

STELLAT'EN FIRST NATION

CUSTOM ELECTION CODE

Approved by Council March, 2015

Sections 4.1 & 4.2 Amended February, 2017

Sections 3, 4.1, & 11.1 Amended March, 2020

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1. INTRODUCTION

- 1.1. This document shall be referred to as the Stelat'en first nation custom election code, it was developed by a consultant, with oversight from a twelve (12) member advisory board consisting of SFN community member family representatives. Important elements, contained in this custom election code, were identified through majority consensus of one hundred and forty (140) members of the Stelat'en first nation. The identification of these elements were acquired through a comprehensive online, and hard copy, survey of the membership administered in march, 2015.
- 1.2. Moreover, this custom election code has been reviewed, and vetted, by legal counsel to ensure its contents are in compliance with all applicable federal laws and statues, including but not imited to; Canadian human rights act, Canadian charter of rights and freedoms, any other applicable laws and acts.

2. COMING INTO FORCE

- 2.1. This Stelat'en First Nation Custom Election Code comes into force upon the completion of a community ratification vote, whereby a majority of the community, of eligible voting age, approves this Custom Election Code. Upon successful community ratification of this Election Code, Stelat'en First Nation Chief and Council shall pass a Band Council Resolution proclaiming this Custom Election Code be approved and accepted, upon which time this Election Code shall come into effect and force.
- 2.2. The procedures for the amendment and ratification of this Election Code is further described under PART 15 – AMENDMENTS AND RATIFICATION SECTION on page 30 in this Custom Election Code.

3. INTERPRETATION

For all purposes of this Stellat'en first nation election code; any words referring to gender shall include all genders, and the following words and terms shall have the meanings set out below:

“Appellant” means an individual who submits an appeal in accordance with this code with respect to an election, or by-election.

“Appeal Committee” or **“Committee”** means the Committee established under this Code whose duty it is to act in appeals

“Band” or **“First Nation”** means the Stellat'en First Nation, also known as the Stella Indian Band, and also further referred to as Stella or Stellat'en.

“By-election” means a special election to fill a position on the council that has become vacant.

“Campaign Ethics” means guidelines, general rules of behaviour and standards established in accordance with Section 7.3 of this code, which govern the conduct of candidates running for office and their supporters relating to their participation in the electoral process.

“Candidate” means a Band member, 18 years of age or older, who has been nominated pursuant to this Code to stand for election for the office of Chief or Councillor.

“Code” means the Stellat'en First Nation Election Code and the leadership selection system set out herein.

“Council” means the body composed of those persons elected pursuant to this Election Code.

“Directly related” means related as; brother, sister, mother, father, son or daughter, husband or wife, stepchild, grandparent, grandchildren, cousin, aunt, uncle, in-laws, common-law cohabitant, or any other family member who resides with the candidate.

“Elder” means a band member who is 65 years of age or older.

“Election” means a general election or by-election of the band held pursuant to the provisions of this code.

“Electoral assistant” means any person appointed by the Electoral Officer for the purposes of an election to assist him or her in the conduct of the election process.

“Electoral officer” means a person, appointed by a band council resolution before each election, who has the responsibility for conducting the nomination meeting, the election and post-election procedures.

“Elector” means a person who:

- a. is a member of the Stellat'en First Nation; and

- b. is at least 18 years of age on the day on which the election is held.
- “ISC”** means Indigenous Services Canada.
- “Mail-in ballot”** means a ballot mailed or delivered in accordance with Section 8.3 of this code.
- “Member”** means a person registered on the Stelat’en First Nation membership list.
- “Newsletter”** means any regular or periodic notice to members.
- “Nomination meeting”** means the meeting at which persons come forward to nominate and second candidates for the election.
- “Oath of office”** means a solemn affirmation a person takes before undertaking the duties of an office.
- “Polling station”** means a building, hall or room which is selected as the site at which voting takes place.
- “Rejected ballots”** means those ballots that have been improperly marked and/or defaced by elector(s) which are not included in the tally of valid ballots cast during the counting of the votes, or not received before the closing of the polls.
- “Reserve”** means the reserves of the Stelat’en First Nation, includes the location of the main reserve, sometimes called Stellaquo or Stella, with the largest concentration of members, and home to the government of the First Nation.
- “Scrutineer”** means a person appointed in writing by a candidate to observe voting procedures and counting procedures
- “Unethical practices”** means direct or indirect bribery, or providing a financial or material incentive to an elector in exchange for a vote, pursuant to Section 7.3 of this Code.
- “Voters list”** means the list of band members eligible to vote in an election.

4. THE COUNCIL

Most all First Nations in Canada are typically represented and governed by a band council chaired by an elected chief, although some First Nations use hereditary chiefs, or a clan system of government. Stelat'en First Nation uses the chief and band council for its representation and government.

4.1. Composition and Size

Through majority direction of the membership; the composition and size of Stelat'en First Nation chief and council shall be one (1) chief and four (4) councillors.

4.2. Term of Office

- a. Through majority direction of the membership; the term of office for the chief and each council member shall be two (2) years.
- b. Chief and Council length of term will end 15 to 30 days after every second Election Day.

4.3. Chief and Council Residency Requirement

- a. Through majority direction, and agreement, of the Stelat'en First Nation membership; any person who is elected to the office of chief and council must, at all times during their term in office:
 - i. Live at a primary place of residence located on one of Stelat'en First Nation's reserves; or
 - ii. Live at a primary place of residence located within an area defined as Stelat'en First Nation Traditional Territory.
- b. Should a newly elected member of chief and council not have a primary place of residence, in accordance with Section 4.3 of this Election Code, the newly elected member shall agree to move their primary place of residence so that it becomes compliant with this section of the Election Code.
- c. All elected members of Chief and Council are to sign a residency agreement within 15 to 30 days of being elected.

4.4. Inaugural (First) Ceremony / Meeting

- a. 15 to 30 days after the Election Day, members of the Council shall call a ceremony / meeting of the community membership. At this Inaugural (first) ceremony / meeting the following business shall take place:
 - i. subject to there being no election appeals; an announcement of the election results and a motion to destroy the election ballots;
 - ii. administer the oath of office to the newly elected council members, as set out in Section 16.2 of this Code;

- b. All newly elected members of Chief and Council shall sign the following:
 - i. The Council Code of Conduct;
 - ii. The Confidentiality Agreement;
 - iii. The Residency Agreement;
 - iv. The Governance Manual;
 - v. any other business the council may find necessary.

