

Metlakatla First Nation Election Code

(November 15, 2006)

Definitions

“Administrative Office” (formerly Band Office) means the office established to provide administrative support to the Governing Council of the Metlakatla First Nation.

“Candidate” means a member of the Metlakatla First Nation who:

- a) Is the full age of eighteen (18) years on or before the day on which the Election is held;
- b) Has been a member of the Metlakatla First Nation for a period of not less than twelve (12) months immediately preceding the day on which the Election is held;
- c) Has been nominated to be a Candidate and the nomination has been seconded pursuant to the provisions of this Code; and
- d) Is ordinarily a resident of the Metlakatla Traditional Territory and has resided on the Traditional Territory for a continuous period of six months immediately preceding the nomination meeting.

“Chief Electoral Officer” means an Electoral Officer who has been appointed by the Governing Council as the Chief Electoral Officer and Chair of the Election Board.

“Code” means **this** *Metlakatla First Nation Election Code*.

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

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

“Election Board” means the Board that is appointed by the Governing Council to oversee the Election, consisting of the Chief Electoral Officer and at least 2 additional Electoral Officers.

“Electoral Officer” means a person appointed by the Governing Council before each Election to be a member of the Election Board. Electoral Officers are under the direction of the Chief Electoral Officer and have the responsibility for conducting the nomination meeting and the Election.

“Elector” means a person who is:

- a) A member of the Metlakatla First Nation; and
- b) The full age of eighteen (18) years on or before the day on which the Election is held.

“Electoral Assistant” means a person appointed to assist in the registration process and in handing out ballots at the polling stations.

“Elder” means a member of the Metlakatla First Nation who is sixty (60) years of age or over.

“General Election” means an Election held every three years, in accordance with the provisions of this Code, for all Councillor positions on the Governing Council, including the **Chief** Councillor.

“Governing Council” means the body composed of those persons elected pursuant to this Code, also referred to as the Band Council and shall consist of a **Chief** Councillor and six (6) Councillors.

“Mail-in Ballot” means a ballot mailed or delivered in accordance with **this** Code.

“Metlakatla First Nation Lands” means the Indian Reserves **held for the use and benefit** of the Metlakatla First Nation **pursuant to the *Indian Act***.

“Metlakatla Justice Tribunal” means the tribunal established pursuant to this Code to hear and decide upon appeals arising under this Code and other matters as may be determined from time to time.

“Polling Station” means a building, hall or room which is selected to be the site for the voting to take place.

“Primary Metlakatla Polling Station” means the polling station located on Metlakatla First Nation Lands.

“Secondary Polling Station” means the polling station established in Prince Rupert.

“Regulations” means the *Rules of Procedure*, forms or other ancillary documentation that have been approved by resolution of the Governing Council to be used for Election purposes and that are included as Appendices to this Code.

“Traditional Territory” means all of the traditional lands of the Metlakatla First Nation that were included in the map that accompanied the Statement of Intent submitted to the British Columbia Treaty Commission, for the purpose of treaty negotiations **as set out in the Appendix**.

1.0 Governing Council Positions and Terms of Office

- 1.1 There shall be a Governing Council consisting of a **Chief** Councillor and six (6) Councillors.
- 1.2 The **Chief** Councillor of the Metlakatla First Nation shall be elected at the same time as other members of the Governing Council, during a General Election.
- 1.3 Three (3) elected Councillor, other than the **Chief** Councillor, must reside on Metlakatla First Nation Lands and three (3) Councillor, other than the **Chief** Councillor, must reside off Metlakatla First Nation Lands but within the Traditional Territory
- 1.4 Residency within the Traditional Territory is a requirement to be an eligible Candidate for the Governing Council, and all Councillors must maintain their residence within the Traditional Territory.
- 1.5 The term of office of the Governing Council shall be three years, but any member of the Governing Council may serve additional terms if so elected.
- 1.6 The term of office of a member of the Governing Council who is elected by way of a By-Election shall correspond with the mandate of the Governing Council to which he or she has been elected.

2.0 Residence Requirements

- 2.1 The provisions of Sections 2.1 through 2.5 determine a person's residence for the purposes of this Code. The determination of where a person resides for the purposes of this Code shall be determined by the specific facts in each case.
- 2.2 A person is a resident of the place where the individual lives and to which, whenever absent, the individual intends to return.
- 2.3 A person may only be resident in only one place.
- 2.4 A person does not cease being a resident of a place by leaving the place for temporary purposes only.
- 2.5 Upon request, a person must provide documentary evidence of residence, satisfactory to the Chief Electoral Officer or the Electoral Officer.

