

T'ít'q'et
Election
Code

ADOPTED
JULY 27, 2008

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Part I — Interpretations and Definitions

1. Interpretation of Specific Words or Phrases

“Administration” means the Office that is established by Council to oversee the management and operations of programs and other services to T’it’q’et members, including but not limited to: education, social development, housing, and operations and maintenance. For added clarity, the term “Administration” in this Code does not refer to other T’it’q’et entities, such as registered companies or societies that are wholly or partially owned by T’it’q’et.

“Administrative Services Manager” means the person who holds the Administrative management position for T’it’q’et Administration; this includes the Senior Manager in the absence of an Administrative Services Manager.

“Appellant” means a person who has appealed a decision in a manner described in this Code;

“Arbitrator” means an independent third party appointed under this Code to hear appeals on matters to be determined by the Arbitrator;

“By-election” means an election that is not a General Election and is held between General Elections to fill a vacant elected position;

“Candidate” means a person who has been nominated for an elected position in accordance with this Code;

“Candidates’ List” is a list that identifies those who have been nominated for an elected position;

“Code” means this document, the T’it’q’et Elections Code;

“Community Chief” means the candidate elected to Council as Community Chief under this Code for a term of two (2) years;

“Council” means the governing body of T’it’q’et, as elected under this Code;

”Council member” means a member of Council, either Community Chief or Councillor;

“Councillor” means a candidate elected to Council as a Councillor, under this Code for a term of two (2) years;

“Designate” means a person who has been freely selected by a Voter to enter a polling station and assist the Voter to cast his or her vote;

“Duly convened Band meeting” means a Band meeting that was called at least four (4) weeks in advance by distributing notices through delivery to households, newsletter, mail, or electronic means;

“Election” means a General Election or By-election held under this Code;

“Electoral Officer” means the person appointed under this Code to conduct elections;

“Emergency” means exceptional circumstances, including but not limited to circumstances relating to health, safety, and socio-economic issues which were not reasonably foreseeable;

“General Election” means an election held in March every second year to elect a new Council;

“In Good standing” means that a person is not in arrears or has any overdue debts or has any outstanding or pending litigation with T’it’q’et;

“Indictable offence” means any of the offences that are recognized as an indictable offence in the Canada Criminal Code.

“Majority” means fifty per cent plus one (50%+1);

“Member” means a person registered on the Membership List;

“Membership” means the group of persons who constitute the Members of T’it’q’et;

“Membership Clerk” means the person who is an employee of Administration and oversees membership issues, including accessing and updating the Membership List;

“Membership List” means the list containing the names of T’it’q’et Members;

“Ordinarily Resident” means the place, where in the settled routine of a person’s life, that person regularly, normally, or customarily lives;

“Polling Station” means the building in which the polling for an election is located;

“Regularly scheduled Council Meetings” are the Council meetings that typically occur every month or are Council meetings that have been called at least two weeks in advance;

“Scrutineer” means a person appointed by a candidate to observe voting and counting procedures for an election;

“T’it’q’et” means the body of people who comprise the entity formerly known as the Lillooet Indian Band under the *Indian Act* and for whose use and benefit in common T’it’q’et Lands have been set apart by Her Majesty the Queen.

“Tribal Chief” means the candidate elected as Tribal Chief under this Code for a term of four (4) years;

“Voter” means a person who is eligible to vote in an election or by-election, under this Code;

“Voters’ List” means an alphabetical list of Voters;

2. Acts on a Holiday

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

3. Acts When Office is Closed

3.1 Where the time limited for the doing of an act in the T’it’q’et administration building falls on a day when the office is not open during regular business hours, the act may be done on the next day that the office is open.

4. Counting Days

4.1 Where there is a reference to a number of days between two events, in calculating that number, the day on which the first event occurred is not counted and the day on which the later event occurred is counted (i.e., between Monday and Wednesday is two days).