5. PRE-NOMINATION PROCEDURE

5.1. The Election Call

- a. Chief and Council will meet to call the fixed date of an Election as occurring on the last Thursday of every July.
- b. Through Band Council Resolution the Election Call shall be made at a duly convened meeting of Chief and Council 90 days prior to the Election Day being called, this Election Call shall also include the number and type of council positions to be elected.
- c. Upon doing so, these Election Code pre-nomination procedures shall be initiated.

5.2. Appointment of an Electoral Officer

- a. The Electoral Officer shall be appointed by band council resolution not less than 90 days before the Election Day. The Resolution shall contain the person's full name and address, the date of the election, the type of election which is to be conducted (general election or by-election), as well as any special instructions.
- b. In order for both the Election Date to be called 90 days before the expiration of the council's term of office, and the Electoral Officer being appointed not less than 90 days before the Election Date; the Band Administrator, with Chief and Council assistance, shall undertake, recruitment, negotiation, and recommend selection of the Electoral Officer within the month prior to the meeting to call an election. It would be at that meeting that Chief and Council would formally make the Election Call and appoint the Electoral Officer.
- c. If an Electoral Officer has not been appointed within the 90-day time frame set out in 5.2 (A), the electoral officer shall be appointed by the band administrator as soon as possible.
- d. The Electoral Officer must be a person who:
 - i. is not a member of Stellat'en First Nation;
 - ii. has no vested interest in the outcome of the election;
 - iii. is at least 21 years of age; and
 - iv. has experience in the conduct of elections and has received appropriate training.

5.3. Oath of Office

The Electoral Officer must swear an oath to perform the duties of office; to the best of his/her abilities, perform them in an impartial manner, and to uphold the office in accordance with this Election Code. Refer to Section 16.1 of this Code.

5.4. Ethics and Responsibilities

The Electoral Officer is responsible for managing and executing all pre-electoral, electoral and post-electoral processes and procedures included in this code. The Electoral Officer must:

- a. uphold and abide by the rules and regulations established in this Code;
- b. remain neutral and professional in the conduct of the duties of his/her office, and refrain from providing any preferential treatment or expressing support for or opposition to any candidate;
- c. not accept anything of value, including but not limited to money, offers of employment, gifts, travel, in exchange for preferential treatment or access to confidential information;
- d. not discriminate against anyone because of race, religion, sex, age or handicap;
- e. not pressure or intimidate other officials or personnel to favour a certain candidate;
- f. avoid conflicts of interest, or the appearance of conflicts of interest, by abstaining from decision making where the electoral officer has a personal or private interest in the election outcome.

5.5. Voters List

- a. At least 79 days before the Election Day, the Electoral Officer shall obtain from the Membership Clerk the names, dates of birth, and band number, of all Band members who will have attained the age of 18 years on the Election Day.
- b. The Membership Clerk shall, no later than 79 days before the Election Day, provide the Electoral Officer with the last known addresses of all eligible voters of Stelat'en First Nation.
- c. A Voter's address shall be used by the Electoral Officer only for the purpose of providing notices, mail-in ballots or other election documents to voters who are entitled to receive them under this Code.
- d. The Electoral Officer must not disclose a voter's address for purposes other than those under Section 6.1 without the consent of the voter and shall ensure that voter's addresses do not appear on the Voters list.
- e. A candidate for election as Chief or Councillor may obtain from the Electoral Officer a list of the names and addresses of electors who have consented to have their addresses disclosed to candidates, as per Section 6.1 in this Code.
- f. At least 70 days before the Election Day, the Electoral Officer shall prepare a voters list containing the names of all of the voters in alphabetical order. This voters list shall not include the addresses or phone numbers of the electors.
- g. The Electoral Officer shall post the electors list in a public area of the Band administration building and in such other conspicuous places on the reserve as may be determined by the Electoral Officer, no later than 70 days prior to the Election Day.
- h. Upon request by a person, the Electoral Officer or Electoral Assistant shall confirm whether the name of a person is on the voters list.
- i. The Electoral Officer shall revise the voters list upon presentation of documentary evidence which demonstrates that:
 - i. the name of a voter has been omitted from the voters list;
 - ii. the name of a voter is incorrectly set out in the voters list; or

- iii. the name of a person not qualified to vote is included in the voters list.
- j. A person, or a voter acting on his/her behalf, may, no later than 2 days prior to the Election Day, demonstrate that the name of a voter has been omitted from or incorrectly set out in the voters list by presenting in writing to the Electoral Officer evidence from the Membership Clerk or other documentary evidence that the voter:
 - i. is entitled to have his/her name entered on the Band list;
 - ii. will be at least 18 years of age on the date on which the election is to be held;
 - iii. is qualified to vote in Band elections.
- k. A person may demonstrate that the name of a person not qualified to vote has been included in the voters list by presenting in writing to the Electoral Officer, no later than 10 days prior to the date on which an election is to be held, evidence that the person:
 - i. is neither on the Band list nor entitled to have his/her name entered on the Band list;
 - ii. will not be at least 18 years of age on the date on which the election is to be held;
or
 - iii. is not qualified to vote in Band elections.
- l. Where the Electoral Officer believes, or has information that, a person whose name is on the voters list is not a voter, or where, in accordance with Subsection 5.5.i a person demonstrates to the Electoral Officer that the name of a person not qualified to vote appears on the voters list, the Electoral Officer shall give written notice to the person whose eligibility is being challenged prior to the date on which the election is to be held.
- m. The notice given under Subsection 5.5.l shall include the reasons for seeking the removal of the name from the voters list, supporting documents, and shall provide notice that a written appeal may be sent to the Electoral Officer, which must be received by the Electoral Officer before the date on which the election is to be held.
- n. After consideration of all information and representations relating to amendments of the electors list, the Electoral Officer shall add or delete names from the voters list based on whether persons qualify as voters.
- o. The decision of the Electoral Officer under Subsection 5.5.n is not final and is subject to appeal.
- p. A person whose name does not appear on the voters list shall be entitled to vote on election day, provided he/she presents documentary proof to the Electoral Officer demonstrating his/her eligibility as a voter to the Electoral Officer's satisfaction.

