshálh Nation, acting through the 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 Voters 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 Council.

shíshálh Nation 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 Voters.

(2) In the event that a Referendum is held under subsection (1), and more than 50% of those Voters voting in the Referendum supported the permit, but 50% of all the Voters 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 Voters actually voting.

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

DIVISION (4) - REFERENDUMS AND ELECTIONS

1. shíshálh Nation Election and Referendum Law

- (1) The Council will enact and keep in force, consistent with any requirements of this Constitution, a shíshálh Nation Election and Referendum Law that sets out the processes to be followed in shíshálh Nation Referendums, Elections and By-Elections.
- (2) The initial shíshálh Nation Election and Referendum Law must be assented to by a Majority of Voters voting in a Referendum.
- (3) All amendments to the shíshálh Nation Election and Referendum Law must be assented to by a Majority of Voters voting in a Referendum.
- (4) The shíshálh Nation Election and Referendum Law may not be repealed unless it is replaced by a replacement Election and Referendum law that is assented to by a Majority of Voters voting in a Referendum.
- (5) Where a conflict exists between a shíshálh Nation Election and Referendum Law and the Constitution, to the extent of any conflict, the Constitution will prevail.

2. Voters' List

- (1) Within twenty five (25) days of his or her appointment, the Electoral Officer will prepare a Voters' List comprised of the names of all Voters.
- (2) A person whose name does not appear, or does not correctly appear, on the Voters' List and is eligible to be a Voter may have his or her name added to, or changed on, the Voters' List in accordance with the procedures set out in the shíshálh Nation Election and Referendum Law.
- (3) The Electoral Officer will, at least ten (10) days prior to the date on which the Election, Referendum or By-Election is to be held, post a final Voters' List in a public area of the Administration Building, and publish it electronically.
- (4) Any person whose name does not appear on the final Voters' List will not be entitled to vote in the Election, Referendum or By-Election.

3. Appeals of Referendums, Elections and By-Elections

- (1) In respect of a Referendum, any Voter may deliver a notice of appeal in writing to the Chief Administrative Officer requesting that the Referendum be declared invalid, based on one or both of the following grounds:
 - (a) there was a violation of a provision of this Constitution or the shíshálh Nation Election and Referendum Law in the conduct of the Referendum that might have affected the result of the Referendum; or

- (b) there was a corrupt or fraudulent practice, as defined in the shíshálh Nation Election and Referendum Law, in relation to the Referendum.
- (2) In respect of an Election or By-Election, any Voter, including a candidate for Council, may deliver a notice of appeal in writing to the Chief Administrative Officer requesting that the Election or By-Election of the Chief or a Councillor be declared invalid, based on one or more of the following grounds:
- (a) the person declared elected was not eligible to be a candidate;
 - (b) the person declared elected was not nominated in accordance with the procedures set out in this Constitution and the shíshálh Nation Election and Referendum Law;
 - (c) there was a violation of a provision of this Constitution or the shíshálh Nation Election and Referendum Law in the conduct of the Election or By-Election that might have affected the result of the Election or By-Election; or
 - (d) there was a corrupt or fraudulent practice, as defined in the shíshálh Nation Election and Referendum Law, in relation to the Election or By-Election.
- (3) All appeals of Referendums, Elections or By-Elections must be filed and heard in accordance with the shíshálh Nation Election and Referendum Law.

DIVISION (5) – PROCEDURE FOR REFERENDUM

1. Holding a Referendum

- (1) Where this Constitution or the Act requires questions to be answered by way of Referendum, or where Council considers it advisable to hold a Referendum to answer questions, Council will hold a Referendum by way of a vote.
- (2) A Referendum must be conducted in accordance with the requirements of this Constitution and the shíshálh Nation Election and Referendum Law.
- (3) In order to be entitled to vote in a Referendum, a person must be a Voter and be on the final Voters' List on the date of the Referendum.
- (4) In the case of a Referendum held for the purpose of determining entitlement to membership in the shíshálh Nation pursuant to Division (1), section 5 of this Part, the Referendum must be held within twelve (12) months of an application for registration for entitlement to membership.
- (5) At least ninety (90) days prior to a Referendum being held, the Council will:
 - (a) set a date for the Referendum: and

- (b) determine the question or questions to be asked in the Referendum.
- (6) Unless a different threshold for approval of a question put to Referendum is specified in this Constitution, any question put to Referendum will be approved where a Majority of Voters who cast valid ballots vote “YES” to that question.
- (7) A second Referendum on any question asked in a Referendum cannot be held for at least thirty (30) days after the first Referendum on that question is held.
- (8) For greater certainty, a second Referendum on the question of a person’s entitlement to membership in the shíshálh Nation held pursuant to Division (1), section 5 of this Part will be held no earlier than thirty (30) days and no later than twelve (12) months after the first Referendum, unless the first Referendum is found to be invalid pursuant to an appeal brought in accordance with this Constitution and the shíshálh Nation Election and Referendum Law.

DIVISION (6) – SHÍSHÁLH NATION MONEY

Sources of shíshálh
Nation Revenue
money

1. Sources of shíshálh Nation 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 shíshálh Nation;
 - (f) interest on capital funds of the shíshálh Nation;
 - (g) donations to the shíshálh Nation;
 - (h) British Columbia special payment; and
 - (i) administrative fees.

Expenditure of
Revenue Money

2. shíshálh Nation 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
Capital money

3. Sources of shíshálh Nation 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 shíshálh Nation; and
- (c) royalties from the sale of non-renewable resources.

Expenditure of
Capital money

- 4. shíshálh Nation 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
shíshálh Nation
money

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

PART II – THE COUNCIL

DIVISION (1) - ELECTION OF COUNCIL

1. shíshálh Council

(1) shíshálh Nation Council will consist of four (4) Councillors and one Chief.

2. Term of Office

(1) The term of office for Chief and Councillors will be three (3) years.

3. Election of shíshálh Council

(1) The Chief and Councillors of shíshálh Nation will be chosen by Voters by way of a secret ballot Election or By-Election carried out in accordance with this Constitution and the shíshálh Nation Election and Referendum Law.

(2) In order to be able to vote in an Election or By-Election, a person must be a Voter and included on the final Voters' List on the date of the Election or By-Election.

4. Eligibility of Candidates

(1) To qualify as a candidate for the office of Chief or Councillor, a person must:

(a) qualify as a Voter;

(b) be nominated for that office, in accordance with the procedures set out in this Constitution and the shíshálh Nation Election and Referendum Law; and

(c) comply with all other requirements for qualification as a candidate set out in this Division and the shíshálh Nation Election and Referendum Law, but for greater certainty, the shíshálh Nation Election and Referendum Law cannot disqualify a Voter from being a candidate for the office of Chief or Councillor on the basis of non-residency on Sechelt Lands.

(2) A person may only be a candidate for one of the offices of Chief or Councillor in any Election or By-Election.

5. Requirements to be fulfilled to Take Office

(1) A candidate who has been elected as Chief or Councillor will swear an oath of office in accordance with the requirements of the shíshálh Nation Election and Referendum Law.

(2) No person elected as Chief or Councillor will be permitted to assume his or her office until he or she has sworn and filed the oath of office and complied with all other requirements to assume office set out in this Division and the shíshálh Nation Election and Referendum Law.

- (3) If a person elected as Chief or Councillor fails to comply with all requirements to assume office set out in this Division and the shíshálh Nation Election and Referendum Law that failure will be dealt with in accordance with the shíshálh Nation Election and Referendum Law.

6. Removals and Vacancies of Council

- (1) Removals and vacancies from Council will be determined and addressed in accordance with the shíshálh Nation Election and Referendum Law.

7. By-Elections

- (1) By-Elections will be held as required by, and in accordance with, the provisions for By-Elections in this Constitution and the shíshálh Nation Election and Referendum Law.

DIVISION (2) – MEETINGS

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| Meeting of Council | 1. | An inaugural meeting of the Council shall be held each year in the afternoon of the first Monday after March 1. Thereafter the Council shall meet as it may decide or as provided in this Constitution. |
| Place of Council Meetings | 2. | Meetings of the 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 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 Council meeting place and by leaving one copy for each member of the 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 Council. Each copy of the notice shall be signed by the Chief.

(2) Two (2) or more members of the 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 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 Council shall be open to the Members and no eligible person shall be excluded, except for improper conduct. If in the opinion of the Council, the public interest so requires, |

persons other than Councillors and officers, or persons other than Councillors, may be excluded from a special meeting.

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| Expulsion | 5. | The Chief or other person presiding may expel and exclude from a meeting of the Council a person he or she considers guilty of improper conduct. |
| Quorum of Council | 6. | A quorum of the Council shall be a majority of the members of the Council. |
| Majority decision | 7. | All acts authorized or required by this Constitution to be done by the Council, and all other questions, including adjournment, that may come before the Council shall, except where otherwise provided, be done and decided by a majority of the members of the Council and a record thereof shall be kept for inspection by Members. |
| Chief to preside at meeting | 8. | The Chief, if present, shall preside at meetings of the Council.
Any member of the Council may preside in committee of the whole. |
| Conflict of interest | 9. | A member of the Council shall disclose to the Council any financial interest that he or she has in any matter before the Council and shall not take part in deliberations of the 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 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 Council shall preserve order and decide points of order which may arise, subject to an appeal to the other members of the 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 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 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).

Absence of Chief

13. Where the Chief or the acting Chief, if any, is absent from a meeting of the 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 Members

14. The Council shall convene at least one meeting of the 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 shíshálh Nation. In the event that a meeting of the Members is not held when required by this section, any ten (10) Members shall have the right to present to the Council a petition requesting that a meeting of the Members be convened forthwith and the Council shall give thirty (30) days notice of such meeting within five (5) days of receipt of the petition.

