
Election Code of Wei Wai Kum First Nation

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NOTE: The masculine gender is used throughout this document without bias and only in the interest of simplicity and ease of reading.

PART 1 - TITLE

1. This Code shall be called the Election Code of Wei Wai Kum First Nation.

PART 2 - COMING INTO FORCE

2. This Code comes into force upon the passing of a Ministerial Order proclaiming the removal of the Campbell River Indian Band from the election provisions of the *Indian Act*.

PART 3 - INTERPRETATION

3. In this Code

“appellant” means an individual who submits an appeal in accordance with this Code with respect to an election.

“Arbitrator” means an independent and impartial third party who is either a lawyer, retired judge, arbitrator, mediator or a person with similar qualifications and who, upon request of the Council, agrees to act in appeals under the Code.

“Band” means the Wei Wai Kum First Nation, also known as the Campbell River Indian Band.

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

“candidate” means a Band member who has been nominated pursuant to this Code to stand for election.

“Code” means the leadership selection system set out herein.

“Code of Ethics” means guidelines, general rules of behaviour and standards, established in accordance with Part 5 of this Code, that govern the conduct of candidates running for office and of their supporters relating to their participation in the electoral process.

“Conflict of Interest” means a situation where a member of Council or his family stand to gain in a financial, proprietary or other similar manner from a decision of Council but does not include situations where the interests of the Chief or the Councillor in question are common interests shared by all members of the First Nation.

“corrupt practices” means direct or indirect bribery, or providing a financial or material incentive to an elector in exchange for a vote.

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

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

“election” means a general election or by-election of the Band held pursuant to the provisions of this Code.

“elector” means a person who:

(a) is a member of the Band; and

(b) is at least 18 years of age on the day on which the election is held.

“elector declaration form” means a document that sets out, or provides for:

(a) the name of the elector;

(b) the Band membership or registry number of the elector or, if the elector does not have a Band membership or registry number, the date of birth of the elector; and

(c) the name, address and telephone number of a witness to the signature of the elector.

“Electoral Officer” means a person, appointed by a Band Council resolution before each election, who has the responsibility for conducting the Nomination Day, the pre-election, election and post-election procedures.

“electors list” means the list of Band members eligible to vote in an election.

“mail-in ballot” means a ballot mailed or delivered in accordance with section 133 of this Code.

“majority” means 50% plus one.

“member” means a person registered on the membership list for Wei Wai Kum First Nation, pursuant to the Campbell River Indian Band Membership Rules.

“Membership Clerk” means the Band employee responsible for maintaining the Band’s membership list.

“membership vote” means the annual vote by Members on changes to the Membership list.

“Nomination Day” means the last day on which persons may submit nomination papers to the Electoral Officer.

“oath” means a solemn affirmation.

“ordinarily resident on the reserve” refers to the residential status of an elector who is considered to have his ordinary residence on the reserve. A person’s ordinary residence can be described as:

- (a) the place the person normally eats and sleeps;
- (b) the place the person receives mail;
- (c) the residence of the person’s immediate family; or
- (d) a place in proximity to the person’s place of employment.

A person can be ordinarily resident in only one place at one time, and a person is ordinarily resident in that place until another place of ordinary residence is acquired.

A person may be temporarily absent from a place of ordinary residence for education, medical or temporary employment reasons.

“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) and that are not included in the tally of valid ballots cast during the counting of the votes.

“reserve” means the Wei Wai Kum First Nation Reserve Lands.

“Scrutineer” means a person appointed in writing by a candidate to observe voting procedures and counting procedures under the Code.

PART 4 - THE COUNCIL

Composition and Size

4. The Council shall consist of one Chief, plus one Councillor for every full one hundred members on the membership list on the date of the membership vote immediately preceding the election date, to a maximum of 10 Councillors. For example, if there are 899 members, there will be eight Council seats.

Meetings

5. The first meeting of the Council shall be held not later than 30 days after its swearing in, on a day, hour and place to be stated in a notice given to each member of the Council, and meetings shall thereafter be held on such days and at such times as may be necessary for the business of the Council or the affairs of the Band.
6. Council shall meet at least once every 2 months.
7. No member of the Council may be absent from meetings of Council for 3 consecutive meetings without being authorized to do so by the Council. Such authorization shall be determined by a majority vote of the Council members present at each Council meeting at which a Council member is absent.
8. The Chief of the Band or a quorum of the Council may summon a special meeting of the Council by giving at least 24 hours written notice in advance to the Chief, all Councillors and the Band manager.
9. The Band manager or Council secretary shall notify each member of the Council at least 24 hours in advance of the day, hour and place and proposed agenda for each meeting of the Council including special meetings.
10. Notwithstanding any provision of honoraria for serving on Council, members of Council shall cover their own costs of attending Council meetings in the Campbell River area.

Order and Proceedings

11. A majority of the members of the Council shall constitute a quorum. For example, if there are 5 members of Council, a quorum is 3.
12. If no quorum is present within 30 minutes after the time appointed for the meeting, the Band manager shall call the roll and take the names of the members of Council then present and Council shall stand adjourned until the next meeting.
13. The Chief of the Band shall be the presiding officer at meetings of Council.
14. Upon a quorum being present, the presiding officer shall take the chair and call the meeting to order.
15. In the absence of the Chief, a chairperson shall be chosen from among the Councillors present until the Chief's arrival.
16. The presiding officer shall maintain order and decide all questions of procedure.