5.6. Appointment of an Electoral Assistant

For the purposes of this Code, the Electoral Assistant title is transferrable, and interchangeable, with the title of Deputy Electoral Officer.

- a. The Electoral Officer shall appoint an Electoral Assistant and Interpreters as he/she deems necessary, who shall work under his/her direction.
- b. The Electoral Assistant shall have such powers as described in this Code as well as those powers of the Electoral Officer as delegated to the Electoral Assistant.
- c. An Electoral Assistant and/or interpreter shall not be a member of council or a candidate in the election.
- d. Every Electoral Assistant shall comply with the following:
 - i. uphold and comply with this Code, the Code of Ethics and all the laws of the First Nation;
 - ii. fulfil the duties and responsibilities of his/her office under this Code;
 - iii. carry out his/her duties faithfully, honestly, impartially and to the best of his/her abilities;
 - iv. keep confidential, both during and after his/her term of office, any matter or information which, under this Code, First Nation law or policy, is considered confidential;
 - v. always act in the best interests of the First Nation in carrying out his/her duties.
- e. The Electoral Officer may make such orders and issue such instructions which is consistent with the provisions of this code as he/she may deem necessary for the effective administration of the election.

5.7. Appointment of an Election Appeal Committee

90 days prior to Election Day, Chief and Council shall appoint a four (4) member Election Appeal Committee in accordance with Part 13 in this Code.

5.8. Notice of Election Day

- a. A Notice of Election dated not less than 65 days before the Election date authorized by the Electoral Officer will be posted at the Stelat'en First Nation office, located on the Stella main reserve, and maybe posted on the Stelat'en First Nation website, facebook group, and in the local and regional newspapers.
- b. The Notice of Election shall contain:
 - i. the date for the notice of election;
 - ii. the number and positions for which candidates shall be nominated;
 - iii. the time, date, and place for nominating candidates, refer to Section 6.4.b;
 - iv. the date of the Election, location of polling station(s), and hours the polling station(s) will be open;
 - v. the name of the Electoral Officer.

6. THE NOMINATION PROCESS

6.1. Notice of Nomination Meeting and Mail-in Procedures

- a. The Nomination Meeting shall be held at least 35 days prior to the Election Day.
- b. The Electoral Officer shall, at least 30 days before the Nomination Meeting, post a Notice of Nomination Meeting in accordance with Section 6.1 in this Election Code.
- c. The Electoral Officer shall, at least 30 days before the date on which the Nomination Meeting is to be held, mail a Notice of Nomination Meeting, a nomination form and a voter declaration form to every eligible voter of Stellat'en First Nation reserves, and for which the Electoral Officer has been provided their address.
- d. The Notice of Election and Notice of Nomination Meeting has been synchronized to occur at the same time under Section 5.8 of this code. It is anticipated this will save money in mail out costs and achieve time management efficiencies.
- e. A notice of a nomination meeting shall include:
 - i. the date, time, duration and location of the nomination meeting;
 - ii. the date on which the election will be held and the location of each polling place;
 - iii. the name and phone number of the electoral officer;
 - iv. the statement that any voter may vote by mail-in ballot;
 - v. a description of the manner in which a voter can nominate a candidate, or second the nomination of a candidate; and
 - vi. a place to check their mark indicating they do not want to release their address to receive information from the candidates.
- f. The Electoral Officer shall record the names of the voters to whom a notice of the nomination meeting was mailed, the addresses of those voters, and the date on which the notices were mailed.

6.2. Eligibility to Nominate

- a. To be eligible to nominate a candidate for council elections, the person who is nominating must be;
 - i. at least 18 years of age on the day of the Nomination Meeting;
 - ii. a member of Stellat'en First Nation and appear on the voters list.

6.3. Eligibility to be Nominated

- a. To be eligible to be nominated as a candidate for council elections, the person who is being nominated must be;
 - i. at least 18 years of age on the day of the Election;
 - ii. a member of Stellat'en First Nation and appear on the voters list.

- b. SFN Staff members can be nominated, and accept being a candidate, for council elections, they may do so as long as they are eligible under Section 6.3 in this Code, and can run as a candidate while carrying out their job duties.
- c. Should these SFN staff members be elected, those staff members will be given a leave of absence for the full term of office.
- d. Subject to Sections 6.2 and 6.3 of this Code, any eligible voter may propose or second the nomination of any qualified person to serve as the chief or councillor by:
 - i. delivering or mailing a written nomination and a completed, signed and witnessed voter declaration form to the electoral officer before the time set for the nomination meeting; or
 - ii. orally, at the nomination meeting.

6.4. The Nomination Meeting

- a. The nomination meeting shall be held at least 35 days prior to the date on which the election is to be held.
- b. The Electoral Officer shall open the location of the nomination meeting, and conduct that meeting, from 8:00 a.m. to 8:00 p.m. during which time eligible nominations will be received with seconders.

6.5. Maintaining Order and Security

The Electoral Officer is responsible for managing and conducting the nomination meeting, and may cause to be removed any person who, in his/her opinion, is under the influence of an intoxicant, is being disrupting or otherwise interfering with the proceedings.

6.6. Nomination Procedure

- a. At the start of the nomination meeting, the Electoral Officer shall post all written nominations and seconders that have been received by mail or delivered. Any nominations received after the nomination meeting has been closed will be declared null and void.
- b. Where the same person receives two written nominations for the same office, the second nomination shall constitute a seconder of the first nomination.
- c. A person present at a nomination meeting who is eligible to do so may second the nomination of any person nominated in writing;
- d. The Electoral Officer shall record and post the name of the candidate, the nominator and the seconder and confirm to those present at the meeting that the proposed candidate is eligible to be elected to the position of chief or councillor.
- e. Any eligible voter may nominate or second no more than:
 - i. one eligible person for the office of chief; and
 - ii. the number of eligible persons equivalent to the vacancies for the office of councillors.