Quorum at Meetings of shíshálh Nation

15. At any properly convened meeting of the shíshálh Nation, a Majority of Voters personally present shall be able to transact all business that comes before the meeting.

Responsibility for Band meetings

16. The Council shall have responsibility for all matters concerning the conduct of meetings of the shíshálh Nation.
17. (1) In issues determined by the Council to be of great importance to the shíshálh Nation, the 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 shíshálh Nation’s comprehensive land claim. At this Referendum the question shall be approved by the affirmative vote of a Majority of Voters.

DIVISION (3) – OFFICERS AND EMPLOYEES

Powers and duties Of Chief

1. The Chief is the head and chief executive officer of the shíshálh Nation and shall perform any duties assigned to him or her by this Constitution or by the shíshálh Nation. He or she shall chair all meetings of the Council and the shíshálh Nation.

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| Acting Chief, temporary | 2. The 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 becomes vacant, the 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 Council may provide by law for the officers and employees that may be deemed necessary to carry on the good government of the shíshálh Nation and the provisions of this Constitution, and may prescribe their powers, duties and responsibilities, subject to this Constitution. |
| Terms of employment | 5. The 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 | <p>6. (1) Subject to a contract of employment, the engagement of an employee may be terminated, if engaged on</p> <p style="margin-left: 40px;">(a) a monthly or longer basis, on one month's notice in writing;</p> <p style="margin-left: 40px;">(b) a weekly basis, on one week's notice; or</p> <p style="margin-left: 40px;">(c) a daily or hourly basis, on one day's or one hour's notice.</p> <p>(2) An employee may be dismissed without notice for cause.</p> |
| Sickness or other benefits | <p>7. Without restricting the generality of section 5, the Council may by law provide the whole or part of the premium for:</p> <p style="margin-left: 40px;">(a) a contract for medical services provided on a group basis for employees or employees and their dependents;</p> <p style="margin-left: 40px;">(b) a benefit, accident, sickness or life insurance policy insuring employees of the shíshálh Nation on a group insurance basis against accident, sickness or death;</p> <p style="margin-left: 40px;">(c) an accident insurance policy insuring members of the Council, on a group insurance basis, against accident while on Official business for the shíshálh Nation.</p> |
| Bonding employees | 8. Those employees designated by the Council shall be bonded, for the obligation, in the amount, and with the surety the Council directs. The premium, if any, shall be paid by the shíshálh Nation. |

DIVISION (4) – FINANCIAL CONTROLS

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| Establishment of bank accounts | 1. The Council shall establish separate accounts in a chartered bank, trust company or credit union for: <ul style="list-style-type: none">(a) shíshálh Nation Revenue money and federal transfer payments;(b) shíshálh Nation Capital money. |
| Signing Officers | 2. (1) The Council shall authorize three (3) persons, two (2) of whom shall be members of the 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 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 shíshálh Nation law or Council resolution.

(2) Any omission by the 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 Members at the next meeting of the shíshálh Nation. |
| Budget committee | 4. The Council may establish a budget committee, two (2) members of which shall be members of the 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 shíshálh Nation 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 shíshálh Nation is not lawful. |

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| Year end | 6. The year end of the shíshálh Nation shall be March 31. |
| Financial Statements | 7. Within three months after the end of each fiscal year, the Council shall prepare a detailed statement of the financial position of the shíshálh Nation, prepared in conformity with generally accepted accounting principles, and copies thereof shall be made available at the shíshálh Nation office for inspection by Members. |
| The treasurer | <p>8. (1) The Council may appoint a treasurer, who, in addition to the duties and powers prescribed by the Council, is responsible to the shíshálh Nation:</p> <ul style="list-style-type: none"> (a) for keeping or supervising the keeping of all funds and securities of the shíshálh Nation; (b) for receiving all money paid to the shíshálh Nation; (c) for disbursing the shíshálh Nation funds in accordance with the procedures laid down by the law of the 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 shíshálh Nation; (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 shíshálh Nation; (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. <p>(2) The treasurer may inspect the records of and direct an officer of the shíshálh Nation or of an administrative body handling local government funds, in matters involving his or her responsibility.</p> <p>(3) It is a good defence to any action brought against the treasurer for unlawful expenditure of shíshálh Nation funds if it is proved that he or she, in writing, over his or her signature, warned the Council that in his or her opinion the expenditure would be unlawful.</p> |

- (4) If the Council does not appoint a treasurer as aforesaid, the 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. | <p>(1) The Council shall by law regulate its meetings and their conduct.</p> <p>(2) A law relating to the procedure of the Council shall not be altered except by law passed at a regular meeting of the Council pursuant to a notice in writing given and openly announced at an earlier regular meeting.</p> <p>(3) A law relating to procedure may include provision for:</p> <ul 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 Council. |
| Acts require law or resolution | 2. | <p>An act or proceeding of the Council is not valid unless it is authorized or adopted by shíshálh Nation law, where so required, or otherwise by resolution at a meeting of the Council.</p> |
| Laws: procedure law | 3. | <p>Subject to this Division, the 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 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 Voters, the assent shall be obtained after the law has been given third reading by the Council and before it is adopted.</p> |
| Return of law for reconsideration | 5. | <p>(1) The Chief may, at any time within one month after its adoption, return for reconsideration a law, resolution or proceeding of the Council which has not had the assent of the Voters, has not been reconsidered by the Council under subsection (3) or has not been acted on by an officer, employee or agent of the shíshálh Nation.</p> <p>(2) The Chief may state his or her objections to the Council. The secretary of the meeting shall record in the minute book the objections, suggestions or amendments of the Chief.</p> |

- (3) The 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 Council for six (6) months, except with the unanimous consent of the 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 Council, it shall be signed by the Chief or other member presiding at the meeting when it was adopted. |
| Resubmitting Rejected law | 7. If a law which requires the assent of the Voters does not receive their assent, no other law for the same purpose shall be submitted to the Voters within a period of six (6) months from the last submission. |
| Effective date of law | 8. A law adopted by the 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 Council shall keep at the shíshálh Nation 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 Council shall not be set aside or declared invalid by reason only that a person sitting or voting as a member of the 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 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 Council prior to the order, disclaimer or declaration shall not, if otherwise within the jurisdiction and powers of the 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 shíshálh Nation 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 expenditures | 2. Pursuant to section 33 of the Act, the shíshálh Nation 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 Council the shíshálh Nation budget for the ensuing fiscal year. |
| Budget for Band Revenue | 2. The shíshálh Nation Revenue budget shall show sources of shíshálh Nation Revenue money as indicated in Division (6) of Part I and expenditures in detail as indicated in section 6 hereof. |
| Budget for shíshálh Capital | 3. The shíshálh Nation Capital budget shall show sources of shíshálh Nation Capital money as indicated in Division (6) of Part I and expenditures in detail as indicated in section 7 hereof. |
| Budget for Federal Transfer payments | 4. (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.

(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. |
| Approval of shíshálh Nation budgets | 5. (1) Upon approval by the Council, the budget shall be placed before the Voters for review and amendment at a special general meeting, such meeting to be held no later than the last day of February. |

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

Band Revenue -
Expenditures

- 6. (1) shíshálh Nation Revenue money expenditures include but are not limited to:
 - (a) administration of shíshálh Nation programs;
 - (b) contributions to the shíshálh Nation housing program;
 - (c) community services including food, fish, emergency assistance, burials and recreation grants;
 - (d) jointly funded programs;
 - (e) supplements to shíshálh Nation programs;
 - (f) loans or grants to Members for the purposes of housing or economic development;
 - (g) economic development;
 - (h) shíshálh Nation planning;
 - (i) charitable donations;
 - (j) provision for asset replacement; and
 - (k) for any other purpose that in the opinion of the Council is for the benefit of the shíshálh Nation.
- (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 shíshálh Nation Revenue may be provided for in the annual budget.

Band Capital
expenditures

- 7. shíshálh Nation 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 shíshálh Nation as new shíshálh Nation lands or as an addition to Sechelt Lands;
- (d) purchase for the shíshálh Nation of the interest of a Member in the Sechelt Lands;
- (e) purchase of vehicles, machinery, and other equipment for the shíshálh Nation;
- (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 shíshálh Nation or will constitute a capital investment;
- (g) loans to Members on terms deemed suitable by the Council for the purpose of promoting the livelihood of the shíshálh Nation; and
- (h) for any other purpose that in the opinion of the Council is for the benefit of the shíshálh Nation 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 shíshálh Nation programs;
 - (b) operation of shíshálh Nation-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 Members;
 - (f) job creation;
 - (g) joint-funded programs;
 - (h) payments of health premiums to the Provincial Government;

