

UCHUCKLESAHT TRIBE GOVERNMENT

ELECTIONS ACT

UTS 8/2011



This law enacted on April 1, 2011

Signed

A handwritten signature in black ink that reads "Charlie Cootes".

Charlie Cootes, Chief Councillor of the
Uchucklesaht Tribe

DEPOSITED IN THE
REGISTRY OF LAWS

ON

A handwritten signature in blue ink that reads "Carl Mah".

Signature of Law Clerk

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PREAMBLE

Through the act of governing and as a treaty first nation, the Uchucklesaht Tribe assumes the responsibility of providing transparent and accountable government, blending hereditary and modern-day governing systems. In doing so, we honour our past and embrace the future ensuring the continued existence of the Uchucklesaht Tribe as a strong political, social and cultural community that aspires to grow as an organized, determined, successful and self-reliant peoples.

The Uchucklesaht tribe assumes the responsibility of providing transparent and accountable government through impartial, open, fair and free elections for our elected members of Council. This requires an electoral process that is conducted with honesty and integrity for the common good of all Uchucklesaht citizens.

Through the establishment of election rules and procedures, elections will be conducted in a manner that promotes public confidence and trust in the integrity of our elected members of Council and the Uchucklesaht government.

The Uchucklesaht Tribe adopts this Act based on these values.

PART 1 - INTRODUCTORY PROVISIONS

Short title

1.1 This Act may be cited as the Elections Act.

Executive oversight

1.2 The chief councillor is responsible for the executive oversight of this Act.

Application

1.3 This Act applies to the processes by which elected Uchucklesaht government representatives are chosen.

Definitions

1.4 In this Act,

“advance voting” means voting under section 6.5;

“ballot” means a ballot prepared in accordance with section 6.6;

“by-election” means an election other than a regular election or a run-off vote;

“candidate” means a nominee whose nomination has been confirmed in accordance with section 4.7;

“chief electoral officer” means an individual appointed under section 3.1;

“councillor-at-large” means the member of Council referred to in section 2.4(b) of the Constitution;

“deputy electoral officer” means an individual appointed under section 3.2;

“elected office” means the office of an elected member of Council;

“election official” means the chief electoral officer, any deputy electoral officer and any election worker;

“election worker” means an individual appointed by the chief electoral officer under section 3.3;

“electoral officer” means the chief electoral officer or a deputy electoral officer;

“eligible voter” means an individual whose name is on the most recent voters list;

“family councillor” means a member of Council referred to in section 2.4(a) of the Constitution;

“general voting” means voting by eligible voters on the general voting day;

“general voting day” means the day on which an election is held under section 2.1(b) or 9.1(b) ;

“intimidate” includes

- (a) to use, or threaten to use force, violence or restraint against a person,
- (b) to inflict injury, harm, damage or loss on a person or property or to threaten to do any of the foregoing, or
- (c) to otherwise intimidate a person or threaten to do anything that is otherwise intimidation of a person;

“nomination deposit” means the deposit required under section 4.5;

“nomination meeting” means a meeting held in accordance with section 4.2;

“nomination papers” means the documents filed under section 4.6;

“nominee” means a Uchucklesaht citizen who is eligible under section 4.1 to become a candidate and has been nominated to stand as a candidate for any elected office to be filled in an election in accordance with this Act;

“notice of election” means a notice given in accordance with section 2.2;

“referendum” means a vote on a question conducted in accordance with the Referendum Act;

“regular election” means an election held under section 2.1;

“run-off vote” means an additional round of voting held under section 7.8 in circumstances where there has been a tie between the leading candidates for an elected office as described in that section;

“scrutineer” means an individual appointed to represent a candidate under section 4.11;

“voter declaration form” means a document that sets out

- (a) the name of an eligible voter,

- (b) the citizenship number of the eligible voter or, if the eligible voter does not have a citizenship number, the date of birth of the eligible voter,
- (c) a statement that the eligible voter has read and understands the nature of the question and has voted freely and without compulsion, and
- (d) the name, address and telephone number of a witness to the signature of the eligible voter;

“voters list” means the list prepared under section 5.2;

“voting hours” means the hours established for voting under section 2.5;

“voting place” means a place established under section 2.4.

PART 2 - TIMING AND NOTICE OF ELECTIONS

Regular elections

- 2.1** (a) Regular elections for Council must be held in the year 2011 and in every fourth year after that.
- (b) Subject to subsection (c), the general voting day for a regular election must be during the second week in May on a day determined by Council and must be on the same day as the holding of a meeting of the People's Assembly.
- (c) The general voting day for the regular election held in the year 2011 must be
- (i) on the same day as the holding of a meeting of the People's Assembly determined by order of the Executive, which Executive order must be made no later than October 1, 2011, and
 - (ii) no earlier than June 1, 2011 and no later than December 31, 2011.

Notice of elections and nomination meetings

- 2.2** (a) At least 60 days before the general voting day for a regular election, or as soon as practicable after the date for a by-election is determined, the chief electoral officer must
- (i) post in accordance with Uchucklesaht law, and
 - (ii) publish in accordance with Uchucklesaht law
- a notice of the election and the nomination meeting.
- (b) The notice posted and published in accordance with subsection (a) must include
- (i) the date of the general voting day, the voting hours and the voting place for general voting and advance voting,
 - (ii) that the eligible voters may vote in person at the voting place,
 - (iii) the date, time and location of the nomination meeting,
 - (iv) the elected offices for which nominations may be made,
 - (v) information about the nomination process, including how an eligible voter may make and second a nomination,
 - (vi) a copy of the voters list in accordance with section 5.4, and

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- (vii) the name of and contact information for the chief electoral officer.

