

BLUEBERRY RIVER CUSTOM ELECTION BY-LAW, 2017

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WHEREAS:

- A.** Blueberry River First Nations has an inherent Aboriginal right to govern its members;
- B.** Blueberry River First Nations right to self-government is recognized and affirmed by section 35(1) of the *Constitution Act, 1982*;
- C.** The history and foundation of Dane-Zaa and Cree Nations is rooted in faith and knowledge of their unique cultures, family groups, laws and beliefs;
- D.** Blueberry River First Nations has a vision of speaking the Beaver and Cree languages and holding onto their customs and traditions;
- E.** Blueberry River First Nations has a vision of governing according to customs given to their people by the Creator;
- F.** Blueberry River First Nations is determined to seek better ways to live, including social development, education and training through fairness and strong leadership with good service delivery to membership, including accountability and financial management;
- G.** Blueberry River First Nations prioritizes the protection of traditional lands and the environment and upholding Treaty No. 8 and Aboriginal Rights;
- H.** Blueberry River First Nations members expect their Council to cooperate and listen to members and speak with all levels of government in the best interests of Blueberry River First Nations both at home and away;
- I.** Blueberry River First Nations members want to encourage Elders and youth to participate in band governance;
- J.** Blueberry River First Nations promotes healing, healthy lifestyles, wellness, economic development and recreation;
- K.** Blueberry River First Nations promotes respect for families, drumming and dancing;
- L.** Blueberry River First Nations membership expects that their Chief and Family Councillors abide by this declaration and practice both the ways of traditional customs and the principles of a democratic system to be responsible for Blueberry River First Nations people;

NOW THEREFORE Blueberry River First Nations enacts as follows:

PART 1: CITATION

1. This By-law may be cited as the *Blueberry River Custom Election By-law, 2017*.

PART 2: DEFINITIONS, INTERPRETATION AND APPLICATION

Definitions

2. For the purposes of this By-law:

"Arbitrator" means an adjudicator appointed in accordance with Part 16;

"apparent conflict of interest" means a situation where a reasonable and well-informed person would perceive that:

- (a) a Council member's ability to exercise their Council duty must be affected by their private interests, or
- (b) a personal or business activity the Council member is involved in outside their role on Council must interfere with their fulfillment or performance of Council duties or conflict with the interests of Blueberry River;

"applicant" means a person who submits a Notice of Appeal in accordance with Part 17;

"*Bankruptcy and Insolvency Act*" means the *Bankruptcy and Insolvency Act*, R.S.C., 1985, c. B-3;

"Blueberry River" means Blueberry River, as recognized under the *Indian Act* and as represented by its Council and any successor Council; Blueberry River is also known as the "Blueberry River First Nations";

"Blueberry River business entity" means a corporation or a partnership, a joint venture or any other unincorporated association or organization, the financial transactions of which are consolidated in the annual financial statements of Blueberry River;

"by-election" means an election required in accordance with either subparagraphs 137(b)(i) and 137(b)(ii), or section 168;

"campaigning" means any act conducted by a person, on behalf of a candidate, that is intended to influence at least one (1) elector to vote or refrain from voting for a particular candidate;

"campaign material" means an item, design, sound, symbol or mark that is created or copied in any form for the purposes of campaigning;

"candidate" means an elector who the electoral officer declares as a candidate in a Notice of Nomination Results and All Candidates Forum;

"Chief" means the Council member who is elected to the office of Chief in accordance with this By-law;

"Chief election meeting" means the meeting held where the Family Councillors elect the Chief in accordance with Part 15;

"conflict of interest" means a situation where a Council member:

- (a) performs a Council duty and at the same time knows or ought reasonably to know that in the performance of the Council duty there is an opportunity to benefit their private interests, or
- (b) participates in any personal or business activities outside their role on Council that may interfere with the fulfillment or performance of their Council duties, or conflict with the interests of Blueberry River;

"Council" means the sum of all those members elected pursuant to this By-law into the offices of Chief and Family Councillor;

"Council resolution" means a formal motion moved by a Council member, seconded by another Council member and approved by a majority of a quorum of Council at a duly convened meeting of Council;

"Department Registrar" means the registrar responsible for maintaining Blueberry River's membership list on behalf of the department of Indigenous and Northern Affairs Canada;

"Declaration of Election Results for Chief" means a declaration of election results in the form set out in Schedule "A" Forms;

"Declaration of Election Results for Family Councillor" means a declaration of election results in the form set out in Schedule "A" Forms;

"debt" means any sum of money that is owed by a member to Blueberry River:

- (a) through either lending or revenue receivable by Blueberry River that is one (1) or more days overdue to be paid to Blueberry River,

- (b) through either lending or revenue receivable by any Blueberry River business entity that is one (1) or more days overdue to be paid to any Blueberry River business entity, or
- (c) that consists of either unpaid and overdue rent payments, mortgage payments, or payments for services in relation to a Blueberry River-owned rental property;

"elected" means declared by the electoral officer as being successful in obtaining a position as either Chief or Family Councillor;

"election" means an election held pursuant to this By-law for positions on the Council;

"election day" means a date set for conducting an election either by the Council pursuant to section 22 or section 175, or by an electoral officer pursuant to paragraph 49(1)(a);

"electoral officer" means a person appointed by Council resolution either pursuant to section 23, subparagraph 137(b)(ii) or paragraph 175(b);

"elector" means a person who is a member and is at least eighteen (18) years old on or before an election or by-election day;

"immediate family" means a person's mother, father, sister, brother, child, spouse or common-law partner, whether by blood, marriage or adoption;

"*Indian Act*" means the *Indian Act*, R.S.C., 1985, c. I-5;

"electors' list" means the list of all electors maintained by either the membership clerk or electoral officer, as applicable;

"Family Councillor" means a Blueberry River member included in a Family Group who is elected to the office of Family Councillor by the electors in that respective family group in accordance with this By-law;

"Family Group" means:

- (a) Family Group 1, the late Daniel Apsassin family;
- (b) Family Group 2, the late Edward Apsassin family;
- (c) Family Group 3, the late Pete Davis family;
- (d) Family Group 4, the late Jack Wolf family; and
- (e) Family Group 5, the late Charlie Yahey and late Jack Appaw family.

“Family Group Lists” means a list of names, Blueberry River membership numbers and dates of birth for electors in each Family Group;

"member" means a person whose name appears on the membership list;

"membership list" means the Blueberry River membership list, compiled and maintained in accordance with the *Indian Act*;

"Notice of Appeal" means a Notice of Appeal in the form set out in Schedule “A” Forms;

“Notice of Election” means a Notice of Election in the form set out in Schedule “A” Forms;

"Notice of Nomination Meeting" means a Notice of Nomination Meeting in the form set out in Schedule “A” Forms;

“Notice of Nomination Results” means a Notice of Nomination Results in the form set out in Schedule “A” Forms;

“ordinarily resident on reserve” means to either ordinarily reside or habituate in a home located on a Reserve;

"person" includes a person, partnership, association, body corporate, Trust, Trustee, executor, administrator, agent, joint venture or other legal representative of one of the foregoing;

“polling clerk” means a person who is appointed as a polling clerk by the electoral officer, in accordance with paragraph 58(e), who cannot be a member of Blueberry River;

"polling site" means a building, hall or room that is selected to be the site for voting to take place;

“private interests” include all of a person’s personal and business interests and include the personal and business interests of:

- (a) their immediate family;
- (b) a person under the age of eighteen (18) years in respect of whom they or their spouse is acting as parent or guardian;
- (c) a dependent adult in respect of whom they or their spouse is acting as a guardian or caregiver;
- (d) a person, other than themselves, who is financially dependent upon them or their spouse or on whom the Council member is financially dependent; and

(e) any entity in which the Council member has a controlling interest;

"quorum of Council" means a majority of the whole of Council;

"Reserve" means any of the tracts of land that are set apart by Canada as lands reserved for the use and benefit of Blueberry River, within the meaning of subsection 91(24) of the *Constitution Act, 1867* and section 2(1) of the *Indian Act*;

"scrutineer" means a person appointed by a candidate in accordance with section 59 to observe the conduct of voting and the counting of ballots at an election or by-election on that candidate's behalf; and

"vested interest" means a situation in which an electoral officer has an opportunity to benefit their personal interests by acting as the electoral officer.

Interpretation

3. In this By-law:

- (a) the use of the word "must" denotes an obligation that, unless this By-law provides to the contrary, must be carried out as soon as practicable after this By-law comes into effect or the event that gives rise to the obligation occurs;
- (b) unless it is otherwise clear from the context, the use of the word "including" means "including, but not limited to" and the use of the word "includes" means "includes, but is not limited to";
- (c) headings and subheadings are for convenience only, do not form a part of this By-law and in no way define, limit, alter or enlarge the scope or meaning of any provision of this By-law;
- (d) a reference to a statute includes every amendment to it, every regulation made under it and any law enacted in substitution for it or in replacement of it;
- (e) a reference to a government office includes every successor government office and a reference to a government official includes every successor government official;
- (f) unless it is otherwise clear from the context, the use of the singular includes the plural and the use of the plural includes the singular; and
- (g) unless it is otherwise clear from the context, the use of the masculine includes the feminine and the use of the feminine includes the masculine.

- (h) where a time is expressed to begin or end at, on or with a specified day, or to continue to or until a specified day, the time includes that day;
- (i) where a time is expressed to begin after or to be from a specified day, the time does not include that day; and
- (j) where anything is to be done within a time after, from, or before a specified day, the time does not include that day.

4. For greater certainty, the following Forms are deemed to be a part of this By-law:

- (a) Form 1: Blueberry River Council Resolution – Election Day;
- (b) Form 2: Blueberry River Council Resolution – Designation of polling sites and Appointment of Electoral Officer;
- (c) Form 3 : Electoral Officer / Deputy Electoral Officer / Polling Clerk Oath of Office;
- (d) Form 4 : Notice of Nomination Meeting;
- (e) Form 5: Nomination Form;
- (f) Form 6: Candidate Declaration;
- (g) Form 7 : Notice of Nomination Results;
- (h) Form 8 : Notice of Election;
- (i) Form 9 : Declaration of Ballot Box Sealing;
- (j) Form 10: Statement of Witness Regarding Mail-in Ballots;
- (k) Form 11: Declaration of Electoral Officer Regarding Mail-in Ballots;
- (l) Form 12: Declaration of Electoral Officer / Polling Clerk Regarding Regular Ballots;
- (m) Form 13: Declaration of Destruction of Voting Materials;
- (n) Form 14: Declaration of Election Results for Family Councillor;
- (o) Form 15: Declaration of Election Results for Chief;
- (p) Form 16: Arbitrator’s Oath of Office;

- (q) Form 17: Notice of Appeal;
- (r) Form 18: Council Member's Oath of Office;
- (s) Form 19: Council Member's Confidentiality Agreement;
- (t) Form 20: Withdrawal of Candidate; and
- (u) Form 21: Voter Declaration Form

Application

- 5.** This By-law applies to every election and by-election of every Council, and to every Council.
- 6.** Where any law or regulation of Canada or the Province or any other Blueberry River law or by-law applies to any matter covered by this By-law, compliance with this By-law does not relieve the person from also complying with the provisions of the other applicable laws or regulations.
- 7.** If any provision of this By-law is held invalid by a court of competent jurisdiction, the invalid provision must be severed from and must not affect the remaining provisions of this By-law.

PART 3: COUNCIL

Composition

- 8.** Blueberry River must be governed by a Council consisting of:
 - (a) one (1) Chief; and
 - (b) five (5) Family Councillors (one from each Family Group).
- 9.** A person may only be a candidate for Chief or Family Councillor in any election, but not both.

Term of Office

- 10.** (1) Subject to subsections (2) – (4), the term of office for a Council member is four (4) years and commences at 11:59pm, thirty (30) days after the Declaration of Election Results for that office is posted in accordance with this By-law.

(2) Despite subsection (1) and subject to subsection (3), a person elected under this By-law holds office until 11:59pm thirty (30) days after the Declaration of Election Results is posted following election for that office.

(3) Despite subsection (1), a person who is elected in a by-election or in an election that is directed under section 137(b) must commence their position in office immediately after the Declaration of Election Results for their office is posted, and hold their position in office for the remainder of the term of office of that Council member to whom the newly elected person replaces.

(4) For greater certainty, in the event of any appeal of an election result, a Council member must be entitled to remain in office until such time as the appeal has been determined and, thereafter, subject to the appeal decision.

Mode of Election for Family Councillors

11. Family Councillors must be nominated by electors included in their respective Family Group by written petition signed by at least two (2) electors in that Family Group and submitted to the electoral officer at a Nomination Meeting. An elector may nominate or second no more than one candidate for the office of Family Councillor.

12. One (1) Family Councillor shall be elected for each Family Group by secret ballot having obtained the highest number of votes among all candidates cast by electors in his/her respective Family Group.

13. Family Councillors must be:

- (a) included in the Family Group List for the respective Family Group that elects them;
- (b) at least eighteen (18) years of age; and
- (c) registered on the Blueberry River Band List.

Mode of Election for Chief

14. The Chief must be nominated by written petition signed by at least two (2) electors and submitted to the electoral officer at a Nomination Meeting. An elector may nominate or second no more than one candidate for the office of Chief.

15. The Chief must be elected by secret ballot having obtained the highest number of votes among the Family Councillors at a Chief election meeting in accordance with Part 15.

16. The Chief must be:

- (a) at least eighteen (18) years of age; and
- (b) registered on the Blueberry River Band List.

Oath of Office and Confidentiality Agreement

17.(1) No later than two (2) days after a Declaration of Election Results for their office is posted in accordance with this By-law, a newly elected Council member must sign both an Oath of Office and a Confidentiality Agreement in the form set out in Schedule “A” Forms, and provide both signed documents to the electoral officer.

(2) Notwithstanding subsection (1), where a newly elected Council member cannot sign an Oath of Office and a Confidentiality Agreement within two (2) days after a Declaration of Election Results for their office is posted as a result of circumstances out of their control, Council shall grant a reasonable extension for the affected Council member to sign their Oath of Office and Confidentiality Agreement.

(3) If a newly elected Council member does not comply with subsection (1):

- (a) that person is deemed to have resigned from office on the second (2nd) day following the Declaration of Election Results;
- (b) the electoral officer must declare the Candidate with the next highest number of votes to be elected;
- (c) no by-election is required; and
- (d) the electoral officer must prepare or cause to be prepared, post and deliver a revised Declaration of Election Results for that Council member’s office, in the same manner and form as set out in section 98, but with a statement setting out:
 - (i) the person who failed to comply with subsection (1),
 - (ii) that the person who failed to comply with subsection (1) is deemed to have resigned from office pursuant to paragraph 17(3)(a) of this By-law, and
 - (iii) the name of the candidate with the next highest number of votes, who is declared to be elected.

Duties of Council

18. The Council must carry out the duties prescribed to them in this By-law and the duties prescribed to them in every law and policy of Blueberry River.

Duties of the Chief

19. Duties and responsibilities of the Chief shall include, without limitation, the following:

- (a) to act in the best interests of Blueberry River honestly, impartially and in good faith;
- (b) to communicate with the Blueberry River members including members of each Family Group;
- (c) to be accountable to Blueberry River members who are resident on Reserve and off Reserve and to conduct Council business in an open and transparent manner;
- (d) to avoid a conflict of interest or the appearance of a conflict of interest and to avoid being involved in any transaction or business matter where the Chief is in a conflict of interest or appears to be in a conflict of interest;
- (e) to avoid use of any property or assets owned by Blueberry River for personal use or for operation of the Chief's own business, to avoid purchasing property or assets owned by Blueberry River unless such use or purchases are equally available to all on and off Reserve Blueberry River members and the use or purchase is authorized by a quorum of Family Councillors;
- (f) to demonstrate leadership with a focus on the Blueberry River community, the needs of future generations and fulfilling the vision statement in this By-law;
- (g) to act as a team leader for all negotiations;
- (h) to respect confidentiality in Blueberry River business and negotiation meetings;
- (i) to be a liaison with Blueberry River Elders; and
- (j) to be spokesperson for Council when consulting with government, industry, first nations organizations, media and the general public.

Duties of Family Councillors

20. Duties and responsibilities of each Family Councillor shall include, without limitation, the following:

- (a) to elect the Chief at the Chief election meeting;
- (b) to act in the best interests of Blueberry River honestly, impartially and in good faith;
- (b) to represent the interests and concerns of their Family Group without compromise to Blueberry River interests as a whole;
- (c) inform their Family Group of all Blueberry River affairs and matters under consideration by Council and to conduct Council business in an open and transparent manner;
- (d) be accountable to all Blueberry River members within their Family Group regardless of whether they reside on or off Reserve;
- (e) avoid use of any property or assets owned by Blueberry River for personal use or for the operation of a personal business, to avoid purchasing property or assets owned by Blueberry River unless such use or purchases are equally available to all on and off Reserve Blueberry River members and the use or purchases are authorized by Council;
- (f) make reasonable efforts to ensure that Elders within their Family Group are aware of the Blueberry River benefits, entitlements and services available to them;
- (g) avoid a conflict of interest in any situation where a Family Councillor, immediate family member or Family Group member has a personal or business interest in a transaction or business matter under consideration by Council;
- (h) demonstrate leadership with a focus on the Blueberry River community, the needs of future generations and fulfilling the vision statement in this By-law;
- (i) work with the Chief in representing Blueberry River interests in negotiations, lobbying and consulting with government, industry, business, first nation organizations or other bodies to fulfill Blueberry River community objectives;
- (j) act as spokesperson for Council when authorized by Council; and
- (k) act as chairperson for Council when authorized by Council in the absence of the Chief.

PART 4: ELECTION AND BY-ELECTION DATES

Initial Elections Following Enactment of this By-law

21. The first election held under this By-law will be set by Council resolution for the positions of Family Councillors.

Setting of Election and By-Election Dates

22. At least sixty-five (65) days before the expiry of the term of Family Councillors, and no later than fifteen (15) days after the date that a by-election is required to fill a vacant position on Council, the Council must pass a Council resolution in in the form set out in Schedule “A” Forms, setting a date for the election and Chief election meeting or by-election to take place.