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

- (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 shíshálh Nation 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 shíshálh Nation as new Sechelt Lands or as an addition to Sechelt Lands;
 - (e) purchase for the shíshálh Nation of the interest of a Member in Sechelt Lands;
 - (f) purchase of vehicles, machinery and other equipment for the shíshálh Nation;
 - (g) construction on or in connection with Sechelt Lands of such improvements or works as it considers will be of permanent value to the shíshálh Nation 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 Council is for the benefit of the shíshálh Nation 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 10. With respect to section 8 and 9 hereof, the shíshálh Nation shall make expenditures only as may be permitted by, and subject to programs the terms mandatory programs 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

shíshálh Nation may obtain loans

1. (1) The shíshálh Nation 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 shíshálh Nation may obtain short term demand loans as may be approved at a meeting of 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 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 Council shall adopt a loan authorization law for the specific project subject to the assent of the Voters.
- (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 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 Voters;
- (b) transfer allocations from Federal Government;
- (c) transfers from shíshálh Nation Revenue money;
- (d) transfers from shíshálh Nation 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 shishálh Nation 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 Council.
- (2) The total amount proposed to be borrowed under the law must have the assent of the Voters 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 Council.
- (3) the question may be in the following or similar form:
- Do you assent to the 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 Council may, by law adopted by 2/3 of the members and with the assent of the Voters, 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 Council or its employees or agents shall cause that individual or individuals to be personally liable for the amount.
9. The 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 shíshálh Nation's comprehensive land claim shall be deposited in a fund to be called the shíshálh Prosperity Fund.
 - (2) shíshálh Prosperity Fund investment shall be restricted to government guaranteed securities and Schedule "A" chartered bank acceptances.
2. The annual interest earned on the shíshálh Prosperity Fund shall be allocated on each anniversary of the establishment of the shíshálh Prosperity Fund as follows:
 - (1) 30% shall be reinvested in the shíshálh Prosperity Fund;
 - (2) 40% shall be deposited to a fund to be called the shíshálh Dividend Fund;
 - (3) 20% shall be deposited to a fund to be called the shíshálh Economic Development Fund;
 - (4) 10% shall be deposited to the shíshálh Nation Revenue account.
3.
 - (1) On each anniversary date of the establishment of the shíshálh Property Fund, the entire amount of the shíshálh Dividend Fund shall be distributed per capita to the Members.
 - (2) A Member shall be entitled to the dividend described in subsection (1) if his or her name appears on the Membership List sixty (60) days prior to the distribution date.
 - (3) Dividends payable to 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 shíshálh Economic Development Fund shall be limited to 50% of the balance of the Fund.
- (2) The Council may authorize expenditures from the shíshálh Economic Development Fund for the following purposes of:
 - (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 Council to be economically beneficial to the shíshálh Nation or Members.
5. Proceeds from the resources sharing component of any comprehensive claim settlement shall be deposited to the shíshálh Nation Capital account and expended in accordance with section 4 hereof.

DIVISION (10) – AUDITOR

Auditor

1. (1) The Council shall appoint an auditor to audit the accounts and transactions of the shíshálh Nation 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 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 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 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 Council.
- (2) The 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 Council fails or neglects to appoint an auditor, the Governor in Council may, on one month's notice to the 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 shíshálh Nation 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 Voters 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 shíshálh Nation or of any other administrative body handling shíshálh Nation affairs or money.
- (3) The auditor is entitled to require from members of the Council or any other administrative body, from officials and employees of the shíshálh Nation, or any other administrative body, any information or explanation necessary to perform his or her duties. Every Council member, official or employee and every member or servant of any other administrative body handling shíshálh Nation Revenue or shíshálh Nation 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 shíshálh Nation or administrative body necessary for the performance of his or her duty.
- (4) The auditor shall submit a report to the Council on the annual financial statements for the shíshálh Nation, and any other administrative body. The 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 shíshálh Nation 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 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) Members, subject to the availability of housing within the shíshálh Nation 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 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) 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 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 Council.

Zoning and land use planning in respect of Sechelt Land

- *2. The 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 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 Council, by law, may provide for a separate community plan in respect of those areas of the Sechelt Lands occupied only by 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 Council.

Expropriation, for community purposes, of interests in Sechelt Lands by the shíshálh Nation

- 3. The 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 shíshálh Nation 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 shíshálh Nation to expropriate pursuant to this Division does not restrict any right that the shíshálh Nation has to acquire by mutual agreement, rights or interests in land or buildings;

- (c) the shíshálh Nation 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 Council shall make fair and reasonable laws respecting substantive or procedural aspects of expropriations permitted by this Part, 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 shíshálh Nation 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 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 shíshálh Lands

- *4. The 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 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 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 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 in respect of their interest in those lands, including assessment, collection and enforcement procedures and appeals relating thereto, subject to:
- (a) the 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 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 shíshálh Nation
6. The 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 shíshálh Nation..
- Preservation and management of natural resources on Sechelt Lands
7. The 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 Council, including the holding of public hearings related thereto; and
 - (2) procedures for the appointment of a shíshálh Nation inspector for resource development; and

- (b) the shíshálh Nation 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 Council, by law, may provide for the shíshálh 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 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 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 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 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 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 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 Voters who voted at a special meeting of the shíshálh Nation 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 Council

*13. The 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 Council, subject to:

the law of the 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 Members on Sechelt Lands and personal property of Members ordinarily resident on Sechelt Lands

14 The Council shall have the right to make laws in relation to devolution, by testate or intestate succession, or real property of Members on Sechelt Lands and personal property of Band Members Ordinarily Resident on Sechelt Lands subject to:

- (a) The 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 Members on Sechelt Lands and personal property of 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 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 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 shíshálh Nation | 15. The 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 shíshálh Nation’s authority as set out in Division 4, Division 6 and Division 7 of Part II of the Constitution. |
| Conduct of shíshálh Nation Elections and Referendums | 16. The Council shall have the right to make fair and reasonable laws with respect to the conduct of Elections and Referendums for the purpose of implementing the shíshálh Nation’s authority as set out in Divisions (4) and (5) of Part I and Division (1) of Part II of the Constitution. |
| Creation of administrative bodies and agencies to assist in the administration of the affairs of the shíshálh Nation | 17. The Council shall have the right to make laws to create administrative bodies and agencies to assist in the administration of the affairs of the shíshálh Nation for the purpose of implementing the shíshálh Nation’s authority as set out in the Constitution. |
| Matters related to the good government of the shíshálh Nation, 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 shíshálh Nation, its Members or Sechelt Lands for the purpose of implementing the shíshálh Nation’s authority as set out in the Constitution.</p> <p>* NOTE: Power transferred only in relation to good government of Sechelt Lands.</p> |

19. The 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.

APPENDIX B

THE PROPOSED SHISHALH NATION ELECTION AND REFERENDUM LAW



shíshálh Nation

Election and Referendum Law

April 15, 2019

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1. Definitions

“**Act**” means the *Sechelt Indian Band Self-Government Act*, SC 1986, c 27, as may be amended or replaced from time to time;

“**Administration Building**” means the main administration building for the shíshálh Nation government;

“**Advance Poll**” means a poll for the casting of ballots by Voters voting before an Election, Referendum or By-Election;

“**All-Candidates Meeting**” means the meeting held pursuant to section 13 of this Law for the purpose of the candidates presenting their platforms to Members;

“**Application for Remote Ballot**” means the form approved by Council resolution as the Application for Remote Ballot for the purposes of this Law;

“**Arbitrator**” means an independent third party with experience acting as an arbitrator and appointed under this Law to hear appeals in relation to an Election, By-Election, Referendum or Council removal;

“**Arbitrator Oath of Office**” means the form approved by Council resolution as the Arbitrator Oath of Office for the purposes of this Law;

“**Business Day**” means a day, other than a Saturday or a Sunday, shíshálh Nation Self-Government Day, December 24th to and including January 1st, or a statutory holiday in the province of British Columbia;

“**By-Election**” means a by-election held in accordance with this Law;

“**Candidate Package**” means a package containing:

- (a) an updated resume;
- (b) a list of relevant experience and training; and
- (c) a statement, not exceeding 500 words, setting out the candidate’s reasons for running for Council;

“**Chief**” means the candidate elected to Council as Chief pursuant to the Constitution and this Law;

“**Chief Administrative Officer**” means the person appointed by Council to be the Chief Administrative Officer for shíshálh Nation;

“**Constitution**” means the shíshálh Nation Constitution;

“Corrupt or Fraudulent Practice” means, in connection with an Election, Referendum or By-Election, the giving or taking of a bribe, intimidating a Voter, candidate or Election, Referendum or By-Election official, or engaging in any other conduct that is defined as a corrupt or fraudulent practice under a shíshálh Nation Law;

“Council” means the collective of the shíshálh Nation Chief and Council members elected pursuant to the Constitution and this Law;

“Council Oath of Office” means the form approved by Council resolution as the Council Oath of Office for the purposes of this Law;

“Councillor” means a candidate elected to Council as a Councillor pursuant to the Constitution and this Law;

“Criminal Record Check” means a name-based criminal record check carried out by the Royal Canadian Mounted Police;

“Deputy Electoral Officer” means a person appointed under this Law to work under the direction of the Electoral Officer;

“Election” means the process by which the Voters elect Council;

“Electoral Oath of Office” means the form approved by Council resolution as the Electoral Oath of Office for the purposes of this Law;

“Electoral Officer” means a person appointed under this Law to conduct an Election, Referendum or By-Election;

“Indictable Offence” means offences that are strictly indictable in the *Criminal Code*, RSC 1985, c C-46, as may be amended or replaced from time to time, and hybrid offences under the *Criminal Code of Canada* where Crown counsel has elected to proceed by indictment;

“Law” means this shíshálh Nation Election and Referendum Law;

“Majority” means at least 50% plus 1;

“Members” means all persons who are eligible for membership in the shíshálh Nation and who are registered on the shíshálh Nation Membership List maintained by shíshálh Nation pursuant to the Constitution;

“Membership Administrator” means the person appointed by the Chief Administrator Officer to be the Membership Administrator for shíshálh Nation;

“Membership List” means the list of Members maintained pursuant to the Constitution;

“Membership Number” means the unique number assigned to each Member by shíshálh Nation;

“Nomination Declaration” means the form approved by Council resolution as the Nomination Declaration for the purposes of this Law;

“Nomination Meeting” means the meeting held pursuant to section 12 of this Law for the purpose of nominating candidates for an Election or By-Election;

“Notice of Acceptance of Nomination” means the form approved by Council resolution as the Notice of Acceptance of Nomination for the purposes of this Law;

“Ordinarily Resident” means the place where, in the settled routine of a person’s life, that person regularly, normally or customarily lives;

“Polling Station” means the polling station(s) designated by the Electoral Officer for an Election, Referendum or By-Election;

“Referendum” means a referendum held pursuant to the Constitution and this Law;