Voting place

- 2.3** (a) The location of the meeting of the People’s Assembly established in accordance with Part 4 of the Government Act is the voting place for general voting in the election which coincides with that meeting of the People’s Assembly.
- (b) The Uchucklesaht administrative office is the voting place for advanced voting.
- 2.4** The voting place must be at the same location identified by Council for the meeting of the People’s Assembly.

Voting hours

- 2.5** (a) Subject to subsection (b), the voting hours must be from 8:00 am until 6:00 pm.
- (b) The chief electoral officer may extend the hours for voting to 11:00 pm in the event
- (i) of a natural disaster, or
 - (ii) a run-off vote is necessary under section 7.8.

PART 3 - ELECTION ADMINISTRATION

Chief electoral officer

3.1 Council must appoint an individual to act as chief electoral officer

- (a) at least 90 days before the date of a regular election, or
- (b) within 21 days after an elected office becomes vacant.

Deputy electoral officers

3.2 (a) As soon as practicable after being appointed under section 3.1, the chief electoral officer must appoint a deputy electoral officer.

- (b) The chief electoral officer may, at any time, appoint one or more additional deputy electoral officers or a replacement deputy electoral officer if a deputy electoral officer resigns or is unable to perform his or her duties.

Election workers

3.3 (a) The chief electoral officer may appoint one or more election workers to assist in the conduct of an election.

- (b) An election worker must, as directed by the chief electoral officer, perform the duties required of him or her by this Act and the chief electoral officer.

Individuals ineligible for appointment as election officials

3.4 The following individuals must not be appointed, accept an appointment or act as an election official:

- (a) a Uchucklesaht government representative;
- (b) a Uchucklesaht government employee;
- (c) an individual who is a candidate or a scrutineer in that election;
- (d) an individual who has been an employee of, or holds a position or has made a contribution in relation to the candidacy of, any individual who is, intends to be or was a candidate in the election; or
- (e) an individual who has been convicted of an offence under this Act within the past 10 years.

Impartiality of electoral officers

- 3.5** Every electoral officer must make a solemn declaration before the chief councillor that they
- (a) will faithfully and impartially perform their duties and exercise their powers in accordance with this Act,
 - (b) have not accepted and will not accept any inducement to subvert an election, and
 - (c) will preserve the secrecy of all ballots.

Duties and powers of electoral officers

- 3.6**
- (a) Electoral officers must perform their duties and exercise their powers in accordance with this Act.
 - (b) Electoral officers must use all means reasonably necessary to ensure that elections are conducted fairly and impartially, that peace and order is maintained at the voting place and that eligible voters are provided information regarding the election.
 - (c) In addition to any other duties, the chief electoral officer must ensure that the other election officials perform their duties and exercise their powers fairly and impartially.
 - (d) The deputy electoral officer, or the first deputy electoral officer appointed under section 3.2 if there is more than one deputy electoral officer, must perform the duties and exercise the powers of the chief electoral officer in the absence of the chief electoral officer or in circumstances where the chief electoral officer is unable to perform the duties or exercise the powers of that office.

Resignation of electoral officers

- 3.7**
- (a) The chief electoral officer may resign by providing the chief councillor written notice at least 30 days prior to the date the resignation is to take effect.
 - (b) A deputy electoral officer may resign by providing the chief electoral officer written notice at least seven days prior to the date the resignation is to take effect.

PART 4 - NOMINATIONS AND CANDIDATE QUALIFICATIONS

Qualifications of candidates

- 4.1** (a) Subject to this Act,
- (i) a Uchucklesaht citizen who is at least 25 years of age may be nominated to run as a candidate for the office of chief councillor, and
 - (ii) a Uchucklesaht citizen who is at least 19 years of age may be nominated to run as a candidate for any other elected office.
- (b) A Uchucklesaht citizen may not be a candidate in an election if that person
- (i) is not, or will not be, at least 25 or 19 years of age on the general voting day for that election in accordance with subsection (a),
 - (ii) is an electoral officer for that election,
 - (iii) is a nominee for another elected office in that election,
 - (iv) is an undischarged bankrupt,
 - (v) is suffering from a medical or psychological condition, including dependency on drugs or alcohol, that a medical practitioner in writing concludes would render that person likely to be incapable of performing the duties or exercising the powers of the elected office, or
 - (vi) has been convicted of an indictable offence as referred to in the Criminal Code (Canada).

Nomination meeting

- 4.2** (a) A nomination meeting must be held at least 45 days before the date of an election, or at least 30 days before the date of a by-election, at a time and date determined by Council.
- (b) Notice of the nomination meeting must be provided in accordance with section 2.2.
- (c) The chief electoral officer must
- (i) make the necessary arrangements for holding the nomination meeting,
 - (ii) ensure nomination papers are available to any eligible voter on request, and

- (iii) receive, record and file all nomination papers.

Nomination procedures

- 4.3** (a) An eligible voter may nominate a Uchucklesaht citizen who qualifies under section 4.1 to be a candidate
- (i) by hand delivering, mailing or faxing a written nomination and a completed, signed and witnessed voter declaration form to the chief electoral officer so it is received by the chief electoral officer at least 24 hours before the time set for the nomination meeting to begin, or
 - (ii) in person at the nomination meeting.
- (b) In order for a nomination under subsection (a) to stand, the nomination must be seconded by an eligible voter in person at the nomination meeting.
- (c) An eligible voter may not
- (i) nominate or second the nomination of a family councillor unless that eligible voter is identified as a member of that family on the voters list,
 - (ii) nominate and second the nomination of the same nominee,
 - (iii) nominate himself or herself, or
 - (iv) nominate or second the nomination of more than one nominee for the same elected office in an election.
- (d) As soon as practicable following a nomination meeting, the chief electoral officer must notify any nominee who was not present at the nomination meeting of his or her nomination.

Requirements for candidates

- 4.4** A nomination is complete when the nominee has
- (a) been nominated and that nomination has been seconded at a nomination meeting in accordance with section 4.3,
 - (b) communicated acceptance of the nomination to the chief electoral officer either verbally or in writing, and
 - (c) filed the nomination papers required under this Act.