5. Conflict Between Code and T'it'q'et By-Laws

5.1 Except as otherwise provided in this Code, in the event of a conflict between this Code and a T'it'q'et By-Law, this Code shall prevail to the extent of the conflict.

6. Use of Singular, Feminine, Masculine or "Person" terms

6.1 Wherever the singular, masculine, feminine, or the term "person" is used in this Code, it shall be deemed to include the plural, masculine, feminine, body corporate, T'it'q'et or other entity where the context so requires.

Part II — Election Procedures

7. Election of Tribal Chief, Community Chief, and Council

7.1 T'it'q'et Elected Officials shall consist of one (1) Tribal Chief, one (1) Community Chief, and four (4) Councillors.

7.2 The offices of Tribal Chief and Community Chief and Councillors shall be determined by a vote of eligible Voters in a General Election, or in the event of a vacancy, in a By-election.

7.3 General Elections shall be held in accordance with this Code.

7.4 By-elections shall be held in accordance with this Code.

8. First Election

8.1 The first General Election under this Code shall be held in March 2008. A by-election under this Code may be held prior to that date if there is a vacancy to be filled in accordance with this Code.

8.2 The Elected Officials in office at the time that this Code comes into effect shall, subject to any by-election, continue in office until the completion of their respective terms.

9. Term of Office

9.1 In the first General Election, the candidate for Community Chief receiving the most votes and the five (5) candidates for Councillor receiving the most votes shall serve a two (2) year term.

9.2 After the first General Election, there shall be a General Election every two years held in March (i.e. March 2010).

9.3 In the second General Election, in March 2010, the candidate for Tribal Chief receiving the most votes shall serve a term of four (4) years.

9.4 The General Election for Tribal Chief and Community Chief and Councillors shall be held in March in the year their term of office expires.

9.5 At all General Elections after the first General Election, the term for Community Chief and Councillors shall be four (4) years. Changed by Motion at T'it'q'et General Meeting held March 16, 2008: Motion reads: **Motion #12 Moved by Tribal Chief Mike Leach/Diana Adolph that we the Community Members assembled at our March 16, 2008 General Meeting change the T'it'q'et Chief and Council**

term of office from a two year term to a term of four years effective in the election of 2010. Motion carried.

- 9.6 The term for Tribal Chief shall be for four (4) years.
- 9.7 The term of office for Tribal Chief, Community Chief and Councillors commences when the Electoral Officer publicly declares the results of the Election, and subject to any vacancy arising under this Code, expires at 11:59 PM on the day preceding the next election.

10. Eligibility of Voters

10.1 In order to be entitled to vote in an election, a person must, as of the date of the election:

- a) have attained the age of eighteen (18) years;
- b) be listed on the Membership Roll; and
- c) be included on the Voters' List.

11. Eligibility of Candidates

11.1 To be eligible as a candidate for the office of Tribal Chief or Community Chief or Councillor, the candidate must:

- a) be eligible as a Voter, as defined in this Code;
- b) be nominated for that office, in accordance with the procedures set out in this Code;
- c) be “in good standing” with T’it’q’et Administration. For added clarity “Administration” in this section does not include other T’it’q’et entities, such as registered companies or societies that are wholly or partially owned by T’it’q’et;
- d) be ordinarily resident within one hundred (100) kilometres from the T’it’q’et Main Administration Building near Lillooet; and
- e) not have been convicted of an indictable offence in Canada or a felony in the United States within four (4) years prior to his or her nomination, except, in some circumstances, where the conviction is for an offence relating to the assertion, exercise or protection of Aboriginal rights or title.

12. Appointment of Electoral Officer

- 12.1 Council shall, at least twenty (20) days before the date of a General Election, appoint an Electoral Officer. For By-elections, Council will appoint the Electoral Officer ten (10) days before a By-election.
- 12.2 If an Electoral Officer has not been appointed within the time set out in Section 12.1, the Administrative Services Manager shall appoint the Electoral Officer as soon as possible.
- 12.3 The Electoral Officer shall not be a Member or employee or contractor of T’it’q’et.
- 12.4 Every Electoral Officer shall swear an oath of office, agreeing to:
- a) uphold and comply with this Code;

- b) fulfill the duties and responsibilities of their office under this Code;
- c) carry out their duties faithfully, honestly, impartially and to the best of their abilities;
- d) keep confidential, both during and after their term of office, any matter or information which, under this Code, is considered confidential; and
- e) always act in the best interests of T'it'q'et in carrying out their duties.

12.5 The Electoral Officer may make such order and issue such instructions consistent with the provisions of this Code as he or she may from time to time deem necessary for the effective administration of this Code. This includes addressing electoral issues that may arise in emergency situations.

12.6 Council will set and Administration will pay a reasonable honorarium for the expenses of the Electoral Officer.

13. Voters' List

13.1 The Membership Clerk shall prepare a Voters' List prior to the election. The Voters' List will be the official record of all eligible Voters for the next Election.

13.2 Once the Voters' List has been prepared, a copy of the Voters' List will be available in the T'it'q'et administration building.

13.3 A Member whose name does not appear or does not correctly appear on the Voters' List and who believes that she is eligible to be a Voter must, prior to the Election, inform the Membership Clerk to have her name changed or added to the Voters' List.

13.4 Any person whose name does not appear on the Final Voters' List shall not be entitled to vote in the election.

13.5 Any irregularity in the preparation or revision of the Voters' List shall not be grounds for opposing the validity of an election or the election of a candidate.

14. Notice of General Elections

14.1 When a General Election is to be held, the Administrative Services Manager shall post notice of a meeting for the General Election.

14.2 Notice of the General Election shall be provided to the Membership at least thirty (30) days prior to the General Election by:

- a) publishing the notice in the T'it'q'et newsletter, delivered or mailed to all Voters or by separate written notice delivered or mailed to all Voters, including via electronic means; and
- b) posting the notice in the T'it'q'et administration building and other conspicuous places or T'it'q'et Lands as may be determined by the Administrative Services Manager.

14.3 The notice of the General Election shall include:

- a) The positions for which elections will be held;

- b) the date, time and place of the meeting;
- c) the place(s) where copies of this Code may be obtained; and
- d) how Members can confirm that their names are on the Voters' List.

15. General Election Procedures

15.1 At the time and place specified in the notice of the General Election, the previous Community Chief shall call the meeting to order and conduct any necessary community business before turning the meeting over to the Electoral Officer.

15.2 The Electoral Officer shall then conduct the General Election in the following order:

- a) Nominations and election for Tribal Chief, if the term for Tribal Chief has expired; and then
- b) Nominations and election for Community Chief; and then
- c) Nominations and election for Councillors.

15.3 Nominations

- a) Any Voter may propose or second a nomination.
- b) Once a Candidate is seconded for nomination, the Electoral Officer will ask the nominee if they accept the nomination.

If the nominee accepts the nomination, that Candidate's name will be placed on a Candidates' List, which will be clearly displayed.

- c) After three consecutive calls for nominations with no further nominations, the Electoral Officer may close the nominations.
- d) A Candidate must be present to accept his or her nomination for a Council position. Failure to be present means that the Candidate has declined the nomination.
- e) If a Candidate was in attendance at the nomination but has momentarily left, the Electoral Officer can give the Candidate a reasonable amount of time to return to the meeting and accept or decline the nomination.
- f) If only one qualified candidate is nominated for the office of Tribal Chief or Community Chief, the Electoral Officer shall declare that candidate to be elected by acclamation.
- g) In all Elections, where the number of qualified candidates nominated for the office of Councillor does not exceed the number of positions available, the Electoral Officer shall declare such candidates to be elected by acclamation.
- h) In the event that more than the required number of persons is nominated for the offices of Tribal Chief and/or Community Chief and/or Councillor, the Electoral Officer shall declare that a poll will be held.
- i) Each nominee may appoint one (1) scrutineer to observe the election process.

15.4 The Electoral Officer shall provide each Candidate with an equal amount of time to address the Membership.

a) The Electoral Officer will determine the order of speakers.

15.5 The Electoral Officer will give the Voters in attendance an opportunity to ask the candidates questions and each candidate will be given an equal amount of time to respond to each question.

15.6 The Electoral Officer will decide when to close the floor to questions.

16. Preparation of Ballots

16.1 The Electoral Officer shall prepare ballots setting out the names of the candidates nominated for election in Alphabetical order of the last name of the candidates.

16.2 The ballot may, at the request of the candidate, include a candidate's commonly used nickname or traditional name.

16.3 The ballot shall indicate that the Voter is to select his or her choice of candidate(s) by clearly marking an "X" or other mark in the appropriate space beside the name of the candidate(s).

16.4 The Electoral Officer will provide each eligible Voter with one official ballot and then check off the appropriate column on the Final Voters' List to indicate that one ballot has been provided to the Voter.

17. Voting for General Elections

17.1 The Electoral Officer shall immediately before the commencement of the poll:

a) open the ballot box and, in the presence of any scrutineers, confirm that it is empty;

b) lock and properly seal the ballot box in a manner preventing it from being opened without breaking the seal; and

c) place the ballot box in public view for the reception of the ballots.

17.2 The Electoral Officer shall place in the proper column of the Voters' List, a mark beside the name of every Voter receiving a ballot.

17.3 The Electoral Officer shall, when requested to do so, explain the method of voting to the Voter.

17.4 Voting at all Elections shall be by secret ballot.

17.5 Voters may authorize, by written proxy, another eligible voter to vote on their behalf.

a) A fax or digitally transmitted copy of the original signed proxy is acceptable.

b) The written proxy must identify the eligible voter authorized to exercise it.

c) The written proxy must be verified by the Membership Clerk or delegate by 4:00 PM of the last business day prior to the election.

d) The Electoral Officer will be made aware of all eligible proxy votes.

e) An eligible voter may carry only one proxy vote.

17.6 Any Voter who requires assistance may request the Electoral Officer or the Voter's Designate to assist, in the Voter's presence, in the casting of a ballot.

17.7 In the event that a Voter votes in the manner described in Section 17.6, the Electoral Officer shall note on the Voters' List, in the column for remarks opposite the name of such Voter, the name of the Designate who assisted the Voter in casting the Voter's vote.

17.8 With the exception of the Electoral Officer, a person can be a Designate for only one Voter in an election.

17.9 Except as in the manner provided in Section 17.6, the Electoral Officer shall ensure the Voter's privacy while voting.

17.10 Upon receiving the ballot, all Voters shall:

- a) proceed to clearly place an "X" or other mark in the appropriate space beside the name of the candidate(s) of their choice;
- b) fold the ballot, so as to conceal their choice(s); and
- c) deposit the ballot into the ballot box in the presence of the Electoral Officer and any scrutineers present in the polling station.

17.11 A Voter who inadvertently spoils his or her ballot may return it to the Electoral Officer in order to obtain another ballot, and the Electoral Officer shall destroy the spoiled ballot, and provide the Voter with a new ballot.

17.12 No person shall:

- a) attempt to interfere with or influence any Voter in marking his or her ballot, or
- b) attempt to obtain information as to how a Voter is about to vote or has voted.

18. Procedures for the Close of Polls

18.1 After allowing a reasonable amount of time for all Voters present to cast their ballots, the Electoral Officer shall announce five minutes until the close of polls and then;

- c) The Electoral Officer will then wait two (2) minutes and announce three minutes until Close of Polls and then;
- d) The Electoral Officer will then wait two (2) minutes and announce one minute until Close of Polls and then;
- e) The Electoral Officer will then wait one (1) minute and announce Close of Polls and halt all further balloting.

