

STS' AILES



REFERENDUM REGULATION

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 Sts'ailes Referendum Regulation

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1. TITLE

This Regulation shall be known as the **Referendum Regulation**.

2. PURPOSE

This Referendum Regulation establishes the procedures to be followed for the calling and holding of a Referendum and shall apply to all Sts'ailes referenda.

3. DEFINITIONS

In this Regulation:

“Appeal Board” means the Board appointed by Council pursuant to Section 7.1(a) to oversee and address challenges to the validity of the Referendum result.

“Chief Referendum Officer” means a person appointed by the present Chief and Council under Section 7.1(a) to implement and oversee the Referendum procedure in accordance with this Regulation.

“Corrupt Practice” means direct or indirect bribery of, or the provision of a financial or material incentive to, an Eligible Voter in exchange for a vote or to the Chief Referendum Officer, Deputy Referendum Officer, or Security Officer in exchange for that Officer’s performance or omission of an act that violates his or her obligations under this Regulation.

“Council” means the Council of Sts'ailes selected pursuant to the Sts'ailes Custom Election Code.

“Council Resolution” means a resolution formally adopted by the Council of Sts'ailes pursuant to its governing authority.

“Deputy Referendum Officer” means a person appointed by the Chief Referendum Officer pursuant to Section 7.6 to assist the Chief Referendum Officer in the implementation and oversight of the Referendum procedure in accordance with this Regulation.

“Electronic Voting System” means computer software that directs a computer to perform and monitor the required tasks for a person to either register to vote or vote in a Referendum using an electronic device, such as a computer or mobile phone.

“Eligible Voter” means a person who:

- a) appears on the membership list of Sts'ailes; and
- b) is at least 18 years of age on the day on which the Referendum is held.

“Fraudulent Practice” means the action or an instance of deceiving an Eligible Voter so as to obtain or affect his or her vote or the Chief Referendum Officer, Deputy Referendum Officer or

Security Officer so as to affect that Officer's performance of his or her obligations under this Regulation.

"Information Meeting" means a meeting held to provide background and information on the Referendum.

"Mail-in Ballot" means a ballot filled out and mailed or delivered in accordance with Section 14 of this Regulation.

"Majority" means, for the purposes of Section 18.6, fifty percent plus one (50%+1) of the Members who have cast a ballot in the Referendum that has not been marked "REJECTED", "CANCELLED" or "DECLINED" under this Regulation.

"Member" means, for the purposes of Section 7.3, a member of the Sts'ailes who is at least 18 years old.

"Membership Clerk" means the Sts'ailes employee responsible for maintaining the mailing addresses of the Sts'ailes membership list.

"Ordinary Residence" means the place:

- a) at which a person normally eats, sleeps, and receives mail;
- b) where the person's immediate family resides; and
- c) in proximity to the person's place of employment.

A person can have only one ordinary residence at any one time but 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 where voting takes place during a Referendum.

"Referendum" means the process activated by Council pursuant to Section 5.1 and conducted in accordance with this Regulation to obtain direction from the Sts'ailes community.

"Referendum Appellant" means an Eligible Voter who files a notice of appeal with the Appeal Board, pursuant to Section 20.1, to challenge the Referendum result.

"Referendum Resolution" means a Resolution issued under Section 5.1 of this Regulation.

"Regulation" means this Referendum Regulation.

"Respected Elder" means a Sts'ailes member who is at least 60 years of age.

"Result Statement" means the statement prepared pursuant to Section 19.2 of this Regulation.

“Secret Ballot” means a system of secret voting.

“Security Officer” means a person appointed by the Chief Referendum Officer to maintain order at the polling station, and to fulfill any other function at the Polling Station that the Chief Referendum Officer may deem appropriate.

“Sts’ailes Reserve Land” means Sts’ailes Indian Reserves #5 and #6 or lands set aside in the future by Canada for Sts’ailes as a reserve within the meaning of the *Indian Act* and s. 91 (24) of the *Constitution Act 1867*.

“Voters’ List” means the list of Eligible Voters.

“Voting Compartment” means a space/area separated by partitions designated specifically for people to fill in their ballots in privacy.

4. INTERPRETATION

4.1 For greater certainty, the rules in Sections 4.2 to 4.5 apply to the interpretation and application of this Regulation.

4.2 The following rules of interpretation apply:

- a) words in the singular include the plural, and words in the plural include the singular;
- b) if a word or expression is defined, other parts of speech and grammatical forms of the same word or expressions have corresponding meanings;
- c) the expression “shall” is to be construed as imperative, and the expression “may” is to be construed as permissive;
- d) unless the context indicates otherwise, “including” means “including, but not limited to”, and “includes” means “includes, but not limited to”;
- e) the use of the masculine shall be deemed to include the feminine where the context so requires; and
- f) a reference to an enactment includes any amendment or replacement of it and every regulation made under it.

4.3 This Regulation shall be considered as always speaking and, where a matter or thing is expressed in the present tense, it shall be applied to the circumstances as they arise to give effect to this Regulation according to its true spirit, intent and meaning.