3.0 Timing and Election Dates

Date of General Elections

- 3.1 A General Election shall be held every three (3) years.
- 3.2 In any year in which a General Election of the Governing Council is required to be held under the Code, the Election shall be set by the Governing Council, in consultation with the Chief Electoral Officer, but the date of the first General Election held pursuant to this Code shall be set by the Band Council in office when this Code comes into effect.

Date of By-Elections

- 3.3 **Subject to paragraph 3.4**, the Chief Electoral Officer must hold a By-Election to fill any vacancy of the Governing Council, on a date determined by the Governing Council, which must be within three calendar months of the date an elected office becomes vacant.
- 3.4 No By-Election may be held to fill an office that becomes vacant within eight months or less from the end of the current Governing Council's mandate.
- 3.5 A vacancy for which a By-Election is being held must be filled by an individual with the same residency status as the incumbent.
- 3.6 For greater certainty, the By-Election being held is for the office of the **Chief** Councillor, the vacancy must be filled by an individual residing in the Traditional Territory, either on or off Metlakatla First Nations Lands.
- 3.7 Subject to the provisions of sections 3.3, 3.4, 3.5 and 3.6, the procedures for By-Elections shall be governed by those of the General Elections, with appropriate modifications as deemed necessary by the Chief Electoral Officer.

4.0 Election Board, Chief Electoral Officer and Notification

Election Board

- 4.1 The Election Board consisting of at least three (3) members including the Chief Electoral officer, shall be appointed by resolution of the Governing Council not less than one hundred and twenty (120) days prior to the date on which the General Election or By-Election will be held, but the Election Board, including the Chief Electoral Officer, for the first election pursuant to this Code may be appointed by the Band Council in office at the time this Code comes into effect.
- 4.2 The Election Board shall be established taking into account representation that balances both residents residing on Metlakatla First Nation Lands and elsewhere.
- 4.3 Election Board Members must reside within the Traditional Territory.
- 4.4 Under the direction of the Chief Electoral Officer, the Election Board shall assist in the conduct of the Election. Duties include the development of forms, the preparation of notices, the preparation of mail-outs, the monitoring of the Elections, etc.
- 4.5 In order to preserve the independence of the office, the Chief Electoral Officer may be a member of the Metlakatla First Nation; however, he or she is not entitled to vote.
- 4.6 The Chief Electoral Officer shall, in a manner consistent with this Code, determine who is an Elector and who is eligible to be a Candidate prior to the Election.
- 4.7 The Chief Electoral Officer will establish an Election file and place on it copies of all documentation associated with the Election. The file will remain open until such time as the appeal period of thirty (30) days has expired. The file shall then be closed and kept in the Administration Office.

Notice

- 4.8 The Chief Electoral Officer shall post a notice of nomination meeting and Election in the Administration Office, on the Metlakatla website and other public places as deemed necessary by the Chief Electoral Officer. This notice shall be posted not less than seventy-five (75) days prior to the date scheduled for the Election.
- 4.9 (1) The Notice of nomination meeting and Election shall contain:
 - a) The time, date and location of the nomination meetings;
 - b) The time, date of the Election and the location of the polling stations;
 - c) A statement that, subject to the provisions of this Code, any Elector may vote by mail-in ballot by submitting a request in writing to the Chief Electoral Officer no later than fourteen (14) days prior to the Election;
 - d) The position or positions open for Election; and

- e) A statement that any Elector may put forth a nomination in writing prior to the start of the nomination meeting.
- (2) The following information shall be made available, upon request to the Chief Electoral Officer, or may be viewed at the Metlakatla Administration Office, or on the Metlakatla website:
- a) The voters list, which is to include the names of the Electors. A notation shall be placed on the voters list to those Electors eligible to be Candidates;
 - b) A copy of this Code; and
 - c) A copy of the Regulations made pursuant to this Code.