17. The order of business at each regular meeting of the Council shall be as follows:
 - (a) review and adoption of the agenda, with amendments if necessary;
 - (b) reading, correction if any, and adoption of the minutes of the previous meeting;
 - (c) presentation and reading of important correspondence and petitions;
 - (d) presentation and consideration of reports of committees, including ratifications of recommendations if appropriate;
 - (e) new business;
 - (f) hearing depositions, if time permits, and subject to any advance notice requirements or time limits imposed by Council in a procedures policy or similar document; and
 - (g) adjournment.
18. Each resolution shall be presented or read by the mover, and when duly moved and seconded and placed before the meeting by the presiding officer, shall be open for consideration.
19. After a resolution has been placed before the meeting by the presiding officer, it shall be deemed to be in the possession of the Council, but it may be withdrawn by consent of the majority of the Council members present.
20. When any Council member desires to speak, he shall address his remarks to the presiding officer and confine himself to the question then before the meeting.
21. In the event of more than one Council member desiring to speak at one time, the presiding officer shall keep a speakers' list, determine who is entitled to speak, and ensure that all Council wishing to speak have a reasonable opportunity to make their comments.
22. Any member may require the question or resolution under discussion to be read for his information at any period of the debate, but not so as to interrupt a member who is speaking.
23. The presiding officer or any Council member may call a Council member to order while speaking, and the debate shall then be suspended and the Council member shall not speak until the point of order is determined.
24. A Council member may speak only once on a point of order.

25. Any member of the Council may appeal the decision of the presiding officer to the Council and all appeals shall be decided by a majority vote and without debate.
26. The presiding officer, or a procedures or policy document passed by Council, may set out time limits for speeches or comments by Council members.
27. All questions before the Council shall be decided by majority vote of the Councillors present.
28. The presiding officer shall not be entitled to vote unless the votes in favour and against the measure are equal, in which case the presiding officer shall cast the deciding vote.
29. Every member present when a question is put shall vote thereon unless the Council excuses him or unless he has a Conflict of Interest relating to the question, in which case he shall declare his interest, and may recuse himself or be required to recuse himself by a majority vote of the other Council members.
30. A member of the Council who refuses to vote shall be deemed to vote in the affirmative.
31. Whenever there is a non-unanimous vote of Council for any purpose, each Council member present and voting shall announce his vote upon the question openly and individually to the Council and, when so requested by any member, the Band manager shall record it in the minutes of the meeting.
32. The regular meetings of the Council shall be open to members of the Band, and no member shall be excluded from a regular meeting except for improper conduct or for any portions of a Council meeting that are required to be held in-camera for legal, personnel issues or other legitimate reasons.
33. The presiding officer may expel or exclude from any meeting any person who causes a disturbance at the meeting.
34. The Council may appoint standing committees, in lieu of the committee of the whole Council, on any matters as the interests of the Band may require.
35. The Council shall appoint the chairperson for each committee and standing committee.
36. A majority of the members of a committee shall be a quorum.
37. The Chief of the Band shall be an ex officio member of all committees and be entitled to vote at all committee meetings, and other members of the Council may

attend meetings of a committee and may with the consent of the committee take part in the discussion but shall not be entitled to vote.

38. The general duties of special committees are:

(a) to report to the Council from time to time and as often as the interests of the Band may require on all matters connected with the duties imposed on them and recommend such action by the Council in relation to those duties as they may deem necessary and expedient; and

(b) to consider and report upon all matters referred to them by the Council or by the Chief of the Band.

39. Special meetings of committees shall be called at the request of the chairperson or of a majority of the committee or, in the absence of the chairperson, on request of the Chief of the Band.

40. Committees and special committees do not have authority to make decisions but can make recommendations or agreements in principle for the Council to ratify at a Council meeting.

Mode of Election for Chief and Councillors

41. Chief and Councillors shall be elected by a vote held in accordance with this Code.

Term of Office

42. The Council in office at the time the Code comes into effect shall remain in office for the remainder of their term.

43. The term of office for members of Council shall commence on the day the successful candidates are sworn in under section 186 and shall end no later than the 4th anniversary of the date of the election at which they were elected.

44. The term of office at the first election held under this Code shall be staggered according to the following:

(a) Fifty percent (50%) of the Councillors who are elected with the highest number of votes shall serve a term of 4 years. The remaining Councillors shall serve a term of 2 years.

(b) If an uneven number of Councillors are elected, then the 50% of Councillors serving a 4 year term shall be rounded up to the higher number and the number of Councillors serving a 2 year term shall be rounded down to the lower number.

45. When the number of Councillors to be elected increases under section 4, the term of the added Councillor shall be determined so the staggered terms established under section 44, under which 50% of the Councillors' positions are subject to election every 2 years, are maintained.
46. The term of office may, under mitigating circumstances, be continued beyond the term defined in section 43 and 44, if such continuation is not opposed by the votes of more than 50% of the members of Council. This continuation shall not exceed 60 days.
47. The Council shall declare, by resolution, the date of the election to be no earlier than 10 days before and no later than 10 days after the expiration date of the term of the Council members.
48. The successful candidate in a by-election shall hold office for the remainder of the original term of office of the Chief or Councillor whom he is elected to replace.
49. In the event that a successful appeal results in a new general election, the term of the newly elected Council shall commence on the date all elected Council members swear the oath of office under section 186. The term of the newly elected Council members shall end on the anniversary date of the appealed election nearest to the end of a 2 or 4 year term as may be applicable for each Council member under sections 43 and 44.

PART 5 - CODE OF ETHICS

50. Candidates must campaign:
 - (a) according to the rules and regulations established in this Code and pursuant to the Code of Ethics;
 - (b) without coercion or vote-buying;
 - (c) respecting the right and freedom of other parties to organize and campaign;
 - (d) respecting the rights of electors to obtain information from a variety of sources and to attend political rallies;
 - (e) focusing on political issues and candidate platforms and avoiding smear campaigns or campaigns of rumour and innuendo;

- (f) non-violently, without intimidating opposing party candidates, opposition supporters or the media, and without the use of language inciting their own supporters to violence;
- (g) respecting the freedom of the press to cover the campaign and to express opinions on the campaign;
- (h) respecting the electoral officials and not interfering with the performance of their duties; and
- (i) accepting and complying with the official election results and the final decision of the Arbitrator.

51. Every person is in breach of the Code of Ethics herein who, during or leading up to an election period, directly or indirectly offers a bribe to influence an elector to vote or refrain from voting or to vote or refrain from voting for a particular candidate, or during or leading up to an election period, accepts or agrees to accept a bribe that is offered.
52. Every person is in breach of the Code of Ethics herein who, by intimidation or duress, compels a person to vote or refrain from voting or to vote or refrain from voting for a particular candidate in an election, or by any pretence or contrivance, induces a person to vote or refrain from voting or to vote or refrain from voting for a particular candidate in an election. Offering transportation to an elector to get to a polling station is not, in itself, a breach of the Code of Ethics.