- f. At the end of the nomination meeting, the Electoral Officer shall:
 - i. if only one person has been nominated and accepts for election as chief, declare that person to be elected by acclamation;
 - ii. if the number of persons nominated and accepts to serve as councillors does not exceed the number to be elected, declare those persons to be elected by acclamation; and
 - iii. where more than the required number of persons are nominated for election as chief or councillors, announce that an election will be held specifying the election date.
- g. On the day following the nomination meeting, the Electoral Officer shall post in at least one conspicuous place on the reserve a list of nominees, their nominators and seconders and the offices for which they are nominated.

7. CANDIDACY

7.1. Candidate Acceptance or Rejection of Nomination(s)

- a. Any person nominated for both chief and councillor may only accept being a candidate for one of the offices of chief or councillor in any election.
- b. If the nominee is present at the nomination meeting, he or she may verbally decline the nomination, however, if he or she wishes to accept the nomination they must declare their acceptance verbally and sign the following documents:
 - i. a notice of acceptance of nomination;
 - ii. sign a criminal records check form;
 - iii. written consent to comply with the Residency Requirement;
 - iv. a sworn declaration confirming their eligibility as a candidate.
- c. As soon as is practicable after the Nomination Meeting, the Electoral Officer and the Electoral Officer Assistant, shall notify any nominated candidates who were not present at the meeting that they have been nominated.
- d. A nominee not present at the nomination meeting shall file the documents required under Subsection 7.1.b with the electoral officer by mail, e-mail, facsimile transmission, or in person, not later than 3 days following the nomination meeting.
- e. Any nominee who does not comply with Subsection 7.1.d of this Code shall be considered to have rejected their nomination.

7.2. Candidate Criminal Records Check

- a. Any nominee who accepts their nomination, must agree to the undertaking of a criminal records check, in accordance with Paragraph 7.1.b.ii of this Code.
- b. It shall be the responsibility of the Electoral Officer to ensure a criminal records check is conducted on every candidate in the election. This records check shall commence as soon as possible after the nominee agrees to become a candidate, and be completed at least 15 days before Election Day.
- c. Any candidate that has a criminal history, that includes an indictable offence, will have that history reviewed by the Electoral Officer, with assistance from legal counsel, to ascertain whether that candidate is to be disqualified, or approved to remain, as a candidate in the election.
- d. Any candidate disqualified from being a candidate, as a result of having an indictable criminal offence record, shall receive notice of his/her disqualification at least ten (10)

days before Election Day. That person may file an appeal with the Election Appeal Committee, and have it reviewed at least five (5) days before Election Day.

e. The decision of the Election Appeal Committee shall be final and binding.

7.3. Campaign Ethics, Rules, and Events

a. According to the following rules and regulations established in this section of the Code, candidates must campaign:

- i. without coercion or vote-buying;
- ii. respecting the right and freedom of other parties to organize and campaign;
- iii. respecting the rights of voters to obtain information from a variety of sources and to attend political rallies;
- iv. ethically, focusing on political issues and candidate platforms, instead of conducting smear campaigns or ones of rumour, innuendo and slander;
- v. non-violently, without intimidating opposing party candidates, opposition supporters or the media, and without the use of language inciting their own supporters to violence;
- vi. respecting the freedom of the press to cover the campaign and to express opinions on the campaign;
- vii. respecting the electoral officials and not interfering with the performance of their duties; and
- viii. accepting and complying with the official election results and the final decision of the Election Appeal Committee.
- ix. using social media (Facebook, Twitter, Blogs, websites, online forums, etc.), and other mediums in a respectful manner, conducive to constructive debate of issues, treating other candidates with utmost respect in employing such social media.

b. A copy of campaign rules and regulations, listed in this Code, shall be provided by the Electoral Officer to all candidates seeking, and running for council office.

7.4. Withdrawal of Candidacy

a. A candidate may withdraw his or her candidacy at any time up to the closing of the polls on Election Day by submitting a written withdrawal of nomination to the Electoral Officer; unless the withdrawal is submitted within 3 days from the Nomination Meeting, the candidate's name will appear on the ballot.

b. A candidate who passes away before, or up to the closing of the polls on Election Day shall be considered to have withdrawn his or her candidacy.

8. PRE-ELECTION PROCEDURE

8.1. Acclamations

- a. Where the office of chief and all offices of councillor are filled by acclamation; the Electoral Officer shall post in at least one conspicuous place on the reserve, and mail to every voter, a notice that sets out the names of the persons who have been acclaimed and a statement that an election will not be held, and that Part 9 through to Section 11.2 of this Code will not apply.

8.2. Voting Ballots

- a. The Electoral Officer shall prepare ballot papers setting out if applicable:
 - i. the names of the candidates nominated for election as chief, in alphabetical order by surname; and
 - ii. the names of the candidates nominated for election as councillor(s), in alphabetical order by surname.

8.3. Mail-in Ballots

- a. The Electoral Officer shall, at least 30 days prior to the date on which the election is to be held, mail to every eligible voter for which a current address is on file, a mail-in ballot package consisting of:
 - i. a numbered ballot initialled on the back by the Electoral Officer;
 - ii. an inner postage-paid return envelope, pre-addressed to the Electoral Officer;
 - iii. a second inner envelope marked “ballot” for insertion of the completed ballot;
 - iv. a voter declaration form which shall set out: the name of the voter; the membership number and date of birth of the voter; and the name, address and telephone number of the witness to the signature of the voter;
 - v. the Notice of Election set out in Section 5.8; and
 - vi. a letter of instruction regarding voting by mail-in ballot that includes; a statement advising voters that they may vote in person at any polling station on the day of the election if they return their mail-in ballot to the Electoral Officer at the polling station, or swear a written declaration before the Electoral Officer, a justice of the peace, notary public or duly appointed commissioner for taking oaths that they have lost the mail-in ballot.
- b. A voter, who has not received a mail-in ballot package may, not later than 21 days prior to the date on which the election is to be held, request a mail-in ballot package from the Electoral Officer.
- c. Upon receipt of a request for a mail-in ballot package under Subsection 8.3.b, the Electoral Officer shall mail or deliver a mail-in ballot package described in Subsection 8.3.a to the voter who so requests.
- d. The Electoral Officer shall indicate on the voters list that a ballot has been provided to each voter to whom a mail-in ballot was mailed or otherwise provided and keep a record

of the date on which, and the address to which, each mail-in ballot was mailed or otherwise provided.

