

Tsawout First Nation

Custom Election Law

Dated for Reference
December 19, 2014

This is the Draft Law developed between 2010 and 2015. This is provided to Tsawout Members for Discussion Purposes Only as part of the 2022-2023 Community Law Development Process

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1.0 Title

- 1.1 This Law shall be called the “Tsawout First Nation Custom Election Law” (the “Election Law”).

2.0 Definitions

- 2.1 In this Election Law:

“**Administration Office**” means the office established to provide administrative support to the Council of the Tsawout First Nation, formerly the “band office”, located at 7728 Tetayut Road, Saanichton, BC V8M 2C3.

“**All Candidates’ Meeting**” means a meeting held pursuant to section 7.4.

“**Assistant**” means a person appointed by the Chief Electoral Officer to assist the Chief Electoral Officer.

“**Band Council Resolution**” means an administrative declaration of the Council with respect to a particular matter.

“**By-Election**” means an Election held to fill a declared vacancy on Council in accordance with this Election Law.

“**Candidate**” means a nominee who has submitted to the Chief Electoral Officer all required documents within the timeline as set out in section 6.17.

“**Chief**” means the Member elected pursuant to this Election Law to the office of Chief, who is to act as the primary spokesperson and paramount political leader of the Council, and who has complied with section 3.11 of this Election Law.

“**Chief Electoral Officer**” means the person appointed in accordance with section 5.1 or 5.2 of this Election Law and who meets the criteria set out in section 5.5 of this Election Law.

“**Complaints and Appeal Board**” means the Board established pursuant to this Election Law to hear and decide appeals arising under this Election Law and other election related matters that may arise from time to time.

“**Council**” means the council composed of those persons elected pursuant to this Election Law, also referred to as the “the band council” within the *Indian Act*.

“Councillor” means a Tsawout First Nation Member elected Councillor pursuant to this Election Law to the office of Councillor, and who has complied with section 3.11 of this Election Law.

“Deputy Chief” means the Tsawout First Nation Member who received the most votes pursuant to this Election Law for the office of Councillor, and who has complied with section 3.11 of this Election Law.

“Deputy Electoral Officer” means an Electoral Officer appointed by the Chief Electoral Officer to assist and help oversee the Election process, and in the event that the Chief Electoral Officer is unable to fulfill his or her duties, to act in the place of the Chief Electoral Officer for the specific Election in question.

“Director of Operations” means the head of the Tsawout First Nation Administration who is under the supervision of Council.

“Election” means a General Election or a By-Election held under this Election Law.

“Election Law” means the Tsawout First Nation Custom Election Law.

“Elector” means a person who is a member of the Tsawout First Nation and the full age of eighteen (18) years.

“General Election” means the Election held during every third (3rd) year for all positions on the Council, including the Chief and Deputy Chief, in accordance with this Election Law.

“Immediate Family” means a spouse, common-law, sons, daughters, step-sons, step-daughters, brothers, sisters, parents, father-in-law, mother-in-law and grandparents. This may also include other relatives permanently living in the employee’s household or with whom the employee permanently resided at one time for a period of more than one (1) year.

“Mail-In-Ballot” means a ballot mailed or delivered in accordance with this Election Law.

“Mail-In Ballot Package” means the package sent to each Member who does not reside on Tsawout First Nation Land, or any Member who so requests, which contains the documents set out in section 8.8(a)-(g) of this Election Law.

“Member” means any person who is, or is entitled to be, registered as a Member of Tsawout First Nation, pursuant to the Tsawout First Nation Membership Law.

“Membership Administrator” means the person appointed by Council pursuant to Section 20 of the STAUTW First Nation Membership Law.

“Polling Station” means a building, hall or room which is established by the Chief Electoral Officer as a site at which voting shall take place during an Election under this Election Law.

“Quorum” means fifty percent plus one (50% + 1) of the Council;

“Translator” means a person appointed by the Chief Electoral Officer to assist with any translating duties that may arise during an Election.

“Tsawout First Nation” means the aboriginal people of Canada also known as the “STÁUTW First Nation” whom are recognized as a “band” within the meaning of the *Indian Act*, R.S.C. 1985, c. I-5, as amended (the “*Indian Act*”).

“Tsawout First Nation Land” means a Tsawout First Nation Land sometimes referred to as “reserve land” or any portion thereof that is subject to the Tsawout First Nation Land Code.

“Voter Declaration Form” means a copy of the *Voter Declaration Accompanying the Mail-in Ballot* attached at Appendix 8 to this Election Law.

“Voters List” means a list containing only the names, including any identifiers such as nick names or middle names, of all Electors in alphabetical order.

3.0 The Council

Composition

3.1 Council shall be elected pursuant to section 3.9 and shall consist of:

- (a) One (1) Chief;
- (b) One (1) Deputy Chief; and
- (c) Five (5) Councillors.

Salaries

3.2 Members of Council shall be remunerated consistent with a pay scale developed by an independent consultant, which can be amended from time to time.

Meetings

3.3 The first meeting of the incoming Tsawout First Nation Council shall be held no later than thirty (30) days after the Election, on a day, hour and place to be stated in a notice given to each member of Council; and meetings shall thereafter be held on such days and at such times as may be necessary for the business of the Council or the affairs of Tsawout First Nation.

- 3.4 No member of the Tsawout First Nation Council may be absent from meetings of Council for three consecutive meetings without being authorized to do so by Council. Whether just cause exists for a Council member missing a meeting shall be determined after each absence by a majority vote of other Council members present at a Council meeting and the decision shall be recorded in the minutes of that meeting. The Council member whose absence from a meeting is being considered shall be deemed in conflict of interest and shall leave the room prior to any debate on the question, not be counted in determining whether there is a quorum, nor participate in the vote determining whether the absence was with just cause.
- 3.5 All Council meetings shall be conducted in accordance with the Tsawout First Nation Governance Policy Manual.
- 3.6 The secretary to the Tsawout First Nation Council shall, in a timely manner, notify each member of the Tsawout First Nation Council of the day, hour and place of each Tsawout First Nation Council meeting.
- 3.7 The Chief or Quorum of the Tsawout First Nation Council may summon a special meeting of the Tsawout First Nation Council.
- 3.8 An Annual General Meeting will be held, at least one time per year, on a date and at a place determined by Council.

Method of Election

- 3.9 The Chief, Deputy Chief and Councillors shall be elected, pursuant to this Election Law, by the Electors of the Tsawout First Nation.

Terms of Office

- 3.10 The term of office for Chief and Councillors shall be three (3) years.
- 3.11 Each member of the Council shall, within one (1) week of being declared elected under section 9.21:
- (a) take the *Oath of Chief, Deputy Chief and Councillors*, a copy of which is attached to this Election Law as Appendix 1; and
 - (b) pursuant to the *Tsawout First Nation Governance Policy Manual*, Directive 2.1, resign from his or her employment with Tsawout First Nation.

3.12 Subject to section 3.11 being adhered to, the term of office for Chief and Councillors commences when the Chief Electoral Officer publicly declares the results of the Election under section 9.21 and expires at eleven fifty-nine (11:59) p.m. on the day preceding the next Election.

3.13 Subject to section 3.14, if a person elected as Chief, Deputy Chief or Councillor:

- (a) fails to file the sworn *Oath of Chief, Deputy Chief and Councillors* with the Chief Electoral Officer; or
- (b) fails to resign from his or her employment with Tsawout First Nation.

within one (1) week of being declared elected under section 9.21, the Chief Electoral Officer shall declare the position vacant.

3.14 Where a Candidate elected as Chief, Deputy Chief or Councillor cannot comply with section 3.13 because of illness or other valid reason, they, or an Elector acting on their behalf, may within that time file a request with the Chief Electoral Officer for an extension of the prescribed time.

3.15 In response to a request pursuant to section 3.14, the Chief Electoral Officer shall determine whether the circumstances justify an extension of the time and shall provide the Candidate making the request written notice of the decision together with reasons.

3.16 There is no limit to the number of terms of office that a member of the Council may serve consecutively if duly elected pursuant to this Election Law.

Vacancy

3.17 A position on the Council becomes vacant if the member of the Council holding the position:

- (a) resigns from the office in writing;
- (b) fails to comply with section 3.13;
- (c) is removed by the Complaints and Appeal Board in accordance with section 11.0 of this Election Law; or
- (d) dies.

3.18 If a situation described in section 3.17 of this Election Law occurs, or is believed to have occurred, a motion must be presented, as soon as practicable, at a duly convened regular meeting of the Council for a resolution outlining the situation and declaring the position to be vacant.

3.19 A position on Council will remain vacant if there are less than six (6) months

remaining in the term , except where it is necessary to fill the vacancy to have sufficient Council members to maintain Quorum.

- 3.20 If any Council position becomes vacant with more than six (6) months remaining in the term, a By-Election will be called pursuant to this Election Law.
- 3.21 The successful Candidate appointed under this Election Law to fill any vacancy shall hold office for the remainder of the original term of the Councillor whom he or she is appointed to replace.