PART 5: APPOINTMENT OF ELECTORAL OFFICER / DEPUTY ELECTORAL OFFICER, AND DESIGNATION OF POLLING SITES

Appointment of Electoral Officer, Deputy Electoral Officer and Designation of Polling Sites

23. (1) At least sixty-five (65) days before an election day, and no later than fifteen (15) days after the date that a by-election is required, the Council must pass a Council resolution in the form set out in Schedule “A” Forms to:

- (a) designate the locations of polling sites;
 - (b) designate the location of the Chief election meeting;
 - (c) appoint an electoral officer; and
 - (d) where desirable to the Council, appoint a deputy electoral officer.
- (2) The Council must post a copy of the completed Council resolution:
- (a) in a conspicuous location at the principal administration office of Blueberry River;
 - (b) at all other locations designated by Council, and
 - (c) on the website of Blueberry River.

(3) If the Council does not appoint an electoral officer within the time set out in subsection (1), the chief operating officer must immediately appoint an electoral officer and comply with subsection (2).

(4) Where a deputy electoral officer is appointed, that person has the authority to fulfill any obligations of the electoral officer set out in this By-law that are delegated to him or her by the electoral officer.

Eligibility to be Electoral Officer or Deputy Electoral Officer

24. An electoral officer or deputy electoral officer must be a person who:

(a) either:

(i) has experience in the conduct of elections, or

(ii) has training in the conduct of elections;

(b) is not a member or the immediate family of a member;

(c) is not an employee or a full-time contractor of either:

(i) Blueberry River, or

(ii) a Blueberry River business entity; and

(d) does not have a vested interest in the outcome of the election.

Acceptance of Appointment as Electoral Officer or Deputy Electoral Officer

25. A person who wishes to accept their appointment as either an electoral officer or deputy electoral officer must, before assuming their office complete, sign and provide the chief operating officer with an Oath of Office in the form set out in Schedule “A” Forms.

Term of Appointment for Electoral Officer and Deputy Electoral Officer

26. The term of an electoral officer, or deputy electoral officer, appointment commences on the date they comply with section 25 and continues until the later of:

(a) thirty (30) days after the closing of the Chief election meeting; or

(b) thirty (30) days after the finalization of all appeal actions relating to the election over which they preside.

Electoral Officer / Deputy Electoral Officer Orientation

27. Upon the commencement of an electoral officer or deputy electoral officer's term in office, the chief operating officer must provide him or her with and he or she must attend a review of this By-law and the electors' list.

Duties of Electoral Officer

28. The electoral officer has a duty to complete all of those duties and obligations this By-law requires must be completed by an electoral officer.

Electoral Officer's Remuneration

29. The chief operating officer has authority to approve an electoral officer's remuneration.

30. The electoral officer's remuneration must be reported in the annual report of Blueberry River.

PART 6: PRE-NOMINATION PROCEDURES

Membership Clerk's Duty to Maintain Electors' List

31. The membership clerk must maintain an up to date electors' list that mirrors the Department Registrar's list at all times and includes each elector's:

- (a) name in alphabetical order;
- (b) surname, given name and middle name;
- (c) phone number, or a message phone number to be used in the event the electoral officer needs to contact the elector directly;
- (d) Family Group; and
- (e) either their mailing address, or email address, whichever is provided by the elector for the purposes of receiving notices under this By-law.

Elector's Duty to Provide Information to Blueberry River

32. Each elector must ensure Blueberry River has their correct name, phone number, Family Group and either mailing or email address for the purposes of receiving notices under this By-law.

Duty to Provide Electors' List to Electoral Officer & Electoral Officer's Duty to Maintain It

33. At least sixty (60) days before a scheduled election day, the chief operating officer must provide a copy of the electors' list to the electoral officer, and thereafter the electoral officer must update the electors' list as required.

Electoral Officer Duty to Request Department Registrar's List

34. At least sixty (60) days before a scheduled election day, the electoral officer must request the Department Registrar's list and ensure it mirrors the electors' list provided by the membership clerk.

Electoral Officer Duty to Maintain Electors' List

35. The electoral officer must maintain a copy of the electors' list that contains additional columns for:

- (a) documenting whether:
 - (i) an elector has been sent a mail-in ballot package,
 - (ii) a mail-in ballot package has been received from an elector,
 - (iii) an elector has received a ballot at a polling site, and
 - (iv) a ballot has been received from an elector at a polling site; and
- (b) documenting any relevant notes that the electoral officer may need to enter on the electors' list.

Duty to Make Redacted Electors' List Available

36. (1) At least sixty (60) days before a scheduled election day, the electoral officer must ensure a redacted copy of the electors' list is made available to members by posting it:

- (a) in a conspicuous location at the principal administration office of Blueberry River;

- (b) in such other locations as may be designated by the electoral officer; and
 - (c) on the website of Blueberry River.
- (2) The redacted copy of the electors' list that is made available to members must be:
- (a) in alphabetical order; and
 - (b) not contain any personal information of electors, except each elector's surname, given name and middle name.

Authorized Uses for Electors' List and Redacted Electors' List

- 37.** The electors' list and redacted electors' list may only be used by:
- (a) members, solely for the purposes of challenging a person's status as an elector; and
 - (b) an electoral officer, deputy electoral officer or polling clerk, solely for the purposes of carrying out their duties under this By-law.

Revisions to Electors' List

- 38.** (1) The electoral officer has exclusive authority to revise the electors' list where it is demonstrated that the name of:
- (a) an elector has been omitted from the list;
 - (b) an elector is incorrectly set out on the list;
 - (c) an elector has died; or
 - (d) a person who is not qualified to be an elector is named as an elector on the list.
- (2) For the purposes of subsection (1),
- (a) a person may demonstrate that the name of an elector has been omitted from the electors' list by presenting to the electoral officer documents from the Department's Registrar clearly showing that the person:
 - (i) is named on the membership list or is entitled to have his or her name entered on the membership list, and

- (ii) will be at least eighteen (18) years of age on election day;
- (b) a person may demonstrate that the name of a person not qualified to be an elector has been included in the electors' list by presenting to the electoral officer documents from the Department's Registrar clearly showing that that person:
 - (i) is neither on the membership list nor entitled to have his or her name entered on the membership list, or
 - (ii) will not be at least eighteen (18) years of age on election day;
- (c) a person may demonstrate that the name of a person should be removed for reason of death by presenting to the electoral officer:
 - (i) a death certificate,
 - (ii) published obituary, or
 - (iii) other proof of death.
- (3) Where the electoral officer is considering whether to remove a person's name from the electors' list, before making such decision the electoral officer must:
 - (a) contact that person and advise them that a challenge has been made to the inclusion of their name on the electors' list;
 - (b) advise that person of the manner in which and timeframe within which they may submit to the electoral officer proof of their status as an elector, to be considered in the electoral officer's decision on whether to remove their name from the electors' list;
 - (c) provide that person a reasonable opportunity to submit proof of their status as an elector to the electoral officer; and
 - (d) contact the Registration Unit in the Regional office of Indigenous and Northern Affairs to notify them of any changes.

Nomination Meeting and Entitlement to Vote by Mail-In Ballot

39. At least fifty-five (55) days before a scheduled election day, the electoral officer must prepare a Notice of Nomination Meeting, setting out:

- (a) a statement that Council has set an election day;

- (b) a statement that Council has set a Chief election meeting;
- (c) the date of the scheduled election day;
- (d) the date of the Chief election meeting;
- (e) the location of each polling site;
- (f) the location of the Chief election meeting;
- (g) the date, time, location and duration of the Nomination Meeting;
- (h) the definition of an elector;
- (i) a statement setting out that a person may confirm the inclusion of their name on the electors' list by contacting the electoral officer;
- (j) a statement that each elector may nominate or second candidates for Chief;
- (k) a statement that each elector within a Family Group may nominate or second candidates for Family Councillor to represent that Family Group, but not for a Family Group to which they do not belong;
- (l) instructions for how an elector may nominate a candidate or second the nomination of a candidate for Chief;
- (m) instructions for how an elector may nominate a candidate or second the nomination of a candidate for Family Councillor;
- (n) the eligibility requirements for a person to be a candidate as set out in section 41;
- (o) a statement that electors may obtain a copy of this By-law and nomination forms from the electoral officer;
- (p) a statement that electors ordinarily resident on Reserve who are unable to vote in person on the date of the election may at least twenty (20) days prior to the date on which the election is to be held, apply to the electoral officer to vote by mail-in ballot;
- (q) a statement that any elector who is not ordinarily resident on Reserve is entitled to vote by mail-in ballot and that a mail-in ballot will be sent to them unless they advise the electoral officer in writing that they do not want to receive a mail-in ballot at least forty (40) days prior to the date on which the election is to be held; and

- (r) the name and contact information for the electoral officer.

Publication and Delivery of Notice of Nomination Meeting

40. At least fifty-five (55) days before a scheduled election day, the electoral officer must:

- (a) post the Notice of Nomination Meeting, along with copies of blank Nomination Forms at:
 - (i) a conspicuous spot within the principal administrative offices of Blueberry River,
 - (ii) all other locations designated by the electoral officer, and
 - (iii) on the website of Blueberry River; and
- (b) mail or deliver the Notice of Nomination Meeting, along with a Nomination Form to each elector at the mailing or email address set out next to their name on the electors' list.

PART 7: NOMINATION PROCEDURES

Eligibility to be a Candidate / Member of Council

41. To be eligible for nomination as a candidate, and to be eligible to act as a Council member, a person must:

- (a) be an elector;
- (b) in the case of a nomination for Family Councillor, be listed as a member of the Family Group eligible to nominate that Family Councillor on the elector's list;
- (c) not have been convicted of an indictable criminal offence before the date of the nomination meeting or during the Council member's term in office, unless:
 - (i) they have been granted a pardon in relation to that conviction, or
 - (ii) the conviction is directly related to the exercise of that person's Aboriginal rights;
- (d) not have been removed from a position on Council within the five (5) years prior to the date of the nomination meeting;
- (e) not be bankrupt, as that term is defined in the *Bankruptcy and Insolvency Act*, on the date of the nomination meeting or during the Council member's term in office;

- (f) if it is a by-election, not be the person who resigns or is removed from their position on Council, prompting the holding of the by-election;
- (g) not have a civil court judgment against them or a criminal conviction in respect of any matter involving theft, fraud or misuse of property either:
 - (i) within the five (5) years before the date of the nomination meeting, or
 - (ii) during the Council member's term in office;
- (h) not be in arrears for any debt to Blueberry River or a Blueberry River business entity, unless:
 - (i) they have a debt repayment agreement that is entered into at least six (6) months before election day, and
 - (ii) they are in good standing in relation to their debt repayment agreement; and
- (i) if the candidate is employed with Blueberry River or a Blueberry River business entity, they must agree at the time of nomination to either take an unpaid leave of absence or resign from that employment immediately after being sworn in to office.

Requirement to Resign from Blueberry River or Blueberry River Business Entity Employment if Elected

42. Where an employee of either Blueberry River or a Blueberry River business entity is declared elected they must either take an unpaid leave of absence or resign from their position as an employee, effective on the date they take office as a Council member and continuing for the duration of that term in office.

Nomination of Candidates

- 43.** (1) A person may move or second no more than one candidate for the office of Chief and may move or second no more than one candidate for the office of Family Councillor.
- (2) To move or second a nomination, a person must:
 - (a) be an elector;
 - (b) complete a Nomination Form;

- (c) sign the Nomination Form in front of a witness and have that witness sign the Nomination Form; and
- (d) ensure the Nomination Form is received by the electoral officer by the close of the nomination meeting.

Nomination Meeting

44. The electoral officer must hold a nomination meeting which must:

- (a) commence any time after 4:30pm but before 7:00pm;
- (b) be open for a period of not less than three (3) hours;
- (c) be located on the Reserve; and
- (d) be held at least forty (40) days before a scheduled election day.

45. At a nomination meeting, the electoral officer must:

- (a) declare the nomination meeting open for acceptance of nominations for the position of Chief and open for acceptance of nominations for the positions of the five (5) Family Councillors;
- (b) keep the nomination meeting open for a period of not less than three (3) hours, after which time the electoral officer must close the nomination meeting;
- (c) ensure all relevant materials are available to confirm whether a person is an elector;
- (d) ensure copies of a Candidate Declaration are available to be distributed to those persons nominated;
- (e) chair the nomination meeting;
- (f) ensure written minutes are taken of all business that takes place;
- (g) maintain order at all times and cause to be removed any person who, in his or her opinion, is disrupting or otherwise interfering with conduct of the meeting; and
- (h) before closing the nomination meeting:
 - (i) read out the names of each person named to be nominated and the names of the persons who move and second their nomination, and

- (ii) ensure the name of each person nominated and the names of the persons who move and second their nomination are recorded in the minutes of the nomination meeting.

Accepting Nominations

46. The electoral officer must only accept the nomination of a candidate if:

- (a) they are eligible under section 41 to be a candidate;
- (b) section 43 has been complied with;
- (c) no later than five (5) days after the nomination meeting, the person being nominated provides the electoral officer with:
 - (i) a Candidate Declaration, affirming they meet the eligibility requirements set out in section 41 that includes:
 - (A) a clear criminal record check or documentation as evidence that they have requested a criminal record check, and
 - (B) a report from the Office of the Superintendent of Bankruptcy Canada that shows they are not registered as bankrupt,
 - (ii) a letter signed by the director of finance of Blueberry River or the chief operations officer and by the finance officer of each Blueberry River business entity stating that the nominee does not owe a debt to Blueberry River or a Blueberry River business entity, as applicable; and
 - (iii) in the case of a person nominated for both the office of Chief and Family Councillor, respectively, a declaration stating which office they accept the nomination for and which office they decline the nomination for.

Acclamation or Announcement of Election

47. At the end of the nomination meeting, the electoral officer must:

- (a) if the number of persons nominated to serve on Council does not exceed the number to be elected, declare those persons who are nominated to be elected by acclamation, and which acclamation must be conditional on them providing the electoral officer with the documents required under paragraph 46(c) within five (5) days;

- (b) if the number of persons nominated to serve on Council exceeds the number to be elected, announce:
 - (i) that the number of persons nominated exceed the number to be elected,
 - (ii) that an election will be held,
 - (iii) that a Chief election meeting will be held, and
 - (iv) the name of each person who will be declared a candidate in the election, conditional on those persons complying with subparagraphs 46(c).

48. If, the electoral officer declares at a nomination meeting that:

- (a) a person is elected by acclamation, conditional on them providing the electoral officer with the documents required under paragraphs 46(c) within five (5) days and if the person fails to comply with that section, the electoral officer must not acclaim them to be elected;
- (b) a person will be declared a candidate in the election, conditional on that person complying with paragraph 46(c) and if the person fails to comply with that section, the electoral officer must not accept that person as a candidate.

Insufficient Nominations

49. (1) If, immediately after the close of a nomination meeting, the electoral officer determines that the number of nominations for those available positions on Council remains less than the number of persons required to fill those positions, the electoral officer must immediately:

- (a) reschedule the election day and the Chief election meeting to each be held no later than twenty-one (21) days after the date set by Council under section 22.
- (b) schedule a second nomination meeting to be held no later than twenty-one (21) days after the date of the first nomination meeting;
- (c) make an announcement to those present at the nomination meeting setting out:
 - (i) that insufficient nominations have been received to fill all available Council positions,
 - (ii) the date the election day will be moved to so that a second nomination meeting may be held for further nominations to be made,
 - (iii) the date the Chief nomination meeting will be moved to so that a second nomination meeting may be held for further nominations to be made, and

- (iv) the date of the second nomination meeting that will be held for the receipt of additional nominations; and
- (d) if insufficient nominations have been received, prepare a notice setting out that insufficient nominations have been received, and the date of the second nomination meeting that will be held for the receipt of additional nominations, and post the notice along with copies of blank Nomination Forms at:
 - (i) a conspicuous spot within the principal administrative offices of Blueberry River,
 - (ii) all other locations designated by the electoral officer, and
 - (iii) on the website of Blueberry River, and
- (e) mail or deliver the notice prepared in accordance with paragraph (d) and blank Nomination Forms to each elector not ordinarily resident on Reserve at the mailing or email address set out next to their name on the electors' list, and
- (f) hold that second nomination meeting in accordance with sections 44 to 48.

(2) For greater certainty, if a second nomination meeting is called and held in accordance with subsection (1), those persons declared as candidates at both the first and second nomination meetings will be considered candidates in the election.

Notice of Nomination Results

50. No later than six (6) days after the date of a final nomination meeting, the electoral officer must:

- (a) confirm whether each nominee has complied with paragraph 46(c);
- (b) if a nominee has failed to comply with paragraph 46(c), advise the nominee they will not be declared a candidate in the election and the reason for why they will not be declared a candidate in the election;
- (c) if a nominee has complied with paragraph 46(c) and the nominee is eligible to be a candidate in accordance with section 41, advise the nominee they have been declared a candidate in the election;
- (d) prepare or cause to be prepared a Notice of Nomination Results setting out:

- (i) the date and time on which the nomination meeting was held, including the times at which it was opened and closed,
 - (ii) the names of those persons the electoral officer has declared to be candidates in the election,
 - (iii) if persons have been elected by acclamation, the names of those persons, the title of the office to which they are elected by acclamation, and a statement that there will not be an election or Chief election meeting to follow,
 - (iv) the name and contact information for the electoral officer; and
- (e) post the Notice of Nomination Results:
- (i) in a conspicuous spot within the principal administrative offices of Blueberry River,
 - (ii) at all other locations designated by the electoral officer, and
 - (iii) on the website of Blueberry River.

Withdrawal of Candidate

51. A candidate may withdraw their candidacy by:

- (a) completing a Withdrawal of Candidacy Form; and
- (b) delivering it to the electoral officer.

52. A Candidate must comply with section 51 no later than thirty-three (33) days prior to the date of the election to ensure that their name will not appear on the ballot.

PART 8: CAMPAIGNING RULES

Restriction on Posting or Display of Campaign Materials

53. A candidate must not post or display campaign materials, or campaign, within one hundred (100) meters of a polling site on election day or within one hundred (100) metres of the location of the Chief election meeting on Chief election meeting day.

