



huu ay aht

ANCIENT SPIRIT, MODERN MIND

HOUSING AUTHORITY POLICY REGULATION

Provisions of the *Housing Authority Act*, HFNA 6/2023
relevant to the enactment of this Regulation: sections 8 & 9.

REGISTRY OF LAWS CERTIFICATION

I certify that the *Housing Authority Policy Regulation* was passed by Executive Council on:

May 11th, 2023
John Jack. on behalf
(Deputy) Chief Councillor, Robert Dennis

I certify that the *Housing Authority Policy Regulation* is enacted as law on:

May 11, 2023
Ta'yii Hawilth, Derek Peters
on behalf

I certify that the *Housing Authority Policy Regulation* came into force on:

October 5, 2023

Coraleah Bauer
Coraleah Bauer, Law Clerk

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PART 1 - DEFINITIONS

Definitions

1 In this regulation:

“applicant” means applicant as defined in the *Rental Housing Regulation*, HFNR 1/2022;

“candidate” means an individual nominated for the position of elected director under this regulation;

“citizen elected director” means a director elected by Huu-ay-aht citizens in an election;

“constating documents” means, in respect of the housing authority, its certificate of incorporation and its constitution and bylaws, as amended from time to time in accordance with their terms;

“elected director” means a director appointed by Executive Council under section 17 (9);

“election” means an election for an elected director position held in accordance with Division 2 of Part 2;

“Election Act” means the *Election Act*, HFNA 2011;

“eligible voter” means a person eligible to vote in an election in accordance with section 8;

“Huu-ay-aht housing” means Huu-ay-aht housing as defined in the *Rental Housing Regulation*, HFNR 1/2022;

“PIN” means a unique personal identification number issued to an eligible voter for electronic voting;

“priority list” means priority list as defined in the *Rental Housing Regulation*, HFNR 1/2022;

“Registrar” means the Registrar as defined in the *Citizenship and Treaty Enrolment Act*, HFNA 2011;

“Speaker” means the Speaker as defined in the *Government Act*, HFNA 2011;

“spending authority” means an authorization in a Huu-ay-aht Act to spend money or incur an expenditure;

“tenant” means a person who has signed a tenancy agreement;

“tenancy agreement” means tenancy agreement as defined in the *Rental Housing Regulation*, HFNR 1/2022;

“tenant elected director” means a director elected by tenants in an election;

“terms of reference” means terms of reference prescribed under section 19;

“unit” means unit as defined in the *Rental Housing Regulation*, HFNR 1/2022;

“**voters list**” means a list of persons eligible to vote in an election; and

“**voting day**” means the first day for voting in an election.

PART 2 - BOARD

Division 1 - Composition

Composition of board

- 2** (1) Executive Council must exercise the rights of Huu-ay-aht as the sole member of the housing authority so that the board is comprised of
- (a) a tenant elected director,
 - (b) a citizen elected director, and
 - (c) three other individuals who bring particular expertise or other considerations to the board.
- (2) When making an appointment under subsection (1) (c), Executive Council use best efforts to maintain a balance of appropriate qualifications and experience on the board.

Directors must be qualified

- 3** (1) A person must not be a director if the person is not qualified to be a director under section 4.
- (2) A director who is not, or who ceases to be, qualified to be a director under section 4 must promptly resign.

Individuals qualified to be directors

- 4** (1) A person is qualified to be a director only if the person is an individual who is at least 18 years of age.
- (2) Subject to subsection (1), section 13 (3) and section 13 (4), a person is qualified to be
- (a) a tenant elected director only if the person is a tenant, and
 - (b) a citizen elected director only if the person is a Huu-ay-aht citizen.
- (3) Despite subsections (1) and (2), an individual is not qualified to be a director if the individual is
- (a) not qualified to be a director of a society under the *Societies Act* (British Columbia);
 - (b) in debt to the Huu-ay-aht, the housing authority or any other entity prescribed for the purposes of section 5 (2) (b) of the Election Act for more than the amount prescribed for the purposes of that section;
 - (c) in default of a contractual obligation prescribed for the purposes of section 5 (2) (c) of the Election Act to government or any other entity prescribed for the purposes of that section;

- (d) convicted of a category of criminal offence prescribed for the purposes of section 5 (2) (d) of the Election Act;
- (e) convicted of a category of criminal offence prescribed for the purposes of section 5 (2) (e) of the Election Act for which 5 years have not elapsed from the date of conviction;
- (f) a member of the Huu-ay-aht Tribunal;
- (g) a housing authority employee;
- (h) in a contract with the housing authority, other than a tenancy agreement, with a value of more than \$25 000 in the current fiscal year; or
- (i) the Speaker.