4.0 Election Dates

Date of First Election under this Election Law

- 4.1 The first Election for Council after the date this Election Law comes into force shall be held on Tuesday, June 23, 2015.
- 4.2 Subject to this Election Law, subsequent General Elections of the Tsawout First Nation Council shall take place on the Tuesday in the 4th week of June every 3 years beginning in the year 2018.

Date of By-Elections

- 4.3 Council shall, by Band Council Resolution, set a date for a By-Election to fill any vacancy on the Council after consultation with the Chief Electoral Officer and within thirty (30) days of the Council declaring a position on the Council to be vacant under section 3.18.
- 4.4 The procedures for every By-Election shall be governed by those of a General Election with procedural modifications as deemed necessary by the Chief Electoral Officer.

5.0 Pre-Nomination Process

Appointment of a Chief Electoral Officer

- 5.1 The Chief Electoral Officer shall be appointed by Council, by way of Band Council Resolution, not less than one hundred (100) days prior to the date on which the Election will be held.
- 5.2 Council in office when this Election Law comes into effect shall, by Band Council Resolution, appoint a Chief Electoral Officer not less than eighty (80) days prior to the date on which the first General Election is held pursuant to this Election Law.

- 5.3 If the Chief Electoral Officer has not been appointed within the time set out in section 5.1 or 5.2, the Director of Operations shall appoint a Chief Electoral Officer as soon as possible.
- 5.4 Prior to undertaking his or her duties, the Chief Electoral Officer shall complete the *Oath of Office for Electoral Officers*, a copy of which is attached as Appendix 2 to this Election Law.
- 5.5 The person appointed as Chief Electoral Officer shall:
- (a) not be a Member of Tsawout First Nation;
 - (b) have no vested interest in the outcome of the Election;
 - (c) be at least 18 years of age; and
 - (d) have experience in the conduct of Elections or have received appropriate certification and/or training.
- 5.6 The Chief Electoral Officer shall, in a manner consistent with this Election Law, determine who is an Elector and who is eligible to be a Candidate, prior to the Election.
- 5.7 The Chief Electoral Officer will establish an Election file and place in it copies of all documentation associated with the Election. The file will remain open until the appeal period has expired or until a decision has been rendered in an appeal process. The file shall then be closed and kept in the Administration Office.
- 5.8 The Chief Electoral Officer may make such orders and issue such instructions consistent with the provisions of this Election Law, as he may deem necessary for the effective administration of the Election.
- 5.9 In the event that the Chief Electoral Officer cannot fulfil his or her duties, Council, by the way of Band Council Resolution, will appoint another Chief Electoral Officer. In the absence of such an appointment, the Deputy Electoral Officer shall assume the role of Chief Electoral Officer.

Appointment of Deputy Electoral Officer, Translators and Assistants

- 5.10 The Chief Electoral Officer shall appoint one (1) Deputy Electoral Officer, who shall work under his or her direction, if he or she deems it necessary.
- 5.11 The Chief Electoral Officer shall appoint one or more Translators and/or Assistants, as he or she deems necessary, each of whom shall work under his or her direction.

5.12 The Deputy Electoral Officer, Translators and Assistants must all be persons who:

- (a) are not Members of the Tsawout First Nation;
- (b) have no vested interest in the outcome of the Election;
- (c) are at least 18 years of age;
- (d) do not work for Tsawout First Nation; and
- (e) with respect to the position of Deputy Electoral Officer position, have experience in the conduct of an Election or have received appropriate training.

5.13 The Deputy Electoral Officer shall have such powers as described in this Election Law as well as those powers of the Chief Electoral Officer as are delegated to him or her by the Chief Electoral Officer.

5.14 Prior to undertaking their duties, the Deputy Electoral Officer and each Translator and/or Assistant shall complete the *Declaration of Electoral Translators and Assistants*, a copy of which is attached as Appendix 11 to this Election Law.

Voters List

5.15 At least seventy-nine (79) days before the date of the Election, the Tsawout First Nation Membership Administrator shall, to the best of his or her ability, provide the Chief Electoral Officer with a list containing the name, date of birth, band number and last known address of each Member.

5.16 The Chief Electoral Officer shall, to the best of his or her ability, prepare a Voters List containing only the names, including any identifiers such as nick names or middle names, of all Electors in alphabetical order.

5.17 In order to ensure that the Voters List is accurate, the Membership Administration and/or the Chief Electoral Officer can request information from any other Tsawout First Nation department, and every department shall assist the Membership Administrator and/or the Chief Electoral Officer, as required.

5.18 The Chief Electoral Officer shall ensure that the Voters List is made available to Electors for review online at the Tsawout First Nation website (www.tsawout.ca) and at the Administration Office.

5.19 Each Elector is responsible for ensuring that he or she is included on the Voters List and that the information about the Elector is accurate.

5.20 If an Elector believes there is an error on the Voters List, the Elector shall notify the Chief Electoral Officer and the Chief Electoral Officer shall consult with the Membership Administrator and correct the Voters List if satisfied that there is an error, after being presented with evidence of the correct information.

5.21 Any Elector whose name does not appear on the Voters List may present evidence of his or her

(a) identity,

(b) date of birth, and

(c) Membership in the Tsawout First Nation,

to the Chief Electoral Officer and if the Chief Electoral Officer is satisfied that the person is eligible to vote pursuant to this Election Law, that person shall be added to the Voters List and be allowed to vote.

Notices

5.22 The Chief Electoral Officer shall prepare a Notice of Election containing:

(a) the date and time of the Election;

(b) the position(s) on the Council open for Election;

(c) the location of the Polling Station for the Election;

(d) the availability of voting by Mail-In-Ballot for:

(i) all Electors who do not ordinarily reside on Tsawout First Nation Land;
and

(ii) all other Electors who request a Mail-In Ballot Package;

(e) notice that a copy of the *Tsawout First Nation Custom Election Law* is available to any Elector, upon the Elector's request, and is available for viewing online at the Tsawout First Nation website (www.tsawout.ca) and at the Administration Office; and

(f) notice that the Voters List is available for review online at the Tsawout First Nation website (www.tsawout.ca) and at the Administration Office, and that each Elector is responsible for ensuring that he or she is included on the Voters List and that the information about the Elector is correct.

- 5.23 The Chief Electoral Officer shall prepare a Notice of Candidate Nomination Meeting(s) containing:
- (a) the date, time, duration and location of the Candidate Nomination Meeting;
 - (b) a statement that, prior to the start of any Candidate Nomination Meeting, any eligible Elector may propose or second a Candidate for a position by submitting a completed *Mail-In Candidate Nomination Form* to the Chief Electoral Officer and ensuring receipt thereof, prior to the start of the Candidate Nomination Meeting;
 - (c) information on how to obtain the *Mail-In Candidate Nomination Form*; and
 - (d) the nomination fee set for that Election.
- 5.24 The Chief Electoral Officer shall, at least seventy-five (75) days prior to an Election date:
- (a) post a Notice of Candidate Nomination Meeting at the Administration Office, on any website maintained by the Tsawout First Nation (ie. www.tsawout.ca), and at any other public places as deemed necessary by the Chief Electoral Officer; and
 - (b) mail or deliver a Notice of Candidate Nomination Meeting to all Electors, including those who reside off Tsawout First Nation Land.

The Complaints and Appeal Board

- 5.25 The Council shall, by resolution, appoint a Complaints and Appeal Board consisting of at least five (5) Tsawout First Nation Members, not less than sixty (60) days prior to the date on which an Election will be held.
- 5.26 For the purposes of section 5.25, Council in office when this Election Law comes into effect shall, by Band Council Resolution, appoint the Complaints and Appeal Board as soon as practicable.
- 5.27 Prior to undertaking their duties, each member of the Complaints and Appeal Board appointed by the Council shall complete the *Oath of Office for Complaints and Appeal Board Members*, a copy of which is attached as Appendix 4 to this Election Law.

- 5.28 No member of the Complaints and Appeal Board may be members of the sitting Council, an employee of the Tsawout First Nation, a Candidate for a position on the Council or a scrutineer for a Candidate for the Election(s) for which he or she is appointed to act as a member of the Complaints and Appeal Board.
- 5.29 The term of office for each member of the Complaints and Appeal Board shall be until replacement by the Council prior to the next Election, during which term the Complaints and Appeal Board shall:
- (a) administer all Election related appeals in accordance with the provisions in this Election Law; and
 - (b) administer all Council vacancy related appeals in accordance with the provisions in this Election Law.
- 5.30 Upon receipt of an appeal or a petition for removal from office in accordance with section 11.0, any Complaints and Appeal Board member who is the Immediate Family of any appellant or complainant must excuse themselves from the Complaints and Appeal Board.
- 5.31 Notwithstanding section 5.30, any member of the Complaints and Appeal Board, or an appellant or complainant who has reason to believe that a member of the Complaints and Appeal Board may be reasonably apprehended to have a bias or conflict of interest in connection with the appeal or complaint, shall disclose this information to the Complaints and Appeal Board who will then meet in camera to discuss the potential conflict of interest or bias and decide whether the member should be excused from the Complaints and Appeal Board.
- 5.32 If a member of the Complaints and Appeal Board is excused under section 5.30 or section 5.31, the Director of Operations shall appoint an alternate member to hear that particular appeal or petition.