Nomination deposit

- 4.5** (a) A nomination deposit of \$100, payable in cash or by money order or certified cheque, must be deposited with the chief electoral officer at the time a candidate files his or her nomination papers.
- (b) If the chief electoral officer is of the view that the circumstances of a candidate warrant it, the chief electoral officer may extend the time required for payment of the nomination deposit by up to seven days.
- (c) A nomination deposit paid to the chief electoral officer must be dealt with as follows:
- (i) if the candidate for whom it is paid receives 15 % of the total votes accepted and counted for his or her contested office, the nomination deposit is to be returned to the candidate;
 - (ii) if the candidate for whom the nomination deposit is paid dies before the close of the general voting for the election, the nomination deposit is to be paid to the estate of the deceased candidate; and
 - (iii) in any other case, the nomination deposit is forfeited to the Uchucklesaht Tribe.

Nomination papers

- 4.6** (a) Within seven days after the nomination meeting, a nominee who wishes to stand as a candidate must file with the chief electoral officer nomination papers in the prescribed form which must include an oath or affirmation by the nominee that he or she satisfies the requirements of section 4.1.
- (b) Nomination papers are deemed to be filed with the chief electoral officer when they are received at the Uchucklesaht administrative office.
- (c) A candidate may only file nomination papers for one elected office.

Confirmation of nominations

- 4.7** (a) The chief electoral officer must, as soon as practicable after the nomination meeting, but in any event in no less than 10 days thereafter, determine whether
- (i) the nomination of a nominee has been completed in accordance with section 4.4, and
 - (ii) the nominee meets the qualifications set out in section 4.1.

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- (b) Before determining whether the nominee meets the qualifications set out in section 4.1, the chief electoral officer may, in accordance with any regulations,
 - (i) require the nominee to provide the chief electoral officer with such relevant additional documents or information relating to those qualifications as the chief electoral officer considers necessary or advisable, and
 - (ii) conduct such additional investigations in respect to those qualifications as the chief electoral officer considers necessary or advisable.
 - (c) As soon as practicable after making a determination under subsection (a), the chief electoral officer must
 - (i) notify in writing each nominee whether or not their nomination is complete and whether or not they meet the qualifications set out in section 4.1, and
 - (ii) if the nomination of a nominee is not complete or that nominee does not meet the qualifications set out in section 4.1, provide the nominee with sufficient details of those deficiencies.

Notice of candidates and preparation of ballots

- 4.8** (a) As soon as practicable after making all the determinations required under section 4.7, the chief electoral officer must
- (i) post in accordance with Uchucklesaht law, and
 - (ii) publish in accordance with Uchucklesaht law
- a notice of the names of all the candidates for each elected office to be voted on in that election.
- (b) When preparing a ballot to be used for voting in an election, the chief electoral officer must include on that ballot only the names of the candidates for that elected office to be filled in that election.

Withdrawal of a candidate

- 4.9** (a) A candidate may withdraw from the election by delivering a signed notice of withdrawal to the chief electoral officer in accordance with any regulations.
- (b) If a candidate withdraws from an election after the ballots for the election have already been prepared and the chief electoral officer determines that it is not practicable to replace those ballots in time for advance voting, the chief electoral officer must post in accordance with Uchucklesaht law and at the voting place

during advance voting and general voting, a notice of the withdrawal of that candidate.

Acclamation

4.10 The chief electoral officer must immediately declare a candidate elected by acclamation if

- (a) there is only one candidate for that elected office, or
- (b) as a result of a disqualification or withdrawal of a candidate, there is only one candidate remaining for that elected office.

Appointment of scrutineer

4.11 A candidate may appoint a scrutineer to observe the conduct of voting and counting of ballots in the election.

PART 5 - VOTER QUALIFICATIONS AND REGISTRATION

Eligible voters

- 5.1** A Uchucklesaht citizen who is or will be at least 16 years of age on the general voting day is entitled to vote in an election.

Voters list

- 5.2** (a) The chief electoral officer must prepare a list of Uchucklesaht citizens entitled to vote in an election based on information provided by the citizenship and enrolment registrar.
- (b) The voters list must be arranged in alphabetical order by last name and contain the name, date of birth, address and family affiliation of each eligible voter.

Family affiliation

- 5.3** A voter may only be identified in the voters list as being affiliated with one family.

Posting the voters list

- 5.4** The chief electoral officer must post in accordance with Uchucklesaht law a voters list containing only the names and family affiliation of eligible voters.

Access to voters list during election

- 5.5** (a) The chief electoral officer must, on request and without charge, provide a candidate with a printed or an electronic copy of the most recent voters list containing only the names and family affiliations of eligible voters.
- (b) The chief electoral officer must, in accordance with any regulations, make available for inspection by Uchucklesaht citizens at the Uchucklesaht administrative office, copies of the most recent voters list containing only the names and family affiliations of eligible voters.

Objections to voters list

- 5.6** An eligible voter whose name

- (a) does not appear on the voters list, or
- (b) or family affiliations is incorrectly set out on the voters list

may, in person or by telephone, courier, mail, fax or email, request the chief electoral officer to revise the voters list.

Correcting the voters list

- 5.7** (a) If the chief electoral officer is satisfied that the voters list should be corrected, the chief electoral officer must make the necessary correction.
- (b) The chief electoral officer must maintain a written record of all requests under section 5.6 along with the chief electoral officer's decision with regard to the request and reasons for the decision.

Corrected voters list

- 5.8** After any disputes over the voters list are resolved, the chief electoral officer must post the corrected voters list in accordance with section 5.4.