Removal of Campaign Materials Following Election Day

54. No later than seven (7) days after the electoral officer posts a Declaration of Election Results for their respective office, every candidate must remove their campaign materials from all Reserves.

Improper Posting of Campaign Materials and Failure to Remove Campaign Materials Following Election Day

55. Where a candidate posts or displays campaign materials in contravention with section 53 or fails to remove their campaign materials within the time provided in section 54:

- (a) Blueberry River may remove such campaign materials;
- (b) the costs associated with the removal of such campaign materials will become due and payable by the candidate to Blueberry River; and
- (c) Blueberry River may recover from the candidate, all costs associated with the removal of such campaign materials.

Illegal Campaigning

56. A person engages in illegal campaigning if they do any of the following:

- (a) provide payment to a person, lend money to a person, or offer, agree or promise to do anything for a person:
 - (i) to induce that person to vote or refrain from voting, or to refrain from voting for or against a particular candidate, or
 - (ii) to reward that person for having voted or refrained from voting, or refrained from voting for or against a particular candidate;
- (b) intimidates a person for any of the following purposes:
 - (i) to persuade or compel that person to vote or refrain from voting, or refrain from voting for or against a particular candidate, or
 - (ii) for having voted or refrained from voting, or refrained from voting for or against a particular candidate;
- (c) by abduction, duress or fraudulent means:

- (i) impedes, prevents, or otherwise interferes with a person's right to vote,
- (ii) compels, persuades or otherwise causes a person to vote or refrain from voting, or
- (iii) compels, persuades or otherwise causes a person to vote or refrain from voting for a particular candidate; or
- (d) they are current members of Council or employees of Blueberry River and they use Blueberry River resources for campaigning that are not available to other candidates for campaigning.

PART 9: PRE-ELECTION PROCEDURES

Notice of Election

57. At least twenty-eight (28) days before a scheduled election day, the electoral officer must:

- (a) prepare or cause to be prepared a Notice of Election that sets out:
 - (i) the date of the scheduled election day,
 - (ii) the date of the scheduled Chief election meeting,
 - (iii) the names of all candidates nominated for the election;
 - (iv) the names of any candidates who have withdrawn their candidacy in accordance with section 51;
 - (v) the location of the polling sites,
 - (vi) the location of the Chief election meeting,
 - (vii) that polling sites are open from 8:00 a.m. to 8:00 p.m. on election day,
 - (viii) the time of the Chief election meeting,
 - (ix) a statement setting out how electors may confirm their names on the electors' list,
 - (x) a statement setting out how electors may vote by mail-in ballot, including the date by which the electoral officer must receive mail-in ballots,

- (xi) a statement setting out that an elector may obtain the electors' list and a copy of this By-law from the electoral officer, and
 - (xii) the contact information for the electoral officer;
- (b) post the Notice of Election at:
- (i) a conspicuous spot within the principal administrative offices of Blueberry River,
 - (ii) all other locations designated by the electoral officer, and
 - (iii) on the website of Blueberry River; and
- (c) mail or deliver the Notice of Election to each elector at their last known mailing or email address.

Preparation of Voting Materials and Voting Day Arrangements

58. The electoral officer must, no later than least twenty-eight (28) days before a scheduled election day, ensure all necessary preparations are completed for the proper conduct of an election, including:

- (a) preparing or causing to be prepared, voting instructions, which must:
 - (i) be printed clearly;
 - (ii) state that each elector must select their desired candidate by placing an "X" or other legible mark that clearly indicates the candidate they intend to vote for in the box beside the candidate's name;
 - (iii) state the maximum number of candidates for whom each elector may vote;
 - (iv) state that where an elector does any of the following actions, their ballot will be considered spoiled:
 - (A) uses a mark that does not clearly indicate the candidate they intended to vote for,
 - (B) marks, tears, defaces or does anything else to their ballot that identifies who they are, or
 - (C) makes a mark beside the names of more candidates than the maximum number for whom each elector may vote;

- (b) preparing copies of each Withdrawal of Candidacy received by the electoral officer;
- (c) preparing or causing to be prepared one ballot box to collect the votes for each office separately, namely:
 - (i) Family Group 1 Councillor;
 - (ii) Family Group 2 Councillor;
 - (iii) Family Group 3 Councillor;
 - (iv) Family Group 4 Councillor; and
 - (v) Family Group 5 Councillor;
- (d) preparing or causing to be prepared, ballots, which must:
 - (i) contain on the front of the ballot:
 - (A) the name of each candidate, appearing in alphabetical order by the candidate's surname, followed by their given name, unless two candidates have the same name, in which case their names must appear in a form chosen by them that distinguishes their identities, and
 - (B) boxes corresponding to each candidate's name for electors to mark indicating their vote; and
 - (ii) contain on the back of the ballot the electoral officer's initials, in a place that will allow the ballot to be folded in a manner that exposes the electoral officer's initials without exposing the information contained on the front of the ballot; and
- (e) appointing polling clerks and have each polling clerk complete an Oath of Office in the form set out in Schedule "A" Forms.

Appointment of Scrutineers

- 59.** (1) Each candidate has a right to appoint two (2) scrutineers to attend at each polling site.
- (2) A candidate must appoint a scrutineer no later than the time at which polls open on a scheduled election day by providing the electoral officer with a written notice setting out the name of the scrutineer.

(3) A person must not act as a scrutineer unless they are appointed in accordance with subsection (2).

(4) Blueberry River is not responsible for, and must not provide, any type of remuneration to a scrutineer for their services as a scrutineer.

PART 10: VOTING BY MAIL-IN BALLOT

Distribution of Mail-in Ballot Packages

60. (1) At least twenty-eight (28) days before a scheduled election day, the electoral officer must mail or deliver the following documents to each elector who is not ordinarily resident on Reserve:

- (a) a copy of the Notice of Nomination Meeting;
- (b) an unmarked ballot for the Family Councillor office in which Family Group the elector belongs;
- (c) an inner postage paid return envelope addressed to the electoral officer at a postal box located in either:
 - (i) Fort St. John, British Columbia, or
 - (ii) Buick Creek, British Columbia;
- (d) a second inner envelope marked "ballot" for insertion of the completed ballot;
- (e) a Voter Declaration Form; and
- (f) a letter of instruction regarding voting by mail-in ballot, which must set out:
 - (i) the method of voting by mail-in ballot,
 - (ii) that the mail-in ballot must be received by the electoral officer before the close of polls on election day;
 - (iii) that if a mail-in ballot is not received by the electoral officer before the close of polls on election day, it will not be counted in the vote results; and
 - (iv) a statement advising electors that they may vote in person at any polling site on election day if they either:

- (A) return their mail-in ballot to the electoral officer or polling clerk at the polling site, or,
- (B) swear a written declaration before the polling clerk, electoral officer, a justice of the peace, notary public, or commissioner for taking oaths stating that they have lost their ballot.

(2) At the request of an elector who is ordinarily resident on Reserve, which request must be made at least twenty (20) days before election day, the electoral officer must immediately deliver to that elector those documents set out in subsection (1) at their last known mailing address.

Lost Mail-in Ballots

61. (1) An elector who loses their mail-in ballot, or does not receive their mail-in ballot, may obtain another mail-in ballot package by swearing a written declaration before the polling clerk, electoral officer, a justice of the peace, notary public, or commissioner for taking oaths stating that they have lost their ballot, and providing such sworn statement to the electoral officer at least twenty (20) days before election day.

(2) Where an elector complies with subsection (1), the electoral officer must provide that person with those documents set out in subsection 60(1).

Documenting Distribution of Mail-in Ballots

62. The electoral officer must make a mark next to each elector's name on the electors' list to whom a mail-in ballot package is mailed or delivered, indicating:

- (a) that a mail-in ballot package has been mailed or delivered to that elector;
- (b) the date on which the mail-in ballot package is mailed or delivered to that elector; and
- (c) where necessary, that the mail-in ballot package was a replacement sent in accordance with subsection 61(2).

Voting by Mail-in Ballot

63. To vote by mail-in ballot, an elector must:

- (a) mark their ballot with an "X" or other legible mark that clearly indicates the candidates they intend to vote for;

- (b) fold the ballot so as to conceal the front of the ballot and expose the electoral officer's initials on the back of the ballot;
- (c) place the ballot in the ballot envelope and seal the ballot envelope;
- (d) complete and sign the Voter Declaration Form before a witness who is over the age of eighteen (18) years and have the witness sign and complete the declaration;
- (e) place the sealed ballot envelope and declaration in the return envelope pre-addressed to the electoral officer; and
- (f) ensure the ballot is delivered to the electoral officer before the closing of polls on election day.

Assistance Marking Mail-in Ballot

64. Where an elector is unable to personally complete the mail-in ballot procedure due to a disability or illiteracy:

- (a) they may enlist an assistant to mark the mail-in ballot forms on their behalf and in accordance with their instructions; and
- (b) if an assistant is used, the assistant must:
 - (i) attest in writing on the Voter Declaration Form that the person making the vote is the person whose name is set out in the Voter Declaration Form and that the ballot is marked according to the directions of that person, and
 - (ii) provide their name, address and phone number for the electoral officer on the Voter Declaration Form.

Receipt and Storage of Mail-in Ballots

65. After the electoral officer has received a mail-in ballot, the electoral officer must store the mail-in ballot package in a secure location until the close of polls on election day.

66. The electoral officer is personally responsible for the safekeeping of mail-in ballot packages until such time as the mail-in ballots are deposited in a ballot box in accordance with Part 13.

PART 11: VOTING IN PERSON

Polling Hours

67. Each polling site must be open on election day from 8:00am until 8:00pm.

Preparation of Polling Sites

68. Prior to the opening of polls on voting day, the electoral officer must:

- (a) ensure polling clerks are available at each polling site;
- (b) designate the place or places at a polling site from where a scrutineer may make observations, which must not be a location that would allow a scrutineer to view the inside of a voting compartment;
- (c) ensure a process is in place for ongoing communication by telephone or other effective means between all polling sites on voting day to ensure that the electors' list at each polling site is kept updated and current;
- (d) ensure each polling site is supplied with:
 - (i) an updated copy of the electors' list;
 - (ii) a sufficient number of ballots for each elector to vote;
 - (iii) a ballot box for each office in accordance with paragraph 58(c) constructed so that ballots can be inserted into it, but so that ballots cannot be withdrawn unless the seal on the box is opened; and
 - (iv) voting compartments that allow electors to mark their ballots free from observation by others, each of which must contain:
 - (A) instruments for marking ballots, and
 - (B) a copy of the voting instructions.

Entitlement to be Present at Polling Sites

69. A person is entitled to be present at a polling site during election day if that person is:

- (a) the electoral officer;

- (b) a polling clerk;
- (c) a scrutineer; or
- (d) an elector who is engaged in voting.

Orderly Voting at Polling Sites

70. The electoral officer or polling clerk assigned to a polling site must maintain peace and good order in that polling site and may cause to be removed from the polling site any person who:

- (a) is not entitled to be present at the polling site;
- (b) attempts to influence electors; or
- (c) in any way interferes with or disrupts the orderly conduct of the vote.

71. The electoral officer and polling clerks must allow only one elector at a time into each voting compartment, unless that elector is receiving special assistance, in which case the electoral officer or polling clerk and the witness may be present in the voting compartment with the elector.

Verification of Ballot Boxes

72. Immediately before the commencement of the poll, the electoral officer or polling clerk in charge of the polling site must:

- (a) open each ballot box at the polling site;
- (b) call such electors as may be present to witness that each ballot box is empty and witness the sealing of each ballot box;
- (c) lock and properly seal the ballot box in a manner preventing it from being opened without breaking the seal;
- (d) sign the seal on each ballot box and have the witness sign the seal on each ballot box;
- (e) place the ballot box in public view for the reception of ballots; and
- (f) complete a Declaration of Ballot Box Sealing and have the witness sign that Declaration of Ballot Box Sealing.

Secret Ballot and No Proxies Allowed

73. An election must be by secret ballot and an elector must not vote by proxy or authorize another person to vote on their behalf.

Deadline for Voting on Election Day

74. At 8:00 p.m. on election day, the electoral officer or polling clerk must:

- (a) close the doors that provide access to the polling site at which they preside; and
- (b) provide each elector who is in the polling site with an opportunity to vote, after which time the doors may be re-opened but no person will be entitled to vote.

Right to Vote

75. The electoral officer and each polling clerk must permit every person to vote who attends a polling site for the purpose of voting, provided that the person:

- (a) is an elector;
- (b) has not already voted; and
- (c) if he or she has been provided a mail-in ballot but has not voted by mail-in ballot, complies with paragraph 76(b).

Provision of Ballots at Polling Site

76. For each person who enters a polling site, the electoral officer or polling clerk in charge of the polling site must:

- (a) determine whether the person is an elector by confirming their identity either:
 - (i) by providing the electoral officer with a document that verifies their identity, which may be a status card or any photographic identification card issued by either Canada or a province of Canada, or
 - (ii) by having two (2) electors who have confirmed their identity, respectively, in accordance with subparagraph (i) confirm the person's identity with the electoral officer;
- (b) if the person is an elector and has been provided a mail-in ballot but has not voted by mail-in ballot, require the person to either:

- (i) return their mail-in ballot to the electoral officer or polling clerk, or
 - (ii) provide a written declaration to the electoral officer or polling clerk that has been sworn before the polling clerk, electoral officer, a justice of the peace, notary public, or commissioner for taking oaths stating that they have lost their ballot;
- (c) if the person is an elector and either the person has not already voted or the person has complied with paragraph (b):
- (i) provide them a ballot, folded in a manner that exposes the electoral officer's initials without exposing the information contained on the front of the ballot;
 - (ii) advise the elector that they must not take the ballot out of the polling site and that if they do take the ballot out of the polling site, they forfeit their right to vote at that election, and
 - (iii) make a mark on the electors' list indicating that the elector has been provided a ballot.

77. Upon the request of an elector, the electoral officer or polling clerk in charge of the polling site must explain the method of voting to the elector.

Refusal to Issue Ballot

78. The electoral officer or a polling clerk must refuse to issue a person a ballot if:

- (a) the person's name is not on the electors' list and they are not entitled to be on the electors' list; or
- (b) the person is an elector who has been provided a mail-in ballot and the person refuses to comply with paragraph 76(b).

Voting at Polling Site

79. Subject to sections 82 and 83, each elector who receives a ballot at a polling site must:

- (a) proceed immediately to a voting compartment;
- (b) make a mark in the box beside each of the elector's desired candidate's names on the ballot with an "X" or other legible mark that clearly indicates the candidate they intend to vote for;

(c) fold the ballot in a manner that conceals the names of the candidates and the elector's marks and exposes the initials of the electoral officer; and

(d) immediately return to the electoral officer or polling clerk with the ballot.

80. Upon receiving a completed ballot, the electoral officer or polling clerk must:

(a) without unfolding the ballot or in any way disclosing the marks made by the elector on the ballot, verify the electoral officer's initials on the outside of the ballot;

(b) observe the elector depositing the ballot in the ballot box; and

(c) make a mark on the electors' list indicating that the elector has voted.

81. After an elector's ballot is deposited in the ballot box, the elector must immediately leave the polling site.

Special Assistance in Marking Ballot at Polling Site

82. Where an elector is unable to vote in the manner set out in sections 79 to 81 they may request that the electoral officer or polling clerk assist by marking their ballot in a manner consistent with their wishes and placing the ballot in the ballot box.

83. Where the electoral officer or polling clerk assists an elector in marking their ballot as per the request of an elector under section 82:

(a) such assistance must be provided in the presence of a witness selected by the elector; and

(b) the electoral officer or polling clerk must make an entry next to the elector's name on the electors' list indicating:

(i) that the electoral officer or polling clerk marked that person's ballot at their request;

(ii) the reasons for the elector's request, and

(iii) the name and contact details of the witness.

Spoiled Ballots

84. An elector who has inadvertently spoiled their ballot when marking it is entitled to receive another ballot after they return the spoiled ballot to the electoral officer or polling clerk.

85. If an elector returns a ballot to the electoral officer or polling clerk and states they are declining to vote, their ballot is deemed a spoiled ballot.

86. If the electoral officer or polling clerk receives a spoiled ballot from an elector, they must:

- (a) take the spoiled ballot from the elector;
- (b) unless the elector is declining to vote, provide the elector a new ballot;
- (c) make a note on the electors' list indicating that the elector has returned a spoiled ballot; and
- (d) where applicable, make a note on the electors' list indicating that the elector has been provided with a new ballot.

Electors Who Fail to Return Ballot

87. If an elector fails to return their ballot to the electoral officer or polling clerk:

- (a) the ballot must be deemed cancelled;
- (b) the electoral officer or polling clerk must make a note on the electors' list next to the elector's name indicating that the elector failed to return the ballot and that the ballot has been cancelled;
- (c) the electoral officer or polling clerk must advise each polling site that the elector received a ballot and has failed to return that ballot; and
- (d) the elector who failed to return their ballot is not entitled to another vote, unless they return their cancelled ballot to the electoral officer or a polling clerk and receive a new ballot.

PART 13: COLLECTION AND DEPOSIT OF BALLOTS

Receipt of Mail-in Ballots

88. After the last mail delivery on voting day, the electoral officer must ensure all mail-in ballot packages are retrieved from the mail.

Opening and Deposit of Mail-in Ballots

89. Immediately after the close of the polls, the electoral officer shall, in the presence of the deputy electoral officers, candidates, scrutineers and any electors who choose 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) set aside the ballot if:
 - (i) it was not accompanied by a voter declaration form;
 - (ii) if the voter declaration form is not signed or witnessed;
 - (iii) the name of the person set out in the voter declaration form is not on the electors' list;
or
 - (iv) the electors' list shows that the elector has already voted; and
- (b) deposit all remaining ballots in the ballot box and place a mark on the electors' list opposite the name of the elector.

90. Immediately after section 89 has been complied with, the electoral officer must:

- (a) ensure that at least one (1) elector who was present during the opening of mail-in ballots and deposit of those mail-in ballots into the ballot box completes and signs a Statement of Witness Regarding Mail-in Ballots; and
- (b) complete and sign a Declaration of Electoral Officer Regarding Mail-in Ballots.

