

**'Namgis First Nation
Election Regulations**

March 17, 2018

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1.0 INTERPRETATION

1.01 In these Regulations:

“Act” means the *Indian Act*, RSC 1985, c I-5 as amended from time to time;

“Ballot Envelope” has the meaning set out in 9.06(d);

“Candidate” means any 'Namgis First Nation member who is eligible to hold office under the terms of these Election Regulations;

“Council” means the Chief Councillor and the Councillors of the 'Namgis First Nation elected in accordance with these Election Regulations;

“Deputy Electoral Officer” means the Deputy Electoral Officer appointed pursuant to Section 6.01;

“Election” means an Election held by 'Namgis for the Election of the Chief Councillor or Councillors of the 'Namgis;

“Elector” means any 'Namgis member who has reached the age of nineteen (19) years on or before the Election day is eligible to vote under the terms of these Regulations;

“Electoral Officer” means the Electoral Officer appointed in accordance with Section 6.01;

“Mail-in Ballot” means a ballot delivered or mailed in accordance with Section 9.07;

“'Namgis” means the 'Namgis First Nation;

“Nomination Date” has the meaning set out in section 8.01;

“Nomination Document” has the meaning set out in section 8.01;

“Permanent Resident” means a person whose primary place of residence is located on Cormorant Island at which they reside for at least six (6) months of the year;

“Regulations” means these Election Regulations;

“Reserve” means those tracts of lands, the legal title to which is vested in Her Majesty the Queen, that have been set apart by Her Majesty the Queen for the use and benefit of the 'Namgis and includes designated lands as defined in the Act;

“Non-resident Electors” means those members of the 'Namgis who do not reside on Cormorant Island;

“Voter Declaration Form” means the document completed by the Elector that sets out, or provides for:

- (a) The name, address, birth date and signature of the Elector;
- (b) The Elector's Indian status registration number; and
- (c) The name, address, birth date and signature of a witness to the Elector's signature;

“Voters List” is a list of Electors eligible to vote in the Election and will include their address, birthdate and Indian status registration number.

- 1.02 All references in these Regulations to the singular shall be construed to include the plural, and references to the masculine to include the feminine and neuter genders and vice versa, where the context so admits.

2.0 COMPOSITION OF COUNCIL

2.01 The Council shall consist of:

- (a) One (1) Chief Councillor; and
- (b) Nine (9) Councillors.

2.02 Subject to the provisions of this section, the Chief Councillor and Councillors shall hold office for a term of three (3) years. The office of Chief Councillor or Councillor shall be deemed to be vacant when the person(s) who hold(s) that office:

- (a) Dies or resigns from their office, resignation becomes effective on the date of resignation;
- (b) Is or becomes ineligible to hold office or to be nominated to hold office by virtue of these Regulations; or
- (c) Misses five (5) regularly scheduled Council meetings out of ten (10) regularly scheduled Council meetings, unless a majority of the other members of Council agree to waive this provision.

3.0 ELECTION OF COUNCIL

3.01 The Chief Councillor and Councillors shall be elected by a majority of votes cast by Electors who vote in an Election held pursuant to these Regulations.

4.0 ELIGIBILITY FOR CANDIDACY

4.01 Any Elector who has attained the age of twenty-one (21) years on or before the Election day and is a Permanent Resident for a minimum of six (6) months immediately prior to the Nomination Date shall be eligible to be nominated for the position of Chief Councillor.

4.02 Any Elector who has attained the age of nineteen (19) years on or before the Election day and is a Permanent Resident for a minimum of six (6) months immediately prior to the Nomination Date shall be eligible to be nominated for the position of Councillor.

4.03 Permanent Residency must be proven by:

- (a) Producing at least one document that shows residency for the previous six (6) months on Cormorant Island, such as utility bills, a tenant agreement or other similar document(s); and
- (b) a signed statement by another Cormorant Island resident, who is not a relative confirming the Candidate's Permanent Residency on Cormorant Island for at least the

previous six (6) months.