4.4 When calculating the number of days for the purposes of establishing a deadline, the following guidelines shall be used:

- a) unless otherwise provided, all calendar days are included in the calculation of the number of days for completing an act or meeting a deadline; and
 - b) if Council administration offices are closed on a day when a time limit expires, the act may be done on the next day that the office is open.
- 4.5 If inclement weather prohibits the carrying out of an act under this Regulation, the act shall be done on the next available day.

5. CALLING FOR A REFERENDUM

- 5.1 Whenever the majority of Council at a duly convened meeting has agreed to submit a question to a vote of the Eligible Voters, Council shall determine by Referendum Resolution to hold a Referendum.
- 5.2 The Referendum Resolution referenced in Section 5.1 shall contain the following information:
- a) the question to be voted on;
 - b) the dates on which the Voting by Mail-In Ballot, Voting at the Polling Station, and, if applicable, Voting by Electronic Voting System shall open and close;
 - c) the date on which the Referendum shall close and counting procedures shall be initiated; and
 - d) the date on which the Information Meeting shall be held.
- 5.3 Voting in the Referendum shall be by Mail-In Ballot or by vote cast at a Polling Station or, if Council has approved the use of an Electronic Voting System by Council Resolution, by use of an Electronic Voting System in accordance with this Regulation.

6. ELIGIBILITY OF VOTERS

- 6.1 In order to be entitled to vote in a Referendum, a person must:
- a) be an Eligible Voter; and
 - b) be included on the Voters' List.

7. APPOINTMENT OF REFERENDUM OFFICERS AND APPEAL BOARD

- 7.1 At least ninety (90) days before the date on which the Referendum is to be held, Council shall by Council Resolution:
- a) appoint a Chief Referendum Officer and an Appeal Board for the purposes of the Referendum called pursuant to Section 5.1; and

- b) direct the Chief Referendum Officer to initiate the Referendum process in accordance with this Regulation.
- 7.2 The Chief Referendum Officer shall not be a member or salaried employee of Sts'ailes, or holder of other contract of services with Sts'ailes.
- 7.3 The Appeal Board shall consist of a Respected Elder, a Member, and one other First Nation person selected from a roster determined by Council.
- 7.4 The Appeal Board shall oversee and address any challenge to the validity of the Referendum result filed pursuant to Section 20.1.
- 7.5 Any vacancy on the Appeal Board shall be filled by Council by way of a further appointment made by Council Resolution.
- 7.6 Within fourteen (14) days from the date of the Council Resolution referenced in 7.1, the Chief Referendum Officer shall appoint a Deputy Referendum Officer or Officers.
- 7.7 A Deputy Referendum Officer appointed under Section 7.6 shall:
- a) not be a member of Council;
 - b) work under the direction of the Chief Referendum Officer;
 - c) have such powers as are described in this Regulation;
 - d) have such powers as are delegated to him by the Chief Referendum Officer; and
 - e) in the event that the Chief Referendum Officer is incapacitated and unable to discharge his functions under this Regulation, have and exercise such powers as are assigned to the Chief Referendum Officer in this Regulation.
- 7.8 The Chief Referendum Officer, Deputy Referendum Officer and Appeal Board shall swear an oath of office, before a duly appointed Commissioner for swearing oaths of office, swearing to:
- a) uphold and comply with this Regulation and all Sts'ailes laws, bylaws, regulations, policies and procedures;
 - b) fulfill the duties and responsibilities of their office under this Regulation;
 - c) carry out their duties faithfully, honestly, impartially and to the best of their abilities;
 - d) always act in the best interests of Sts'ailes in carrying out their duties; and
 - e) keep confidential, both during and after their terms of office, any matter or information that is considered or is to be kept confidential under this Regulation or Sts'ailes laws, bylaws, regulations, or policies.

- 7.9 The Chief Referendum Officer may appoint a Security Officer or Security Officers to maintain order at the Polling Station and to fulfill any other function at the Polling Station that the Chief Referendum Officer may deem appropriate.
- 7.10 The Chief Referendum Officer may make such orders and issue such instructions as are consistent with the provisions of this Regulation and as he may from time to time deem necessary for the effective administration of the Referendum.

8. CONTACT ADDRESSES

- 8.1 Within seven (7) days from the date of the Band Council Resolution referenced in 7.1, the Membership Clerk shall provide the Chief Referendum Officer with the names and contact addresses of all the Eligible Voters.
- 8.2 The contact address:
- a) shall take the form of a mailing address;
 - b) shall be used only for the purposes of providing notices, Mail-In Ballots, or other documents to the Eligible Voter; and
 - c) shall not be disclosed by the Chief Referendum Officer without the consent of the Eligible Voter.
- 8.3 Eligible Voters shall be responsible for providing the Membership Clerk or the Chief Referendum Officer with current contact addresses.
- 8.4 A document shall be considered to have been provided properly to an Eligible Voter if it was mailed or delivered to the Eligible Voter's contact address.
- 8.5 The Chief Referendum Officer shall, at least forty-five (45) days before the date on which the Referendum is to be held, cause the publication of a notice directed to all the Eligible Voters prompting them to ensure their current contact addresses are filed with the Membership Clerk or Chief Referendum Officer. This notice shall be published in at least three public media sources normally accessible to Eligible Voters.