Delivery of Ballot Boxes to Electoral Officer

91. Immediately after the close of polls:

- (a) each polling clerk presiding at a poll other than the poll that the electoral officer is presiding over must immediately:
 - (i) seal the ballot boxes at that poll in a manner that no further ballots may be deposited in those ballot boxes,
 - (ii) initial the seal, and
 - (iii) transport the sealed ballot boxes to the electoral officer at the poll at which the electoral officer is presiding; and
- (b) the electoral officer and each polling clerk must complete a Declaration of Electoral Officer/Polling Clerk Regarding Regular Polls.

PART 14: COUNTING OF BALLOTS

Counting of Ballots

92. Immediately after the close of polls, and in the presence of at least one (1) elector and any of the electors, candidates or their scrutineers who wish to attend, the electoral officer must:

- (a) open each ballot box;
- (b) examine each ballot;
- (c) provide any candidate or scrutineer present with an opportunity to view each ballot, and:
 - (i) if any conditions set out in section 93 exist:
 - (A) announce that they will reject the ballot and the reasons for why the ballot will be rejected,
 - (B) if an objection is made by a candidate or scrutineer to the electoral officer's intention to reject the ballot, the electoral officer must allow that candidate or scrutineer to provide reasons for their objection, and then consider the basis of that candidate or scrutineer's objection,
 - (C) if either no candidate or scrutineer objects to the rejection, or the ballot is rejected after the electoral officer considers a candidate or scrutineer's objection, the electoral officer must declare that the ballot is rejected, endorse the back of that rejected ballot indicating the reason for which the ballot has been rejected and the name of any person who objected to that rejection, and sign that endorsement, and
 - (D) place the ballot in an envelope retained for the purpose of holding rejected ballots;
 - (ii) in all other cases:
 - (A) place marks on the tally sheet beside the names of each candidate for whom the elector marking that ballot voted, and
 - (B) place the ballot in an envelope retained for the purpose of holding accepted ballots; and
- (d) after all ballots have been assessed and either rejected or accepted, count the number of votes cast for each candidate, as indicated on the ballot count form; and

- (e) record the following information on the ballot count form:
 - (i) the total number of ballots cast for each candidate, and
 - (ii) the total number of ballots cast that are rejected.

Duty to Reject Certain Ballots

93. The electoral officer must reject any ballot:

- (a) not bearing the initials of the electoral officer;
- (b) on which more votes are cast than an elector is entitled to cast;
- (c) which has been torn, defaced, or is otherwise dealt with in a material way by which an elector may be identified;
- (d) which is not marked with an "X" or other legible mark that clearly indicates the persons an elector intends to vote for; or
- (e) on which no vote is cast by an elector.

Tie Vote

94. If the electoral officer cannot determine a successful candidate due to an equal number of votes being cast in favor of two or more candidates, and the tie must be broken to determine which candidate will be declared elected into a position, the electoral officer must:

- (a) establish a time and place for the conduct of a recount, which must be no later than twenty-four (24) hours from the closing of polls on election day;
- (b) announce the time and place for the conduct of the recount in the presence of all those present at the polling site; and
- (c) at the time and location established by the electoral officer, and in the presence of all candidates and their agents who wish to attend, conduct a re-count of all ballots in the same manner and form as is required by sections 92 and 93.

95. If a recount fails to determine a successful candidate, the electoral officer must cast ballots in order to break the tie by:

- (a) placing the name of each candidate having the same number of votes on an unused separate ballot and placing each ballot in a receptacle;
- (b) without looking, drawing as many ballots as there are positions available; and
- (c) announcing the name of that candidate whose name appears on the ballot as having another valid vote.

Objections to Final Tally

96. (1) Immediately after all of the ballots are counted, an elector or candidate may raise an objection to the final tally.

(2) Despite subsection (1), a person may only make one (1) objection to the final tally and there may only be a maximum of two (2) recounts.

(3) Where an objection is raised under subsection (1) and the final tally separates the elected candidate from the second-place candidate by no more than five (5) votes, the electoral officer must conduct a re-count of all valid ballots in the same manner and form as is set out in sections 92 and 93.

Announcement of Family Councillors

97. Immediately after completing a count of all ballots in accordance with this Part, the electoral officer must announce the names of the Family Councillor candidates receiving the greatest numbers of votes for the available positions of Family Councillor to be elected into the offices of Family Councillor.

Announcement and Declaration of Election Results for Family Councillors

98. Within two (2) days of completing a count of all ballots, the electoral officer must:

- (a) prepare or cause to be prepared a Declaration of Election Results for Family Councillor;
- (b) post a copy of the Declaration of Election Results for Family Councillor at:
 - (i) a conspicuous spot within the principal administrative offices of Blueberry River,
 - (ii) all other locations designated by the electoral officer, and
 - (iii) on the website of Blueberry River; and

- (c) mail or deliver the Declaration of Election Results of Family Councillor to each elector at the mailing or email address set out next to their name on the electors' list.

Retention / Destruction of Ballots and Ballot Count Forms

99. After the electoral officer has counted all ballots, he or she must place into separate envelopes:

- (a) all valid ballots;
- (b) all rejected ballots;
- (c) all spoiled ballots; and
- (d) all unused ballots.

100. The electoral officer must ensure each envelope of ballots is sealed and marked on the outside with:

- (a) a short description of the contents of the packet;
- (b) the date of the election;
- (c) the name and contact information of the electoral officer; and
- (d) the signature of the electoral officer, placed over the seal of the envelope.

101. The electoral officer must retain all ballots and voting materials until the later of:

- (a) two (2) months from the date on which an election is held;
- (b) two (2) months from the date on which a Chief election meeting is held;
- (c) two (2) months from the date a decision on an appeal is rendered in relation to an election or a Chief election meeting.

102. The electoral officer must destroy all ballots and materials

- (a) as soon as practicable after the date in section 101 has passed; and
- (b) in the presence of two (2) witnesses who must make a Declaration of Destruction of Voting Materials, setting out that they witnessed the destruction of the ballots and materials.

PART 15: CHIEF ELECTION MEETING

Family Councillors to Elect Chief

103. The Family Councillors must elect a Chief by secret ballot at a Chief election meeting.

104. All Family Councillor's must attend the Chief election meeting and each must cast their vote in person at the Chief election meeting.

Chief Election Meeting

105. The electoral officer must hold a Chief election meeting which must:

- (a) commence any time after 6:00pm but before 8:00pm;
- (b) be open for a period of not less than one (1) hour; and
- (c) be held no later than three (3) days after the Declaration of Election Results of Family Councillor as set out in section 98.

Insufficient Family Councillors in Attendance

106. In the event that one or more Family Councillor's are absent from the Chief election meeting, the electoral officer must:

- (a) reschedule the Chief election meeting to be held within forty-eight (48) hours after the current time;
- (b) make an announcement to those present at the Chief election meeting declaring:
 - (i) that there is one or more Family Councillor's absent from the meeting;
 - (ii) the date that a second Chief election meeting will be held so that all Family Councillor's may attend; and
- (c) prepare a notice setting out that one or more Family Councillor's were absent from the Chief election meeting, and the date, time and location of the second Chief election meeting, and post the notice at:
 - (i) a conspicuous spot within the principal administrative offices of Blueberry River,
 - (ii) all other locations designated by the electoral officer, and

(iii) on the website of Blueberry River, and

(d) hold that second Chief election meeting in accordance with this Part.

Preparation of Voting Materials

107. The electoral officer must ensure all necessary preparations are completed for the proper conduct of a Chief election meeting, including:

(a) preparing or causing to be prepared voting instructions, which must:

(i) be printed clearly;

(ii) state that each Family Councillor must select their desired candidate for Chief by placing an “X” or other mark that clearly indicates the candidate that they intend to vote for in the box beside the candidate’s name;

(iii) state that the maximum number of candidates for whom each Family Councillor may vote is one (1);

(iv) state that a Family Councillor may not spoil their ballot;

(b) prepare, or cause to be prepared, ballots, which must:

(i) contain on the front of the ballot:

(A) the name of each candidate for Chief, appearing in alphabetical order by the candidate’s surname, followed by their given name, unless two candidates have the same name, in which case their names must appear in a form chosen by them that distinguishes their identities, and

(B) boxes corresponding to each candidate’s name for Family Councillors to mark indicating their vote; and

(ii) contain in the back of the ballot the electoral officer’s initials, in a place that will allow the ballot to be folded in a manner that exposes the electoral officer’s initials without exposing the information contained on the front of the ballot.

108. Prior to the Chief election meeting the electoral officer must:

(a) ensure the meeting location is supplied with:

(i) a sufficient number of ballots;

- (ii) a list of the Family Councillors;
- (iii) a ballot box constructed so that ballots can be inserted into it, but so that ballots cannot be withdrawn unless the seal on the box is opened; and
- (iv) voting compartments that allow Family Councillors to mark their ballots free from observation by others, each of which must contain:
 - (A) instruments for marking ballots, and
 - (B) a copy of the voting instructions.

Entitlement to be Present at the Chief Election Meeting

109. A person is entitled to be present at the Chief election meeting if that person is:

- (a) the electoral officer or a deputy electoral officer;
- (b) a candidate for Chief;
- (c) a Family Councillor; or
- (d) an elector.

Orderly Voting at the Chief Election Meeting

110. The electoral officer must maintain peace and good order at the meeting and may cause to be removed from the meeting site any person who:

- (a) is not entitled to be present at the polling site;
- (b) attempts to influence Family Councillors; or
- (c) in any way interferes with or disrupts the orderly conduct of the vote.

Secret Ballot and No Proxies Allowed

111. The Family Councillors must elect the Chief by secret ballot and the Family Councillors may not vote by proxy or authorize another person to vote on their behalf.

Right to Vote

112. The electoral officer must permit every Family Councillor to vote, provided that the Family Councillor satisfies the electoral officer that they have complied with section 17.

113. At a Chief election meeting, the electoral officer must:

- (a) chair the Chief election meeting;
- (b) ensure all relevant materials are available to confirm whether a person is a Family Councillor eligible to vote;
- (c) ensure written minutes are taken of all business that takes place;
- (d) declare that each Family Councillor is present;
- (e) declare the meeting open for the purpose of electing the Chief;
- (f) read out the names of the candidates for Chief;
- (g) read aloud the voting instructions prepared under paragraph 107(a);
- (h) keep the meeting open for a period of not less than one (1) hour, after which the electoral officer must close the Chief election meeting; and
- (i) maintain order at all times and cause to be removed any person who, in his or her opinion, is disrupting or otherwise interfering with the conduct of the meeting.

114. Immediately after the electoral officer has complied with paragraph 113(a) to (g), he or she must:

- (a) provide each Family Councillor a ballot, folded in a manner that exposes the electoral officer's initials without exposing the information contained on the front of the ballot;
- (b) advise the Family Councillor that they must not take the ballot out of the meeting; and
- (c) make a mark on the Family Councillor list indicating that the Family Councillor has been provided a ballot.

Voting at Chief election meeting

115. Each Family Councillor who receives a ballot must:

- (a) proceed immediately to a voting compartment;
- (b) make a mark in the box beside the Family Councillor's desired candidate's name on the ballot with an "X" or other legible mark that clearly indicates the candidate they intend to vote for;
- (c) fold the ballot in a manner that conceals the names of the candidate and the Family Councillor's mark and exposes the initials of the electoral officer; and immediately return to the electoral officer with the ballot.

116. Upon receiving a completed ballot, the electoral officer must:

- (a) without unfolding the ballot or in any way disclosing the mark made by the Family Councillor on the ballot, verify the electoral officer's initials on the outside of the ballot;
- (b) observe the elector depositing the ballot in the ballot box; and make a mark on the Family Councillor list indicating that the Family Councillor has voted.

Counting of Ballots

117. Immediately after the last Family Councillor has deposited their ballot in the ballot box, the electoral officer must:

- (a) open the ballot box;
- (b) examine each ballot;
- (c) count the number of votes cast for each candidate for Chief; and
- (d) record the total number of votes cast for each candidate.

Announcement of Chief

118. Immediately after completing a count of all ballots in accordance with this Part, the electoral officer must announce the name of the candidate receiving the greatest number of votes to be elected into the office of Chief.

Announcement and Declaration of Chief Election Meeting Results

119. Within two (2) days of completing a count of all ballots, the electoral officer must:

- (a) prepare or cause to be prepared a Declaration of Election Results for Chief;

- (b) post a copy of the Declaration of Election Results for Chief at;
 - (i) a conspicuous spot within the principal administrative offices of Blueberry River,
 - (ii) all other locations designated by the electoral officer, and
 - (iii) on the website of Blueberry River; and
- (c) mail or deliver the Declaration of Election Results for Chief to each elector at the mailing or email address set out next to their name on the electors' list.

120. The electoral officer must retain all ballots and voting material in accordance with sections 99 to 102.

PART 16: ARBITRATOR

Appointment of Arbitrator

121. At least sixty-five (65) days before a scheduled election day Council must appoint an Arbitrator by Council resolution.

122. To be eligible to be an Arbitrator, a person must:

- (a) be an independent third party who is a practicing member of one of the member Law Societies of the Federation of Law Societies of Canada who has not previously acted for Blueberry River in any matter, except as an Arbitrator, or;
- (b) be an independent third party who is a certified Arbitrator in good standing.

Oath of Office

123. The Arbitrator must execute an Oath of Office in the form set out in Schedule "A" Forms that states they will:

- (a) abide by the rules established in this By-law and any other Blueberry River law or by-law relating to Council elections;
- (b) fulfill all duties and responsibilities of an Arbitrator as set out in this By-law;
- (c) carry out their duties and responsibilities faithfully, honestly, impartially and to the best of their abilities;

- (d) not accept anything of value from a member, including money, offers of employment, gifts or travel;
- (e) not discriminate against anyone;
- (f) avoid conflicts of interest and the appearance of conflicts of interest;
- (g) keep confidential, both during and after the term of their office, any matter or information which, under this By-law or under any other law of Canada, the Province or Blueberry River is considered confidential in nature; and
- (h) withdraw from their position if they have a vested interest in the matter at issue.

Powers of the Arbitrator

124. (1) The Arbitrator has exclusive authority to:

- (a) determine the time, place and date of an appeal hearing;
- (b) determine whether an appeal hearing is open to members or the public;
- (c) hold an appeal hearing using any combination of written, electronic or verbal submissions;
- (d) determine the rules and procedures to be followed in the conduct of an appeal hearing which must be consistent with the rules and procedures set out in this By-law;
- (e) determine questions of law and fact arising in the course of an appeal hearing;
- (f) order the production of documents that are material and relevant to an appeal hearing from the electoral officer or polling clerk, applicant, or person to whom the appeal relates;
- (g) determine the admissibility, relevance and weight of evidence and the manner in which such evidence is to be admitted;
- (h) determine that the material filed is not adequate for deciding the validity of the appeal and conduct such further investigation into the matter as they see necessary, in such manner as they deem expedient;
- (i) render final and binding decisions regarding appeals that can be filed in a court of law and legally enforced; and
- (j) fulfill any of the duties and responsibilities of an Arbitrator under this Part.

- (2) For greater certainty, an Arbitrator does not have the power to:
 - (a) compel a person other than the electoral officer or polling clerk, applicant, or person to whom the appeal relates to testify at an appeal hearing or produce documents; or
 - (b) order any relief not specifically permitted by this By-law.

Remuneration of Arbitrator

125. The Council must:

- (a) set the amount of remuneration of the Arbitrator; and
- (b) pay all disbursements related to an appeal hearing, except the costs of the applicant and interveners.

PART 17: ELECTION APPEALS PROCESS

Application for Appeal

126. Any candidate who ran in the election or any elector who voted in the election may appeal the results of that election and subsequent Chief election meeting by delivering to the Arbitrator:

- (a) a completed Notice of Appeal in the form set out in Schedule “A” Forms; and
- (b) an affidavit sworn before a notary public or other person authorized to be a commissioner for taking oaths in British Columbia, setting out that the facts alleged in the Notice of Appeal are true.

127. Every Notice of Appeal shall:

- (a) identify the office being appealed;
- (b) be accompanied by all evidence supporting the facts set out in the Notice of Appeal;
- (c) be accompanied by a non-refundable one-hundred-fifty (\$150) dollar filing fee; and
- (d) be filed with the Arbitrator within twenty-eight (28) business days of the date upon which the Council member was declared elected.

Grounds for Appeal

128. An appeal under this Part must be made on one or more of the following grounds:

- (a) a candidate was ineligible for nomination under section 41;
- (b) a candidate or representative of a candidate participated in illegal campaigning under section 56;
- (c) a person who is not an elector cast a vote and their vote materially affected the outcome of the election;
- (d) a person who is not a Family Councillor cast a vote and their vote materially affected the outcome of the Chief election meeting;
- (e) the electoral officer or a polling clerk failed to fulfill their responsibilities under this By-law in a manner that materially affected the outcome of the election; or
- (f) the electoral officer failed to fulfill their responsibilities under this By-law in a manner that materially affected the outcome of the Chief election meeting.

Evidence at an Appeal

129. Evidence at an appeal hearing may include any type of proof presented by a person in support of facts they claim to be true, including:

- (a) documents, such as letters, printed copies of emails, receipts, or pictures;
- (b) written statements of witnesses that are sworn to be true, signed, dated and witnessed by a third party;
- (c) digital photographs, digital audio recordings or digital video recordings; or
- (d) any other evidence that the Arbitrator determines is material and relevant to the appeal hearing.

Right to Participate in an Appeal

130. The applicant, and any person against whom an allegation is made in a Notice of Appeal, has a right to:

- (a) make submissions to the Arbitrator regarding the matter on appeal; and
- (b) have someone represent them at an appeal hearing, such as an agent, advocate, lawyer, friend or immediate family.

Delivery of Notice of Appeal to Affected Persons

131. Upon receipt of a Notice of Appeal, the Arbitrator must deliver to:

- (a) the electoral officer;
- (b) the chief operating officer;
- (c) each person against whom an allegation is made in the Notice of Appeal; and
- (d) in the case of an appeal of the office of Family Councillor, all electors included in the Family Group who elected the Family Councillor:
 - (i) a copy of the Notice of Appeal;
 - (ii) copies of all evidence supporting the facts set out in the Notice of Appeal; and
 - (iii) a written statement setting out:
 - (A) the manner in which the appeal hearing will be held,
 - (B) instructions for how each recipient may obtain a copy of this By-law; and,
 - (C) any rules or instructions set by the Arbitrator regarding the appeal hearing process.