Term

- 5** (1) Executive Council must exercise the rights of Huu-ay-aht as the sole member of the housing authority so that the term of office for
- (a) an elected director expires when the housing manger declares the result of the next election after the director's appointment, and
 - (b) any other director is four years,
- or until the director resigns or is removed in accordance with this regulation and the constating documents.
- (2) For greater certainty, a director may be appointed to consecutive terms of office.

Removal of a director

- 6** Executive Council may only remove an elected director in one or more of the following circumstances:
- (a) the director is persistently absent from meetings of the board;
 - (b) the director engages in conduct which amounts to impropriety or malfeasance;
 - (c) the director exerts undue influence over other directors;
 - (d) the director is grossly incompetent;
 - (e) the board or director is not acting in accordance with the law or the mandate of the housing authority;
 - (f) the board or director is not acting in the best interests of the housing authority.

Casual vacancy

- 7** (1) Subject to subsection (2), if a director ceases to hold office during their term, Executive Council may appoint an individual to hold that office until the end of the term of the director they replaced.
- (2) Executive Council must consult with the Ha'wiih Council before making an appointment under subsection (1) to the office of an elected director.

- (3) If a director ceases to hold office during their term and the Executive Council has not within 30 days of the vacancy appointed an individual to hold that office in accordance with subsection (1), the board may appoint an individual as a replacement director until the Executive Council appoints an individual to hold that office.

Division 2 - Elections

Who may vote

- 8 The following persons are eligible to vote in an election for an elected director:
 - (a) for the tenant elected director, a tenant, and
 - (b) for the citizen elected director, a Huu-ay-aht citizen who is eligible to vote in an election under the Election Act.

When elections are held

- 9 An election must be held on the third Wednesday of September 2023 and every four years thereafter.

Voters lists

- 10
 - (1) On the request of the housing manager, the Registrar must provide the housing manager with a list of Huu-ay-aht citizens who will be eligible on voting day to vote in an election for the citizen elected director.
 - (2) The housing manager must maintain the confidentiality of the list provided by the Registrar.
 - (3) The housing manager must create a list of tenants who will be eligible on voting day to vote in an election for the tenant elected director.
 - (4) The lists under subsection (1) and (3) must include, in alphabetical order, each individual's
 - (a) full name,
 - (b) date of birth, and
 - (c) contact information.

Nominations

- 11
 - (1) At least 45 days before voting day, the housing manager must give public notice of nominations for elected directors.
 - (2) Nominations must be made in writing in the form specified by the housing manager and include all of the following:
 - (a) the elected director position or positions for which the individual is nominated,
 - (b) a statement signed by the nominated individual consenting to each nomination,
 - (c) for each elected director position for which the individual is nominated:

- (i) the full name and contact information of a person eligible to vote in the election for that position who is making the nomination,
 - (ii) a statement signed by each of the individuals under paragraph (i) that
 - (A) to the best of their knowledge the nominated individual is qualified to hold that elected director position under section 4, and
 - (B) they are eligible to vote in the election for that elected director position;
 - (d) a solemn declaration of the nominated individual declaring that
 - (i) they are qualified to hold the elected director position or positions for which they have been nominated, and
 - (i) to the best of their knowledge, the information provided in the nomination form is true.
- (3) Nominations must be received by the housing manager by noon on 30th day before voting day.

Double nomination

- 12** A person may be nominated for one or both elected director positions in the same election if the person meets the qualification requirements for both positions.