9. VOTERS' LIST

- 9.1 The Chief Referendum Officer shall prepare a Voters' List within thirty (30) days of the date of his appointment. The Voters' List will be the official record of Eligible Voters for the Referendum.
- 9.2 The Chief Referendum Officer shall post the Voters' List in a public area of the Sts'ailes administration building and in other conspicuous place or places on Sts'ailes Reserve Land, as may be determined by the Chief Referendum Officer, no later than sixty (60) days before the date on which the Referendum is to be held.

- 9.3 A person whose name does not appear or does not correctly appear on the Voters' List and who believes he or she is an Eligible Voter, or an Eligible Voter acting on his or her behalf, may no later than thirty-two (32) days prior to the date on which the Referendum is to be held, apply in writing to the Chief Referendum Officer to have his or her name added to the Voters' List.
- 9.4 The application made under Section 9.3 shall set out the reasons why the person's name should be added to the Voters' List and shall include any documents supporting the application.
- 9.5 Where the Chief Referendum Officer believes or has information that a person whose name is on the Voters' List is not an Eligible Voter, or where an Eligible Voter applies in writing to the Chief Referendum Officer to have another person's name removed from the Voters' List on the ground that person does not qualify as an Eligible Voter, the Chief Referendum Officer shall give written notice to the person whose eligibility is challenged at least twenty (20) days before the date on which the Referendum is to be held.
- 9.6 The application by an Eligible Voter made under Section 9.5:
- a) shall set out the reasons why a person's name should be removed from the Voters' List;
 - b) shall include any document supporting the application; and
 - c) must be received by the Chief Referendum Officer no later than twenty-eight (28) days before the date on which the Referendum is to be held.
- 9.7 The notice given by the Chief Referendum Officer under Section 9.5 shall:
- a) set out the reasons for seeking removal of the name from the Voters' List;
 - b) include any supporting document; and
 - c) set out that a written reply may be sent to the Chief Referendum Officer, which must be received no later than ten (10) days before the date on which the Referendum is to be held.
- 9.8 After consideration of all information and representations relating to amendments to the Voters' List, the Chief Referendum Officer shall add or delete names to the Voters' List based on whether persons qualify as Eligible Voters.
- 9.9 The Chief Referendum Officer shall give a person whose name has been added to or deleted from the Voters' List written notice of the decision at least five (5) days before the date on which the Referendum is to be held.
- 9.10 The decision of the Chief Referendum Officer under Section 9.8 is final and not subject to appeal.

- 9.11 At least five (5) days before the date on which the Referendum is to be held, the Chief Referendum Officer post a final Voters' List in a public area of the Sts'ailes administration building and in other conspicuous place or places on Sts'ailes Reserve Land, as may be determined by the Chief Referendum Officer.
- 9.12 A person whose name does not appear on the Voters' List shall be entitled to vote in the Referendum provided he or she presents documentary proof to the Chief Referendum Officer demonstrating his or her qualifications as an Eligible Voter, to the Chief Referendum Officer's satisfaction.

10. NOTICE OF THE REFERENDUM

- 10.1 At least forty-five (45) days before the date on which the Referendum is to be held, the Chief Referendum Officer shall provide notice of the upcoming Referendum by:
- a) posting a notice of Referendum in a public area of the Sts'ailes administration building and in other conspicuous place or places on Sts'ailes Reserve Land as may be determined by the Chief Referendum Officer;
 - b) mailing a notice to all Eligible Voters who do not have their Ordinary Residence on Sts'ailes Reserve Land; and
 - c) causing the publication of a notice in at least three public media sources normally accessible to Eligible Voters.
- 10.2 The notice of Referendum (Appendix K) referred to in Section 10.1 shall include:
- a) a brief summary of the background surrounding the Referendum question;
 - b) a brief summary of the Referendum process;
 - c) the location, date and time of the Information Meeting;
 - d) the date of the Referendum;
 - e) the Referendum question to be voted on;
 - f) a statement setting out who is eligible to vote in the Referendum;
 - g) a statement setting out how to obtain instructions for voting by Mail-in Ballot and, if applicable, by Electronic Voting System;
 - h) the location of the Polling Station, and the date and time when the Polling Station will be open and closed, and the date and time when the Electronic Voting System will open and close;
 - i) a statement specifying where in the Sts'ailes administration building the Voters' List can be examined;

- j) the deadline for contacting the Chief Referendum Officer to add or challenge a name on the Voters' List;
- k) the name, telephone number, and email address of the Chief Referendum Officer;
- l) the time and location of the counting of the ballots;
- m) instructions regarding how to obtain the results of the Referendum; and
- n) notification that a full copy of this Regulation can be obtained at the Council Administration offices.

11. PREPARATION OF REFERENDUM BALLOTS

11.1 The Chief Referendum Officer shall prepare the ballot setting out the Referendum question as accepted by the Referendum Resolution.