“Scrutineer” means a person appointed in writing by a candidate to observe voting and counting procedures for an Election in accordance with this Law;

“Scrutineer Oath” means the form approved by Council resolution as the Scrutineer Oath for the purposes of this Law;

“Sechelt Lands” means:

- (a) lands transferred to shíshálh Nation under section 23 of the Act;
and
- (b) lands that are declared by the Governor in Council and the Lieutenant Governor in Council of British Columbia to be Sechelt lands for the purposes of the Act;

“shíshálh Entity” means a corporation, trust, partnership, society or other legal entity which is controlled or wholly owned by the shíshálh Nation;

“shíshálh Nation” means the Sechelt Indian Band recognized under section 5(1) of the Act;

“shíshálh Nation Laws” means the duly passed laws and policies of the shíshálh Nation;

“shíshálh Nation Self-Government Day” means October 9th of each year or, if that date falls on a weekend or another statutory holiday, the Friday preceding or Monday following October 9th, as determined by Council;

“Summary Offence” means offences that are strictly summary offences in the *Criminal Code of Canada* or in other legislation, and hybrid offences in the *Criminal Code*, RSC

1985, c C-46, as may be amended or replaced from time to time, or other legislation where Crown counsel has elected to proceed summarily;

“**Voters**” means those persons who are on the Membership List and are at least 18 years of age on the date of an Election, Referendum or By-Election;

“**Voter Declaration Form**” means the form approved by Council resolution as the Voter Declaration Form for the purposes of this Law; and

“**Voters’ List**” means an alphabetical list of Voters that includes the name, business address, e-mail address, business telephone and facsimile number of the Electoral Officer and the location of the polling station(s).

2. Title

- (1) This Law will be cited as the “shíshálh Nation Election and Referendum Law”.

3. Repeal of Recall Law

- (1) The Sechelt Indian Band Council Recall Law No. August 10, 2007 is hereby repealed and replaced by this Law.

4. Interpretation

- (1) Wherever the singular, masculine or the term "person" is used in this Law, it will be deemed to include the plural, feminine, body corporate, or other entity where the context so requires.
- (2) The headings and sub-headings within this Law are for convenience only, do not form a substantive part of this Law and are not to be used to define, limit, alter or enlarge the scope or meaning of any other provision of this Law.
- (3) When used in this Law, the word “day” or “days” mean calendar days unless the term “Business Day” is used.
- (4) Unless otherwise stated in this Law, if the time for doing something in this Law lands on a Saturday or a Sunday, shíshálh Nation Self-Government Day, December 24th to and including January 1st, or a statutory holiday in the province of British Columbia, the time for doing that thing will extend to the next Business Day.

5. Purpose and Effect

- (1) The Constitution and this Law govern all Elections, Referendums and By-Elections of the shíshálh Nation.

- (2) Where a conflict exists between this Law and the Constitution, to the extent of any conflict, the Constitution will prevail.

6. Term of Office and Election Date

- (1) The term of office for Council will be 3 years.
- (2) The term of office for Council commences when the Electoral Officer publicly declares the results of the Election under subsection 18(9) or subparagraph 19(4)(a) and, subject to any Council removal or vacancy arising under the Constitution or this Law, expires at 11:59 p.m. on the day preceding the next Election.
- (3) Except in the case of a By-Election, an Election will be held on the third Saturday of February in the year the term of office for Council expires.
- (4) Subject to subsection 6(5), the term of office for the person declared elected pursuant to subsection 20(3), or elected in a By-Election, will be deemed to have commenced on the day the person to be replaced was elected.
- (5) The term of office for the person elected in a By-Election held due to a tie under subsection 19(6) will be deemed to have commenced on the day that the other members of Council were elected.

7. Appointment of Electoral Officer, Deputy Electoral Officers and Arbitrator

- (1) Council will, at least 90 days prior to the date on which an Election, Referendum or By-Election is to be held:
 - (a) appoint an Electoral Officer for a term ending upon the expiry of the deadline for submitting a notice of appeal in relation to the Election, Referendum or By-Election under subparagraph 22(5)(c);
 - (b) appoint an Arbitrator for a term ending upon the appointment of a new Arbitrator for the next Election, Referendum or By-Election;
and
 - (c) in the case of a Referendum, determine the question or questions to be asked.
- (2) If an Electoral Officer and/or an Arbitrator have not been appointed within the time set out in subsection 7(1), the Chief Administrative Officer will promptly appoint the Electoral Officer and/or Arbitrator.
- (3) The Electoral Officer and Arbitrator will not be Members, members of Council or salaried employees of shishálh Nation or hold other contracts

for services with shíshálh Nation at the time of the Election, Referendum or By-Election.

- (4) No Deputy Electoral Officer will be a member of Council or, in the case of an Election, a candidate in that Election.
- (5) A Deputy Electoral Officer or Officers will be appointed by the Electoral Officer within 14 days of the appointment of the Electoral Officer and will work under the direction of the Electoral Officer.
- (6) The Electoral Officer will have such powers as described in this Law and the Constitution and may delegate any of his or her powers under this Law or the Constitution to the Deputy Electoral Officer or Officers.
- (7) All Deputy Electoral Officers will have such powers as described in this Law and those powers of the Electoral Officer as are delegated to them by the Electoral Officer.
- (8) The Electoral Officer and every Deputy Electoral Officer will swear, and file with the Chief Administrative Officer before assuming their offices, the Electoral Oath of Office before a justice of the peace, notary public or commissioner for swearing oaths of office.
- (9) The Arbitrator will swear, and file with the Chief Administrative Officer before assuming his or her office, the Arbitrator Oath of Office before a justice of the peace, notary public or commissioner for swearing oaths of office.
- (10) The Electoral Officer may make such orders and issue such instructions consistent with the Constitution and this Law as he or she may from time to time deem necessary for the effective administration of the Election, Referendum or By-Election.
- (11) The Electoral Officer, a Deputy Electoral Officer or the Arbitrator may be removed from office and replaced by Council resolution if Council has information sufficient to believe that the person:
 - (a) engaged in a Corrupt or Fraudulent Practice during the Election, Referendum or By-Election in which he or she was the Electoral Officer, a Deputy Electoral Officer or Arbitrator;
 - (b) in the case of the Electoral Officer or a Deputy Electoral Officer, breached his or her obligations under the Electoral Oath of Office; or
 - (c) in the case of the Arbitrator, breached his or her obligations under the Arbitrator Oath of Office.

8. Voter Contact Information

- (1) Voters will be solely responsible for delivering to the Membership Administrator their current contact information, including mailing addresses and e-mail addresses for those Voters who have an e-mail address.
- (2) The Membership Administrator will, within 5 days of the appointment of the Electoral Officer, deliver a copy of the Membership List to the Electoral Officer.
- (3) Voter contact information will be used by the Electoral Officer and any Deputy Electoral Officer only for the purposes of providing notices, mail-in ballots, electronic ballots or other documents to Voters who are entitled to receive them under this Law.
- (4) Except for the purposes set out in subsection 8(3), a Voter's contact information will not be disclosed by the Electoral Officer or any Deputy Electoral Officer without the consent of that Voter.

9. Voters' List

- (1) Within 25 days of his or her appointment, the Electoral Officer will prepare a Voters' List comprised of the names of all Voters.
- (2) The Electoral Officer will post the Voters' List in a public area of the Administration Building, and publish it electronically, no later than 60 days prior to the date on which the Election, Referendum or By-Election is to be held.
- (3) A person whose name does not appear, or does not correctly appear, on the Voters' List may, no later than 30 days prior to the date on which the Election, Referendum or By-Election is to be held, deliver an application in writing to the Electoral Officer to have his or her name added to, or changed on, the Voters' List, which application must include:
 - (a) the reasons why the person's name should be added to, or changed on, the Voters' List; and
 - (b) any documents supporting the application.
- (4) A Voter who believes a person's name should not be included on the Voters' List may, no later than 40 days prior to the date on which the Election, Referendum or By-Election is to be held, deliver an application in writing to the Electoral Officer to have that person's name removed from the Voters' List, which application must include:

- (a) the reasons why that person's name should be removed from the Voters' List; and
 - (b) any documents supporting the application.
- (5) Where the Electoral Officer has information sufficient to believe that a person whose name is on the Voters' List is not a Voter, or where a Voter applies in writing to the Electoral Officer to have another person's name removed from the Voters' List because that person does not qualify as a Voter, the Electoral Officer will mail or email notice to the person whose eligibility as a Voter is challenged at least 35 days prior to the date on which the Election, Referendum or By-Election is to be held, which notice must include:
 - (a) the reasons the person's eligibility as a Voter is being challenged;
 - (b) any supporting documents; and
 - (c) notice that a written reply may be delivered to the Electoral Officer no later than 20 days prior to the date on which the Election, Referendum or By-Election is to be held.
- (6) A person whose eligibility as a Voter is challenged may, no later than 20 days prior to the date on which the Election, Referendum or By-Election is to be held, deliver a written reply to the Electoral Officer, which reply must include:
 - (a) the reasons why the person is eligible to be a Voter; and
 - (b) any supporting documents.
- (7) After consideration of all information and representations relating to amendments to the Voters' List, the Electoral Officer will amend names on, add names to or delete names from the Voters' List, based on whether the Electoral Officer determines those persons qualify as Voters, at least 15 days prior to the date on which the Election, Referendum or By-Election is to be held and the decision of the Electoral Officer will be final and not subject to appeal.
- (8) The Electoral Officer will, at least 15 days prior to the date on which the Election, Referendum or By-Election is to be held:
 - (a) mail or email a person whose name has been amended on, added to or deleted from the Voters' List written notice of the decision; and
 - (b) post the decision in a public area of the Administration Building and publish it electronically.