Results of nominations

- 13**
- (1) The housing manager must give public notice of the candidates for each elected director position at least five days before voting day.
 - (2) If no one is nominated for one or both of the elected director positions, the housing manager
 - (i) must extend the nomination period by up to 28 days and postpone the voting day accordingly, and
 - (ii) must give public notice of the extended nomination period.
 - (3) If no one is nominated for the tenant elected director position, section 4 (2) (a) will not apply and any Huu-ay-aht citizen may be nominated for the position during the extended nomination period under subsection (2).
 - (4) If no one is nominated for an elected director position at the end of the extended nomination period under subsection (2), notwithstanding any other provision in this regulation Executive Council may, in consultation with the Ha'wiih Council, appoint to that position any person who is qualified to be a director under section 4 (1) and section 4 (3).
 - (5) If there is only one candidate for an elected director position, the housing manager must declare the election for that position to be by acclamation.
 - (6) If there is more than one candidate for an elected director position, the housing manager must give public notice of the election setting out the following:
 - (a) the elected director offices to be filled in the election,

- (b) the candidates for each elected director office,
- (c) the voting period, voting hours and method of voting,
- (d) the identification requirements for voting, and
- (e) any other information the housing manager considers appropriate.

Information package

- 14** No later than 21 days before voting day, the housing manager must deliver to every eligible voter an information package regarding the election, including
- (a) a PIN and instructions on how to vote, and
 - (b) any other information that the housing manager considers necessary or advisable for the better administration of the election.

Voting

- 15**
- (1) Voting will be by electronic voting, including telephone voting.
 - (2) Voting must be by secret ballot.
 - (3) The housing manager is responsible for
 - (a) establishing the technology, including software, for electronic voting, and
 - (b) administering, maintaining, monitoring and performing audits of the system.
 - (4) When an eligible voter wishes to vote using electronic voting, the system must
 - (a) request the PIN issued to the eligible voter and at least one other piece of information unique to the eligible voter so that the eligible voter can be reliably identified as the individual that they claim to be,
 - (b) verify on the voters list whether or not the eligible voter has already voted,
 - (c) if the individual is an eligible voter and has not already voted in that election, issue an electronic ballot to the eligible voter in a manner that ensures the secrecy of the ballot and protects the secrecy of the eligible voter's vote,
 - (d) provide to the eligible voter, in the form approved by the housing manager, instructions for marking the electronic ballot,
 - (e) permit the eligible voter to mark the electronic ballot and record it in the electronic ballot box, and
 - (f) indicate on the voters list that the eligible voter has voted as soon as the electronic ballot is recorded in the electronic ballot box.
 - (5) The system must be designed so that
 - (a) subject to subsection (b), each vote cast on an electronic ballot is accepted and counted as a valid vote,
 - (b) a vote cast on an electronic ballot is rejected as invalid if it is recorded in the electronic ballot box without any marks,

- (c) eligible voters are prompted if they are about to record an electronic ballot in the electronic ballot box without any marks for one or more positions to be filled in the election and given the option to go back and mark their choices for those positions before recording the electronic ballot in the electronic ballot box, and
 - (d) eligible voters can only cast one vote for each position in respect of which they are eligible to vote.
- (6) Despite subsection (2), where an eligible voter is unable to vote by electronic voting because of a disability, the eligible voter may enlist the assistance of another individual to enter the eligible voter's PIN, mark the eligible voter's electronic ballot and record it in the electronic ballot box.

Replacement PIN

- 16** (1) If an eligible voter did not receive a PIN, has lost his or her PIN or the PIN does not work, the housing manager may direct that a new PIN be issued to the eligible voter to allow that eligible voter to vote only if
- (a) the housing manager is satisfied that the individual is an eligible voter who has not already voted in that election, and
 - (b) if applicable, the original PIN assigned to that eligible voter has been cancelled such that it cannot be used for electronic voting.
- (2) The housing manager must maintain a record of the original and any replacement PIN assigned to each eligible voter until the end of the retention period under section 17 (8).

After voting closes

- 17** (1) As soon as reasonably possible after the close of voting, the housing manager must cause the system to generate a report that contains, for each elected director position
- (a) a count of the total number of eligible voters who voted by electronic voting,
 - (b) for each candidate in the election, a separate count of the total number of votes accepted in accordance with subsection (5),
 - (c) for each candidate in the election, a separate count of the total number of votes rejected in accordance with subsection (5), and
 - (d) any other information the housing manager may reasonably require.
- (2) Immediately after receiving the report under subsection (1) the housing manager must declare for each elected director position
- (a) the number of votes received by each candidate,
 - (b) the candidate who received the highest number of valid votes as elected to the position.
- (3) If a candidate cannot be declared elected under subsection (2) because there is a tie vote for two or more candidates, the housing manager must
- (a) conduct a recount of all of the votes for that elected director position as soon as possible,