PART 6 – VACANCY AND REMOVAL OF COUNCIL MEMBERS FROM OFFICE

Vacancy

53. A Chief or Councillor position becomes vacant if, while in office the Chief or Councillor:
- (a) resigns in writing from office of his own accord;
 - (b) has been unable to perform the functions of his office for more than 6 months due to illness or other incapacity;
 - (c) dies;
 - (d) is removed from office in accordance with section 54; or
 - (e) is otherwise unable to fulfill the terms of office.

54. The Chief or a Councillor may be removed from office if he:

- (a) violates this Code, his oath of office or the Code of Ethics;
- (b) fails to attend 3 consecutive regular meetings of Council without the absence being reasonably excused by a majority voted as under section 7;
- (c) fails to maintain a standard of conduct expected of a member of Council;
- (d) accepts or offers a bribe, forges a Council document or otherwise acts dishonestly in his role;
- (e) is negligent in failing to ensure the safety and protection of the community's members and property;
- (f) uses his office for personal financial gain or for the financial benefit of members of his family or friends to the detriment of the Council or the Band as a whole;
- (g) abuses his office such that the conduct negatively affects the dignity and integrity of the community or of Council;
- (h) encourages others to commit any of the above acts or omissions; or
- (i) engages in such other conduct as may be determined by Council to be of such a serious nature that the removal is necessary and appropriate.

Procedure

55. Proceedings for removal from office of the Chief or a Councillor may be initiated by:

- (a) any elector submitting to the Arbitrator a petition on which shall appear:
 - i) the ground pursuant to section 54 on which removal of a Chief or Councillor is sought;
 - ii) the evidence in support of the petition;
 - iii) the signature of the petitioner;
 - iv) the signatures of at least 25% of all eligible electors of the Band in support of the petition; and
 - v) a non-refundable filing fee of \$100; or

- (b) a majority of Council members passing a Band Council resolution and submitting a petition to the Arbitrator on which shall appear:
 - i) the ground pursuant to section 54. on which removal of a Chief or Councillor is sought;
 - ii) the evidence in support of the resolution; and
 - iii) the signatures of all Council members who voted for the removal.
- 56. On receipt of a petition, the Arbitrator shall verify that the petition complies with section 55. If the petition does not comply, the Arbitrator shall so notify the petitioner(s) within 10 business days.
- 57. Where the petition complies with section 55 the Arbitrator shall:
 - (a) determine that the grounds put forth in the petition are either frivolous in nature or unsubstantiated, and dismiss the petition; or
 - (b) schedule a review hearing, which shall take place within 20 days from the date on which the petition was submitted to him.
- 58. Where the petition has been dismissed under subsection 57 (a), the Arbitrator shall so inform the petitioner(s) in writing and provide a rationale.
- 59. Where the Arbitrator schedules a hearing under subsection 57 (b), the Arbitrator shall send a written notice of the hearing by registered mail to Council, the petitioner(s) and the Council member who is the subject of the petition for removal.
- 60. The written notice described in section 59 shall set out:
 - (a) the nature of the hearing and all related particulars;
 - (b) the date, time and location of the hearing; and
 - (c) a statement that the petitioner(s), any member of Council or the Council member who is the subject of the petition for removal may, at the hearing, make a presentation to the Arbitrator, which may include the presentation of documents and testimony by witnesses.
- 61. The Arbitrator shall conduct a hearing at the time and place set out in the notice provided under section 60.

62. Within 5 days of the day on which the hearing under section 57 (b) is held, the Arbitrator shall:
 - (a) rule that the petition shall be allowed to stand, and declare the Council position of the member of Council who is the subject of the petition to be vacant; or
 - (b) rule that the petition is dismissed.
63. The Arbitrator shall send, by registered mail, a written notice of the ruling made under section 62 to Council, the petitioner(s) and the Council member who is the subject of the petition for removal.
64. The decision of the Arbitrator made under section 62 is final and binding upon all parties.
65. If the Council position is declared vacant under subsection 62 (a), the Arbitrator may further declare the Chief or Councillor removed from office shall be disqualified from being a candidate in an election for a period of up to 6 years commencing on the date of the Arbitrator's ruling.

By-election

66. 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.
67. 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.
68. No sitting Council member is eligible to be a candidate in a by-election. If a Council member wishes to be a candidate in a by-election, he must resign his Council position prior to the Nomination Day for the by-election.
69. Except as expressly provided otherwise in this Code, the rules and procedures in this Code shall apply to by-elections.

PART 7 - PRE-NOMINATION PROCEDURE

Appointment of an Electoral Officer

70. The Electoral Officer shall be appointed by a Band Council resolution not less than 100 days before the expiration of the relevant Council members' term of office.

71. The Band Council resolution for the appointment of the Electoral Officer shall contain his 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.
72. If an Electoral Officer has not been appointed within the time set out in section 70 the Electoral Officer shall be appointed by the Band Manager at least 90 days before the expiration of the Council's term of office.
73. If the Council and Band Manager fail to appoint an Electoral Officer under sections 70 and 72 any person may apply to the court for an order appointing an Electoral Officer.
74. The Electoral Officer must be a person who:
 - (a) is not a member of the Band;
 - (b) has no familial or business relationship to a member;
 - (c) is impartial, having no vested interest in the outcome of the election;
 - (d) is at least 21 years of age; and
 - (e) has experience in the conduct of elections or has received appropriate training.
75. Council or the Band Manager will negotiate a reasonable fee with the Electoral Officer to pay for the conduct of the election including:
 - (a) a fee for the Electoral Officer;
 - (b) fees for the Deputy Electoral Officer and any other staff or contractors;
 - (c) reimbursements for postage, printing, office expenses etc.; and
 - (d) any other reasonable expenses.
76. In the event that the Electoral Officer cannot fulfill his duties, an existing Deputy Electoral Officer shall be appointed by a Band Council resolution to undertake the duties of the Electoral Officer. In the absence of an existing Deputy Electoral Officer, a new Electoral Officer shall be appointed under section 70 failing that, under section 72 and failing that, under section 73.