6.0 Nomination Process

Eligibility of Electors

- 6.1 Any Member wishing to nominate a Candidate must:
- (a) be the full age of eighteen (18) years on or before the day on which the Candidate Nomination Meeting is held;
 - (b) be a Member of the Tsawout First Nation; and
 - (c) be listed on the Voters List.
- 6.2 Any Member wishing to vote in an Election must:

- (a) be the full age of eighteen (18) years on or before the day on which the Election is held;
- (b) be a Member of the Tsawout First Nation; and
- (c) be listed on the Voters List.

Eligibility of Candidates

6.3 A Candidate for the office of Chief or Councillor must:

- (a) be the full age of eighteen (18) years on or before the day on which the Election is held;
- (b) be nominated for that office, in accordance with the procedures set out in this Election Law;
- (c) not have been convicted of any offense, that was prosecuted by way of indictment, within five (5) years prior to their nomination (*a conviction of an offence relating to the assertion or exercise of Aboriginal rights or title shall not be deemed to be a conviction for the purposes of this section*);
- (d) not have been found guilty of committing a fraudulent act by a Court of competent jurisdiction, and such fraudulent act was committed within five (5) years prior to the date of nomination; and
- (e) not have declared bankruptcy within two (2) years prior to the date of nomination (*Industry Canada* allows public access to searching for bankruptcy records for a small fee per name:
<https://www.ic.gc.ca/app/scr/bsf-osb/ins/login.html?lang=eng>).
- (f) Subsection (c) does not apply if a Candidate has received a pardon from the relevant federal justice authority, and the Candidate supplies proof of such a pardon.

6.4 A person may only be a Candidate for one of the offices of Chief or Councillor in any Election.

General

6.5 All Candidate nominations shall be proposed and seconded by two different Electors, both of whom would be eligible to vote on the day that the Candidate Nomination Meeting is held.

6.6 An Elector is eligible to nominate a Candidate if they meet the criteria to nominate a Candidate as set out in section 6.1 of this Election Law.

6.7 An Elector may nominate or second the nomination of more than one Candidate, but may not nominate or second the nomination of more Candidates than the total number of positions on the Council subject to the Election.

- 6.8 All persons nominated must be eligible to vote at the Candidate Nomination Meeting at which they are nominated.

Candidate Nomination by Mail

- 6.9 An Elector unable to attend a Candidate Nomination Meeting at which he or she is eligible to vote may participate in the Candidate nomination process for the meeting by completing a *Mail-in Candidate Nomination Form*, a copy of which is attached as Appendix 3 to this Election Law, and by ensuring its receipt by the Chief Electoral Officer prior to the start of the Candidate Nomination Meeting.
- 6.10 The Chief Electoral Officer shall send one or more *Mail-in Candidate Nomination Forms* to any Elector who so requests.
- 6.11 It is the sole responsibility of an Elector, wishing to participate in the Candidate nomination process by mail-in nomination, to obtain the required *Mail-In Candidate Nomination Form* from the Chief Electoral Officer and to ensure the completed *Mail-In Candidate Nomination Form* has been received by the Chief Electoral Officer prior to the start of the Candidate Nomination Meeting.

Candidate Nomination Meetings

- 6.12 A Candidate Nomination Meeting must last at least three (3) hours and take place at least forty-five (45) days prior to the date of the Election.
- 6.13 At the time and place specified in the Notice of Candidate Nomination Meeting, the Chief Electoral Officer shall:
- (a) declare the meeting open for the purpose of receiving Candidate nominations;
 - (b) announce the acceptance or rejection of any Candidate nomination(s) received in writing prior to the meeting;
 - (c) provide sufficient time for Candidate nominations to be brought forward from the floor; and
 - (d) close the floor to nominations by requesting that a motion be made and seconded to close the Candidate Nomination Meeting.
- 6.14 Upon the opportunity to bring forward Candidate nominations from the floor, an Elector entitled to be present at the meeting may, in person or in writing to the Chief Electoral Officer, propose or second a nomination of any Elector eligible to be a Candidate for a position(s) that is the subject of the nomination meeting.
- 6.15 Upon closure of the receipt of nominations at a Candidate Nomination Meeting:

- (a) if only one person has been nominated for election as Chief, the Chief Electoral Officer shall declare that person elected, subject to the person signing an *Acceptance of Candidate Nomination Form*, a copy of which is attached as Appendix 5 to this Election Law;
- (b) if the number of persons nominated to serve as councilors does not exceed the number to be elected, the Chief Electoral Officer shall declare those persons elected, subject each elected Councillor signing an *Acceptance of Candidate Nomination Form*, a copy of which is attached as Appendix 5 to this Election Law;
- (c) where more than the required number of persons are nominated for election as Chief or Councillors, the Chief Electoral Officer shall declare that a vote will be held at the time and place identified in the Notice of Election.

Candidate Acceptance and Deposit

- 6.16 A person duly nominated to be a Candidate may only accept one Candidate nomination for a position on the Council.
- 6.17 A person duly nominated and wishing to be a Candidate in the current Election shall provide the following to the Chief Electoral Officer no later than seven (7) days from the close of the Candidate Nomination Meeting:
- (a) a completed *Candidate Application Form*, a copy of which is attached as Appendix 6-A of this Election Law;
 - (b) a signed *Acceptance of Candidate Nomination Form*;
 - (c) a deposit of:
 - (i) \$100 for the position of Chief; or
 - (ii) \$50 for all Councillor positions; and
 - (d) Confirmation of the date that the nominee's electronic criminal record check was completed, as set out in Appendix 14.
- 6.18 Failure to provide any of the documents and deposit listed in section 6.17 will render all nominations for the Candidate void.
- 6.19 Subject to section 6.3(c), if the criminal record check reveals that the person has been convicted of an offense that was prosecuted by way of indictment within five (5) years prior to the date of Election all nominations for the Candidate are void.

- 6.20 If the record check reveals that the person has been found guilty of committing a fraudulent act by a Court of competent jurisdiction, and such fraudulent act was committed within five (5) years prior to the date of Election all nominations for the Candidate are void.
- 6.21 If the record check reveals that the person has declared bankruptcy within two (2) years prior to the date of Election all nominations for the Candidate are void.
- 6.22 If mailed, the documents and deposit listed in section 6.17 shall be mailed, by registered mail, and shall be accepted only if dated no later than seven (7) days from the close of the Candidate Nomination Meeting.
- 6.23 The deposit shall be in the form of cash, money order or certified cheque, and the Chief Electoral Officer will issue a receipt to the Candidate, either in person or by mail.
- 6.24 All funds received as deposits during the Election process shall be placed in the general account of the Tsawout First Nation and shall be used to offset expenses related to the Election.
- 6.25 .
- 6.26 A Candidate who dies before the close of the polls shall have his or her deposit returned.

7.0 Campaigning

- 7.1 Each Candidate that accepts nomination must, within seven (7) days after acceptance, provide the Chief Electoral Officer with a biography that shall be shared with Electors who so request.
- 7.2 Employees of Tsawout First Nation shall not work on any campaign material or campaign for any Candidates during work hours.
- 7.3 Tsawout First Nation Administration is non-partisan; therefore only one designated bulletin board inside and outside of the Administration Building will be allotted for the posting of campaign literature.
- 7.4 An All Candidates' Meeting shall be held no later than fifteen (15) days before the date of Election, to allow the Electors to question the Candidates regarding the Candidates anticipated contribution to the community if elected to Council.

During this meeting, each Candidate shall be provided a maximum of fifteen (15) minutes to address the Electors, after which questions may be asked.

- 7.5 A moderator, who is not a Tsawout First Nation Member, the Chief Electoral Officer, or the Deputy Electoral Officer, will be appointed by the Director of Operations to moderate the All Candidates' Meeting.

8.0 Pre-Election Process

Acclamation

- 8.1 Where the office of Chief and all offices of Councillor are filled by acclamation:

- (a) the Chief Electoral Officer shall post in at least one conspicuous place on Tsawout First Nation Land, and mail to every Elector who does not reside on Tsawout First Nation Land, a notice that sets out the names of the persons who have been acclaimed and states that an Election will not be held; and
- (b) Sections 8.2 through 10.5 shall not apply.

Candidate Posting and Withdrawals

- 8.2 Within seventy-two (72) hours of the Candidate Nomination Meeting, if upon closure of the receipt of nominations at the Candidate Nomination Meeting, more than one person has been nominated for a position on the Council that is the subject of the meeting, the Chief Electoral Officer shall declare that a vote will be held at the time and place identified in the Notice of Election and shall, within seven (7) days of the Candidate Nomination Meeting,

- (a) post the Notice of Election at the Administration Office, on any website maintained by the Tsawout First Nation (ie. www.tsawout.ca), and at any other public places as deemed necessary by the Chief Electoral Officer; and
- (b) mail or deliver a Notice of Election to all Electors, including those who reside off Tsawout First Nation Land.

