UCHUCKLESAHT TRIBE GOVERNMENT

REFERENDUM ACT

UTS 9/2011

OFFICIAL CONSOLIDATION – CURRENT TO AUGUST 18, 2015

This is a certified true copy of the consolidated Referendum Act UTS 9/2011, current to August 18, 2015.

Date: January 11, 2016

Signed: _____

Law Clerk

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PREAMBLE

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

To encourage and honour the voices of our people, the Uchucklesaht Tribe desires to give eligible voters the opportunity to take part directly in our political and legislative processes through referendums and other means on matters of public interest or concern. The Uchucklesaht Tribe desires that referendums be conducted with honesty and integrity for the common good of all Uchucklesaht citizens.

Through the establishment of referendum rules and procedures, referendums and related processes will be conducted in a manner that promotes public confidence and trust in the integrity of Uchucklesaht officials, the Uchucklesaht government and the Uchucklesaht government legislative process.

The Uchucklesaht Tribe adopts this Act based on these values.

PART 1 - INTRODUCTORY PROVISIONS

Short title

1.1 This Act may be cited as the Referendum Act.

Executive oversight

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

Application

1.3 This Act applies to the processes by which referendums or ratifications are held.

Interpretation

1.4 (a) In this Act, words or expressions defined in the Elections Act that are also used in this Act will, except where the context requires otherwise or is otherwise indicated, have the same meaning as those words or expressions defined in the Elections Act, with necessary changes in the details.

(b) For purposes of interpreting this Act and the Elections Act , a requirement in this Act to carry out a process, perform a duty or exercise a power in accordance with the Elections Act must be interpreted in the following manner:

(i) a reference to an "election", "by-election" or "regular election" in the Election Act is deemed to be a reference to a referendum or a ratification meeting;

(ii) a reference to "notice of election" in the Elections Act is deemed to be a reference to a notice of a referendum or a ratification meeting; and

(iii) with all other necessary changes in the details.

PART 2 - ORDERING A REFERENDUM

As required by law

2.1 Council must, by Order, require that a referendum or a ratification meeting be held in the manner provided for in this Act when required by the Constitution or any other Act.

As ordered by Council

2.2 If Council considers that an expression of public opinion is desirable on any matter of public interest or concern, Council may, by Order, require that a referendum or a ratification meeting be held in the manner provided for in this Act.

As mandated by Uchucklesaht citizens

2.3 Unless specifically required by the Constitution, Council may, by Order, at the request of a majority of the eligible voters present and voting at a People's Assembly, require that a referendum or a ratification meeting be held to determine public opinion on any matter of public interest or concern in the manner provided for in this Act.

PART 3 - PROCEDURES

Ordering the referendum or ratification meeting

3.1 An Order of Council requiring that a referendum or a ratification meeting be held must

(a) state the question that will be put to eligible voters,

(b) specify the date on which the referendum or ratification meeting will be held, and

(c) appoint an individual to act as the chief electoral officer.

Notice

3.2 (a) At least 14 days before the day on which an information meeting for a referendum or a ratification meeting is to be held and at least 60 days before the day of the referendum or a ratification meeting, the chief electoral officer must

(i) post a notice in accordance with section 6.5

(ii) post the voters list in accordance with section 5.4 of the Elections Act, and

(iii) deliver in accordance with Uchucklesaht law to every eligible voter for whom an address has been provided,

(A) a copy of the notice posted under paragraph (i),

(B) an information package regarding the question in the referendum or ratification meeting.

(b) The notice under subsection (a) must also include the question to be submitted to eligible voters.

Individuals entitled to vote

3.3 For certainty, only eligible voters are entitled to vote in a referendum or a ratification meeting.

Information meeting and materials

3.4 At least 14 days before general voting day, the chief electoral officer must ensure that at least one information meeting is held to provide eligible voters with information regarding the question that is the subject of the referendum or a ratification meeting.

PART 4 - DUTIES AND POWERS OF THE CHIEF ELECTORAL OFFICER

Duties and powers

4.1 For certainty, in relation to a referendum or a ratification meeting, the chief electoral officer must perform the applicable duties and exercise the applicable powers of the chief electoral officer in accordance with the Elections Act.

PART 5 - VOTING

Referendum voting

5.1 An eligible voter may vote in a referendum in person on general voting day or by mail-in ballot in accordance with the Elections Act.

5.2 An eligible voter must vote in person on general voting day at the ratification meeting in accordance with Part 6.

PART 6 - INFORMATION AND RATIFICATION MEETINGS

General

6.1 (a) This Part applies if a Uchucklesaht enactment provides that

(i) information must be given or a matter must be publicized at an information meeting, or

(ii) a matter must be approved by a vote at a ratification meeting.

(b) Every eligible voter is entitled to attend an information meeting and a ratification meeting.

(c) A person who is not an eligible voter may attend an information meeting or a ratification meeting only if the person is

(i) a Uchucklesaht official or a member of the Uchucklesaht administration,

(ii) invited to attend by the chief administrative officer, or

(iii) permitted to attend by the chair of the meeting.