Oath of Office

77. The Electoral Officer must swear an oath to uphold the office in accordance with this Code.

Responsibilities and Ethics

78. 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 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, or travel, in exchange for preferential treatment or access to a public official or non-public information;
 - (d) not discriminate against anyone because of race, religion, sex, age or disability;
 - (e) use public office facilities to fulfill the terms of his office, and not for personal or partisan benefit;
 - (f) not pressure or intimidate other officials or personnel to favour a certain candidate; and
 - (g) 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 matter at issue.

Electors List

79. At least 90 days before the day on which an election is to be held, the Electoral Officer shall obtain from the Membership Clerk the names, Band membership numbers and dates of birth of all Band members who will have attained the age of 18 years on the date on which the election is to be held.
80. The Membership Clerk shall, no later than 90 days before the date on which the election is to be held, provide the Electoral Officer with the last known addresses, if any, of all electors who do not reside on the reserve.

81. Electors are responsible for providing the Membership Clerk with their current addresses.
82. An elector's address shall be used by the Electoral Officer only for the purpose of providing notices, mail-in ballots or other election documents to electors who are entitled to receive them under this Code.
83. The Electoral Officer must not disclose an elector's address for purposes other than those under section 82 without the consent of the elector and shall ensure that electors' addresses do not appear on the electors' list.
84. 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.
85. At least 80 days before the day on which an election is to be held, the Electoral Officer shall prepare an electors' list containing the names of all of the electors in alphabetical order. This electors' list shall not include the addresses or phone numbers of the electors.
86. 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 date on which the election is to be held.
87. Upon request by a person, the Electoral Officer or Deputy Electoral Officer shall confirm whether or not the name of a person is on the electors' list.
88. The Electoral Officer shall revise the electors' list upon presentation of documentary evidence which demonstrates that:
 - (a) the name of an elector has been omitted from the electors list;
 - (b) the name of an elector is incorrectly set out in the electors list; or
 - (c) the name of a person not qualified to vote is included in the electors list.
89. A person, or an elector acting on his behalf, may, no later than 2 days prior to the date on which an election is to be held, demonstrate that the name of an elector has been omitted from or incorrectly set out in the electors list by presenting in writing to the Electoral Officer evidence from the Membership Clerk or other documentary evidence that the elector:
 - (a) is entitled to have his name entered on the Band list;

(b) will be at least 18 years of age on the date on which the election is to be held; and

(c) is qualified to vote in Band elections.

90. A person may demonstrate that the name of a person not qualified to vote has been included in the electors list by presenting in writing to the Electoral Officer, no later than 15 days prior to the date on which an election is to be held, evidence that the person:

(a) is neither on the Band list nor entitled to have his name entered on the Band list;

(b) will not be at least 18 years of age on the date on which the election is to be held; or

(c) is not qualified to vote in Band elections.

91. Where the Electoral Officer believes or has information that a person whose name is on the electors' list is not an elector, or where, in accordance with section 90 an elector demonstrates to the Electoral Officer that the name of a person not qualified to vote appears on the electors list, the Electoral Officer shall give written notice to the person whose eligibility is challenged at least 10 days prior to the date on which the election is to be held.

92. The notice given under section 91 shall include the reasons for seeking the removal of the name from the electors list and any supporting documents, and shall provide notice that a written reply may be sent to the Electoral Officer, which must be received as soon as it is practical prior to the date on which the election is to be held.

93. After consideration of all information and representations relating to amendments of the electors list, the Electoral Officer shall add or delete names from the electors list based on whether persons qualify as electors.

94. The decision of the Electoral Officer under section 93 is final and is not subject to appeal.

95. A person whose name does not appear on the electors list shall nonetheless be entitled to vote on election day, provided he presents documentary proof to the Electoral Officer demonstrating his qualifications as an elector to the Electoral Officer's satisfaction.

Appointment of Deputies and Interpreters

96. The Electoral Officer shall appoint deputies and interpreters as he deems necessary, who shall work under his direction.
97. The Deputy Electoral Officer shall have such powers as described in this Code as well as those powers of the Electoral Officer as delegated to the Deputy by the Electoral Officer.
98. A Deputy Electoral Officer shall not be a member of Council or a candidate in the election or have any conflicts of interest in relation to the election.
99. Every Deputy Electoral Officer shall swear an oath of office to:
 - (a) uphold and comply with this Code, the Code of Ethics and all the laws of the community;
 - (b) fulfill the duties and responsibilities of his office under this Code;
 - (c) carry out his duties faithfully, honestly, impartially and to the best of his abilities;
 - (d) keep confidential, both during and after his term of office, any matter or information which, under this Code, community law or policy, is considered confidential; and
 - (e) always act in the best interests of the community in carrying out his duties.
100. The Electoral Officer may make such orders and issue such instructions consistent with the provisions of this Code as he may deem necessary for the effective administration of the election and for the maintenance of order and security on Nomination Day and Election Day.

PART 8 - THE NOMINATION PROCESS

Notice of Nomination Day

101. The Nomination Day shall be held at least 45 days prior to the date of the election.
102. The Electoral Officer shall, at least 30 days before the Nomination Day, post a Notice of Nomination Day in a conspicuous public area of the Band administration building and at other conspicuous place(s) on the Wei Wai Kum Reserve Lands, as may be determined by the Electoral Officer.

103. The Electoral Officer shall, at least 30 days before the date on which the Nomination Day is to be held, mail a Notice of Nomination Day, a nomination form and an elector declaration form to every elector who does not reside on the reserve in respect of whom the Electoral Officer has been provided with, or has been able to obtain, an address.