- (b) after completing a recount, declare the results of the recount and the election unless a tie vote is declared on the recount,
 - (c) if a tie vote is declared on the recount, hold a run-off vote within 30 days.
- (4) As much as is reasonably possible, the housing manager must conduct the run-off vote in the same manner as an election under this division.
- (5) If after a run-off vote, the votes for two or more candidates remain tied for an elected director position, the housing manager must direct each of those candidates to complete a ballot and deposit it in a ballot box in the presence of two other persons.
- (6) After the candidates' ballots under subsection (5) are deposited, the housing manager must withdraw one ballot from the ballot box and the candidate marked on that ballot is elected to the elected director position that is the subject of the run-off vote.
- (7) After an election is finally decided, the housing manager must declare for each elected director position
 - (a) the number of votes received by each candidate,
 - (b) the candidate who received the highest number of valid votes as elected to the position.
- (8) The housing manager must retain securely all information related to the conduct of an election for at least 30 days after the election.
- (9) At its first regular meeting after an election is finally decided, Executive Council must appoint as directors the two candidates declared to have been elected under subsection (7)(b).

Division 3 - Administration

Meetings of the board

- 18** The board must meet at regular intervals and at least once every three months.

Terms of reference

- 19** Executive Council must establish terms of reference for the board.

Expenses and remuneration

- 20** A director may be reimbursed for expenses and paid for the performance of their duties as a director in accordance with the terms of reference.

Procedure

- 21** Subject to this regulation, the terms of reference and the constating documents, the housing authority may establish its own rules of order and procedure.

Chair

- 22** At the first meeting of the board following an election or the anniversary of an election, the board must select a chair of the board from among the directors.

Duties of the board

- 23** The board must oversee the operations of the housing authority and must perform the duties and may exercise the powers of the housing authority set out in Huu-ay-aht law and the constating documents.

Division 4 - Non-citizen representative**Matters affecting non-citizen stakeholders**

- 24**
- (1) Subject to subsection (2), the board must appoint a non-citizen stakeholder to hold the position of non-citizen representative to represent all non-citizen stakeholders who have entered into a tenancy agreement.
 - (2) The board is not obligated to appoint a non-citizen representative if there are no non-citizen stakeholders willing to hold that position.
 - (3) The board must consult with non-citizen stakeholders regarding the appointment under subsection (1).
 - (4) If the board determines that a proposed decision of the board would directly and significantly affect all non-citizen stakeholders, the board must convene a special meeting regarding that decision and provide notice of the meeting to the non-citizen representative.
 - (5) The non-citizen representative and each director may participate in discussion and vote at the special meeting convened under subsection (4).
 - (6) Following the special meeting convened under subsection (4) the directors must vote to ensure that decisions of the board are consistent with the vote of the majority at the special meeting.
 - (7) If the board determines that a proposed decision of the board would directly and significantly affect some but not all non-citizen stakeholders, the housing authority will consult with the potentially affected non-citizen stakeholders by providing to each non-citizen stakeholder
 - (a) notice of the matter to be decided, in sufficient detail to permit the non-citizen stakeholder to prepare their views on the matter,
 - (b) if requested by the non-citizen stakeholder, sufficient information in respect of the matter to be decided to permit the non-citizen stakeholder to prepare their views on the matter,
 - (c) a reasonable period of time to permit the non-citizen stakeholder to prepare their views on the matter,
 - (d) an opportunity for the non-citizen stakeholder to present their views on the matter, and

- (e) a full and fair consideration of any views on the matter so presented by the non-citizen stakeholder.

Division 5 - Role of Executive Council

Major decisions requiring Executive Council approval

- 25** Despite anything to the contrary in the constating documents, the housing authority will not take any action in respect, or within the scope, of any of the following decisions without the prior approval of Executive Council:
- (a) making any changes to the constating documents;
 - (b) renaming the housing authority;
 - (c) entering into a partnership, joint venture or other similar relationship with a third party;
 - (d) selling, transferring or otherwise disposing of all or any substantial part of the undertaking, property or assets of the housing authority;
 - (e) waiving any right of substantial value;
 - (f) awarding, entering into, amending, terminating or waiving compliance with the terms of any contracts which
 - (i) are not at a fixed or predetermined price, or
 - (ii) commit the housing authority to amounts exceeding \$100 000 for any one contract;
 - (g) acquiring real property for any amount;
 - (h) acquiring personal property for an amount exceeding \$10 000 for any one item;
 - (i) settling any claim of or against the housing authority where the amount claimed is greater than \$50 000;
 - (j) entering into any material contract or commitment or engaging in any material transaction not in the ordinary and usual course of fulfilling its mandate;
 - (k) consolidating, amalgamating or merging the housing authority with or into any other entity;
 - (l) commencing any proceedings to wind up, dissolve or liquidate the housing authority;
 - (m) making any assignment for the benefit of the creditors of the housing authority or any application for a receiving order against the housing authority; or
 - (n) continuing the housing authority under the laws of any other jurisdiction.

Duties of Executive Council

- 26** Executive Council must perform the following duties and may exercise the following powers relating to the housing authority:
- (a) appointing the directors;
 - (b) where necessary and in accordance with section 6, removing a director;

- (c) approving major decisions of the housing authority under section 25; and
- (d) performing any other duties or exercising any other powers on behalf of the Huu-ay-aht as the sole member of the housing authority set out in this any applicable law or the constating documents.

Division 6 - Information sharing and accountability

Information sharing and accountability

- 27**
- (1) For greater certainty, the board must provide to the Executive Director such information about the housing authority's activities, operations and financial circumstances as government requires to comply with Part 3 of the *Financial Administration Act*, HFNA 2011.
 - (2) At the request of Executive Council, the board must report to Executive Council, the Ha'wiih Council or the People's Assembly on the activities, operations and financial circumstances of the housing authority.

PART 3 - HOUSING MANAGER

Housing manager

- 28**
- (1) The board must appoint an individual to hold the position of housing manager.
 - (2) The housing manager reports to the board.
 - (3) The housing manager, subject to direction from the board
 - (a) must manage the operations of the housing authority and must perform the duties and may exercise the powers of the housing authority set out in Huu-ay-aht law and the constating documents, and
 - (b) must perform any additional duties and may exercise any additional powers assigned to the housing manager
 - (i) under this or any other Huu-ay-aht law, or
 - (ii) by the board.

Delegation authority

- 29**
- (1) Upon the approval of the chair of the board, the housing manager may delegate, in writing, the performance of any of the housing manager's duties or the exercise of any of housing manager's powers to
 - (i) an employee of the housing authority, or
 - (ii) an independent contractor of the housing authority.
 - (2) Despite the delegation of any duties or powers under subsection (1), the housing manager remains responsible for ensuring that the duties are performed properly and the powers are exercised appropriately.

PART 4 - FINANCIAL ADMINISTRATION

Fiscal year

- 30** The fiscal year of the housing authority is the period from April 1 in one year to March 31 in the next year.

Accounting policy

- 31** The housing authority must comply with any applicable accounting policy approved by Executive Council under section 30 of the *Financial Administration Act*, HFNA 2011.

Accounts

- 32**
- (1) No account may be established for the deposit of money received by the housing authority except in accordance with this section.
 - (2) The board must establish the following accounts in the name of the housing authority:
 - (a) a general account for money from any source other than money that must be deposited into any other housing authority account;
 - (b) a reserve fund account; and
 - (c) a special purpose account if approved by the board under subsection (3).
 - (3) The board may establish any other accounts in the name of the housing authority for any special purpose as may be necessary or desirable to manage the finances of the housing authority.
 - (4) All housing authority accounts must be established in a financial institution.
 - (5) Any income earned on money held in a housing authority account becomes a part of that account.
 - (6) Any income earned on an investment made from a housing authority account must be deposited into that account.

Revenues

- 33**
- (1) The housing manager must ensure the safekeeping of all money received by the housing authority.
 - (2) The housing manager must deposit all money received by the housing authority into the appropriate housing authority account as soon as practicable after receipt of the money.
 - (3) Money received by the housing authority that has been paid or collected in error or for a purpose that has not been fulfilled may be refunded in full or in part as the board considers advisable.
 - (4) All or a portion of any debt or obligation owed to the housing authority may be written off upon the approval of the board.

- (5) All or a portion of any debt or obligation owed to the housing authority may be forgiven upon the approval of the board.

General limitation on expenditures

- 34 Money must not be paid out of any housing authority account unless the expenditure is authorized under the Budget Act for the current fiscal year.

Spending approval

- 35 (1) The housing authority must not make an expenditure unless an authorized person
- (a) confirms that
 - (i) the goods or services purchased are consistent with the purpose of the spending authority, and
 - (ii) the goods or services have been received, and
 - (b) approves the spending.
- (2) The authorized person for the purposes of subsection (1) is
- (a) if the amount to be paid is less than \$5 000,
 - (i) any one director, or
 - (ii) the housing manager,
 - (b) if the amount to be paid exceeds \$5 000 but is less than \$25 000,
 - (i) any two directors, or
 - (ii) any one director and the housing manager, or
 - (c) if the amount to be paid exceeds \$25 000, any two directors.

Form of payment and authorized signatories

- 36 (1) Payments from a housing authority account may be made by electronic transfer, cheque, draft or other similar instrument.
- (2) Any cheque, draft, and other paper payment instruments drawn on a housing authority account must be,
- (a) if the amount to be paid is less than \$5 000, signed by
 - (i) any one director, or
 - (ii) the housing manager,
 - (b) if the amount to be paid exceeds \$5 000 but is less than \$25 000, signed by
 - (i) any two directors, or
 - (ii) any one director and the housing manager, or
 - (c) if the amount to be paid exceeds \$25 000, signed by any two directors.
- (3) Before approving a payment, a person under subsection (2) must be satisfied that the spending has been approved under section 35.

- (4) No person may both approve spending under section 35 and approve payment in respect of the same spending authority.

Limitation on the use of borrowed money

- 37 (1) Subject to subsections (2) and (3), money borrowed by the housing authority must not be used for any purpose other than the purpose for which it was borrowed.
- (2) Money borrowed by the housing authority that is not immediately required for expenditures may be invested in accordance with the *Financial Administration Act*, HFNA 2011.
- (3) Money borrowed by the housing authority that is no longer required for the purpose for which it was borrowed must be used to repay the debt from the borrowing.

Insurance

- 38 The housing authority must ensure that all Huu-ay-aht housing is insured, including housing under construction from onset of construction, against foreseeable risks and perils, including fire, wind, storm, tsunami and earthquake, for the full replacement value.

PART 5 - LAND ACQUISITION

Acquisition of real property

- 39 The housing authority may acquire real property for the purpose of developing Huu-ay-aht housing if
- (a) it has reasonable grounds to believe that the parcel is suitable for the development,
 - (b) the acquisition is authorized under the Budget Act for that fiscal year, and
 - (c) the acquisition has been authorized by Executive Council in accordance with section 25.

PART 6 - OFFENCES

Offences

- 40 (1) A person must not make any statement on a nomination form that the person knows to be false.
- (2) A person must not contravene any provision of this regulation with the intention of affecting the result or validity of an election.
- (3) A person who contravenes subsection (1) or subsection (2) commits an offence subject to Division 4 of Part 3 of the *Offence and Law Enforcement Act*, HFNA 2011.

PART 7 - GENERAL

Designation of housing authority

- 41 The ma-as ta-kimlth Housing Society, a society incorporated under the *Societies Act* (British Columbia), is designated as the housing authority.

Transitional provisions

- 42 (1) Despite section 2, Executive Council may exercise the rights of Huu-ay-aht as the sole member of the housing authority so that the board is comprised of only three individuals until the first election after this regulation comes into force.
- (2) Despite section 5, the term of office of the directors who hold office on the date this regulation comes into force expires on the second Wednesday in September 2025.

Consequential amendments

- 43 The *Rental Housing Regulation*, HFNR 1/2022, is amended in section 1 by replacing the definition of “tenancy agreement” with the following:

“**tenancy agreement**” means the agreement referred to in section 28 between the tenant and the Huu-ay-aht or the Huu-ay-aht housing authority;

Commencement

- 44 This regulation comes into force on a date set by resolution of Executive Council.

Consolidation

- 45 The Law Clerk is directed to consolidate the *Rental Housing Regulation*, HFNR 1/2022.