

POLICY: ROLES & RESPONSIBILITY MANUAL	No. of Pages: 34	Policy No.:
Scope: Structure, process of governance & community.	Effective Date: September 6, 2011	
	Revision Date: December 8, 2014	
	Amended Approval Date: February 10, 2015	

I. SHORT TITLE

This manual will be known as the *Simpcw Roles and Responsibilities Manual*.

II. APPLICATION

This manual will apply to Council, Administration and membership.

III. INTERPRETATION

For the purpose of this manual, Simpcw will be using the meanings listed below to define the following terms:

“Conflict of Interest” is when a person exercises an official power or performs an official duty or function in the execution of his or her office and at the same time knows that in the performance of the duty or function or in the exercise of the power there is the opportunity to further his or her private interest.

“Fiduciary Duty” is the legal obligation of one party to act in the best interest of another.

“Good Financial Standing” means an individual who has no outstanding debt to Simpcw First Nation and is not in arrears on any dues or fees owed to Simpcw First Nation.

“Immediate Family Member” is a:

- Spouse (including common-law),
- Father and mother (natural, step, adopted or common-law),
- Father-in-law or mother-in-law,
- Child, stepchild, adopted or ward,
- Brother or sister,
- Brother-in-law or sister-in-law,
- Grandmother or grandfather,
- Grandchildren,
- Aunt or uncle.

“Simpcw Council” is the Chief and Council elected by the registered members of the Simpcw First Nation.

“Simpcwemc” is the people of Simpcw.

IV. INTRODUCTION

Governance is a structure and process by which the elected representatives of the Simpcw Council, known as Chief and Council; lead, direct and manage the affairs of the community, the political, business and administration affairs of Simpcw. The key words within the governance definition are the words “structure” and “process.”

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The legal and administrative environment that Simpcw Council works within creates a *structure* that include by-laws, codes, resolutions, policies and procedures approved by Simpcw Council, other laws of general application to include human rights, employment/labour standards and community standards.

The term “*process*” refers to how Council and the Administrator make and implement decisions, and how they are held accountable.

V. SIMPCW COUNCIL AND MEMBERSHIP RELATIONSHIP

1. The nature of the relationship between the Simpcw Council and membership is important. Since the assets of the Simpcw, including resources, belong to the registered members “collectively,” and are to be considered “owners” or “shareholders.”
2. Given the complexity of managing the business, assets, resources, and other formal affairs of Simpcw, and the legal and defined mandate(s), powers and responsibilities of Simpcw Council, membership have delegated or entrusted the responsibility of management to their representative body – Chief and Council. When registered members elect their representatives to Chief and Council they delegate the power and authority to Simpcw Council.
3. Simpcw Council’s relationship to its community will be one of trustee, with a trust-like responsibility to act in the best interest of all registered members.
4. The reciprocal relationship between the representative body – Chief and Council, and membership shall be one of listening, openness, respect, fairness, disclosure, transparency, communication, redress, team and partnering.

VI. FIDUCIARY AND LEGAL RESPONSIBILITY OF COUNCIL

1. Simpcw assets are held in trust for the benefit of community members as a whole. This gives rise to Simpcw Council having a “Fiduciary” responsibility (founded on confidence and trust – a trustee relationship).
2. To act honestly and in good faith a view to the best interests of the membership in exercising their powers and discharging their duties. Simpcw Council are also required to avoid putting themselves in a position where their duty to act in the best interest of the organization conflicts with their self-interest.
3. Accountable and liable when they do not meet certain standards of performance.
4. Are presumed to have acted properly in making a business decision if they acted on an informed basis and good faith in the honest belief that the action taken was in the best interest of Simpcw and was without fraud or self-dealing.

The courts have established performance standards for all Boards, including Councils:

“There can be no question that a duly elected/appointed Chief(s) as well as the members of Council are fiduciaries (trustees) as far as members of a Band are concerned. The Chief(s) and Council undertake to act in the best interests of the members of the Band. The members of the Band are vulnerable to abuse by the fiduciary of his/her position. The fiduciary undertakes not to allow his/her interests to conflict with the duty he or she has undertaken.”

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5. Simpcw Council are legally bound to make decisions on behalf of all membership for the best interests of members.

VII. CHIEF AND COUNCILLORS DUTIES OF CARE, DILIGENCE AND SKILL

1. Simpcw Council must exercise the care, diligence and skill that a reasonably prudent person would exercise in similar circumstances. Simpcw Council cannot contract out, or delegate away, their responsibilities.
2. Conflicts of interest pose special challenge for Simpcw Council. Many First Nation communities are small. Often, a decision of Council will potentially affect a family member or friend. However, members of Council have a fiduciary obligation to all community members. Members have a right to expect members of Council to behave properly when there is potential of a conflict of interest.
3. Simpcw Council have a legal obligation to avoid conflicts of interest and ignoring this obligation places the member of Council at legal risk. Behaving appropriately means that a member of Council who finds him/herself in a real or perceived conflict must declare it, and must remove him/herself from the room and the discussion.
4. Should a member of Council not declare a conflict of interest, other members of Council recognizing the conflict must bring the conflict to Council's attention.
5. Council may establish a different standard, for example, permitting the member of Council to participate in the discussion and decision following full disclosure of personal conflict/interest. However, if the member of Council's relative receives a benefit, the member of Council is in conflict. The actions of the Council member could invalidate Council's decision, and result in personal liability.
6. If a Council member is removed from office due to a breach of ethics, code of conduct or conflict of interest infraction, he/she will not be eligible to run for office in the next election.

VIII. MANDATE OF THE SIMPCW COUNCIL:

1. Simpcw Council is the elected political body (government) and comprised of political representatives of the membership/community. Their role is to perform both political roles and related responsibilities in the governance of Simpcw and Simpcw affairs, functional roles and related responsibilities in the management of Council and Simpcw affairs.
2. The mandate of the Simpcw Council is enacted from:
 - a. The *Indian Act*:
 - i. Section 2(1) "Council"; and
 - ii. Section 81 "Powers".
 - b. Simpcw Custom Election Code.
3. Provide a venue for community membership input and act as an advocate for membership based upon Simpcw values and vision.

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IX. GENERAL ROLE OF COUNCIL

1. Leadership: Planning, decisions, projects, negotiations.
2. Fiduciary: Act honestly, in good faith, with due diligence, confidentiality, and without conflict of interest in overseeing the assets and resources of the Simpcw.
3. Guardianship: Values, vision, assets, enable continuity, aboriginal rights, resources.
4. Ensure internal and external, representation of the interest and view of the Simpcw membership.
5. Advocacy for community needs, views and concerns to external organizations, interest groups and governments.
6. Strategic Planning – Setting long term goals, strategies and targets based on a common vision.
7. Supervising the Administrator: monitoring and appraising performance and separating the politics of Council and Simpcw membership from the business of Simpcw management.
8. To attend all Council meetings as agreed upon in Oath of Office.
9. Accountability to Membership and funding agencies based upon principles of transparency, disclosure, terms of reference, structure, reporting.
10. Ensuring sound financial management practices through the proper selection of the Auditor.
11. Evaluating Council performance.
12. Adhering to Code of Ethics.
13. Leading and Participating in Meetings: General, Council and In-camera.
14. Takes responsibility for Portfolios for maximum effectiveness of Simpcw operation.
15. Qualities of Chief and Councillor:
 - a. Be open minded.
 - b. Be a good role model, professional and responsible.
 - c. Be a good listener.
 - d. Know and remember your role.
 - e. Don't let personal problems affect your judgement.
 - f. Be a good spokesperson.
 - g. Always keep a straight head – remember who you are – who you represent.
 - h. Be visible.
 - i. Be accountable.
 - j. Open-door attitude.
 - k. Not to fear conflict or criticism.
 - l. Be informed.
 - m. Get facts straight.
 - n. Make informed decisions.
 - o. Ask questions.
 - p. Follow-up.
 - q. Remember who elected you.
 - r. Represent Simpcw First Nation and not personal or individual interests.
 - s. Be supportive.
 - t. Be a leader.
 - u. Always walk your talk.
 - v. Meet the people – visit.
 - w. Uphold confidentiality.
 - x. Treat everyone fairly.
 - y. Work together.
 - z. Promote and maintain integrity and dignity.

