
ST/AUTW_First Nation
Membership Law

Final Draft

Dated for reference: November 27, 2012

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WHEREAS

- A. The members of the ST/ÁUTW_First Nation have in common inherent rights, customs, and traditions and the inherent right to self-government which are recognized in the Douglas Treaty and affirmed by Section 35 of the *Constitution Act*;
- B. ST/ÁUTW_First Nation, as an aspect of our inherent right to self government, has jurisdiction to recognize Members and this inherent right has not been extinguished;
- C. ST/ÁUTW_First Nation also chose to assume control of its membership law pursuant to the *Indian Act*, R.S., 1985, c. I-5, by adopting the *Tsawout Membership Code* which came into force and effect on June 26, 1987;
- D. ST/ÁUTW_First Nation intends to provide rules for membership without prejudice or discrimination on any basis to members who meet the membership criteria as established in this Membership Law; and
- E. A majority of the electors of the ST/ÁUTW_First Nation have duly consented to repeal and replace the *Tsawout Membership Code*.

NOW THEREFORE the Council of the ST/ÁUTW_First Nation hereby enacts the following Law:

1. TITLE

- 1.1 This document may be cited as the ST/ÁUTW_First Nation Membership Law (the “Law”).

2. PURPOSE

- 2.1 The purpose of this Law is to maintain the criteria required to be a Member of the ST/ÁUTW_First Nation.

3. DEFINITIONS

- 3.1 In this Law, the terms defined in Schedule “A” have, unless otherwise provided elsewhere in this Law, the meanings as set out in that Schedule.
- 3.2 Any defined term will be read as having an appropriate corresponding meaning if referred to in the singular, plural, verb, or noun form.

4. ST/ÁUTW_BORN MEMBERS ENTITLED TO MEMBERSHIP

Applications for membership under this Section would be suitable for persons who have never been registered on another First Nation and have at least 1 parent who is or was a “ST/ÁUTW_Born Member”, as defined in Schedule “A”.

- 4.1 Unless prohibited by Section 7, a person is entitled to be a Member if he or she can provide satisfactory proof that at least 1 of his or her parents is or was a ST/ÁUTW_Born Member.
- 4.2 Persons approved for membership under this Section will be deemed ST/ÁUTW_Born Members.
- 4.3 Persons applying for membership under this Section must fill out:
 - a. the “Adult Application Form” (attached as Appendix A) and “Consent for Registration of an Adult under the *Indian Act*” (if applicable) (attached as Appendix D) if applying for membership on their own behalf; or
 - b. the “NENE Application Form” (attached as Appendix B) and “Parental Consent for Registration of a Minor Under the *Indian Act*” (if applicable) (attached as Appendix E) if applying on behalf of a NENE or Dependant.

5. PERSONS ELIGIBLE TO APPLY FOR MEMBERSHIP

Applications for membership under this Section would be suitable for persons who have been registered with another First Nation in Canada and have at least 1 or more relation who is a “ST/ÁUTW_Born Member”, as defined in Schedule “A”.

- 5.1 Unless prohibited by Section 7, a person is eligible to apply for membership if he or she can provide satisfactory proof that:
 - a. at least one (1) of his or her grandparents is or was a ST/ÁUTW_Born Member;
 - b. at least one (1) of his or her great-grandparents is or was a ST/ÁUTW_Born Member;
or
 - c. at least one (1) of his or her parents is or was a Member; or entitled to be a Member.
- 5.2 Persons approved for membership under Sections 5.1(a) and (b) will be deemed ST/ÁUTW_Born Members.

- 5.3 The Membership Committee will consider applications under this Section as set out in Section 12 and will make a recommendation to Council after consideration is given to the factors set out in Section 6.3 and on condition that the Membership Committee is satisfied that the applicant meets the eligibility criteria for membership as set out in this Law.
- 5.4 Persons applying for membership under this Section must fill out:
- a. the "Adult Application Form" (attached as Appendix A) and "Consent for Registration of an Adult under the *Indian Act*" (if applicable) (attached as Appendix D) if applying for membership on their own behalf; or
 - b. the " NENE Application Form" (attached as Appendix B) and "Parental Consent for Registration of a Minor Under the *Indian Act*" (if applicable) (attached as Appendix E) if applying on behalf of a NENE or Dependant.

6. TRANSFERS

Applications for membership under this Section would be suitable for persons who are members of other First Nations and do not have a blood connection to any ST/ÁUTW_ Born Members or ST/ÁUTW_ Members.

- 6.1 Any person, 18 years of age or older, who is not prohibited by Section 7, may apply to transfer into ST/ÁUTW_ First Nation by submitting a completed "Transfers Application Form" (attached as Appendix C) to the Membership Administrator.
- 6.2 A person making an application to transfer into the ST/ÁUTW_ First Nation must also include a current criminal record check, which is to be completed at the applicant's expense. Applications under this Section will not be processed without a current criminal record check.
- 6.3 The Membership Committee will consider transfer applications under this Section as set out in Section 12, and will make a recommendation to Council, after consideration of the following factors:
- a. the extent of the applicant's family or spousal connections to a Member, or person entitled to be a Member;
 - b. whether the applicant can make a valuable contribution to the ST/ÁUTW_ First Nation;

- c. whether the applicant can demonstrate a strong connection to the STÁUTW_ First Nation such as, but not limited to, knowledge of STÁUTW_ First Nation language, traditions and custom;
 - d. consideration of the limited housing and land capacity of the STÁUTW_ First Nation; and
 - e. whether the applicant has a criminal record.
- 6.4 For the purposes of Section 6.3(e) the Membership Committee may:
- a. determine that a criminal record does not automatically disqualify an applicant from Membership; and
 - b. permit an applicant with a criminal record to provide evidence of his or her good character.
- 6.5 Any person seeking to transfer into the STÁUTW_ First Nation may include his or her NENE and/or Dependents in the application.
- 6.6 If the transfer application is approved by Council, the applicant must complete either:
- a. The “Statement of Consent for Transfer of Adult” (attached as Appendix F);
 - b. The “Statement of Consent for Transfer of a Minor” (attached as Appendix G); and
 - c. If the applicant is transferring out of a First Nation whose membership is governed by section 11 of the *Indian Act*, before the applicant can transfer into the STÁUTW First Nation and be added to the Membership List, the applicant must provide the Membership Administrator with a Band Council Resolution from the First Nation that he or she is transferring out of, confirming that he or she has been released from the membership list of that First Nation,
- before they can be registered on the STÁUTW First Nation Membership List.

7. PERSONS NOT ENTITLED TO BE MEMBERS

- 7.1 For greater certainty, and notwithstanding any other provisions of this Law, as of the effective date of this Law, the following persons are not entitled to be enrolled as Members:
- a. any person who is not of QEL;WILNEW;

- b. a NENE or person who has one parent who gained Indian Status and membership prior to April 17, 1985, solely through marriage, and that NENE or person's other parent is not a Registered Indian; and
- c. any person who is a member of another First Nation in Canada.

8. VOLUNTARY LOSS OF MEMBERSHIP

- 8.1 Membership will be revoked and a Member's name will be removed from the Membership List when he or she provides a signed written request to the Membership Administrator that he or she wishes to give up his or her membership in ST/ÁUTW_First Nation.
- 8.2 Where a Member wishes to surrender his or her membership under this Section, his or her membership will be terminated effective the date that the Membership Administrator receives the written request from the Member, pursuant to Section 8.1.

9. INVOLUNTARY LOSS OF MEMBERSHIP

- 9.1 Membership may be revoked and a Member's name can be removed from the Membership List when:
 - a. a determination is made by Council that the person is maintaining membership in two First Nations in Canada at the same time;
 - b. a determination is made by Council that the person became a Member as a result of an error, or on the basis of false or inaccurate information;
 - c. a determination is made by Council that a Member, who gained Indian Status solely through marriage to a Registered Indian, becomes divorced or separated for longer than one year from her Member spouse; or
 - d. a determination is made by Council that a Member, who does not have at least one (1) ST/ÁUTW_Born Member parent, no longer maintains a substantial connection to the ST/ÁUTW_First Nation community and/or ST/ÁUTW_First Nation Land, either traditionally, culturally, or through familial connections.

Public Notice

- 9.2 Notice of any decision to revoke membership under this Section is required, and must be hand delivered to the Member or mailed by registered mail.

Meeting to Consider Involuntary Loss of Membership

- 9.3 Where it is proposed by Council that a person's membership be revoked under this Section the Membership Administrator will provide notice to the Member, in writing and with reasons, and allow the Member 30 days from the date the notice was delivered or mailed within which to contact the Membership Administration to arrange a meeting with Council to present information as to why his or her name should not be removed from the Membership List.
- 9.4 The Council meeting under Section 9.3 will be held within 30 days of the Member contacting the Membership Administrator and the meeting may be held by telephone conference if so required by either the Member or Council.
- a. Failure by the Member to contact the Membership Administrator within 30 days to arrange a Council meeting without reasonable excuse will result in the removal of the Member's name from the Membership List. The Membership Administrator will notify the Member of the decision, in writing and with reasons, and will post Public Notice of this decision.
 - b. Failure of the Member to attend the arranged Council meeting will result in the removal of the Member's name from the Membership List. The Membership Administrator will notify the Member of the decision, in writing and with reasons, and will post Public Notice of this decision.

Persons Allegedly Holding Membership in Two First Nations

- 9.5 In determining whether a person's membership should be revoked under Section 9.1(a), Council will require written consent within 15 days from the Member to confirm with the other First Nation that the Member is not maintaining membership in two First Nations.
- 9.6 Failure of the Member to provide his or her written consent within 15 days will result in a determination that the Member is holding memberships in two First Nations and the Membership Administrator will remove the Member's name from the Membership List. The Membership Administrator will notify the Member of the decision, in writing and with reasons, and will post Public Notice of this decision.
- a. If written consent is provided by the Member and the Membership Administrator is not able to obtain the information from the other First Nation, it will be up to the Member to obtain proof, within 30 days, that the Member is not maintaining membership in two First Nations.

- b. If proof is not provided within 30 days the Membership Administrator will remove the Member's name from the Membership List. The Membership Administrator will notify the Member of the decision, in writing and with reasons, and will post Public Notice of this decision.

Membership a Result of an Error, Or On The Basis Of False Or Inaccurate Information

9.7 In determining whether a person's membership should be revoked under Section 9.1(b), Council will consider any additional information or documentation that was not reasonably available at the time of the original application that supports or negates the person's eligibility for membership.

- a. In making any determinations pursuant to this Section Council may seek the assistance of a ST/ÁUTW_First Nation SELWÁN.

Non-Indian Who Becomes Divorced or Separated from Her Member Spouse & Persons Who No Longer Maintain a Substantial Connection to ST/ÁUTW_First Nation

9.8 In determining whether a person's membership should be revoked under Section 9.1(c) or (d), Council will consider any familial or personal relationships and cultural connections maintained by the person, which supports or negates the person's eligibility for membership, the limited housing and land capacity of the ST/ÁUTW_First Nation and any other relevant factors.

- a. In making any determinations pursuant to this Section, Council may seek the assistance of a ST/ÁUTW_First Nation SELWÁN.

Involuntary Loss of Membership Decisions

9.9 At the meeting held under Section 9.3, Council will consider:

- a. the original information;
- b. any additional information received from the Member in question or any other Member; and
- c. any other relevant information, including the information outlined in Sections 9.5, 9.7 and 9.8.

9.10 Immediately following the meeting held under Section 9.3, Council will meet in camera to consider the information available and will make a decision about whether the Member's name should or should not be removed from the Membership List.

- 9.11 On the following business day after a decision has been made under Section 9.10, Council will inform the Membership Administrator of its decision, in writing and with reasons and instruct the Membership Administrator to:
- a. maintain the Member's name on the Membership List; or
 - b. remove the Member's name from the Membership List after time allowed for appeals under Section 15 has expired.
- 9.12 On the following business day after receiving Council's decision under Section 9.11, the Membership Administrator will notify the Member of the decision, in writing and with reasons, and will post Public Notice of this decision.
- 9.13 Where a Member's membership is terminated under this Section, the rights to membership of his or her spouse, NENE and/or Dependent are not affected unless their membership is also void for reasons under this Section or this Law.
- 9.14 All decisions made by Council to remove a Member's name from the Membership List may be appealed, and any such appeal shall be pursuant to Section 15. No Member will be deprived of membership rights under this Section, or any other provision, until the time allowed for appeals under Section 15 has expired.

10. APPLICATION FOR MEMBERSHIP

- 10.1 A person wishing to become a Member must submit an application for membership on the prescribed Application Form, together with all supporting documentation, to the Membership Administrator.
- 10.2 An application for membership on behalf of a NENE will be submitted by the parent(s) or legal guardian(s) of the NENE.

11. SECTION 4 APPLICATIONS

- 11.1 The Membership Administrator will review and determine all applications for membership submitted under Section 4 of this Law.
- 11.2 The Membership Administrator will, within 15 days of receiving an application for membership and all required documentation, including documentation from the Government of Canada and/or any other body that is providing documentation, determine a person's entitlement to membership under Section 4, notify the applicant of the decision in writing and with reasons, and post Public Notice of the decision.

11.3 In the event that the Membership Administrator is processing an application submitted by his or her Immediate Family, the application and decision will be reviewed by the Director of Operations before the application can be approved and the applicant's name added to the Membership List.

11.4 Decisions made by the Membership Administrator under this Section may be appealed, and any such appeal shall be pursuant to Section 14.

12. SECTION 5 AND 6 APPLICATIONS

12.1 The Membership Committee will meet quarterly to review all applications for membership made under Section 5 and Section 6 of this Law and will and make a recommendation to Council about whether or not the applicant(s) meets the eligibility requirements set out in this Law.

12.2 In the event that a member of the Membership Committee or Council is processing an application submitted by his or her Immediate Family, he or she shall declare the relationship and be excused from the recommendation on that particular application.

12.3 Council will, within one (1) month of receiving the Membership Committee's recommendation under Section 12.1, meet in camera to consider the recommendation made by the Membership Committee and approve or reject the recommendation, based on this Law.

12.4 On the following business day after the Council meeting held under Section 12.3, Council will inform the Membership Administrator of its decision, in writing and with reasons, and instruct the Membership Administrator to:

- a. add the applicant's name to the Membership List; or
- b. refrain from adding the applicant's name to the Membership List.

12.5 On the following business day after receiving Council's decision under Section 12.3 the Membership Administrator will notify the applicant of Council's decision, in writing and with reasons, and will post Public Notice of this decision.

12.6 Decisions made under this Section may be appealed, and any such appeal shall be pursuant to Section 15.

13. APPEALS PROCEDURES

- 13.1 All decisions made by the Membership Administrator, the Membership Committee and Council under this Law may be appealed.
- 13.2 An appeal may be made by an applicant, the applicant's representative, a person whose membership has been revoked, or any Member and the onus of establishing the grounds of the appeal lies with the person making the appeal.
- 13.3 An appeal under Section 14 or 15 shall be made in writing, on the prescribed form, attached as Appendix H, stating the basis for the appeal, together with any supporting documentation, hand delivered, faxed or mailed to the Membership Administrator within 30 days from the date the decision was posted in a public area of the ST/ÁUTW_First Nation administration building.
- a. Calculation of the 30 day appeal period commences on the latter of the dates upon which Public Notice is posted at the ST/ÁUTW_First Nation Administration office, in the ST/ÁUTW_First Nation community newsletter, or in any other conspicuous place as determined by Council or the Membership Administrator.
- 13.4 The notice of appeal shall include a deposit of \$250.00 as security for costs deposited with the Membership Administrator.
- a. All funds received as deposits for an appeal shall be placed in the general account of the ST/ÁUTW_First Nation and shall be used to offset expenses related to an appeal.
- b. If the appeal is successful, the deposit will be returned to the person who made the appeal.

14. APPEALS FROM MEMBERSHIP ADMINISTRATOR DECISIONS

- 14.1 All appeals from decisions made by Membership Administrator shall be heard by the Membership Committee who will make a recommendation to Council.
- 14.2 Within 30 days of receiving an appeal from a Membership Administrator decision, the Membership Administrator will convene a Membership Committee meeting at which the Committee will make a recommendation to Council on the applicant's eligibility for membership.

- 14.3 Council will, within 1 month of receiving the Membership Committee's recommendation under Section 14.2, meet in private and approve or reject the recommendation, based on this Law.
- 14.4 On the following business day after the Council meeting held under Section 14.3, Council will inform the Membership Administrator of its decision, in writing and with reasons, and instruct the Membership Administrator to:
- a. Add the applicant's name to the Membership List; or
 - b. Refrain from adding the applicant's name to the Membership List.
- 14.5 On the following business day after receiving Council decision under Section 14.4, the Membership Administrator will notify the appellant, and the applicant, if it is not the same person, of Council's decision, in writing and with reasons, and will post Public Notice of this decision.
- 14.6 Any person whose application, or appeal, is refused may appeal the decision under Section 15.

15. APPEALS FROM COUNCIL DECISIONS

- 15.1 All appeals of decisions made by Council shall be heard by an Arbitrator.
- 15.2 The Membership Administrator, upon receipt of an appeal of a decision made by Council, shall notify the Director of Operations and appoint an Arbitrator.
- 15.3 If the Membership Administrator has not appointed an Arbitrator within 10 days of the request the Director of Operations shall appoint an Arbitrator.
- 15.4 Upon the appointment of an Arbitrator the Membership Administrator shall, as soon as possible, provide the Arbitrator with the notice of appeal and supporting documentation.
- 15.5 Upon receipt of the notice of appeal and supporting documentation, the Arbitrator shall hold a hearing within 60 days.
- 15.6 A copy of the notice of appeal and any documents relied upon shall be delivered to Council at least 14 days prior to the hearing.
- 15.7 Council may file a reply with the Arbitrator at least 4 days prior to the hearing.
- 15.8 A copy of any reply filed by Council shall be provided to the person appealing at least 2 days prior to the hearing.

15.9 The Arbitrator may, at his or her discretion, give directions for:

- a. fixing the date, time and place for the hearing of the appeal;
- b. designating the method of taking evidence, either by sworn declaration or written testimony, or both;
- c. designating what persons are to be notified and how they are to be served; and
- d. dealing with any matter or anything else not otherwise provided for in this Section.

15.10 The Arbitrator shall issue a written decision together with reasons:

- a. confirming the decision of Council; or
- b. reversing the decision of Council and making any order necessary to implement the decision, including the requirement that the Membership Administrator adjust the Membership List accordingly.

15.11 The Arbitrator may in his or her discretion order costs for, or against, any party of the appeal, and shall make a disposition of the security for costs in accordance with his or her order.

15.12 The Arbitrator shall provide a copy of the decision to the Membership Administrator who will notify the appellant, and the applicant, if it is not the same person, of the Arbitrator's decision, in writing and with reasons, and will post Public Notice of this decision.

15.13 Where the Arbitrator renders a decision to reverse the decision of Council under Section 9, the person shall be deemed to have never ceased to be a Member.

15.14 The determination of the Arbitrator under this section is final and not subject to appeal.

16. EFFECTIVE DATE OF MEMBERSHIP OR REVOCATION OF MEMBERSHIP

16.1 If no appeal is submitted:

- a. If an appeal is not submitted, once a person's membership is approved, or revoked, in accordance with this Law, that person's membership is effective, or revoked, on the date following the expiry of the appeal period.

16.2 If an appeal is submitted:

- a. If no appeal is submitted, and Council confirms, grants or revokes membership, a person's membership is effective, or revoked, 31 days after the decision was posted in a public area (13.3).
- b. If an appeal is submitted, and the Arbitrator confirms, grants or revokes membership, a person's membership is effective, or revoked, on the day of Arbitrator's decision.

17. MEMBERSHIP ADMINISTRATOR

17.1 The Membership Administrator shall be responsible for the following:

- a. maintaining an accurate and up-to-date Membership List;
- b. receiving and processing applications for membership;
- c. issuing ST/ÁUTW_ First Nation Membership Cards;
- d. rendering decisions on applications for membership in accordance with Section 4;
- e. providing information concerning membership;
- f. maintaining all copies of this Law and any amendments thereto;
- g. generally, carrying out all other duties as may be required for the proper administration of this Law; and
- h. carrying out any additional duties that may be required by this Law.

18. MEMBERSHIP COMMITTEE

18.1 A Membership Committee of 7 Members, all of whom are at least 18 years of age and none of whom are members of Council will be appointed by Council.

18.2 Appointments to the Membership Committee will be made in a manner so as to provide for a broad representation of the Tsawout First Nation community. At least 2 SELWÁN and 1 Youth Member will be appointed to the Committee.

18.3 The Membership Committee will make recommendations to Council on membership applications under Section 5 and 6 and to make recommendations to Council on appeals from decisions made by the Membership Administrator.

18.4 The Membership Committee will meet within 1 month of this Law being enacted, and thereafter, every 3 months, on a date and time agreed to by the Membership Committee.

- 18.5 The term of appointment to the Membership Committee will be 2 years commencing on the date that this Law is enacted.
- 18.6 Quorum for a Membership Committee shall be 4 members.
- 18.7 Membership Committee decisions will be by a simple majority provided quorum is present at the meeting.
- 18.8 Council may make rules of procedure for the Membership Committee consistent with this Law and every year, at the first meeting of the year, a member of the Membership Committee will be appointed as chair of the Membership Committee.
- 18.9 The Membership Administrator will attend all Membership Committee meetings to take minutes and produce written recommendations based on the Membership Committee recommendations.
- 18.10 All recommendations made by the Membership Committee will be written and will include reasons.

19. THE MEMBERSHIP LIST

- 19.1 The Membership List will be maintained by the Membership Administrator in the administration offices of ST/ÁUTW_ First Nation and will record, among other information, the name, address, birth date, date of death (if applicable) and whether the person is a ST/ÁUTW_ Born Member or not, for every person who is a Member.
- 19.2 No disclosure or use of the information contained in the Membership List will be made for any purpose other than:
- a. for the purposes of ST/ÁUTW_ First Nation as determined by Council; or,
 - b. for the purposes of confirming the membership of a person upon request by that person or his or her legal guardian or representative.
- 19.3 On the date this Law comes into force, the names currently on the Band List maintained by ST/ÁUTW_ First Nation will constitute the names on the Membership List.
- 19.4 The Membership Administrator is responsible for keeping the Membership List current and up to date and each Member has the responsibility:
- a. to provide the Membership Administrator with a copy of a death certificate if a family member passes away; and

- b. to notify the Membership Administrator if there has been a change to their contact information.
- 19.5 The Membership Administrator shall, as soon as practicable after a person becomes a Member, add the name of that person to the Membership List.
- 19.6 The Membership Administrator shall, as soon as practicable, after a person ceases to be a Member, delete the name of that person from the Membership List.
- 19.7 The Membership List shall indicate the date on which a person becomes or ceases to be a Member.
- 19.8 The Membership List will be accessible to Members during regular office hours at the office of the Membership Administrator.

20. PUBLIC NOTICE

- 20.1 Public Notice of any decision made under this Law regarding the rejection, addition, or deletion of membership is required, and notice of the decision must be posted in writing in a place that is reasonably accessible to Members, such as the ST/ÁUTW_ First Nation Administration office, in the ST/ÁUTW_ First Nation community newsletter, or any other conspicuous places as determined by Council or the Membership Administrator.
- 20.2 Public Notice of any membership decisions made under this Law will include:
- a. the name of the person whose membership, or application for membership, is being considered;
 - b. the decision reached by the decision maker, without written reasons;
 - c. the date that the decision was made; and
 - d. the date that Public Notice of the decision was posted.
- 20.3 Public Notice of a General Membership Meeting held in order to consider membership issues is required, and notice of the meeting must be posted in writing in a place that is reasonably accessible to the persons on the Membership List, such as, but not limited to the ST/ÁUTW_ First Nation Administration office, in the ST/ÁUTW_ First Nation community newsletter, or any other conspicuous places as determined by Council or the Membership Administrator.

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- 20.4 Public Notice of a General Membership Meeting will be posted at least 30 days before the General Meeting and will include:
- a. the date, time and place of the General Membership Meeting; and
 - b. a description of the issue or issues to be discussed at the General Membership Meeting.
- 20.5 Public Notice of a Special Membership Meeting held in order to approve or disapprove proposed amendments of this Law, pursuant to Section 21, is required, and notice of the meeting must be posted in writing in a place that is reasonably accessible to the persons on the Membership List, such as the ST/ÁUTW_First Nation Administration office, in the ST/ÁUTW_First Nation community newsletter, or any other conspicuous places as determined by Council or the Membership Administrator.
- 20.6 Public Notice of a Special Membership Meeting will be posted at least 60 days before the Special Meeting and will include:
- a. the date, time and place of the Special Membership Meeting;
 - b. notification that there will be a vote by secret ballot of the Electors, present at the Special Membership Meeting, to decide whether to approve or disapprove the enactment, or proposed amendments, of this Law; and
 - c. the specific time period during which voting will take place.
- 20.7 Where Public Notice of a General Membership Meeting or Special Membership Meeting is required to be given under this Law, the Membership Administrator will:
- a. draft the Public Notice;
 - b. mail or deliver the Public Notice to all Members who reside off ST/ÁUTW_First Nation Land; and
 - c. post the Public Notice in writing in a place that is reasonably accessible to the persons on the Membership List, such as the ST/ÁUTW_First Nation Administration office, in the ST/ÁUTW_First Nation community newsletter, or any other conspicuous places as determined by Council or the Membership Administrator.

21. AMENDMENT PROCESS

21.1 Amendments to this Law may be initiated by a Band Council Resolution, or a petition signed by at least 10% of the Electors.

Consent of Electors Required to Amend

21.2 Once enacted, this Law may be amended with the consent of a majority of Electors, including Council Members, who attend a Special Membership Meeting convened by the Membership Administrator for that purpose. For clarity, a majority of all Electors does not need to attend the Special Membership Meeting in order for it to constitute quorum. Consent to amend this Law is achieved when a majority of Electors *present* and voting at the Special Membership Meeting, vote in favour of the amendments.

Meetings Required to Amend

21.3 At least 60 days before the Special Membership Meeting, the Membership Administrator will post a Public Notice of the Special Membership Meeting which will indicate the time that voting will occur at the Special Membership Meeting. The Membership Administrator will make available copies of the text of the amendment.

21.4 Prior to the Special Membership Meeting, the Membership Administrator will convene at least one General Membership Meeting at which the proposed amendments to this Law are discussed and Members are provided the opportunity to make submissions and ask questions.

22. COMING INTO FORCE

22.1 This Law, which repeals and replaces the Tsawout Membership Code, shall come into force and be enacted on the day on which the majority of the Electors, including Council Members, give their consent to this Law.

22.2 On and after the day this Law comes into force, the Membership List will be maintained by the Membership Administrator under the direction and supervision of Council, and only those persons whose names are included therein, or who are entitled to have his or her name entered therein pursuant to this Law, shall be Members of the ST/ÁUTW_ First Nation.

23. CALCULATION OF TIME

23.1 Where there is a reference to a number of days or a number of days in between two events within this Law, in calculating the number of days, the days on which the events happen are excluded and Saturdays and Sundays are included.

23.2 Where the time limited for the doing of an act under this Law expires or falls on a Saturday or Sunday or a federal or provincial holiday, the act may be done on the next day that is not a Saturday, Sunday or holiday.

23.3 If the time for doing an act under this Law is with respect to an act required in a business office, and falls or expires on a day when the office is not open during regular business hours, the time is extended to the next day that the office is open during regular business hours.

24. GENERAL

24.1 Any person, who, immediately prior to this Law coming into force, had the right to have his or her name entered on the Band List, will not be deprived of the right to be a Member by reason only of a situation that existed or an action that was taken before this Law came into force.

24.2 Words importing the singular number include the plural and vice versa and words importing gender include the masculine, feminine and neutral genders.

25. SEVERABILITY

25.1 The invalidity or unenforceability of any provision of this Law will not affect the validity or enforceability of any other provision of this Law and any such invalid or unenforceable provision will be deemed to be severable.

26. DISCRETIONARY POWER

26.1 Each discretionary power Council confers upon anyone, including the Membership Administrator, under this Law, will be exercised in good faith, without discrimination on the basis of sex or religion, in accordance with his or her best judgment, and in the best interests and welfare of the ST/ÁUTW_ First Nation.

27. CONFIDENTIALITY

27.1 All information received by the Membership Administrator, Membership Committee or Council with respect to an application for membership will be treated as confidential and will not be disclosed to a third party without the written consent of the person concerned, except where disclosure is required by law or deemed necessary for ST/ÁUTW_ First Nation to carry out any duties under this Law.

28. SAVING FROM LIABILITY

- 28.1 No claim will lie against the ST/ÁUTW_ First Nation, Council, Membership Administrator, Membership Committee, ST/ÁUTW_ employees or any Member, or their heirs, executors, administrators or successors, in relation to any omission or deletion of a person from the Membership List.

SCHEDULE A – DEFINITIONS

“Arbitrator” means an independent third party appointed under this Law to hear appeals;

“Band Council Resolution” means a resolution passed by the ST/ÁUTW_ First Nation, in accordance with the requirements of the *Indian Act*, as amended from time to time;

“Band List” means the list of names or persons who are, or were, members of the ST/ÁUTW_ First Nation pursuant to the Tsawout Membership Code 1987. For clarity, Band List means the list that existed prior to the enactment of this Law;

“Dependent” means a NENE or any person over the age of 19 but who by reason of disability, illness or other cause, is in the care or custody, whether in law or in fact, of a Member;

“Elector” means, for the purpose of voting in respect of matters under this Law, a Member who has attained the age of 18 years of age, or older, on or before the day of the vote and who is not disqualified from voting;

“General Membership Meeting” means a meeting, for Members in attendance, to obtain information on and consider specific membership issues. General Membership Meetings will be chaired by the Membership Administrator, or his or her delegate, and held after 4 p.m. or on a weekend;

“Council” means the Chief and Councillors of the ST/ÁUTW_ First Nation established pursuant to section 74 of the *Indian Act*, and holding office at the relevant time;

“Immediate Family” means spouse, including common-law, sons, daughters, step-sons, step-daughters, brothers, sisters, parents, father-in-law, mother-in-law and grandparents. This may also include other relatives permanently living in the employee’s household or with whom the employee permanently resided at one time for a period of more than one (1) year;

“Indian Status” means a person who is a Registered Indian;

“Member” means a person enrolled on the Membership List under this Law;

“Membership Administrator” means a person appointed by Council pursuant to Section 20;

“Membership List” means the list of all persons who are Members;

“NENE” means a person who is under the age of 19 and includes a SNENÁEN;

“Public Notice” means notice that is required to be posted publicly for any decision or meeting that is related to membership issues;

“**QEL;WILNEW**” for the purposes of this Law means persons of an Aboriginal nation that is indigenous to what is currently known as Canada and the United States of America and accepted by ST/ÁUTW_ First Nation as being of Aboriginal Descent by showing proof of Aboriginal Descent;

“**Registered Indian**” means a person who is registered as an Indian pursuant to the *Indian Act*;

“**SELWÁN**” means an adult person who is a member of the ST/ÁUTW_ First Nation and who has gained and continues to hold the trust, respect and confidence of the ST/ÁUTW_ First Nation and who has a good knowledge of the customs of the ST/ÁUTW_ First Nation;

“**ST/ÁUTW_ Born Member**” means a Member, or person entitled to be a Member:

- who has never been a member of another First Nation, and
- who is, or was, the parent, grandparent or great-grandparent of the applicant either biologically or as a result of any Adoption,
 - and the parent, grandparent or great-grandparent did not acquire his or her membership, or entitlement to membership, solely as a result of marrying a Member, transferring into ST/ÁUTW_ First Nation, by being Adopted by a ST/ÁUTW_ Born Member or pursuant to discretionary membership under Section 5.1(c) of the Law;

“**ST/ÁUTW_ First Nation Land**” means lands contained within the boundaries of either East Saanich Indian Reserve No. 2 and Fulford Harbour Indian Reserve No. 5. This definition of ST/ÁUTW_ lands may be expanded as per the requirements of Section 5.2 of the *Tsawout First Nation Land Code*;

“**ST/ÁUTW_ First Nation Membership Card**” means the membership card issued by ST/ÁUTW_ First Nation that confirms that a person is a member of ST/ÁUTW_ First Nation;

“**SNENÁEN**” means a **NENE** (child) who is adopted in accordance with the custom of the ST/ÁUTW_ First Nation or under laws recognized in Canada and in British Columbia. A **NENE** adopted by an Entitled Parent Member is deemed to be a descendant of that Entitled Parent Member, and a descendant of the associated Entitled Grandparent Member(s) and Entitled Great-Grand Parent Member(s). For greater certainty, a **NENE** who gains memberships by being adopted by an Entitled Member under Section 4 of the Membership Law will not be considered an Entitled Member;

“**Special Membership Meeting**” means a meeting, for Members in attendance, to vote on the approval or disapproval, or proposed amendments, of this Law, or any existing membership codes, laws or rules. Special Membership Meetings will be chaired by the Membership Administrator, or his or her delegate, and held after 4 p.m. or on a weekend;

“**ST/ÁUTW_ First Nation**” means the Tsawout First Nation;

“**Youth Member**” means a Member who is between the ages of eighteen (18) and twenty-five (25).

APPENDIX A - ADULT APPLICATION FORM

I request that I _____, if eligible, be registered on the **STÁUTW** First Nation Membership List. (full name)

Signature

____/____/____
Date

If more space is required, enter additional information on a separate sheet of paper and attach it to this form.

APPLICANT INFORMATION

Family name of applicant		Given name(s)	
Mailing address		Postal code	Telephone no.
Date of birth YYYY/MM/DD	Status no. (if applicable)		

APPLICANT'S FATHER'S INFORMATION

Family name of father		Given name(s) of father	
Father's date of birth YYYY/MM/DD	Father's band name (if applicable)	Father's Status no. (if applicable)	
Family name of father's dad		Given name(s) of father's dad	
Family name of father's mom		Given name(s) of father's mom	

APPLICANT'S MOTHER'S INFORMATION

Maiden name of mother		Given name(s) of mother	
Mother's date of birth YYYY/MM/DD	Mother's band name (if applicable)	Mother's Status no. (if applicable)	
Family name of mother's dad		Given name(s) of mother's dad	
Family name of mother's mom		Given name(s) of mother's mom	

Grounds for registration. Use this space to explain why or under what section of the Membership Law you are entitled to registration as a **STÁUTW** First Nation Member. Use additional paper if needed.

End of Application

APPENDIX B - CHILD APPLICATION FORM

We make this application as parents or guardians on behalf of the applicant who is under the age of 18 years or is mentally incompetent with the meaning of a Dependant, as defined in the **STÁUTW** First Nation Membership Law. We request that the applicant be registered in the **STÁUTW** First Nation.

Signature of parents or guardians (at least one must sign)

- 1.
- 2.

Date
Date

If more space is required, enter additional information on a separate sheet of paper and attach it to this form.

PARENT/GUARDIAN OF THE APPLICANT INFORMATION

Family name of parent(s)/guardian(s) of child		Given name(s) of parent(s)/guardian(s) of child	
Mailing address	Postal code	Telephone no.	

INFORMATION ABOUT THE CHILD

Family name of child	Given name(s) of child	Child's date of birth
		YYYY/MM/DD

FATHER OF THE CHILD'S INFORMATION

Name of father		Given name(s) of father	
Father's date of birth	Father's band name (if applicable)	Father's Status no. (if applicable)	
YYYY/MM/DD			
Family name of father's father		Given name(s) of father's father	
Family name of father's mother		Given name(s) of father's mother	

MOTHER OF THE CHILD'S INFORMATION

Maiden name of mother		Given name(s) of mother	
Mother's date of birth	Mother's band name (if applicable)	Mother's Status no. (if applicable)	
YYYY/MM/DD			
Family name of mother's father		Given name(s) of mother's father	
Family name of mother's mother		Given name(s) of mother's father	

Grounds for registration. Use this space to explain why or under what section of the Membership Law this applicant is entitled or eligible to registration as a **STÁUTW** First Nation Member. Use additional paper if needed.

End of Application

APPENDIX C - TRANSFER APPLICATION FORM

I request that if I, _____, am eligible, that I transfer into the STÁUTW First Nation and be registered on the STÁUTW First Nation Membership List.

Signature

____ / ____ / ____
Date

If more space is required, enter additional information on a separate sheet of paper and attach it to this form.

APPLICANT INFORMATION

Family name of applicant		Given name(s)	
Mailing address		Postal code	Telephone no.
Date of birth YYYY/MM/DD	Name of band currently registered in	Status no. (if applicable)	
If the band you are currently registered with governs their membership under s. 11 of the Indian Act, you will need to get a BCR from your band confirming that they have removed you from their membership list.		Is the band you are transferring out of governed by s. 11 of the Indian Act? Yes ___ No ___ Do not know ___	
Have you attached a completed current criminal record check to this application? <i>Note that applications will not be processed until all required documentation is received</i> : Yes ___ No ___			

APPLICANT'S FATHER'S INFORMATION

Family name of father		Given name(s) of father	
Father's date of birth YYYY/MM/DD	Father's band name (if applicable)	Father's Status no. (if applicable)	
Family name of father's father		Given name(s) of father's father	
Family name of father's mother		Given name(s) of father's mother	

APPLICANT'S MOTHER'S INFORMATION

Maiden name of mother		Given name(s) of mother	
Mother's date of birth YYYY/MM/DD	Mother's band name (if applicable)	Mother's Status no. (if applicable)	
Family name of mother's father		Given name(s) of mother's father	
Family name of mother's mother		Given name(s) of mother's mother	

Grounds for registration. Use this space to explain why or under what section of the Membership Law you are entitled to registration as a STÁUTW First Nation Member. Use additional paper if needed.

DEPENDENTS

Name of any dependents that you wish to also have registered in Tsawout First Nation (use additional paper if required)

Names	Status no.	Age
1.		
2.		
3.		



Indian and Northern
Affairs Canada
www.inac.gc.ca

Affaires indiennes
et du Nord Canada
www.ainc.gc.ca

**CONSENT FOR REGISTRATION
OF AN ADULT UNDER THE *INDIAN ACT***

I, _____
Surname Given Name(s)

born on _____ Gender: _____
(YYYY/MM/DD) (Male or Female)

wish to be registered as an Indian under the Indian Act.