- 4.04 An employee of the 'Namgis may be a Candidate in an Election, provided they meet the other requirements of these Regulations. If elected an employee may not hold office unless they resign their employment with 'Namgis.
- 4.05 No person may hold the office of Chief Councillor or Councillor while they are an employee with the 'Namgis.
- 4.06 No person may be a Candidate for Election as Chief Councillor or Councillor unless his nomination is moved and seconded by Electors.
- 4.07 No person may be a Candidate for Election as Chief Councillor or Councillor if they were convicted of an indictable offence punishable under the *Criminal Code* RSC 1985 c. C-46 or an offence under the *Controlled Drugs and Substances Act* SC1996 c. 19 for a period of five years after the conviction date. Each Candidate must provide the Electoral Officer with a statutory declaration witnessed by a Commissioner for Taking Affidavits, a notary public or a lawyer stating that they have not been convicted of indictable offence punishable under the *Criminal Code* or the *Controlled Drugs and Substances Act* within the last five years.
- 4.08 No person may be a Candidate for Election as Chief Councillor or Councillor if it is determined that they were involved in an infraction of these Regulations.
- 4.09 If a Councillor is elected as Chief Councillor they must resign from their position as Councillor the day after the Election Day.
- 4.10 Any person who holds a position on Council and is a Candidate for a position on Council must refrain from all travel related to their position, unless authorized by a majority of Council.

5.0 TIME FOR ELECTIONS

- 5.01 The Election of Chief Councillor shall be held on the second Friday of May in each year that the term of office of the incumbent Chief Councillor expires. An Election of Councillors will be held on the second Friday of December in each year to fill the positions of Councillors whose terms of office will expire. One-half or as close to one-half of the Council as is possible shall be elected in one year and one-half the Council or as close to one-half of the Council as possible shall be elected in the next electoral year so that there is continuity in the Council.
- 5.02 Subject to the foregoing, the date and place of an Election shall be determined by the Council.
- 5.03 An Election may only be postponed by a resolution passed by a two-thirds (2/3) majority of the Electors who vote at a 'Namgis general meeting of which six (6) days notice has been given specifying the intention to propose such resolution, provided the new Election date meets the requirements set out in section 7.01.

6.0 APPOINTMENT OF ELECTORAL OFFICERS

- 6.01 The Council shall appoint an Electoral Officer and Deputy Electoral Officer(s) as may be required to conduct an Election held pursuant to these Regulations who shall have the functions and duties herein set out.
- 6.02 The Electoral Officer and Deputy Electoral Officer(s) must have attained the age of nineteen (19) years.

6.03 The Electoral Officer and Deputy Electoral Officers shall not be members or employees of 'Namgis.

6.04 The Electoral Officer will conduct Elections pursuant to these Regulations and shall be assisted by the Deputy Electoral Officer(s).

7.0 NOTICE OF ELECTION

7.01 Written notice of the Nomination Date, all Candidates meeting date, advance poll date, and Election date shall be given at least thirty (30) days prior to the nomination date as follows (the "Notice"):

- (a) By posting the Notice in the 'Namgis Administration Office;
- (b) By posting the Notice in at least one other conspicuous place on Cormorant Island;
- (c) By mailing the Notice to all Non-resident Electors whose address is known to 'Namgis; and
- (d) By mailing the Notice to all Electors who request the Electoral Officer or the Membership Clerk to mail the Notice to them.

Such Notice shall also specify the date, time and place designated for submission of nominations.

7.02 A list of Electors, with names only, will be publicly posted in the 'Namgis Administration Office.

8.0 NOMINATIONS

8.01 Nominations can only be made by Electors and shall be submitted by mail or in person to the Electoral Officer in writing in a form approved by the Council ("Nomination Document") at a place and by a date (the "Nomination Date") determined by Council. An Elector must second all nominations for candidacy. Once Candidates have been nominated, the Electoral Officer shall advise the nominees of their nomination immediately. All nomination Documents must be signed, by the nominator and by the seconder to the nomination, on or before the Nomination Date.

8.02 To accept a nomination, the Candidate must sign the Nomination Document or inform the Electoral Officer of their acceptance in accordance with the method set out in the Notice, on or before the Nomination Date.

8.03 Nomination Documents submitted by Non-resident Electors shall include a Voter Declaration Form completed by the nominator.

8.04 When a Nomination Document is submitted by a Non-resident Elector, which has been seconded by another Non-resident Elector, the seconder may act as the witness on the Voter Declaration Form.

8.05 In the event that only one person is nominated for Chief Councillor or if only the required number of Councillors are nominated, no poll will be taken and such positions will be deemed to have been filled by acclamation.