104. A Notice of Nomination Day shall include:

- (a) the date of the Nomination Day;
- (b) the location and hours at which the Electoral Officer will receive nominations, with the time for receiving nominations to be at least 4 hours long and with a closing time not earlier than 9:00 p.m.;
- (c) a description of the process by which any voter may vote by mail-in ballot;
- (d) the date on which the election will be held and the location of each polling place;
- (e) the name, business address and business phone number of the Electoral Officer;
- (f) a description of the manner in which an elector can nominate a candidate, or second the nomination of a candidate;
- (g) the statement that, if the elector wants to receive information from candidates, the elector can agree to have his address released to the candidates;
- (h) the place(s) where copies of the Code may be obtained; and
- (i) the place(s) where the electors' list shall be posted.

105. The Electoral Officer shall record the names of the electors to whom a notice of the Nomination Day was mailed, the addresses of those electors, and the date on which the notices were mailed.

Eligibility to Nominate

106. In order to be entitled to nominate a candidate at an election, an elector, on the date of the Nomination Day, must be:

- (a) at least 18 years of age; and
- (b) included on the electors' list.

107. Subject to section 106 any elector may propose, or second the nomination of any qualified person to serve as the Chief or Councillor, orally on Nomination Day, or by delivering or mailing a written nomination and a completed, signed and witnessed elector declaration form to be received by the Electoral Officer no later than the closing time under section 104 (b) on Nomination Day.

Nomination Procedure

108. Mailed nominations that are not received by the Electoral Officer before the time set for the Nomination Day are void.

109. Where a person receives more than one written nomination for the same office, the additional nominations shall be considered an additional endorsement of the original nomination.

110. Any elector may nominate or second no more than:

(a) one eligible person for the office of Chief; and

(b) the number of eligible persons equivalent to the vacancies for the office of Councillor.

111. At the end of Nomination Day, the Electoral Officer shall:

(a) if only one person has been nominated for election as Chief, declare that person to be elected;

(b) if the number of persons nominated to serve as Councillors does not exceed the number to be elected, declare those persons to be elected; and

(c) where more than the required number of persons are nominated for election as Chief or Councillors, announce that an election will be held.

112. On the day following the Nomination Day, the Electoral Officer shall post in a conspicuous public area of the Band administration office, and in other conspicuous place(s) on Wei Wai Kum Reserve Lands, such places to be determined by the Electoral Officer, a list of nominees, their nominators and seconders and the offices for which they are nominated.

113. Once nominations are closed, the Electoral Officer shall, within 7 days, contact each person nominated and request him to complete and submit the following documents:

(a) within 5 days of contact by the Electoral Officer, a notice of acceptance or rejection of nomination;

- (b) within 5 days of contact by the Electoral Officer, if the nominee intends to be a candidate, a sworn declaration confirming his eligibility as a candidate and setting out his legal name and the name or names (including nicknames) the candidate wishes to have on the ballot;

The documents may be submitted by mail, facsimile transmission, or in person but must be received by the Electoral Officer before the deadline.

The Electoral Officer shall keep the original documentation with all other electoral documentation.

If the Electoral Officer is unable to contact the nominated person within 7 days, or if documents are not received by the Electoral Officer before the deadline specified in section 113 (a) and 113 (b), the nomination is void.

PART 9 – CANDIDACY

Eligibility

114. A candidate must:

- (a) be at least 18 years of age on Nomination Day;
- (b) be a member of the Band;
- (c) not be under a disqualification period imposed by an Arbitrator under section 65.

115. A person may only be a candidate for Chief or Councillor in any election, not both.

116. A Councillor who wishes to be a candidate for the position of Chief in any election must resign his seat on Council immediately upon signing a notice of acceptance of nomination.

117. A person nominated as a candidate for both the office of Chief and the office of Councillor must, within 10 days of his nomination, declare in writing to the Electoral Officer which office he intends to seek, if any.

118. No person shall accept a candidacy in an election if that person is not eligible to be a candidate in accordance with this Code.

Deposit

119. Each candidate must deliver a deposit of \$200 to the Electoral Officer on or before Nomination Day.
120. The deposit shall be in the form of cash, money order, or certified cheque.
121. If the deposit takes the form of a money order or a certified cheque, the instrument shall be payable to the Band.
122. All funds received as deposits during the election process, including those funds received pursuant to sections 119, 120 and 121 shall be placed by the Electoral Officer in a special bank account that contains only those funds. The funds shall be held in trust by the Electoral Officer in this account and then paid out according to the provisions of this Code.
123. After the appeal period has expired, in the case where no election appeal has been filed in accordance with this code, or after all appeals have been decided, the Electoral Officer shall issue a cheque in the amount of the deposit under section 119. as the case may be, to each candidate who has received 15% or more of the total votes cast at the election. The Electoral Officer shall remit any remaining funds to the Band.

Removal of Nominee

124. A nominee who fails to submit to the Electoral Officer the documents and the deposit required within the timelines set out in sections 113 and 119 shall be removed as a nominee and the Electoral Officer shall not include his name on the ballot.

Withdrawal

125. A candidate may withdraw his candidacy at any time up to the closing of polls on election day by submitting a written withdrawal of nomination to the Electoral Officer; however the candidate's name will appear on the ballot unless the withdrawal is submitted within 5 days of the Nomination Day. Any candidate who withdraws will forfeit his deposit upon withdrawal.
126. A candidate who dies before the close of the polls shall be considered to have withdrawn his candidacy.

PART 10 - PRE-ELECTION PROCEDURE

Acclamation

127. Where the office of Chief and all offices of Councillor are filled by acclamation:

(a) the Electoral Officer shall post in at least one conspicuous place on the reserve, and mail to every elector who does not reside on the reserve, a notice that sets out the names of the persons who have been acclaimed and stating that an election will not be held; and

(b) sections 128 through 185 shall not apply.

Ballots

128. The Electoral Officer shall prepare ballot papers setting out:

(a) the names of the candidates nominated for election as Chief who have met the requirements for candidacy, in alphabetical order by surname; and

(b) the names of the candidates nominated for election as Councillors who have met the requirements for candidacy, in alphabetical order by surname.

129. Where two or more candidates have the same name, the Electoral Officer shall add to the ballots such additional information as is necessary to distinguish between those candidates. The ballot may, at the written request of the candidate, include a candidate's commonly used nickname.