Duty to Provide Written Statement in Relation to Notice of Appeal

132. A person who receives a copy of a Notice of Appeal from the Arbitrator under section 131 and has information directly related to the allegations set out in the Notice of Appeal must, within fourteen (14) days of receiving the Notice of Appeal, deliver to the Arbitrator and to the applicant, either in person or by registered mail:

- (a) a written statement of the information held by them that relates directly to the allegations set out in the Notice of Appeal; and
- (b) copies of all evidence supporting the facts set out in that written statement.

Summary Dismissal

133. Any time following the fourteenth (14th) day after the Arbitrator delivers a Notice of Appeal in accordance with section 131 and before the date that an appeal hearing must commence in accordance with section 136, the Arbitrator may make an order to dismiss the appeal because he or she has determined that:

- (a) it is frivolous, vexatious, trivial or not in good faith;
- (b) it relates to matters that are outside the Arbitrator's jurisdiction;
- (c) any of the requirements in section 126 have not been met; or
- (d) any of the requirements in section 127 have not been met.

134. Before dismissing an appeal without a hearing, the Arbitrator must:

- (a) deliver a written notice to the applicant, in person or by registered mail, setting out the Arbitrator's intention to dismiss the appeal and the reasons for why he or she intends to dismiss the appeal; and
- (b) provide the applicant with an opportunity to make written submissions with regard to the Arbitrator's intention to dismiss the appeal, or to provide additional information required under section 126 or 127, as applicable.

Failure to Appear or Participate in Appeal Hearing

135. If a person against whom an allegation is made in a Notice of Appeal fails to provide a response to the Arbitrator in accordance with section 132 and the Arbitrator is satisfied that the Notice of Appeal was delivered to that person, the Arbitrator may proceed with the appeal hearing without further notice to that person and without providing further opportunity to that person to be heard.

Appeal Hearing Process and Decision of Arbitrator

136. Within sixty (60) days of receiving a Notice of Appeal, the Arbitrator must hold an appeal hearing and make one of the following orders:

- (a) that sufficient evidence exists to prove it is more likely than not one of the grounds of appeal has been met, therefore the election or the election of the candidate, as applicable, must be put aside; or
- (b) that sufficient evidence does not exist to prove that it is more likely than not one of the grounds of appeal has been met, therefore the election or the election of the candidate, as applicable, must be upheld and the appeal must be dismissed.

137. If the Arbitrator makes a decision under paragraph 136(a) and:

- (a) the decision is to put aside the election of a specific candidate, as opposed to the election results as a whole or the Chief election meeting as a whole, the electoral officer must, where possible declare the candidate with the next highest number of votes to be the successful candidate for that position, and where not possible the process in paragraph (b) must be followed; and
- (b) the decision is to put aside the election results as a whole or the Chief election meeting as a whole, Council must either:
 - (i) direct the electoral officer who administered the election to which the appeal relates or the Chief election meeting to which the appeal relates, to conduct a by-election or new Chief election meeting in accordance with this By-law; or
 - (ii) appoint a new electoral officer in the same manner and form as set out in Part 5 and instruct the new electoral officer to conduct a by-election or new Chief election meeting in accordance with this By-law.

138. If the Arbitrator makes a decision under paragraph 136(b), the Arbitrator may further order the applicant to pay all or a portion of the costs of the appeal hearing, including the fees and disbursements of the Arbitrator, the costs of the affected candidates, or both, and the amount of costs set out in that order are deemed to be a debt owed by the applicant to Blueberry River.

Written Reasons and Publication of Decision

139. Within ten (10) days of the Arbitrator making a decision under section 136, the Arbitrator must:

- (a) prepare written reasons for his or her decision, and where a candidate has been replaced with a candidate who has the next highest number of votes, such written decision must include details regarding that replacement;
- (b) deliver their written decision to the applicant and to each person who received a copy of the Notice of Appeal under section 132;
- (c) in the case of a Family Councillor, deliver their written decision to the electors who are a part of that Family Councillor's Family Group, and;
- (d) post the written reasons for decision at:
 - (i) a conspicuous spot within the principal administrative offices of Blueberry River,
 - (ii) all other locations considered necessary by the Arbitrator, and

(iii) on the website of Blueberry River.

Arbitrator's Decision Final and Binding

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

PART 18: COUNCIL MEETING PROCEDURES

First Meeting of Council

141. The first meeting of a newly elected Council must take place no later than one (1) month after the electoral officer posts a Declaration of Election Results for Chief.

Subsequent Meetings of Council

142. After the first meeting of Council, regularly scheduled Council meetings must take place:

- (a) at least two (2) times per month and as often as is necessary for Council to address the business or affairs of Blueberry River; and
- (b) on dates, at times, and in locations set by Council.

Notice of Council Meetings

143. The chief operating officer must provide members with at least five (5) business days' notice of all regularly scheduled Council meetings by posting the dates, times and locations of each Council meeting in a conspicuous place on the Blueberry River website and at all public buildings located on a Blueberry River reserve where members may attend to access Blueberry River programs or services.

Special Meeting of Council

144. (1) Where urgent matters arise in the business or affairs of Blueberry River, the Chief may summon a special meeting of Council by providing each Council member at least twenty-four (24) hours written notice of the date, time and location of that special meeting of Council, and a summary of the urgent matter that will be discussed.

(2) A notice under subsection (1) must be delivered by the Chief to each Council member either at an email address or at a texting phone number that is provided by each Council member for such purpose.

Council Member's Duty to Attend Council Meetings & Perform Functions of Office

145. (1) Council members must not be absent from three (3) or more Council meetings, either consecutively or within any twelve (12) month period, unless:

- (a) such absence is due to illness or incapacity of the Council member and the Council member who will be absent provides notification of such absence to the Council chairperson before the Council meeting; and
- (b) the Council makes a majority vote at the Council meeting approving the Council member's absence, which approval should not be unreasonably denied.

(2) When Council makes a decision under paragraph (1)(b), within twenty-four hours (24hrs) of the decision being made the Council chairperson must notify the Council member to whom the decision relates of the decision that was made and the reasons for that decision.

146. Council members must not be absent from twelve (12) or more Council meetings, or be unavailable to perform their functions of office for any period longer than six (6) months, regardless of any illness or other incapacity.

147. Any Council member in breach of section 145 or 146 will be subject to progressive disciplinary action in accordance with section 184.

Blueberry River Member's Right to Attend Council Meetings

148. Blueberry River members have a right to attend all Council meetings, except those portions of a Council meeting that are held in camera.

149. Where a Blueberry River member disrupts the conduct of a Council meeting, the Council chairperson may expel them from the remainder of that Council meeting.

Council Chairperson

150. The Chief is the Council chairperson at a Council meeting, unless Council approves another Council member to be the Council chairperson for a specific Council meeting.

151. The Council chairperson is responsible for:

- (a) calling Council meetings to order;
- (b) introducing agenda items;

- (c) determining the order of speakers for each agenda item; and
- (d) maintaining order in Council meetings.

Council Meeting Agendas

152. For every agenda for a Council meeting, the order of business must be as follows:

- (a) reading and adoption of the agenda;
- (b) reading and adoption of previous Council meeting minutes;
- (c) unfinished business;
- (d) presentation and reading of correspondence and petitions;
- (e) presentation and consideration of reports of committees;
- (f) new business; and
- (g) adjournment.

Motions at Council Meetings

153. Any Council member may make or second a motion at a Council meeting and every motion at a Council meeting must be made and seconded before it is decided.

Approval of Motions / Voting

154. All motions before Council must be decided by a majority vote of those Council members present who are not in a conflict of interest with regard to the decision being made.

Community Vote Required

155. Where all Council members are in a conflict of interest with regard to a decision that must be made, they must refer that decision to a community vote which must be conducted in accordance with Part 21.

Withdrawal of Motions at Council Meetings

156. Once a motion is on the table and is open for consideration, it may only be withdrawn by an approved motion to withdraw it.

Council Meeting Minutes

157. The Council chairperson is responsible for delegating someone to take minutes at Council meetings and the chief operating officer is responsible for maintaining copies of all Council meeting minutes.

158. The minutes of a Council meeting must:

- (a) provide a summary, not verbatim transcripts, of Council discussions;
- (b) reflect that Council deliberated before making a decision, which might include documentation of a brief summary of the options considered, or pros and cons raised; and
- (c) identify any motions made, and the outcome of any votes taken or consensus reached, but not identify how the vote was split in a majority decision, or how individual Council members voted, unless a Council member asks that their vote go on record in which case that person's vote must be documented.

Storage of, and Access to, Council Meeting Minutes

159. The chief operating officer must store all Council meeting minutes in a secure area or computer system.

160. Upon request to the chief operating officer, the chief operating officer must provide Blueberry River members' access to Council meeting minutes.

In Camera Sessions at Council Meetings

161. For the purposes of this section, "in camera" means the part of a Council meeting that is held in private and closed to Council members who are in a conflict of interest with regard to the topic of discussion.

162. Council may approve a motion to order that a portion of, or whole, Council meeting be held in camera if Council is satisfied that either:

- (a) the order is necessary to address a conflict of interest of a Council member;
- (b) the order is necessary to maintain the confidentiality of information relating to human resources, including Council's oversight of the chief operating officer's employee performance;

- (c) the order is necessary to allow for independent auditors to present audit results to Council without interference from the Blueberry River administration or members;
- (d) the order is necessary to protect the confidentiality of information relating to a civil or criminal proceeding, or information that is subject to solicitor-client privilege; or
- (e) the order is necessary for the safety of a person.

In Camera Session Meeting Minutes

163. The Council chairperson must appoint someone to take separate minutes at an in camera session, setting out:

- (a) the names of those persons who were in attendance at the in camera session;
- (b) the names of any person who is granted permission by those in attendance at the in camera session to view the minutes;
- (c) provide a summary, not verbatim transcripts, of discussions;
- (d) reflect that Council deliberated before making a decision, which might include documentation of a brief summary of the options considered, or pros and cons raised; and
- (e) identify any motions made, and the outcome of any votes taken or consensus reached but not identify how the vote was split in a majority decision, or how individual Council members voted, unless a Council member asks that their vote go on record in which case that person's vote must be documented.

Storage of, and Access to, In Camera Session Meeting Minutes

164. The chief operating officer must store all in camera Council meeting minutes in a secure area or computer system.

165. The chief operating officer must not allow anyone, except those persons who were privy to the in camera session and who are granted permission by those in attendance at the in camera session, access to the in camera meeting minutes.

PART 19: RESIGNATION OF CHIEF OR FAMILY COUNCILLORS

Notice of Resignation

166. (1) A Council member may resign from office by submitting a signed, written letter to Council at a regularly scheduled meeting of Council, setting out:

- (a) that they are resigning; and
- (b) the effective date of their resignation, which must be no earlier than sixty (60) days from the date the letter is delivered to Council.

(2) Where a Council member submits a written letter of resignation in accordance with subsection (1):

- (a) they cannot retract their resignation; and
- (b) their resignation is effective on the effective date of resignation set out in their written letter of resignation.

PART 20: MID-TERM VACANCIES AND BY-ELECTIONS

Vacancies

167. The office of a Council member must be deemed vacant if the Council member:

- (a) resigns from office;
- (b) dies, or;
- (c) is declared removed by an order under section 199 or 200.

By-Election or Chief Election Meeting Required

168. In the event that the office of a Family Councillor is vacant and more than sixteen (16) months remain in that Council member's term, a by-election for that vacant position must be held.

169. Where a by-election is held pursuant to section 168, only the electors in the Family Group represented by the affected Family Councillor may participate in the by-election.

170. In the event that the office of Chief is vacant and more than sixteen (16) months remain in the Chief's term, a Chief election meeting is required.

By-Election or Chief Election Meeting Not Required

171. In the event that the office of a Family Councillor is vacant and less than sixteen (16) months remain in their term of office, a by-election must not be held, unless such by-election is necessary to maintain quorum on Council, in which case a by-election must be held.

172. In the event that the office of Chief is vacant and less than sixteen (16) months remain in their term of office, a Chief election meeting must not be held, unless such Chief election meeting is necessary to maintain quorum on Council, in which case a Chief election meeting must be held.

Appointment of Interim Chief

173. In the event that the office of Chief is vacant and less than sixteen (16) months remain in their term of office, Council must appoint a Family Councillor to represent the interests of Blueberry River to third parties for the remainder of their terms in office.

Councillor as Candidate for Chief in By-Election

174. (1) If a current Family Councillor wishes to be a candidate for Chief in a Chief election meeting held pursuant to section 170, they must resign their position in office in writing to Council before the Notice of Nomination Meeting for the Chief election meeting.

(2) A resignation under subsection (1) is final and binding.

(3) The position of a Family Councillor who resigns under subsection (1) must be deemed vacant and the vacant position must be voted on during a by-election.

Date of By-Election and Appointment of Electoral Officer

175. Within fifteen (15) days of a by-election or Chief election meeting being required under this By-law, Council must:

(a) set the date for the by-election or Chief election meeting; and

(b) appoint the electoral officer to conduct the by-election or Chief election meeting.

Rules and Procedures for By-Election or Chief Election Meeting

176. The rules and procedures for conducting a by-election must be the same as those used for conducting an election.

177. The rules and procedures for conducting a Chief election meeting under this Part must be the same used for conducting a Chief election meeting under Part 15.

PART 21: COMMUNITY VOTE PROCEDURE

Community Vote Meeting Required

178. A community vote must be conducted in accordance with this Part if:

- (a) community approval of a Council decision is required pursuant to section 155; or
- (b) community approval is required for amendments to this By-law.

Notice of Community Vote Meeting

179. The Council must:

- (a) set the date for a Community Vote Meeting at which electors may vote on whether to approve the necessary Council decision or other decision;
- (b) prepare or cause to be prepared a Notice of Community Vote that sets out:
 - (i) the date of the Notice of Community Vote;
 - (ii) a description of the Council decision or other decision that must be made by electors at the community vote meeting, and a summary of any background information that electors will need to assist them in deciding on whether to approve the decision;
 - (iii) a statement inviting electors to attend a community vote meeting to decide on whether to approve the Council decision or other decision;
 - (iv) the exact wording for the question that will be asked of electors at the Community Vote Meeting; and
 - (v) the date, time and location of the Community Vote Meeting at which electors must consider the Council decision or other decision;

- (c) at least twenty-one (21) days prior to the scheduled Community Vote Meeting:
 - (i) post the Notice of Community Vote Meeting at:
 - (A) a conspicuous spot within the principal administrative offices of Blueberry River,
 - (B) all other locations designated by Council, and
 - (C) on the website of Blueberry River; and
 - (ii) mail or deliver the Notice of Community Vote Meeting to each elector at the mailing or email address beside their name on the electors' list.

Voting at Community Vote Meeting

180. Voting at a Community Vote Meeting may be conducted by various methods, as determined by the Council, including any of the following methods or combinations thereof, one of which must provide an opportunity for persons residing off the Reserve to vote:

- (a) ballots cast in person by secret ballot at the Community Vote Meeting;
- (b) a show of hands at the Community Vote Meeting;
- (c) mail-in-ballots; or
- (d) phone-in ballots.

Approval at Community Vote Meeting

181. A decision must be considered approved at a Community Vote Meeting if a majority of those electors who cast a vote, vote in favour of the matter.

Conduct at Community Vote Meeting

182. At a Community Vote Meeting, Council must:

- (a) where applicable, ensure that copies of any documents relating to the matter which requires community approval are available for viewing by electors;
- (b) ensure that the purpose and provisions of any agreement to which the community approval relates are explained to electors;

- (c) ensure that a vote is conducted on whether to approve the ballot question, which must be the same ballot question set out in the Notice of Community Vote Meeting.

Declaration of Community Vote Meeting Vote

183. Immediately after the close of a Community Vote Meeting, a Council member must swear a declaration setting out:

- (a) that a Notice of Community Vote Meeting was prepared, posted and delivered in accordance with this By-law, and attaching a copy of that Notice of Community Vote Meeting;
- (b) the total number of electors who cast a vote at the Community Vote Meeting;
- (c) the total number of electors who voted in favour of the ballot question;
- (d) the total number of electors who voted against the ballot question; and
- (e) that the vote was conducted in accordance with this By-law.

PART 22: COUNCIL ACCOUNTABILITY & REMOVAL FROM OFFICE

Grounds for Progressive Disciplinary Action Up to and Including Dismissal

184. A Council member may be subject to disciplinary actions if:

- (a) they have breached their Oath of Office or Confidentiality Agreement;
- (b) they are absent from three (3) or more Council meetings either consecutively or within any twelve (12) month period without the approval of Council pursuant to section 145.
- (c) they have breached or failed to perform their duties or obligations set out in any Blueberry River law, by-law or policy;
- (d) they have engaged in conduct at Council meetings, community meetings, or in other public forums or functions which causes substantial harm to Blueberry River's ability to conduct business or deliver programs and services; or
- (e) they have engaged in physical violence or any other unwanted or inappropriate conduct directed at any of the following persons, that the person finds offensive and harmful and that a reasonable person would view as unwelcome or offensive:

- (i) staff or a contractor of Blueberry River;
- (ii) a director, manager or employee of a Blueberry River business entity; or
- (iii) any person while present on the Reserve or at the place of business of a Blueberry River business entity; or

Council Removal from Office

185. The Chief may be subject to removal from office if:

- (a) they lose the confidence of Blueberry River, as evidenced by a petition that:
 - (i) is signed by at least sixty per-cent (60%) of Blueberry River electors; and
 - (ii) sets out each of those elector's full names, membership numbers, phone numbers and either their mailing or email addresses;
- (b) a Council member submits a report in accordance with section 187 alleging that the Chief:
 - (i) has become ineligible under section 41; or
 - (ii) has engaged in conduct listed in section 184; or
- (c) a member of Blueberry River submits a report under section 188 alleging that the Chief:
 - (i) has become ineligible under section 41; or
 - (ii) has engaged in conduct listed in section 184.