PART 6 - VOTING

Voting by ballot

6.1 All voting in an election must be made on ballots in accordance with this Part.

Voting rights

- 6.2** (a) An eligible voter who is on the voters list may vote in an election for the offices of
- (i) chief councillor,
 - (ii) councillor-at-large, and
 - (iii) one family councillor for the family to which the eligible voter is listed on the voters list as being affiliated to, and
 - (iv) on a question in a referendum.
- (b) An individual who is not on the voters list may vote if, on the general voting day, the individual
- (i) is at least 16 years of age, and
 - (ii) complies with the requirements of section 6.4(b).
- (c) An eligible voter must not vote on more than one occasion in the same election.

Voting methods

6.3 An eligible voter may vote using one of the following procedures

- (a) in person, during general voting, or
- (b) in person, during advance voting.

Voting in person

- 6.4** (a) When an eligible voter wishes to vote in person at the voting place, an election official must
- (i) verify that the eligible voter's name is on the voters list and request photographic identification so the eligible voter can be reliably identified as an eligible voter and the individual that they claim to be,

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- (ii) verify on the voters list whether or not the eligible voter has already voted,
 - (iii) if the individual is an eligible voter and has not already voted in that election, issue a ballot to the eligible voter based on family affiliation in a manner that ensures the secrecy of the ballot and protects his or her secrecy of the eligible voter's vote,
 - (iv) mark the back of the ballot by signing his or her initials on the back of the ballot,
 - (v) provide to the eligible voter, in the prescribed form, the instructions for marking a ballot, and
 - (vi) indicate on the voters list that the eligible voter has voted as soon as the ballot is deposited in the ballot box.
- (b) If an individual wishes to vote in an election but his or her name is not on the voters list, an election official may add that individual's name to the voters list and issue the individual a ballot in accordance with subsection (a) and allow him or her to vote only if
- (i) the election official is satisfied that individual is an eligible voter and was omitted from the voters list in error, or
 - (ii) that individual provides the election official with
 - (A) a statutory declaration stating that the individual is an eligible voter, and
 - (B) any other information the election official considers necessary to verify that the individual is an eligible voter.

Advance voting

- 6.5** (a) The chief electoral officer must conduct advance voting at least on one day during the nine day period immediately preceding the general voting day.
- (b) On the day of advance voting, an eligible voter may vote in person at the voting place in accordance with section 6.4.

Style of ballot

- 6.6** (a) A ballot must be in the prescribed form and, in the case of an election, must
- (i) list every candidate in alphabetical order by surname for each elected office being voted on in that election, and

- (ii) provide a space opposite each candidate's name for the eligible voter to enter a mark indicating his or her vote.
- (b) A ballot must be designed so that the eligible voter's identity cannot be ascertained after the ballot has been deposited in a ballot box.
- (c) The chief electoral officer must prepare two distinct forms of ballot as follows:
 - (i) one ballot containing the names of candidates for the offices of chief councillor and councillor-at-large; and
 - (ii) one ballot for each family containing the names of candidates for that family councillor.

Secrecy of ballot

- 6.7**
- (a) Voting in an election must be by secret ballot.
 - (b) Every individual present at a voting place and each individual present at the counting of ballots
 - (i) must maintain the secrecy of every ballot, and
 - (ii) must not
 - (A) interfere or attempt to interfere with an eligible voter who is marking a ballot,
 - (B) attempt to discover how an eligible voter voted,
 - (C) communicate information regarding how an eligible voter voted or marked a ballot, or
 - (D) induce an eligible voter, directly or indirectly, to show a ballot in a way that reveals how that eligible voter voted.
 - (c) The chief electoral officer must ensure that the voting place has at least one voting compartment that is arranged in a manner that an eligible voter may mark his or her ballot, screened off from observation by others and without interference or intimidation.

Ballot boxes

- 6.8** Ballot boxes used in an election may be any box or other appropriate receptacle that is constructed so it can be sealed and ballots inserted but not withdrawn or the ballot box opened unless the seal is broken.

Ballots and other materials

- 6.9** Before the beginning of voting during an election, the chief electoral officer must deliver or cause to be delivered to the voting place
- (a) sufficient ballots,
 - (b) as many ballot boxes sealed in accordance with section 6.19 as are required, and
 - (c) sufficient copies of voting instructions, pencils and other materials for the marking of the ballots by eligible voters.

Requirements before eligible voter may be given a ballot

- 6.10** (a) A voter must meet the following requirements in order to obtain a ballot during general voting or advance voting:
- (i) the eligible voter's name must appear on the voters list, or
 - (ii) the eligible voter's name must have been added to the voters list in accordance with section 6.4(b), and
 - (iii) the eligible voter person must sign the voters list in the space provided next to his or her name.
- (b) Once the requirements of subsection (a) have been met, an election official must give the eligible voter a ballot initialled by the chief electoral officer on the back of the ballot.

How to vote by ballot

- 6.11** (a) After receiving a ballot, an eligible voter must
- (i) proceed without delay to a voting compartment provided,
 - (ii) while the ballot is screened from observation by others, mark it by placing a mark in the blank space opposite the name of the candidate for whom the eligible voter wishes to vote,
 - (iii) fold the ballot to conceal all marks made on it by the eligible voter but so as to expose the initials of the chief electoral officer on the back of the ballot,
 - (iv) leave the voting compartment without delay,
 - (v) deliver the ballot to the election official from whom he or she received it,

- (vi) observe the election official deposit his or her marked ballot into the ballot box, and
 - (vii) leave the voting place without delay.
- (b) After receiving a ballot in accordance with subsection (a), the election official must, without delay and without unfolding the ballot, verify the initials of the chief electoral officer on the back of the ballot and deposit the ballot in the ballot box in the presence of the eligible voter and at least one other individual.
 - (c) An election official may, and if requested by an eligible voter must, explain to the eligible voter the proper method for voting by ballot.