Notice of the Election

130. The election shall be held at least 45 days after the day on which the Nomination Day was held.

131. The Electoral Officer shall, within 3 days after the day on which the Nomination Day was held, post a Notice of Election in a conspicuous public area of the Band administration building, and in conspicuous place(s) on Wei Wai Kum First Nation Reserve Lands, as may be determined the Electoral Officer.

132. The notice shall include:

(a) the date of the election;

(b) the times at which the polling station(s) will open and close;

(c) the location of the polling station(s);

- (d) the time and location of the counting of the votes; and
- (e) a statement that the electors list is posted for public viewing and its location.

Mail-in Ballots

133. The Electoral Officer shall, at least 35 days prior to the date on which the election is to be held, mail to every elector who is not ordinarily resident on the reserve and to every elector whose request to vote by mail-in ballot has been received, a mail-in ballot package consisting of:

- (a) a ballot initialled on the back by the Electoral Officer;
- (b) an inner postage-paid return envelope, pre-addressed to the Electoral Officer;
- (c) a second inner envelope marked "ballot" for insertion of the completed ballot;
- (d) an elector declaration form which shall set out:
 - i) the name of the elector;
 - ii) the membership number and date of birth of the elector; and
 - iii) the name, address and telephone number of the witness to the signature of the elector;
- (e) the Notice of Election set out in section 132; and
- (f) a letter of instruction regarding voting by mail-in ballot which shall also include:
 - i) a statement advising electors 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; and
 - ii) a list of the names of any candidates who were acclaimed.

134. An elector who is ordinarily resident on the reserve and who is unable to vote in person on election day may, at least 5 days prior to the date on which the election is to be held, request a mail-in ballot package from the Electoral Officer.

135. An elector not residing on the reserve who has not received a mail-in ballot package may, not later than 10 days prior to the date on which the election is to be held, request a mail-in ballot package from the Electoral Officer.
136. Upon receipt of a request for a mail-in ballot package under section 134 or 135, the Electoral Officer shall mail or deliver a mail-in ballot package described in section 133 to the elector who so requests.
137. The Electoral Officer shall indicate on the electors list that a ballot has been provided to each elector 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.
138. An elector shall vote by mail-in ballot by:
- (a) placing an "X" or other mark that clearly indicates the elector's choice of candidate but does not identify the elector's name opposite the name of the candidate or candidates for whom he desires to vote;
 - (b) 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;
 - (c) placing the ballot in the inner envelope and sealing the envelope;
 - (d) completing and signing the elector declaration form in the presence of a witness who is at least 18 years of age;
 - (e) placing the inner envelope and the completed, signed and witnessed elector declaration form in the postage-paid envelope; and
 - (f) delivering, mailing or otherwise ensuring receipt by the Electoral Officer of the envelope before the close of polls on the day of the election.
139. Where an elector is unable to vote in the manner set out in section 138, the elector may enlist the assistance of another person to mark the ballot and complete and sign the elector declaration form in accordance with that section. The person enlisted by the elector may also assist the elector to deliver the mail-in ballot to the Electoral Officer.
140. A person referred to in section 139 shall sign a statement to attest to the fact that:
- (a) the person completing and signing the elector declaration form is the person whose name is set out in the form; or

(b) the elector is the person whose name is set out in the form and that the ballot was marked according to the directions of the elector.

141. 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.

Equipment for the Election

142. The Electoral Officer shall, before the polling station is open, supply the polling station with:

- (a) sufficient ballot boxes;
- (b) a sufficient number of ballots;
- (c) a sufficient number of voting compartments enabling electors to mark their ballots free from observation;
- (d) instruments for marking the ballots;
- (e) a sufficient number of voting instructions as may be required;
- (f) all other equipment necessary to establish and equip the polling stations;
and
- (g) the final electors list.

Polling Stations

143. The Electoral Officer will establish at least one polling station on the reserve.

144. 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.

PART 11 - ELECTION DAY

Electoral Officer

145. The Electoral Officer shall not be allowed to vote in the election.

Scrutineers

146. Each candidate shall be entitled to one Scrutineer in the polling station at any one time.
147. A letter of authorization, signed by the candidate, must be provided to the Electoral Officer or to the Deputy Electoral Officer at or before the opening of the polling station, in which the candidate names the person authorized to act as his Scrutineer.

Polling Hours

148. The polling station shall be open from 8 a.m. until 8 p.m. local time on the day of the election.

Verification of the Ballot Box

149. The Electoral Officer or Deputy Electoral Officer 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.

Secrecy and Security

150. Voting shall be by secret ballot.
151. No elector may vote by proxy or authorize another person to vote on his behalf.
152. The Electoral Officer or Deputy Electoral Officer shall maintain order at all times in the polling station and may cause to be removed any person who in any way interferes, disrupts or attempts to influence the orderly conduct of the poll.
153. No person or candidate shall, on the day the election is held, at or near the premises of the polling station:
 - (a) distribute any election-related printed materials except such materials as may be distributed by the Electoral Officer or Deputy Electoral Officer for the purpose of conducting the election;

- (b) attempt to interfere with or influence any elector in marking his ballot; or
- (c) attempt to obtain information as to how an elector is about to vote or has voted.

Voting Procedure

154. Each person, on arriving at the polling station, shall give his name to the Electoral Officer or Deputy Electoral Officer.
155. The Electoral Officer or Deputy Electoral Officer shall, if the person's name is set out in the electors list, place his initials on the ballot(s) and give them to the elector.
156. The Electoral Officer or Deputy Electoral Officer shall cause to be placed in the proper column of the electors list a mark opposite the name of every person receiving a ballot.
157. An elector to whom a mail-in ballot was mailed or provided under section 133, 134 or 135 may obtain a ballot and vote in person at a polling place if:
 - (a) the elector returns the mail-in ballot to the Electoral Officer or Deputy Electoral Officer; or
 - (b) where the elector has lost the mail-in ballot, the elector provides the Electoral Officer or Deputy Electoral Officer with a written affirmation that the elector has lost the mail-in ballot, which affirmation shall be signed by the elector in the presence of the Electoral Officer, Deputy Electoral Officer, a justice of the peace, a notary public or a commissioner for oaths.
158. The Electoral Officer or Deputy Electoral Officer shall, when requested to do so, explain the method of voting to the elector.
159. After receiving a ballot, an elector shall:
 - (a) immediately proceed to the compartment provided for marking ballots;
 - (b) mark the ballot by placing an "X" or other mark that clearly indicates the elector's choice of candidate but does not identify the elector's name opposite the name of the candidate or candidates for whom he desires to vote;
 - (c) fold the ballot in a manner that conceals the names of the candidates and any marks, but exposes the initials on the back; and
 - (d) deliver the ballot to the Electoral Officer or Deputy Electoral Officer.