Please select ONE box per question:

1. Please register me with:	<input type="checkbox"/> Mother's Band	<input type="checkbox"/> Father's Band
2. I can confirm:	<input type="checkbox"/> I am adopted	<input type="checkbox"/> I am NOT adopted
3. I reside:	<input type="checkbox"/> On own reserve	<input type="checkbox"/> On other reserve <input type="checkbox"/> Off reserve

X _____
Applicant's Signature

Address

Address

() _____
Telephone

Date

★Please use ink pen and print clearly★

★★Any errors with amendments must be initialed★★

★★★ A COPY OF A LONG FORM BIRTH CERTIFICATE MUST BE ATTACHED ★★★



**PARENTAL CONSENT FOR REGISTRATION
OF A MINOR UNDER THE INDIAN ACT**

We, _____ Date of birth _____
Mother's full name (YYYY/MM/DD)
 Band Name _____ Registry No. _____
 and _____ Date of birth _____
Father's full name (YYYY/MM/DD)
 Band Name _____ Registry No. _____
 wish our child: _____
Surname Given Name(s)
 born on: _____ Gender: _____
(YYYY/MM/DD) (Male or Female)

Please select ONE box per question:

1. To be registered with:	<input type="checkbox"/> Mother	<input type="checkbox"/> Father	
2. Is the child adopted:	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
3. Child resides:	<input type="checkbox"/> On own reserve	<input type="checkbox"/> On other reserve	<input type="checkbox"/> Off reserve
4. Mother resides:	<input type="checkbox"/> On own reserve	<input type="checkbox"/> On other reserve	<input type="checkbox"/> Off reserve
5. Father resides:	<input type="checkbox"/> On own reserve	<input type="checkbox"/> On other reserve	<input type="checkbox"/> Off reserve
6. The child is in custody of:	<input type="checkbox"/> Mother	<input type="checkbox"/> Father	<input type="checkbox"/> Both Parents
	<input type="checkbox"/> Legal Guardian	<input type="checkbox"/> Ministry of Children and Family Development	

Please note: Should the child be in custody of a guardian or if one parent has sole custody, please attach a copy of the court order.

X _____
Mother's signature

Address

Address
 () _____
Telephone

Date

X _____
Father's signature

Address

Address
 () _____
Telephone

Date

★Please use ink pen and print clearly★
★★Any errors with amendments must be initialled by all who signed★★
★★★ A COPY OF A LONG FORM BIRTH CERTIFICATE MUST BE ATTACHED ★★★

APPENDIX F - STATEMENT OF CONSENT FOR TRANSFER OF AN ADULT

(18 years or older)

Name: _____

Date of Request: _____

Date of Birth: _____

Current Registry No. _____

STATEMENT:

This is to confirm that I, _____ am accepted as a
(name)

member of the _____ Band/First Nation,
(Admitting Band/First Nation)

I hereby consent to the removal of my name from the _____
(Current Band/First Nation)

Band List/Registry Group, and the addition of my name to the _____
(Admitting Band/First Nation)

Band List/Registry Group.

REQUESTER'S SIGNATURE:

Signature: _____

Dated: _____

Address: _____

On (own) reserve _____
On (other) reserve _____
On crown land _____
Off Reserve _____

End of Form

APPENDIX G - STATEMENT OF CONSENT FOR TRANSFER OF A *MINOR*

(Under 18 years of age)

Minor's Name: _____
Date of Request: _____
Date of Birth: _____
Current Registry No. _____

Child resides:
On own reserve ____
On other reserve ____
Off reserve ____
On Crown land ____

STATEMENT:

This is to confirm that if my (our) child, _____ is accepted
(name)

as a member of the _____ Band/First Nation, I (we)
(Admitting Band/First Nation)

hereby consent to the removal of his/her name from the _____
(Current Band/First Nation)

Band List/Registry Group, and the addition of his/her name to the _____
(Admitting Band/First Nation)

_____ Band List/Registry Group.

PARENT'S SIGNATURE:

x

Mother's Signature/Legal Guardian's Signature

x

Father's Signature/Legal Guardian's Signature

Date

_Date

Address

Address

End of Form

FOR OFFICE USE
ONLY
Date Received:

APPENDIX H - APPEAL FORM

APPLICANT INFORMATION (person making the appeal/protest)		
Family name of applicant		Given name(s)
Mailing address		Postal code
		Telephone no.
Date of birth YYYY/MM/DD	Status no. (if applicable)	
CHILD/DEPENDENT'S INFORMATION (if appeal or protest if being made on behalf of a child or dependent)		
Child's full name		
Relationship of Applicant(s) to Child Parent / guardian / other	Child's date of birth YYYY/MM/DD	Child's Indian Status number (if applicable)
PART II – APPEAL OR PROTEST		
Please explain the decision that you are appealing or protesting and why you are appealing or protesting the decision, you may attach additional pages if required:		

I, _____ [**applicant** (name of person making the appeal)] hereby consent to the release of my personal information relating to this appeal, including, but not limited to:

- my original application,
- any documents relating to my application, including my criminal record check (if applicable)

to the Membership Committee, Chief and Council or an Arbitrator.

No other person(s) will be given this information without my further written consent and this information will only be used only as stated above.

This authorization shall remain valid until the day that the Appeals Committee meeting is held.

Applicant's Signature

Date

I furthermore release all parties stated here within from any legal liability resulting from the release of this information, with the understanding that all parties involved will exercise appropriate safeguards while using this information

Applicant's Signature

Date