- 8.3 The Chief Electoral Officer shall post the Candidate names and the position for which the person is a Candidate and list the Candidate names in alphabetical order by surname.

- 8.4 At any time before the ballots are printed, a Candidate may withdraw by

delivering to the Chief Electoral Officer a completed *Withdrawal of Candidate Nomination Form*, a copy of which is attached to this Election Law as Appendix 7.

- 8.5 A Candidate who withdraws pursuant to Section 8.4 shall have his or her deposit returned.

Preparation of Ballots

- 8.6 At least thirty-five (35) days before the Election, the Chief Electoral Officer shall have ballots printed with the names of the Candidates for each position that is the subject of the Election.
- 8.7 As required, the Chief Electoral Officer shall prepare two ballot papers of different colours setting out, respectively:
- (a) the names of the Candidates nominated for Election as Chief, in alphabetical order by surname, and
 - (b) the names of the Candidates nominated for Election as Councillors, in alphabetical order by surname.

Mail-In Balloting

- 8.8 At least thirty (30) days before the Election, the Chief Electoral Officer will mail to each Elector who does not ordinarily reside on Tsawout First Nation Land, a Mail-In Ballot Package consisting of:
- (a) ballots as identified in section 8.7 of this Election Law, and initialled on the back by the Chief Electoral Officer or Deputy Electoral Officer;
 - (b) an inner envelope to seal the Elector's ballot(s) in;
 - (c) a *Voter Declaration Accompanying the Mail-in Ballot* form, a copy of which is attached as Appendix 8 to this Election Law;
 - (d) an outer postage-paid envelope, pre-addressed to the Chief Electoral Officer for enclosing the sealed ballot envelope and the *Voter Declaration Accompanying the Mail-In Ballot* form;
 - (e) the *Mail-in Voting Instructions*, a copy of which is attached as Appendix 9 to this Election Law;
 - (f) a Notice of Election; and
 - (g) any other information the Chief Electoral Officer considers appropriate.
- 8.9 Any Elector who ordinarily resides on Tsawout First Nation Land, and who

expects to be unable to vote in person on the date of Election, may request, in writing, a Mail-In Ballot Package from the Chief Electoral Officer, on condition that the request is received by the Chief Electoral Officer at least fourteen (14) days before the date of Election.

- 8.10 Upon receipt of a written request for a Mail-In Ballot Package, in accordance with section 8.9 of this Election Law, the Chief Electoral Officer will mail or provide to the Elector a Mail-In Ballot Package consisting of the contents identified in section 8.8 of this Election Law.
- 8.11 The Chief Electoral Officer shall keep a record of every Elector to whom a Mail-In Ballot Package was sent or provided to.
- 8.12 Every Elector who receives a Mail-In Ballot Package and who chooses to vote by Mail-In Ballot shall:
- (a) mark his or her Mail-In Ballot(s) by placing an "X" or other mark that clearly indicates the Elector's choice in the space provided on the respective Mail-In Ballot opposite the name of the Candidate or Candidates chosen by the Elector, as is appropriate;
 - (b) fold the Mail-In Ballot(s) to conceal the Elector's mark(s);
 - (c) place the Mail-In Ballot (s) in the envelope provided for sealing ballots and seal the envelope;
 - (d) complete the Voter Declaration Form before a witness who is 18 years or older and obtain the signature and address of the witness on the declaration;
 - (e) place the sealed ballot envelope and the completed Voter Declaration Form in the pre-addressed return envelope and seal the return envelope; and
 - (f) ensure the Chief Electoral Officer receives the sealed pre-addressed return envelope by mail no later than the close of polls on the date of Election, or that an Electoral Officer is hand delivered the sealed pre-addressed return envelope no later than the close of polls on the date of Election.
- 8.13 It is the sole responsibility of an Elector who uses a Mail-In Ballot Package to ensure the Chief Electoral Officer receives the pre-addressed return envelope enclosing the Elector's sealed ballot envelope and Voter Declaration Form prior to the close of the Polling Station on the day of the Election.
- 8.14 If an Elector uses the Mail-In-Ballot process and also casts a vote in person on date of Election, the Chief Electoral Officer shall reject the Elector's Mail-In-Ballot(s).

Polling Station

- 8.15 The Chief Electoral Officer shall establish one Polling Station located on Tsawout First Nation Land.
- 8.16 The Chief Electoral Officer shall ensure that the Polling Station has sufficient ballots, ballot marking instruments, polling booths and equipment for the relevant Election, and copies of the *Polling Station Voting Instructions* sheet, which is attached as Appendix 10 to this Election Law.
- 8.17 The Chief Electoral Officer shall ensure that the Polling Station has a person who is fluent in both SENĆOŦEN and English available to assist Electors who require or request assistance with the voting process.

Candidate Scrutineers

- 8.18 Each Candidate may appoint one scrutineer to attend at the Polling Station for an Election.
- 8.19 Candidates who choose to appoint one or more scrutineers must complete a *Notice Appointing Scrutineer* form, a copy of which is attached as Appendix 12 to this Election Law, and submit it to the Chief Electoral Officer at least one day (1) before the Election.

9.0 Election Day Process

In Person Balloting Process

- 9.1 The Chief Electoral Officer at the Polling Station shall:
 - (a) ensure the proper conduct of the Election at the Polling Station;
 - (b) ensure that polling booth(s) at the Polling Station maintain voter privacy; and
 - (c) when an Elector is unable to vote in the prescribed manner due to blindness or other physical cause, if requested by the Elector, assist that Elector in casting the chosen vote(s) of the Elector.
- 9.2 The Polling Station for an Election shall be open from 8:00 a.m. to 8:00 p.m. on the date of Election.
- 9.3 Immediately before the commencement of voting, the Chief Electoral Officer shall:

- (a) open the ballot box(es) at the Polling Station;
 - (b) call such persons as may be present to witness that the ballot box(es) is or are empty and complete a written statement to that effect, verified by a witness;
 - (c) lock all ballot box(es) to prevent opening during the time that the Polling Station is open; and
 - (d) place the ballot box(es) in general view for the reception of the ballots.
- 9.4 The Chief Electoral Officer and the Deputy Electoral Officer at the Polling Station shall maintain order at all times in the Polling Stations and may cause to be removed any person who in anyway interferes, disrupts or attempts to influence the conduct of the vote.
- 9.5 The Chief Electoral Officer or Deputy Electoral Officer shall, upon confirming that a person presenting themselves for the purpose of voting is eligible to vote, give the Elector the appropriate ballot(s) upon which to register his or her vote.
- 9.6 The Chief Electoral Officer or Deputy Electoral Officer shall initial each ballot on the back prior to giving it to the relevant Elector.
- 9.7 Each Elector, after receiving his or her ballot(s), shall:
- (a) proceed directly to the appropriate polling booth; and
 - (b) mark his or her ballot(s) by placing an “X” or other mark, in the space provided on each ballot, opposite the name of the Candidate or Candidates of choice, as is appropriate.
- 9.8 Prior to depositing the ballot(s) in the appropriate ballot box(es) supplied, the Chief Electoral Officer or Deputy Electoral Officer shall confirm that one of their initials appears on the back of the ballot.
- 9.9 While any Elector is in the polling booth for the purpose of marking ballots, no other person, except as provided in section 9.1(c) of this Election Law, shall be or be allowed in the same polling booth or in any position from where they can see how the Elector is voting.
- 9.10 The Chief Electoral Officer or Deputy Electoral Officer shall note on the Voters List any irregularity in connection with voting, and shall specifically note on the Voters List any ballots marked by the Chief Electoral Officer, at the request of an Elector pursuant to section 9.1(c) of this Election Law, but shall not note the Candidate or Candidates for whom a vote was cast.

- 9.11 An Elector who has inadvertently dealt with his or her ballot in such a manner that it cannot be clearly or conveniently used shall return it to the Chief Electoral Officer or Deputy Electoral Officer who shall write the word “cancelled” upon the ballot, preserve it and provide the Elector with another ballot.
- 9.12 Any Elector who has received ballot(s) and then
- (a) leaves the Polling Station without depositing his or her ballot(s) in the appropriate ballot box(es), or
 - (b) refuses to vote,
- forfeits his or her right to vote at the Election.
- 9.13 If an Elector forfeits his or her right to vote at an Election, the Chief Electoral Officer or Deputy Electoral Officer shall:
- (a) make an entry in the Voters List in the column for remarks opposite the name of the Elector to show that he or she received the ballot(s) and forfeited his or her vote; and
 - (b) mark upon the face of the Elector’s ballot(s), when available, the word “forfeited” and all ballots so marked shall be preserved.
- 9.14 Any Elector whose name does not appear on the Voters List may present evidence of his or her
- (a) identity,
 - (b) date of birth, and
 - (c) membership in the Tsawout First Nation,
- to the Chief Electoral Officer or Deputy Electoral Officer at the Polling Station, and if the Chief Electoral Officer or Deputy Electoral Officer is satisfied that the person is eligible to vote pursuant to this Election Law, that person shall be added to the Voters List and be allowed to vote at the Polling Station.
- 9.15 Every Elector who is inside the Polling Station at 8:00 p.m. on date of the Election is entitled to vote in the Election.