- e. A voter shall vote by mail-in ballot by:
 - i. placing an “X” or other mark that clearly indicates the voter's choice of candidate but does not identify the voter opposite the name of the candidate or candidates for whom he desires to vote;
 - ii. folding the ballot in a manner that conceals the names of the candidates or any marks, but exposes the electoral officer’s initials on the back;
 - iii. placing the ballot in the inner envelope and sealing the envelope;
 - iv. completing and signing the voter declaration form in the presence of a witness who is at least 18 years of age;
 - v. placing the inner envelope and the completed, signed and witnessed voter declaration form in the postage-paid envelope; and
 - vi. by delivering, mailing or otherwise ensuring receipt by the Electoral Officer of the envelope before the close of polls on the day of the election.

Note: Mail can take up to 14 days to arrive.

- f. Where a voter is unable to vote in the manner set out in Subsection 8.3.e, the voter may enlist the assistance of another person to mark the ballot and complete and sign the voter declaration form in accordance with that Subsection. The person enlisted by the voter may also assist the voter to deliver the mail-in ballot to the Electoral Officer.
- g. A person referred to in Part 8.3.f shall sign a statement to attest to the fact that:
 - i. the person completing and signing the voter declaration form is the person whose name is set out in the form; or
 - ii. the voter is the person whose name is set out in the form and that the ballot was marked according to the directions of the voter.
- h. Mail-in ballots that are not received by the Electoral Officer before the close of polls on the day of the election shall not be counted. The ballots will be kept on file for the purpose of any pending appeals, and subject to a Chief and Council motion to destroy the election ballots.

8.4. Election Supplies and Equipment

- a. The Electoral Officer shall, before the polling station is open, supply the polling station with:
 - i. sufficient ballot boxes;
 - ii. a sufficient number of ballots;
 - iii. a sufficient number of voting compartments enabling voters to mark their ballots free from observation;
 - iv. instruments for marking the ballots;
 - v. a sufficient number of voting instructions as may be required;
 - vi. all other equipment necessary to establish and equip the polling stations; and

vii. the final voters list.

8.5. Polling Station

- a. The Electoral Officer will establish at least one polling station on the Stellaquo (Stella) Reserve 1, near Fraser Lake, British Columbia.
- b. The electoral officer shall provide a voting compartment in the polling station where electors can mark their ballots free from observation and the electoral officer may appoint security to maintain order in the polling station.

9. ELECTION DAY

9.1. Candidate's Agent / Scrutinizer

- a. A candidate shall be entitled to not more than one agent/scrutineer in the polling station at any one time.
- b. A letter of authorization, signed by the candidate, must be provided to the Electoral Officer or to the Electoral Officer Assistant at or before the opening of the polling station, in which the candidate names the person authorized to act as his or her scrutineer.

9.2. Polling Hours

The polling station shall be open from 8 a.m. until 8 p.m. local time on Election Day.

9.3. Verification of the Ballot Box

The Electoral Officer, or his/her Assistant, shall immediately before the commencement of the poll:

- a. open the ballot box and call such persons as may be present to witness that it is empty and complete a written statement to that effect, verified by a witness;
- 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.

9.4. Secrecy and Security

- a. Voting shall be by secret ballot.
- b. No voter may vote by proxy or authorize another person to vote on his or her behalf.
- c. The Electoral Officer or Electoral Officer's Assistant shall maintain order at all times in the polling station and may cause to be removed any person who is under the influence of an intoxicant, in any way interferes, disrupts or attempts to influence the orderly conduct of the poll.
- d. No person or candidate shall, on the day the election is held, on the premises of the polling station:
 - i. distribute any election-related printed materials except such materials as may be distributed by the Electoral Officer or Electoral Officer's Assistant for the purpose of conducting the election;
 - ii. attempt to interfere with or influence any voter in marking his or her ballot; or
 - iii. attempt to obtain information as to how a voter is about to vote or has voted.

9.5. Voting Procedure

- a. Each person, on arriving at the polling station, shall give his or her name to the Electoral Officer or Electoral Officer's Assistant.
- b. Regardless of whether a person's name appears on the voters list, each person shall be vouched for as to their identity. Should there be no one who can vouch for the person's identify, the Electoral Officer will request to see personal identification from that person.
- c. The Electoral Officer or Electoral Officer's Assistant, if the person's identity is confirmed and their name appears on the voters list, shall place his/her initials on the ballot(s) and give them to the voter
- d. The Electoral Officer or Electoral Officer's Assistant shall cause to be placed in the proper column of the voters list a mark opposite the name of every person receiving a ballot.
- e. Any voter to whom a mail-in ballot was mailed or provided under Subsection 8.3 may obtain a ballot and vote in person at a polling place if:
 - i. the voter returns the mail-in ballot to the Electoral Officer or Electoral Officer's Assistant; or
 - ii. where the voter has lost the mail-in ballot, the voter provides the Electoral Officer or Electoral Officer's Assistant with a written affirmation that the voter has lost the mail-in ballot, which affirmation shall be signed by the voter in the presence of the Electoral Officer, Electoral Officer's Assistant, a justice of the peace, a notary public or a commissioner for oaths.
 - iii. persons who have previously mailed in a completed ballot, may appear in person at the polling station and request their mail-in ballot be destroyed and issued a new ballot
- f. The Electoral Officer or Electoral Officer's Assistant shall, when requested to do so, explain the method of voting to the voter.
- g. After receiving a ballot, a voter shall:
 - i. immediately proceed to the compartment provided for marking ballots;
 - ii. mark the ballot by placing an "X" or other mark that clearly indicates the voter's choice but does not identify the voter opposite the name of the candidate or candidates for whom he/she desires to vote;
 - iii. fold the ballot in a manner that conceals the names of the candidates and any marks, but exposes the initials on the back; and
 - iv. deliver the ballot to the Electoral Officer or Electoral Officer's Assistant.
- h. On receipt of a completed ballot, the Electoral Officer or Electoral Officer's Assistant shall, without unfolding the ballot, verify the initials placed on it and deposit it in the ballot box in the presence of the voter and any other persons entitled to be present at the polling station.
- i. While a voter is in the compartment for the purpose of marking his/her ballot, no other person shall, except as provided in Subsection 9.6.a, be allowed in the same

compartment or be in any position from which he/she can see the manner in which the voter marks his/her ballot.