- (9) The Electoral Officer will, at least 10 days prior to the date on which the Election, Referendum or By-Election is to be held, post a final Voters' List in a public area of the Administration Building and publish it electronically.
- (10) Any person whose name does not appear on the final Voters' List will not be entitled to vote in the Election, Referendum or By-Election.

10. Preparation of Ballots

- (1) The Electoral Officer will prepare ballots setting out:
 - (a) in the case of an Election or By-Election:
 - (i) the names of the candidates nominated for Chief in alphabetical order; and
 - (ii) the names of the candidates nominated for Councillor in alphabetical order; and
 - (b) in the case of a Referendum:
 - (i) the question or questions to be asked; and
 - (ii) the option to select "yes" or "no" for each question.
- (2) In the case of an Election or By-Election, the ballot may, at the request of the candidate, include a candidate's commonly used nickname in addition to the candidate's legal name.
- (3) The ballot will indicate that the Voter is to signify his or her choice by clearly marking an "X" or "✓" in the appropriate space opposite each selection.
- (4) The Electoral Officer or a Deputy Electoral Officer will initial the back of each ballot.

11. Notice of Election, Referendum or By-Election

- (1) At least 60 days prior to the date on which the Election, Referendum or By-Election is to be held, the Electoral Officer will post in a public area of the Administration Building, publish electronically and mail or email to Voters at their contact addresses or e-mail addresses a notice, which notice will include:
 - (a) notice that a copy of the Constitution and this Law can be obtained at the Administration Building and electronically;

- (b) the places where copies of the Voters' List will be posted or published;
 - (c) notice that Voters who are Ordinarily Resident on Sechelt Lands and unable to vote in person due to disability on the date of the Election, Referendum or By-Election may vote by mail-in ballot or, where electronic voting mechanisms are in place, electronic ballot, if they, at least 30 days prior to the date on which the Election, Referendum or By-Election is to be held, deliver a completed Application for Remote Ballot to the Electoral Officer to vote by mail-in ballot or, where electronic voting mechanisms are in place, electronic ballot;
 - (d) notice that Voters who are not Ordinarily Resident on Sechelt Lands are entitled to vote by mail-in ballot or, where electronic voting mechanisms are in place, electronic ballot, if they, at least 30 days prior to the date on which the Election, Referendum or By-Election is to be held, deliver a completed Application for Remote Ballot to the Electoral Officer to vote by mail-in ballot or, where electronic voting mechanisms are in place, electronic ballot;
 - (e) the business address, telephone and email address of the Electoral Officer;
 - (f) the business address, telephone and email address of the Arbitrator;
 - (g) the date on which the Election, Referendum or By-Election is to be held;
 - (h) the date of the Advance Poll;
 - (i) the date of the notice;
 - (j) in the case of an Election, the date, time and location of the Nomination Meeting and a statement that Voters may attend and nominate candidates at the Nomination Meeting; and
 - (k) in the case of a Referendum, the question or questions to be asked.
- (2) Every Voter who is not Ordinarily Resident on Sechelt Lands is entitled to vote by mail-in or, where electronic voting mechanisms are in place, electronic ballot, if they, at least 30 days prior to the date on which the Election, Referendum or By-Election is to be held, deliver a completed Application for Remote Ballot to the Electoral Officer to vote by mail-in ballot or, where electronic voting mechanisms are in place, electronic ballot.

- (3) Every Voter who is Ordinarily Resident on Sechelt Lands and who is unable to vote in person due to disability on the date of the Election, Referendum or By-Election may vote by mail-in ballot or, where electronic voting mechanisms are in place, electronic ballot, if they, at least 30 days prior to the date on which the Election, Referendum or By-Election is to be held, deliver a completed Application for Remote Ballot to the Electoral Officer to vote by mail-in ballot or, where electronic voting mechanisms are in place, electronic ballot.
- (4) The Electoral Officer will, at least 20 days prior to the date on which the Election, Referendum or By-Election is to be held, mail to every Voter who has requested to vote by mail-in ballot, and is eligible to vote by mail-in ballot pursuant to subsections 11(2) or 11(3), a mail-in ballot package consisting of:
 - (a) a ballot initialed on the back by the Electoral Officer or a Deputy Electoral Officer;
 - (b) an inner postage-paid return envelope, pre-addressed to the Electoral Officer;
 - (c) a second inner envelope marked "ballot" for insertion of the completed ballot;
 - (d) a Voter Declaration Form;
 - (e) a letter of instruction regarding voting by mail-in ballot;
 - (f) a statement identifying the location of all Polling Stations and advising the Voter that he or she may vote in person at any Polling Station, including the Advance Poll, if he or she returns his or her mail-in ballot to the Electoral Officer at the Polling Station or swears a written declaration before the Electoral Officer or a Deputy Electoral Officer, a justice of the peace, notary public or commissioner for taking oaths that he or she has not and will not vote by mail-in ballot; and
 - (g) any other information the Electoral Officer considers appropriate.
- (5) Where electronic voting mechanisms are in place, the Electoral Officer will, at least 20 days prior to the date on which the Election, Referendum or By-Election is to be held, mail or email to every Voter who has requested to vote by electronic ballot, and is eligible to vote by electronic ballot pursuant to subsections 11(2) or 11(3), an electronic ballot package consisting of:
 - (a) detailed instructions for voting by electronic ballot;

- (b) relevant password(s) for voting by electronic ballot;
- (c) a statement identifying the location of all Polling Stations and advising the Voter that he or she may vote in person at any Polling Station, including the Advance Poll, if he or she swears a written declaration before the Electoral Officer or a Deputy Electoral Officer, a justice of the peace, notary public or commissioner for taking oaths that he or she has not and will not vote by electronic ballot; and
- (d) any other information the Electoral Officer considers appropriate.

12. Nomination Process for Elections

- (1) This section 12 applies only in the case of an Election or By-Election.
- (2) To qualify as a candidate for the office of Chief or Councillor, a person must:
 - (a) qualify as a Voter;
 - (b) be nominated for that office in accordance with the procedures set out in the Constitution and this Law;
 - (c) not be currently serving a jail sentence;
 - (d) not have been convicted of a Indictable Offence, or a Summary Offence that involves physical or sexual violence toward another person, within 10 years prior to his or her nomination, except where a Summary Offence conviction involving physical violence against another person was an act of civil disobedience in support of Aboriginal rights or title of the shíshálh Nation, organized or approved by Council, or where a record suspension for a Summary Offence has been granted;
 - (e) not have been removed or resigned from office during the previous term;
 - (f) not be overdue in the payment of a debt to the shíshálh Nation or any shíshálh Entity without a payment plan or other arrangement for repayment approved by an authorized representative of shíshálh Nation or the relevant shíshálh Entity; and
 - (g) comply with all relevant requirements set out in the Constitution and this Law.
- (3) A person may only be a candidate for one of the office of Chief or Councillor in any Election or By-Election.

- (4) The Nomination Meeting will be held on Sechelt Lands at least 45 days prior to the date on which the Election or By-Election is to be held.
- (5) At least 60 days prior to the date on which the Election or By-Election is to be held, the Electoral Officer will post notice of the Nomination Meeting and All-Candidates Meeting in a public area of the Administration Building and publish it electronically.
- (6) The notice of the Nomination Meeting and All-Candidates Meeting will include:
 - (a) the date, time and place of the Nomination Meeting;
 - (b) the date, time and place of the All-Candidates Meeting;
 - (c) notification that a copy of the Constitution and this Law can be obtained at the Administration Building and electronically;
 - (d) the places where copies of the Voters' List will be posted; and
 - (e) the business address, telephone and email address of the Electoral Officer.
- (7) At the time and place specified in the notice of the Nomination Meeting and All Candidates Meeting, the Electoral Officer will declare the Nomination Meeting open for the purpose of receiving nominations.
- (8) A Voter must be physically present at the Nomination Meeting to be eligible for nomination as a candidate.
- (9) The Nomination Meeting will remain open for 2 hours from when it commenced.
- (10) Any Voter may propose or second a nomination of any qualified candidate to serve as Chief or Councillor.
- (11) No Voter may nominate or second more than two persons to serve as Chief and no more than two persons to serve as Councillors in an Election and, in the case of a By-Election, any Voter may propose or second the nomination of not more than two persons for each of the vacancies on Council.
- (12) After nominating or seconding a candidate, the Voter will sign a Nomination Declaration in the presence of the Electoral Officer or Deputy Electoral Officer, confirming his or her nomination or seconding of the candidate.

- (13) The Electoral Officer will promptly deliver a Notice of Acceptance of Nomination to each person nominated at the Nomination Meeting and each person nominated will, if he or she accepts the nomination and is eligible to be a candidate:
 - (a) sign the Notice of Acceptance of Nomination in the presence of the Electoral Officer;
 - (b) deliver the signed Notice of Acceptance of Nomination to the Electoral Officer prior to the close of the Nomination Meeting; and
 - (c) deliver a Criminal Record Check to the Electoral Officer prior to the date of the Advance Poll.

- (14) Any person nominated who fails to:
 - (a) sign and deliver his or her Notice of Acceptance of Nomination to the Electoral Officer in accordance with subsection 12(13);
 - (b) deliver his or her Candidate Package to the Electoral Officer in accordance with subsection 13(1); or
 - (c) deliver a Criminal Record Check to the Electoral Officer prior to the date of the Advance Poll in accordance with subsection 12(13);

will not be eligible to be a candidate in the Election or By-Election and the Electoral Officer will not add his or her name to the list of candidates.

- (15) If only one eligible candidate is nominated for the office of Chief, the Electoral Officer will declare that candidate to be elected.

- (16) Where the number of eligible candidates nominated for the office of Councillor does not exceed the number of positions available, the Electoral Officer will declare such candidates to be elected.