Verification of Mail-In Ballots

- 9.16 Immediately following the close of the Polling Station, on the last day of the Election, the Chief Electoral Officer shall in full view of the Deputy Chief Electoral Officer and any present Electors, Candidates or scrutineers for Candidates, open

each self-addressed envelope for Mail-In Ballots that was received before the close of the Polling Station and, without opening any enclosed ballot envelopes:

- (a) reject the ballot(s) if
 - (i) there is no accompanying Voter Declaration Form, or the Voter Declaration Form is not duly signed or witnessed,
 - (ii) the name of the Elector set out in the Voter Declaration Form is not on the Voters List, or
 - (iii) the Voters List kept at the Polling Station shows that the Elector has already voted; or
- (b) in any other case, place a mark on the Voters List opposite the name of the Elector set out in the Voter Declaration Form, and deposit the enclosed sealed ballot envelope(s) in the appropriate ballot box(es).

Tabulation of Ballots Generally

- 9.17 Immediately following the verification of Mail-In Ballots, the Chief Electoral Officer shall, in full view of the Deputy Chief Electoral Officer and any present Electors, Candidates or scrutineers for Candidates, open the ballot box(es), examine the ballots, and:
- (a) reject any ballots that are not appropriately initialled on the back;
 - (b) reject any ballots that, in the Chief Electoral Officer's opinion, do not give a clear indication of the voter's preference;
 - (c) reject any ballots that have more votes than the appropriate number of votes;
 - (d) reject any ballots upon which anything appears by which the voter can be identified;
 - (e) subject to review on re-count or on an Election appeal, take note of any objections made by any Candidate or scrutineer for a Candidate regarding any of the ballots found in the ballot box(es);
 - (f) decide any questions arising out of any such objection;
 - (g) number such objections and place a corresponding number on the back of the ballot paper with the word "allowed" or "disallowed" as the case may be, with the Chief Electoral Officer's initials;

(h) count the votes given for each Candidate from the ballots not rejected;
and

(i) make a written statement of:

(i) the number of votes given to each Candidate, by position on the Council, and

(ii) the number of ballots rejected and not counted by the Electoral Officer, by position on the Council,

which shall then be signed by the Chief Electoral Officer and other persons authorized to be present as may desire to sign the same.

9.18 The Chief Electoral Officer tabulating votes pursuant to section 9.16 and 9.17 of this Election Law shall preserve every ballot that he or she rejects pursuant to that section.

9.19 Immediately following his or her receipt of the final results of the count tabulated at the Polling Station for an Election, the Chief Electoral Officer shall tabulate the final Election results by position on the Council.

9.20 The Chief Electoral Officer shall deposit all ballots in sealed envelopes, including those rejected, cancelled, forfeited and unused, and will retain them and all other Election materials until the later of the expiry of the appeal period of thirty (30) days or the rendering of a decision on an appeal to the Complaints and Appeal Board, after which time he or she shall, unless directed otherwise by Council, destroy all ballots.

Announcement of Election Results

9.21 Immediately following the tabulation of the final Election results by position on the Council, the Chief Electoral Officer shall, subject to any ties, announce:

(a) the name of the Candidate for Chief that received the highest number of votes;

(b) the name of the Candidate for Councillor who received the highest number of votes, and who is declared to be the Deputy Chief; and

(c) the names of the Candidates for the five (5) Councillor positions having the highest number of votes;

and publicly declare these Candidates as elected to the Council.

9.22 A person elected as Chief, Deputy Chief or Councillor must swear or affirm, and

file with the Chief Electoral Officer, a written *Oath of Chief, Deputy Chief and Councillors* within seven (7) days of their Election and they shall not have lawfully assumed office as a member of Council until they have done so.

- 9.23 A person elected as Chief, Deputy Chief or Councillor must have a completed criminal record check and they shall not have lawfully assumed office as a member of Council until they have done so.

10.0 Post-Election Process

Tie Votes

- 10.1 If it is not possible to determine the successful candidate(s) for either a Chief or Councillor position due to an equal number of votes being cast (i.e., tie vote), the Chief Electoral Officer shall immediately hold a re-count. If after this re-count there is no longer a tie, this re-count shall be final, subject to a successful appeal to the Complaints and Appeal Board.
- 10.2 If there is still a tie after the re-count held in accordance with section 10.1, the Chief Electoral Officer shall announce a time within the next 24 hours for a public re-count, to be held in accordance with section 9.17. If after this re-count there is no longer a tie, this re-count shall be final, subject to a successful appeal to the Complaints and Appeal Board.
- 10.3 The Chief Electoral Officer shall secure the ballots and will not leave the ballots unsupervised until the re-count required pursuant to section 10.2 is complete.
- 10.4 If the re-count fails to determine a successful Candidate, the Chief Electoral Officer shall cast ballots in order to break the tie. The Chief Electoral Officer shall place the names of the Candidates having the same number of votes on a paper and place each in a receptacle. Without looking, he or she shall draw as many papers as there are positions available. The Candidate(s) whose name(s) appear on the pieces of paper the Chief Electoral Officer has drawn from the receptacle shall constitute the Candidate(s) for whom the Chief Electoral Officer shall cast a vote.
- 10.5 As soon as possible after the Election, the Chief Electoral Officer shall, in this order:
- (a) post in the Administration Office, on any website maintained by the Tsawout First Nation (ie. www.tsawout.ca) a statement signed by the Chief Electoral Officer showing the Election results and the number of votes cast for each Candidate, by position on the Council;
 - (b) mail or deliver a statement signed by the Chief Electoral Officer showing

the Election results and the number of votes cast for each Candidate, by position on the Council, to all Electors, including Electors who do not reside on Tsawout First Nation Land;

- (c) complete and sign a *Chief Electoral Officer's Report*, a blank copy of which is attached as Appendix 13 to this Election Law; and
- (d) forward a copy of the completed and signed *Chief Electoral Officer's Report* to the Tsawout First Nation Director of Operations.

11.0 Removal From Office

11.1 Proceedings to have a person removed from the office of Chief or Councillor on the Tsawout First Nation Council may be initiated by:

- (a) any Elector submitting to the Complaints and Appeal Board:
 - (i) a petition, on which shall appear:
 - A) the name and office of the member of Tsawout First Nation Council sought to be removed from office;
 - B) the ground(s) on which removal of the Chief or Councillor is sought;
 - C) the signature of the petitioner; and
 - D) the signatures of at least 25% of all eligible Electors in support of the petition; and
 - (ii) one or more written statement made under oath providing the evidence, including any documents, relied upon to substantiate the ground(s) for removal.
- (b) a two-thirds (2/3) majority of the Council submitting to the Complaints and Appeal Board a signed Resolution enclosing:
 - (i) a petition, on which shall appear:
 - A) the name and office of the member of the Council sought to be removed from office;
 - B) the ground(s) on which removal of the Chief or Councillor is sought; and

C) the signatures of the all Tsawout First Nation Council members in support of the petition; and

(ii) one or more written statement(s) made under oath providing the evidence, including any documents, relied upon to substantiate the ground(s) for removal.

11.2 Within twenty-one (21) days of receipt of a petition and supporting statement(s) for removal of a Chief or Councillor from office, the Complaints and Appeal Board shall:

(a) determine whether the submitted petition and written statement(s) complies with section 11.1, which shall include verifying that all required signatures are confirmed;

(b) in a case where the petition complies with section 11.1, determine whether the grounds put forth in the petition are either frivolous in nature or clearly unsubstantiated, and

(i) if so, dismiss the petition; and

(ii) if not, schedule a review hearing to take place twenty-one (21) to twenty-eight (28) days from the date on which the petition was submitted to the Complaints and Appeals Board; and

(c) send notice of its determination(s) and any action taken under this section, in writing with reasons, by registered mail to the Tsawout First Nation Council, the persons who originated the petition pursuant to section 11.1(a), and the Council member who is the subject of the petition for removal.