9.6. Voting Anomalies

- a. At the request of any voter who is unable to vote in the manner set out in Subsection 9.5.g, the Electoral Officer or Electoral Officer's Assistant shall assist that voter by marking his/her ballot in the manner directed by the voter in the presence of another voter, selected by the voter as a witness, and shall place the ballot in the ballot box.
- b. A voter who has inadvertently dealt with his/her ballot paper in such a manner that it cannot be conveniently used shall, on one occasion only, upon returning it to the Electoral Officer or Electoral Officer's Assistant, be entitled to obtain another ballot paper. The Electoral Officer or Electoral Officer's Assistant shall write the word "cancelled" upon the spoiled ballot paper and preserve it.
- c. Any person who has received a ballot and who leaves the polling place without delivering the same to the Electoral Officer or the Electoral Officer's Assistant in the manner provided, or after receiving a ballot, refuses to vote, shall forfeit his/her right to vote at the election, and the Electoral Officer or Electoral Officer's Assistant shall make an entry in the voters list in the column for remarks opposite the name of such person to show that such person received a ballot and declined to vote or failed to return the ballot, and the Electoral Officer or Electoral Officer's Assistant shall mark upon the face of the returned ballot the word "declined" and all ballots so marked shall be preserved.

9.7. Closing of the Polling Station

- a. Every voter who is inside the polling station, at the time for which the poll is to be closed, shall be entitled to vote before the poll is closed, if they have not already voted.
- b. The Electoral Officer or Electoral Officer's Assistant shall ensure that the doors to the polling station are closed at 8:00 pm on Election Day.

10. COUNTING OF THE VOTES

10.1. Opening Mail-In Ballots

- a. Upon the closing of the polling station, the Electoral Officer or Electoral Officer's Assistant shall, in the presence of any candidate agents, or appointed witnesses who are present, open each envelope containing a mail-in ballot that was received before the close of the polls and, without unfolding the ballot place it on the table.
- b. The unfolded mail-in ballot shall be rejected if;
 - i. it was not accompanied by a voter declaration form, or the voter declaration form is not signed or witnessed,
 - ii. the voter declaration form does not contain a date of birth or a band number that matches the information contained for that voter on the voters list;
 - iii. the name of the voter set out in the voter declaration form is not on the voters list;
or
 - iv. the voters list shows that the voter has already voted.
- c. In any other case, the unfolded mail-in ballot shall be deemed admissible. A mark shall be placed on the voters list opposite the name of the elector set out in the voter declaration form, and the unfolded mail-in ballot shall be placed in the ballot box.

10.2. Counting the Ballots

- a. The Electoral Officer or the Electoral Officer's Assistant shall supply all persons present and who so request with a tally sheet to keep their own tally of the votes.
- b. Immediately after the mail-in ballots have been deposited in the ballot box under Subsection 10.1.c, the Electoral Officer or Electoral Officer's Assistant shall, in the presence of any candidate agents or scrutineers who are present, open the ballot box and examine each ballot.
- c. The Electoral Officer or Electoral Officer's Assistant shall call out the names of the candidates for whom the votes were cast on all valid ballots.
- d. Either the Electoral Officer or Electoral Officer's Assistant, not calling out the names of candidates, shall mark a tally sheet in accordance with the names being called out under Subsection 10.2.c, for the purpose of arriving at the total number of votes cast for each candidate.

10.3. Ballots not Counted, Spoiled or Voided

- a. In examining the ballots, the Electoral Officer or Electoral Officer's Assistant must reject any ballots that:
 - i. do not contain the initials of the Electoral Officer or Electoral Officer's Assistant;
 - ii. do not give a clear indication of the voter's intention;
 - iii. contain more votes than there are candidates to be elected; or
 - iv. contain a mark by which the voter can be identified.

- b. The Electoral Officer or Electoral Officer's Assistant shall attach a note to each ballot rejected which outlines the reason for rejection.
- c. Subject to review on recount or on an election appeal, the Electoral Officer or Electoral Officer's Assistant shall take a note of any objections made by any candidate agent or scrutineer to any of the ballots found in the ballot box and decide any questions arising out of the objection.
- d. The Electoral Officer or Electoral Officer's Assistant shall number objections to ballots raised pursuant to Subsection 10.3.c and place a corresponding number on the back of the ballot paper with the word "allowed" or "disallowed", as the case may be, with his/her initials.

10.4. Tie Votes

- a. 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 Electoral Officer shall establish a time for the conduct of a recount and publicly announce this time in the presence of all those present in the polling station.
- b. A recount conducted pursuant to Subsection 10.4.a must take place within 24 hours of the announcement by the Electoral Officer, in the presence of the candidates and their agents who wish to attend.
- c. At the time established for the recount, the Electoral Officer shall conduct a recount of the valid ballots.
- d. If the recount fails to determine a successful candidate, the 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/she shall draw as many papers as there are positions available. The candidate(s) whose name(s) appear on the pieces of paper the Electoral Officer has drawn from the receptacle shall constitute the successful candidate(s).
- e. Candidates declared winners, who accepted their nominations under Subsection 6.3.b who are SFN Staff members can be nominated, and accept being a candidate, for council elections, they may do so as long as they are eligible under Subsection 6.3.a in this Code, and can run as a candidate while carrying out their job duties. If they are elected they must take a leave of absence from their employment position with the SFN.

11. POST-ELECTION PROCEDURES

11.1. Election Results Announcement

- a. After completing the counting of the votes and establishing the successful candidates, the Electoral Officer shall declare to be elected the candidates or candidates having the highest number of votes.
- b. Following the declaration of elected candidates made pursuant to Subsection 11.1.a, the Electoral Officer shall complete and sign an election report which shall contain:
 - i. the names of all candidates;
 - ii. the number of ballots cast for each candidate; and
 - iii. the number of rejected ballots.
- c. Within 4 days after completion of the counting of the votes, the Electoral Officer shall:
 - i. sign and post, in at least one conspicuous place on the reserve, the election report prepared in accordance with Subsection 11.1.b;
 - ii. include a copy of the election report in the Band Newsletter to be mailed out to every elector of the band; and
 - iii. forward a copy of the election report to the band administrator and ISC.