9.0 ELECTION PROCEDURES

- 9.01 At least seventy-nine (79) days before the day on which an Election is to be held, the Electoral Officer shall receive a Voters List from the 'Namgis Membership Clerk.
- 9.02 The Electoral Officer, at the request of a person, shall confirm that the person is on the Voters List;
- 9.03 Once nominated, Candidates can only receive the names and addresses of Electors if the Electors have consented to have their names and addresses released to the Candidates by the Electoral Officer.
- 9.04 Any Candidate who has been nominated may withdraw at any time after their nomination, but not later than five (5) days before the date the ballots must be mailed to Non-resident Electors, by submitting with the Electoral Officer a written withdrawal of their nomination, signed by themselves in the presence of the Electoral Officer, or provide the Electoral Officer with a statutory declaration of withdrawal witnessed by a Commissioner for Taking Affidavits, a notary public or a lawyer.
- 9.05 Where a Candidate withdraws their name from the running after the ballots have already been mailed to Non-resident Electors, the Electoral Officer shall not disclose this withdrawal to anyone until after the Election. Any votes cast for any Candidate that has withdrawn shall be null and void.
- 9.06 Ballots shall be prepared in a form prescribed by the Council containing the names of the Candidates for Chief Councillor and for Councillors, which names shall be listed on the ballot in alphabetical order.
- 9.07 The Electoral Officer shall cause to be prepared a sufficient number of ballots for the purpose of the Election. In the event that Council does not establish polling stations for Non-resident Electors, the Electoral Officer shall ensure that ballots, the back of which bears the Electoral Officers signature, are mailed to all Non-resident Electors at least thirty (30) days before the date of the Election along with a package consisting of:
- (a) A page of instructions for the Elector, explain all the elements of their Mail-in Ballot;
 - (b) A ballot;
 - (c) A postage-paid return non-see through envelope, pre-addressed to the Electoral Officer;
 - (d) A second envelope marked "ballot" for insertion of the completed ballot ("Ballot Envelope");
 - (e) A Voter Declaration Form; and
 - (f) A statement identifying the location of all polling places, the advance poll date and location, and advising the Elector that he or she may vote in person at a polling place on the day of Elections in lieu of voting by Mail-in Ballot;

("Mail-in Ballot(s)")

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- 9.08 Any Elector may contact the Electoral Officer or the 'Namgis Membership Clerk to request a Mail-in Ballot and, in such event, must follow the procedure set out in section 9.09.
- 9.09 Non-resident Electors must place their ballot in the Ballot Envelope, which is, in turn, placed in the pre-addressed envelope with their Voter Declaration Form confirming their eligibility to vote in an Election. Upon receipt of the pre-addressed envelope the Electoral Officer shall store it in a locked and secure location until Election Day. The pre-addressed envelopes will be brought to the polling station on Election Day by the Electoral Officer and opened on Election Day to confirm that the ballot is from an Elector and mark on the Voter's List that they have voted. The sealed Ballot Envelopes will only be opened at the close of the Election, in the presence of the Candidate's agents, for the purpose of counting these votes. All Mail-in Ballots received after the close of Elections shall be invalid and are disqualified.
- 9.10 The Electoral Officer shall arrange for an all Candidates meeting to be held at least two (2) full days prior to the advance poll date.
- 9.11 An advance poll for Electors unable to vote on the Election date shall be held fourteen (14) days prior to the Election date at a place determined by Council.
- 9.12 On the advance poll date the Deputy Electoral Officer(s) shall go to the hospital located on Cormorant Island to obtain the votes from Electors who, for reasons of ill health or disability, will be unable to vote on the Election date.
- 9.13 The Deputy Electoral Officer(s) shall be accompanied by one other person to obtain votes as set out in Section 9.11. The ballots thereby obtained are to be put in individual Ballot Envelopes, sealed and signed by the Deputy Electoral Officer(s) and the person who has accompanied the Deputy Electoral Officer(s). These ballots will be presented to the Electoral Officer prior to the close of poll on the Election date.
- 9.14 The poll on the advance poll date and the Election date will be open from 9:00 A.M. to 9:00 P.M. local time, at a location to be determined by Council.
- 9.15 The Deputy Electoral Officer(s) shall be present with the Electoral Officer during the advance poll date and the Election date and shall assume the responsibility of the Electoral Officer should the Electoral Officer be absent.
- 9.16 A Candidate shall be entitled to not more than two (2) agents in the polling place at any one time.
- 9.17 Voting at all Elections shall be by secret ballot.
- 9.18 The Electoral Officer or the Deputy Electoral Officer(s) shall, immediately before the commencement of a poll, open the ballot box and call such persons as may be present to witness that it is empty. The Electoral Officer or the Deputy Electoral Officer(s) shall then lock and properly seal the box to prevent it being opened without breaking the seal and shall place it in view for the reception of the ballots, and the seal shall not be broken or the box unlocked until the expiration of the time for taking of the poll on the Election date. Separate and visibly different ballot boxes shall be used on the advance poll date and the Election date. On close of poll on the advance poll date, the advance poll box will be sealed so that no further ballots can be deposited therein without breaking the seal and the seal shall not be broken or the box unlocked until the expiration of time for the taking of the poll on the Election date.
- 9.19 At the request of any Candidate or their agent or any Elector, an oath or affirmation in the form