186. A Family Councillor may be subject to removal from office if:

- (a) they lose the confidence of their Family Group, as evidenced by a petition that:
 - (i) is signed by at least sixty per-cent (60%) of electors listed with the Family Group that the Family Councillor represents; and
 - (ii) sets out each of those elector's full names, membership numbers, phone numbers and either their mailing or email addresses;
- (b) a Council member submits a report in accordance with section 187 alleging that the Family Councillor:

- (i) has become ineligible under section 41; or
- (ii) has engaged in conduct listed in section 184; or
- (c) a member of Blueberry River submits a report under section 188 alleging that the Family Councillor:
 - (i) has become ineligible under section 41; or
 - (ii) has engaged in conduct listed in section 184.

Mandatory Report by Council Members Regarding Grounds for Disciplinary Action or Eligibility of a Council Member to Hold Office

187. A Council member must make a written report to the Council directly if they have reason to believe that another Council member:

- (a) has participated in conduct that is subject to disciplinary action as set out in section 184; or
- (b) is no longer eligible to hold office under section 41.

Report by Member Regarding Grounds for Disciplinary Action or Eligibility of a Council Member to Hold Office

188. A member of Blueberry River may make a written report either to a Council member or to the chief operating officer if they:

- (a) have reason to believe a Council member participated in conduct that is subject to disciplinary action as set out in section 184;
- (b) have reason to believe the Council member is no longer eligible to hold office under section 41; or
- (c) wish to request the removal of a Council member from office due to a loss of confidence in that Council member and they have a petition to submit that meets the criteria set out in section 185 or 186.

Requirements in Written Report Regarding Grounds for Disciplinary Action or Eligibility to Hold Office

189. A report under section 187 or 188 must set out:

- (a) the name of the Council member to whom the allegation or loss of confidence relates;
- (b) either:
 - (i) the specific paragraph in section 184 to which the allegation or loss of confidence relates,
 - (ii) that they wish to seek the removal of that Council member, or
 - (iii) the eligibility criteria under section 41 to which the allegation relates;
- (c) where relevant, a description of the allegation, including the names of any witnesses to the alleged circumstances; and
- (d) where relevant, any supporting documentation such as the original petition signed by electors in accordance with section 185 or 186, respectively.

Addition of Report to Council Meeting Agenda, Notice of Report as an Agenda Item, and Distribution of Report

190. Where a Council member or the chief operating officer receives a written report under section 187 or 188:

- (a) they must immediately provide a copy of that report to every Council member and to the chief operating officer, as applicable;
- (b) the chief operating officer must immediately after receiving the report:
 - (i) add a review of that report to the agenda for the next Council meeting, and
 - (ii) contact the following people to advise them of the date, time and location of the Council meeting at which the report will be considered:
 - (A) the person who made the report, and
 - (B) where the report is made in relation to a loss of confidence in the Council member, each person whose signature is set out in the petition; and
- (c) the chief operating officer must prepare and post a copy of that report, with the name of the person making the report redacted from it, along with a notice setting out the date, time and location on which the report will be reviewed by Council in a conspicuous place:
 - (i) on the Blueberry River website, and

- (ii) at all public buildings located on a Blueberry River reserve.

Duty of Petitioners to Be Available for Council Meeting

191. Each person whose name is set out on a petition regarding their loss of confidence in a Council member must:

- (a) make themselves available either in person or by other telephonic or electronic means on the date and at the time of the Council meeting at which the report will be heard, to confirm their signatures, and that they seek the removal of the Council member from office; and
- (b) advise the chief operating officer of the best manner in which they may be contacted during the Council meeting at which the report will be heard.

Review of Report at Council Meeting

192. At the next duly convened Council meeting following the distribution of a report under section 190:

- (a) Council must review the report;
- (b) where the report relates to a loss of confidence in a Family Councillor, Council must send a copy of the report to each member of the Family Group represented by the Family Councillor at the mailing address or email address listed by their name on the electors' list;
- (c) where the report relates to a loss of confidence in a Council member, Council must contact each person who signed the petition in the manner specified by them under section 191, to confirm their signatures, and that they seek the removal of the Council member from office; and
- (d) where the report relates to any other allegation or to a Council member's eligibility to hold office, the Council member who is the subject of the report must:
 - (i) provide his or her perspective on the allegation or eligibility criteria; and
 - (ii) either:
 - (A) admit in full to the facts set out in the report,
 - (B) admit to some of the facts set out in the report, specifying which facts are admitted and which facts are denied, or

(C) deny the allegations in the report.

Allegation Admitted or Signatures on Petition for Removal Confirmed

193. (1) Where a Council member admits in full to allegations in a report and the report relates to:

- (a) conduct that is subject to disciplinary action under section 184, Council must make an order under section 199; or
- (b) that Council member's eligibility to hold office under section 41, Council must make an order under section 200, the details of which must be provided to the Minister of Indigenous and Northern Affairs Canada.

(2) Where every person whose signature is on a petition regarding their loss of confidence in a Council member confirms their signature on that petition and confirms that they seek the removal of the Council member from office, Council must make an order that the Council member is removed from office, the details of which must be provided to the Minister of Indigenous and Northern Affairs Canada.

Allegation Partially Admitted or Denied

194. Where a Council member admits in part to, or denies, an allegation in a report, Council must:

- (a) consider the report;
- (b) determine whether to initiate an investigation into the allegation, taking into consideration whether an investigation is required in the best interests of Blueberry River; and
- (c) make a decision by Council resolution on whether to initiate an investigation into the allegation.

Factors to Consider in Ordering an Investigation

195. To determine under section 194 whether an investigation is in the best interest of Blueberry River, Council must consider all relevant factors, including whether:

- (a) the alleged conduct is serious in nature;
- (b) a finding that the alleged conduct is proven is likely to result in a significant disciplinary action being taken;

- (c) considerable harm has been caused by the alleged conduct to Blueberry River, a member or membership at large;
- (d) the alleged conduct involves the use, or threatened use, of a weapon or physical violence, harassment or bullying;
- (e) the Council member has relevant previous disciplinary actions against them;
- (f) the alleged conduct is criminal in nature;
- (g) there are grounds for believing that the alleged conduct may be continued or repeated; or
- (h) there is a need to protect the integrity of Council as a whole.

Appointment of Investigator

196. If Council orders an investigation under section 195, they must pass a Council resolution appointing an independent investigator.

Obligation to Cooperate and Failure to Cooperate

197. (1) A Council member who is under investigation must cooperate with the investigator and provide the investigator with all details relating to the allegation against him or her.

(2) A Council member who is under investigation and fails to comply with subsection (1) is deemed to be admitting to the allegations against him or her, in which case the Council must make an order section 199 or 200, as applicable.

Investigation Process

198. In conducting an investigation under this Part, the investigator must:

- (a) explain to the Council member who is under investigation, the processes that the investigator will follow in their conduct of the investigation;
- (b) complete their investigation within twenty-one (21) days from the date that Council appoints them;
- (c) be as thorough as necessary in their investigation, given the circumstances;

- (d) be fair and impartial in their investigation, providing both the person who made the allegations and the Council member who is under investigation equal treatment in evaluating the allegations;
- (e) be sensitive to the interests of all parties involved, and maintain confidentiality;
- (f) be focused on finding facts and evidence, including interviews of the person making the allegations, the Council member who is subject of the allegations, and any witnesses; and
- (g) when their investigation is concluded, provide the Council with a report setting out whether the investigator has determined that the evidence showed it is more likely than not that the allegations in the report are true, including the reasons for the investigator's decision.

Disciplinary Action Orders

199. (1) Where a Council member admits to a breach of section 184 or where an investigator's report concludes that the evidence shows it is more likely than not that grounds for disciplinary action exist under section 184, Council must make one (1) or more of the following orders:

- (a) that the Council member be suspended from exercising their specific responsibilities or role within Council for a specified period of time, not exceeding sixty (60) days, without honoraria;
- (b) that the Council member be issued a verbal warning;
- (c) that the Council member be issued a written warning;
- (d) that the Council member be removed from office, the details of which must be provided to the Minister of Indigenous and Northern Affairs Canada; or
- (e) that Blueberry River's legal counsel take legal action against the Council member on behalf of Blueberry River, including the commencement of civil proceedings for breach of fiduciary duty or otherwise.

(2) In making an order under subsection (1), Council must consider the following factors:

- (a) the need to ensure the membership's confidence in the integrity of Council;
- (b) the responsibility of Council as a whole to act in the best interests of the membership;
- (c) the need to deter the Council member, and all members of current and future Councils, from committing similar actions;

- (d) the nature and gravity of the action that has been proven;
- (e) the impact upon any specific and direct victims to the Council member's actions;
- (f) whether similar allegations have been proven against the Council member in the past and the number and frequency of such similar proven allegations; and
- (g) whether the Council member has acknowledged their actions and taken independent steps to disclose and redress their wrong.

Order for the Removal of Chief or Councillor for Failure to Maintain Their Eligibility to be a Member of Council

200. Where a Council member admits that they no longer meet the eligibility criteria set out in section 41 or where an investigator's report concludes that it is more likely than not a Council member no longer meets the eligibility criteria set out in section 41, the Council must make an order that the Council member is removed from office, the details of which must be provided to the Minister of Indigenous and Northern Affairs Canada.

Reasons for Decision

201. Where the Council makes an order under section 193, 199 or 200, they must provide the Council member who is the subject of that order with reasons for their decision.

Notice of Order Made Under this Part

202. Where the Council makes an order under section 193, 199 or 200:

- (a) the Council chairperson must ensure that the decision and the reasons for the decision are recorded in the Council minutes; and
- (b) the chief operating officer must ensure that a notice setting out the decision and reasons for decision is posted:
 - (i) in a conspicuous place on the Blueberry River website; and
 - (ii) at all public buildings located on a Blueberry River Reserve.

PART 23: AMENDMENTS

Request for Amendments

203. An elector may request amendments to this By-law by providing Council or the chief operating officer a written request that sets out:

- (a) the current sections of this By-law that are proposed to be amended and the proposed new criteria, rule or process to be included in the By-law;
- (b) a summary of the reasons for the requested amendments; and
- (c) the electors full name, membership number, phone number and either current mailing or email address.

Council to review Request for Amendments

204. Where a Council member or the chief operating officer receives a request for amendments under section 203:

- (a) they must immediately provide a copy of that request for amendments to every Council member and to the chief operating officer, as applicable;
- (b) the chief operating officer must immediately after receiving the request for amendments:
 - (i) add a review of that request for amendments to the agenda for the next Council meeting,
 - (ii) contact the person who made the request for amendments to advise them of the date, time and location of the Council meeting where their request for amendments will be reviewed, and
 - (iii) prepare and post a copy of that request for amendments, with the name of the person making the request for amendments redacted from it, along with a notice setting out the date, time and location on which the request for amendments will be reviewed by Council in a conspicuous place:
 - (A) on the Blueberry River website, and
 - (B) at all public buildings located on a Blueberry River reserve.

Council Meeting to Review the Request for Amendments

205. At the next duly convened Council meeting after the receipt of the request for amendments, Council must:

- (a) review the request for amendments; and
- (b) make a resolution declaring either:
 - (i) that the request for amendments be reviewed at a Community Meeting,
 - (ii) that the request for amendments is denied, or
 - (iii) that the amendments requested are to correct spelling or are grammatical in nature and will be made.

Duty to Provide Written Reasons

206. Where Council makes a declaration under subparagraph 205(b)(ii) they must:

- (a) provide written reasons to the person who made the request for amendments; and
- (b) post a copy of the reasons, with the name of the person who requested them redacted from it, in a conspicuous place:
 - (i) on the Blueberry River website, and
 - (ii) at all public buildings located on a Blueberry River reserve.

Community Meeting

207. Where Council makes a declaration under subparagraph 205(b)(i), the chief operating officer must:

- (a) within ten (10) business days of the declaration, appoint an independent third party to facilitate the amendment drafting process;
- (b) within ten (10) business days of the declaration, set the date, time and location for a community meeting, which must take place no later than two (2) months after the date on which Council makes the declaration;

- (c) at least twenty-one (21) days prior to the scheduled community meeting, prepare a Notice of Community Meeting that:
 - (i) sets out the date, time and location of the community meeting,
 - (ii) attaches to it a copy of the request for amendments, with the name of the person who made the request redacted from it,
 - (iii) attaches to it the declaration made by Council under subparagraph 205(b)(i),
 - (iv) states the community meeting will be an opportunity for all members to participate in a discussion with regard to the drafting of proposed amendments to this By-law,
 - (v) states all electors may make contact with, or provide written submissions to, the person who is appointed to facilitate the amendment drafting process with regard to the drafting of the proposed amendments,
 - (vi) states that at the community meeting, those present will select a committee of three (3) electors, who must not be Council members, to provide instructions to the person who is appointed to facilitate the amendment drafting process with regard to the drafting of the amendments; and
 - (vii) provides the name and contact information for the person who is appointed to facilitate the amendment drafting process; and
- (d) at least twenty-one (21) days prior to the scheduled community meeting:
 - (i) post the Notice of Community Meeting:
 - (A) at a conspicuous spot within the principal administrative offices of Blueberry River, and
 - (B) on the website of Blueberry River; and
 - (ii) mail or deliver the Notice of Community Meeting to each elector at their last known mailing or email address.

Community Meeting

208. No later than two (2) months after the date on which Council makes a declaration under subparagraph 205(b)(i), the chief operating officer must hold a community meeting, at which:

- (a) the person who is appointed to facilitate the amendment drafting process must facilitate the community meeting;
- (b) those members present must select three (3) electors, who must not be Council members, to provide instructions to the person who is appointed to facilitate the amendment drafting process with regard to drafting the amendments; and
- (c) the person who is appointed to facilitate the amendment drafting process, and the three (3) electors who are selected to provide that person instructions, must determine the process that will be followed for drafting the proposed amendments, which process must provide opportunities for all electors to participate in the drafting process.

Drafting Amendments

209. The person who is appointed to facilitate the amendment drafting process must ensure that amendments to this By-law are drafted in accordance with the instructions that he or she receives from the committee that is appointed at the community meeting.

Legal Counsel Review of Amendments

210. Prior to putting any proposed amendments to a Community Vote, the chief operating officer must ensure that the proposed amendments are reviewed by Blueberry River's legal counsel for consistency with the laws of Canada and laws of procedural fairness.

Approval of Amendments

211. (1) Subject to subsection (2), all amendments to this By-law must be approved by members at a Community Vote held in accordance with Part 21.

(2) A Community Vote to consider amendments to this By-law must not be held:

- (a) any more than one (1) time in any given four (4) year period; or
- (b) anytime within one hundred and twenty (120) days of a scheduled election day.

PART 24: GENERAL

Administrative Procedures

212. The Council from time to time may approve administrative procedures necessary to implement this By-law.

Effective Date

213. The effective date of this By-law must be the date that the Minister of Indigenous and Northern Affairs issues a Ministerial Order removing Blueberry River from the application of sections 74 through 79 of the *Indian Act*.

THIS BY-LAW IS CONFIRMED BY THE BLUEBERRY RIVER COUNCIL on the __ day of _____, 2017, at Blueberry River, in the Province of British Columbia.

A quorum of Council consists of ____ members of Council.

SCHEDULE "A" FORMS

Form 1 Blueberry River Council Resolution – Election Day

COUNCIL RESOLUTION

WHEREAS Blueberry River has an inherent Aboriginal right to govern its members and Blueberry River’s Aboriginal right to self-government is recognized and affirmed by Canada in section 35 of the *Constitution Act 1982*;

AND WHEREAS the culture, values and development of Blueberry River are best advanced by the value of democracy and the selection of leadership on the basis of democratic elections;

AND WHEREAS Blueberry River members voted in favour of the *Blueberry River Custom Election By-law, 2017* in a vote by secret ballot on the _____ day of _____, 2017;

AND WHEREAS pursuant to the *Blueberry River Custom Election By-law, 2017*, at least sixty-five (65) days before the expiry of a term of office for Council, and any time that an election is required to fill a vacant position on Council, Council must pass a Council resolution setting a date for an election or Chief election meeting to take place;

AND WHEREAS [either (a) the term of office for Council is set to expire on <date>, Council deems it necessary to set a date for an election to take place **OR** (b) a position on Council became vacant on <date> and Council deems it necessary to set a date for an election to take place];

WE DO HEREBY RESOLVE to set the date of Blueberry River Council election day as follows:

Election Day: _____

Chief Election Meeting Day:

A quorum of Council consists of ____ members of Council.

Chief XXXX

Family Councillor XXXX

Family Councillor XXXX

Family Councillor XXXX

Family Councillor XXXX

Family Councillor XXXX

Form 2 Blueberry River Council Resolution – Designation of Polling Sites and Appointment of Electoral Officer [and Deputy Electoral Officer]

COUNCIL RESOLUTION

WHEREAS Blueberry River has an inherent Aboriginal right and to govern its members and Blueberry River’s Aboriginal right to self-government is recognized and affirmed by Canada in section 35 of the *Constitution Act 1982*;

AND WHEREAS the culture, values and development of Blueberry River are best advanced by the value of democracy and the selection of leadership on the basis of democratic elections;

AND WHEREAS Blueberry River members voted in favour of the *Blueberry River Custom Election By-law, 2017* in a vote by secret ballot on the _____ day of _____, 2017;

AND WHEREAS on [date], pursuant to the *Blueberry River Custom Election By-law, 2017*, Council set the date for an election of Council as follows:

Election Day: _____

Chief Election Meeting Day: _____

AND WHEREAS pursuant to the *Blueberry River Custom Election By-law, 2017*, Council must pass a Council resolution designating the locations of polling sites for an election and appointing an electoral officer who:

- (a) either:
 - (iii) has experience in the conduct of elections, or
 - (iv) has training in the conduct of elections;
- (b) is not a member or the immediate family of a member;
- (c) is not an employee or a full-time contractor of either:
 - (iii) Blueberry River, or
 - (iv) a Blueberry River business entity; and
- (d) does not have a vested interest in the outcome of the election.