- (17) In the event that more than the required numbers of persons are nominated for the offices of Chief and/or Councillor, the Electoral Officer will declare that an Election or By-Election, as applicable, will be held.

- (18) Within 2 days the close of the Nomination Meeting, the Electoral Officer will post in a public area of the Administration Building, and publish electronically, a list of candidates and the offices for which they are nominated.

- (19) Any person nominated may withdraw at any time after the close of the Nomination Meeting, but no later than 2 days before the time of the opening of the Advance Poll, by delivering a written withdrawal of his or her nomination to the Electoral Officer, 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 such person will be null and void.

- (20) If the Electoral Officer determines that any person nominated is, or becomes, ineligible to be a candidate after his or her name has been added to the list of candidates, the Electoral Officer will remove that person's name from the list of candidates and any votes cast for such person will be null and void.
- (21) The Electoral Officer will, no earlier than the 8th day after the date of the Nomination Meeting and no later than 35 days prior to the date on which the Election is to be held:
 - (a) post the final list of candidates and the offices for which they are nominated in a public area of the Administration Building; and
 - (b) publish electronically, or mail to Voters, the final list of candidates and the offices for which they are nominated.

13. All-Candidates Meeting

- (1) Within 5 days of the close of the Nomination Meeting each candidate will deliver to the Electoral Officer a complete Candidate Package.
- (2) The All-Candidates Meeting will be held on Sechelt Lands within 15 days of the close of the Nomination Meeting and only Members may attend the All-Candidates Meeting.
- (3) The Electoral Officer will ensure that every Member attending the All-Candidates Meeting is provided with a copy of each candidate's Candidate Package.
- (4) At the time and place specified in the notice of the Nomination Meeting and All-Candidates Meeting, the Electoral Officer will declare the All-Candidates Meeting open.
- (5) The Electoral Officer will chair the All-Candidates Meeting and is responsible for determining the format for the All-Candidates Meeting and communicating with the candidates regarding the format for the All-Candidates Meeting.

14. Notice of Polls

- (1) The Electoral Officer will, at least 30 days prior to the date on which the Election, Referendum or By-Election is to be held, post a notice of polls in a public area of the Administration Building and publish it electronically.

- (2) The notice of polls will include:
 - (a) the date of the Election, Referendum or By-Election;
 - (b) the date of the Advance Poll;
 - (c) the time the Polling Stations will be open and closed;
 - (d) the locations of the Polling Stations;
 - (e) in the case of a Referendum, the question or questions to be asked; and
 - (f) a statement that the Voters' List and, in the case of an Election, a list of candidates, are posted in a public area of the Administration Building and published electronically.

15. Voting by Mail-in Ballot

- (1) A Voter will vote by mail-in ballot by:
 - (a) clearly marking the ballot with an "X" or "✓" that clearly indicates the Voter's choice in the appropriate space;
 - (b) folding the ballot in a manner so as to conceal the mark or marks on the face of the paper but exposing the Electoral Officer's or a Deputy Electoral Officer's initials on the back;
 - (c) placing the ballot in the inner envelope marked "ballot" and sealing the envelope;
 - (d) completing and signing the Voter Declaration Form in the presence of a witness who is at least 18 years of age and who must also sign the Voter Declaration Form;
 - (e) placing the inner envelope and the completed, signed and witnessed Voter Declaration Form in the postage-paid, return envelope, pre-addressed to the Electoral Officer; and
 - (f) delivering the envelope to the Electoral Officer before the time at which the polls close on the day of the Election, Referendum or By-Election.
- (2) Mail-in ballots that are not delivered to the Electoral Officer before the time at which the polls close on the day of the Election, Referendum or By-Election will not be counted.

- (3) A Voter to whom a mail-in ballot was mailed may vote in person at a Polling Station if:
 - (a) the Voter delivers the mail-in ballot to the Electoral Officer or a Deputy Electoral Officer; or
 - (b) where the Voter does not have the mail-in ballot with him or her, the Voter delivers to the Electoral Officer or a Deputy Electoral Officer a sworn written declaration that that he or she has not and will not vote by mail-in ballot, signed in the presence of either the Electoral Officer, a Deputy Electoral Officer, justice of the peace, notary public or commissioner for taking oaths.

16. Voting by Electronic Ballot

- (1) This section 16 only applies where electronic voting mechanisms are in place.
- (2) A Voter will vote by electronic ballot by following the detailed instructions for voting by electronic ballot provided pursuant to subsection 11(5).
- (3) Electronic ballots that are not submitted before the time at which the polls close on the day of the Election, Referendum or By-Election will not be counted.
- (4) A Voter to whom an electronic ballot was mailed may vote in person at a Polling Station if he or she delivers to the Electoral Officer or a Deputy Electoral Officer a sworn written declaration that he or she has not and will not vote by electronic ballot, signed in the presence of either the Electoral Officer, a Deputy Electoral Officer, justice of the peace, notary public or commissioner for taking oaths.

17. Voting at a Polling Station

- (1) The Polling Station(s) will be on Sechelt Lands and will be open from 9:00 a.m. until 8:00 p.m. on the day on which the Election, Referendum or By-Election is to be held.
- (2) For every Election, Referendum or By-Election an Advance Poll will be held on Sechelt Lands and the Polling Station for an Advance Poll will be open on the Sunday before the day of the Election, Referendum or By-Election from 2:00 p.m. until 6:00 p.m.
- (3) The Electoral Officer will, before the Polling Station(s) is open, supply the Polling Station(s) with:
 - (a) ballot boxes;

- (b) a sufficient number of ballots;
 - (c) the final Voters' List;
 - (d) an envelope for rejected ballots;
 - (e) the necessary materials for marking ballots; and
 - (f) a ballot tally sheet to identify the number of confirmed votes and the number of rejected ballots.
- (4) The Electoral Officer will provide a voting compartment inside the Polling Station(s) where the Voters can mark their ballots free from observation.
- (5) The Electoral Officer may appoint security to maintain order at the Polling Station(s).
- (6) In the case of an Election, where a candidate wishes to authorize a Scrutineer, the candidate will deliver a letter of authorization to the Electoral Officer or a Deputy Electoral Officer on or before the opening of the Polling Station(s), in which the candidate names the Scrutineer.
- (7) Each candidate will be entitled to have a maximum of 2 Scrutineers at a Polling Station at any one time and all Scrutineers must sign the Scrutineer Oath prior to acting as a Scrutineer.
- (8) If, in the opinion of the Electoral Officer, any Scrutineer breaches the Scrutineer Oath, that person will be ineligible:
- (a) to continue acting as a Scrutineer for the Election or By-Election in which they are acting as a Scrutineer; and
 - (b) to act as a Scrutineer in any Elections or By-Elections for a period of 6 years from the date of the breach.
- (9) The Electoral Officer will, immediately before the commencement of the Election, Referendum or By-Election:
- (a) open the ballot box and, in the presence of any appointed security, Scrutineers and the Deputy Electoral Officers, confirm that it is empty and complete a written statement to that effect;
 - (b) lock and properly seal the ballot box in a manner preventing it from being opened without breaking the seal; and
 - (c) place the ballot box in public view for the reception of the ballots.

- (10) After an Advance Poll, the Electoral Officer will remove all ballots from the ballot box and place the ballots in a securely locked location within the Administration Building.
- (11) Everyone presenting themselves at a Polling Station for the purpose of voting will present to the Electoral Officer or a Deputy Electoral Officer identification issued by the federal or provincial government or by shíshálh Nation.
- (12) Where a person does not have appropriate identification described in subsection 17(11), he or she will be deemed to be properly identified if two Voters sign a sworn declaration in the presence of the Electoral Officer or a Deputy Electoral Officer, confirming the identity of the person.
- (13) Where a person is properly identified as a Voter, he or she will sign the sign-in sheet presented by the Electoral Officer or a Deputy Electoral Officer and list his or her Membership Number on the sign-in sheet.
- (14) Upon signing the sign-in sheet, the Voter will receive a ballot initialed by the Electoral Officer or a Deputy Electoral Officer.
- (15) The Electoral Officer will keep the sign-in sheet confidential.
- (16) The Electoral Officer or a Deputy Electoral Officer will place in the proper column of the Voters' List, a mark opposite the name of every Voter receiving a ballot.
- (17) The Electoral Officer or a Deputy Electoral Officer will, when requested to do so, explain the method of voting to the Voter.
- (18) Voting at all Elections, Referendums and By-Elections will be by secret ballot.
- (19) No Voter may vote by proxy or authorize another person to vote on his or her behalf, and no one other than the Voter who is in the process of voting is permitted to be inside the voting compartment, except as provided for in subsection 17(20).
- (20) Any Voter who requires voting assistance may request that the Electoral Officer or a Deputy Electoral Officer vote on his or her behalf in his or her presence as the Voter directs.
- (21) In the event that the Electoral Officer or a Deputy Electoral Officer votes on behalf of a Voter, the Electoral Officer or Deputy Electoral Officer will note on the Voters' List in the column for remarks opposite the name of such Voter, the fact that the ballot was marked by him or her in the presence of that Voter and the reasons therefore.