11.3 If any notice given pursuant to section 11.2(c) includes notice of a scheduled review hearing, the notice shall:

(a) set out the nature of the hearing and all related particulars, including a statement that the petitioner(s), any member of Tsawout First Nation Council, and the Council member who is the subject of the petition for removal may, at the hearing, make a presentation to the Complaints and Appeal Board, which may include the presentation of documents and testimony by witnesses;

(b) set out the date, time, and location of the hearing, subject to rescheduling by the Complaints and Appeal Board with notice, in order to better accommodate all parties, to a different date and time within twenty-one (21) to twenty-eight (28) days from the date on which the petition was submitted to the Complaints and Appeal Board;

- (c) as part of the notice given to the Council member who is the subject of the petition for removal, provide a copy of the relevant petition and written statement(s); and
 - (d) provide notice that the Council member who is the subject of the petition has twenty-one (21) days from the date the Complaints and Appeal Board received the petition to deliver to the petitioner(s) and the Tsawout First Nation Council written statement(s) made under oath providing evidence, including any documents, in response to the petition and the petitioner(s) written statements relied upon by the petitioner(s).
- 11.4 The Complaints and Appeal Board shall conduct a hearing at the time and place set out in any notice provided under section 11.3(b).
- 11.5 The Complaints and Appeal Board shall otherwise establish its own rules of procedure as needed and may, at its own discretion, secure legal advice and hear evidence (including cross-examination on submitted written statements) in the course of its dealing with a petition for removal from office made under this Part.
- 11.6 Within sixty-five (65) days of the date on which a petition was submitted to the Complaints and Appeal Board, the Board shall:
 - (a) decide, by majority vote and based on the grounds alleged in the petition and evidence submitted, that:
 - (i) the petition is allowed, and declare the member of Council to be removed from office; or
 - (ii) the petition is dismissed; and
 - (b) send, by registered mail, a written notice of the ruling with reasons to the Tsawout First Nation Council, the petitioner(s) and the Council member who is the subject of the petition for removal.
- 11.7 The decision of the Complaints and Appeal Board made under section 11.6 is final and binding upon all parties.

12.0 Appeals Process

Appeal Procedures Regarding Election Results

- 12.1 Any Elector, including any Candidate, may within thirty (30) days of the date on which the Election was held, appeal, in whole or in part, an Election result if he or she has grounds for believing that there was an error made under, or violation

of, this Election Law during the Election process that might have affected the outcome of the Election.

- 12.2 An appeal of an Election result may be launched by submitting a notice of appeal in writing, containing details of the grounds for appeal, by registered mail to the Chair of the Complaints and Appeal Board, c/o the Tsawout First Nation Administration Office, along with a deposit in the form of a money order or certified cheque for one hundred dollars (\$100) payable to the Tsawout First Nation.
- 12.3 All notices of appeal, with accompanying deposit, must be received by the Director of Operations at the Administration Office within thirty (30) days of the Election in order to be duly commenced, and may be delivered in person, or delivered by registered mail to the Chair of the Complaints and Appeal Board, c/o the Tsawout First Nation Administration Office.
- 12.4 If a notice of appeal of an Election result and accompanying deposit is received by the Complaints and Appeal Board pursuant to this Election Law, the Complaints and Appeal Board shall, upon receipt, forward by registered mail a copy of the notice of appeal together with any supporting documents received to each affected Candidate in the Election and to the Chief Electoral Officer.
- 12.5 Any affected Candidate or the Chief Electoral Officer may, within thirty (30) days of the receipt of the notice of appeal and any supporting documents, forward to the Complaints and Appeal Board by registered mail a written response to the appeal allegations, together with any supporting documentation.
- 12.6 The Complaints and Appeal Board shall otherwise establish its own rules of procedure as needed and the Complaints and Appeal Board may, at its own discretion, secure legal advice and hear evidence, including witnesses, in the course of its review of an appeal.
- 12.7 For greater certainty, the Complaints and Appeal Board may conduct or authorize such further investigation into the appeal allegations as it deems appropriate and necessary.
- 12.8 After a review of all the evidence that it has received in relation to an appeal, the Complaints and Appeal Board shall:
 - (a) deny the appeal on the ground that the evidence presented did not reveal an error made under, or violation of, this Election Law, or on the ground that an error made under, or violation of, this Election Law was revealed but did not affect the result of the Election; or
 - (b) grant the appeal and order a new Election for the positions affected on

the Council, on the ground that the evidence presented revealed an error made under, or violation of, this Election Law, that affected an Election result.

12.9 If the Complaints and Appeal Board grants an appeal and orders a new Election:

- (a) the Election shall take place as soon as possible pursuant to the provisions of this Election Law; and
- (b) where the order applies to every position of the Council, the Council shall remain in office until completion of the fourteen (14) day transition period after the new Election.

12.10 The Complaints and Appeal Board shall, if desired, give advice to the Chief Electoral Officer on how any problems identified during the administration of an appeal can be corrected.

12.11 A decision of the Complaints and Appeal Board is final.

12.12 If the Complaints and Appeal Board grants an appeal, then the deposit accompanying the notice of appeal shall be returned, and if the appeal is denied, the deposit is forfeited to the Tsawout First Nation and shall be used to offset Election or Election appeal expenses.

13.0 Amendment

13.1 Any amendment of this Election Law shall be initiated by:

- (a) a petition presented to the Council, signed by at least 10% of Electors, specifying the proposed amendment; or
- (b) a duly passed resolution of the Council, specifying the proposed amendment.

13.2 The Council shall set the date, time and place of one or more community meetings to be held at least twenty-five (25) days and not more than forty-five (45) days after the initiation of any amendment of this Election Law.

13.3 The Council shall set a deadline of at least fifty-five (55) days after the initiation of any amendment of this Election Law for receiving written comments from Electors on the proposed amendment.

13.4 The Council shall prepare a Notice of Proposed Amendment containing:

- (a) the proposed amendment(s) to the Election Law;

- (b) the date(s), time(s) and place(s) of the community meeting(s) as provided for in section 13.2;
- (c) the deadline for receipt of written comments as provided for in section 13.3;
- (d) notice that the final amendment proposal shall be adopted at a duly convened meeting of Council, unless at least twenty-five percent (25%) of the Electors make a written request to the Council for an amending referendum within twenty (20) days of the distribution of the Notice of Proposed Amendment;
- (e) a general description of the amendment process, as set out in the Election Law; and
- (f) notice that a copy of the *Tsawout First Nation Custom Election Law* is available to any Elector upon request to the Council and is available for viewing at the Administration Office.

13.5 The Council shall, within ten (10) days of the initiation of an amendment, distribute the Notice of Proposed Amendment by:

- (a) Mailing or delivering a copy to all Electors, including Electors who do not reside on Tsawout First Nation Land; and
- (b) posting a copy at the Administration Office, on any website maintained by the Tsawout First Nation (ie. www.tsawout.ca), and at other public places as deemed necessary by the Council.

13.6 Any Elector may, within the deadline established under section 13.3, provide written comments concerning the proposed amendments to the Council, such comments to include:

- (a) the name, address and signature of the Elector;
- (b) the specific paragraph number(s) of the proposed amendment on which the Elector is commenting; and
- (c) specific comments about the proposed amendment.

13.7 The Council shall consider all comments received in accordance with sections 13.2 and 13.6 and make such changes to the proposed amendments as they

deem necessary in order to arrive at a final amendment proposal within ten (10) days of the closing of the period for receiving written comments.

13.8 The Council shall prepare a Notice of Final Amendment proposal containing:

- (a) a copy of the final amendment proposal;
- (b) a description of the amendment process, as set out in this Election Law;
- (c) notice that a copy of the *Tsawout First Nation Custom Election Law* is available to any Elector upon request to the Council and is available for viewing at the Administration Office; and
- (d) notice that the final amendment proposal shall be adopted at a duly convened meeting of Council, unless at least twenty-five percent (25%) of the Electors make a written request to the Council for an amending referendum within twenty (20) days of the distribution of the Notice of Proposed Amendment.

13.9 Within five (5) days of arriving at a final amendment proposal pursuant to section 13.7, the Council shall distribute the Notice of Final Amendment by:

- (a) mailing or delivering a copy to all Electors, including those who reside off Tsawout First Nation Land; and
- (b) posting a copy at the Administration Office, on any website maintained by the Tsawout First Nation (ie. www.tsawout.ca), and at other public places as deemed necessary by the Council.

13.10 If at least 25% of Electors make a written request, within the time limit as set out in section 13.8(d), then Council shall declare forthwith that an amending referendum shall be held in accordance with the general procedures for an Election as set out in the Election Law.

13.11 If an amendment referendum is held for a final amendment proposal, the Election Law is amended as of the day after the referendum if the proposal is approved by a simple majority of those Electors who vote in the amendment referendum.

13.12 If no written request for an amendment referendum is received by the Council for a final amendment proposal, within the time limit as set out in section 13.8(d), the Election Law is amended as of the day after the time to request a referendum expires.

- 13.13 At the next duly convened meeting of the Council, after amendment of the Election Law pursuant to sections 13.11 or 13.12, the Council shall pass a resolution recognizing that the Election Law has been so amended.

14.0 General

Copy of the Election Law

- 14.1 A copy of this Election Law shall be made available to any Elector upon the Elector's request, and shall be available for viewing online at the Tsawout First Nation website (www.tsawout.ca) and at the Administration Office.

Calculation of Days

- 14.2 A time limited by this Election Law that would otherwise expire on a Saturday, Sunday or holiday shall be deemed to expire on the next day that is neither a Saturday, Sunday nor a holiday.

APPENDIX 1

OATH OF CHIEF, DEPUTY CHIEF AND COUNCILLORS

I, _____, (*enter full name*) agree to fulfill my duties in respect to Tsawout First Nation.