5.0 Nomination Procedures

- 5.1 The nomination meeting must take place at least forty five (45) days prior to the date of the Election, and subject to sections 5.2 and 5.3, only Electors who are present at the nomination meeting may nominate Candidates for the Election.
- 5.2 An Elector unable to attend the nomination meeting may nominate a Candidate for the Election by completing mail-in nomination forms that have been approved by the Chief Electoral Officer and ensuring receipt by the Chief Electoral Officer prior to the start of the nomination meeting.
- 5.3 The Chief Electoral Officer shall mail nomination forms to Electors who so request in writing.
- 5.4 It is the sole responsibility of an Elector wishing to nominate a Candidate to obtain the mail-in nomination forms, to duly complete them and to ensure such forms have been received by the Chief Electoral Officer prior to the start of the nomination meeting.
- 5.5 All nominated Candidates must reside within the traditional territory of the Metlakatla First Nation and:
- a) Be present at the meeting and accept their nomination verbally; or
 - b) Have given written authorization to the nominator to let their name stand.
- 5.6 Only Electors who meet the requirements of a Candidate as set out in this Code may be nominated as a Candidate.
- 5.7 A Candidate may run for either Chief Councillor or Councillor, but not for both.**
- 5.8 An Elector can nominate or second more than one Candidate, but may not nominate or second more candidates than the number of positions available for election.
- 5.9 All Candidates who accept nomination for the position of Councillor must post a non-refundable deposit of one hundred dollars (\$100.00), which must be received by the

Chief Electoral Officer no later than forty-eight (48) hours from the close of the nomination meeting.

- 5.10 The deposit shall be in the form of cash, money order or certified **cheque** and the Chief Electoral Officer will give a receipt to the Candidate.
- 5.11 All funds received as deposits during the Election process shall be placed in the General Account of the Metlakatla First Nation. Such funds will be used to offset expenses related to the Election.
- 5.12 The Chief Electoral Officer shall post the names of all Candidates in the Metlakatla First Nation Administration Office, on the Metlakatla website and any public place deemed necessary, within seventy-two (72) hours of the nomination meeting.

6.0 Withdrawal and Conduct of Candidate or Agent

- 6.1 At any time before the ballots are printed, a Candidate may withdraw by delivering a signed withdrawal in the prescribed form to the Chief Electoral Officer.

7.0 Pre-Election Procedures

- 7.1 At least one hundred and twenty (120) days before the date of the Election, the Administration Office shall provide the Chief Electoral Officer with a list of the names and last known addresses of all eligible Electors.
- 7.2 The Chief Electoral Officer shall prepare a voters' list which shall contain the names of all Electors in alphabetical order, and shall identify the polling station at which the Electors are to cast their votes.

Preparation of Ballots and Mail-in Ballot Package

- 7.3 At least thirty-five (35) days before the day on which the Election is held, the Chief Electoral Officer shall have the ballots printed. Each of the ballots shall contain the names of the Candidates for **Chief** Councillor and the names of the Candidates for Councillor residing on Metlakatla First Nation Lands and the names of the Candidates for Councillor not residing on Metlakatla First Nation lands but residing within the Traditional Territory, in alphabetical order.
- 7.4 At least thirty (30) days before the date of the Election, the Chief Electoral Officer will mail to each Elector residing in Canada but who does not ordinarily reside on Metlakatla First Nation Lands or within the municipal boundaries of Prince Rupert, and for whom the Administration Office has an address, a mail-in ballot package consisting of:
 - a) A list of the Candidates;
 - b) A copy of an Elector declaration form;
 - c) The ballot, with the initials of the Chief Electoral Officer on the back;