- (22) Upon receiving the ballot, each Voter will:
- (a) immediately proceed to the voting compartment and clearly mark the ballot with an "X" or "✓" that clearly indicates the Voter's choice in the appropriate space;
 - (b) fold the ballot so as to conceal his or her choice in such a manner that only exposes the initials of the Electoral Officer or a Deputy Electoral Officer; and
 - (c) without unfolding the ballot, have the Electoral Officer or a Deputy Electoral Officer verify his or her initials and at once deposit the ballot into the ballot box in the presence of the Electoral Officer or a Deputy Electoral Officer at the Polling Station.
- (23) A Voter who inadvertently spoils his or her ballot may, on no more than one occasion, return it to the Electoral Officer or a Deputy Electoral Officer in order to obtain another ballot, and the Electoral Officer or the Deputy Electoral Officer, as the case may be, will write the word "rejected" upon the spoiled ballot, deposit it in the envelope for rejected ballots and provide the Voter with a new ballot initialed by the Electoral Officer or a Deputy Electoral Officer.
- (24) A Voter who has received a ballot and subsequently decides not to vote must return the ballot to the Electoral Officer or a Deputy Electoral Officer, who will mark the word "rejected" on the face of the ballot and deposit it in the envelope for rejected ballots.
- (25) A Voter forfeits his or her right to vote in an Election, Referendum or By-Election if, after being provided a ballot by the Electoral Officer or a Deputy Electoral Officer:
- (a) that person leaves a Polling Station without delivering the ballot to the Electoral Officer or a Deputy Electoral Officer;
 - (b) that person decides not to vote and returns his or her ballot to the Electoral Officer or a Deputy Electoral Officer; or
 - (c) that person spoils his or her ballot on more than one occasion.
- (26) Any Voter who is inside a Polling Station at the time fixed for closing the Election, Referendum or By-Election will be entitled to vote.
- (27) No person will, on the day the Election, Referendum, By-Election or Advance Poll is held, on the premises of a Polling Station:
- (a) distribute any printed materials except such materials as may be distributed by the Electoral Officer or a Deputy Electoral Officer for

the purposes of conducting the Election, Referendum or By-Election;

- (b) interfere with or influence, or attempt to interfere with or influence, any Voter in marking his or her ballot;
 - (c) obtain, or attempt to obtain, information as to how a Voter is about to vote or has voted; or
 - (d) disrupt, or attempt to disrupt, the voting process.
- (28) The Electoral Officer may request appointed security to remove any person from a Polling Station who is in violation of this Law.

18. Procedures after the Close of the Polls

- (1) Immediately after the close of the Election, Referendum or By-Election the Electoral Officer will, in the presence of the Deputy Electoral Officer(s) and any Scrutineers, open each envelope containing a mail-in ballot that was received before the close of the Election, Referendum or By-Election and, without unfolding the mail-in ballot:
- (a) set aside the mail-in ballot and deposit it in the envelope for rejected ballots if:
 - (i) it is not accompanied by a Voter Declaration Form or the Voter Declaration Form is not signed or witnessed;
 - (ii) the name of the person set out in the Voter Declaration Form is not on the Voters' List; or
 - (iii) the Voters' List shows that the Voter has already voted; and
 - (b) deposit all remaining mail-in ballots in the ballot box and place a mark on the final Voters' List next to the name of each Voter who provided a valid mail-in ballot.
- (2) Immediately after all remaining mail-in ballots have been deposited in the ballot box pursuant to subsection 18(1)(b), the Electoral Officer will deposit all Advance Poll ballots referenced in subsection 17(10) in the ballot box.
- (3) Immediately after all remaining mail-in ballots have been deposited in the ballot box pursuant to subsection 18(1)(b), and all Advance Poll ballots have been deposited in the ballot box pursuant to subsection 18(2), the Electoral Officer will:
- (a) open the ballot box, unfold and examine all ballots in the ballot box and reject those ballots that:

- (i) have not been initialed by the Electoral Officer or a Deputy Electoral Officer;
 - (ii) contain more votes than there are candidates to be elected or questions to be asked;
 - (iii) are marked in such a way that the Voter can be identified; or
 - (iv) are marked in such a way that the Voter's choice cannot clearly and unambiguously be determined;
 - (b) deposit the rejected ballots in the envelope for rejected ballots; and
 - (c) deposit all remaining ballots back in the ballot box.
- (4) Immediately after all remaining ballots have been deposited back in the ballot box pursuant to subparagraph 18(3)(c), the Electoral Officer will:
- (a) show the ballots in the ballot box to any Scrutineers present; and
 - (b) count the votes from the ballots in the ballot box.
- (5) Immediately after all ballots in the ballot box have been counted pursuant to subparagraph 18(4)(b), the Electoral Officer will, where electronic voting mechanisms are in place, count the electronic ballots;
- (6) Immediately after the Electoral Officer completes the ballot counts under subparagraph 18(4)(b) and, where electronic voting mechanisms are in place, subsection 18(5), the Electoral Officer will complete and sign a ballot tally sheet setting out the number of confirmed in-person, mail-in and, where electronic voting mechanisms are in place, electronic votes for each candidate or question asked and the number of rejected ballots.
- (7) The Electoral Officer will not count any rejected ballot as a vote cast.
- (8) The Electoral Officer will prepare a report in writing setting out the reasons for rejecting each rejected ballot and attach that report to the envelope for rejected ballots.
- (9) Subject to a recount under section 19, promptly upon the completion of the counting of all ballots, the Electoral Officer will publicly declare, in the presence of the Deputy Electoral Officer(s), Scrutineers and candidates and in accordance with the Constitution and this Law, as applicable:
- (a) the candidate for Chief with the highest number of votes to be elected; and

- (b) the 4 candidates for Councillor with the highest number of votes to be elected; or
 - (c) the result of the Referendum.
- (10) Subject to a recount under section 19, promptly upon the completion of an Election, Referendum or By-Election and the counting of all ballots, the Electoral Officer will prepare, sign and deliver to Council a written statement setting out:
- (a) the number of Voters who voted;
 - (b) for an Election, the votes cast in favour of each candidate;
 - (c) for a Referendum, the number of votes cast in favour of and against each of the questions put to the Referendum; and
 - (d) the number of rejected ballots.
- (11) On the day immediately following the Election, Referendum or By-Election the Electoral Officer will post the written statement referenced in subsection 18(10) in a public area of the Administration Building and publish it electronically.

19. Recounts and Ties

- (1) In the case of an Election or By-Election, if the difference in vote totals between the candidate receiving the highest number of votes for Chief and another candidate for Chief is 5 votes or less, including a tie, the Electoral Officer will immediately after the completion of the counting of the votes conduct a recount of the votes for Chief.
- (2) In the case of an Election or By-Election, if the difference in vote totals between the candidate for Councillor receiving the fourth highest number of votes and another candidate for Councillor is 5 votes or less, including a tie, the Electoral Officer will immediately after the completion of the counting of the votes conduct a recount of the votes for Councillors.
- (3) In the case of a Referendum, if the difference in vote totals between “yes” and “no” for any question is 5 votes or less, including a tie, the Electoral Officer will immediately after the completion of counting of the votes conduct a recount of the votes.
- (4) Upon completion of a recount, the Electoral Officer will:
 - (a) publicly declare the results of the Election, Referendum or By-Election in accordance with subsection 18(9);

- (b) prepare, sign and deliver to Council a written statement in the form described in subsection 18(10); and
 - (c) post a written statement in accordance with subsection 18(11).
- (5) In the case of a Referendum if, after a recount, a tie remains for any question, that question will not pass.
- (6) In the case of an Election or By-Election if, after a recount, a tie remains, a By-Election will be held for the Council position(s) that resulted in a tie.
- (7) In the case of an Election or By-Election, where a By-Election is required to break a tie, all the provisions of this Law will apply to the By-Election, provided that:
- (a) the final Voters' List for the By-Election will be the final Voters' List from the Election or By-Election that resulted in the tie;
 - (b) the candidates for office to be determined in the By-Election will be the candidates who received an equal number of votes for that office in the Election or By-Election that resulted in the tie; and
 - (c) the term of office for the successful candidate in the By-Election will be deemed to have commenced on the same day as the term of office commenced for the other members of Council.
- (8) Subject to any appeal, the results of the recount will be final.

20. Candidate Requirements after the Close of Polls

- (1) All candidates elected to Council will swear the Council Oath of Office before a justice of the peace, notary public or commissioner for taking oaths.
- (2) No person elected to Council will be permitted to assume his or her office until he or she has:
- (a) sworn and filed the Council Oath of Office; and
 - (b) complied with all other requirements to assume office as set out in the Constitution and this Law.
- (3) If a person elected as Chief or Councillor fails to comply with all requirements to assume office as set out in the Constitution and this Law within 10 days of the Election or By-Election, the Electoral Officer will declare the person receiving the next highest number of votes to be elected.

- (4) If the person receiving the next highest number of votes is unable or unwilling to assume office pursuant to subsection 20(3), Council will call a By-Election to fill the vacant post.

21. Disposal of Ballots

- (1) The Electoral Officer will deposit the ballots and the envelope for rejected ballots from the Election, Referendum or By-Election in a sealed envelope and retain it for 120 days after the date on which the Election, Referendum or By-Election is held or until a decision on an appeal is rendered, whichever date is later, after which time the Electoral Officer may, unless directed otherwise by Council, destroy them in the presence of two witnesses.

22. Appeals

- (1) All appeals under this Law will be conducted in writing.
- (2) In respect of an Election or By-Election, any Voter, including a candidate for Council, may deliver a notice of appeal in writing to the Chief Administrative Officer requesting that the Election or By-Election of the Chief or a Councillor be declared invalid, based on one or more of the following grounds:
 - (a) the person declared elected was not eligible to be a candidate;
 - (b) the person declared elected was not nominated in accordance with the procedures set out in the Constitution and this Law;
 - (c) there was a violation of a provision of the Constitution or this Law in the conduct of the Election or By-Election that might have affected the result of the Election or By-Election; or
 - (d) there was a Corrupt or Fraudulent Practice in relation to the Election or By-Election.
- (3) In respect of a Referendum, any Voter may deliver a notice of appeal in writing to the Chief Administrative Officer requesting that the Referendum be declared invalid, based on one or both of the following grounds:
 - (a) there was a violation of a provision of the Constitution or this Law in the conduct of the Referendum that might have affected the result of the Referendum; or
 - (b) there was a Corrupt or Fraudulent Practice in relation to the Referendum.

- (4) In the case of a Council removal, a member of Council who has been removed from office by Council resolution under section 23 may deliver a notice of appeal in writing to the Chief Administrative Officer requesting that the Council removal be declared invalid on the grounds that the Council member's removal was based on an error of fact and such error of fact was instrumental in Council's decision to remove the Council member from office.
- (5) Every notice of appeal will:
 - (a) set out in an affidavit sworn before a notary public or commissioner for taking oaths the facts substantiating the appeal;
 - (b) be accompanied by any supporting documentation; and
 - (c) be delivered to the Chief Administrative Officer within 30 days from the date of the Election, Referendum or By-Election together with a filing fee of \$250.00.
- (6) Upon receipt of a notice of appeal, the Chief Administrative Officer will promptly deliver the notice of appeal and supporting documentation to the Arbitrator.
- (7) Within 10 days of receiving the notice of appeal from the Chief Administrative Officer, the Arbitrator will deliver a copy of the notice of appeal and supporting documentation to:
 - (a) in the case of an Election, Referendum or By-Election, the Electoral Officer;
 - (b) Council;
 - (c) the persons named in the appeal, if any; and
 - (d) any other person the Arbitrator considers appropriate.
- (8) Council and, in the case of an appeal of an Election or By-Election, the potentially affected Council member(s), may deliver a written reply to the Arbitrator within 10 days of receiving the notice of appeal from the Arbitrator.
- (9) The Arbitrator may determine:
 - (a) the method and timelines for taking evidence from witnesses or producing additional documents relating to the appeal;
 - (b) what additional persons, if any, are to be notified of the appeal and how they are to be provided with relevant documents; and

- (c) any relevant matter that is not provided for in this Law.
- (10) The Arbitrator may compel the Electoral Officer or a Deputy Electoral Officer to produce any documents or other information related to the appeal and the Electoral Officer or a Deputy Electoral Officer will cooperate fully with the Arbitrator in relation to the production of those documents and the conduct of the appeal.
- (11) No witness will be required to divulge how he or she voted in an Election, Referendum or By-Election as part of an appeal.
- (12) Within 45 days of receiving the notice of appeal from the Chief Administrative Officer, the Arbitrator will confirm or invalidate the Election, Referendum, By-Election or Council removal and provide written reasons for his or her decision, which reasons will be:
 - (a) posted publicly in the Administration Building and published electronically; and
 - (b) mailed to the Electoral Officer, Council and all parties involved in the appeal.
- (13) If the Arbitrator invalidates a Referendum under this law, the next Referendum with respect to that question will be deemed to be the first Referendum.
- (14) The Arbitrator may, in his or her discretion, order by whom, to whom and in what manner costs will be paid.
- (15) In the event that an appeal is successful, the appellant will have his or her filing fee reimbursed in full.
- (16) Until the Arbitrator renders his or her decision in a Council removal appeal under this section, the position on Council will remain vacant.
- (17) The determination of the Arbitrator is final and not subject to appeal.

23. Removal from Office by Council Resolution and Council Vacancies

- (1) A member of Council will be removed from office by Council resolution if Council has information sufficient to believe that the person:
 - (a) during his or her term in office, was convicted of a Indictable Offence, or a Summary Offence that involves physical or sexual violence toward another person, within 10 years prior to his or her nomination, except where a Summary Offence conviction involving physical violence against another person was an act of civil disobedience in support of Aboriginal rights or title of the shíshálh

- Nation, organized or approved by Council, and except where a record suspension has been granted for a Summary Offence;
- (b) has been absent from 3 consecutive duly convened Council meetings without being authorized by Council to do so;
 - (c) authorized an expenditure, loan, borrowing, guarantee, indemnity or investment contrary to the Constitution;
 - (d) has become overdue in the payment of a debt to the shíshálh Nation or any shíshálh Entity without a payment plan or other arrangement for repayment approved by an authorized representative of shíshálh Nation or the relevant shíshálh Entity;
 - (e) engaged in a Corrupt or Fraudulent Practice during the Election in which he or she was elected to Council; or
 - (f) breached his or her obligations under the Council Oath of Office.
- (2) The office of Chief or Councillor will become vacant when the person who holds that office:
- (a) dies; or
 - (b) resigns from his or her office.

24. Council Removal by Referendum

- (1) Any Voter may deliver an application in writing to the Chief Administrative Officer, together with a filing fee of \$250.00, requesting that a Referendum for the removal of a Council member be held, if the Voter believes that a Council member has breached his or her obligations under the Constitution or this Law, which application must include:
- (a) the name of the Council member the Referendum is sought in respect of;
 - (b) the name and address of the Voter;
 - (c) a statement, not exceeding 500 words, setting out how, in the opinion of the Voter, the Council member has breached his or her obligations under the Constitution or this Law; and
 - (d) any documents supporting the application.
- (2) Upon receipt of an application under subsection 24(1), the Chief Administrative Officer will promptly deliver the application to the Arbitrator.

- (3) The Arbitrator will deliver notice to Council and the Council member named in an application submitted under subsection 24(1) within 5 days of receiving the application, which notice must include:
 - (a) the statement submitted with the application setting out how, in the opinion of the Voter, the Council member has breached his or her obligations under the Constitution or this Law;
 - (b) any documents supporting the application; and
 - (c) notice that the Council member named in the application may deliver a written reply to the Arbitrator within 15 days of receipt of the Arbitrator's notice.
- (4) A Council member named in an application submitted under subsection 24(1) may, within 15 days of receiving the Arbitrator's notice, deliver a written reply to the Arbitrator, which reply must include:
 - (a) the reasons, not exceeding 500 words, why the application should not be accepted; and
 - (b) any supporting documents.
- (5) After considering the application submitted under subsection 24(1), and the reply, if any, submitted under subsection 24(4), the Arbitrator will:
 - (a) if the Arbitrator determines that the Voter's application is *bona fide*, made in good faith and is not frivolous, promptly inform Council and Council will call a Referendum, pursuant to the process for Referendums in the Constitution and this Law, to determine the question of whether or not the Council member should be removed from office; or
 - (b) if the Arbitrator determines that the Voter's application is not *bona fide*, not made in good faith or is frivolous, promptly mail or email notice to the person who submitted the application, the Council member named in the application and Council that the Voter's application has been rejected and the reasons for its rejection.
- (6) If a Majority of Voters voting in the Referendum held pursuant to subparagraph 24(5)(a) assent to the removal of the Council member, the Council member will be removed from office.
- (7) In the event that the Arbitrator determines that the Voter's application is *bona fide*, made in good faith and is not frivolous, the Voter will have his or her filing fee reimbursed in full.

25. By-Elections

- (1) Subject to subsections 19(3), 22(16) and 25(2), in the event, after a recount, a tie occurs in an Election or By-Election, a member of Council is removed from office or a position on Council becomes vacant, a By-Election will be held.
- (2) Subject to subsection 25(6), no By-Election will be held where there are less than 6 months remaining in the term of the Council member or members whose office has become vacant.
- (3) A person who is removed or resigns from office is not eligible to seek election in a By-Election for his or her vacated position.
- (4) No sitting Council member is eligible to be a candidate for Chief in a By-Election unless he or she resigns from Council prior to the date for nominations in the By-Election.
- (5) The procedures for every By-Election, including appeals of By-Elections, will be governed by those for Elections set out under the Constitution and this Law, with any procedural modifications to this Law deemed necessary by the Electoral Officer or, in the case of an appeal, the Arbitrator.
- (6) Where there are more than two vacant Council seats, an Election for all Council positions will be held within 90 days from the date when the third Council seat becomes vacant, even if there are less than 6 months remaining in the terms of the Council members whose offices have become vacant.

26. Delivery

- (1) Any notice or communication required to be delivered under this Law will be deemed to have been delivered upon receipt by the relevant person.
- (2) Any notice or communication required to be mailed or emailed under this Law will be deemed to have been mailed or emailed on the date it was put in the mail or emailed to the relevant person.

27. Amendment

- (1) All amendments to this Law must be approved by a Majority of Voters voting in a Referendum.

28. Computation of Time

- (1) Unless otherwise stated in this Law, the computation of time in this Law will be in accordance with the *Interpretation Act*, RSC 1985, c I-21, as may be amended or replaced from time to time.

This Law approved by Referendum on the _____ day of _____, 2019, adopted this _____ day of _____, 2019 by Chief and Council of the shíshálh Nation and effective as of the date first written above:

hiwus Warren Paull

Councillor Alvina Paul

Councillor Selina August.

Councillor Corey August

Councillor Keith Julius

APPENDIX C

**OVERVIEW OF COMMUNITY ENGAGEMENT SESSIONS THAT HAVE
BEEN HELD**

There have been 11 Engagement Meetings with Community Members about the proposed Changes to the Constitution over the last year

In 2018 the Constitution Committee met with the community 8 times.

- February 14, 2018: Elders Meeting
- February 20, 2018: Community Meeting
- March 20, 2018: Community Meeting (Under 35 years of age)
- March 20, 2018: Membership Meeting
- May 3, 2018: shíshálh Nation Staff Meeting
- May 16, 2018: shíshálh Nation Staff Meeting
- May 22, 2018: Community Meeting
- July 24, 2018: Community Meeting

In 2019, council met with the community at a series of family meetings and specific group meetings, including:

- March 21, 2019: Meeting hosted by hiwus Paull and hewhiwus Corey August and Keith Julius
- March 27, 2019: Meeting hosted by hewhiwus Selina August
- March 28, 2019: Meeting hosted by hewhiwus Alvina Paul
- March 29, 2019: Elders Meeting
- April 1, 2019: shíshálh Nation Staff Meeting



A special Constitution meeting was held for shíshálh Elders in March.