Information meetings

6.2 (a) If a referendum is held under this Act or a Uchucklesaht enactment requires a matter to be approved by a vote at a ratification meeting, Council must hold at least one information meeting prior to the ratification meeting or referendum for the purpose of allowing eligible voters an opportunity to be provided information concerning the matter to be determined by a vote at the ratification meeting or referendum and to make representations to Council respecting the matter.

(b) The information meeting must be held at least 14 days prior to the ratification meeting or referendum and if more than one information meeting is required by a Uchucklesaht enactment, the first information meeting must be held at least seven days prior to the second information meeting.

(c) An eligible voter at the information meeting must be afforded a reasonable opportunity to receive the information necessary for him or her to make an informed decision on the matter to be determined by a vote at a ratification meeting or referendum and to be heard or to present written submissions respecting the matter to be determined by a vote at a ratification meeting or referendum.

(d) If the information meeting relates to the granting of an interest in, or licence in relation to, Uchucklesaht lands or an amendment to an interest in, or licence in

relation to, Uchucklesaht lands, the director of lands and resources must ensure that

(i) a report, to the satisfaction of the director of lands and resources, providing a general description of the interest in, or licence in relation to, Uchucklesaht lands or its amendment, and

(ii) if required for the granting of the interest in, or licence in relation to, Uchucklesaht lands or its amendment, the appraisal of the fair market value of the appurtenant lands,

is included in the information provided under subsection (c).

(e) More than one matter may be included in a notice for an information meeting and more than one matter may be considered at an information meeting.

(f) Council must appoint an individual to chair an information meeting.

(g) The chair of the information meeting may establish procedural rules for the conduct of the information meeting.

(h) A written report of each information meeting containing a summary of the views expressed at the information meeting and the nature of the representations respecting the matter to be determined by a vote at the ratification meeting or referendum that were made at the information meeting must be prepared under the direction of the chair of the information meeting and maintained by Council as a public record.

(i) A report under subsection (h) must be certified as being fair and accurate by the person preparing the report and, if applicable, by the person to whom the information meeting was delegated under section 6.4.

(j) An information meeting may be adjourned and no further notice of the information meeting is necessary if the time and place for the resumption of the information meeting is stated to those present at the time the information meeting is adjourned.

Ratification meetings

6.3 (a) In order for a matter to be approved by a vote at a ratification meeting, a ratification meeting must be held in accordance with this Part.

(b) Council must appoint an individual to chair a ratification meeting.

(c) The chief electoral officer appointed under section 3.1 must attend a ratification meeting and conduct the vote on the matter to be approved by a vote at a ratification meeting.

(d) The chair of a ratification meeting must ensure that the information provided under sections 6.2(c) and 6.2(d), if any, provided at an information meeting relating to the ratification meeting is available to the eligible voters at the ratification meeting.

(e) Subject to this Act, the chair of a ratification meeting may establish procedural rules for the conduct of the ratification meeting and, in so doing, must be guided by Council Rules of Order and Procedure Act.

(f) The chair of a ratification meeting must conduct the meeting so as to allow

(i) time for Uchucklesaht officials and Uchucklesaht administration and their advisors to comment on the matter to be approved by a vote at the ratification meeting,

(ii) time for eligible voters to comment on the matter to be approved by a vote at the ratification meeting, and

(iii) time for the chief electoral officer to conduct a vote on the matter to be approved by a vote at the ratification meeting.

(g) Despite any other provision of this section, the chair of the ratification meeting may, by directive during the meeting, make any rules necessary to maintain order, including excluding any person from the ratification meeting, including an eligible voter who is disruptive or threatens the safety or security of anyone in attendance.

(h) Subject to subsections (i) and (j), the chief electoral officer may conduct the vote at a ratification meeting by a show of hands of eligible voters present and voting at the ratification meeting.

(i) Where it is not clear to the chief electoral officer in a vote held under subsection (h) whether the matter to be approved by the vote at the ratification meeting has been approved or rejected, the chief electoral officer must immediately conduct a second vote on the matter by secret ballot.

(j) Where it is clear to the chief electoral officer that a consensus of all eligible voters present at the ratification meeting has been reached, subject to subsection (k), the chief electoral officer may waive a formal vote on the matter to be approved by the vote at the ratification meeting by asking the eligible voters present if there is any objection to the matter being approved and if no objection is raised, the matter is approved.

(k) If an eligible voter raises an objection as contemplated in subsection (j), the chief electoral officer must put the matter to a formal vote of the eligible voters present in accordance with subsections (h) and (i).

(l) Only an eligible voter may vote at a ratification meeting.

(m) The chief electoral officer must certify a vote held under this section.

(n) A ratification meeting may not be adjourned.

(o) A decision reached by a majority of the eligible voters present and voting at a ratification meeting is final.