prescribed by the Council as to an Elector's right to vote shall be administered to any person tendering his vote at any Election.

10.0 POLLING PROCEDURES

- 10.01 Where a person presents themselves for the purpose of voting, the Electoral Officer or the Deputy Electoral Officer(s) shall, if satisfied that the name of such person is entered in the Voters List at the polling place, provide them with a ballot on which to register their vote. Each ballot provided to an Elector shall be initialed by the Electoral Officer or Deputy Electoral Officer(s).
- 10.02 The Electoral Officer or the Deputy Electoral Officer(s) shall cause to be placed in the proper column of the Voters List a mark opposite the name of every Elector receiving a ballot. The Electoral Officer shall keep confidential the list of Electors who have voted and not voted until after the close of the Election.
- 10.03 No person who has refused to take the oath or affirmation referred to in section 9.19 when requested to do so shall receive a ballot or be permitted to vote.
- 10.04 The Electoral Officer or the Deputy Electoral Officer(s) will explain the mode of voting to an Elector.
- 10.05 Each Elector receiving a ballot shall forthwith proceed to the compartment provided for marking ballots and shall mark their ballot by placing an "X" or check mark opposite the name of the Candidate or Candidates for whom they desire to vote for. They shall then fold the ballot so as to conceal the names of the Candidates and the marks on the face of the ballot so as to expose the initials of the Electoral Officer or the Deputy Electoral Officer(s), and on leaving the compartment shall forthwith deliver the ballot to the Electoral Officer or the Deputy Electoral Officer(s), who shall, without unfolding the ballot, verify their initials and at once deposit it in the ballot box in the presence of the Elector and of all other persons entitled to be present in the polling place.
- 10.06 While any Elector is in the compartment for the purposes of marking their ballot, no other person shall, except as provided in section 10.07, be allowed in the same compartment or be in any position from which they can see the manner in which such Elector marks their ballot.
- 10.07 The Electoral Officer or the Deputy Electoral Officer(s), on the application of any Elector who is unable to read or is incapacitated by blindness or other physical cause from voting in the manner prescribed by section 10.05, shall assist such Elector by marking their ballot in the manner directed by the Elector in the presence of the agents of the Candidates in the polling place and of no other person, and place such ballot in the ballot box.
- 10.08 The Electoral Officer or the Deputy Electoral Officer(s) shall state in the Voters List in the column for remarks opposite the name of such Elector the fact that the ballot was marked by them at the request of the Elector and the reason therefore.
- 10.09 An Elector who has inadvertently dealt with their ballot in such a manner that it cannot be conveniently used shall, on returning it to the Electoral Officer or their Deputy, be entitled to obtain another ballot, and the Electoral Officer or the Deputy Electoral Officer(s) shall thereupon write the word "cancelled" upon the spoiled ballot and preserve it.
- 10.10 Any Elector who has received a ballot and who leaves the polling place without delivering the ballot to the Electoral Officer or the Deputy Electoral Officer(s), in the manner provided, or who

after receiving the ballot, refused to vote, shall forfeit their right to vote at the Election, and the Electoral Officer or the Deputy Electoral Officer(s) 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 ballot and declined to vote, and the Electoral Officer or the Deputy Electoral Officer(s) shall mark upon the face of the ballot the word "declined" and all ballots so marked shall be preserved.

- 10.11 A person whose name does not appear on the Voters List may vote in an Election if the Electoral Officer or the Deputy Electoral Officer(s) is satisfied that such person is an Elector.
- 10.12 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.
- 10.13 Immediately after the close of the poll on the Election date the Electoral Officer or the Deputy Electoral Officer(s) shall, in the presence of five (5) Electors selected by the Electoral Officer and such of the Candidates or their agents as may be present, open the ballot box and:
 - (a) Examine the ballots and reject all ballots that have:
 - (i) Not been supplied by the Electoral Officer or the Deputy Electoral Officer(s);
 - (ii) Subject to the provisions of 10.13(b), by which votes have been given for more Candidates than are to be elected, or
 - (iii) Anything on it that discloses the identity of the Elector;
 - (b) Declare a ballot to be void, on which votes are given for more Candidates than there are positions for that office;
 - (c) Subject to review on recount or on an Election appeal take note of any objection made by any Candidate or their agent to any ballot found in the ballot box and decide any question arising out of the objection;
 - (d) Number such objection and place a corresponding number on the back of the ballot with the word "allowed" or "disallowed", as the case may be, with their 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 the number of ballots rejected and not counted by them, which statement shall then be signed by them and such other persons authorized to be present as may desire to sign the statement;
- 10.14 Immediately after the completion of the counting of the votes on Election date the Electoral Officer shall publicly declare to be elected the Candidate or Candidates having the highest number of votes and they shall also give notice of the results of the Election:
 - (a) in the manner set out in Section 7.01(a) and (b); and
 - (b) Directly to the Candidates and the 'Namgis Senior Administrator.
- 10.15 An elected Candidate takes office the day after the Election Day.
- 10.16 The Electoral Officer shall prepare a statement setting out the results of the Election and

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forward the same to Aboriginal Affairs & Northern Development Canada (AANDC). The Electoral Officer and such other Candidates or their agents as are present and desire to sign it shall sign the statement.

- 10.17 The Electoral Officer shall deposit all ballots in sealed envelopes and shall retain them in their possession for eight (8) weeks, and unless otherwise directed by the Appeal Board appointed pursuant to these Regulations shall then destroy the ballots in the presence of two (2) witnesses who shall make a declaration that they witnessed the destruction of those ballots.
- 10.18 Where two or more Candidates have an equal number of votes and it is necessary to break the tie, a new poll shall be held in which only those Candidates who are tied will stand for Election for the remaining positions to be filled. Such further poll shall be held at a time determined by the Council and notified to the Electors in the manner set out in Section 7.01.

11.0 ELECTION APPEALS

11.01 Within thirty (30) days after an Election, any Candidate at the Election or any Elector who tendered their vote in the Election, who has reasonable grounds for believing that:

- (a) There was a violation of these Regulations that might have affected the result of the Election; or
- (b) A Candidate in the Election was ineligible to be a Candidate;

May file a written letter of protest with the Appeal Board appointed pursuant to these Regulations giving particulars of the grounds of the objection to the validity of the Election.

11.02 An Appeal Board shall be appointed by the Council prior to each Election and shall consist of three (3) persons who are not 'Namgis members and are not 'Namgis employees; and, not affiliated with any of the Candidates.

11.03 On making an investigation, the Appeal Board, as it deems necessary, will set aside the Election of a Chief Councillor or a Councillor if it is satisfied that:

- (a) There was a violation of these Regulations that might have affected the result of the Election; or
- (b) A Candidate in the Election was ineligible to be a Candidate.

11.04 The Appeal Board shall have fourteen (14) days from the date of receiving a written letter of protest to render a decision.

11.05 The decision of the Appeal Board will be final and a copy of the decision shall be:

- (a) Provided to the persons directly affected by the decision, the Council immediately prior to the Election and the Council after the Election;
- (b) Posted in the 'Namgis Administration Office; and
- (c) Posted in at least one other conspicuous place on Cormorant Island;

12.0 ELECTION TO FILL VACANCY

- 12.01 Where the office of Chief Councillor or Councillor becomes vacant more than six (6) months before the date when another Election would ordinarily be held pursuant to these Regulations, a special Election will be held in accordance with these Regulations to fill the vacancy for the remainder of the existing term.

13.0 AMENDMENTS

- 13.01 These Regulations may be amended at a 'Namgis general meeting advertised for at least six (6) days, by a ballot of the Electors of the 'Namgis carried by a two-thirds (2/3) majority of those Electors who are present and vote at the general meeting. The notice of the general meeting shall specify what changes to these Regulations are to be proposed at such general meeting.

14.0 EFFECTIVE DATE

- 14.01 These Regulations will come into force on March 17, 2018.