One individual to a voting compartment

6.12 While an eligible voter is in a voting compartment to mark a ballot, no other individual may observe or be in a position to observe the ballot being marked except

- (a) an individual assisting the eligible voter in accordance with section 6.13, or
- (b) if the chief electoral officer permits, an individual who is in the care of the eligible voter.

Individuals needing assistance to mark their ballots

6.13 (a) An eligible voter who is unable to mark a ballot because of physical disability or a language barrier may be assisted in voting by an election official or by an individual accompanying that eligible voter.

- (b) An individual who assists an eligible voter under subsection (a) must
 - (i) preserve the secrecy of the ballot of the eligible voter being assisted,
 - (ii) mark the ballot in accordance with the wishes of the eligible voter, and
 - (iii) refrain from influencing or attempting in any manner to influence the eligible voter as to how the eligible voter should vote.
- (c) An election official must indicate on the voters list opposite the name of the eligible voter receiving assistance
 - (i) the fact that
 - (A) the eligible voter's ballot was marked by another individual at the request of the eligible voter, or

- (B) another individual accompanied the eligible voter in the voting compartment, and
- (ii) the name of the individual assisting or accompanying the eligible voter, and
- (iii) the reason for which the eligible voter requested assistance or another individual to accompany the eligible voter.

Replacement of spoiled ballot

- 6.14** (a) If an eligible voter unintentionally spoils a ballot before it is deposited in a ballot box, the eligible voter may obtain a replacement ballot by giving the spoiled ballot to the chief electoral officer.
- (b) If the chief electoral officer receives a spoiled ballot under subsection (a), the chief electoral officer must immediately
- (i) mark the ballot as spoiled,
 - (ii) provide that eligible voter with a replacement ballot, and
 - (iii) retain the spoiled ballot until it is dealt with under section 7.10.

Rules for voting places

- 6.15** The chief electoral officer may make rulings in relation to the maintenance of peace and order at the voting place.

Individuals who must be present at a voting place

- 6.16** An election officer and another election official must be present at all times at a voting place while voting is being conducted.

Individuals who may be present at a voting place

- 6.17** Only the following individuals may be present at a voting place while voting is being conducted:
- (a) election officials authorized to be present at the voting place;
 - (b) individuals who are
 - (i) present at the voting place to vote,
 - (ii) assisting an eligible voter present to vote, or

- (iii) in the care of an eligible voter present to vote;
- (c) an individual acting as a translator in accordance with section 6.13;
- (d) one scrutineer for each candidate in the election; and
- (e) one additional scrutineer for each candidate in the election temporarily present at the voting place for the purpose of conveying information to and from the scrutineer referred to in subsection (d).

Suspension of voting

- 6.18** (a) Voting at a voting place may be suspended by the responsible election official if that election official considers that
- (i) the health or safety of persons is at risk, or
 - (ii) the integrity of the voting is at risk.
- (b) If the responsible election official suspends voting under subsection (a), that election official must
- (i) immediately notify the chief electoral officer of the suspension as soon as possible, and
 - (ii) follow any directions given by the chief electoral officer in relation to the suspension.
- (c) Voting may be suspended under subsection (a)
- (i) to a later time on the same day at the same voting place,
 - (ii) to a later time on the same day at another location not more than 15 kilometres away, or
 - (iii) to a day, time and place to be set by the chief electoral officer.
- (d) While voting is suspended under subsection (a), the responsible election official must make all reasonable efforts to ensure
- (i) the ballot boxes, ballots and other election materials are secured, and
 - (ii) the integrity of the election is not compromised.
- (e) The responsible election official must give notice to persons affected by any suspension of voting under this section as directed by the chief electoral officer

or, in the absence of such direction, in any manner the responsible election official considers appropriate.

Sealing of ballot boxes

- 6.19** (a) Before any marked ballot is deposited in a ballot box, the chief electoral officer must, in the presence of at least one other election official, inspect the ballot box to ensure that it is empty and then seal the ballot box in such a manner that ballots can be deposited but not withdrawn and the ballot box cannot be opened without breaking the seal.
- (b) After one or more marked ballots have been deposited in a ballot box, the chief electoral officer must, in the presence of at least one other election official, seal the deposit slot of the ballot box at the following times in a manner that prevents deposit of additional ballots:
- (i) when the ballot box appears to be full;
 - (ii) at the close of advance voting;
 - (iii) at the close of general voting; and
 - (iv) if voting is suspended under section 6.18.
- (c) Before additional ballots may be deposited in a ballot box sealed in accordance with subsection (b), the chief electoral officer must, in the presence of at least one other election official, remove the seal of the ballot box deposit slot.
- (d) Between the close of advance voting and the commencement of general voting, the chief electoral officer must ensure that all ballot boxes used in the advance voting are maintained in a secure location, free from any interference.

PART 7 - COUNTING THE VOTE AND DISPOSITION OF BALLOTS

When and where counting is to be done

- 7.1** (a) The counting of ballots must not take place until the end of voting hours on general voting day, but the counting of ballots must take place as soon as practicable after that time.
- (b) The counting of ballots must take place at the voting place unless the chief electoral officer directs that the counting is to take place at another location.

Who may be present at counting

- 7.2** (a) While the counting of ballots is being conducted
- (i) at least one election officer must be present, and
- (ii) a candidate in the election, or one scrutineer for a candidate not present, are entitled to be present.
- (b) No other individuals, other than those referred to in subsection (a), may be present when the counting of ballots is being conducted, unless permitted by the chief electoral officer.

Who does the counting

- 7.3** (a) The chief electoral officer must conduct the counting of ballots.
- (b) In counting the ballots, the chief electoral officer must accept or reject each ballot in accordance with section 7.5.