- d) An envelope to seal the ballot in and a second postage-paid envelope pre-addressed to the Chief Electoral Officer to enclose the sealed envelope;
 - e) A letter of instruction; and
 - f) Any other information the Chief Electoral Officer considers appropriate.
- 7.5 An Elector who resides in Prince Rupert or on Metlakatla First Nation Lands and who will be unable to vote in person on Election day may request, in writing, a mail-in ballot package from the Chief Electoral Officer. Such request must be received by the Chief Electoral Officer no later than fourteen (14) days before the Election.
- 7.6 An Elector who is not resident of Canada may request, in writing, a mail-in ballot package from the Chief Electoral Officer. Such request must be received by the Chief Electoral Officer no later than fourteen (14) days before the Election.
- 7.7 It is the sole responsibility of an Elector to request a mail-in package pursuant to sections 7.5 and 7.6, to ensure the return package is received by the Chief Electoral Officer prior to the close of the polling stations on the day of the Election.
- 7.8 Upon receipt of a written request for a mail-in ballot package in accordance with sections 7.5 or 7.6, the Chief Electoral Officer will mail a mail-in ballot package to the Elector.
- 7.9 The Chief Electoral Officer will place on the voters list a mark opposite the name of every Elector to whom a mail-in package was sent.
- 7.10 If an Elector returns the mail-in ballot and also casts a vote in person, the mail-in ballot shall be cancelled by the Chief Electoral Officer.
- 7.11 Every Elector who receives a mail-in package and who chooses to vote by this method will:
- a) Mark his/her ballots by placing an X or other mark that clearly indicates the Elector's choice in the space provided on the ballot opposite the name of the Candidate or Candidates selected by the Elector;
 - b) Fold the ballots to conceal the marks and to expose the initials on the back of the ballot;
 - c) Place the ballot in the envelope and seal the envelope;
 - d) Complete and sign the Elector declaration form, before a witness who is 18 years or older and obtain the signature and address of the witness on the declaration;
 - e) Place the completed declaration and the sealed envelope containing the ballot in the return envelope and seal the return envelope; and
 - f) Ensure receipt by the Chief Electoral Officer no later than the close of the polls on Election day.

- 7.12 An Elector may vote for up to three (3) Candidates for Councillor resident on Metlakatla First Nation Lands, for up to three (3) Candidates for Councillor not resident on Metlakatla First Nation Lands but resident within the Traditional Territory, and for no more than one (1) Candidate who is running for **Chief** Councillor.

Polling Stations

- 7.13 There will be established one polling station on the Metlakatla First Nation Lands (Primary Polling Station) and one polling station in Prince Rupert (Secondary Polling Station).
- 7.14 Other polling stations may be established if deemed necessary by the Election Board.
- 7.15 There will be at least one Electoral Officer for each polling station.
- 7.16 The Electoral Assistants shall assist the Electoral Officers in determining if the Elector's name appears on the voters list.
- 7.17 The Chief Electoral Officer or an Electoral Officer must provide a sufficient number of ballots for the purpose of the Election, instruments for marking, sufficient number of "directions-for-voting" as may be required and all other equipment as necessary to establish and equip each polling station.
- 7.18 The Chief Electoral Officer or an Electoral Officer shall construct polling booths at the locations set out in the notice, and the polling booths shall be such that the privacy of the voter is maintained.
- 7.19 The Chief Electoral Officer or an Electoral Officer, where necessary and when requested, will appoint an interpreter to assist Electors who are unable to speak or read English.
- 7.20 The interpreter shall provide assistance to, and if required, mark a ballot as directed by an Elector who is unable to vote in the prescribed manner due to blindness or other physical cause.

8.0 Acclamation and Appointment

- 8.1 The Chief Electoral Officer must immediately declare a Candidate elected by acclamation in a General Election if
- a) In the case of the **Chief** Councillor, only one Candidate has been nominated;
 - b) In the case of the Candidates residing on Metlakatla First Nation Lands, less than four (4) Candidates have been nominated; **or**
 - c) In the case of Candidates not residing on Metlakatla First Nation Lands but residing in the Traditional Territory, less than four (4) four Candidates have been nominated;

- 8.2 In the case of a By-Election, the Chief Electoral Officer must immediately declare a Candidate elected if there is only one Candidate nominated to fill the vacancy.
- 8.3 As soon as feasible after making a declaration under sections 8.1 and 8.2, the Chief Electoral Officer must certify the name of each Candidate elected by acclamation.