WE DO HEREBY RESOLVE:

(a) to set the locations for polling sites as follows:

Polling Site 1: _____
Polling Site 2: _____

(b) to set the location of the Chief election meeting as follows:

Location: _____

(c) to appoint [Name] as the electoral officer for Blueberry River, which appointment must commence on the date that [Name] provides the chief operating officer with written acceptance of this appointment and a completed and signed Oath of Office in Form 3 (**attached to this Resolution**) and continuing until the later of:

- (i) thirty (30) days after the closing of polls on election day;
- (ii) thirty (30) days after the closing of the Chief election meeting; or
- (iii) thirty (30) days after the finalization of all appeal actions relating to the Council Election over which they preside.

A quorum of Council consists of ___ members of Council.

Chief XXXX

Family Councillor XXXX

Family Councillor XXXX

Family Councillor XXXX

Family Councillor XXXX

Family Councillor XXXX

Form 3 Electoral Officer / Deputy Electoral Officer / Polling Clerk Oath of Office

ELECTORAL OFFICER / DEPUTY ELECTORAL OFFICER / POLLING CLERK

OATH OF OFFICE

I, _____, AGREE TO:

1. act as [electoral officer / deputy electoral officer / a polling clerk] for Blueberry River in relation to an election held in accordance with the *Blueberry River Custom Election By-law, 2017*;
2. uphold and comply with the *Blueberry River Custom Election By-law, 2017*;
3. fulfill my duties and responsibilities as set out in the *Blueberry River Custom Election By-law, 2017*;
4. carry out my duties and responsibilities faithfully, honestly, impartially and to the best of my ability;
5. keep confidential all personal information I collect in carrying out my duties as [the electoral officer / deputy electoral officer / a polling clerk]; and
6. always act in the best interests of Blueberry River in carrying out my duties and responsibilities.

Date: _____

Name: _____

Signature: _____

Witness Name: _____

Witness Signature: _____

Form 4 Notice of Nomination Meeting

NOTICE OF NOMINATION MEETING

TAKE NOTICE THAT the Council of Blueberry River has called a Council Election to be held on [date] in accordance with the *Blueberry River Custom Election By-law, 2017* and that the polling sites for the election will be as follows:

[List Polling Sites]

AND TAKE NOTICE THAT the following positions must be filled on Council:

[List Positions]

AND TAKE NOTICE THAT all Members of Blueberry River who will be at least 18 years of age as of the date of Council Election are electors;

AND TAKE NOTICE THAT a Nomination Meeting will be held for the nomination of candidates for Council Election as follows:

Date: _____

Time: _____

Location: _____

AND TAKE NOTICE THAT pursuant to the *Blueberry River Custom Election By-law, 2017*, each elector may nominate or second a candidate by:

- (a) completing a Nomination Form;
- (b) signing the Nomination Form in front of a witness and having that witness sign the Nomination Form; and
- (c) ensuring the Nomination Form is received by the electoral officer by the close of the Nomination Meeting;

AND TAKE NOTICE THAT pursuant to the *Blueberry River Custom Election By-law, 2017*, to be eligible for nomination as a candidate, and to be eligible to act as a Council member, a person must:

- (a) be an elector;
- (b) be a member of the Family Group for which they wish to be elected as a Family Councillor;

- (c) not have been convicted of an indictable criminal offence prior to the date of the nomination meeting or during the Council member's term in office, unless:
 - (i) they have been granted a pardon, or
 - (ii) the conviction is directly related to the exercise of that person's Aboriginal rights;
- (d) not have been removed from a position on Council within the five (5) years prior the date of the nomination meeting;
- (e) not be bankrupt on the date of the nomination meeting or during the Council member's term in office, as that term is defined in the *Bankruptcy and Insolvency Act*;
- (f) if it is a by-election, not be the person who resigns or is removed from their position on Council, prompting the holding of the by-election;
- (g) not have a civil court judgment against them or a criminal conviction in respect of any matter involving theft, fraud or misuse of property either:
 - (i) within the five (5) years before the date of the nomination meeting, or
 - (ii) during the Council member's term in office;
- (h) not be in arrears for any debt to Blueberry River or a Blueberry River business entity, unless:
 - (i) they have a debt repayment agreement that is entered into at least six (6) months before election day, and
 - (ii) they are in good standing in relation to their debt repayment agreement; and
- (i) if the candidate is employed with Blueberry River or a Blueberry River business entity, they must agree at the time of nomination to either take an unpaid leave of absence or resign from that employment immediately after being sworn into office.

AND TAKE NOTICE THAT electors may contact [Name of electoral officer] located at [address] in [City], British Columbia or by telephone at [Ph. Number], to obtain a copy of the *Blueberry River Custom Election By-law, 2017*, or a Nomination Form.

For more information on nomination procedures or Council Election process, please contact:

XXXX
Electoral Officer

[Address], British Columbia

Ph/Txt: XXXX

Fax: XXXX

Email: XXXX

Website: XXXX

Form 5 Nomination Form

**BLUEBERRY RIVER COUNCIL ELECTION
CANDIDATE NOMINATION FORM**

Instructions:

An election for Blueberry River Council is underway. If you are a Blueberry River member who is or will be at least eighteen (18) years of age on [election day], you are entitled to move or second the nomination of a candidate. To move or second a nomination, you must:

- (a) complete this Nomination Form;
- (b) sign this Nomination Form; and
- (c) ensure this Nomination Form is received by the electoral officer by the close of the Nomination Meeting, which will be held on [date] from [commencement time] until [closing of meeting time] at [location].

You may deliver this Nomination Form to the electoral officer by either:

- (a) mail courier or hand delivery to [address]; or
- (b) hand delivery at the Nomination Meeting.

NOTE THAT A NOMINATION FORM THAT IS RECEIVED BY THE ELECTORAL OFFICER AFTER THE CLOSE OF THE NOMINATION MEETING WILL NOT BE ACCEPTED.

Personal Information of Person Being Nominated

Name : _____ For the position of: _____

Telephone Number: _____ Address: _____

Email Address: _____ Status Number: _____

Personal Information of Person Making Nomination

Name : _____ Telephone Number: _____

Address: _____ Email Address: _____

Status Number: _____ Signature: _____

Personal Information of Person Seconding Nomination

Name : _____ Telephone Number: _____

Address: _____ Email Address: _____

Status Number: _____ Signature: _____

FOR OFFICE USE ONLY:

The person being nominated has submitted a Candidate Declaration Form

YES / NO

The person being nominated has submitted a letter signed by the Blueberry River Director of Finance or the Director of Operations and the finance officer of each Blueberry River business-entity confirming that either he or she does not owe a debt to such entity, or that he or she does owe a debt to such entity but is in good standing with regard to a repayment agreement:

YES / NO

SIGNATURE OF ELECTORAL OFFICER:

DATE:

Form 6 Candidate Declaration

I, _____, member of Blueberry River, Membership Number _____,
DECLARE THAT:

1. I accept my nomination to be a candidate for a position on the Blueberry River Council;
2. I am an elector;
3. Either: (*Tick Applicable Box*)
 - I have not been convicted of an indictable criminal offence before [date of the nomination meeting] and I have attached a clear criminal record check or documentation as evidence that I have requested a criminal record check;
 - I have been convicted of an indictable criminal offence before [date of the nomination meeting] but I have been granted a pardon; **or**
 - I have been convicted of an indictable criminal offence before [date of the nomination meeting] but the conviction is directly related to the exercise of my Aboriginal or treaty rights as follows:

4. I have not been removed from a position on Council within the five (5) years before [date of the nomination meeting];
5. As of [date of nomination meeting], I am not bankrupt as that term is defined in the *Bankruptcy and Insolvency Act* and I have attached a report from the Office of the Superintendent of Bankruptcy Canada that shows I am not registered as bankrupt;
6. I do not have, and have not had within five (5) years before [date of nomination meeting], a civil court judgment against me or a criminal conviction in respect of any matter involving theft, fraud or misuse of property;
7. Either: (*Tick Applicable Box*)
 - I am not in arrears for any debt to Blueberry River or a Blueberry River business entity; **or**
 - I am in arrears for a debt to [Blueberry River or a Blueberry River business entity - specify] but I have a debt repayment agreement that I entered into at least six (6)

months before [date of election] and I am in good standing in relation to that debt repayment agreement, which is attached to this declaration; and

8. **If relevant:** I am employed by [Blueberry River or a Blueberry River business entity - specify] as [position] and I agree that if I am elected into a position on Blueberry River Council, I will either take an unpaid leave of absence or resign from my position as [position] immediately upon being sworn in to office and will not work for Blueberry River or a Blueberry River business entity for my entire term of office.

Date: _____

Name: _____

Signature: _____

Witness Name: _____

Witness Signature: _____

Form 7 Notice of Nomination Results

NOTICE OF NOMINATION RESULTS

TAKE NOTICE THAT Council of Blueberry River has called a Council Election in accordance with the *Blueberry River Custom Election By-law, 2017*;

AND TAKE NOTICE THAT a Nomination Meeting for the nomination of candidates for Council Election was held as follows:

Date: _____
Location: _____
Time Meeting Opened: _____
Time Meeting Closed: _____

AND TAKE NOTICE THAT the electoral officer declares the following persons to be candidates in Council Election:

[List Names]

AND TAKE NOTICE THAT the electoral officer declares the following persons to be elected by acclamation to the Blueberry River Council:

Name	Position

[AND TAKE NOTICE THAT insufficient nominations have been received for the following positions in office, therefore **A SECOND NOMINATION WILL BE HELD FOR THE RECEIPT OF NOMINATIONS ON [DATE] FROM [TIME] TO [TIME] AT [LOCATION].**

XXXX
Electoral Officer
[Address], British Columbia
Ph/Txt: XXXX
Fax: XXXX

Email: XXXX
Website: XXXX

Form 8 Notice of Election

NOTICE OF ELECTION

TAKE NOTICE THAT Council of Blueberry River has called a Council Election in accordance with the *Blueberry River Custom Election By-law, 2017*;

AND TAKE NOTICE THAT the Council Election will take place as follows:

ELECTION DATE, CHIEF ELECTION DATE, POLLING SITES AND VOTING TIMES

ELECTION [DATE] 8:00AM TO 8:00PM [LOCATION OF POLLING SITE(S)]	CHIEF ELECTION MEETING [DATE] [XX:00 to XX:00] [LOCATION OF CHIEF ELECTION MEETING]
---	--

AND TAKE NOTICE THAT the candidates for Council Election are as follows:

[List Names]

[AND TAKE NOTICE THAT XXX has withdrawn his/her candidacy;]

AND TAKE NOTICE THAT voting will be conducted in person by secret ballot and by mail-in ballot;

AND TAKE NOTICE THAT all Members of Blueberry River who will be at least 18 years of age as of the date of Council Election are electors and that any person may contact the electoral officer to confirm their name is on the elector's list;

AND TAKE NOTICE THAT electors who are **not ordinarily resident** on reserve will be mailed a mail-in ballot package at least twenty-eight (28) days before election day so they have the option to **vote by mail-in ballot**;

AND TAKE NOTICE THAT electors who are **ordinarily resident on reserve and wish to vote by mail-in ballot** **must** contact the electoral officer no later than [date] to be sent a mail-in ballot package;

AND TAKE NOTICE THAT electors who wish **to vote by mail-in ballot** must return their mail-in ballots to the electoral officer no later than [date];

AND TAKE NOTICE THAT electors who wish **to vote in person** must attend at one of the Polling

Sites on election day to cast a secret ballot;

AND TAKE NOTICE THAT electors may contact [Name of electoral officer] as follows to obtain a copy of the *Blueberry River Custom Election By-law, 2017* or the electors' list, request a mail-in ballot package, or to obtain further information regarding the Council Election:

XXXX

Electoral Officer

[Address], British Columbia

Ph/Txt: XXXX

Fax: XXXX

Email: XXXX

Website: XXXX

Form 9 Declaration of Ballot Box Sealing

DECLARATION OF BALLOT BOX SEALING

CANADA)
)
Province of _____)

I, _____, [electoral officer/deputy electoral officer /Polling Clerk], of _____, in the Province of British Columbia, DO SOLEMNLY DECLARE THAT:

1. I was personally present at [location of polling site] at [time] on [election day];
2. I opened each ballot box at the polling site;
3. I called on such electors as may be present to witness that each ballot box is empty and witness the sealing of each ballot box;
4. I locked and properly sealed each ballot box in a manner preventing it from being opened without breaking the seal;
5. I signed the seal on each ballot box in front of the witnesses; and
6. I placed the ballot box in public view for the reception of ballots;

AND I MAKE THIS SOLEMN DECLARATION conscientiously believing it to be true and knowing that it is of the same force as if made under oath and by virtue of the *Canada Evidence Act*.

DECLARED BEFORE me at the _____)
of _____ in the Province of _____)
_____, this _____ day of _____,)
201_.) _____
_____) Name: _____

A Commissioner for Oaths in and for the
Province of British Columbia

Form 10 Statement of Witness Regarding Mail-in Ballots

STATEMENT OF WITNESS REGARDING MAIL-IN BALLOTS

I, _____, DO SOLEMNLY DECLARE THAT:

1. I am an elector.
2. I was personally present at [location of polling site] at [time] on [election day];
3. I witnessed the electoral officer open each secrecy envelope containing a mail-in ballot.
4. I witnessed the electoral officer deposit each mail-in ballot received into ballot box # _____ without opening or unfolding it.

Date: _____

Name: _____

Status Number: _____

Signature: _____

Form 11 Declaration of Electoral Officer Regarding Mail-in Ballots

DECLARATION OF ELECTORAL OFFICER REGARDING MAIL-IN BALLOTS

CANADA)
)
Province of _____)

I, _____, electoral officer, of _____, in the Province of British Columbia, DO SOLEMNLY DECLARE THAT:

1. I was personally responsible for receiving all mail-in ballots at Blueberry River when electors of Blueberry River voted in Blueberry River Council Election; and
2. On [date] at [time], I personally opened each secrecy envelope containing a mail-in ballot.
3. I deposited each mail-in ballot into ballot box # _____ without opening or unfolding it.

AND I MAKE THIS SOLEMN DECLARATION conscientiously believing it to be true and knowing that it is of the same force as if made under oath and by virtue of the *Canada Evidence Act*.

DECLARED BEFORE me at the _____)
of _____ in the Province of _____)
_____, this _____ day of _____,)
201_ .) _____
) Electoral Officer
)
_____)

A Commissioner for Oaths in and for the Province of British Columbia

Form 12 Declaration of Electoral Officer / Polling Clerk Regarding Regular Polls

**DECLARATION OF ELECTORAL OFFICER / POLLING CLERK
REGARDING REGULAR POLLS**

CANADA)
)
Province of _____)

I, _____, electoral officer, of _____, in the Province of
BRITISH COLUMBIA, DO SOLEMNLY DECLARE THAT:

1. I was personally present at [location of polling site] at [time] on [election day] when the polls opened for Council Election;
2. Immediately before the polls opened, I opened ballot box number # ____;
3. I saw that the ballot box was empty and I asked electors who were present to witness that the ballot box was empty;
4. I then properly sealed the ballot box, in front of those persons who were present, and kept it in view for the reception of ballot papers;
5. I distributed ballots to electors and observed the deposit of ballots by electors into the ballot box commencing at 8:00am until 8:00pm on [election day] in accordance with the *Blueberry River Custom Election By-law, 2017*; and

6. **Where Applicable:** Immediately after 8:00pm on [election day], I sealed the ballot box in a manner that no further ballots may be deposited in that ballot box, initialed the seal, and transported the sealed ballot box to the electoral officer at [location of poll electoral officer presides over] in accordance with the *Blueberry River Custom Election By-law, 2017*

AND I MAKE THIS SOLEMN DECLARATION conscientiously believing it to be true and knowing that it is of the same force as if made under oath and by virtue of the *Canada Evidence Act*.

DECLARED BEFORE me at the _____)
of _____ in the Province of _____)
_____, this _____ day of _____)
20__.

_____) _____
_____) Electoral Officer / Polling Clerk

A Commissioner for Oaths in and for the
Province of British Columbia

Form 13 Declaration of Destruction of Voting Materials

DECLARATION OF DESTRUCTION OF VOTING MATERIALS

CANADA)
)
Province of _____)

I, _____, of _____, in the Province of BRITISH COLUMBIA, DO SOLEMNLY DECLARE THAT:

1. I was present at [location] at [time] where I personally observed the electoral officer, [Name of electoral officer] destroy voting materials in relation to [Council Election OR Chief Election Meeting] held on [date];
2. I personally observed the electoral officer, [Name of electoral officer] destroy all ballots relating to [Council Election OR Chief Election Meeting] by shredding them so that the information contained on them cannot practicably be read or reconstructed; and

AND I MAKE THIS SOLEMN DECLARATION conscientiously believing it to be true and knowing that it is of the same force as if made under oath and by virtue of the *Canada Evidence Act*.

DECLARED BEFORE me at the _____)
of _____ in the Province of _____)
_____, this _____ day of _____)
20___.)
) _____)
) Electoral Officer / Polling Clerk

A Commissioner for Oaths in and for the Province of British Columbia

Form 14 Declaration of Election Results for Family Councillor

CANADA)
Province of British Columbia)

I, _____, of the City of _____, in the Province of British Columbia, DO SOLEMNLY DECLARE THAT:

1. I was personally responsible for the conduct of Blueberry River Council Election held on [date of election] (the “**election day**”) in accordance with the *Blueberry River Custom Election By-law, 2017*;
2. A copy of the Notice of Nomination Meeting is attached as Exhibit "A" to this Declaration;
3. A copy of the Nomination Form is attached as Exhibit “B” to this Declaration;
4. In accordance with the *Blueberry River Custom Election By-law, 2017*, I publicly posted the documents listed in sections 2 and 3 of this Declaration and delivered copies of each of those documents to each elector;
5. In accordance with the *Blueberry River Custom Election By-law, 2017*, I organized and facilitated a Nomination Meeting;
6. A copy of the Notice of Nomination Results is attached as Exhibit “C” to this Declaration;
7. A copy of the Notice of Election is attached as Exhibit “D” to this Declaration;
8. In accordance with the *Blueberry River Custom Election By-law, 2017*, I publicly posted the Notice of Election and Notice of Nomination Results, and I delivered copies of the Notice of Nomination Results and Notice of Election to each elector;
9. A copy of the Mail-in Ballot Package is attached as Exhibit “E” to this Declaration;
10. In accordance with the *Blueberry River Custom Election By-law, 2017*, I delivered a Mail-in Ballot Package to each elector who is not ordinarily resident on Reserve and to each elector from whom I received a request for a Mail-in Ballot Package;
11. I was responsible for overseeing all voting and for counting all ballots cast in Blueberry River Council Election;

12. The number of electors was _____ and their names are entered on the elector’s list, which is attached as Exhibit “F” to this Declaration;

13. The results of the Vote are as follows:

- (a) _____ mail-in ballots were cast in the Council Election;
- (b) _____ regular ballots were cast in the Council Election;
- (c) _____ ballots were spoiled;
- (d) _____ ballots were rejected;
- (e) _____ ballots were cancelled;;
- (f) _____ ballots were marked in favour of _____, who I declared elected for the position of Family Councillor 1;
- (g) _____ ballots were marked in favour of _____, who I declared elected for the position of Family Councillor 2;
- (h) _____ ballots were marked in favour of _____, who I declared elected for the position of Family Councillor 3;
- (i) _____ ballots were marked in favour of _____, who I declared elected for the position of Family Councillor 4;
- (j) _____ ballots were marked in favour of _____, who I declared elected for the position of Family Councillor 5;

AND I MAKE THIS SOLEMN DECLARATION conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath and by virtue of the *Canada Evidence Act*.