Procedures for counting

- 7.4** (a) All ballots deposited in a ballot box must be counted in accordance with this section.
- (b) The chief electoral officer, and no other individual, must open each ballot box one at a time by breaking the seals of that ballot box and removing every ballot in that ballot box one at a time to be counted in accordance with this section and before proceeding to open and count the ballots in another ballot box.
- (c) As each ballot is counted, it must be placed in such a manner that individuals present at the counting table are able to see how the ballot is marked.
- (d) Counting must proceed as continuously as is practicable and the votes counted must be recorded by an electoral officer.

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- (e) Unless rejected in accordance with section 7.5, a marked ballot must be accepted and counted as a valid vote.
 - (f) The chief electoral officer must endorse each ballot to indicate whether
 - (i) the ballot was accepted as valid,
 - (ii) the ballot was rejected in accordance with section 7.5,
 - (iii) the rejection of the ballot was objected to in accordance with section 7.6, or
 - (iv) the ballot was accepted but the acceptance was objected to in accordance with section 7.6.

Rules for accepting votes and rejecting ballots

- 7.5**
- (a) Subject to subsection (b), the chief electoral officer must accept each ballot if it is reasonably possible to determine the eligible voter's intention from the marks made on the ballot by the eligible voter.
 - (b) A ballot must be rejected as invalid if
 - (i) the ballot does not have the initials of the chief electoral officer inscribed on the back of the ballot,
 - (ii) the marks on the ballot are not sufficiently clear so as to make it reasonably possible to determine the eligible voter's intention,
 - (iii) there are no marks on the ballot,
 - (iv) there are more marks on the ballot than there are candidates to be elected, or
 - (v) the ballot is marked in such a manner that the eligible voter can reasonably be identified.

Objections to acceptance of vote or rejection of ballot

- 7.6**
- (a) A candidate or scrutineer may object to a decision of the chief electoral officer to accept a ballot or reject a ballot.
 - (b) If an objection is made under subsection (a), that objection must be recorded by the electoral officer present and the chief electoral officer must endorse the back of the ballot with the details of the objection.
 - (c) An objection must be made at the time the ballot is considered.

Election results

- 7.7** The chief electoral officer must, without delay after completing the counting of ballots,
- (a) declare the results of the election as follows:
 - (i) for the office of chief councillor, the candidate who receives the highest number of valid votes must be declared elected,
 - (ii) for the office of councillor-at-large, the candidate who receives the highest number of valid votes must be declared elected, and
 - (iii) for each office of family councillor, the candidate who receives the highest number of valid votes must be declared elected.
 - (b) prepare and post in accordance with Uchucklesaht law, a written report setting out
 - (i) the number of ballots cast in the election,
 - (ii) the number of votes accepted for each candidate, and
 - (iii) the number of rejected ballots.

Run-off vote

- 7.8**
- (a) If voting for an elected office in an election results in a tie vote with two or more leading candidates for that elected office having an equal number of votes, then immediately upon the determination that a tie vote has occurred,
 - (i) the chief electoral officer must advise the facilitator, chosen under section 4.5 of the Government Act to facilitate the meeting of the People's Assembly during which that election is held, of the necessity of a run-off vote,
 - (ii) that facilitator must announce to that People's Assembly that a run-off vote must be held in accordance with this section, and
 - (iii) the chief electoral officer must make the necessary preparations for and then conduct a run-off vote for that elected office in accordance with this section.
 - (b) The run-off vote required under subsection (a)(iii) must be held on the same day as the meeting of the People's Assembly during which that election was held.
 - (c) The chief electoral officer must prepare ballots for the run-off vote

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- (i) which identify at the top of the ballot the elected office for which the run-off vote is being held,
 - (ii) listing only the names of the leading candidates for that elected office who were tied under subsection (a), and
 - (iii) which, for certainty, otherwise comply with sections 6.6(a) and 6.6(b).
- (d) For certainty but subject to subsection (e), a run-off vote under this section must be conducted in accordance with Parts 6 and 7, excluding section 6.3(b) and section 6.5, with the necessary changes to those Parts required in the circumstances.
- (e) In conducting a run-off vote under this section, the chief electoral officer must use the voters list used for that particular elected office in the first round of voting for that elected office.
- (f) In the event that in a run-off vote there is a tie with two or more leading candidates in the run-off vote have an equal number of votes, the chief electoral officer must conduct one or more run-off votes in accordance with this section until such time as a single candidate for that elected office receives a majority of the votes cast in that run-off vote.

Final count

7.9 Subject to section 8.1, the results of an election declared in accordance with section 7.7 are final.

Disposition of ballot papers

- 7.10** (a) The chief electoral officer must maintain all ballots, including spoiled ballots and rejected ballots, voters lists and other materials specific to the election for 90 days after the general voting day.
- (b) The chief electoral officer must, in the presence of at least one witness, destroy the ballots, including spoiled ballots and rejected ballots, at the end of the retention period under subsection (a), unless an application has been made in accordance with section 8.1 or 8.5.

PART 8 - ELECTION APPEALS

Application for recount

- 8.1** (a) After the results of an election are declared in accordance with section 7.7, a candidate for an elected office in that election may, in accordance with subsection (b), apply to the chief electoral officer for a recount of the votes cast in that election for that office, on one or more of the following grounds:
- (i) that ballots for that office were not correctly accepted or rejected in accordance with this Act; or
 - (ii) that the written report under section 7.7 did not accurately record the number of votes for a candidate for that office.
- (b) An application under subsection (a) must be made by filing an application with the chief electoral officer in the prescribed form within two days after the chief electoral officer posts the written report in accordance with section 7.7.
- (c) On the filing of an application in accordance with subsection (b), the chief electoral officer must make a determination of the application by
- (i) making an order dismissing the application if the chief electoral officer determines that the recount, if it were to be conducted, would not materially affect the results of the election, or
 - (ii) conducting a recount of those ballots cast for that office.