9.0 Election Poll

- 9.1 The Chief Electoral Officer or the Deputy Chief Electoral Officer acting as the Chief Electoral Officer shall not be allowed to vote in the Election.
- 9.2 An Electoral Officer shall, immediately before the commencement of the vote, open the ballot box(es) and call the Candidates or the Candidate representatives present to witness that it is empty; he or she will then lock the box to prevent it from being opened and will place it in view for the reception of the ballots. The box will not be unlocked during the time the poll is open.
- 9.3 The Chief Electoral Officer shall keep the polling booths open from 9:00 a.m. to 8:00 p.m.
- 9.4 The Chief Electoral Officer or an Electoral Officer shall maintain order at all times in the polling stations and may cause to be removed any person who in anyway interferes, disrupts or attempts to influence the conduct of the vote.
- 9.5 Each Candidate shall be entitled to one agent in a polling station.
- 9.6 Candidates must supply the names of their agents to the Chief Electoral Officer, in writing, at least five days before the Election.
- 9.7 Persons presenting themselves for the purpose of voting shall, upon being confirmed that they are eligible to vote by one of the Electoral Officers or an Electoral Assistant, be given one ballot upon which to register his/her vote.
- 9.8 The Chief Electoral Officer or an Electoral Officer shall initial each ballot upon giving it to the Elector.
- 9.9 Each Elector, after receiving the ballots, shall proceed directly to the polling booth and shall mark his/her ballots by placing an X or other mark that clearly indicates the Electors choice in the space provided on each ballot opposite the name of the Candidate, and shall then deposit the ballots in the ballot box supplied. While any Elector is in the polling booth marking ballots, no other person, except as provided in section 7.21 shall be allowed in the same compartment or be in any position from where they can see how the Elector is voting.
- 9.10 The Chief Electoral Officer or an Electoral Officer shall note upon the voters list any irregularity in connection with voting, and shall specifically note on the voters list any ballots marked by the Chief Electoral Officer or an Electoral Officer at the request of an Elector pursuant to section 7.21, but shall not note the Candidate from whom the ballot was cast.

- 9.11 A voter who has inadvertently dealt with his/her ballot paper in such a manner that it cannot be conveniently used shall return it to the Chief Electoral Officer or an Electoral Officer who shall write the word “cancelled” upon the ballot paper, preserve it and provide the voter with another ballot.
- 9.12 Any person who has received ballots and who leaves the polling station without delivering the same to the Chief Electoral Officer or an Electoral Officer in the manner provided, or after receiving the ballots, refused to vote, shall forfeit his/her right to vote at the Election, and the Chief Electoral Officer or an Electoral Officer shall make an entry in the voters list in the column for remarks opposite the name of such person to show that such person received the ballots and declined to vote; in which case, the Chief Electoral Officer or an Electoral Officer shall mark upon the face of the ballots the word “declined” and all ballots so marked shall be preserved.
- 9.13 Any person who is a member of the Metlakatla First Nation, over the age of eighteen (18) years, but whose name does not appear on the voters list, may present identification and evidence of membership to be verified by the Chief Electoral Officer or an Electoral Officer and if the Chief Electoral Officer or an Electoral Officer is satisfied that the person is eligible to vote pursuant to this Code, that person shall be added to the voters list and be allowed to vote at the polling station.
- 9.14 Every Elector who is inside the polling station at 8:00 p.m. shall be entitled to vote.

10.0 Verification of Mail-in Ballots

- 10.1 At the close of the Primary Polling Station on the day of the Election, the Chief Electoral Officer will, in full view of at least two other Electoral Officers and any Candidates or their agents who are present, open each ballot 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 voter declaration form or the voter declaration form is not signed or witnessed;
 - ii) The name of the elector set out in the voter declaration form is not on the voters list; or
 - iii) The voters list shows that the Elector has already voted; or
 - b) In any other case, place a mark on the voters list opposite the name of the Elector set out in the voter declaration form, and deposit the ballot in the ballot box.

11.0 Election Tabulation

- 11.1 Immediately following the verification of mail-in ballots at the Primary Polling Station or at the close of the polling station at the Secondary Polling Station, the Chief Electoral Officer shall, in the presence of such Candidates or their agents and any member of the Election Board as may be present, open the ballot box or boxes, and