11.2. Retention and Destruction of Ballots

- a. The Electoral Officer shall deposit all ballot papers in sealed envelopes, including those rejected, spoiled and unused, and shall retain these ballots and all materials in connection with the election.
- b. All ballots and materials retained in accordance with Subsection 11.2.a shall be retained for up to 30 days from the date on which the election was held, or until a decision on an appeal is rendered, whichever date is later, after which time pursuant to Paragraph 4.4.a.ii of this Code, Chief and Council shall direct the Electoral Officer to destroy them in the presence of two witnesses who shall make a declaration that they witnessed the destruction of those papers.

11.3. Chief and Councillor Oath of Office

- a. A candidate who has been elected chief or councillor shall, within 15 to 30 days of the electoral officer's declaration under Subsection 11.1.a, swear an oath of office before

either the Electoral Officer, a Justice of the Peace, Notary Public or duly appointed commissioner for taking oaths.

- b. No person elected as chief or councillor shall be permitted to assume office until they have sworn and filed with the Electoral Officer, or other Official, the oath of office required under Subsection 11.3.a.
- c. The Oath of Office shall be administered, and recited from Section 16.2 of this Code.
- d. A pre-determined honoraria amount shall be provided to newly elected Chief and Council for their participation in the orientation period to take place prior to the swearing in ceremony.

12. BY-ELECTIONS

- 12.1. Unless otherwise provided in this Code, in the event that the office of Chief or Councillor becomes vacant, a by-election shall be held within 90 days after the date on which the position is declared vacant.
- 12.2. No by-election shall be held if there are less than 6 months remaining in the term of the Council member whose office has become vacant, except where a by-election is necessary to have sufficient Council members to maintain a quorum.
- 12.3. No sitting Council member is eligible to be a candidate in a by-election. If a Council member wishes to be a candidate in an election for Chief, that council member must resign his/her Council position upon submitting a sworn declaration of candidacy, pursuant to Subsection 7.1.b.
- 12.4. Pursuant to Section 12.3 above, there must be quorum maintained for Council to ensure the ongoing governance of the Stelat'en First Nation. This requires that no more than one (1) Council member may be a candidate in an election for Chief. If more than one Council member wishes to be candidate for Chief, the first candidate who submits their sworn declaration pursuant to Subsection 7.1.b shall be declared a candidate.
- 12.5. Except as expressly provided in this Code, the rules and procedures in this Code shall apply to by-elections.

13. ELECTION APPEAL COMMITTEE

13.1. Composition

- a. An Election Appeal Committee shall be appointed by the Chief and Council, which shall consist of:
 - i. one Elder Representative;
 - ii. one person who is not a Stellat'en First Nation member and is neutral;
 - iii. one Youth Representative 18 to 24 years of age;
 - iv. one member at large from the community.
- b. The Election Appeal Committee will be appointed if so required, and shall established and operate within the conditions stipulated under Part 13 of this Code.
- c. The term of office of the Election Appeal Committee shall be on an annual basis from its appointment under Subsection 13.1.a until chief and council selects another Election Appeal Committee in accordance with this code.
- d. Upon receipt of an election appeal in accordance with Subsection 14.3.a, any Election Appeal Committee member who is immediate family of any complainant or candidate, or who may be reasonably perceived to have a bias or conflict in connection with the appeal, shall excuse themselves from the committee.
- e. Chief and council will select additional members as required to attain four from the list of potential members drawn from the community in accordance with Subsection 13.1.a.
- f. Each member of the Election Appeal Committee shall accept his/her appointment by forwarding a letter of acceptance to chief and council.

13.2. Functions

- a. The Election Appeal Committee shall supervise and administer, in accordance with the provisions of this code:
 - i. all election appeals and election related complaints;
 - ii. all appeals regarding voter eligibility pertaining to Subsections 5.5.o and 5.5.p.

14. APPEAL MECHANISM

14.1. Timing

A candidate or a voter may, within 14 days from the date on which the election was held, submit an appeal to the Election Appeal Committee.

14.2. Grounds for Appeals

An appeal submitted pursuant to Section 14.1 must sufficiently outline one or more of the following:

- a. that the person declared elected was alleged not qualified to be a candidate;
- b. that there was an alleged violation of this code in the conduct of the election that might have affected the result of the election; or
- c. that there was alleged corrupt or fraudulent practice in relation to the election.

14.3. Submission

An appeal submitted by a complainant to the Election Appeal Committee must:

- a. be in writing and set out in an affidavit sworn before a notary public or duly appointed commissioner for taking oaths the facts substantiating the grounds for the appeal accompanied by any supporting documentation; and
- b. be accompanied by a deposit in the amount of \$100, which amount shall be refunded if the Election Appeal Committee finds for the complainant under Subsection 14.7.b.

14.4. Procedure

Upon receipt of an election appeal, the Election Appeal Committee shall:

- a. in the case where the appeal is submitted in accordance with Subsection 14.3.a, forward a copy together with supporting documents by registered mail to the Electoral Officer and to each candidate at the election; or
- b. in the case where the appeal is not submitted in accordance with Subsection 14.3.a, inform the complainant(s) in writing that the appeal will not receive further consideration.

14.5. Response to the Allegations

Any candidate or the Electoral Officer may, within 14 days of the receipt of the appeal(s), forward to the Election Appeal Committee by registered mail a written response to the appeal allegations, together with any supporting documentation.

14.6. Investigation

- a. The Election Appeal Committee may, if the material that has been filed is not adequate for deciding the validity of the election appeal, conduct such further investigation into the matter as the Committee deems necessary.
- b. If funds are needed to conduct an investigation that requires legal counsel and is beyond the capacity of the Election Appeal Committee to conduct, the Council shall provide such funds that are reasonably necessary to allow the investigation to be completed.