160. On receipt of a completed ballot, the Electoral Officer or Deputy Electoral Officer shall, without unfolding the ballot, verify the initials placed on it and deposit it in the ballot box in the presence of the elector and any other persons entitled to be present at the polling station.
161. While an elector is in the compartment for the purpose of marking his ballot, no other person shall, except as provided in section 162, be allowed in the same compartment or be in any position from which he can see the manner in which the elector marks his ballot.

Voting Assistance

162. At the request of any elector who is unable to vote in the manner set out in section 159 the Electoral Officer or Deputy Electoral Officer shall assist that elector by marking his ballot in the manner directed by the elector in the presence of another elector, selected by the elector as a witness, and shall place the ballot in the ballot box.
163. The Electoral Officer or Deputy Electoral Officer shall note on the electors list opposite the name of an elector requiring assistance, as set out in section 162, the fact that the ballot was marked by him at the request of the elector and the reasons therefore.

Cancelled and Declined Ballots

164. An elector who has inadvertently dealt with his 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 Deputy Electoral Officer, be entitled to obtain another ballot paper. The Electoral Officer or Deputy Electoral Officer shall write the word "cancelled" upon the spoiled ballot paper and preserve it.
165. Any person who has received a ballot and who leaves the polling place without delivering the same to the Electoral Officer or a Deputy Electoral Officer in the manner provided, or after receiving a ballot, refuses to vote, shall forfeit his right to vote at the election, and the Electoral Officer or Deputy Electoral Officer shall make an entry in the electors 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 Deputy Electoral Officer shall mark upon the face of the returned ballot the word "declined" and all ballots so marked shall be preserved.

Closing of the Polling Station

166. Every elector who is inside the polling station at the time fixed for closing the poll shall be entitled to vote before the poll is closed.

PART 12 - COUNTING OF THE VOTES

Opening Mail-in Ballots

167. At the time published in the notice prepared under section 132 for the counting of the votes, the Electoral Officer or Deputy Electoral Officer shall, in the presence of any candidates or their agents 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,

(a) reject the ballot if:

- i) it was not accompanied by a elector declaration form, or the elector declaration form is not signed or witnessed,
- ii) the elector declaration form does not contain a date of birth or a Band number that matches the information contained for that elector on the electors list;
- iii) the name of the elector set out in the elector declaration form is not on the electors list; or
- iv) the electors list shows that the elector has already voted.

(b) in any other case, the Electoral Officer shall place a mark on the electors list opposite the name of the elector set out in the elector declaration form, and deposit the ballot in a ballot box.

Counting the Ballots

168. The Electoral Officer or Deputy Electoral Officer shall supply other Deputy Electoral Officers and all persons present, who so request, with a tally sheet to keep their own tally of the votes.

169. Immediately after the mail-in ballots have been deposited in the ballot box under subsection 167(b), the Electoral Officer or Deputy Electoral Officer shall, in the presence of any candidates or their agents who are present, open all ballot boxes and examine each ballot.

170. The Electoral Officer or Deputy Electoral Officer shall call out the names of the candidates for whom the votes were cast on all valid ballots.

171. A Deputy Electoral Officer shall mark a tally sheet in accordance with the names being called out under section 170 for the purpose of arriving at the total number of votes cast for each candidate.

Ballots not Counted

172. In examining the ballots, the Electoral Officer or Deputy Electoral Officer must reject any ballots that:

- (a) do not contain the initials of the Electoral Officer or Deputy Electoral Officer;
- (b) do not give a clear indication of the elector's intention;
- (c) contain more votes than the number of candidates to be elected; or
- (d) contain a mark by which the elector can be identified.

173. The Electoral Officer or Deputy Electoral Officer shall attach a note to each rejected ballot which outlines the reason for rejection.

174. Subject to review on recount or on an election appeal, the Electoral Officer or Deputy Electoral Officer shall take a note of any objections made by any candidate or his agent to any of the ballots found in the ballot box and decide any questions arising out of the objection.

175. The Electoral Officer or Deputy Electoral Officer shall number objections to ballots raised pursuant to section 174 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 initials.

Other Polling Station

176. Immediately upon completion of the counting of the ballots pursuant to sections 168 through 175, the Deputy Electoral Officer at a polling station, other than that considered to be the principal polling station managed by the Electoral Officer, shall transmit the results to the Electoral Officer.

Tie

177. 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 (a 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.

178. A recount conducted pursuant to section 177 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.

179. At the time established pursuant to section 177 the Electoral Officer shall conduct a recount of the valid ballots.
180. If the recount fails to determine a successful candidates(s), the Electoral Officer shall place each of the names of the candidates having the same number of votes on a separate piece of paper and place each of the pieces in a receptacle. Without looking, he shall draw as many pieces of paper as positions are available. The candidate(s), whose name(s) appear on the pieces of paper that the Electoral Officer has drawn from the receptacle, shall be declared the successful candidate(s).

PART 13 - POST-ELECTION PROCEDURES

Announcement

181. After completing the counting of the votes and establishing the candidates who have the highest number of votes, the Electoral Officer shall declare the names of the candidate(s) who are elected.
182. Following the declaration of elected candidates made pursuant to section 181, the Electoral Officer shall complete and sign an election report which shall contain:
- (a) the names of all candidates;
 - (b) the number of ballots cast for each; and
 - (c) the number of rejected ballots.
183. Within 4 days after completion of the counting of the votes, the Electoral Officer shall:
- (a) sign and post, in a conspicuous place in a public area of the Band administration office, and in conspicuous places on Wei Wai Kum Reserve Lands, the election report prepared in accordance with section 182. ;
 - (b) mail a copy of the election report to every elector of the Band who does not reside on the reserve; and
 - (c) deliver a copy of the election report to the Band administrator.