- a) Examine the ballots and reject any that are not initialed by the Chief Electoral Officer or an Electoral Officer, or any other ballots that, in his or her opinion, do not give a clear indication of the voter's preference. If any of the ballots have more votes than there are vacancies for that position, that ballot shall be rejected. All rejected ballots will be preserved;
 - b) Reject any ballot papers upon which anything appears by which the voter can be identified;
 - c) Subject to review on recount or on an Election appeal, 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;
 - d) Number such objections and place a corresponding number on the back of the ballot paper with the word allowed or disallowed as the case may be, with his or her initials; and
 - e) Count the votes given for each Candidate from the ballots not rejected and make a written statement of the number of votes given to each Candidate and of the number of ballots rejected and not counted by him or her, which statements shall then be signed by him/her and other persons authorized to be present as may desire to sign the same.
- 11.2 After the counting of the ballots in the manner prescribed in section 11.1 at the Secondary Polling Station, the Deputy Electoral Officer or an Electoral Officer so delegated shall telephone the final results of the count tabulated to the Chief Electoral Officer at the Primary Polling Station. Such telephone call shall be made, whenever possible, by speaker phone and made in the presence of a minimum of two witnesses who are either Electoral Officers and/or agents for and representing one or more of the Candidates in the Election. The polling station receiving the results will also use a speaker phone, whenever possible, and such call shall be received in the presence of a minimum of two witnesses who are either Electoral Officers and/or agents for and representing one or more of the Candidates in the Election.
- 11.3 After tabulation, the Chief Electoral Officer shall announce the name of the Candidate for **Chief** Councillor that received the highest number of votes, the names of the three Candidates for Council resident on Metlakatla First Nation Lands having the highest number of votes and the three Candidates for Council not resident on Metlakatla First Nation Lands but resident within the Traditional Territory having the highest number of votes, and publicly declare these Candidates elected.
- 11.4 Following the announcement, the Chief Electoral Officer shall post in the Administration Office and in some public place a statement signed by him or her showing the number of votes cast for each Candidate.
- 11.5 Following the announcement, the Chief Electoral Officer shall complete and sign an Election report, in triplicate, which shall contain:
- a) A list of all the Candidates;

- b) The number of ballots cast;
- c) The number of votes cast for each Candidate;
- d) The number of assisted or interpreted voters;
- e) The number of spoiled ballots; and
- f) The number of rejected ballots.

11.6 The Chief Electoral Officer shall forward:

- a) One copy to the British Columbia Regional Office of the Department of Indian Affairs; and
- b) One copy to the Metlakatla First Nation Manager/Administrator.

11.7 In the event of a tie vote, the following shall take place:

- a) The Chief Electoral Officer shall hold a recount within 24 hours of the completion of the first count, in the presence of all the affected Candidates or a person chosen by the individual Candidate to attend on his or her behalf.
- b) The results of the recount shall be final, subject to a successful appeal to the Metlakatla Tribunal.
- c) If a tie still results after a recount, the Chief Electoral Officer shall decide the result by placing names of the tied Candidates **on separate pieces of paper of equal size** and subsequently placing these pieces of paper in a hat **or similarly suitable container**, and then **randomly** drawing one **piece of paper** from the hat **or container**. The Candidate whose name appears on the paper drawn shall be the successful Candidate.

11.8 The Chief Electoral Officer shall ensure that results of the Election are posted on the Metlakatla website as soon as possible after the Election.

12.0 Appeals Process

The Metlakatla Justice Tribunal

- 12.1 The Metlakatla Justice Tribunal shall, among other things, supervise and administer all Election appeals, in accordance with the provisions established in this Code.
- 12.2 The Metlakatla Justice Tribunal is a permanent body made up of more than two (2) but no more than five (5) individuals as appointed by the Governing Council. The Tribunal members shall serve a five year term and shall be appointed based upon criteria developed.
- 12.3 The Metlakatla Justice Tribunal will establish its own Rules of Procedure, consistent with this Code and among other things, the Tribunal may, at its own discretion, call witnesses,

secure legal advice and seek evidence in the course of its review of the grievance, appeal or dispute.

Appeal Procedures

- 12.4 Any Candidate or any Elector may, within thirty (30) days of the date on which the Election was held, appeal the Election if he or she has grounds for believing that there was an error or violation of this Code during the Election process that might have affected the outcome of the Election.
- 12.5 An appeal of a General Election or By-Election may be launched in the following manner:
- a) Notice of appeal in writing, containing details verified by affidavit, shall be sent by registered mail to the Chair of the Metlakatla Justice Tribunal, c/o the Administration Office, along with a deposit in the form of a money order or certified **cheque** for one hundred dollars (\$100) payable to the Metlakatla First Nation. This notice of appeal and the deposit must be received at the Administrative Office within thirty (30) days of the Election. If the appeal is upheld, the deposit will be returned, and if the appeal is denied, the deposit is forfeited to the Metlakatla First Nation and it shall be used to offset Election or Election appeal expenses.
- 12.6 Where appeals of a General Election are received by the Metlakatla Justice Tribunal pursuant to this Code:
- a) The Metlakatla Justice Tribunal shall, within seven days of the end of the thirty (30) day period described in section 12.4, forward a copy of all appeals received together with supporting documents by registered mail to each Candidate in the Election and to the Chief Electoral Officer;
 - b) Any Candidate or the Chief Electoral Officer may, within thirty (30) days of the receipt of the appeal(s), forward to the Metlakatla Justice Tribunal by registered mail a written response to the appeal allegations, together with any supporting documentation;
 - c) The Metlakatla Justice Tribunal may conduct or authorize such further investigation into the appeal allegations as it deems appropriate and necessary.
- 12.7 After a review of all the evidence that it has received, the Metlakatla Justice Tribunal shall:
- a) Deny the appeal on the grounds that the evidence presented did not reveal an infraction of this Code, or on the grounds that an infraction of this Code was revealed but the infraction did not affect the result of the Election; or
 - b) Uphold the appeal and call for a new Election for the positions affected. This new Election shall take place as soon as possible and shall be conducted pursuant to the provisions of this Code. The Metlakatla Justice Tribunal shall, if necessary, give instructions to the Chief Electoral Officer on how the problems identified in the appeal can be corrected.