Delegating authority

6.4 (a) Council may, by resolution, delegate the holding of

(i) an information meeting for a matter that must be approved by a vote at a ratification meeting,

(ii) the information meeting and the ratification meeting for a matter that must be approved by a vote at a ratification meeting, or

(iii) the information meeting for a matter that must be approved by a referendum,

to any person in accordance with this section.

(b) If Council makes a delegation under subsection (a),

(i) that delegation does not apply unless the notice of the meeting under section 6.5 includes notice that the meeting is to be held by a delegate, and

(ii) the resolution making the delegation must be posted in accordance with Uchucklesaht law.

(c) If the holding of an information meeting for a matter that must be approved by a vote at a ratification meeting is delegated under this section, that ratification meeting must not be held until the delegate reports to Council in accordance with sections 6.2(h) and 6.2(i).

(d) Despite the delegation of any duties or powers under subsection (a), Council remains responsible for ensuring that the duties are carried out properly and the powers are exercised appropriately by the delegate under this Part.

Notice of meeting

6.5 (a) The chief electoral officer must

(i) post in accordance with Uchucklesaht law, and

(ii) publish in accordance with Uchucklesaht law

notice of each information meeting and ratification meeting held under this Act or another Uchucklesaht enactment.

(b) A notice under subsection (a) must also include the following:

(i) a copy of the Order of Council under section 3.1 relating to that ratification meeting or referendum;

(ii) the time and date of the information meeting or ratification meeting;

(iii) the place of the information meeting or ratification meeting;

(iv) in general terms, the matter to be determined by a vote at the ratification meeting or referendum; and

(v) the place where and the times and dates when information concerning the matter to be determined by a vote at the ratification meeting or referendum may be inspected in advance of the information meeting or ratification meeting.

PART 7 - COUNTING THE VOTE AND ANNOUNCEMENT OF RESULTS

Counting the ballots

7.1 (a) For certainty, Part 7 of the Elections Act applies to the counting of ballots in a referendum.

(b) Despite section 7.2(b) of the Elections Act, Uchucklesaht government representatives may be present when the counting of ballots is being conducted.

Announcement

7.2 The chief electoral officer must announce the results of a referendum in a timely manner that the chief electoral officer considers will inform the electorate of that result.

PART 8 - EFFECT OF VOTE

Binding results

8.1 Where the Constitution or any Act provides that a referendum or a ratification vote is binding, unless otherwise provided in the Constitution or that Act, if at least 50% plus one of the eligible voters who cast a valid vote in the referendum or at the ratification meeting vote the same way on the question, such results are binding on Council.

Implementing binding results

8.2 If the results of a referendum or a ratification vote are binding, Council must, as soon as practicable, take steps within the competence of Council that Council considers necessary or advisable to implement the results including

(a) changing programs or policies or introducing new programs or policies, or

(b) enacting legislation in Council.

Non-binding results

8.3 In the event that a referendum or a ratification vote is ordered solely to obtain public opinion on a matter, Council may utilize the results at its discretion.

PART 9 - REVIEW PROCEDURE

Procedure

9.1 (a) An eligible voter may request a review of a referendum or a ratification vote by the chief electoral officer on the grounds set out and in accordance with section 8.5 of the Elections Act.

(b) A review under subsection (a) will be conducted in accordance with the Part 8 of the Elections Act as if it were an application to set aside an election, with necessary changes in the details.

PART 10 - GENERAL PROVISIONS

Regulations

10.1 (a) The Executive may make regulations that the Executive considers necessary or advisable for the purposes of this Act.

(b) Without limiting subsection (a), the Executive may make regulations

(i) respecting the manner by which a referendum or a ratification meeting under this Act is to be held,

(ii) providing that specified provisions of the Elections Act apply to and in relation to a referendum or ratification meeting under this Act, and

(iii) adapting any provisions of the Elections Act with changes that the Executive considers appropriate.

Offences

10.2 In relation to a referendum or a ratification meeting, a person who engages in an activity of the nature contemplated in Part 10 of the Elections Act commits an offence and is liable, on summary conviction, to a fine not exceeding $1,000 or imprisonment for a term not exceeding 30 days.

Commencement

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

LEGISLATIVE HISTORY

Referendum Act UTS 9, 2011 enacted April 1, 2011

Amendments

Section	Amendment	In Force
5.1	UTS 22/2011, s.1.2	February 15, 2012
2.1	UTS 40/2014, s.4.12(a)	June 19, 2014
2.2	UTS 40/2014, s.4.12(b)	June 19, 2014
2.3	UTS 40/2014, s.4.12(c)	June 19, 2014
3.1	UTS 40/2014, s.4.12(d)	June 19, 2014
6.5(b)(i)	UTS 40/2014, s.4.12(d)	June 19, 2014
6.3(g)	UTS 40/2014, s.4.12(e)	June 19, 2014

Acts:

UTS 22/2011 Mail-in Ballot Amendment Act enacted February 15, 2012
UTS 40/2014 Enforcement Framework Amendment Act No. 2 enacted June 19, 2014, amended to August 18, 2015

Regulations:

Orders: