

TOQUAHT NATION GOVERNMENT

**COUNCIL RULES OF ORDER
AND PROCEDURE ACT**

TNS 3/2011



OFFICIAL CONSOLIDATION – CURRENT TO SEPTEMBER 16, 2015

This is a certified true copy of the consolidated Council Rules of Order and Procedure Act
TNS 3/2011, Current to September 16, 2015

Date: October 8th, 2015

Kristen Johnson

Signed: _____
Law Clerk

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PREAMBLE

The Toquaht Nation values the need to respect, protect and promote our heritage, culture and traditional ways which form the basis of our success and our destiny while understanding that these practices may change and require contemporary expression. As a self-governing treaty first nation, we accept the rule of law within the culture and traditions of the Toquaht Nation.

As the body given all legislative powers assumed through the Constitution, Council will protect the rights of its members to join together to accomplish the common goals of the Toquaht Nation and to enable the members of Council to debate and take action in a fair manner with the least amount of controversy or acrimony possible.

These rules of order and procedure are based on and are intended to protect and further the following values and goals:

- (a) the desire, as much as possible, to render decisions by consensus on questions put to Council;
- (b) the rights of individual members of Council to participate in the decision making on questions put to Council and any other matter considered by Council;
- (c) the right of the minority view on questions put to Council to be respectfully expressed and respectfully heard;
- (d) the right of the majority of Council to be the decision makers on questions put to Council; and
- (e) the rights of individual members of Council who may be absent to remain informed about and participate in the proceedings of Council.

To this end, these rules of order and procedure are enacted, to protect the rights of the minority to be heard while ensuring the will of the majority prevails. These rules of order and procedure are to be used to assist in ensuring these goals are attained and must not to be used to hinder decision making by Council.

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PART 1 - INTRODUCTORY PROVISIONS

Short title

1.1 This Act may be cited as the Council Rules of Order and Procedure Act.

Executive oversight

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

Application

- 1.3 (a) This Act applies to
- (i) proceedings of Council,
 - (ii) the duties and powers of the Tye Ha'wilth as the representative of Council,
 - (iii) the duties and powers of the chairperson,
 - (iv) the conduct of members of Council during Council meetings, and
 - (v) how members of Council conduct themselves as members of Council outside of Council meetings.
- (b) In the event of any inconsistency or conflict between this Act and the provisions of the Government Act, the Government Act prevails to the extent of the inconsistency or conflict.

Definitions

1.4 In this Act

“chairperson” means the chairperson of Council;

“committee” means either a standing committee or a special committee;

“consideration” means to discuss or debate a question moved in accordance with this Act;

“debate” means to speak to the question or motion on the floor;

“decision” and “decided” means the approval or rejection of a question put to a vote of the members of Council;

“incidental motion” means a motion referred to in Part 10;

“main motion” means a motion referred to in section 8.1;

“on the floor” means a question or motion moved by a member of Council, stated by the chairperson, seconded by another member of Council, if required, and not yet decided in accordance with this Act, tabled under section 9.5, postponed to a specific time under section 9.8, referred to a committee under section 9.9 or postponed indefinitely under section 9.11;

“parliamentary procedure” means, subject to this Act, generally accepted rules of parliamentary procedure in Canada;

“pending”, “pending question” or “pending motion” means the question or motion on the floor that was stated last and is currently under consideration by the members of Council and not yet decided;

“privileged motion” means a motion or question of privilege referred to in Part 11;

“reconsider” means to reconsider a decision in accordance with Part 12;

“special committee” means a committee appointed for a specific purpose in accordance section 18.2, also known as an ad hoc committee;

“standing committee” means one or more of the standing committees referred to in section 2.36 of the Constitution, a committee established under this or any other Toquaht enactment stated to be a standing committee and any other committee appointed by Council stated to be a standing committee at the time it is established;

“subsidiary motion” means a motion referred to in Part 9.

PART 2 - GENERAL RULES

Equality of all members of Council

- 2.1** (a) Subject to this Act, all members of Council are equal and their rights are equal.
- (b) Each member of Council has the right to
- (i) attend meetings,
 - (ii) make motions and speak in debate of motions,
 - (iii) make nominations,
 - (iv) vote on motions, and
 - (v) hold executive portfolios.

Majority rule

- 2.2** (a) This section is subject to any provision of this Act or another Act that requires a two-thirds or higher majority of the members of Council present and voting to vote in favour of a motion for that motion to be approved and, in those circumstances, the use of the term “majority” in this section is deemed to mean that two-thirds or higher majority in those circumstances.
- (b) A decision reached by a majority of the members of Council present and voting is final, unless that motion is rescinded or amended in accordance with this Act.
- (c) The minority view has the right to be respectfully expressed and respectfully heard, but once a decision has been reached by a majority of the members of Council present and voting, the minority view must respect and abide by the majority decision.

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PART 3 - DUTIES AND POWERS OF THE CHAIRPERSON

General

- 3.1** (a) The chairperson's primary role is to act as the presiding member of Council at Council meetings and to manage the affairs of Council.
- (b) The chairperson works closely with the law clerk as required, including ensuring Council is organized properly, functions effectively and performs its duties properly and exercises its powers appropriately.
- (c) The chairperson must ensure the law clerk is aware of any concerns of the members of Council and that those concerns are addressed appropriately.

Overseeing affairs of Council

- 3.2** In addition to the duties set out in section 3.1, the chairperson has the responsibility to
- (a) ensure members of Council are aware of their duties to Toquaht citizens and stakeholders in their capacity as members of Council,
- (b) build consensus and develop teamwork within Council, and
- (c) in collaboration with the law clerk, ensure information reasonably requested by members of Council or committees of Council is provided in a timely manner and meets their needs.

General duties at Council meetings

- 3.3** (a) The chairperson has the responsibility to
- (i) confirm the readiness of Council chamber and, if a quorum is present, to begin the meeting of Council promptly at the scheduled time, and
- (ii) serve as the presiding officer at Council meetings and ensure that the appropriate issues are addressed.
- (b) The chairperson must be familiar with this Act and Toquaht laws, parliamentary procedure and other rules and customs relating to the conduct of Council meetings.
- (c) The chairperson must explain, as best as reasonably possible in the circumstances, this Act when requested to do so by a member of Council.
- (d) The chairperson must ensure that motions moved by members of Council are clear and not confusing.

Council meeting agenda

- 3.4** (a) The chairperson must ensure
- (i) a proper agenda is adopted and followed during meetings of Council, and
 - (ii) the co-ordination of the agenda with invited guests or speakers, any information packages that may be required or related materials necessary for members of Council to have in order for the agenda to be followed.
- (b) The chairperson may include in the agenda for Council the following topics which may be in the following order:
- (i) call to order and determination of quorum;
 - (ii) opening ceremonies;
 - (iii) welcoming remarks;
 - (iv) opening prayer to the Creator;
 - (v) minutes of the previous meeting of Council;
 - (vi) report of the Executive Committee;
 - (vii) report of the director of operations;
 - (viii) report of the director of finance;
 - (ix) reports of other directors;
 - (x) reports of standing committees;
 - (xi) reports of special committees;
 - (xii) unfinished business tabled at the last meeting of Council;
 - (xiii) new business;
 - (xiv) announcements; and
 - (xv) adjournment.

Conducting Council meetings

- 3.5** (a) The chairperson must maintain order during Council meetings and enforce this Act and other parliamentary procedures with impartiality.

- (b) The chairperson must assign the floor to a member of Council by recognizing a member of Council who wishes to speak by name and indicating they have the floor.
- (c) Subject to this Act only the member of Council recognized by the chairperson as having the floor may speak and no member of Council may interrupt a member of Council that has been granted the right to speak by the chairperson.
- (d) The chairperson must rule out of order
 - (i) any motion which does not directly relate to the pending motion,
 - (ii) all remarks of a personal nature concerning a member of Council, including remarks concerning a member of Council's motives or personality,
 - (iii) any members of Council engaged in private discussion or who are otherwise disruptive while another member of Council has the floor and is speaking, and
 - (iv) any motion by a member of Council which, in the reasonable opinion of the chairperson, is a misuse by the member of Council of procedure to deliberately delay or prevent Council from considering a pending question.

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PART 4 - DUTIES AND POWERS OF THE TYEE HA'WILTH

General

- 4.1** (a) The Tyee Ha'wiltH serves as the primary spokesperson for Council and for the Toquaht Nation.
- (b) The Tyee Ha'wiltH is an ex-officio member of all committees where he or she is not appointed as a full member of the committee.
- (c) The Tyee Ha'wiltH must ensure major initiatives of the Toquaht Nation have proper and timely consideration, oversight and approval.

As a member of Council

- 4.2** In addition to the duties set out in section 4.1, the Tyee Ha'wiltH has the responsibility to
- (a) recommend to Council for its consideration and approval
- (i) the creation of committees as may be necessary or desirable,
- (ii) the terms of reference for committees,
- (iii) the appointment of members to those committees and their term of appointment,
- (iv) the appointment of a committee chair for each committee created, and
- (v) any report from those committees, and
- (b) ensure Council receives adequate and regular updates from the Executive on all issues important to the welfare and future of the Toquaht Nation.

Relations with Toquaht citizens and stakeholders

- 4.3** The Tyee Ha'wiltH has the responsibility to
- (a) act as the principal interface between Council and Toquaht citizens, and
- (b) ensure Council is appropriately represented at meetings of the People's Assembly and at official functions of the Toquaht Nation.

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PART 5 - COUNCIL DUTIES AND POWERS

General

- 5.1** (a) Council has primary responsibility to advance the Toquaht Nation's short and long-term success consistent with Council's responsibility to Toquaht citizens, giving consideration to the legitimate interests held by other stakeholders, including Toquaht public employees, individuals ordinarily resident on Toquaht lands, other levels of government, business partners of the Toquaht Nation and the public.
- (b) Members of Council are stewards of the Toquaht Nation and Council has the responsibility to oversee the conduct of the Toquaht Nation's affairs and to oversee the Executive.

Delegation of duties and powers

- 5.2** (a) Council may, by an Act, delegate to the Executive certain of its duties and powers, including spending authorizations.
- (b) As provided for in section 2.30 of the Constitution, certain of Council's duties and powers may, by motion, be delegated to committees and the duties and powers of those committees must be set out in the committee's terms of reference approved by Council when the committee is established or as amended from time to time.
- (c) A committee must have at least one member of Council appointed to the committee.

Retained duties and powers

- 5.3** Council retains the responsibility for managing its own affairs including the responsibility to
- (a) appoint the chairperson,
- (b) appoint members of Council to hold executive portfolios,
- (c) annually review the skills and experience represented on the Executive in light of the Toquaht Nation's strategic direction, for the purpose of establishing the criteria and reviewing potential candidates who meet the criteria when appointing members of Council to the Executive,
- (d) appoint, determine the composition of and set the terms of reference for committees after considering the recommendation of the Tyee Ha'wilth,

- (e) implement an appropriate process for assessing the effectiveness of the Executive, the Tyee Ha'wilth, committees and Toquaht directors in performing their duties and exercising their powers, and
- (f) oversee the Toquaht Nation's governance practices and ensure they meet the needs of the Toquaht Nation.

Citizen and stakeholder communications

- 5.4**
- (a) Council operates for the benefit of Toquaht citizens within a public environment and members of Council must ensure communications with Toquaht citizens and the public is effective and appropriate.
 - (b) Council has the responsibility to
 - (i) ensure a communication plan is developed and in place in order for Council and its members of Council to communicate effectively with Toquaht citizens and the public,
 - (ii) ensure the financial performance of the Toquaht Nation is adequately and promptly reported to Toquaht citizens,
 - (iii) ensure financial results of the Toquaht Nation are reported fairly and in accordance with Toquaht law and generally accepted accounting principles,
 - (iv) ensure timely reporting of any developments that have a material and significant effect on the Toquaht Nation, and
 - (v) report annually to the People's Assembly on Council's stewardship for the preceding year.

Mission and plans

- 5.5**
- (a) Council has the responsibility to
 - (a) participate with Toquaht citizens in the development of, and ultimately approve, a Toquaht Nation mission and values statement,
 - (b) direct the Executive to develop, implement and maintain a reporting system that accurately measures the Toquaht Nation's performance against its annual budget and multi-year financial plan,
 - (c) monitor the Toquaht Nation's progress towards the approved strategic objective and performance against the annual budget and multi-year financial plan and to alter its direction in light of changing circumstances, and

- (d) review and approve amendments to the annual budget and multi-year financial plan.

General duties and powers

- 5.6** Council acts collectively and performs its duties and exercises its powers as a group and individual members of Council have no power to act on their own, to bind the Toquaht Nation or speak on its behalf, except as specifically authorized by Toquaht law.

Demonstrated understanding

- 5.7** As a member of Council, each member of Council must

- (a) demonstrate an understanding of the duties and powers of a member of Council and the governance structure of the Toquaht Nation,
- (b) understand the difference between governing and managing and not encroach on the Toquaht administration's area of responsibility,
- (c) demonstrate an understanding of the Toquaht Nation's strategic direction,
- (d) contribute and add value to discussions regarding the Toquaht Nation's strategic direction, and
- (e) participate in monitoring and evaluating the success of the Toquaht Nation in achieving established goals and objectives.

Organizational knowledge

- 5.8** In order that decisions of Council are only made by well-informed members of Council, each member of Council must

- (a) become generally knowledgeable about the Toquaht Nation, its mission and values statement, annual budget and multi-year financial plan,
- (b) in consultation with and upon approval by the Tyee Ha'wilt, attend conferences and any other relevant forums that will assist the member of Council in developing skills to better equip them to perform their duties and exercise their powers as a member of Council,
- (c) participate in orientation and development programs developed by the Toquaht administration from time to time,
- (d) maintain an understanding of the regulatory, legislative, social and political environments within which the Toquaht Nation exists,

- (e) become acquainted with the Toquaht Nation's administrative structure and personnel, and
- (f) be an effective ambassador and representative of Council, while recognizing that the Tyee Ha'wilt is the only public spokesperson for Council and the Toquaht Nation.

Communication and interaction

5.9 As a member of Council, each member of Council must

- (a) demonstrate good judgment,
- (b) interact appropriately with other members of Council and the Toquaht administration,
- (c) participate fully and frankly in the deliberations and discussions of Council,
- (d) be a positive and constructive force in Council,
- (e) demonstrate openness to others' opinions and a willingness to listen,
- (f) have the confidence and will to make difficult decisions, including the strength to challenge the majority view,
- (g) maintain collaborative and congenial relationships with other members of Council, and
- (h) advise the chairperson in advance when introducing significant or previously unknown information or material at a Council meeting.

Skillful participation

- 5.10**
- (a) Subject to subsection (b), a member of Council must exercise the degree of care, diligence and skill that a reasonably prudent individual would exercise in similar circumstances.
 - (b) The standard of care expected of a member of Council depends upon the particular qualities or characteristics that the individual brings to Council relative to the particular matters under consideration.
 - (c) A member of Council must be proactive in the performance of his or her duties and the exercise of his or her powers by
 - (i) attending Council meetings and meetings of committees to which they have been appointed and a member of Council who has not attended meetings must show diligence by examination of reports, discussions with

other members of Council and otherwise be sufficiently familiar with Council's or committee's activities so that he or she does not suffer as a result of non-attendance,

- (ii) participating in a meaningful way by asking questions and seeking adequate responses, and
- (iii) being vigilant to ensure the affairs of the Toquaht Nation are being properly administered and are in compliance with laws governing the Toquaht Nation.

Preparation, attendance and availability

5.11 As a member of Council, each member of Council must

- (a) prepare for Council meetings and meetings of committees to which he or she has been appointed by reading reports and background materials distributed in advance,
- (b) make a reasonable effort to attend all Council meetings and meetings of committees to which he or she has been appointed,
- (c) organize himself or herself so as to be able to attend the entire Council meeting or meeting of the committee to which he or she has been appointed, not just portions of such meetings, and
- (d) participate in Council meetings and meetings of committees to which he or she has been appointed and contribute to their purpose.

Non-members of Council at Council meetings

- 5.12**
- (a) Council recognizes the value of having individuals who are not members of Council attend Council meetings to provide information and opinions to assist the members of Council in their deliberations.
 - (b) For issues to be discussed by Council that fall within the terms of reference of a committee, the committee chair may recommend to the chairperson those individuals who are not members of Council the committee chair would like to attend a Council meeting.
 - (c) The chairperson will determine those individuals who are not members of Council that may attend Council meetings.
 - (d) No individual who is not a member of Council may attend or table material at a meeting of Council without prior approval of the chairperson, and in the case of committee meetings, the committee chair.

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PART 6 - MINUTES

Preparation of minutes

- 6.1** (a) The law clerk is responsible for taking and preparing the minutes of the meetings of Council.
- (b) The law clerk must record
- (i) the names of all members of Council in attendance at the meeting,
 - (ii) the names of all individuals reporting to Council, including Toquaht directors and committee chairs,
 - (iii) the names of all individuals who are not members of Council permitted by the chairperson to attend Council meeting,
 - (iv) the name of the member of Council who was first to move the motion and, if required by this Act, the name of the member of Council who seconded the motion,
 - (v) every approved and rejected motion, and
 - (vi) the number of votes to approve and the number of votes to reject every motion.
- (c) The law clerk need not record
- (i) the discussion on a motion or personal opinion of a member of Council,
 - (ii) motions withdrawn in accordance with this Act, or
 - (iii) the content of reports given to Council.

Endorsement of minutes

- 6.2** (a) The law clerk must sign the minutes of Council meetings once the minutes have been approved by Council.
- (b) The law clerk must record on the approved minutes the date of that approval by Council.

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PART 7 - GENERAL RULES CONCERNING MOTIONS

Question or matter must be moved

- 7.1 Subject to section 7.2, no question or matter may be considered by Council without first being moved and, when required by this Act, seconded by another member of Council.

Business of a routine nature

- 7.2 (a) Where business requiring consideration or approval of Council is of a routine nature or it is clear to the chairperson that a consensus of all members of Council exists on the business at hand, subject to subsection (b), the chairperson may waive the requirement for a formal motion on that business by asking the members of Council if there is any objection to the business being approved.
- (b) If a member of Council raises an objection under subsection (a), the chairperson must require the formal procedures set out in Part 7 through Part 13 be followed by the members of Council for that business.

One question at a time

- 7.3 The chairperson must rule out of order any motion that does not directly relate to the pending question or is otherwise permitted under this Act.

Introducing and speaking to a motion

- 7.4 (a) Subject to this Act, a member of Council
- (i) must request the chairperson to recognize him or her as having the floor in order to introduce or speak to a motion, and
 - (ii) must not interrupt another member of Council recognized by the chairperson as having the floor in order to introduce or speak to a motion.
- (b) The chairperson may require a long motion to be submitted in writing.
- (c) The chairperson must state a motion moved by a member of Council before
- (i) seeking another member of Council to second the motion, if required by this Act, or
 - (ii) allowing the member of Council who moved the motion to speak to the motion.
- (d) A member of Council may modify his or her own motion before it is stated by the chairperson.

- (e) The member of Council who moved a motion may offer an amendment to that motion after it has been stated by the chairperson but before the motion has been seconded by another member of Council.
- (f) A member of Council may withdraw his or her motion
 - (i) before it has been stated by the chairperson, or
 - (ii) after it has been stated by the chairperson in accordance with section 10.12.
- (g) The chairperson must open the floor for debate by the members of Council present all debateable motions immediately upon
 - (i) the motion being seconded, if required by this Act, or
 - (ii) stating the motion, if that motion is not required to be seconded by this Act.
- (h) The maker of a motion has the first right to speak to the motion.
- (i) The maker of a motion may only speak in favour of his or her own motion.
- (j) When a main motion is on the floor, a member of Council must only speak to the pending motion, unless otherwise provided for in this Act.

Debatable motions must receive full debate

- 7.5** (a) Subject to subsection (b), the chairperson must not put a debatable motion to a vote as long as a member of Council wishes to debate that motion.
- (b) Debate may only be suspended by the chairperson with the approval of two-thirds of the members of Council present in accordance with section 9.6.

Restating the motion prior to being decided

- 7.6** The chairperson must restate the pending motion to the members of Council immediately prior to calling a vote of the members of Council on the pending motion.

Decided motions

- 7.7** Subject to Part 12, the chairperson must declare out of order any motion on a question already decided or a question substantially the same as a question already decided.

PART 8 - MAIN MOTIONS

Main motions described

- 8.1** (a) A main motion is any motion which introduces business for Council to do any of the following:
- (i) enact, amend or repeal a Toquaht legislation;
 - (ii) approve or amend the minutes of a previous meeting of Council;
 - (iii) approve or amend the agenda for the current meeting of Council;
 - (iv) approve or amend an annual budget;
 - (v) consider a main motion previously tabled under section 9.5 other than as unfinished business at the next meeting of Council;
 - (vi) refer a matter not the subject of a pending motion to a committee;
 - (vii) adopt, accept or agree to a report presented to Council;
 - (viii) ratify an action previously taken that cannot become legally valid until approved by Council, including the following:
 - (A) emergency action taken at an ordinary or properly called meeting of Council at which no quorum was present;
 - (B) emergency action taken by members of Council, the Executive, committees or Toquaht directors beyond their authority; and
 - (C) action taken by the Executive that requires approval of Council;
 - (ix) discharge a committee from its work;
 - (x) make appointments to the Executive or a committee;
 - (xi) determine the procedure by which appointments to the Executive, or a committee will be made or other matters relating to appointments to the Executive or a committee, if moved while no question is pending;
 - (xii) adopt special rules of order and procedure, including voting requirements, or waive a requirement under Part 7 through Part 13, if moved while no question is pending;
 - (xiii) fix the time to adjourn the meeting of Council, if moved while no question is pending;

- (xiv) to take a recess, if moved while no question is pending;
 - (xv) limit debate or extend limits previously placed on debate, if moved while no question is pending;
 - (xvi) initiate or discontinue a project;
 - (xvii) postpone an event or action previously scheduled;
 - (xviii) express an opinion;
 - (xix) otherwise engage in a consideration of any matter; or
 - (xx) otherwise take any action.
- (b) Only one main motion may be pending at a time.
- (c) For certainty, a main motion tabled under section 9.5, postponed to a specific time under section 9.8, referred to a committee under section 9.9 or postponed indefinitely under section 9.11 is not a pending motion as long as it remains tabled, postponed to a specific time, under consideration by the committee in accordance with the terms of its referral or postponed indefinitely.

Introduction of main motions

- 8.2** (a) A main motion may be introduced by
- (i) a member of Council moving the motion, or
 - (ii) a committee recommending the motion.
- (b) A main motion must be seconded by another member of Council, unless the motion is made upon the recommendation of a committee.
- (c) Subject to subsection (h), a main motion may be debated.
- (d) Subject to subsection (h), a main motion may be amended.
- (e) Subject to
- (i) another Act requiring a two-thirds or higher majority of the members of Council present and voting to vote in favour of a motion for that motion to be approved, or
 - (ii) subsection (f),
- a main motion requires a majority of the members of Council present and voting to vote in favour of the motion for it to be approved.

- (f) A motion contemplated in section 8.1(a)(xii) or 8.1(a)(xv) requires a two-thirds majority of the members of Council present and voting to vote in favour of the motion for it to be approved.
- (g) Subject to subsection (h), the decision on a main motion may be reconsidered in accordance with Part 12.
- (h) A motion contemplated in section 8.1(a)(v) may not be debated or amended and the decision on a motion contemplated in section 8.1(a)(v) may not be reconsidered in accordance with Part 12.

Main motions out of order

8.3 The chairperson must rule as out of order the following motions:

- (a) a motion that conflicts with Toquaht law;
- (b) a motion that the subject of is beyond the jurisdiction of the Toquaht government;
- (c) a motion that repeats a question already considered and decided by Council, except in accordance with Part 12;
- (d) a motion that conflicts with an already approved motion, except in accordance with Part 12;
- (e) a motion that conflicts with or repeats motions voted on in committee; and
- (f) a motion that appears to the chairperson to be intended solely as a delaying tactic, otherwise incorrect, frivolous or rude.

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PART 9 - SUBSIDIARY MOTIONS

Subsidiary motions described

9.1 A subsidiary motion is any motion that assists Council in considering a main motion.

Introduction of subsidiary motions

- 9.2**
- (a) A subsidiary motion that relates to the main motion may be moved while the main motion is pending.
 - (b) For certainty, a subsidiary motion that relates to the main motion must be moved before the main motion has been decided.
 - (c) A subsidiary motion adheres to and takes precedence over the main motion to which it relates and must be decided before the main motion is considered further or decided.
 - (d) A subsidiary motion must only be used to expedite consideration of the main motion by disposing of the main motion other than by Council approving or rejecting the main motion.

Subsidiary motions subject to priorities

- 9.3**
- (a) All subsidiary motions are subject to the rankings of priority set out in section 9.4 and a subsidiary motion that ranks in higher priority to another subsidiary motion must be decided before a subsidiary motion that ranks in lower priority is considered further or decided.
 - (b) Any subsidiary motion that ranks in higher priority under section 9.4 may be moved while another subsidiary motion that ranks in lower priority is pending and has not yet been decided and that subsidiary motion that ranks in higher priority, once moved and seconded, adheres to and takes precedence over any other pending subsidiary motion that ranks in lower priority and must be decided before any other pending subsidiary motion that ranks in lower priority is considered further or decided.
 - (c) For certainty, a subsidiary motion that ranks in lower priority must not be moved while a subsidiary motion of higher priority is pending and the chairperson must rule as out of order any subsidiary motion of lower priority moved while a subsidiary motion of higher priority is pending.

Priority rankings

9.4 Subsidiary motions under this Part have the following ranking of priority in descending order, with, for certainty, the first having the highest ranking of priority and the last the

lowest ranking of priority, and each subsidiary motion may be moved and must be determined in accordance with section 9.3(b):

- (a) a motion under section 9.5 to table the pending motion until the next meeting;
- (b) a motion under section 9.6 to call for the vote on the pending motion, also known as calling the previous question;
- (c) a motion under section 9.7 to extend or limit the time for consideration of the pending motion;
- (d) a motion under section 9.8 to postpone consideration of the pending motion to a specific time;
- (e) a motion under section 9.9 to commit or refer the pending motion to a committee;
- (f) a motion under section 9.10 to amend the pending motion; and
- (g) a motion under section 9.11 to postpone consideration of the pending motion indefinitely.

Motion to table

- 9.5**
- (a) A member of Council may move that consideration of the pending motion be delayed until the next meeting of Council.
 - (b) The chairperson must rule as out of order a motion made under subsection (a) that purports to delay consideration of the pending motion to any time later than the next meeting of Council.
 - (c) A motion made under subsection (a) must be seconded.
 - (d) A motion made under subsection (a) may not be debated.
 - (e) A motion made under subsection (a) may not be amended.
 - (f) A motion made under subsection (a) requires a majority of the members of Council present and voting to vote in favour of the motion for it to be approved.
 - (g) The decision on a motion made under subsection (a) may only be reconsidered in accordance with Part 12 if
 - (i) the motion was not approved in accordance with subsection (f), and
 - (ii) something urgent has arisen that was not known by the members of Council when they rejected the motion.

- (h) A motion tabled under subsection (a) must be considered at the next meeting of Council as unfinished business.

Motion to call for the vote

- 9.6**
- (a) A member of Council may move that consideration of the pending question cease and that the pending question be put to an immediate vote of the members of Council, also known as calling the previous question or calling question.
 - (b) The Chairperson must rule out of order a motion made under subsection (a) if
 - (i) the pending question is a motion that may be debated and no member of Council has spoken to that motion, or
 - (ii) another member of Council has the floor when the motion under subsection (a) is made.
 - (c) A motion made under subsection (a) need not be seconded.
 - (d) A motion made under subsection (a) may not be debated.
 - (e) A motion made under subsection (a) may not be amended.
 - (f) A motion made under subsection (a) requires a two-thirds majority of the members of Council present and voting to vote in favour of the motion for it to be approved.
 - (g) The vote on a motion made under subsection (a) must be conducted by a show of hands under section 13.4 or a rising vote under section 13.5 and, for certainty, may not be conducted by a voice vote under section 13.3.
 - (h) The decision on a motion made under subsection (a) may be reconsidered in accordance with Part 12 but if the motion was approved in accordance with subsections (f) and (g), that reconsideration may only take place prior to the vote contemplated in subsection (i).
 - (i) If a motion made under subsection (a) is approved in accordance with subsections (f) and (g), the chairperson must immediately call the vote on the pending question.

Motion to limit or extend time

- 9.7**
- (a) A member of Council may move to
 - (i) limit or extend the period of time during which members of Council may speak to the pending motion,

- (ii) limit or extend the number of members of Council who may speak to the pending motion, or
 - (iii) have the vote on the pending motion held at a specific time during the current meeting.
- (b) A motion made under subsection (a) must be seconded.
- (c) A motion made under subsection (a) may not be debated.
- (d) A motion made under subsection (a) may be amended, but only as to
 - (i) the length of the period of time referred to in subsection (a)(i),
 - (ii) the number of members of Council referred to in subsection (a)(ii), or
 - (iii) the specific time during the current meeting referred to in subsection (a)(iii).
- (e) A motion made under subsection (a) requires a two-thirds majority of the members of Council present and voting to vote in favour of the motion for it to be approved.
- (f) The vote on a motion made under subsection (a) must be conducted by a show of hands under section 13.4 or a rising vote under section 13.5 and, for certainty, may not be conducted by a voice vote under section 13.3.
- (g) The decision on a motion made under subsection (a) may only be reconsidered in accordance with Part 12 if
 - (i) the motion was approved in accordance with subsections (e) and (f) and the subject matter of the motion has not yet been exhausted, or
 - (ii) the motion was not approved in accordance with subsections (e) and (f).

Motion to postpone to specific time

- 9.8**
- (a) A member of Council may move that consideration of the pending question be delayed until a fixed time during the current meeting.
 - (b) A motion made under subsection (a) must be seconded.
 - (c) A motion made under subsection (a) may be debated, but only as to the appropriateness of postponing consideration of the question or the appropriateness of the time during the current meeting when the question will be brought back to the floor to be considered again.

- (d) A motion made under subsection (a) may be amended, but only as to the time during the current meeting when the question will be brought back to the floor to be considered again.
- (e) A motion made under subsection (a) requires a majority of the members of Council present and voting to vote in favour of the motion for it to be approved.
- (f) The decision of a motion made under subsection (a) may be reconsidered in accordance with Part 12.

Motion to refer to committee

- 9.9**
- (a) A member of Council may move that consideration of the pending motion be referred to a
 - (i) standing committee, or
 - (ii) special committee created for the purpose,to consider and report back to Council on the pending motion.
 - (b) A motion made under subsection (a) to refer a pending motion to a special committee of Council created for the purpose must state
 - (i) the size of the special committee,
 - (ii) how the special committee will be selected or who will sit on the special committee,
 - (iii) the terms of reference for the special committee, and
 - (iv) when the special committee will report back to Council.
 - (c) A motion made under subsection (a) must be seconded.
 - (d) A motion made under subsection (a) may be debated, but only as to the appropriateness of referring the question to a committee or, if the motion is to refer the pending motion to a special committee, the appropriateness of the matters set out in subsection (b).
 - (e) A motion made under subsection (a) may be amended, but only as to
 - (i) which committee to refer the pending motion to, or
 - (ii) if the motion is to refer the pending motion to a special committee, those matters set out in subsection (b).

- (f) A motion made under subsection (a) requires a majority of the members of Council present and voting to vote in favour of the motion for it to be approved.
- (g) The decision on a motion made under subsection (a) may only be reconsidered in accordance with Part 12 if the committee to which the question was referred has not begun its consideration of the question.

Motion to amend

- 9.10** (a) If the pending motion is a motion that may be amended under this Act, a member of Council may, subject to subsections (b) and (d), move to amend the pending motion by
- (i) adding words, phrases or paragraphs to the motion,
 - (ii) striking out words, phrases or paragraphs in the motion,
 - (iii) substituting words, phrases or paragraphs in the motion by striking out those words, phrases or paragraphs and inserting new words, phrases or paragraphs in their place, or
 - (iv) substituting all of the motion with a new motion, also known as a motion to substitute.
- (b) A motion made under subsection (a)
- (i) must relate to the pending motion which it seeks to amend,
 - (ii) must not make the pending motion incoherent, and
 - (iii) must not be used to introduce new business for Council to consider.
- (c) A motion made under subsection (a) must be seconded.
- (d) If the pending motion to be amended is a motion that may be debated under this Act, a motion made under subsection (a) may be debated.
- (e) Subject to subsection (f), a motion made under subsection (a) may be amended.
- (f) Only one motion may be made under subsection (a) (in this subsection the “secondary amending motion”) to amend a previous motion made under subsection (a) (in this subsection the “primary amending motion”) to amend an earlier motion and, for certainty, a secondary amending motion must be decided before another motion may be made under subsection (a) to amend the primary amending motion and any motion made under subsection (a) to amend a pending secondary amending motion must be ruled out of order by the chairperson.

- (g) A motion made under subsection (a) requires a majority of the members of Council present and voting to vote in favour of the motion for it to be approved and, for certainty, if the pending motion to be amended is a motion that requires a two-thirds or higher majority of the members of Council present and voting to vote in favour of that motion for it to be approved, a motion made under subsection (a) to amend that motion does not require that two-thirds or higher majority of the members of Council present and voting to vote in favour of that motion for it to be approved.
- (h) The decision on a motion made under subsection (a) may be reconsidered in accordance with Part 12.

Motion to postpone indefinitely

- 9.11**
- (a) A member of Council may move that consideration of a pending main motion be postponed indefinitely, also known as killing the motion.
 - (b) A motion made under subsection (a) may only be moved when no other motions are on the floor, other than the pending main motion.
 - (c) A motion made under subsection (a) must be seconded.
 - (d) A motion made under subsection (a) may be debated and that debate may include consideration of the merits of the main motion to which the motion made under subsection (a) applies.
 - (e) A motion made under subsection (a) may not be amended.
 - (f) A motion made under subsection (a) requires a majority of the members of Council present and voting to vote in favour of the motion for it to be approved.
 - (g) Only a decision approving a motion made under subsection (a) may be reconsidered in accordance with Part 12.

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PART 10 - INCIDENTAL MOTIONS

Incidental motions described

10.1 An incidental motion is any procedural motion that deals with this Act or other procedural requirements, including the enforcement of proper parliamentary procedure, correcting errors and verifying votes.

Introduction of incidental motions

- 10.2**
- (a) An incidental motion may be moved at any time by any member of Council recognized by the chair as having the floor or as otherwise provided by this Act.
 - (b) Subject to this Act providing otherwise, an incidental motion, once moved, must be decided before consideration of the previously pending question can resume.
 - (c) For certainty but subject to section 11.2(c), an incidental motion
 - (i) once moved in accordance with this Act, takes precedence over all other motions except a privileged motion, and
 - (ii) may not be moved while another incidental motion is pending.

Incidental motions not subject to priorities

10.3 For certainty, one incidental motion has no ranking of priority over another incidental motion.

Point of order

- 10.4**
- (a) A member of Council who believes the chairperson has failed to properly enforce the requirements of Part 7 through Part 13 or parliamentary procedure may move a point of order for the chairperson to rule on.
 - (b) A motion made under subsection (a) must include the specific section of this Act or rule of parliamentary procedure relied on by the member of Council moving the point of order under subsection (a).
 - (c) A member of Council does not have to be recognized by the chairperson as having the floor in order to move a point of order under subsection (a).
 - (d) A motion made under subsection (a) need not be seconded.
 - (e) A motion made under subsection (a) may not be debated.
 - (f) A motion made under subsection (a) may not be amended.
 - (g) A motion made under subsection (a) may not be voted on.

- (h) A motion made under subsection (a) may not be reconsidered in accordance with Part 12.
- (i) The chairperson must immediately provide a response and render a ruling on the point of order raised in the motion made under subsection (a).

Appeal chairperson's decision or ruling

- 10.5**
- (a) A member of Council may move to appeal a decision or ruling of the chairperson, including a ruling of the chairperson under section 10.4.
 - (b) The chairperson must rule as out of order any member of Council's criticism of a decision or ruling made by the chairperson that is expressed before a motion to appeal is made under subsection (a).
 - (c) A member of Council does not have to be recognized by the chairperson as having the floor in order to make a motion to appeal under subsection (a).
 - (d) A motion made under subsection (a) must be seconded.
 - (e) A motion made under subsection (a) may be debated, but
 - (i) the chairperson may speak to the motion first in defence of the decision or ruling,
 - (ii) a member of Council may only speak to the motion once, and
 - (iii) the chairperson may again speak to the motion immediately prior to holding the vote on the motion.
 - (f) A motion made under subsection (a) may not be amended.
 - (g) The chairperson must hold a vote on a motion made under subsection (a).
 - (h) A motion made under subsection (a) requires a majority of the members of Council present and voting to vote in favour of the motion for it to reverse that decision or ruling of the chairperson.
 - (i) The decision on a motion made under subsection (a) may be reconsidered in accordance with Part 12.

Point of information

- 10.6**
- (a) A member of Council may move a point of information to request additional information relevant to the pending question, but unrelated to the requirements of Part 7 through Part 13 or parliamentary procedure and is

- (i) necessary or desirable to assist the member of Council in consideration of the pending question, and
 - (ii) readily available to the chairperson to obtain and provide to that member of Council.
- (b) A member of Council does not have to be recognized by the chairperson as having the floor in order to make a motion under subsection (a).
 - (c) A motion made under subsection (a) need not be seconded.
 - (d) A motion made under subsection (a) may not be debated.
 - (e) A motion made under subsection (a) may not be amended.
 - (f) A motion made under subsection (a) may not be voted on.
 - (g) A motion made under subsection (a) may not be reconsidered in accordance with Part 12.
 - (h) As soon as reasonably practicable, the chairperson must make reasonable efforts to provide the additional information referred to in a motion made under subsection (a).

Council inquiry

- 10.7**
- (a) A member of Council may move a question of Council inquiry relevant to the pending question for the chairperson to answer regarding the requirements of Part 7 through Part 13 or parliamentary procedure to assist the member of Council in moving a motion, raising a proper point of order, understanding the requirements of Part 7 through Part 13 or parliamentary procedure or the effect of the pending motion.
 - (b) A member of Council does not have to be recognized by the chairperson as having the floor in order to make a motion under subsection (a).
 - (c) A motion made under subsection (a) need not be seconded.
 - (d) A motion made under subsection (a) may not be debated.
 - (e) A motion made under subsection (a) may not be amended.
 - (f) A motion made under subsection (a) must not be voted on.
 - (g) A motion made under subsection (a) may not be reconsidered in accordance with Part 12.

- (h) The chairperson must make reasonable efforts to immediately and adequately respond to the question referred to in a motion made under subsection (a).
- (i) The chairperson's response under subsection (h) may not be appealed under section 10.5.

Division of the vote

- 10.8**
- (a) Immediately upon the chairperson announcing the result of a vote on a motion, a member of Council may move a division of the vote to require the chairperson to verify the results of the vote.
 - (b) A motion made under subsection (a) may not be moved until the chairperson has announced the results of the vote and must be made before any other motion is moved.
 - (c) A member of Council does not have to be recognized by the chairperson as having the floor in order to make a motion under subsection (a).
 - (d) A motion made under subsection (a) need not be seconded.
 - (e) A motion made under subsection (a) may not be amended.
 - (f) A motion made under subsection (a) may not be debated.
 - (g) A motion made under subsection (a) must not be voted on.
 - (h) If a member of Council makes a motion under subsection (a), the chairperson must immediately hold a revote on the question last voted and
 - (i) if the first vote on that question was held by a voice vote under section 13.3, the revote must be held by a show of hands vote under section 13.4,
 - (ii) if the first vote on that question was held by a show of hands vote under section 13.4, the revote must be held by a rising vote under section 13.5, or
 - (iii) if the first vote on that question was held by a rising vote under section 13.5, the revote must be held by a counted rising vote under section 13.6.
 - (i) A motion made under subsection (a) may not be reconsidered in accordance with Part 12.

Ballot voting

- 10.9** (a) A member of Council may move that the vote
- (i) on the pending motion, or
 - (ii) on the motion decided last, provided another motion has not yet been stated by the Chairperson,
- be conducted by secret ballot in accordance with section 13.7.
- (b) A motion made under subsection (a) must be seconded.
 - (c) A motion made under subsection (a) may not be debated.
 - (d) A motion made under subsection (a) may be amended.
 - (e) A motion made under subsection (a) is subject to a motion to table under section 9.5.
 - (f) A motion made under subsection (a) requires a majority of the members of Council present and voting to vote in favour of the motion for it to be approved.
 - (g) A motion made under subsection (a) may be reconsidered in accordance with Part 12.

Division of the question

- 10.10** (a) A member of Council may move that a pending question containing several parts be divided into separate questions and that Council consider and decide each question separately.
- (b) A motion made under subsection (a) may only be made if Council is able to consider and decide each separate question independent of the others.
 - (c) A motion made under subsection (a) must be seconded.
 - (d) A motion made under subsection (a) may not be debated.
 - (e) A motion made under subsection (a) may be amended.
 - (f) A motion made under subsection (a) requires a majority of the members of Council present and voting to vote in favour of the motion for it to be approved.
 - (g) The decision on a motion made under subsection (a) may not be reconsidered in accordance with Part 12.

Objection to the consideration of a question

- 10.11** (a) A member of Council may move that Council not consider or decide a main motion because the member of Council believes it is strongly undesirable for the main motion to come before Council.
- (b) A motion made under subsection (a) may only be made prior to whichever of the following is applicable:
- (i) the chairperson opening debate on the main motion to which it relates; or
 - (ii) a subsidiary motion on the main motion being moved.
- (c) A member of Council does not have to be recognized by the chairperson as having the floor in order to make a motion under subsection (a).
- (d) A motion made under subsection (a) need not be seconded.
- (e) A motion made under subsection (a) may not be debated.
- (f) A motion made under subsection (a) may not be amended.
- (g) A motion made under subsection (a) requires a two-thirds majority of the members of Council present and voting to vote in favour of the motion for it to be approved.
- (h) The decision on a motion made under subsection (a) may only be reconsidered in accordance with Part 12 if the motion was approved in accordance with subsection (g).

Permission to withdraw a motion

- 10.12** (a) A member of Council who moved a motion may move to withdraw the motion so the motion is not considered or decided by Council.
- (b) A motion made under subsection (a) need not be seconded.
- (c) A motion made under subsection (a) may not be debated.
- (d) A motion made under subsection (a) may not be amended.
- (e) A motion made under subsection (a) requires all members of Council present and voting to vote in favour of the motion for the motion to be approved.
- (f) The decision on a motion made under subsection (a) may only be reconsidered in accordance with Part 12 if the motion was not approved in accordance with subsection (e).

Motions relating to nominations

- 10.13** (a) This section applies only to main motions contemplated in section 8.1(a)(x).
- (b) If a motion in the nature of a main motion contemplated in section 8.1(a)(x) is on the floor, a member of Council may move to
- (i) determine the procedure by which nominations will be made,
 - (ii) close nominations, or
 - (iii) reopen nominations.
- (c) A motion made under subsection (b) must be seconded.
- (d) A motion made under subsection (b) may not be debated.
- (e) A motion made under subsection (b) may be amended.
- (f) No subsidiary motion may be moved while a motion made this section is pending and has not been decided.
- (g) A motion made under subsection (b)(i) or (b)(iii) requires a majority of the members of Council present and voting to vote in favour of the motion for it to be approved.
- (h) A motion made under subsection (b)(ii) requires a two-thirds majority of the members of Council present and voting to vote in favour of the motion for it to be approved.
- (i) The decision on a motion made under subsection (b)(i) may be reconsidered in accordance with Part 12.
- (j) The decision on a motion made under subsection (b)(ii) may not be reconsidered in accordance with Part 12.
- (k) The decision on a motion made under subsection (b)(iii) may only be reconsidered in accordance with Part 12 if the motion was not approved in accordance with subsection (g).

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PART 11 - PRIVILEGED MOTIONS

Privileged motions and questions of privilege described

- 11.1 (a) A privileged motion or question of privilege is any motion or matter relating to the personal welfare of the members of Council in session.
- (b) A privileged motion or question of privilege need not relate to the pending motion.

Introduction of privileged motions and questions of privilege

- 11.2 (a) A privileged motion may be moved or a question of privilege may be raised at any time by a member of Council.
- (b) Despite any provision of this Act to the contrary, if a privileged motion or question of privilege is made at a time when there is not a main motion on the floor, that privileged motion or question of privilege may be amended or debated.
- (c) Subject to section 11.3, a privileged motion or question of privilege takes precedence over any other pending motion and must be decided before any other pending motion is considered further or decided.
- (d) The member of Council recognized by the chairperson as having the floor immediately prior to the privileged motion being moved or question of privilege being raised must again be recognized by the chairperson as having the floor immediately upon the privileged motion being decided or the chairperson responding to the question of privilege.

Privileged motions and questions of privilege subject to priorities

- 11.3 (a) All privileged motions and questions of privilege are subject to the rankings of priority set out in section 11.4 and a privileged motion or question of privilege that ranks in higher priority to another privileged motion or question of privilege must be decided before a privileged motion or question of privilege that ranks in lower priority is considered further or decided.
- (b) Any privileged motion or question of privilege that ranks in higher priority under section 11.4 may be moved or raised while another privileged motion or question of privilege that ranks in lower priority is pending and has not yet been decided and that privileged motion or question of privilege that ranks in higher priority, once moved and seconded, if required by this Act, or raised takes precedence over any other pending privileged motion or question of privilege that ranks in lower priority and must be decided before any other pending privileged motion or question of privilege that ranks in lower priority is considered further or decided.

- (c) For certainty, a privileged motion or question of privilege that ranks in lower priority must not be moved or raised while a privileged motion or question of privilege of higher priority is pending or remains unanswered and the chairperson must rule as out of order any privileged motion or question of privilege of lower priority moved or raised while a privileged motion or question of privilege of higher priority is pending or unanswered.

Priority rankings

11.4 Privileged motions and questions of privilege under this Part have the following ranking of priority in descending order, with, for certainty, the first having the highest ranking of priority and the last the lowest ranking of priority, and each privileged motion or question of privilege may be moved or asked and must be determined in accordance with section 11.3(b):

- (a) a motion under section 11.5 to adjourn Council meetings;
- (b) a motion under section 11.6 to recess Council meetings for an intermission; and
- (c) a question of privilege under section 11.7.

Motion to adjourn

- 11.5**
- (a) A member of Council may move to adjourn the meeting of Council.
 - (b) A motion made under subsection (a) may only be made if
 - (i) another future meeting of Council has previously been scheduled, or
 - (ii) the motion to adjourn includes a date and time for the next meeting of Council.
 - (c) A motion made under subsection (a) must be seconded.
 - (d) A motion made under subsection (a) may not be debated.
 - (e) A motion made under subsection (a) may be amended, but only as to the date and time for the next meeting of Council.
 - (f) A motion made under subsection (a) requires a majority of the members of Council present and voting to vote in favour of the motion for it to be approved.
 - (g) A motion made under subsection (a) may not be reconsidered in accordance with Part 12.
 - (h) When a motion made under subsection (a) is approved, any unfinished business must be resumed at the next Council meeting.

Motion to recess

- 11.6** (a) A member of Council may move to have a short intermission in Council meeting for a specific period of time.
- (b) A motion made under subsection (a) must state
- (i) the purpose of the recess, and
 - (ii) the length of time for the recess or the time for reconvening Council meetings.
- (c) A motion made under subsection (a) must be seconded.
- (d) A motion made under subsection (a) may not be debated.
- (e) A motion made under subsection (a) may be amended, but only as to the length of time for the recess or the time for reconvening Council meetings.
- (f) A motion made under subsection (a) requires a majority of the members of Council present and voting to vote in favour of the motion to be approved.
- (g) A motion made under subsection (a) may not be reconsidered in accordance with Part 12.
- (h) A motion made under subsection (a), if approved, suspends consideration of the pending motion until Council resumes its business after the recess.

Questions of privilege

- 11.7** (a) Subject to subsection (b), a member of Council may raise a question of privilege to the chairperson that relates to the rights of Council or the rights of a member of Council.
- (b) A question of privilege raised under subsection (a) must relate to the comfort, dignity, safety or reputation of Council, or a member of Council, in session and may be of general privilege, relating to Council as a whole, or of personal privilege, relating to the member of Council posing the question of privilege.
- (c) A question of privilege raised under subsection (a) may include, as examples only, any of the following:
- (i) the approved agenda is not being followed;
 - (ii) a motion moved by the member of Council has been adjourned to a specific time under section 9.8 and that time has arrived;

- (iii) noise or inadequate ventilation makes it difficult for a member of Council to participate in the meeting; or
- (iv) confidential information concerning a member of Council has been or is about to be introduced into the meeting and guests are present.
- (d) If there is a pending question, a member of Council does not have to be recognized by the chairperson as having the floor in order to raise a question of privilege under subsection (a).
- (e) A question of privilege raised under subsection (a) need not be seconded.
- (f) A question of privilege raised under subsection (a) may not be debated.
- (g) A question of privilege raised under subsection (a) may not be amended.
- (h) A question of privilege raised under subsection (a) may not be voted on.
- (i) A question of privilege raised under subsection (a) may not be reconsidered in accordance with Part 12.
- (j) The chairperson must rule on the admissibility of the question of privilege raised under subsection (a) and, if admissible, respond as best as possible to the question of privilege or take the reasonable action necessary to deal with the question of privilege.
- (k) A member of Council must not use a question of privilege to speak to a pending motion and the chairperson must rule such behaviour out of order.

PART 12 - RESTORATIVE MOTIONS

General

- 12.1** (a) A question already decided, or a question substantially the same as a question already decided, by Council must not be considered by Council.
- (b) Despite subsection (a), if this Act provides that a decision of Council may be reconsidered under this Part, a member of Council may move a motion in accordance with this Part and, if that motion is approved in accordance with this Part, the members of Council may reconsider that decision in the manner described in this Part.
- (c) In this Part
- “previous decision” means a decision of Council that this Act provides may be reconsidered under this Part;
- “previous question” means the question voted on that gave rise to the previous decision.

Motion to rescind or amend previous decision

- 12.2** (a) A member of Council may move a motion to rescind or amend a previous decision provided that
- (i) no action has been taken by any person in reliance of the previous decision,
- (ii) any action taken by any person in reliance of the previous decision can reasonably be undone without cost or liability attaching to the Toquaht Nation that the Toquaht Nation is not prepared to assume, or
- (iii) the previous decision did not involve the
- (A) acceptance of a resignation and that resignation has been acted upon,
- (B) election or appointment of an individual to a committee, the Executive or some other office and that individual was present or officially notified, or
- (C) expulsion of an individual from a committee, the Executive or some other office and that individual was present or officially notified.

- (b) For certainty, any member of Council may move a motion under subsection (a) regardless of how they voted on the previous question.
- (c) A motion made under subsection (a) may only be made if there is no other pending question on the floor and must yield the floor to any subsidiary, incidental or privileged motion moved in accordance with this Act.
- (d) A motion made under subsection (a) must be seconded.
- (e) A motion made under subsection (a) may be debated and that debate may go to the merits of the previous decision and the previous question.
- (f) A motion made under subsection (a) may be amended.
- (g) A motion made under subsection (a) requires a two-thirds majority of the members of Council present and voting to vote in favour of the motion for it to be approved.
- (h) The decision on a motion made under subsection (a) may only be reconsidered in accordance with this Part if the motion was not approved in accordance with subsection (g).
- (i) A motion made under subsection (a) approved in accordance with subsection (g) serves to rescind or amend the previous decision in the manner and to the extent set out in the motion made under subsection (a).

Motion to reconsider

- 12.3** (a) A member of Council may move a motion to reconsider a previous decision provided that
- (i) the member of Council moving the motion made under this section voted with the prevailing side on the previous question,
 - (ii) if the previous decision related to a subsidiary motion or an incidental motion that was
 - (A) applied to a main motion, that main motion is still pending, or
 - (B) applied to another subsidiary motion or an incidental motion, that other subsidiary motion or an incidental motion is still pending, and
 - (iii) the motion made under this section is made on the same day that the previous decision was made.

- (b) For certainty and for purposes of interpreting subsection (a)(i), a member of Council voted with the prevailing side on the previous question if that member of Council voted
 - (i) in favour of approving the previous question and the previous question was approved, or
 - (ii) in opposition to approving the previous question and the previous question was rejected.
- (c) The chairperson must rule as out of order a motion made under subsection (a) where
 - (i) the previous decision approved the previous question and the provisions of the previous question have been partly carried out,
 - (ii) the previous decision approved the previous question and
 - (A) the previous question involved a contract, and
 - (B) a party to the contract has been notified of the previous decision,
 - (iii) the previous decision caused something to be done that is impossible to undo,
 - (iv) the previous decision was on a motion made under subsection (a), or
 - (v) practically the same result desired can be obtained by some other motion.
- (d) Subject to subsection (e), the making of a motion under subsection (a) has priority over all other motions but the consideration of a motion made under subsection (a) has the same priority as that of the previous question.
- (e) A motion made under subsection (a) is subject to
 - (i) a motion made under
 - (A) section 9.8 to postpone consideration of the motion made under subsection (a) to a specific time,
 - (B) section 9.7 to limit or extend the time to debate the motion made under subsection (a), and
 - (C) section 9.6 to call for the vote on the motion made under subsection (a),

if the previous question is a question that this Act provides may be debated, and

- (ii) a motion made under section 9.5 to table the motion made under subsection (a).
- (f) A motion made under subsection (a) must be seconded and may be seconded by any member of Council regardless of how they voted on the previous question.
- (g) If the previous question is a question that this Act provides may be debated, a motion made under subsection (a) may be debated and that debate may go to the merits of the previous decision and the previous question.
- (h) A motion made under subsection (a) may not be amended.
- (i) A motion made under subsection (a) requires a majority of the members of Council present and voting to vote in favour of the motion for it to be approved, regardless of the approval threshold required for the previous question.
- (j) The decision on a motion made under subsection (a) may not be reconsidered in accordance with this Part, except if a motion made under subsection (a) is not approved in accordance with subsection (i), it may be reconsidered as provided in this section with the unanimous consent of all the members of Council present.
- (k) A motion made under subsection (a) approved in accordance with subsection (i) serves to bring the previous question back on the floor and the chairperson must immediately open the floor for debate on the previous question, if the previous question is one that this Act provides may be debated, and thereafter hold a revote on the previous question.

PART 13 - VOTING

General

- 13.1** (a) When the chairperson calls for the vote on a pending question, the chairperson must
- (i) firstly, call for those members of Council who are in favour of the question being approved to indicate their approval in the applicable manner,
 - (ii) secondly, call for those members of Council who are opposed to the question being approved to indicate their opposition in the applicable manner, and
 - (iii) thirdly, call for those members of Council who wish to abstain from the vote to indicate their wish to abstain in the applicable manner.
- (b) Only those members of Council in favour of the question being approved and those members of Council opposed to the question being approved are to be counted in the vote held on the question to determine whether or not the question is approved or rejected and, for certainty, those members of Council who indicate their wish to abstain from the vote must not be included in the counting of the vote.
- (c) After the members of Council present have all had an opportunity to vote or indicate their wish to abstain from the vote, the chairperson must rule as to whether or not the question is approved or rejected by the members of Council and may indicate so with the words “carried” for an approved motion or “lost” for a rejected motion.
- (d) A vote that results in a tie, with the same number of voting members of Council in favour of the question being approved as the number of voting members of Council opposed to the question being approved, results in the motion being rejected by the members of Council.
- (e) For certainty, the chairperson is not compelled to vote to break a tie vote.
- (f) A member of Council may vote against his or her own motion.

Voting on routine business

- 13.2** (a) Where business requiring approval of Council is of a routine nature or it is clear to the chairperson that a consensus of all members of Council has been reached, subject to subsection (b), the chairperson may waive a formal vote on that business by asking the members of Council if there is any objection to the business being approved.

- (b) If a member of Council raises an objection as contemplated in subsection (a), the chairperson must put the matter to a vote of the members of Council.

Voice vote

- 13.3**
- (a) If the chairperson calls for a voice vote, a member of Council must indicate orally when asked to do so by the chairperson whether they are in favour of the question being approved, opposed to the question being approved or they desire to abstain from the vote.
 - (b) The words used by the member of Council to indicate their favour or opposition to the motion or their desire to abstain from the vote must be clear and unequivocal and may include such words as “yes”, “no”, “aye”, “nay”, “I approve”, “I object”, “I am in favour”, “I am opposed”, “I abstain” or such other words the member of Council chooses that unequivocally expresses their position on the question.
 - (c) The chairperson may call for a voice vote on any motion that requires only a majority of the members of Council present and voting to vote in favour of the motion for it to be approved.

Show of hands vote

- 13.4**
- (a) If the chairperson calls for a vote by show of hands, a member of Council must indicate by raising their hand when asked to do so by the chairperson whether they are in favour of the question being approved, opposed to the question being approved or they desire to abstain from the vote.
 - (b) For certainty, a member of Council may use either their right hand or their left hand to indicate their position on the question.
 - (c) The chairperson may call for a vote by show of hands on any motion which requires a vote to be held.

Rising vote

- 13.5**
- (a) If the chairperson calls for a rising vote, a member of Council must indicate by standing when asked to do so by the chairperson whether they are in favour of the question being approved, opposed to the question being approved or they desire to abstain from the vote.
 - (b) The chairperson may call for a rising vote on any motion which requires a vote to be held.

Counting a rising vote

- 13.6** (a) If a member of Council has moved a division of the vote in accordance with section 10.8, that motion is in order and the revote contemplated under that section relates to a rising vote conducted in accordance with section 13.5, the chairperson must call for a rising vote to be counted.
- (b) If the chairperson calls for a rising vote to be counted or a rising vote is required to be counted under subsection (a), a member of Council must indicate by standing and counting off as required by subsection (c) when asked to do so by the chairperson whether they are in favour of the question being approved, opposed to the question being approved or they desire to abstain from the vote.
- (c) When asked to do so by the chairperson, each member of Council must stand and count off, beginning with the number “one” stated by the member of Council closest to the left of the chairperson and continuing to that member of Council’s left with the number “two” stated by the next member of Council to vote, and continuing to the left of and consecutively stating the number of each member of Council as they vote until each member of Council wishing to vote has voted.
- (d) For certainty, the members of Council voting in favour of the question voted on must first stand and count off in accordance with subsection (c), followed by the members of Council voting against the question voted on who must, when asked to do so by the chairperson, stand and count off in accordance with subsection (c), followed lastly by those members of Council indicating their desire to be recorded as abstaining from the vote.

Ballot vote

- 13.7** (a) If a member of Council has moved a motion to require a secret ballot vote under section 10.9 and that motion has been approved in accordance with section 10.9(f), the chairperson must conduct that vote by secret ballot under this section.
- (b) If the chairperson conducts a vote by secret ballot, a member of Council must indicate by marking on the ballot provided to them by the chairperson in accordance with subsection (c) when asked to do so by the chairperson whether they are in favour of the question being approved, opposed to the question being approved or they desire to abstain from the vote.
- (c) The chairperson must indicate to the members of Council the manner in which they must mark their ballot to indicate their position on the question and that manner may include marking an “X” on the ballot beside and in response to questions or statements printed on the ballot or writing “yes”, “no” or “abstain” on the ballot in response to a question posed by the chairperson.

- (d) The chairperson must provide clear and unequivocal instructions to the members of Council concerning the proper manner to mark their ballots and what would constitute a spoiled ballot under this section.
- (e) The chairperson may call a short recess to allow for the counting of ballots marked under this section.

PART 14 - EXECUTIVE

Executive portfolios established

- 14.1** (a) In accordance with section 2.14 of the Constitution, the following executive portfolios are established:
- (i) the finance portfolio;
 - (ii) the community services portfolio;
 - (iii) the lands, public works and environmental protection portfolio; and
 - (iv) the resource harvesting portfolio.
- (b) Council may by motion create other executive portfolios from time to time.
- (c) Council must by motion appoint a member of Council to hold each of the executive portfolios set out in subsection (a) or created under subsection (b).
- (d) Council may appoint a member of Council to hold more than one executive portfolio.
- (e) For certainty and in accordance with section 2.13 of the Constitution,
- (i) the chairperson, and
 - (ii) each member of Council appointed to hold an executive portfolio in accordance with subsection (c),
- form the Executive of the Toquaht Nation.
- (f) Each member of Council appointed to hold an executive portfolio in accordance with subsection (c) is responsible for the executive oversight of
- (i) each Act associated with that executive portfolio as provided for in this or another Act, and
 - (ii) any department established under that Act.

Mandate

- 14.2** In addition to the duties and powers set out in section 14.1 and Part 3 of the Government Act, the mandate of the Executive includes the following:
- (a) assisting Council in fulfilling Council's responsibilities by reviewing and commenting on as necessary

- (i) the systems of internal controls that Council has established, and
 - (ii) compliance with laws, regulations and policies that apply to the Toquaht Nation;
- (b) assisting the director of operations in fulfilling the Toquaht Nation’s obligations relating to human resources and compensation matters and to establish a plan of continuity, development and succession for the Toquaht administration;
 - (c) reviewing the administrative structure of the Toquaht government including the duties and powers to be assigned to directors and making recommendations to Council for changes;
 - (d) providing focus on governance matters that will enhance the performance of Council and the Toquaht Nation; and
 - (e) assessing and making recommendations regarding Council’s effectiveness and establishing and leading the process for developing potential Executive member criteria and candidates for recommendation to Council for appointments to the Executive.

Other duties and powers

- 14.3** (a) The Executive may
- (i) review the work done and information to be provided to Council by any standing committee or special committee and, where appropriate, approve or recommend for approval to Council matters set out in the terms of reference for any standing committee or special committee,
 - (ii) make decisions, or advise Council as necessary, on expenditures within Council approved budgets, and
 - (iii) make recommendations to Council on matters within the Executive’s mandate.
- (b) The Executive must be given access to the Toquaht administration and all documents as required to fulfill its responsibilities.
 - (c) The Executive must be provided with the resources necessary to perform its duties and exercise its powers.