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X. RESPONSIBILITIES AND REPORTING RELATIONSHIP OF THE CHIEF

1. ROLE OF THE CHIEF

The Chief, as the primary elect representative of the Membership and the senior member of Simpcw Council, has the responsibility to:

- a. Act as the senior political and community representative in all relations and negotiations with all official groups or organizations having dealings with Simpcw,
- b. Oversee the affairs and meetings of Simpcw Council,
- c. Provide leadership and structure to Simpcw Council, and
- d. To ensure that all business and other affairs of the Simpcw are presented and managed in the best interest of the Membership.

2. SPECIFIC RESPONSIBILITIES OF THE CHIEF

- a. Ensures the orientation of new members of Council and the training of Councillors.
- b. Coordinates and Chairs all meetings of Council.
- c. Ensures the coordination of the development of the agenda for meetings of Council and General Simpcw Meetings.
- d. Ensures Council completes its business agenda and that the decisions of Council are appropriate, achievable and accomplished.
- e. Non-voting member of Council except in case of tie vote or to make up the required quorum.
- f. Provides leadership, support and counsel to individual members of Council, and ensure that individual members of Council are fulfilling their responsibilities and obligations.
- g. Provides direction and guidance to Portfolio holders, and ensures portfolio holders carry out their responsibilities.
- h. Ensures all required information is available to members of Council in order for Council to review and discuss, and provides direction for decision-making.
- i. Ensure that all meetings involving Council are conducted in a fair, just, orderly and professional manner.
- j. Ensures the development of Governance Policy, and ensures all members of Council abide by approved policy.
- k. Provides reports and consults with members of Council on emerging regional, provincial and national political issues.
- l. Makes decisions on behalf of Council in cases of an administrative emergency, and reports back to Council on such decisions.
- m. Signing authority on behalf of Council, as defined by Council.
- n. Monitors the Code of Ethics Policy of Council, to include guarding against the possibility of a conflict of interest.
- o. Demonstrates and encourages teamwork within Council.

3. MEMBERSHIP/COMMUNITY

- a. Advocates for, and protects the rights and interests of the membership.
- b. Meets with Councillors, Boards and Committees, community groups and/or members to review progress on activities of concern to the community.
- c. Be willing to mediate in disputes in the community when called upon.

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- d. Represents in a leadership role, and acts in the capacity of the official spokesman at ceremonial and other special functions and events within and outside the Community or delegates this responsibility.
- e. Attends community functions and events as required or delegates to Council member.
- f. Acts as a positive role model in the Community.
- g. Communicates with members to gain an understanding of their needs and concerns.
- h. Along with Councillors, communicates recommendations or resolutions of Council to the members.
- i. Promotes information meetings and a positive working relationship with the members living outside of the community.
- j. Demonstrates and encourages a healthy living style within the membership.

4. GOVERNMENT/POLITICAL

- a. Acts as host to special visitors to the Community or delegates this responsibility when not available.
- b. Acts as the political representative to outside Governments, Organizations and Interest Groups or delegates this responsibility when not available.
- c. Provides leadership and advice to Council and Administration in the application of Government Regulations and Laws.
- d. Assists at the political level in the securing of operating and capital funds for Simpcw as delegated by Council.
- e. Liaises with all levels of Government to understand the operation of Government, Government Legislation and Policy and to communicate the needs and interests of Simpcw.
- f. Provides support to other First Nations and organizations on Aboriginal Rights and Titles Issues.
- g. Provides regular and special reports to the membership on the political affairs of Simpcw.
- h. Represents and protects the rights of Simpcw in any external confrontation or dispute.

5. GENERAL/ADMINISTRATION

- a. Signs official papers, correspondence, cheques and all items of a legal nature.
- b. Provides direction in the development and implementation of policy and program development.
- c. Provides leadership and direction to Council and Administration in the development of the Strategic Plan.
- d. Consults with, and provides political and general information and advice to the Administrator in the management and general administration of Simpcw affairs, programs and services.
- e. Attends meetings of Boards and Committees as an ex-officio member upon request of the Committee Chairperson, and provides leadership to Boards and Committees.
- f. When informed of a community emergency, initiates an Emergency Response Procedure and/or Declares a State of Emergency.
- g. Participates on Regional and Provincial boards and committees as approved by Council.
- h. Advocates for and encourage members' employment, self-employment and entrepreneurship.
- i. Ensures that Simpcw liability is protected and minimized.

6. REPORTING RELATIONSHIP OF THE POSITION OF CHIEF

- a. The position of Chief reports to the Simpcw Council and to the membership.

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XI. RESPONSIBILITIES AND REPORTING RELATIONSHIP OF THE COUNCILLORS

1. POSITION SUMMARY

The Simpcw Councillor is an elected representative of the membership and is responsible for collectively governing and managing the community, political, business and administration affairs of Simpcw with a goal to improve the quality of life of the individual and the collective membership.0

2. SPECIFIC RESPONSIBILITIES OF THE COUNCILLOR

a. Government:

- i. Act as the government for Simpcw.
- ii. Provides fair, effective and consistent leadership in the management of the community, political financial and operating affairs of Simpcw.
- iii. Attends and participates in regular meetings of Simpcw Council, special and general Simpcw meetings.
- iv. Attends and participates in Tribal Council or other political meetings as assigned, or appropriate.
- v. Appoints Chair of Simpcw Council meetings in the absence of the Chief.
- vi. Supports the Chief, in his or her role, as the political representative of Simpcw to Governments, Organizations and Interested Groups.
- vii. Acts on behalf of the Chief as delegated or appointed by Simpcw Council.
- viii. Maintains a current knowledge of the authority, jurisdiction and policy of Simpcw Council.
- ix. Demonstrates and encourages teamwork within Simpcw Council and Administration.
- x. Oversee and mentors the role and responsibility of the Chief, and reviews and approves the appropriate remuneration for the position of Chief.
- xi. Assists in the orientation of new members of Simpcw Council.
- xii. Assists in the development and implementation of Simpcw Policies and/or Procedures.
- xiii. Monitors the Code of Ethics Policy of Chief and Council.
- xiv. Holds portfolios as approved by Simpcw Council.

b. Membership/Community:

- i. Represents and supports the general well-being of Simpcw.
- ii. Promotes the social, cultural and economic development of Simpcw.
- iii. Communicates and consults with Simpcw members to understand their needs and concerns, and to provide for their fair representation within Simpcw Council.
- iv. Ensure membership concerns are documented, referred to Administration and resolved in an appropriate manner.
- v. Acts as a positive role model within the Community.
- vi. Attends community functions and events as delegated.
- vii. Attends emergency meeting of the Membership.
- viii. Promotes information meetings and a positive working relationship with members living both within and outside of the reserve.
- ix. Demonstrates a healthy living style.
- x. Defends or takes positions on behalf of Simpcw and Members in relation to off-reserve situations.

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- xi. Establishes committees in support of the community and Administration with full support of Council.
- xii. Inform Chief if there is a Breach of Ethics.

c. Reporting Relationship of the Councillors: Councillors shall report to the Simpcw Council and to the membership.

XII. COMMITTEE/BOARD - RESPONSIBILITIES AND REPORTING RELATIONSHIP

1. POSITION SUMMARY

- a. A Councillor appointed by Simpcw Council, to a Committee/Board, is responsible for representing the interests of Simpcw Council and the community, to a Program of the Administration, and providing leadership and support to Administration in the delivery of Administration Programs and services to the membership.
- b. Committees are assigned to Council members. This practice ensures that at least one member of Council fully understands each program within Administration, and can advise the rest of Council should aspects of the program require Council attention.
- c. The Responsibilities include:
 - i. Ensures that there is approved Terms of Reference of Committees and Boards, provides leadership and support to Boards and Committees, and monitors the work of Committees.
 - ii. Participates on Committees and Boards as approved by Simpcw Council.
 - iii. Becoming completely knowledgeable about her/his assigned program.
 - iv. Meeting with the Administrator, Program Manager and/or Coordinator to regularly to gain an understanding of the operation of the program (policies, workload, staffing, challenges, etc.).
 - v. Attend meetings of a program advisory committee.
 - vi. Responding to program questions at meetings of Council in support of the Administrator, Program Manager and/or Coordinator and the program.
 - vii. Responding to questions from membership with a primary role to be one of clarifying and/or referring.
 - viii. Report to Simpcw Council with a secondary reporting relationship to Administration, as applicable.

2. AUTHORITY OF A COMMITTEE/BOARD MEMBER OR PORTFOLIO HOLDER

The Committee/Board Member or Portfolio Holder is a liaison position and will not provide direction to the Administrator, Program Manager and/or Coordinator, or any program employee.

3. ACCOUNTABILITY OF A COMMITTEE/BOARD MEMBER OR PORTFOLIO HOLDER

The Committee Member or Portfolio Holder is accountable to Simpcw Council for any action taken while performing the duties and responsibilities of the position.

4. SPECIFIC RESPONSIBILITIES

- a. Provide leadership for the Program/Issue and presents reports on the Program/Issue to Simpcw Council.

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- b. Liaises between the Committee/Board, Simpcw Council, Administration and the Membership.
- c. Participates in the development of the Committee/Board Terms of Reference and supports the Board/ Committee in accordance with the Terms of Reference as approved by Simpcw Council.
- d. Can act as Chair of Committee/Board Meetings and attends regular scheduled meetings of Committee/Board and other related meetings as requested.
- e. Advise the Committee/Board and Administration as to Simpcw Council goals and objectives in support of Committee/Board planning.
- f. Provides support in the recruitment and selection of Committee/Board members.
- g. Assists in representing the Program at the political level and liaises with Government Agencies and other Organizations, as requested by Simpcw Council.
- h. Ensures that the program concerns of the Simpcw members are resolved or dealt with fairly and professionally.
- i. Provides direction to the Administrator to ensure the needs of Simpcw membership are identified and reflected in the program and service delivered to Simpcw members.
- j. Provides support to Administration in the negotiation of program and funding agreements, as requested.
- k. Provides support to the Administrator in the development and presentation of program and operation budgets to Simpcw Council.
- l. Provides support to the Administrator in recommending changes to Simpcw Council, related to the delivery of programs and services.
- m. Provides support to the Administrator and the Program Manager/Coordinator in the development of program and operating policies.
- n. Provides information and support to the Administrator and the Program Manager/Coordinator for the formal review of Administration programs and services.
- o. Assists the Administrator and the Program Manager/Coordinator in representing the Program(s) to the Simpcw Membership.
- p. Works with the Simpcw Administrator and the Program Manager/Coordinator to ensure the Program and its services operate within the approved Program budget, program plan and policy, and in accordance with the Simpcw Mission Statement.
- q. Attends related Program workshops and seminars, where needed.
- r. Prepares and provides regular Program reports to Simpcw Council related to the portfolio.
- s. Participates on the employee Selection Committee for the hiring of Program employees as required and within *Human Resource Policy*.
- t. Provides information and support to the Simpcw Administrator for the formal performance evaluation of the Program Manager/Coordinator.
- u. Maintains a current knowledge of the Administration programs, services, policies, procedures and government legislation, related to the portfolio.

5. RESPONSIBILITIES AND REPORTING RELATIONSHIP OF COMMITTEE/BOARD OF COUNCIL

- a. The Simpcw Council will have responsibility and authority to appoint Committees/Boards, including Standing/Special Committees, designed to serve an on-going defined and temporary purpose or service. "Example " of Standing Committees:
 - i. Health and Welfare
 - ii. Education
 - iii. Housing
 - iv. Capital
 - v. Personnel

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- vi. Finance
- vii. Others as needed
- b. Standing and Special Committees can be established by Council to help meet Council’s responsibilities and to make government and the management of Administration affairs more effective. This may include involving community members to participate on Boards and Committees.
- c. Council’s responsibility is to establish and approve clear and definitive terms of references for all Standing and Special Committees. Council shall have the sole responsibility to organize Boards and Committees to carry out, not take over, the trustee’s role of Council, as Council is ultimately responsible, and potentially liable, for all its decisions, including decisions made by Boards and Committees and the Board Administrator.
- d. All Boards and Committees must have a Letter of Delegation approved by Simpcw Council Resolution.
- e. The Simpcw membership shall have the authority, in an organized assembly, to establish Committees for resolving issues too technical or complex for the whole membership. Such Committees shall be advisory in nature, and report their findings or recommendations to the Simpcw membership in a subsequent assembly.
- f. No Committee of the Simpcw shall be established having more authority than Council, or to do the work of the Council or Simpcw Administration.
- g. Boards and Committee performance shall be assessed annually at end of fiscal year.
- h. Annual reports of Boards and Committees must be provided for Simpcw Council.
- i. Council Portfolio shall act as Chairperson unless otherwise agreed upon in Terms of Reference.
- j. Portfolio Holder shall be responsible to ensure reports to Council.

6. SPECIFIC RESPONSIBILITIES OF BOARDS AND COMMITTEES

- a. Develops the Terms of Reference for their Committee, reviews the Terms of Reference with Administration, or Council as applicable, and presents the Term of Reference to the Council for approval.
- b. Works within Simpcw Policy as approved by the Council.
- c. Works within the Terms of Reference as approved by the Council.
- d. Assists in recruiting Simpcw membership to participate on Boards and Committees.
- e. Promotes the Boards or Committees role and mandate within the Community and encourages Simpcw membership participation in committee meetings and community consultation sessions.
- f. Provides support to Administration and Council in identifying Simpcw member needs and issues.
- g. Researches special issues and subjects in support of the Simpcw as requested by the Council or Administration.
- h. Prepares and presents special and regular reports to the Council, Administration and Simpcw Membership.
- i. Works cooperatively with Portfolio Holder where applicable, and Administration in the discharge of Committee responsibilities.
- j. Solicits advice and support from other committees and organizations as required.
- k. Provides support to Administration in the formal review of Simpcw programs and services.
- l. Maintains a current knowledge of related Administration programs, services, policies and procedures.
- m. Operates within the Simpcw Mission Statement.

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XIII. QUALIFICATION FOR OFFICE AND DISQUALIFICATION FROM OFFICE

1. In order to qualify for office an individual must be:

- a. An individual qualified as an Elector.
- b. In the case of a Kúkwpí7, only an Elector who has been ordinarily resident on the reserve for a full six (6) months prior to the date of the nomination meeting.
- c. In the case of an off-reserve Tíkwenem7i'ple7, only a qualified candidate who has been ordinarily resident off the reserve for a full six (6) months prior to the date of the nomination meeting.
- d. In the case of an on-reserve Tíkwenem7i'ple7, only an Elector who has been ordinarily resident on the reserve for a full six (6) months prior to the date of the nomination meeting.
- e. Must a member of the Simpcwúl'ecw.
- f. An individual who is not disqualified by:
 - i. within 20 years of the date of an election, having been convicted of a *Criminal Code of Canada* offense by indictment; or
 - ii. within three (3) years of the date of the election, having been convicted of a *Criminal Code of Canada* offense by summary judgment.
- g. The Administrator is ineligible from the nomination of office; with the exception of:
 - i. a leave of absence is approved, or
 - ii. Or a formal resignation has been received prior to the Election date.
- h. A Simpcw Council member disqualified from completing a term in office is ineligible as a candidate for any open offices for Council occurring during that term of office, but may not stand as a candidate for the next two (2) consecutive Election Terms.
- i. An individual qualified for office may be nominated and run for both the office of Kúkwpí7 and Tíkwenem7i'ple7.
- j. A candidate standing for office as Kúkwpí7 may also stand for office as Tíkwenem7i'ple7 provided such candidate declares, at the time of the nomination, that he or she is so standing for office and that he or she will accept the office of Tíkwenem7i'ple7 in the event that he or she is not elected as Kúkwpí7.
- k. An individual who is confirmed by the Administrator, to be in Good Financial Standing.
- l. Remits a non-refundable payment in the amount of \$200.00 to the Electoral Officer prior to the end of the nomination meeting.

2. Disqualification From Continuing To Hold Office:

- a. A Simpcw Council member who, while holding office, is convicted of an offense under the *Criminal Code of Canada* will be disqualified from completing his or her term.
- b. A Simpcw Council member missing two (2) consecutive meetings may be disqualified from completing his or her term in office by a 2/3 majority vote of the Simpcw Council, and the individual subject to such disqualification will not be entitled to vote in this regard.
- c. A Simpcw Council member who ceases to be Ordinarily Resident for the office for which he or she was elected will be disqualified to complete his or her term of office.
- d. A Kúkwpí7 who ceases to be Ordinarily Resident on Reserve will be disqualified to complete his or her term of office.
- e. A Simpcw Council member who fails to adhere to the *Roles and Responsibilities of Simpcw Council* as set out herein may be disqualified from completing his or her term in office by a 2/3

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majority vote of the Simpcw Council, and the individual subject to such disqualification will not be entitled to vote in this regard.

- f. A Simpcw Council member who ceases to be in Good Financial Standing will be given ten (10) business days to resolve the debt.
- g. All of the above noted shall be by a 2/3 majority vote of the Simpcw Council to be disqualified from completing the term in office.

XIV. APPEAL FROM DISQUALIFICATION FOR CONTINUING TO HOLD OFFICE

1. Simpcw Council will appoint an Arbitrator to hear matters concerning Simpcw Council within 30 days of the date of Election.
2. If an Arbitrator has not been appointed within the time set out in Section 1, the Administrator shall appoint an Arbitrator as soon as possible.
3. Simpcw Council is charged with the responsibility of determining whether or not a Kúkwpí7 or Tíkwenem7i'ple7 is disqualified from continuing to hold office.
4. In the event Simpcw Council determines that an individual is disqualified from continuing to hold office as Kúkwpí7 or Tíkwenem7i'ple7, Simpcw Council will so notify this individual, in writing, within two (2) days of such determination.
5. The Simpcw Council member whose office has been determined disqualified or in the case of illness or incapacity of such Simpcw Council member, a Simpcw Council member acting on his or her behalf, may appeal the Council's decision by filing a notice of appeal together with the supporting documents and a security deposit of One Hundred Dollars (\$100.00), with the Arbitrator within ten (10) days of receiving notice of the decision.
6. The Simpcw Council member who has been determined by Simpcw Council disqualified from continuing to hold office shall pay, if unsuccessful, 50% of the expenses of the cost of the Arbitrator incurred in the appeal process.
7. Where no Arbitrator has been appointed, an appeal shall be filed with the Administrator who shall upon receipt request Simpcw Council to Appoint an Arbitrator.
8. The Arbitrator, may, at his or her discretion, give directions for:
 - a. fixing the date, time and place for hearing the appeal(s);
 - b. designating the method of taking evidence, either by sworn declaration or written testimony, or both;
 - c. designating what individuals are to be notified and how they are to be served; and
 - d. dealing with any matter or other thing not otherwise provided for in this section.
9. A copy of the notice of appeal and any documents relied upon by Simpcw Council or other individuals, shall be delivered to the Simpcw Council member who has been determined disqualified from continuing to hold office.
10. The notice of appeal and supporting documentation shall be delivered to the Arbitrator at least 14 days prior to the hearing.
11. The Simpcw Council member who has been disqualified from continuing to hold office may file a written reply to the Arbitrator at least four (4) days prior to the hearing.
12. The Arbitrator shall issue a written decision together with reasons in every appeal.
13. If the Appellant is appealing the decision of the Simpcw Council, the Arbitrator may:
 - a. confirm the determination of Simpcw Council and declare the office vacant; or
 - b. reverse the decision of Simpcw Council and declare the Simpcw Council member qualified for continuing to hold office.
14. The Arbitrator shall provide a copy of the decision to the Administrator and to any party to an

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appeal.

15. The Arbitrator’s decision shall be posted in the Simpcw Administration Building.
16. The decision of the Arbitrator is final and not subject to appeal.

XV. SIMPCW ADMINISTRATION

1. Council has neither the time nor the skills to manage Simpcw operations. To carry out this management function, Council hires and supervises a senior executive from whom it requires direct accountability and to whom it delegates the responsibility and authority:
 - a. To handle the day to day business of the Simpcw;
 - b. To carry out operational programs; and
 - c. To allocate program resources.
2. This senior executive position is referred to as Simpcw Administrator.
3. The planning, development, administration and delivery of Simpcw programs and services shall be the sole responsibility of Administration. The management of the affairs of Administration shall be the responsibility of the Simpcw Administrator who is accountable only to Council.
4. The Simpcw Administrator shall have full day-to-day authority and accountability for the Administration of Simpcw affairs, to include the financial and human resource management affairs.
5. Simpcw Council shall recognize and accept the Simpcw Administrator’s role through:
 - a. The development of a formal position description and performance standards,
 - b. The formal delegation of responsibilities and authority,
 - c. Defined accountability to the Council, and
 - d. The effective and appropriate supervision and evaluation of the Simpcw Administrator.
6. The Simpcw Administrator shall:
 - a. Maintain a close working relationship with Council,
 - b. Respect the authority and responsibility of Council,
 - c. Provide support and guidance to Council,
 - d. Maintain a good relationship with the Simpcw membership,
 - e. Accept full responsibility for the administration of Simpcw affairs,
 - f. Make informed decisions,
 - g. Lead by example, and
 - h. Ensure that all Administration programs and services are managed and delivered in a fair and effective manner.
7. Supervising the Simpcw Administrator:

Council must take the time and effort to provide direction, guidance and support to the Administrator, the senior employee of the Simpcw. Council must ensure adequate training, monitor and evaluate performance and pay an adequate wage for the work performed. Council should be the Simpcw Administrator’s mentor – always available for advice on any matter. The Simpcw Administrator is the strongest ally Council has.

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- a. Chief and Council will recognise and accept the Simpcw Administrator's role by:
 - i. Formal job description and employment contracts;
 - ii. Formal delegation of responsibilities;
 - iii. Formal delegation of authority for (1) budgets (2) personnel, (3) programs, and
 - iv. Delineation of accountability.

- b. Chief and Council must separate the politics of Council from the business of Simpcw Management:
 - i. The Chief Councillor and the Simpcw Administrator must have the closest possible working relationship-but they must not try to do each other's jobs.
 - ii. The Simpcw Administrator is accountable to Council, which is accountable to the Membership.
 - iii. The Simpcw Administrator makes "action" decisions; Council makes "idea" decisions.
 - iv. The Simpcw Administrator makes short-term decisions; Council makes long-term decisions.
 - v. The Simpcw Administrator proposes policies to Council, Council establishes policies, and the Simpcw Administrator manages within the policies.
 - vi. The Simpcw Administrator develops the annual program and budget; Council approves the annual program and budget.
 - vii. Council delegates responsibility to the Simpcw Administrator; the Simpcw Administrator delegates responsibility to Program Managers and other Simpcw staff.
 - viii. Council supervises the Simpcw Administrator; the Simpcw Administrator supervises Program Managers.
 - ix. Council monitors overall Simpcw performance; the Simpcw Administrator monitors operational performance.

- c. Monitoring Performance
 - i. To give direction to the Simpcw Administrator regarding Council priorities and concerns; and to be able to answer the questions of the Membership. Council must continually monitor the performance of all Simpcw activities.

8. General/Administration
 - a. Monitors the overall affairs of the Simpcw Administrator to ensure that all programs and services are developed and delivered in accordance with the approved Mission Statement of the Simpcw.
 - b. Coordinates and participates in the development of the Strategic Plan, and ensures the Strategic Plan is implemented as approved by Simpcw Council and the Simpcw Membership.
 - c. Provides leadership and direction to the Administrator in the development of operating and capital plans.
 - d. Approves all operating and capital Plans and monitors the management of Plans through reports provided by the Administration and/or Portfolio Holders.
 - e. Provides leadership and direction to the Simpcw Administrator in the development and management of the Simpcw operating and capital budgets, and ensures the Simpcw financial affairs are managed within budget.
 - f. Reviews and bring Council for approval, all proposals for funding and monitors the management of funding agreements, as provided within Administration Financial Policy.
 - g. Reviews, approves and reports to the Simpcw membership on the annual financial audit.

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- h. Approves all community planning and development projects.
- i. Understands, approves and monitors the delivery of Programs and services to the Simpcw membership and ensures that all Programs and services are managed as approved by Simpcw Council.
- j. Provides leadership and support to Administration in the development and management of Programs and services to ensure that all programs and services are administered fairly and effectively.
- k. Reviews and evaluates all programs operated by, or on behalf of the Simpcw.
- l. Approves all capital purchases and sales.
- m. Enters into legal contracts/agreements, as approved by Simpcw Council and/or the Simpcw Membership.
- n. Authorizes Simpcw expenditures, as approved by Simpcw Council and/or Simpcw Membership.
- o. Approves and provides direction to the Simpcw Administrator in the development and management of operating policy, human resource, and financial policy.
- p. Provides leadership and direction to the Simpcw Administrator in the development and management of by-laws, and monitors the enforcement of by-laws.
- q. Participates on the hiring and selection committee as defined within the Human Resource Policy.
- r. Provides leadership and support to the Simpcw Administrator, and evaluates the performance of the Administrator, in accordance with Human Resource Policy.
- s. Ensures that all employees are treated fairly and administered in accordance with approved Human Resource policy.
- t. Participates on Regional and Provincial Boards and Committees as approved by Simpcw Chief and Council.
- u. Keeps the Administrator informed of any key issues and decisions that may affect the overall affairs of the Simpcw Administration.
- v. Advocates for and encourage Simpcw employment, self-employment and entrepreneurship.
- w. Declares a state-of-emergency and initiates an emergency response procedure, in the absence of the Chief.

XVI. RESPONSIBILITIES AND REPORTING RELATIONSHIP OF THE ADMINISTRATOR

1. SPECIFIC RESPONSIBILITIES

- a. Develops and implements a communications and consultation plan for each Program, to ensure that the needs of the Simpcw are identified, and that programs and services developed meet the needs of the Simpcw.
- b. Manages the affairs of the Simpcw in accordance with the directives of Simpcw Council
- c. Manages the Simpcw Administration affairs consistent with the Vision and Mission Statement as approved by Simpcw Council.
- d. Oversee the development, management and administration of all programs and services in support of the Simpcw First Nation.
- e. Provides professional advice and support to the Simpcw Council relating to program development and delivery, financial management, organization planning, interpretation of regulations and statutes, community development, and economic development initiatives
- f. Works cooperatively with Portfolio Holders in the management and delivery of programs and services to the Simpcw

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- g. Provides support and leadership to Boards and Committees and participates as a non-voting member on Committees
- h. Assists the Simpcw Council in the development and management of the Strategic Plan
- i. Provides leadership and support to the Program Coordinators, in the development of long-term and short-term operating plans, and administers the Plans as approved by the Simpcw Council
- j. Ensures that an appropriate level of funding is planned, secured and maintained to support the operating, program and service needs of the Simpcw
- k. Attends and participates in Simpcw General Meetings and meetings of Simpcw Council, when requested, and provides administrative support to the Simpcw Council
- l. Develops, manages and ensures that Simpcw operating, personnel and program policy area administered as approved by the Council
- m. Ensures that all programs and services are administered and delivered in accordance with funding agreements and applicable Government Regulations
- n. Liaises with other First Nations, Business, Governments and other Organizations in support of Simpcw Administration
- o. Develops and manages budgets as approved by the Simpcw Council
- p. Manages the day-to-day financial affairs of the Simpcw, and ensures that proper financial controls and procedures are developed and administered
- q. Works cooperatively with Boards and Committees in the management of the administration and program affairs of the Simpcw
- r. Provides advice to Simpcw Council on human resource matters
- s. Manage all employees within Administration in an effective and professional manner
- t. Carries out and supports the directives of the Simpcw Council
- u. Provides advice and support to the Simpcw Council in the assessment and development of business opportunities
- v. Ensures that accurate and current operating and program records are developed and maintained
- w. Promotes a fair, equal and efficient working relationship between Administration and the Simpcw, and ensures that all programs and services are managed in a professional and fair manner
- x. Develops and presents regular reports to the Simpcw
- y. Ensures that all employees of the Simpcw have the necessary skills and qualifications to perform their duties

2. Reporting Relationship of Administrator: The Simpcw Administrator reports to the Simpcw Council

XVII. ROLE OF MEMBERS

1. Simpcw members elect representatives from within Simpcw membership to form the governance body or government of the Simpcw, they also perform, or exercise the following general Roles:
 - a. Contributor to Development Roles,
 - b. Approval Role through participation in established formalized process,
 - c. Monitor Role of Council decisions,
 - d. Accountability Role as community members, and
 - e. Advocacy Role.

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2. Simpcw Members' Responsibilities:

- a. Knowledgeable Simpcw members who know their rights and responsibilities can positively influence their leaders' actions
- b. Since members, collectively, are the owners of the Simpcw assets/resources, they need to monitor Simpcw and Chief and Council activities (and also provide leadership)
- c. Generally, community members have the authority to conduct business in community assemblies. Here they have an opportunity to listen to Chief and Council and other Simpcw members for understanding and sometimes clarification, to offer support and offer advice or provide direction. In addition, Simpcw members have an approval role on certain issues or areas through established formalized process
- d. Members should expect Chief and Council to keep them informed about Simpcw business, even between assemblies
- e. Community members delegate, through elections, the responsibility and authority to Chief and Council to act on their behalf, and in the best interests of the membership
- f. The *Indian Act* is generally silent on the role of community members
- g. Simpcw members can and shall expect Chief and Council to:
 - i. Act in the best interest of all members
 - ii. Use care, due diligence and skills in the performance of their duties and responsibilities
 - iii. Avoid conflicts of interest
 - iv. Report regularly and fully, Simpcw finances, projects, programs and services to Membership
- h. Delegating the responsibility for directing, controlling, and managing Simpcw business to Chief and Council **means** members have the right to ask questions in meetings
- i. Members should expect Council to establish a redress process
- j. Members may take a collective action and action could be taken against an individual Councillor for breach of duty through established formalized process
- k. On specific community issues, Simpcw members have the authority, in assembly, to establish committees for resolving issues too technical or complex for a large group. Such committees are most frequently, advisory in nature, and report their findings or recommendations to the Membership in a subsequent assembly
- l. Committees or members, or members will not have more authority than Council, or to do the work of Council or Administration staff
- m. Members exercise their right of ownership by holding accountable those to whom they have delegated authority
- n. Members are also accountable. Their responsibility include attending meetings, informing themselves of Simpcw business treating with dignity and respect the Chief Councillor and Councillors, staff members advisors and each other. Most importantly, community members have the responsibility to elect Chief and Council members who possess the necessary skills, experience and values to lead the community.
- o. Community members can rely on by-laws and policies including Governance policies. In addition, community members or staff can rely on Common Law, the Canadian Human Rights Act, or the Canada Labour Code, when their rights are in violation
- p. During normal office hours, community members should have reasonable access to the minutes of Council Meetings, by-laws, policy manuals and financial statements.

3. Summary of Responsibilities of Simpcw Members in exercising their Roles:

- a. Contributes to the development and approves the Election process

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- b. Contributes to the development and approves the Governance Plan
- c. Contributes to the development and approves the Simpcw Vision
- d. Provides Council with a formal mandate
- e. Maintains a level of knowledge of governance and Simpcw affairs, and their rights and responsibilities, to positively influence Simpcw governance leaders in their decision making
- f. Monitors and makes informed decisions as to the performance of Chief and Councillors
- g. Attends and participates in Simpcw General Meetings
- h. Contributes to the development of Simpcw by-laws and approves by-laws through established formalized process
- i. Ensures Simpcw Council practices the principle of transparency, and keep members informed of important Simpcw issues and affairs, to include political, community, business, financial and administration
- j. Advocates for the rights of Simpcw members and the role, powers and duties of Simpcw Council
- k. Contributes to the development and approves the Simpcw's Strategic Plan
- l. Contributes to the development and approves the Simpcw's Community and Physical Plan
- m. Contributes to the development and approves the Simpcw's Economic Development Plan
- n. Establishes and participates on Committee formed by Simpcw members in Simpcw General Meetings. Such committees shall be advisory in nature, and report their findings or recommendations to the members in a subsequent General Simpcw Meeting
- o. Participates on Advisory Committees of Simpcw Council/Administration
- p. Participates on formal Board of Simpcw Business as appointed by Simpcw Council
- q. Participates on formal Board of Simpcw Societies as elected, or appointed by the Society's Constitution and by-laws
- r. Takes responsibility to maintain contact information with Simpcw Administration

APPENDICES

- A. Swearing-In Procedure for Simpcw Council
- B. Oath of Office
- C. Simpcw Council Code of Ethics
- D. Simpcw Conflict of Interest
- E. SFN Ethics Committee – Terms of Reference
- F. Simpcw Council Discipline Policy
- G. Simpcw Council Meeting Attendance Form

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APPENDIX A

SWEARING-IN PROCEDURE FOR SIMPCW COUNCIL

The following procedure is for swearing in newly elected members of Simpcw Council at the Swearing-In Ceremony following an election and/or by-election.