DECLARED BEFORE me at the _____)
of _____ in the _____)
Province of British Columbia, this _____)
day of _____ 201____.)
_____))
_____))
A Commissioner for Oaths in and for the)
Province of British Columbia)

[Name], electoral officer

Form 15 Declaration of Election Results for Chief

CANADA)
Province of British Columbia)

I, _____, of the City of _____, in the Province of British Columbia, DO SOLEMNLY DECLARE THAT:

1. I was personally responsible for the conduct of the Blueberry River Chief Election Meeting held on [date of meeting] (the “**meeting day**”) in accordance with the *Blueberry River Custom Election By-law, 2017*;
2. A copy of the Notice of Nomination Meeting is attached as Exhibit "A" to this Declaration;
3. A copy of the Nomination Form is attached as Exhibit “B” to this Declaration;
4. In accordance with the *Blueberry River Custom Election By-law, 2017*, I publicly posted the documents listed in sections 2 and 3 of this Declaration and delivered copies of each of those documents to each elector;
5. In accordance with the *Blueberry River Custom Election By-law, 2017*, I organized and facilitated a Nomination Meeting;
6. A copy of the Notice of Nomination Results is attached as Exhibit “C” to this Declaration;
7. A copy of the Notice of Election is attached as Exhibit “D” to this Declaration;
8. In accordance with the *Blueberry River Custom Election By-law, 2017*, I publicly posted the Notice of Election and Notice of Nomination Results, and I delivered copies of the Notice of Nomination Results and Notice of Election to each elector;
9. I was responsible for overseeing all voting and for counting all ballots cast in the Blueberry River Chief Election Meeting;
10. All Family Councillors were present and cast a ballot;
11. The results of the Vote are as follows:
 - (a) _____ regular ballots were cast in the Chief Election Meeting;
 - (b) _____ ballots were spoiled;

- (c) _____ ballots were rejected;
- (d) _____ ballots were cancelled;;
- (e) _____ ballots were marked in favour of _____, who I declared elected for the position of Chief;

AND I MAKE THIS SOLEMN DECLARATION conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath and by virtue of the *Canada Evidence Act*.

DECLARED BEFORE me at the _____)
of _____ in the)
Province of British Columbia, this _____)
day of _____ 20_____.)
_____)
_____)
A Commissioner for Oaths in and for the)
Province of British Columbia)

[Name], electoral officer

Form 16 Arbitrator's Oath of Office

ARBITRATOR'S OATH OF OFFICE

I, _____, AGREE TO:

1. act as the Arbitrator for Blueberry River to assess and determine the outcome of appeals to the results of a Council Election, which appeals must be held in accordance with the *Blueberry River Custom Election By-law, 2017*;
2. uphold and comply with my duties and responsibilities in a professional manner under the *Blueberry River Custom Election By-law, 2017*;
3. fulfill my duties and responsibilities as set out in the *Blueberry River Custom Election By-law, 2017*;
4. carry out my duties and responsibilities faithfully, honestly, impartially and to the best of my ability;
5. keep confidential all personal information I collect in carrying out my duties as Arbitrator;
6. always act in the best interests of Blueberry River in carrying out my duties and responsibilities;
7. not accept anything of value from a member, including money, offers of employment, gifts or travel;
8. not discriminate against anyone in relation to appeals that I oversee;
9. avoid conflicts of interest and the appearance of conflicts of interest in the carrying out of my duties as Arbitrator; and
10. withdraw from my position as Arbitrator if I have a vested interest in a matter at issue in an appeal.

Date: _____

Name: _____ Signature: _____

Witness Name: _____ Signature: _____

Form 17 Notice of Appeal

NOTICE OF APPEAL

TAKE NOTICE THAT pursuant to the *Blueberry River Custom Election By-law, 2017*, [Name of elector], an elector, with Status Number [Status Number], of [Address], in the City of [City], in the Province of [Province] hereby appeals to Blueberry River Arbitrator from the Declaration of Election Results, dated [Date of electoral officer's Declaration of Election Results];

AND TAKE NOTICE THAT the grounds under which this appeal is made are as follows:

- a candidate was ineligible for nomination under section 41 of the *Blueberry River Custom Election By-law, 2017*;
- a candidate or representative of a candidate participated in illegal campaigning under section 56 of the *Blueberry River Custom Election By-law, 2017*;
- a person who is not an elector under the *Blueberry River Custom Election By-law, 2017* cast a vote in Council Election and their vote materially affected the outcome of Council Election;
- a person who is not a Family Councillor cast a vote and their vote materially affected the outcome of the Chief election meeting;
- the electoral officer or a polling clerk failed to fulfill their responsibilities under the *Blueberry River Custom Election By-law, 2017* in a manner that materially affected the outcome of Council Election; or
- the electoral officer failed to fulfill their responsibilities under the *Blueberry River Custom Election By-law, 2017* in a manner that materially affected the outcome of the Chief election meeting.

AND TAKE NOTICE THAT [Name of elector] requests that Blueberry River Arbitrator make the following orders:

- that Council Election results be set aside;
- that the Chief Election results be set aside;
- that the electoral officer's declaration that [name] be elected into the office of [chief/family councillor] be set aside;
- that the Arbitrator set the date for a by-election;

AND TAKE NOTICE THAT the factual basis for this appeal is as follows:

1. [list relevant fact]. This fact is supported by the following evidence: [list evidence and attach to Notice of Appeal]
2. [list relevant fact]. This fact is supported by the following evidence: [list evidence and attach to Notice of Appeal]
3. [list relevant fact]. This fact is supported by the following evidence: [list evidence and attach to Notice of Appeal]
4. The above facts materially affected the outcome of Council Election. This fact is supported by the following evidence: [list evidence and attach to Notice of Appeal]

Contact Information of Person Bringing Appeal

Name : _____

Telephone Number: _____

Address: _____

Email Address: _____

Form 18 Council Member's Oath of Office

I, [Chief / Family Councillor's Name], do solemnly and sincerely [swear / declare] that I will be a true and faithful servant to Blueberry River, as a member of Blueberry River Council and that I will:

ACCOUNTABILITY

1. act always in the best interests of Blueberry River, whether my actions are within my duties as a Council member or in my personal capacity;
2. act always with honesty and in accordance with the laws of Canada and the Province, and Blueberry River laws, by-laws, policies and procedures;
3. ensure that all actions taken by me are in compliance with Blueberry River laws, by-laws, policies and procedures, and with the *Canadian Charter of Rights and Freedoms* and *Canadian Human Rights Act*;
4. take responsibility for my actions and decisions and not exceed the authority of my position on Council;
5. accurately, adequately and only where authorized by Council to do so, communicate decisions made by Council to Blueberry River members and the public, and where I do communicate such decisions to Blueberry River members and the public I will do so in a manner that respects the decisions made and the decision-making process, and in a manner that fosters the implementation of the decision;

INTEGRITY

6. at all times act with integrity by being honest and truthful in my actions and consistent, fair and reasonable in my communications with other persons and in my approach to decision-making;
7. at all times act in a manner that maximizes the level of trust in Council as a whole;
8. act with due care, competence, and diligence, without misrepresenting material facts or allowing my independent judgement to be subordinated;
9. sign and comply with a Confidentiality Agreement in relation to my position on Council;

DEALINGS WITH COUNCIL

10. act in a positive, cooperative, respectful and professional manner in dealings with other members of Council;
11. reply to all communications from another Council member promptly and completely;
12. attend all Blueberry River Council meetings and Blueberry River Annual General Meetings and arrive on time for such meetings, unless my absence or lateness is allowed in accordance with the *Blueberry River Custom Election By-law, 2017*;
13. actively participate in debates and decisions being made by Council, unless I am in a position of conflict of interest in relation to the topic that is under debate or decision that is being made;
14. work together with all members of Council in a spirit of openness, honesty and transparency that encourages engagement, collaboration and respectful communication;
15. not act in a manner that impugns or is destructive to a debate or decision being considered by Council as a whole;
16. not improperly obstruct or delay an investigation that is taking place in relation to the actions or omissions of Council, an individual Council member, Blueberry River Administration or an individual member of Blueberry River Administration;
17. when appointed to committees and other bodies as part of my duties, make every effort to participate diligently in these bodies with good faith and care;
18. not make statements known to be false or make a statement with the intent to mislead Council;

DEALINGS WITH EXTERNAL STAKEHOLDERS

19. when dealing with anyone outside Blueberry River, including public officials, members of Council, take care not to compromise the integrity or damage the reputation of Blueberry River;
20. uphold all formal commitments and agreements that are made with government agencies and other organizations;

21. not use my individual position on Council to unduly influence a decision, recommendation or other action of a non-Blueberry River person or body;
22. where I believe that it is necessary for action to be taken by Blueberry River to influence a decision, recommendation or other action of a non-Blueberry River person or body, bring the matter before Council for a decision on whether to take action on behalf of Blueberry River and in which manner such action must be taken;

DEALINGS WITH BLUBERRY RIVER ADMINISTRATION

23. not ask any member of Blueberry River Administration to do something contrary to any law of Canada or the Province, or any Blueberry River law, by-law, policy or procedure, or resolution;
24. act in a manner that is respectful and courteous toward all members of Blueberry River Administration;
25. not overstep the role of or undermine the responsibilities or decisions of any member of Blueberry River Administration unless such action is within my role pursuant to a current Blueberry River law, by-law or policy;
26. not use my individual position on Council to influence a decision of any member of Blueberry River Administration in relation to the delivery of Blueberry River services to an individual Blueberry River Member;
27. where I have concerns in relation to the delivery of a Blueberry River service, review the existing Blueberry River policy to determine whether I believe the policy needs to be updated to improve access or delivery of the service to which the policy relates, and where I believe an update is necessary I will bring those recommended policy updates to Council for a decision on whether to update the policy;

DEALINGS WITH MEMBERSHIP

28. at the request of members, provide members with information on the dates, times and locations of upcoming Council meetings;
29. at the request of members, provide members with access to Blueberry River laws, by-laws, policies and procedures, unless the policies and procedures are deemed confidential by Council; and
30. honestly and fairly represent the views of members at Council meetings.

Signed this _____ day of _____, 20_____.

(Signature)

(Date)

(Witness Signature)

(Date)

Form 19 Council Member's Confidentiality Agreement

This **AGREEMENT** dated the [_____] day of [_____] , 20[___] by and

BETWEEN:

Blueberry River,
[Address]
an Indian Band under section 2 of the *Indian Act*

(hereinafter referred to as "Blueberry River")

AND:

[Name of Council member]
[Address]
[City, Province Postal Code]

(hereinafter referred to as the "Council member")

WHEREAS:

- (a) at an election held on [enter date], the Council member was elected by Blueberry River Members to represent Blueberry River Members in the governance of Blueberry River;
- (b) it is intended that the Council member must have access to Confidential Information; and
- (c) the *Blueberry River Custom Election By-law, 2017* requires that within two (2) days of a Council member commencing his or her term on Council, he or she must sign a confidentiality agreement relating to his or her position on Council;

NOW, THEREFORE, in consideration of the votes of Blueberry River Members and my acceptance of their electing me into a position on Council, I do hereby acknowledge, covenant and agree as follows:

Definitions

1. For the purpose of this Agreement, the following terms must have the following meanings:

(a) "**Confidential Information**" means:

- (i) any personal information about employees or members of Blueberry River, non-public information relating to the business, financial or other affairs of Blueberry River, including information about:

- (A) Blueberry River records respecting its governance, management, and operations,
 - (B) Blueberry River records respecting its financial administration, including the minutes of meetings of Council and the Finance and Audit Committee,
 - (C) Blueberry River employee records,
 - (D) Blueberry River Membership,
 - (E) Blueberry River policies and procedures,
 - (F) Blueberry River economic development plans and strategies,
 - (G) Blueberry River business acquisition plans,
 - (H) Blueberry River archaeological sites, traditional uses of land and resources, and environmental reports;
- (ii) any information identified by Blueberry River as confidential; and
 - (iii) any copies, extracts or reproductions, in whole or in part, of any of the foregoing, whether in writing, electronic or other form.

The following information must be excluded from the definition of Confidential Information:

- (i) information which is or becomes publicly available through no act or failure to act by the Council member;
 - (ii) information which the Council member can demonstrate was developed independently by the Council member from sources which do not include Blueberry River;
 - (iii) information which was in the possession of the Council member at the time of disclosure and not subject to an obligation of confidentiality;
 - (iv) information disclosed by Blueberry River to another without obligation of confidentiality;
 - (v) information which the Council member can demonstrate was received by it from a third party without any obligation of confidentiality;
- (b) “**effective date**” means the date that Council member executes this agreement, his or her Oath of Office and the Code of Conduct; and

- (c) "**Law**" means any law, regulation, by-law or rule of Canada, the Province or Blueberry River.

Term

- 2. The term of this Agreement must commence on the effective date and must survive the expiry or termination of the Council member's term in office.

Use of Confidential Information

- 3. The Council member agrees to use Confidential Information solely for the purpose of fulfilling the Council member's responsibilities in his or her role on Council.
- 4. The Council member agrees not to use the Confidential Information for his or her own benefit or the benefit of any entity in which he or she is associated.

Disclosure of Confidential Information

- 5. Unless required by Law, the Council member must not directly or indirectly disclose, divulge, reveal, report, publish or transfer Confidential Information in any manner whatsoever, in whole or in part, regardless of the nature or source of the information or of the fact that others may share the knowledge, and must not divulge any such information unless disclosure except:
 - (a) in accordance with a clear duty to do so under a Blueberry River policy, procedure, or direction of Council;
 - (b) where required by Law, to any other party; or
 - (c) with Blueberry River's prior written consent, to any other party.

Storage of Confidential Information

- 6. The Council member must store Confidential Information in a secure manner that protects it from unauthorized use, access or disclosure.
- 7. The Council member must ensure access to electronic documents and folders containing confidential information is password protected and that such passwords are not directly or indirectly disclose, divulge, reveal, report, publish or transfer Confidential Information in any manner whatsoever, in whole or in part, to any person.

Legal Ownership of Confidential Information

8. The disclosure of Confidential Information to a Council member by Blueberry River must not be construed as granting to the Council member any right of ownership to that Confidential Information.

9. The Confidential Information must remain the exclusive worldwide property of Blueberry River.

Breach of Confidentiality

10. In the event of an actual, potential or threatened breach of the Council member's obligations related to the use or disclosure of Confidential Information, the Council member must notify Council of such breach and take all necessary actions to restrain the current and future use or disclosure of such Confidential Information.

11. The Council member must be fully liable for any breach, on the Council member's behalf, of this Agreement.

Return of Confidential Information

12. The Council member must deliver to Blueberry River any and all Confidential Information that is in the Council member's possession or control:

(a) at the request of Council; and

(b) at the termination or expiry of the Council members' tenure of office.

Waiver

13. Neither Party must be deemed to have waived the exercise of any right that it holds under this Agreement unless such waiver is made in writing.

14. No waiver made with respect to the exercise of a right under this Agreement must be deemed to be a waiver with respect to any other instance involving the exercise of that right or with respect to any other such right.

Governing Law

15. This Agreement must be governed by, interpreted and enforced in accordance with the laws of the Province of British Columbia and the laws of Canada, as applicable.

Entire Agreement

16. This Agreement is the entire agreement between the Parties and supersedes and cancels all previous negotiations, agreements, commitments and writings in respect of the subject-matter hereof and there are no understandings, representations, conditions made or assumed by the Parties, other than those expressly contained in this Agreement.

IN WITNESS WHEREOF this Agreement has been duly executed by the Council member on the ____ day of [____], [20__].

[Council member's Name] [Name of Witness]

Form 20 Notice of Withdrawal of Candidate

NOTICE OF WITHDRAWAL OF CANDIDACY

I, _____, hereby withdraw my nomination as a candidate for the
(Please print your name)

election of Blueberry River Council scheduled to be held on the _____ day of _____,
20____.

Date: _____

Name: _____ Signature: _____

Form 21 Voter Declaration Form

VOTER DECLARATION

In the matter of the election of Blueberry River, held according to the *Blueberry River Custom Election By-law, 2017, I,*

_____ solemnly declare that:
(Please print your name)

- 1) I am a member of Blueberry River First Nations.
- 2) My status number is _____ and/or my date of birth is _____.
- 3) My current mailing address is:

_____, _____, _____

(Street number and name or P.O. Box) (First Nation/Municipality)
(Province/Territory)

- 4) I am at least 18 years of age.
- 5) I do not know of any reason why I would be disqualified from voting at this election.

I make this solemn declaration conscientiously believing it to be true and knowing that it has the same force and effect as if made under oath.

Date: _____

Name: _____ Signature: _____

WITNESS DECLARATION (to be filled out by any person who is at least 18 years old)

Declared before me at _____ this day of ____ day of _____, 20____.

Signature of Witness: _____

_____, _____, _____
(Street number and name or P.O. Box) (First Nation/Municipality) (Province/Territory)