Retention of Ballots and Other Election Material

184. 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.

185. All ballots and materials retained in accordance with section 184 shall be retained for 56 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 the Electoral Officer shall, unless directed otherwise by the Council, destroy them in the presence of 2 witnesses who shall make a declaration that they witnessed the destruction of those papers.

Chief and Councillor Oath of Office

186. A candidate who has been elected Chief or Councillor shall, within 7 days of the Electoral Officer's declaration under section 181 and the preparation of the election report under section 182, swear an oath of office before either the Electoral Officer, a justice of the peace, notary public or duly appointed commissioner for taking oaths, swearing to:
- (a) uphold and comply with this Code, the Code of Ethics and all laws of the community;
 - (b) fulfill the duties and responsibilities of his office under this Code, the Code of Ethics and all laws of the community;
 - (c) carry out his duties faithfully, honestly, impartially and to the best of his abilities;
 - (d) keep confidential, both during and after his term of office, any matter or information which, under this Code, the laws of the community or policy, is considered confidential; and
 - (e) act always in the best interests of the community in carrying out his duties.
187. Where a candidate elected as Chief or Councillor cannot, due to illness or other valid reason, swear the oath of office within the time prescribed in section 186, he or an elector acting on his behalf may file a petition with the Electoral Officer for an extension of the time to swear the oath of office.
188. The Electoral Officer receiving a petition under section 187 shall determine whether the circumstances justify an extension and shall provide the candidate making the request written notice of the decision, and where applicable, the extension period.
189. No person elected as Chief or Councillor shall be permitted to assume office until they have sworn and filed with the Electoral Officer the oath of office required under section 186.

190. Subject to section 188, if a person elected as Chief or Councillor fails to file the sworn oath of office with the Electoral Officer on or before the specified time period, the Electoral Officer shall declare the office vacant.
191. The Electoral Officer shall give notice in writing to the elected candidate whose office is declared vacant under section 190 and to the elected Chief and Council.
192. Unless the vacancy occurring under section 191 results in a situation where the Band Council can no longer form a quorum, the position shall remain vacant until a by-election is called by Council and another candidate is elected.

PART 14 - APPEAL MECHANISM

Timing

193. A candidate or an elector may, within 30 days from the date on which the election was held, submit an appeal to the Arbitrator.

Appointment of Arbitrator

194. To be eligible to be an Arbitrator, an individual must be:
 - (a) independent and impartial with no personal, financial or family interest in the outcome of the dispute, and
 - (b) a lawyer, retired judge, arbitrator, mediator or a person with similar qualifications.
195. Where an Arbitrator is required under this Code, Council will appoint an Arbitrator within 5 days of being requested, or of becoming aware, of the need for an Arbitrator.
196. If Council fails to appoint an Arbitrator in accordance with section 195, the Band manager will appoint an Arbitrator within 4 days of being requested by any individual.
197. If Council and the Band manager fail to appoint an Arbitrator in accordance with section 195 and 196 any individual may apply to a court and the court may order the appointment of an Arbitrator.
198. An Arbitrator appointed or ordered to be appointed under this Part shall be paid an amount agreed upon by the Arbitrator or, failing agreement, the Arbitrator shall not be paid an amount exceeding \$600 per day plus reasonable expenses, or such other amount set by the court.

Functions of Arbitrator

199. The Arbitrator shall supervise and administer, in accordance with the provisions of this Code:

- (a) all election appeals; and
- (b) all petitions for the removal of a Council member from office.

Grounds for Appeals

200. An appeal submitted pursuant to section 193 must sufficiently outline one or more of the following:

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

Submission

201. An appeal submitted to the Arbitrator 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 Arbitrator decides in favour of the appellant under section 205(b).

Procedure

202. Upon receipt of an election appeal, the Arbitrator shall:

- (a) in the case where the appeal is submitted in accordance with section 201 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 section 201, inform the appellant(s) in writing that the appeal will not receive further consideration.

Response to the Allegations

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

Investigation

204. The Arbitrator 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 he deems necessary.

Decision

205. No later than 45 days after the appeal is received by the Arbitrator, and after his review of all of the evidence that he has received, the Arbitrator shall rule:

(a) 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;
- ii) the person declared elected was not qualified to be a candidate; or
- iii) there was a corrupt or fraudulent practice in relation to the election that might have affected its results,

and dismiss the appeal; or

(b) 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,

and uphold the appeal by setting aside the election of one or more Council members.

206. The decision of the Arbitrator made pursuant to section 205 shall be:

- (a) published in the community's newsletter that is mailed to Band members, or in a separate written notice delivered or mailed to all Band members; and
- (b) posted in at least one conspicuous place in a public area of the Band administration office and in other conspicuous places on Wei Wai Kum Reserve Lands.

207. The decision of the Arbitrator is final and not subject to appeal.

PART 15 – AMENDMENTS

208. 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 50% of all eligible electors and setting out the specific area in this Code proposed for amendment; or
- (b) a Band Council resolution.

209. Upon receipt of an amendment proposal in accordance with section 208, 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.

210. The notice provided for in section 209 shall be:

- (a) published in the community's newsletter that is delivered or mailed to Band electors, or by separate notice delivered or mailed to all Band Electors;
- (b) posted in at least one conspicuous place in a public area of the Band Administration building, and in other conspicuous places on Wei Wai Kum Reserve Lands.

211. Electors may, within 14 days of publication of the notice required under section 210, provide comments concerning the proposed amendments in writing to Council.
212. Following receipt of comments concerning the proposed amendments pursuant to section 211, 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.
213. The Council shall submit the final amendment proposal to a community plebiscite to be conducted in accordance with the Band's plebiscite code.
214. Should the majority of the votes cast at a plebiscite be in favour of the proposed amendments being brought to the Code, Council shall amend the Code accordingly.
215. 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.