1. Opening Prayer completed by Simpcw Elder.
2. Simpcw Hand drummers provide Welcome Song and/or Honoring Song.
3. Administering the Oath of Office:
 - a. Person administering the oath (legal counsel) explains the following:
 - i. Advise the assembled membership that this ceremony places the responsibility and authority of leadership upon the elected officials and establishes a bond of commitment between them and the membership.
 - ii. Tells the newly elected Council of the Simpcw First Nation to **“Please stand as your name is called, take your place in front of the head table, and face the assembled membership. If you are seated at the head table, please rise and stand in place behind your chair.”**
 - iii. Asks assembled membership to **“Hold applause until the swearing-in ceremony is completed.”**
 - iv. Slowly and clearly reads the names and office of election (Chief or Council).
4. Pledge of the Membership:
 - a. Person administering the oath (legal counsel) states to the assembled membership:
 - i. **“As a member of Simpcw First Nation, will you pledge your support and encouragement in helping the elected Simpcw Council about to be inaugurated? If so, please signify by saying, I will.”**
 - ii. **“Thank you. Please be seated.”**
5. Swearing In:
 - a. Person administering the oath (legal counsel) states to the Simpcw Council:
 - i. **“As this membership has just pledged their support to you, do you pledge to fulfill your individual responsibilities in representing the Simpcw First Nation; and to conduct yourselves in the best interest of the membership you serve? If so, please signify by saying, I will.”**
 - b. The person administering the oath (legal counsel) will state the following declarations from the Oath of Office (Appendix B) to the elected Simpcw Council:
 - i. **I am of Secwepemc Blood ancestry.**
 - ii. **I will faithfully perform the duties of my office with dignity and mutual respect for others and strive to earn the respect of others.**
 - iii. **I will not allow my business, personal or family affairs to influence my decision making and I will always consider the best interests of the community when making a decision.**
 - iv. **I will uphold all Simpcw enacted policies, procedures, guidelines, codes, bylaws, customs, traditions or other laws of the Simpcw, and as learned from any general meetings of the Simpcw Members and from the Secwepemc Elders.**
 - v. **I will strive to preserve and enhance Simpcw language, culture and heritage.**
 - vi. **I will strive to maintain a proper place for our Simpcw Members in society.**

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- vii. **I will be disqualified from completing my term if I am, while holding office, convicted of an offence under the Criminal Code of Canada.**
 - viii. **I will be disqualified from completing my term if I miss two Council meetings without a reason acceptable to Council.**
 - ix. **The provisions of the *Simpcw Tk̓wem7iple7tn Customs-Election Code* and the *Simpcw Roles and Responsibilities Manual* have full force and contractual effect between Simpcw and myself, governing my term on Council. I have had the opportunity to review both documents in full before signing this oath.**
 - x. **I have signed a Simpcw First Nation Confidentiality Agreement.**
 - xi. **I am subject to discipline by Council, up to and including dismissal from office, for any default by me under Simpcw laws.**
 - xii. **I will promote unity amongst our Simpcwemc and other Secwepemc. As an elected Simpcw Council member I will fully support unity within our community and throughout our Secwepemc Nation.**
- c. The newly elected Simpcw Council will immediately execute the Oath of Office, attached as Appendix B in front of the assembled membership.
6. Conclusion:
- a. Person administering the oath (legal counsel):
 - i. States to the newly elected Simpcw Council, **“Let me congratulate and wish each of you every success possible”**.
 - ii. Leads assembled membership in applauding the new Simpcw Council.
 - iii. Turns microphone over to Chief of Simpcw First Nation.
 - b. Simpcw Council:
 - i. Returns to their seats.
 - ii. Chief addresses the assembled membership.
 - iii. Council addresses the assembled membership.
 - iv. Formal picture taken of full Council, including individual pictures.
7. End.

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**APPENDIX B
OATH OF OFFICE**

I, _____, hereby declare that I have been elected as a member of Council of the Simpcw First Nation and do declare that:

1. I am of Secwepemc Blood ancestry.
2. I will faithfully perform the duties of my office with dignity and mutual respect for others and strive to earn the respect of others.
3. I will not allow my business, personal or family affairs to influence my decision making and I will always consider the best interests of the community when making a decision.
4. I will uphold all Simpcw enacted policies, procedures, guidelines, codes, bylaws, customs, traditions or other laws of the Simpcw, and as learned from any general meetings of the Simpcw Members and from the Secwepemc Elders.
5. I will strive to preserve and enhance Simpcw language, culture and heritage.
6. I will strive to maintain a proper place for our Simpcw Members in society.
7. I will be disqualified from completing my term if I am, while holding office, convicted of offence under the Criminal Code of Canada.
8. I will be disqualified from completing my term if I miss two (2) consecutive Council meetings without a reason acceptable to Council.
9. The provisions of the *Simpcw Tk̓wem7iple7tn Custom Election Code* and the *Simpcw Roles and Responsibilities Manual* have full force and contractual effect between Simpcw and myself, governing my term on Council. I have had the opportunity to review both documents in full before signing this oath.
10. I have signed a Simpcw First Nation Confidentiality Agreement.
11. I am subject to discipline by Council, up to and including dismissal from office, for any default by me under Simpcw laws.
12. I will promote unity amongst our Simpcwemc and other Secwepemc. As an elected Simpcw Council member I will fully support unity within our community and throughout our Secwepemc Nation.

Signature of Simpcw Council Member

Date

Witness to above Signature

Date

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APPENDIX C

SIMPCW COUNCIL CODE OF ETHICS

Simpcw Council will:

1. Promote and maintain at all times, in their actions and words, the integrity and dignity of the Simpcw and its government, programs, services, staff and members.
2. Be prompt and conscientious in the performance of their duties as a member of Council.
3. Treat everyone in a fair manner, and use initiative to find ways of fulfilling their duties effectively and efficiently.
4. Attend all Simpcw General Band Meetings, unless there is a valid reason for absence or lateness, in which case and where possible, the Councillor shall notify the Chief or in his absence, another Councillor, in advance of the meeting.
5. Represent the membership, and participate in Council meetings to the best of their ability, maintain a positive cooperative attitude in dealing with fellow Members of Council, Administration employees, and will work as team members toward the betterment of Simpcw.
6. Conduct themselves at all times in a manner which will bring credit to themselves, Simpcw Council and Simpcw membership.
7. Work together in a constructive, supportive manner, and shall respect and support Resolutions passed by Council and the Simpcw membership.
8. Not publicly or privately criticize or make personal judgements of other members of Council, Administration, or the Simpcw membership or other First Nation Organizations.
9. Continually work towards self-improvement and professional development through available training, workshops and materials.
10. Uphold formal commitments made with other First Nation organizations and government agencies attend all other meetings, workshops, conferences, etc. When assigned as official delegate of the Simpcw, and shall formally report back to Council on the proceedings of these meetings.
11. Uphold formal contracts-of-service and contracts-for-service approved by the past Council, unless such contracts are to be terminated for just cause.
12. Members of Council holding a portfolio who are absent for two (2) consecutive committee meetings, or more that one-third (1/3) of all meetings in a twelve month calendar period without valid reason, may consequently have the Portfolio assignment reviewed by Council.
13. Members of Council will only give out official and/or confidential information acquired as a result of their elected position, when the release of such information has been authorized by Council.
14. Members of Council will not discuss/disclose in-camera business outside Council.
15. Members of Council must be in good financial standing with the Simpcw First Nation.
16. Members of Council will immediately cease to hold the position of Chief or Council when convicted on an indictable offense. Unless the activities or offenses of a non-violent nature relate to the defense of Simpcw Title and Rights.
17. Members of Council shall only speak on behalf of the Simpcw and Council when requested or approved by Council.
18. Members of Council shall not make decisions or commitments on behalf of Council without the authorization of Council.
19. Any alleged default by a Council Member of this Code of Ethics may, in the discretion of Council, be referred to the SFN Ethics Committee established under Appendix E, SFN Ethics Committee – Terms of Reference, of this manual.

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APPENDIX D

CONFLICT OF INTEREST

For the purposes of this Manual, a person has an apparent conflict of interest if there is a reasonable perception, that the person's ability to exercise an official power or perform an official duty or function must have been affected by his or her private interest.