Individuals who may be present at recount

- 8.2** (a) The following individuals may be present at a recount conducted in accordance with section 8.1:
- (i) candidates for that office, and
 - (ii) for each candidate under section 8.1(a), one scrutineer, and for each candidate for that office who is not present under section 8.1(a), two scrutineers.
- (b) No other individuals, other than those referred to in subsection (a), may be present when the recounting of ballots is being conducted, unless permitted by the chief electoral officer.

Certification of results of recount

- 8.3** After conducting a recount under section 8.1, the chief electoral officer must certify the results of the recount by issuing a certificate setting out the results of the recount.

Posting of results

- 8.4** As soon as practicable after certifying the official results of a recount under section 8.3, the chief electoral officer must post in accordance with Uchucklesaht law, a notice containing the results.

Application to set aside election

- 8.5** (a) Within seven days after an election, any eligible voter who voted in that election may challenge the validity of the election on the grounds that
- (i) the election was not conducted in accordance with this Act in a way that materially affected the result,
 - (ii) a candidate in the election was ineligible to be a candidate and this fact materially affected the election result, or
 - (iii) there was vote buying, intimidation or other corrupt practice in connection with the election,
- by filing an application in the prescribed form with the chief electoral officer.
- (b) An application in accordance with subsection (a) must
- (i) provide particulars of the basis of the application,
 - (ii) include all supporting documents upon which the applicant relies, and
 - (iii) be sworn or declared before a prescribed individual.
- (c) The chief electoral officer must, without delay, forward a copy of an application received in accordance with subsections (a) and (b) to each candidate in the election.

Candidate response

- 8.6** (a) A candidate may, within seven days of receiving a copy of an application made in accordance with section 8.5, file a written response with the chief electoral officer.
- (b) The response under subsection (a) must
- (i) include all supporting documents upon which the candidate relies, and
 - (ii) be sworn or declared before a prescribed individual.

Application hearing

- 8.7** (a) The chief electoral officer must, without delay, refer an application received in accordance with section 8.5 and any responses given in accordance with section 8.6 to the Administrative Decisions Review Board.
- (b) For certainty, an application made in accordance with section 8.5 is deemed to be a review request filed under section 3.1 of the Administrative Decisions Review Act to which section 1.3(a) of that Act applies and
- (i) that review request does not require a preliminary assessment under section 3.4 of the Administrative Decisions Review Act or a review report from the law clerk under section 3.6 of that Act,
 - (ii) the applicant who filed the application in accordance with section 8.5 is deemed to be the applicant under the Administrative Decisions Review Act,
 - (iii) a candidate who delivers a written response in accordance with section 8.6 is deemed to be a party to the review under the Administrative Decisions Review Act, and
 - (iv) the chief electoral officer is deemed to be a party to the review under the Administrative Decisions Review Act and a Uchucklesaht public employee for purposes of interpreting his or her obligations under the Administrative Decisions Review Act.
- (c) The Administrative Decisions Review Board
- (i) may hold a hearing in accordance with the Administrative Decisions Review Act at which the parties to the review have an opportunity to present oral and other evidence,
 - (ii) may conduct further inquiries as the Administrative Decisions Review Board considers necessary,
 - (iii) must, by order and despite section 4.7 of the Administrative Decisions Review Act, either
 - (A) reject the application and confirm the result of the election, or
 - (B) allow the application, in whole or in part, and declare the relevant elected office vacant, and
 - (iv) must make an order under paragraph (iii) within 30 days of receiving the application and responses from the chief electoral officer.

Costs of review

- 8.8** Despite sections 4.7 and 4.8 of the Administration Decisions Review Act, if under section 8.7 the Administrative Decisions Review Board
- (a) allows an application made under section 8.5 and declares an elected office vacant, the Uchucklesaht Tribe must pay the cost of the Administrative Decisions Review Board, or
 - (b) rejects an application made under section 8.5 and confirm the result of an election, the applicant who made the application under section 8.5 must pay the cost of the Administrative Decisions Review Board.

PART 9 - BY-ELECTIONS

By-election for an elected office

- 9.1**
- (a) Subject to subsection (c), when a vacancy occurs in an elected office, a by-election must be held to fill that vacancy within 60 days after the vacancy occurs.
 - (b) A by-election must be held on a date determined by Council and in accordance with this Act.
 - (c) A by-election
 - (i) must be held to fill an elected office that becomes vacant only if more than six months remain until the next regular election, and
 - (ii) may be held to fill an elected office that becomes vacant if at least three months remain until the next regular election.
 - (d) A candidate elected in a by-election is only elected to complete the balance of the term of the elected office of the individual he or she is replacing.

PART 10 - OFFENCES**Restriction on election campaigning near election offices and voting places**

- 10.1** (a) A person must not post, display or disseminate within 100 metres of the office of the chief electoral officer
- (i) any election advertising, or
 - (ii) any material that identifies a candidate or represents a particular choice on a question in a referendum or at a ratification meeting.
- (b) While advance voting or general voting is being conducted at a voting place, a person must not do any of the following within 100 metres of the voting place:
- (i) post, display or disseminate
 - (A) election advertising, or
 - (B) any material that identifies a candidate or represents a particular choice on a question in a referendum or at a ratification meeting unless authorized by the chief electoral officer;
 - (ii) canvass or solicit votes or otherwise attempt to influence how an eligible voter votes;
 - (iii) carry, wear or supply a flag, badge or other thing indicating that the person using it is a supporter of a particular candidate or choice on a question in a referendum or at a ratification meeting; or
 - (iv) post, display, disseminate or leave a representation of a ballot marked for a particular candidate or choice on a question in a referendum or at a ratification meeting.
- (c) If subsection (a) or (b) is contravened, the chief electoral officer or other election official authorized by the chief electoral officer may enter on the property where the materials are located and remove, cover or otherwise obscure them from view.
- (d) While advance voting or general voting is being conducted at a voting place, a person must not conduct election advertising by means of a public address system that is within hearing distance of the voting place.