18.2 Immediately after the close of the polls, the Electoral Officer shall in the presence of the scrutineers as may be present, open the ballot box and examine the ballots and reject all those that:

- a) are not official ballots;
- b) contain more votes than are candidates to be elected;

- c) are marked in such a way that the Voter can be identified; or
- d) are marked in such a way that the Voter's choice cannot clearly or unambiguously be determined.

18.3 The Electoral Officer shall report in writing the reasons attached for the rejection of each ballot and attach that report to the rejected ballot.

18.4 The rejected ballot and the written decision shall be held by the Electoral Officer until the expiration of any appeal period provided for in this Code.

18.5 The Electoral Officer shall:

- a) show the ballots to be counted to any scrutineers present;
- b) count the votes given for each candidate from the ballots not rejected; and
- c) at the conclusion of the count, complete and sign a ballot tally sheet setting out the number of confirmed votes and the number of rejected ballots.

18.6 Immediately after the completion of the counting of the votes, the Electoral Officer shall publicly declare the candidate(s) with the highest number of votes to be elected.

18.7 The Electoral Officer shall post in the T'it'q'et administration building and in other conspicuous place(s) as may be determined by the Electoral Officer, a written statement signed by the Electoral Officer, showing the number of votes cast for each candidate.

18.8 Ties

- a) Where two or more candidates have an equal number of votes for Tribal Chief or Community Chief or for remaining Councillor position(s), the Electoral Officer shall decide on and carry out a method to break the tie and then declare a successful candidate based upon the result.

19. Disposal of Ballots

19.1 The Electoral Officer shall deposit the ballots used in the voting in a sealed envelope and retain it for sixty (60) days or until a decision on an appeal is rendered, whichever date is later, after which time the Electoral Officer may, unless directed otherwise by Council, destroy them in the presence of two witnesses.

20. Signing of Agreements

20.1 A candidate who has been elected Chief or Councillor shall sign:

- a) a Confidentiality Agreement;
- b) a Conflict of Interest Agreement;
- c) a Code of Conduct and Ethics Agreement;
- d) an agreement to read, understand and adhere to T'it'q'et policies that affect his position or that can be affected by his position; and

- e) an agreement to always act in the best interests of T'it'q'et in carrying out her duties.

21. Election Appeals

- 21.1 Any Candidate or Voter may file a notice of appeal, requesting that the election of the Chief or a Councillor be declared invalid, based on one or more of the following grounds:
- a) the person declared elected was not qualified as a candidate, as outlined in this Code;
 - b) the person declared elected was not nominated in accordance with the procedures set out in this Code;
 - c) the Election was not conducted in accordance with this Code; or
 - d) there was a corrupt or fraudulent practice in relation to the Election.
- 21.2 Every notice of appeal shall be filed within fourteen (14) days from the date of the General Election.
- 21.3 Every notice of appeal shall set out the facts substantiating the grounds for declaring the Election of the Tribal Chief or Community Chief or Councillor to be invalid and shall be accompanied by any supporting documentation.

22. Vacancies

- 22.1 The office of Tribal Chief or Community Chief or Councillor shall become vacant when the person who holds that office:
- a) dies; or
 - b) resigns, in writing, from office; or
 - c) is no longer in good standing with Administration; for added clarity, the term "Administration" in this Code does not refer to other T'it'q'et entities, such as registered companies or societies that are wholly or partially owned by T'it'q'et; or
 - d) is no longer ordinarily resident within one hundred (100) kilometres from T'it'q'et Administration; or
 - e) has been convicted of an indictable offence in Canada or a felony in the United States since their election, except where that conviction is for an offence relating to the assertion, exercise or protection of Aboriginal rights or title.