11.2 The ballot shall:

- a) state that the Eligible Voter is to signify his or her vote by placing an "X" in the "Yes" or "No" box to indicate his or her answer to the Referendum question; and
- b) contain the following instruction or rule: "IMPORTANT: YOU MUST MARK THE BALLOT WITH AN "X" OTHERWISE YOUR VOTE WILL NOT COUNT."

12. INFORMATION MEETING

12.1 At least five (5) days before an Information Meeting is held, the Chief Referendum Officer shall provide notice of the upcoming Information Meeting by posting a notice in a public area of the Sts'ailes administration building and in other conspicuous place or places on Sts'ailes Reserve Land, as may be determined by the Chief Referendum Officer, and causing the publication of a notice of the Information Meeting in at least three public media sources normally accessible to Eligible Voters.

12.2 The notice shall contain the following information:

- a) the date, time and place of the Information Meeting;
- b) a brief summary of the background surrounding the question;
- c) a statement that a full copy of this Regulation can be obtained at the Council administration offices;
- d) a brief summary of the Referendum process;
- e) the question posed in the Referendum Resolution; and
- f) the name, telephone number, and e-mail address of the Chief Referendum Officer.

12.3 At the Information Meeting, Council or its designated official shall explain the background surrounding the question and those present shall have the opportunity to thoroughly discuss and ask questions with regard to the Referendum. Responses to questions that cannot be immediately answered will be posted in public media sources normally accessible to Eligible Voters as soon after the Information Meeting as is practicable.

12.4 Unless otherwise permitted by Council, only Members, non-Member spouses (including common-law spouses), and employees of Sts'ailes whose attendance is requested by Council may attend the Information Meeting.

13. APPLICATION AND PACKAGE FOR VOTING BY MAIL-IN BALLOT

13.1 The Chief Referendum Officer shall send a Mail-In Ballot package:

- a) to every Eligible Voter who does not have his or her Ordinary Residence on Sts'ailes Reserve Land, at least thirty-five (35) days before the date on which the Referendum is to be held; and
- b) to every Eligible Voter who has applied to vote by Mail-In Ballot under Section 13.2 or 13.3, immediately upon receiving his or her application.

13.2 Any Eligible Voter who has his or her Ordinary Residence on Sts'ailes Reserve Land and who is unable to vote in person on the date on which the Referendum is to be held may, at least fifteen (15) days before the date on which the Referendum is to be held, apply in writing to the Chief Referendum Officer to vote by Mail-In Ballot.

13.3 Any Eligible Voter who does not have his or her Ordinary Residence on Sts'ailes Reserve Land and who has not been sent a Mail-In Ballot package in accordance with Section 13.1 may, at least fifteen (15) days before the date on which the Referendum is held, apply to the Chief Referendum Officer to vote by Mail-In Ballot.

13.4 An Eligible Voter requesting a Mail-In Ballot package shall provide the Chief Referendum Officer with a current mailing address.

13.5 The Mail-In Ballot package referred to in Section 13.1 shall consist of:

- a) a ballot initialed on the back by the Chief Referendum Officer (Appendices P&Q);
- b) an inner postage-paid return envelope, pre-addressed to the Chief Referendum Officer;
- c) a second inner envelope marked "ballot" for insertion of the completed ballot;
- d) a Mail-in Eligible Voter Declaration Form (Appendix L), individually numbered to discourage fraud, which shall set out:
 - i) the name of the Eligible Voter;

- ii) the membership number of the Eligible Voter; and
 - iii) the name, address and telephone number of the witness to the signature of the Eligible Voter;
- e) a letter of instruction regarding voting by Mail-In Ballot (Appendix M); and
- f) a statement advising the Eligible Voter:
 - i) of the location of the Polling Station; and
 - ii) that he or she may vote in person at the Polling Station on the day of the Referendum if he or she returns the Mail-In Ballot to the Chief Referendum Officer at the Polling Station, or provides the Chief Referendum Officer or a Deputy Referendum Officer with a written declaration, sworn before the Chief Referendum Officer, a justice of the peace, notary public or duly appointed Commissioner for taking oaths, that he or she has lost the Mail-In Ballot (Appendix R).

14. PROCEDURE FOR VOTING BY MAIL-IN BALLOT

14.1 An Eligible Voter shall vote by Mail-In Ballot by:

- a) clearly marking the ballot with an “X” in the “Yes” or “No” box(es) to indicate his or her answer to the Referendum question;
- b) folding the ballot so as to conceal his or her vote but expose the Chief Referendum Officer’s initials;
- c) placing the ballot in the inner envelope marked “ballot” and sealing the envelope;
- d) completing and signing the Eligible Voter’s declaration form in the presence of a witness who is at least eighteen (18) years of age;
- e) placing the inner envelope and the completed, signed and witnessed declaration form in the postage-paid, return envelope pre-addressed to the Chief Referendum Officer; and
- f) delivering to, or otherwise ensuring receipt of the envelope by, the Chief Referendum Officer before the time at which polls close on the day of the Referendum.

14.2 Mail-In Ballots that are not received by the Chief Referendum Officer before the time at which the polls close on the day of the Referendum shall not be counted.