1. Procedure on conflict of interest:
 - a. A person who has reasonable grounds to believe that he or she has a conflict of interest in a matter that is before the Simpcw Council, or a committee, must, if present at a meeting considering the matter,
 - i. disclose the general nature of the conflict of interest, and
 - ii. withdraw from the meeting without voting or participating in the consideration of the matter.
 - b. If a person has complied with subsection (a), the secretary or note taker of the meeting must record:
 - i. the disclosure,
 - ii. the general nature of the conflict of interest disclosed, and
 - iii. the withdrawal and/or abstention of the member from the meeting.
2. A Conflict of Interest is a conflict between a personal interest and a Member of Council and their duty to the Community.
3. A Member of Council must arrange his or her private and business affairs, so as to avoid any Conflict of Interest within the Community.
4. Members of Council or any member of their immediate families shall not be allowed to benefit from contracts, agreements or other undertakings that are associated with Simpcw, unless such awards are through open and fair competitions.
5. Members of Council shall not take part in discussions or vote on resolutions that they would directly affect or benefit from, or any members of their immediate family, and shall be excused from the Council Chambers while such voting or discussion is taking place.
6. Members of Council shall not use information obtained as a result of their elected position for personal gain.
7. Members of Council shall not give out official and/or confidential information acquired, as a result of their elected position, unless they have authorization from the Council, or if the safety and health of an employee, the community or Simpcw First Nation is jeopardized.
8. Members of Council shall not be a member of a *Hiring Selection Committee*, or where an immediate family member of a Councillor is an employee, the same rules shall apply to votes by that Councillor affecting the Program responsibility of that employee.
9. Members of Council shall not directly or indirectly use, or allow the use of, Simpcw equipment, vehicles or property for anything other than Simpcw Administration business, or as authorized by approved Simpcw Policy.
10. A member of Council, who is also an employee of the Simpcw First Nation, is prohibited from:

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- a. Voting on resolutions that will directly or indirectly affect the operation and services of the Program of responsibility, or of the Program of responsibility of an immediate family member.
 - b. Using their position of Councillor to influence Simpcw First Nation staff for personal benefit.
 - c. Participating in discussions, vote on resolutions, or be present during the voting, relating to Personnel issues, which include, but are not limited to the following:
 - i. Hiring and selection of employees (unless the Employer/Council Member is a Program Manager, or where Council Members who are not employees, are not available).
 - ii. *Simpcw First Nation Human Resource Policy.*
 - iii. Termination of employment and/or lay-off.
 - iv. Employee wages, salaries and benefits.
 - v. Employee discipline, suspension and dismissal.
11. Members of Council shall not be a part of a discussion, or participate on a committee, where decisions may benefit him or her, or any member of their immediate family.
 12. It is the responsibility of the Chief to inform Council of any potential or existing conflicts of interest, either personal or involving immediate family members.
 13. It is the responsibility of a Councillor to inform the Chief, and in her/his absence, the Council, of any potential and existing personal or family conflicts of interest.
 14. Any question(s) raised to the Council of whether a Conflict of Interest exists for any Councillor, shall be determined by resolution of the Council.
 15. Conflict of Interest does not include activities or offences of a non-violent nature related to the defense of Simpcw Title and Rights.
 16. Any member of Council who perceives another member of Council is in Conflict of Interest, must immediately raise the possible Conflict of Interest with Council.
 17. These Conflicts of Interest rules will apply to all Boards and Committees of Simpcw First Nation.

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APPENDIX E

SFN ETHICS COMMITTEE

TERMS OF REFERENCE

1. PURPOSE

To assist Simpcw Council in the process of objective decision-making for the effective management and accountability for code of conduct and ethical behavior of Council members.

2. RESPONSIBILITIES

The SFN Ethics Committee will review the information provided by Simpcw Council about an alleged default by a Council Member of the Simpcw Council Code of Ethics at Appendix C of this manual. The Committee will carry out fact finding and further investigation, and then make a recommendation back to Simpcw Council about the discipline required, if any. The Committee acts only upon instructions from Simpcw Council, and has no independent authority to act in relation to matters of Council Member discipline.

3. MEMBERSHIP

- a. 2 Simpcw Councillors
- b. 1 Elder
- c. 1 Youth 18 – 30
- d. 1 Community Member at Large

4. SELECTION PROCESS AND TERMS

The selection of members will be initiated by an advertisement for volunteer members to be placed in Simpcw First Nation newsletter.

Members will be appointed by Council on the basis of experience, interest, commitment and availability to attend meetings.

5. REMUNERATION

Committee Members shall serve without remuneration, however travel costs will be reimbursed in accordance with SFN Policies.

6. COMMITTEE PROCEDURES/OPERATIONS

a. Meeting Chair

Meetings will be chaired by-chairperson

b. Minutes and Agenda

Staff will be responsible for preparing and distributing the agenda and recording minutes for each meeting

c. Meetings

Meetings will be held as required. All discussion will be held confidential with minutes to be available only to Simpcw Council.

d. Quorum

The quorum will be no less than 4 members.

Decisions will be made by thorough discussion and consensus.

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e. Reporting and Outcomes

The SFN Ethics Committee will provide a recommendation in writing to the Simpcw Council to be presented by a representative Council member at the next convened Council Meeting

f. Conflict of Interest

Members are expected to undertake their responsibilities on an impartial and objective basis. Any member whose financial or personal interest could be in conflict with the Committee is obliged to disclose same at the meetings and shall excuse their participation.

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APPENDIX F

SIMPCW COUNCIL DISCIPLINE POLICY

1. PURPOSE

Simpcw Council has traditionally disciplined individual Councillors or the Chief (all of whom are individually referred to as a “**Council Member**”) for misconduct.

This policy sets out the tradition and custom of Simpcw Council for the discipline of Council Members.

2. ELECTION MATTERS

This policy shall not apply to the process for election to Simpcw Council. The qualifications for elected office, the events and process by which a Council Member becomes disqualified from office, the appeal of that disqualification process, improper election practices, election appeals and the filling of permanent and temporary vacancies on Simpcw Council, are dealt with in the *Simpcw Tk'wem7iple7tn Custom Election Code* (the “**Election Code**”), as part of the electoral process.

3. DISCIPLINE PROCESS

Simpcw Council may impose discipline, appropriate in all the circumstances, upon a Council Member who has defaulted under any provision of any Simpcw enacted policies, procedures, guidelines, codes, bylaws, customs, traditions or other laws (altogether, the “**Simpcw Laws**”), excluding election matters, as follows:

- (a) **Notice of Alleged Default:** Simpcw Council must first give the Council Member in question written notice of the circumstances of the alleged default under Simpcw Laws, and notice of the date, time and place of the in-camera meeting of the Simpcw Council where the matter of discipline under this policy, including possible dismissal from office of the Council Member in question, will be decided.
- (b) **Continued Functioning as Council Member:** A Council Member who is subject to a discipline process under this policy, retains all his or her powers, duties, responsibilities and authorities as Council Member, and may vote at Council Meetings, and otherwise act in all matters as a Council Member, pending the decision by Simpcw Council on the discipline issue. This subparagraph is subject to subparagraph (c).
- (c) **Suspension Where Investigation Required:** Where time is required by Simpcw Council to complete an investigation of the alleged default, the Simpcw Council may suspend the Council member in question without honoraria, for up to 90 days. Should the Council Member in question be found to be in default of Simpcw Laws, the suspension time will be confirmed as without honoraria, and further disciplinary action may or may not be taken, in the discretion of Simpcw Council. If that Council Member is found not to be in default under Simpcw Laws, he or she will receive the honoraria he or she would have otherwise received, for the full period of suspension.

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- (d) **Reference to SFN Ethics Committee:** Any alleged default by a Council Member of Appendix C, Simcpw Council Code of Ethics, of this manual, may, in the discretion of Simcpw Council, be referred to the SFN Ethics Committee established under Appendix E, SFN Ethics Committee-Terms of Reference, of this manual, for fact finding, investigation and recommendation back to Simcpw Council of the discipline required, if any.
- (e) **Subparagraphs (c) and (d) Discretionary:** Simcpw Council may in its discretion exercise its powers under subparagraphs (c) and (d) either at the same time, or separately, or not at all.
- (f) **Progressive Discipline:** The process of discipline will, where the Simcpw Council considers it appropriate, be progressive in nature. Simcpw Council has the right to go immediately to whatever level of discipline is appropriate, in light of the seriousness of the default, and any past occurrences.
- (g) **Conduct Away From Work:** Any conduct of any Council Member away from a Simcpw work place, outside working hours, outside the Simcpw community, or not in relation to Simcpw business, which actually or potentially causes any injury, loss or damage to Simcpw, is subject to discipline under this policy.
- (h) **Opportunity to be Heard:** At the meeting of Simcpw Council held to decide the discipline issue, the Council Member in question will be given an opportunity to be heard and to present evidence, witnesses, arguments and written submissions to Simcpw Council. The Council Member in question shall be entitled:
 - (a) to be present while the allegations against him or her, and all supporting evidence, witnesses, arguments and written submissions are presented to Simcpw Council;
 - (b) to dispute, correct or contradict anything which is prejudicial to his or her position; and
 - (c) to question the witnesses against him or her.
- (i) **Answering Questions:** The Council Member in question shall answer questions put to him or her by Simcpw Council, and by the person complaining of that Council Member's conduct.
- (j) **Council Member Excused from Deliberations:** Simcpw Council shall ask the Council Member in question to excuse himself or herself from the deliberations by Simcpw Council on the matter.
- (k) **Continued Deliberations:** Simcpw Council may continue deliberations on the discipline issue, after the discipline hearing is concluded.
- (l) **Decision:** Simcpw Council shall decide the discipline issue for the Council Member in question, by a resolution on a 2/3 majority vote, setting out the circumstances including the provisions of Simcpw Laws for which default is alleged, the decision whether there was a default, the reasons for that decision, any discipline imposed upon the Council Member in question, the reasons for that discipline, and making any other order, direction, declaration or record necessary to dispose of the discipline issue.

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- (m) **Notice of Decision:** Simpcw Council shall immediately advise the Council Member in question of the decision of Simpcw Council, and shall provide that Council Member with a copy of the resolution as soon as is practical.
- (n) **Confidentiality:** Simpcw Council shall determine whether the resolution setting out the decision of Simpcw Council on the discipline issue is to remain confidential to Simpcw Council, or can be provided to the Simpcw administration office for distribution to the Simpcw membership.

4. TYPES OF DISCIPLINE

Discipline imposed by Simpcw Council upon the Council Member in question may include, but is not limited to any one or more of the following steps:

- (a) a verbal warning;
- (b) a letter of reprimand;
- (c) suspension from the Council position for up to three months, either with or without the Council honorarium for some or all of the period of suspension;
- (d) dismissal from Simpcw Council for the balance of the current term of office of Simpcw Council; and
- (e) a letter advising the Council Member in question that his or her resignation from Simpcw Council is requested.

Steps (a), (b) and (c) may be repeated more than once. Any of steps (a), (b) and (c) shall be accompanied by a warning that any repetition of the default may result in dismissal from office.

5. JUST CAUSE FOR DISMISSAL

Just cause by a Council Member for dismissal from Simpcw Council includes, without limitation:

- (a) any negligent, reckless or willful default by the Council Member of:
 - (i) any of the duties, roles and responsibilities of the Council Member listed in Appendix C, Simpcw Council Code of Ethics, or elsewhere in this manual; or
 - (ii) any other Simpcw Laws;

which default actually or potentially causes substantial injury, loss or damage to Simpcw;
- (b) any of the conduct listed as “just cause” in relation to employees of Simpcw, in policy HR 5.6, Discipline, of the *Simpcw First Nation Human Resources Policies and Procedures Manual*, with any necessary changes in points of detail; providing any false or misleading information to Simpcw Council; and
- (c) where progressive discipline measures undertaken by Simpcw Council in relation to that Council Member fail.

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6. NO PAYMENT UPON DISMISSAL

On dismissal from office of a Council Member under this policy, for just cause by the Council Member, and upon payment to the Council Member having been made by Simpcw for all services performed prior to the dismissal, no further payment shall be due by Simpcw to the Council Member in respect of the said office or the dismissal.

7. POWERS OF SIMPCW COUNCIL

Simpcw Council in respect of any discipline process before it:

- (a) has the power to examine records and make the investigations it considers necessary;
- (b) has the power to fix the times and places for any hearings;
- (c) has custody of all documents, evidence, and other records before it;
- (d) has the power to require the attendance of any person to give evidence, produce any relevant document, answer all proper questions and give all necessary information; and
- (e) will act impartially, fairly and reasonably, and in accordance with the principles of natural justice and fairness.

8. MINUTES

The minutes of the Simpcw Council discipline process shall contain a record of the resolutions made, may contain a description of the discussion that took place, and shall be retained with other confidential Simpcw Council minutes.

9. APPEAL

If a Council Member has been dismissed from office under this policy, that Council Member may by notice in writing personally delivered to the administrator of Simpcw (the “**Administrator**”), within 10 consecutive days from the dismissal, lodge an appeal together with \$100.00 as a non-refundable filing fee, with Simpcw. The following provisions govern the appeal process:

- (a) The notice of appeal shall state the grounds of appeal, and confirm that the Council Member filing the appeal (the “**Appellant**”) has elected to proceed with the appeal in lieu of any other right of appeal, judicial review or other remedy under any statute, at common law, or otherwise.
- (b) The decision by the Appellant to proceed with an appeal under this policy shall be irrevocable even if the appeal does not proceed through to a decision, for any reason.
- (c) An adjudicator (the “**Adjudicator**”) as agreed by the Appellant and by Simpcw Council within seven consecutive days of receipt by Simpcw of the notice of appeal, and failing that then as appointed by the British Columbia Arbitration and Mediation Institute, 510-700 Pender St. W., Vancouver, BC V6C 1G8, Phone

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(604) 736-6614, shall hear and adjudicate the appeal. The decision of the institute shall be final and binding, and not subject to appeal or judicial review.

- (d) The Adjudicator shall determine all matters of procedure for the appeal.
- (e) The Adjudicator shall meet with the Appellant and Simpcw Council, to hear the appeal, within 28 consecutive days of receipt by the Administrator of the notice of appeal.
- (f) At the hearing of the appeal, the Adjudicator shall give each of the Appellant and the Simpcw Council an opportunity to be heard, to present evidence and to question the other.
- (g) The Adjudicator may confirm, vary, set aside or substitute his or her own decision for that under appeal, may make any other order, direction, declaration or record necessary in his or her discretion to fairly and justly dispose of the appeal, and shall give a written final decision on the appeal, to both the Appellant and the Simpcw Council, as soon as is practical. The decision of the Adjudicator shall be final and binding. There shall be no appeal of the decision of the Adjudicator.
- (h) The costs of the Adjudicator shall be paid by the Appellant and Simpcw, in the proportions as determined by the Adjudicator. The Appellant and Simpcw shall each pay its own costs of representation to the Adjudicator.

10. INTERPRETATION

Any reference in this policy to any Simpcw Laws includes that law as amended or replaced from time to time.

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**APPENDIX G
SIMPCW COUNCIL MEETING
ATTENDANCE FORM**

_____ Date

Name	Absent/Present	Reason

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POLICY AMENDMENT TRACKING		
Date of Amendment	Description of Amendment	Date of Amendment Approval
November 2014	<p>Kerri Jo Fortier, Administrator redrafted and reformatted the Policy:</p> <ul style="list-style-type: none"> ▪ Add to Section III Interpretation: “Conflict of Interest”, “Fiduciary Duty”, “Good Financial Standing”, “Immediate Family Member”, “Simpcw Council” and “Simpcwemc”. ▪ Add to Section IV General Role of Council: #12. Adhering to Code of Ethics. ▪ Remove from Section X 5. (f) Serves as mediator between members of Council, Administration and members, or appoints an independent mediator or arbitrator. ▪ Remove from Section X. 5. (g) Participate on the hiring and selection committee as required and defined within Human Resources Policy or assigns delegates. ▪ Add to Section X. 5. (h) Declares a Statement of Emergency. This section will now be Section X. 5. (f). ▪ Remove from Section XII. 2. Direction to Administrator comes from Chief and Council. ▪ Remove from Section XII. 3. The portfolio holder is not accountable to the Membership. Chief and Council as a whole has that responsibility. ▪ Add to Section XIII. 1. g (i) and (ii). ▪ Add Appendix A Swearing-In Procedure for Simpcw Council. ▪ Add to Simpcw Council Code of Ethics #17 Unless the activities and/or offenses of a non-violent nature relate to the defence of Simpcw Title and Rights. ▪ Add to Appendix D Conflict of Interest – Introduction and #1 Procedure of conflict of interest. ▪ Remove from Appendix D Conflict of Interest 17. a, b, and c. ▪ Rename Appendix E SFN Ethics Committee Terms of Reference. 	December 8, 2014
November 21, 2014	<p>Craig Nixon Law Corporation added the following:</p> <ul style="list-style-type: none"> • Redraft Appendix B – Oath of Office. • Draft Appendix H – Simpcw Council Discipline Policy. 	December 8, 2014

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December 8, 2014	Craig Nixon Law Corporation amended the following: <ul style="list-style-type: none"> • Remove Appendix F – Breach of Ethics and replace with Appendix H. • Appendix H to be renamed Appendix F – Simpcw Council Discipline Policy. 	February 10, 2015
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