14.7. Decision

- a. After a review of all of the evidence that it has received, the Election Appeal Committee shall rule: that the evidence presented was NOT sufficiently substantive to determine that:
 - i. a violation of this code has taken place that might have affected the result of the election; the person declared elected was not qualified to be a candidate; or
 - ii. there was a corrupt or fraudulent practice in relation to the election that might have affected its results, and dismiss the appeal; or
- b. After a review of all of the evidence that it has received, the Election Appeal Committee shall rule: that all evidence and information gathered allows for the reasonable conclusion that:
 - i. a violation of this code has taken place that might have affected the result of the election;
 - ii. the person declared elected was not qualified to be a candidate; or
 - iii. there was a corrupt or fraudulent practice in relation to the election that might have affected its results,
 - iv. and uphold the appeal by setting aside the election of one or more council members.
- c. The decision of the Election Appeal Committee made pursuant to Subsections 14.7.a and 14.7.b shall be:
 - i. published in the community's newsletter, which is mailed to band members, or in a separate written notice delivered or mailed to all band members; and
 - ii. posted in at least one conspicuous place on the reserve.
- d. The decision of the Election Appeal Committee is reviewable by the Federal Court.

15. AMENDMENTS & RATIFICATION

- 15.1. The process for development and passage of amendments to this Code may be initiated by:
 - a. a petition presented to Council, signed by at least 25% of all eligible voters and setting out the specific area in this Code proposed for amendment; or
 - b. a Band Council Resolution.
- 15.2. Upon receipt of an amendment proposal in accordance with Section 15.3, Council shall prepare a notice that sets out:
 - a. a summary of the proposed amendments to this Code;
 - b. a statement that the full copy of the proposed amendments can be obtained at the Band administration office; and
 - c. a description of the amendment process.
- 15.3. The notice provided in Section 15.2 shall be:
 - a. published in the Stelat'en First Nation newsletter that is delivered or mailed to Band voters, or by separate notice delivered or mailed to all Band voters; and
 - b. posted in at least one conspicuous place in a public area of the Band Administration building, and in other conspicuous places on Stelat'en Reserve Lands including the First Nation web site.
- 15.4. Voters may, within 14 days of publication of the notice required under Section 15.2, provide comments concerning the proposed amendments in writing to Council.
- 15.5. Following receipt of comments concerning the proposed amendments pursuant to Section 15.4, the Council shall review the comments and make such changes to the proposed amendments as they deem necessary in order to arrive at a final amendment proposal.
- 15.6. The Council shall submit the final amendment proposal at the next community meeting following notice of that meeting.
- 15.7. Should the majority of the votes cast at a community meeting be in favour of the proposed amendments being brought to the Code, Council shall amend the Code accordingly.
- 15.8. Any amendment passed 100 days or more prior to an election shall be incorporated into the Code and shall govern the election. Any amendment passed less than 100 days prior to an election shall not take effect until after the election.

16. FORMS

16.1. Electoral Officer Oath of Office

As the Stelat'en First Nation Electoral Officer I am responsible for managing and executing all pre-electoral, electoral and post-electoral processes and procedures included in the Stelat'en First Nation Custom Election Code. As the Stelat'en First Nation Electoral Officer I will:

1. Uphold and abide by the rules and regulations established in the Stelat'en First Nation Custom Election Code;
2. Remain neutral and professional in the conduct of the duties of his/her office, and refrain from providing any preferential treatment or expressing support for or opposition to any candidate;
3. Not accept anything of value, including but not limited to money, offers of employment, gifts, travel, in exchange for preferential treatment or access to confidential information;
4. Not discriminate against anyone because of race, religion, sex, age or handicap;
5. Not pressure or intimidate other officials or personnel to favour a certain candidate;
6. Avoid conflicts of interest, or the appearance of conflicts of interest, by abstaining from decision making where the electoral officer has a personal or private interest in the election outcome.

Signature of Electoral Officer

Signature and Title of Witness

16.2. Chief and Council Oath of Office

I, _____ (name), elected _____ (Chief or Councillor) of
Stellat'en First Nation (SFN), do declare as follows:

1. I am a member of the SFN and as such am ready and willing to serve on the Council as _____ (Chief or Councillor) for the SFN.
2. To the best of my knowledge I am qualified to serve as a _____ (Chief or Councillor) of the SFN pursuant to the Stellat'en Custom Election Code.
3. I will faithfully perform the duties of my office as determined in the SFN Governance Manual and will not allow my private interest to influence my conduct in public matters.
4. I will protect the laws of our First Nation, in order to preserve our culture and heritage; to faithfully discharge my duties in a fair and equitable manner and to involve all willing SFN members to participate in a common effort to improve our lives.
5. I will co-operate with every First Nation throughout British Columbia and Canada for the following goals and objectives: a just settlement of land claims, to overcome racism and discrimination against all people, to achieve for our people our right to self-determination and self-reliance and a level of economic opportunity, education, health and housing equal to that of other members of Canadian society; I will extend the hand of friendship and co-operation to all like-minded Canadians in pursuit of these goals.
6. I have not, directly or indirectly, committed any bribery, corruption or intimidation during my election campaign.

Signature of Elected Official

Signature and Title of Witness

16.3. Election Candidate Code of Ethics

According to the following rules and regulations established in this Election Code, candidates must campaign:

1. Without coercion or vote-buying;
2. Respecting the right and freedom of other parties to organize and campaign;
3. Respecting the rights of voters to obtain information from a variety of sources and to attend political rallies;
4. Ethically, focusing on political issues and candidate platforms, instead of conducting smear campaigns or ones of rumour and innuendo;
5. Non-violently, without intimidating opposing party candidates, opposition supporters or the media, and without the use of language inciting their own supporters to violence;
6. Respecting the freedom of the press to cover the campaign and to express opinions on the campaign;
7. Using social media (Facebook, Twitter, Blogs, websites, online forums, etc.), use such media in a respectful manner, conducive to constructive debate of issues, treating other candidates with utmost respect in employing such social media.
8. Respecting the electoral officials and not interfering with the performance of their duties; and
9. Accepting and complying with the official election results and the final decision of the Election Appeal Committee.

Signature of Election Candidate

Signature and Title of

Witness