c) A decision of the Metlakatla Justice Tribunal is final.

13.0 Vacancy

- 13.1 A Councillor position becomes vacant if the Councillor occupying the position no longer meets the residency requirements for the position to which he or she was elected, or if a Councillor is deceased.
- 13.2 A Councillor's position on the Governing Council may become vacant if, while in office:
- a) The Councillor in question missed three (3) consecutive regular Governing Council meetings without written authorization from the Governing Council;
 - b) The Councillor in question is convicted of an offense under the Criminal Code; or
 - c) The Councillor is in violation of the Metlakatla Code of Conduct.
- 13.3 If a situation described in section 13.2 occurs, a motion must be presented at a duly convened regular Governing Council meeting called for the position of the Councillor in question to become vacant. Thereafter, a Governing Council Resolution outlining the situation and declaring the position to be vacant must be signed by a quorum of the Governing Council. If the position is declared vacant, the Councillor in question must resign and will be disqualified from being a Candidate at the next Election.
- 13.4 A Councillor whose position has been declared vacant in accordance with subsection 13.3 may appeal the decision to the Metlakatla Justice Tribunal, provided that such appeal is received by the Chair of the Metlakatla Justice Tribunal within fourteen (14) days of declaration of vacancy.
- 13.5 The Metlakatla Justice Tribunal may either confirm the decision on the Governing Council and declare the position vacant, or reinstate the Councillor if the Metlakatla Justice Tribunal finds that:
- a) The decision of the Governing Council was based on an error of fact and such error of fact was instrumental in determining the outcome of the decision of the Governing Council; or
 - b) In the opinion of the Metlakatla Justice Tribunal, the Councillor in question did not violate the Metlakatla Code of Conduct.
- 13.6 Until there is a decision of the Metlakatla Justice Tribunal, the Councillor position shall remain vacant.
- 13.7 The Metlakatla Justice Tribunal must provide at least fourteen (14) days written notice to the Governing Council and the Councillor concerned, of any hearing for matters referred to in section 13.2.
- 13.8 A decision of the Metlakatla Justice Tribunal for matters related to section 13.2 must be made no later than thirty (30) days after a vacancy is declared by the Governing Council.

13.9 A decision of the Metlakatla Justice Tribunal for matters related to section 13.2 is final.

14.0 Special Provisions

14.1 Each elected Councillor shall take an Oath of Office.

14.2 There shall be a fourteen (14) day transitional period between the Election and the changeover of the Governing Councils, during which time the outgoing Governing Council must meet with the incoming Governing Council to brief them on the affairs of the Governing Council. For greater certainty, the new Governing Council mandate does not begin until the end of the fourteen day (14) day transition period.

15.0 Amendments

15.1 Amendments to this Code must be approved in a referendum by a simple majority of those eligible Electors who vote in the referendum.

15.2 Notwithstanding section 15.1, the Governing Council may make minor improvements in the language as may be required to bring out more clearly the intention of this Code, make such changes as are required to reconcile seeming inconsistencies in this Code and correct editing, grammatical or typographical errors.

15.3 The Governing Council may approve, by Governing Council Resolution, any procedures (including the Oath of Office and procedural rules for meetings of Governing Council), forms, and other administrative rules for the better administration of this Code.

16.0 Ratification

16.1 For the Ratification, this Code must be approved in a referendum by a simple majority (**50% + 1**) of those eligible Electors who vote in the referendum, provided that at least twenty-five per cent (25%) of all eligible Electors vote in the referendum.