That I will perform my duties competently, diligently and impartially in a manner that is consistent with Tsawout First Nation's mission as a Council member, to the best of my ability, in accordance with the law and without fear, favour or affection of or toward any person.

That I will not, without authorization, disclose or make known any matter or issue which comes to my knowledge by reason of my role with Tsawout First Nation.

That I acknowledge that all information conveyed to me by Tsawout First Nation and information contained in the Tsawout First Nation files is considered private/confidential and is the property of Tsawout First Nation.

That any material or information developed by me for Tsawout First Nation is the property of Tsawout First Nation and remains the property of Tsawout First Nation until the conclusion of my term in office.

I agree to abide by these above mentioned standards at all time during my term in office at Tsawout First Nation. If I should fail to do so, I fully understand that I may be removed from Council.

Signed and agreed to this _____ date of _____, 20____.

Name of Council Member (please print)
(please sign)

Signature of Council Member

Name of Witness (please print)

Signature of Witness (please sign)

APPENDIX 2

OATH OF OFFICE FOR ELECTORAL OFFICERS

I, _____ accept the office of Electoral Officer and agree to maintain confidentiality as is appropriate during my term.

In my capacity as an Electoral Officer, I will do my utmost to serve the residents of the Tsawout First Nation with impartiality, integrity, and honesty.

In the performance of my duties, I will adhere to the provisions as outlined in the Tsawout First Nation Custom Election Law and agree that any violation of this Oath shall render me liable to dismissal from service as Electoral Officer.

I solemnly swear /affirm that I will carry out my responsibilities honestly, conscientiously, and to the best of my abilities.

SWORN BEFORE ME in the Province of
British Columbia, this _____
_____ day of _____, 20____

A Commissioner for taking Affidavits
within the Province of British Columbia

Signature of Electoral Officer

APPENDIX 3

MAIL-IN CANDIDATE NOMINATION FORM

I, _____

(Please print name)

of the Tsawout First Nation, with the band number _____ hereby
nominate _____

(Print name of Nominee)

for the position of _____

(Chief or Councillor)

Signature of Elector

Date

(_____) _____
Telephone number

Secunder

Seconded by Elector: _____

(please print Electors name)

Signature of Elector Seconding

Band Number

Telephone number

Date

Note: nominations can be seconded in person at the Nomination Meeting as well.

APPENDIX 4

OATH OF OFFICE FOR COMPLAINTS AND APPEAL BOARD MEMBERS

I, _____, accept office as a member of the Complaints and Appeal Board and agree to maintain confidentiality as is appropriate during my term.

In my capacity as a member of the Complaints and Appeal Board, I will do my utmost to serve the residents of the Tsawout First Nation with impartiality, integrity, and honesty, and I will adhere to the provisions as outlined in the Tsawout First Nation Custom Election Law.

I solemnly swear /affirm that I will carry out my responsibilities honestly, conscientiously, and to the best of my abilities.

**Signature of Complaints &
Appeal Board Member**

SWORN BEFORE ME in the Province of
British Columbia, this _____
_____ day of _____, 20____

A Commissioner for taking Affidavits
within the Province of British Columbia

Signature of Complaints and Appeal
Board member

APPENDIX 5

ACCEPTANCE OF CANDIDATE NOMINATION FORM

To the Tsawout First Nation Chief Electoral Officer:

I, _____, being a member of the Tsawout First Nation
nominated as a candidate for the position of _____ (specify
Chief Councillor or Councillor) of the Tsawout First Nation at a nomination meeting
held at _____ (location) on _____, 20____ (date), and
being qualified to hold such

office under the Tsawout First Nation Custom Election Law hereby formally accept
such nomination.

Signature of Nominee

(_____)_____
Telephone Number

Date

Signature of Witness

(_____)_____
Telephone Number

Print Name

APPENDIX 6

CANDIDATE APPLICATION FORM

Pursuant to Section 6 *Tsawout First Nation Custom Election Act*, a person duly nominated and wishing to be a Candidate in the current Election must:

1. be the full age of eighteen (18) years on or before the day on which the Election is held;
2. be nominated for office, in accordance with the procedures set out in the Election Law;
3. not have been convicted of an offense that was prosecuted by way of indictment or felony conviction within five years prior to their nomination (a conviction of an offence relating to the assertion or exercise of Aboriginal rights or title shall not be deemed to be a conviction for the purposes of this section);
4. not have been found guilty of committing a fraudulent act by a Court of competent jurisdiction, and such fraudulent act was committed within five (5) years prior to the date of nomination; and
5. not have declared bankruptcy within two (2) years prior to the date of nomination.

If you have been duly nominated and meet the eligibility outlined in the Election Law and you wish to be a Candidate in the current Election you are required to provide the following to the Chief Electoral Officer no later than seven (7) days from the close of the Candidate Nomination Meeting:

- 1) This completed *Candidate Application Form* (on the next page);
- 2) A signed *Acceptance of Candidate Nomination Form*;
- 3) a deposit of:
 - (i) \$100 for the position of Chief; or
 - (ii) \$50 for all Councillor positions, and
- 4) Confirmation of the date that your electronic criminal record check was completed, as set out in Appendix 14

Failure to provide any of the documents and deposit listed in section 6.17 will render all nominations for the Candidate void.

Also note: An All Candidate's Meeting shall be held no later than 15 days before the date of Election, to allow the Electors to question the Candidates regarding the Candidates anticipated contribution to the community if elected on Council. All Candidates are asked to be in attendance, pursuant to Section 7.5 of the Election Law.

Candidates about why they want to run for a position on Council. We plan to make the information on this form public for Electors to view. By signing this form, you consent to this information being shared with Members of Tsawout First Nation.

**1. Full Name,
including any
nicknames or
other identifiers:**

**2. What position are
you running for:**

3. Describe any experiences (work, school, life or other) that you feel make you a good Candidate for this position (you can attach more paper if necessary):

4. If elected, what would you like to change or contribute to the Tsawout First Nation community?

5. Is there any other information that you would like to share with the Tsawout Electors:

Candidate Signature _____
Date _____

1. Full Name, including any nicknames or other identifiers: _____

3. Describe any experiences (work, school, life or other) that you feel make you a good Candidate for this position (you can attach more paper if necessary):

5. Is there any other information that you would like to share with the Tsawout Electors:

Candidate Signature _____
Date _____

APPENDIX 7

WITHDRAWAL OF CANDIDATE NOMINATION FORM

To the Tsawout First Nation Chief Electoral Officer:

I, _____, being a candidate for the position of _____ (specify Chief Councillor or Councillor) in the Election scheduled for _____ 20____, hereby formally withdraw my name as candidate for this position.

Signature of Candidate

Date

(__ __) _____
Telephone Number

Signature of Witness

Print Name

(__ __) _____
Telephone Number

APPENDIX 8

VOTER DECLARATION ACCOMPANYING THE MAIL-IN BALLOT

In order for your vote to be counted by mail-in ballot this declaration must be completed and signed by you and a witness who is at least 18 years old and be returned to an Electoral Officer with your sealed ballot envelope.

Voter Declaration Accompanying the Mail-in Ballot

In the matter of an Election held by the Tsawout First Nation, held according to the Tsawout First Nation Custom Election Law, I, _____
_____, [print name], solemnly declare that:

1. I am a member of the Tsawout First Nation.
2. I will be at least 18 years of age on or before the date of the upcoming Election.
3. My Band Member number is _____ and my date of birth is _____.
4. My current mailing address is: _____
_____.
5. I do not know of any reason why I would be disqualified from voting at this election.

I make this solemn declaration conscientiously believing it to be true and knowing that it has the same force and effect as if made under oath. I understand that it is an offence to make a false statement in this declaration.

Signature of Voter

Date

Witness Form

Declared before me: _____
(Print Name)

At: _____
(City/Reserve)

Date (m/d/y) _____

Signature of
witness _____

Address of witness _____

Telephone Number
of witness _____

APPENDIX 9

MAIL-IN VOTING INSTRUCTIONS

Dear Elector of the Tsawout First Nation:

As per the attached Notice of Election, an Election of the Chief and Councillors of the Tsawout First Nation is currently underway.

As a member of this Tsawout First Nation, you are entitled to vote provided you will be at least 18 years of age on or before the date of the Election. To assist you in casting a vote, please find enclosed a Mail-In Voting Package consisting of the following additional items:

- A. a Notice of Election;
- B. a ballot for casting your vote for the positions of Chief Councillor and Councillor, with the Chief Electoral Officer's initials on the back;
- C. an inner envelope to seal your ballot(s) in;
- D. a copy of the form Voter Declaration Accompanying the Mail-in Ballot; and
- E. an outer envelope post-paid and pre-addressed to the Chief Electoral Officer.

Carefully follow these steps to ensure that your vote is validly made:

1. **On the ballot provided for the position of Chief:**

Mark an "X" in the box immediately to the right of the name of the candidate of your choice for Chief Councillor. You must choose only one candidate for Chief Councillor.

2. **On the ballot provided for the positions of Councillor**

Mark an "X" in the box immediately to the right of the name of the candidate(s) of your choice for Councillor. You may choose up to five (5) candidates for Councillor.