Vote buying

- 10.2** (a) A person must not pay, give, lend or procure an inducement for any of the following purposes:

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- (i) to induce an individual to vote or refrain from voting in an election;
 - (ii) to induce an individual to vote or refrain from voting for or against a particular candidate or choice on a question in a referendum or at a ratification meeting; or
 - (iii) to reward an individual for having voted or refrained from voting as described in paragraphs (i) or (ii).
- (b) An individual must not accept an inducement
- (i) to vote or refrain from voting in an election,
 - (ii) to vote or refrain from voting for or against a particular candidate or choice on a question in a referendum or at a ratification meeting, or
 - (iii) as a reward for having voted or refrained from voting as described in paragraph (i) or (ii).
- (c) A person must not advance, pay or otherwise provide an inducement, or cause an inducement to be provided with the intent that the inducement is to be used for any of the acts prohibited by this section.
- (d) A person must not offer, agree or promise to do anything otherwise prohibited by this section.
- (e) A person prohibited from doing something by this section must not do the prohibited thing directly or indirectly.

Intimidation

- 10.3** (a) A person must not intimidate an individual for any of the following purposes:
- (i) to persuade or compel the individual to vote or refrain from voting in an election;
 - (ii) to persuade or compel the individual to vote or refrain from voting for a particular candidate or choice on a question in a referendum or at a ratification meeting; or
 - (iii) to punish the individual for having voted or refrained from voting as described in paragraph (i) or (ii).
- (b) A person must not, by abduction, duress or fraudulent means, do any of the following:

- (i) impede, prevent or otherwise interfere with an individual's right to vote in an election;
 - (ii) compel, persuade or otherwise cause an individual to vote or refrain from voting in an election; or
 - (iii) compel, persuade or otherwise cause an individual to vote or refrain from voting for or against a particular candidate or choice on a question in a referendum or at a ratification meeting.
- (c) A person prohibited from doing something by this section must not do the prohibited thing directly or indirectly.

Corrupt voting

10.4 An individual must not

- (a) vote in an election when not entitled to do so,
- (b) vote on more than one occasion in an election,
- (c) fail to mark a ballot in accordance with the directions of the eligible voter being assisted by that individual, or
- (d) obtain a ballot in the name of another individual, whether the name is of a living, dead or fictitious individual.

Election officials

- 10.5** (a) An election official must not contravene this Act or a direction of the chief electoral officer.
- (b) A person must not advance, pay or otherwise provide an inducement, or cause an inducement to be provided, with the intent that the inducement is to be used to procure a contravention of subsection (a).
- (c) A person must not offer, agree or promise to do anything otherwise prohibited by this section.
- (d) A person prohibited from doing something by this section must not do the prohibited thing directly or indirectly.

Offences in relation to candidates

10.6 In the case of an election, a person must not

- (a) purport to withdraw a candidate from an election without authority to do so, or

- (b) publish, or cause to be published, a false statement that a candidate has withdrawn from an election.

Offences in relation to ballots and other voting materials

10.7 A person must not, without authority under this Act,

- (a) supply a ballot to any person,
- (b) print or reproduce a ballot or paper that is capable of being used as a ballot,
- (c) remove a ballot from a voting place,
- (d) deposit in a ballot box, or cause to be deposited in a ballot box, anything other than a ballot authorized to be deposited, or
- (e) destroy, remove, open or otherwise interfere with a ballot, secrecy envelope, ballot box, written report or other voting materials.

Offences in relation to voting and counting proceedings

10.8 A person must not

- (a) contravene section 6.7 regarding the secrecy of ballots,
- (b) without authority under this Act be present at a voting place or where the counting of ballots is being conducted, or
- (c) without authority under this Act remove, cover up, mutilate, deface or alter a notice or other document authorized or required to be posted under this Act.

Offences in relation to election officials

10.9 A person must not

- (a) represent that the person is an election official if they are not,
- (b) accept appointment or act as an election official when they are not qualified,
- (c) having made a solemn declaration under this Act to exercise their powers and perform their duties faithfully and impartially, act other than faithfully and impartially in exercising those powers or performing those duties, or
- (d) impede or obstruct an election official or other person in performing duties and exercising powers given to the person under this Act.

Offences in relation to false or misleading information

- 10.10** (a) A person must not
- (i) provide false or misleading information when required or authorized under this Act to provide information, or
 - (ii) make a false or misleading statement or declaration when required under this Act to make a statement or declaration.
- (b) A person is not guilty of an offence under this section if, at the time the information was provided or the statement or declaration was made, the person did not know that the information, statement or declaration was false or misleading and could not, even with the exercise of reasonable diligence, have known that it was false or misleading.

Penalties

- 10.11** Every person who contravenes this Part commits an offence and is liable, on summary conviction, to a fine not exceeding \$1,000 or imprisonment for a term not exceeding 30 days.

PART 11 - GENERAL PROVISIONS**Regulations**

- 11.1** (a) The Executive may make regulations which it considers necessary or advisable for the purposes of this Act.
- (b) Without limiting subsection (a), the Executive may make regulations in relation to
- (i) requests for review by and applications to the chief electoral officer and his or her consideration of those requests and applications,
 - (ii) the filing of documents with the chief electoral officer,
 - (iii) the nomination papers and other documents required to be filed with the chief electoral officer in connection with the nomination of an individual as a candidate,
 - (iv) the opportunities to vote in elections afforded to eligible voters who are Uchucklesaht government employees,
 - (v) the ballots, secrecy envelopes, ballot boxes, written reports or other voting materials,
 - (vi) the rules and procedures to be followed in counting or recounting ballots, including the circumstances in which ballots must be rejected, or
 - (vii) the terms and conditions of the appointment, employment, resignation and removal from office of
 - (A) the chief electoral officer, and
 - (B) any other election official.

Commencement

- 11.2** This Act comes into force on the Maa-nulth Treaty effective date.