Delegation of duties and powers

- 14.4** Unless specifically provided for in this or another Act, the Executive may not delegate the performance of its duties or the exercise of its powers under this Part.

Executive rules of order and procedure

- 14.5** (a) The Executive must by regulation as soon as practicable establish the mandate and terms of reference for and the duties and powers of each executive portfolio set out in section 14.1(a) or created under section 14.1(b).
- (b) The Executive may by regulation determine its own rules of order and procedure.

Accountability

- 14.6** The Executive is accountable to Council for the performance of its duties and the exercise of its powers.

Amendments

- 14.7** The Executive may annually review and recommend to Council amendments to this Part.

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PART 15 - COMMITTEE RULES

Application of this Part

- 15.1** This Part applies to all committees and, for certainty, all committees of Council are bound by this Part.

Mandate and recommendations

- 15.2** (a) The mandate of a committee is set out in its terms of reference.
- (b) Each committee of Council may make periodic recommendations to Council in relation to the subject on which it was created to advise and make recommendations.
- (c) Council will take into consideration, but will not be bound by, committee recommendations.

Committee appointments

- 15.3** (a) The chairperson may recommend committee appointments to Council for approval.
- (b) Unless otherwise provided in the Toquaht enactment establishing the committee, appointments to standing committee must be made at the first Council meeting held after each regularly scheduled Council election and appointees to standing committees will hold office until the first Council meeting held after the next regularly scheduled Council election, or until they resign or are replaced in accordance with this Act.
- (c) A committee member may be removed or replaced at any time by Council by motion and, if a committee member was a member of Council at the time of his or her appointment to the committee, will cease to be a committee member upon ceasing to be a member of Council.
- (d) The number of committee members and composition of each committee must be indicated in each committee's terms of reference.
- (e) The members of Council who are members of a committee must appoint from amongst themselves a chair for that committee.

Committee schedule

- 15.4** (a) The committee chair or delegate will canvas committee members with a view to establishing a meeting schedule and will work with the committee members towards the establishment of meeting agendas and preparation of meeting materials.

- (b) Each standing committee must have a committee timetable, as part of its terms of reference, which outlines when the committee plans to address each of its duties and powers during the course of the year.

Committee meetings

- 15.5**
- (a) Each committee will meet at the call of the committee chair.
 - (b) Notice of the time and place of every committee meeting must be given in writing, facsimile, or email communication to each committee member and the chairperson at least 48 hours prior to the time fixed for such meeting, provided, however, that a committee member may in any manner waive notice of a meeting; and attendance at a meeting is a waiver of notice of the meeting, except where a committee member attends a meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called.
 - (c) The committee chair or any two committee members may call a meeting of the committee.
 - (d) If a committee chair is not present at any meeting of a committee, one of the other committee members present at the meeting must be chosen by the committee to preside at the meeting.
 - (e) A committee member may participate in a committee meeting by means of such telephonic, electronic or other communication facilities as permit all persons participating in the meeting to communicate adequately with each other and a committee member participating in such a meeting by any such means is deemed to be present at the meeting.

Committee guests

- 15.6** A committee chair may invite any member of Council or, in consultation with the chairperson, such employees or consultants of the Toquaht Nation as may be considered desirable to attend meetings of the committee and assist in the discussion and consideration of the business of the committee.

Quorum and voting

- 15.7**
- (a) A quorum for the transaction of business at a committee meeting will be a majority of the authorized number of committee members.
 - (b) Questions arising at a meeting will be determined by a majority of votes of the committee members present.

Committee meeting minutes

- 15.8** (a) The committee chair or delegate will ensure that the minutes of each committee meeting are prepared and given in a timely fashion to each committee member and to the law clerk.
- (b) A complete meeting record of the committee must be maintained by the law clerk and made available to any member of Council.

Expert advice

- 15.9** A committee may, from time to time, require the expertise of outside resources or consultants but no outside resource will be retained without the approval of the chairperson, generally in consultation with the director of operations, and with subsequent approval by Council.

Revisions to standing committee terms of reference

- 15.10** Each standing committee will review its own terms of reference annually and any proposed changes will be submitted to Council for approval.

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PART 16 - STANDING COMMITTEE ON TREATY IMPLEMENTATION

Definitions

16.1 In this Part

“treaty implementation committee” means the standing committee on treaty implementation referred to in section 2.36 of the Constitution.

Committee established and mandate

- 16.2** (a) The treaty implementation committee is established as a standing committee of the Legislature.
- (b) The mandate of the treaty implementation committee is to provide information to assist Council in fulfilling the obligations of and exercising the rights of the Toquaht Nation with regards to Chapter 27 Implementation of the Maa-nulth Treaty, including identifying the obligations of the Toquaht Nation arising under the Maa-nulth Treaty, the activities to be undertaken to fulfill those obligations and the timeframe for completion of those activities.
- (c) Primary responsibility for treaty implementation is vested in Council.

Composition and operations

- 16.3** (a) The treaty implementation committee is composed of
- (i) the Tyee Ha’wilth,
- (ii) no fewer than one other member of Council and not more than two other members of Council, and
- (iii) not more than three other individuals appointed by Council upon recommendation of the Tyee Ha’wilth.
- (b) For certainty, the treaty implementation committee may include individuals who are not members of Council, as approved by Council, who bring a particular expertise or other considerations to the treaty implementation committee.
- (c) The treaty implementation committee must meet at least four times each year.

Duties and powers

- 16.4** The treaty implementation committee must perform the following duties and may exercise the following powers:
- (a) identify the obligations of the Toquaht Nation arising under the Maa-nulth Treaty;

- (b) identify the activities to be undertaken to fulfill the obligations identified in accordance with subsection (a) and the timeframe for completion of those activities;
- (c) identify the benefits arising for the Toquaht Nation from the Maa-nulth Treaty;
- (d) identify the activities to be undertaken in order for the Toquaht Nation to realize the benefits identified in accordance with subsection (c), the responsible party to fulfill those obligations and the time frame for and monitoring the completion of those activities;
- (e) serve as the liaison between Council and the representative of the Maa-nulth First Nations on the implementation committee appointed in accordance with 27.3.1 of Chapter 27 Implementation of the Maa-nulth Treaty;
- (f) develop a communications strategy in relation to the implementation and content of the Maa-nulth Treaty with Toquaht citizens;
- (g) provide for the preparation and circulation of annual reports on the implementation of the Maa-nulth Treaty; and
- (h) address other matters relating to the implementation of the Maa-nulth Treaty.

Accountability

- 16.5** (a) The treaty implementation committee must report to Council by oral or written report at meetings of Council when requested.
- (b) The treaty implementation committee must report to the Executive by oral or written report at meetings of Executive when requested.

PART 17 - [REPEALED]

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PART 18 - SPECIAL COMMITTEES

Special committees described

18.1 A special committee is any committee of Council established for a specific period of time to undertake a specific task and then be discharged from the performance of its duties and the exercise of its powers, also known as ad hoc committees.

Appointment of special committees

- 18.2**
- (a) Council may, by resolution, appoint the special committees that are necessary or desirable to assist Council in carrying out its obligations under the Constitution, this Act or any other Act.
 - (b) The Executive may, by Order, appoint special committees between Council meetings, but those appointments and terms of reference are subject to approval of Council at the next Council meeting.
 - (c) Each special committee appointed under subsection (a) must have terms of reference setting out the following matters:
 - (i) the mandate of the special committee;
 - (ii) the composition of the special committee;
 - (iii) the duties and powers of the special committee; and
 - (iv) the date on which the special committee will report to Council and thereafter be discharged from the performance of its duties and the exercise of its powers.

Extension of mandate

- 18.3**
- (a) A special committee must obtain an extension approved by Council motion to have its mandate extended beyond the time limit specified in its terms of reference.
 - (b) For certainty, the rules for committees set out in Part 15 apply to special committees established by Council or the Executive.

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LEGISLATIVE HISTORY

Council Rules of Order and Procedure Act TNS 3/2011 enacted April 1, 2011

Amendments

Section	Amendment	In Force
Part 17	TNS 3/2012, s.6.4(a)	July 10, 2012
14.1(a)	TNS 3/2012, s.6.4(b)	July 10, 2012
18.2(a)	TNS 8/2014, s.4.5(a)	June 10, 2014
18.2(b)	TNS 8/2014, s.4.5(b)	June 10, 2014
3.1(c)	TNS 4/2015, s.4.1	September 16, 2015

Amending Acts:

TNS 3/2012 Economic Development Act enacted July 10, 2012
TNS 8/2014 Enforcement Framework Amendment Act No. 2 enacted June 10, 2014
TNS 4/2015 Miscellaneous Amendments Act No. 2 enacted September 16, 2015

Regulations:

TNR 3/2011 Executive Rules of Order and Procedure Regulation enacted April 1, 2011