- 3. Refold each ballot in the same way as you received it, so that the Chief Electoral Officer's initials on the back are visible.
- 4. Place each ballot in the inner envelope marked "Ballot(s)" and seal this envelope.
- 5. Complete the **Voter Declaration Accompanying the Mail-in Ballot**

form. Both you and a witness, who is at least 18 years of age, must complete and sign this form in order for your ballot(s) to be counted.

6. Place the sealed inner envelope marked "Ballot(s)" and the completed and signed ***Voter Declaration Accompanying the Mail-in Ballot*** inside the outer postage paid and pre-addressed envelope, then seal the outer envelope.
7. Mail the postage paid and pre-addressed envelope as soon as possible. This envelope must be received by an Electoral Officer no later than 8 p.m. on Election Day. Mail-in ballots received after the close of the poll on Election Day will not be counted. You may hand deliver the postage paid and pre-addressed envelope to an Electoral Officer on Election Day prior to the close of the poll.

Although you have received this mail-in voting package you may choose to vote on the day of the Election in person at any polling station indicated in the Notice of Election. If you choose to vote in person on the day of the Election any mail-in ballot you have submitted will be rejected.

Yours truly,

Chief Electoral Officer

APPENDIX 10

POLLING STATION VOTING INSTRUCTIONS

1. On the ballot provided for the positions of Chief:

Mark an "X" in the box immediately to the right of the name of the candidate of your choice for Chief. You must choose only one candidate for Chief Councillor.

2. On any ballot provided for the position(s) of Councillor:

Mark an "X" in the box immediately to the right of the name of the candidate(s) of your choice for Councillor. You may choose up to five (5) candidates for Councillor.

3. Refold each ballot in the same way as you received it, so that the Electoral Officer's initials on the back are visible.
4. Proceed to the ballot boxes and hand your ballot(s) to the Electoral Officer present for insertion into the appropriate ballot box(es). Please watch the Electoral Officer insert your ballot(s) into the appropriate ballot box(es).

APPENDIX 11

DECLARATION OF ELECTORAL TRANSLATORS AND ASSISTANTS

In the matter of an Election held in accordance with the *Tsawout First Nation Custom Election Law*, I, _____, solemnly declare that in the performance of my

(Please print your name)

duties as an/a _____ (Electoral Translator OR Assistant), I will do my utmost to serve the residents of the Tsawout First Nation with impartiality, integrity, and honesty.

I will adhere to the provisions as outlined in the *Tsawout First Nation Custom Election Law* and agree that any violation of this declaration shall render me liable to dismissal from my duties.

I will carry out my responsibilities honestly, conscientiously, and to the best of my abilities.

I make this solemn declaration conscientiously and knowing that it has the same force and effect as if made under oath.

Signature of Electoral Assistant / Translator
(please circle one)

Date

Witness Form

Declared before me: _____

At: _____

(Print Name)

(City/Reserve)

Date (m/d/y) _____

Signature of _____

witness _____

Address of witness _____

Telephone Number _____

of witness _____

APPENDIX 12

NOTICE APPOINTING SCRUTINEER

NOTICE APPOINTING SCRUTINEER

I, _____, being
nominated for the position of _____ (specify Chief or
Councillor) for the Tsawout First Nation do hereby appoint the following person, in
accordance with the *Tsawout First Nation Custom Election Law*, to act as a
Scrutineer on my behalf at the election polling station held at
_____ (location) on the _____ day
of _____, 20_____.

Printed Name of Scrutineer Appointed

Signature of Candidate

Date

APPENDIX 13

CHIEF ELECTORAL OFFICER'S REPORT

1. Name of First Nation: Tsawout First Nation
2. Band Number: 654
3. Date of Election: _____
4. District / Region: _____
5. Type of Election: _____
6. Date of last election (month/year): _____
7. Total number of band members: _____ a) Total number of electors on Tsawout First Nation Land: _____ b) Total number of electors off Tsawout First Nation Land: _____
8. The Council is composed of: 1 Chief; 1 Deputy Chief and 5 Councillors
9. The <i>Notice of Candidate Nomination Meetings</i> was: a) posted on the _____ day of _____, 20____, at the following locations: _____ _____ _____ 10. mailed or delivered to all electors on the _____ day of _____, 20____.
11. The Candidate Nomination Meeting was held at the date, time and location as follows:

<p>Date:</p> <p>Time:</p> <p>Location:</p>		
<p>12. The <i>Notice of Election</i> was:</p> <p style="margin-left: 40px;">b) posted on the _____ day of _____, 20____, at the following locations:</p> <p style="margin-left: 40px;">_____</p> <p style="margin-left: 40px;">_____</p> <p style="margin-left: 40px;">_____</p>		
<p>13. mailed or delivered to all electors on the _____ day of _____, 20____.</p>		
<p>14. The total number of Mail-In-Ballot Packages sent to electors:</p> <p style="margin-left: 40px;">a) Who do not ordinarily reside on Tsawout First Nation Land was:</p> <p style="margin-left: 40px;">_____</p> <p style="margin-left: 40px;">b) Who do ordinarily reside on Tsawout First Nation Land and who requested a Mail-In Ballot Package was:</p> <p style="margin-left: 40px;">_____</p>		
<p>15. The poll was held on the _____ day of _____, 20____, at the following locations:</p> <p style="margin-left: 40px;">_____</p> <p style="margin-left: 40px;">_____</p> <p style="margin-left: 40px;">_____</p>		
<p>16. Mail in Ballots</p>	<p>For Chief</p>	<p>For Councillor</p>
<p>A) Total number of mail-in ballot packages sent:</p>		
<p>B) Total number of mail-in packages returned as undeliverable:</p>		
<p>C) Total number of mail-in ballots rejected before being placed in the ballot box (during the</p>		

opening of the envelopes):		
D) Total number of mail-in ballots deposited in the ballot box:		
E) Mail-in ballot discrepancy:		
17. Ballot Reconciliation	For Chief	For Councillor
A) Number of valid ballots cast		
B) Number of ballots cast and rejected		
C) Number of mail-in ballots rejected before being placed in the ballot box (same as 16 C)		
D) Number of ballots spoiled (never placed in the ballot box)		
E) Number of unused ballots		
F) Total of A through E		
G) Total provided at 16 E (Mail-in ballot discrepancy)		
H) Total number of ballots (F + G)		
I) Total number of ballots printed (Should equal totals at H above)		
18. List of positions on Council, the name of each Candidate elected for the position, the mailing address of each Candidate, and the total votes received by each Candidate:		

Position	Name	Mailing Address	Votes Received
Chief			
Deputy Chief			
Councillor			
Councillor			
Councillor			
Councillor			
Councillor			
19. The term of office commences on _____ , 20_____			
20. Any additional comments:			

Declaration

I, _____, appointed to the position of Chief Electoral Officer on the _____ day of 20____, for the Tsawout First Nation, declare that the polling stations were kept open between the hours of 9:00 a.m. and 8:00 p.m. (local time), and that I have correctly performed all duties required of me by the *Tsawout First Nation Custom Election Law*. I further declare that a copy of the Official Statement of Results of the Election will be posted at each place where the Notice of Election was posted.

(Signature)

(Date)

(Address)

APPENDIX 14

CRIMINAL RECORD CHECK

Each person duly nominated and wishing to be a Candidate in an Election shall, at their own cost, within seven (7) days of being nominated:

1. Have the Chief Electoral Officer sign the “*Request to Corps of Commissionaires for Electronic Criminal Record Check*” (on next page) and,
2. Take the signed *Request to Corps of Commissionaires for Electronic Criminal Record Check* to:

**Corps of Commissionaires
928 Cloverdale Avenue
Victoria, BC V8X 2T3**

and request that an electronic criminal record check be completed and sent to Ottawa for verification (the request must be accompanied by the fee of \$75.00);

3. notify the Chief Electoral of the date that the nominee’s electronic criminal record check was completed.

**REQUEST TO CORPS OF COMMISSIONAIRES FOR ELECTRONIC CRIMINAL RECORD
CHECK**

- TSAWOUT FIRST NATION -

The Corps of Commissionaires

928 Cloverdale Avenue

Victoria, BC V8X 2T3

Phone: (250) 727-7755 local 100

Fax: (250) 727-7355

To Whom it May Concern:

This letter serves to introduce you to _____, a Tsawout First Nation Member who has recently been nominated, in a Tsawout First Nation Election, as a candidate for one of seven (7) positions on Council.

Tsawout First Nation requires criminal record checks of individuals who are nominated for positions on Council to be completed prior to the date of election.

We ask that you please provide an electronic criminal record check, by way of fingerprinting, and forward the results to the Chief Electoral Officer at the following address:

Chief Electoral Officer, _____

Tsawout First Nation Administration Office

7728 Tetayut Road

Saanichton, British Columbia

V8M 2C3

Please be advised that nominees who choose to accept candidacy are required to pay the \$75.00 fee for this check.

Yours truly,

Chief Electoral Officer, Tsawout First Nation

Date