14.3 An Eligible Voter to whom a Mail-In Ballot was mailed or delivered may vote in person at the Polling Station if:

- a) the Eligible Voter returns the Mail-In Ballot to the Chief Referendum Officer or Deputy Referendum Officer; or
- b) the Eligible Voter has does not have the Mail-In Ballot with them and provides the Chief Referendum Officer or a Deputy Referendum Officer with a written declaration, signed in the presence of the Chief Referendum Officer or a Deputy Referendum Officer, a justice of the peace, notary public or duly appointed Commissioner for taking oaths, that they have not previously voted by Mail in Ballot and will not vote by Mail in Ballot (Appendix R).

14.4 The Chief Referendum Officer shall keep the Mail-In Ballots he has received in a secure place and shall bring these Mail-In Ballots to the Polling Station at the end of voting on Referendum Day.

15. PREPARATION OF POLLING STATION

15.1 On the day of the Referendum, the Chief Referendum Officer shall open the Polling Station at eight o'clock (8:00) in the morning and shall ensure that it remains open until closing at eight o'clock (8:00) in the evening.

15.2 Before opening the Polling Station, the Chief Referendum Officer shall supply the Polling Station with:

- a) ballot boxes with locks and/or seals;
- b) a sufficient number of ballots;
- c) the final Voters' List;
- d) the necessary materials for marking ballots;
- e) a ballot tally sheet for the purposes of Section 18.5(c); and
- f) a sufficient number of Voting Compartments in the Polling Station where Eligible Voters can mark their ballots free from observation.

15.3 Immediately before commencement of the poll, the Chief Referendum Officer shall, in the presence of the Deputy Referendum Officer:

- a) open the ballot box and confirm that it is empty and complete a written statement to that effect;
- b) properly lock and seal the ballot box so as to prevent it from being opened without breaking the seal; and
- c) place the ballot box in public view for the reception of the ballots.

15.4 In the absence of the Chief Referendum Officer, the Deputy Referendum Officer shall perform the tasks described in Section 15.3 in the presence of the Security Officer.

15.5 The Chief Referendum Officer shall ensure that the ballot box seal is not tampered with and that the ballot box remains locked until the close of voting and the counting of the ballots.

16. PROCEDURE FOR VOTING AT A POLLING STATION

16.1 On the day of the Referendum, Eligible Voters wishing to vote at a Polling Station:

- a) shall be entitled to vote only once at the Polling Station;
- b) shall vote at the Polling Station between the hours of eight o'clock (8:00) in the morning until eight o'clock (8:00) in the evening; and
- c) shall be entitled to vote if inside the Polling Station at the time fixed for closing.

16.2 Each Eligible Voter attending at the Polling Station for the purpose of voting shall sign the sign-in sheet presented by the Chief Referendum Officer or Deputy Referendum Officer and, if requested to do so by the Chief Referendum Officer and Deputy Referendum Officer, shall confirm his or her identity by:

- a) presenting to the Chief Referendum Officer or Deputy Referendum Officer identification issued by the Sts'ailes, federal or provincial government; or
- b) having an Eligible Voter who appears on the Voters' List confirm his or her identity in a signed declaration sworn in the presence of the Chief Referendum Officer or Deputy Referendum Officer.

16.3 Once the Eligible Voter has signed the sign-in sheet, the Chief Referendum Officer or Deputy Referendum Officer shall:

- a) give the Eligible Voter a ballot initialed by the Chief Referendum Officer or Deputy Referendum Officer; and
- b) place a mark, in the proper column on the Voters' List, opposite the name of the Eligible Voter who had received a ballot.

16.4 The Chief Referendum Officer or Deputy Referendum Officer shall, when requested to do so, explain the method of voting to the Eligible Voter.

16.5 Except in the manner provided in Sections 16.8 and 16.9, voting at the Referendum shall be by Secret Ballot, and the Chief Referendum Officer and/or Deputy Referendum Officer shall ensure the privacy of Eligible Voters in the Voting Compartment.

16.6 Subject to Sections 16.8 and 16.9, no Eligible Voter may vote by proxy or authorize another person to vote on his or her behalf.

- 16.7 Upon receiving the ballot, each Eligible Voter shall:
- a) immediately proceed to the voting compartment;
 - b) mark the ballot with an “X” in the “Yes” or “No” box to indicate his or her answer to the Referendum question;
 - c) fold the ballot so as to conceal his or her choice but expose the initials of the Chief Referendum Officer or Deputy Referendum Officer;
 - d) without unfolding the ballot, have the Chief Referendum Officer or Deputy Referendum Officer verify his or her initials; and
 - e) at once deposit the ballot into the ballot box in the presence of the Chief Referendum Officer or Deputy Referendum Officer.
- 16.8 Notwithstanding Sections 16.6 and 16.7, an Eligible Voter who requires assistance may request that the Chief Referendum Officer or Deputy Referendum Officer mark the ballot on his or her behalf.
- 16.9 If directed by an Eligible Voter to mark the ballot on his or her behalf as described in Section 16.8, the Chief Referendum Officer or Deputy Referendum Officer shall:
- a) in the presence of the Eligible Voter, mark the Eligible Voter’s ballot, as directed by the Eligible Voter; and
 - b) on the Voters’ List, in the column for remarks opposite the name of the Eligible Voter, note that he has marked the Eligible Voter’s ballot in the presence of the Eligible Voter, and the reason for doing so.
- 16.10 An Eligible Voter who inadvertently spoils his or her ballot may return it to the Chief Referendum Officer or Deputy Referendum Officer in order to obtain another ballot, and the Chief Referendum Officer or Deputy Referendum Officer shall boldly mark the word “CANCELLED” upon the spoiled ballot, deposit it in an envelope for cancelled and declined ballots, and provide the Eligible Voter with a new ballot initialed by the Chief Referendum Officer or Deputy Referendum Officer.
- 16.11 An Eligible Voter who has received a ballot and subsequently decides not to vote must return the ballot to the Chief Referendum Officer or Deputy Referendum Officer, who shall boldly mark the word “DECLINED” upon the ballot and deposit it in an envelope for cancelled and declined ballots.
- 16.12 An Eligible Voter forfeits his or her right to vote in the Referendum if, after being provided a ballot by the Chief Referendum Officer or Deputy Referendum Officer, the Eligible Voter leaves the Polling Station without delivering the ballot to the Chief Referendum Officer or Deputy Referendum Officer.

16.13 In addition to the Chief Referendum Officer, Deputy Referendum Officers, and any Security Officer, only the following individuals are permitted inside the Polling Station on the day of the Referendum:

- a) Eligible Voters who are in the process of voting; and
- b) the attendants of elderly and/or physically disabled Eligible Voters who are in the process of voting.

16.14 On the day of the Referendum, the following is prohibited on the premises of and in the Polling Station:

- a) the distribution or posting of any printed materials related to the Referendum, except such materials as may be distributed or posted by the Chief Referendum Officer or Deputy Referendum Officer for the purpose of conducting the Referendum;
- b) interfering with any Eligible Voter in the marking of his or her ballot; and
- c) any attempt to obtain information regarding how an Eligible Voter had voted or intends to vote in the Referendum or to influence an Eligible Voter with respect to their vote.

16.15 The Chief Referendum Officer or Deputy Referendum Officer, or the Security Officer under the direction of the Chief Referendum Officer or Deputy Referendum Officer, may remove any person who is in violation of Sections 16.3 and/or 16.4 from the premises of the Polling Station or from the Polling Station, as the case may be.

17. ELECTRONIC VOTING SYSTEM REQUIREMENTS AND PROCEDURES

17.1 Any Electronic Voting System used in respect of a Referendum must:

- a) be provided by an independent third-party service provider;
- b) provide for the verification of the identify of each Eligible Voter, the completion of an Eligible Voter's declaration form, and the use of a unique identification number for each Eligible Voter;
- c) keep Electronic Voting System results secret at all times and encrypt them in a manner in which they can never be revealed except to the Chief Referendum Officer or their agents;
- d) generate and provide automated notifications in real-time to the Chief Referendum Officer or their agents of voting completion by Eligible Voters and any incomplete or failed vote or incomplete or failed registration of an Eligible Voter with the Electronic Voting System;

- e) receive notifications in real time from the Chief Referendum Officer or their agents on the day of Referendum indicating that an Eligible Voter has voted in person; and
 - f) generate and provide activity reports to the Chief Referendum Officer and their agents on a daily basis and upon request.
- 17.2 Prior to the opening of voting through the Electronic Voting System, the Electronic Voting System must be populated with the Voters List. The Electronic Voting System must allow the Voters List to be updated in real time such that once an Eligible Voter has voted in person they are not permitted to vote electronically.
- 17.3 Any Electronic Voting System must close at the hour and date specified in a notice of Referendum described in Section 10.1 but may open up to three days earlier than when the Polling Station is opened, as determined by Council in the Referendum Resolution contemplated in Section 5.1.
- 17.4 Immediately after an Eligible Voter's vote is recorded in the Electronic Voting System, the provider of the Electronic Voting System must:
- a) record and provide the Chief Referendum Officer and their agents with the person's name, and the date and time their vote has been received; and
 - b) provide notice to the Eligible Voter that their vote has been received.
- 17.5 Upon receipt of notification under section 17.4(a), the Chief Referendum Officer will:
- a) confirm that the individual who has cast the vote is an Eligible Voter;
 - b) confirm that the Eligible Voter has not already voted either by the Electronic Voting System, in-person, or by Mail-in Ballot;
 - c) record the date and time when the vote was received; and
 - d) mark a line through that Eligible Voter's name on the Voters List.
- 17.6 Once an Eligible Voter has voted either electronically or in person at a Polling Station:
- a) the Electronic Voting System must not allow the person to vote again; and
 - b) the Chief Referendum Officer and their agents must not allow that Eligible Voter to vote in any other manner except as described in Section 17.7.
- 17.7 If the Chief Referendum Officer or their agents are notified of an incomplete or failed vote or Eligible Voter's registration as contemplated in Section 17.1(d), the Chief Referendum Officer or their agents will immediately contact that Eligible Voter with alternative voting solutions, including voting in person.

- 17.8 After the close of polls, an Electronic Voting System must:
- a) remove the option to vote electronically; and
 - b) provide the electronic voting results to the Chief Referendum Officer and their agents, including as a printable summary showing the results of all votes cast electronically.
- 17.9 The Chief Referendum Officer may in their discretion, acting reasonably and in a manner that upholds the purposes and intent of this Regulation and the principles of fairness, transparency, and good governance, make exceptions to the requirements and procedures set out in this Regulation provided that any such exception would not be reasonably expected to have a material negative impact on the integrity of a Referendum.

18. THE COUNTING AND DISPOSAL OF THE BALLOTS

- 18.1 Immediately after the close of the Polling Station on the day of the Referendum, and once the doors to the Polling Station have been locked, the Chief Referendum Officer shall, in the presence of the Deputy Referendum Officer and of any Eligible Voter who wishes to be present, open each envelope containing a Mail-In Ballot that was received before the close of the polls and, without unfolding the ballot:
- a) shall boldly mark the word “REJECTED” on the face of the ballot if:
 - i) it was not accompanied by an Eligible Voter Declaration Form or if the Eligible Voter Declaration Form is not signed or witnessed;
 - ii) the name of the person set out in the Eligible Voter Declaration Form is not on the Voters’ List;
 - iii) the Voters’ List shows that the Eligible Voter has already voted; or
 - iv) the Eligible Voter Declaration Form does not contain information that matches the information contained on the Voters’ list for that Eligible Voter; and
 - b) shall deposit all remaining Mail-In Ballots in the ballot box and place a mark on the final Voters’ List opposite the name of the Eligible Voter.
- 18.2 Immediately after all valid Mail-In Ballots have been deposited in the ballot box, the Chief Referendum Officer shall, in the presence of the Deputy Referendum Officer and of any Eligible Voter present, open the ballot box, examine the ballots, and boldly mark the word “REJECTED” on the face of all ballots that:
- a) have not been initialed by the Chief Referendum Officer or Deputy Referendum Officer;
 - b) are marked in such a way that the Eligible Voter can be identified; or

- c) are marked in such a way that the Eligible Voter's choice cannot clearly or unambiguously be determined.
- 18.3 For each ballots marked "REJECTED" under Section 18.1 or 18.2, the Chief Referendum Officer shall:
- a) write the reason for rejecting the ballot and attach that report to the ballot; and
 - b) deposit the ballot in an envelope for rejected ballots.
- 18.4 No ballot marked "REJECTED" under Sections 18.1 and 18.2, or marked "CANCELLED" under Section 16.10, or marked "DECLINED" under Section 16.11 shall be included in the tally of valid votes cast in the Referendum and counted pursuant to Section 18.5.
- 18.5 The Chief Referendum Officer shall:
- a) show the ballots to be counted, including all valid ballots cast through the Electronic Voting System, if applicable, to the Deputy Referendum Officer and to the Eligible Voters present;
 - b) count the "yes" votes and "no" votes for the Referendum question;
 - c) at the conclusion of the count, complete and sign a ballot tally sheet setting out the number of "yes" votes and "no" votes for the Referendum question; and
 - d) place all counted ballots, and a printed summary of all ballots cast through the Electronic Voting System, if applicable, in an envelope for counted ballots.
- 18.6 The outcome of the Referendum shall be determined as follows:
- a) the Referendum question shall be considered approved if a Majority of the Eligible Voters who have cast a valid vote in the Referendum have voted "Yes" to the Referendum question.
 - b) the Referendum question shall be considered rejected if a Majority of the Eligible Voters who have cast a valid vote in the Referendum have voted "No" to the Referendum question.
 - c) the Referendum question shall be considered rejected if there is an equal number of "Yes" and "No" votes by Eligible Voters who have cast a valid vote in the Referendum.
- 18.7 The Chief Referendum Officer shall:
- a) deposit the envelopes containing the counted ballots and the "CANCELLED", "DECLINED" and "REJECTED" ballots in a sealed envelope;

- b) retain this sealed envelope until the period for filing an appeal under this Regulation has expired or until a decision on appeal has been rendered, whichever date is later; and
- c) after the period prescribed in Section 18.7(b), destroy the sealed envelope containing all ballots in the presence of two witnesses, unless directed otherwise by Council.

18.8 In the absence of the Chief Referendum Officer, the Deputy Referendum Officer shall perform the tasks described in Sections 18.1, 18.2 and 18.5 in the presence of the Security Officer and any Eligible Voter who wishes to be present.

19. ANNOUNCING THE OUTCOME OF THE REFERENDUM

19.1 Immediately after the counting of the votes pursuant to Section 18.5 has been completed, the Chief Referendum Officer shall publicly declare the outcome of the Referendum at the Polling Station, specifying the total number of counted votes and the number of “yes” votes and “no” votes for the Referendum question.

19.2 Within three (3) days after completion of the counting of the ballots, the Chief Referendum Officer shall prepare a Result Statement, in duplicate, showing:

- a) the number of Eligible Voters who voted;
- b) the number of “CANCELLED” ballots;
- c) the number of “DECLINED” ballots;
- d) the number of “REJECTED” ballots;
- e) the total number of Eligible Voters who cast valid ballots;
- f) the total number of valid “Yes” votes; and
- g) the total number of valid “No” votes. (Appendix U)

19.3 The Chief Referendum Officer shall keep one of the original copies of the Result Statement for his file.

19.4 Within three (3) days of the date on which the Referendum was held, the Chief Referendum Officer shall:

- a) forward the Result Statement to Council;
- b) post the Result Statement in a public area of the Sts’ailes administration building and in other conspicuous place or places on Sts’ailes Reserve Lands as may be determined by the Chief Referendum Officer (Appendix U); and

- c) cause the publication of the Result Statement in at least three public media sources normally accessible to Eligible Voters.

19.5 The final result of the Referendum shall be:

- a) as set out in the Result Statement if no appeal has been filed by the expiration of the appeal period stipulated in Section 20.3; or
- b) as determined by the decision of the Appeal Board, if any.

19.6 At the end expiration of the appeal period, Council shall acknowledge the final result of the Referendum by Band Council Resolution.

20. APPEALS

20.1 Any Eligible Voter may file a notice of appeal with the Appeal Board requesting that the result of the Referendum as set out on the Result Statement be declared invalid on one or more of the following grounds:

- a) that there was Corrupt Practice or Fraudulent Practice in relation to the Referendum;
- b) that there was a violation of any part of the Regulation that might have affected the result of the Referendum;
- c) that a person voting in the Referendum was not an Eligible Voter and that this person's vote might have affected the results of the Referendum; or
- d) that an Eligible Voter was denied the opportunity to vote, and that this Eligible Voter's vote might have affected the result of the Referendum.

20.2 The result of the Referendum shall not be declared invalid by reason only of any irregularity or non-compliance with this Regulation or any mistake in the use of form, if it appears to the Appeal Board that the Referendum was conducted in good faith, unless the non-compliance, irregularity or mistake materially affected the result of the Referendum.

20.3 Every notice of appeal shall be filed with the Appeal Board within thirty (30) days from the date on which the Referendum was held, together with a non-refundable filing fee of seventy-five dollars (\$75).

20.4 Every notice of appeal shall include:

- a) an affidavit sworn by the Referendum Appellant before a notary public or duly appointed Commissioner for taking oaths, setting out the facts substantiating the grounds for declaring the Referendum Result invalid; and
- b) any supporting documentation.

- 20.5 Upon receiving the notice of appeal, the Appeal Board shall prepare a statement:
- a) fixing the date, time and place for the hearing of the appeal;
 - b) designating the method of taking evidence, either by sworn declaration or written testimony, or both; and
 - c) dealing with any appeal process matter or other matter not otherwise provided for in this section.
- 20.6 Within five (5) days of receiving the notice of appeal, and no fewer than twenty (20) days before the hearing of the appeal, the Appeal Board shall forward:
- a) a copy of the notice of appeal and a copy of the statement prepared pursuant to Section 20.5 to Council and to the Chief Referendum Officer; and
 - b) a copy of the statement prepared pursuant to Section 20.5 to the Referendum Appellant.
- 20.7 The Chief Referendum Officer may file a written reply and related documentation with the Appeal Board at least seven (7) days before the date of the hearing or upon request of the Appeal Board.
- 20.8 The Appeal Board shall provide a copy of the Chief Referendum Officer's reply and documentation, if any, to the Referendum Appellant who shall have up to two (2) days before the hearing to file a reply with the Appeal Board.
- 20.9 The Appeal Board shall provide a copy of any reply received from the Referendum Appellant under Section 20.8 to the Chief Referendum Officer prior to any hearing.
- 20.10 Parties at the hearing may make any representations, present any document, or call any witness they deem necessary and relevant to the appeal. No witness shall be required to divulge how he or she voted in the Referendum.
- 20.11 Three members of the Appeal Board are a quorum and where because of a conflict of interest, illness, or other reason an Appeal Board member cannot participate in a matter Council shall by Council Resolution appoint a person qualified under this Regulation to temporarily sit on the Appeal Board for the purpose of addressing that matter.
- 20.12 The Appeal Board shall use their best efforts to reach a decision by consensus provided that where consensus is not possible decisions on a matter shall be made by majority vote of Appeal Board members.
- 20.13 Within seven (7) days of the conclusion of the hearing, the Appeal Board shall issue a written decision in the appeal, together with reasons, that:
- a) confirms the result of the Referendum as set out in the Result Statement; or

- b) declares the Referendum Result set out in the Result Statement to be invalid, and orders another Referendum to be held within a specified period of time; and
- c) makes any recommendations as it deems necessary for future referenda.

20.14 The Appeal Board shall:

- a) forward a copy of its decision to Council, the Referendum Appellant, and the Chief Referendum Officer; and
- b) cause the publication of its decision in at least three public media sources normally accessible to Eligible Voters; and
- c) post a copy of its decision in a public area of the Sts'ailes administration building and other public places on Sts'ailes Reserve Land.

20.15 The decision of the Appeal Board is final and not subject to appeal.

21. AMENDMENTS

21.1 Any amendment to this Regulation shall be made by Council Resolution.