23. Procedure on Appeals

- 23.1 Where no Arbitrator has been appointed, an appeal shall be filed with the Administrative Services Manager who shall upon receipt, request Council to appoint an Arbitrator.
- 23.2 If Council has not appointed an Arbitrator within ten (10) days of the request of the Administrative Services Manager under Section 23.1, the Administrative Services Manager shall appoint an Arbitrator.
- 23.3 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 persons 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.

23.4 A copy of the notice of appeal and supporting documentation shall be delivered to the Elected Official whose election is being appealed or the Elected Official whose office is being declared vacant, at least fourteen (14) days prior to the hearing.

23.5 A copy of the notice of appeal and supporting documentation shall be delivered to the Electoral Officer at least fourteen (14) days prior to the hearing.

23.6 The copy of the notice of appeal and supporting documentation shall be delivered to the Arbitrator at least fourteen (14) days prior to the hearing.

23.7 The Elected Official(s) whose election is being appealed, the Elected Official(s) whose vacancy declaration is being appealed, or the Electoral Officer whose decision is being appealed, as the case may be, may file a written reply with the Arbitrator at least four (4) days prior to the hearing.

23.8 No witness shall be required to divulge whom he or she voted for in the Election.

23.9 The Arbitrator shall issue a written decision together with reasons in every appeal.

23.10 In the case of an Election appeal, the Arbitrator may:

- a) confirm the election of the Elected Official, or
- b) invalidate the election of the Elected Official.

23.11 If an election is declared invalid, the Arbitrator shall order that any person found not to have been duly elected shall vacate the office and if it is decided that some other person was duly elected, the Arbitrator shall order that such person take office immediately.

23.12 The election of a Council member shall not be declared invalid by reason only of an irregularity or non-compliance with the rules set out in this Code if it appears to the Arbitrator that the Election was conducted in good faith unless the non-compliance, irregularity or mistake materially affected the result of the Election.

23.13 The Arbitrator shall provide a copy of the decision to the Administrative Services Manager and to any party to an appeal.

23.14 The Arbitrator's decision shall be posted in the T'it'q'et administration building.

23.15 The decision of the Arbitrator is final and not subject to appeal.

24. By-election Procedures

24.1 Unless otherwise provided in this Code, in the event that the office of Tribal Chief or Community Chief or Councillor becomes vacant, a by-election shall be held within sixty (60) days of the office being vacated, on a date set by Chief and Council.

- 24.2 No by-election shall be held if there are less than six (6) months remaining in the term of the Council member whose office has become vacant, except where a by-election is necessary to have sufficient Council members to maintain a quorum.
- 24.3 If an Elected Official wishes to be a candidate in a By-election, she must resign from her position at least ten (10) days prior to the By-election date.
- 24.4 The successful candidate in the By-election shall hold office for the remainder of the original term of the position which was vacated.
- 24.5 If Council does not select a date for the by-election within fourteen (14) days of an office being vacated, the Administrative Services Manager will select the date for the By-election.
- 24.6 A By-election will be held on a Saturday or Sunday and will be comprised of a nomination and a secret ballot vote to fill the vacancy or vacancies.
- 24.7 An Electoral Officer will be appointed for the By-election as per Section 12 of this Election Code.
- 24.8 A Voters' List shall be prepared for the By-election as per Section 13 of this Election Code.
- 24.9 Notice of the By-election will be given as per Section 14 of this Election Code.
- 24.10 The Procedures for the By-election will follow the same format as per Sections 15, 16, 17, 18, 19, 20 and 21 of this Election Code.

25. Amendments to This Code

- 25.1 Any Member can propose changes to this Code by submitting the proposed changes in writing to Council who will place the issue on the agenda of an upcoming duly convened Band meeting.
- 25.2 The written proposed changes must identify the specific section that is being considered for change and the specific textual changes that are being proposed.
- 25.3 At the duly convened Band meeting referred to in Section 25.1, if the Members deem that the change is worth considering, it must pass a motion by a majority of the Members present to formally consider the proposed changes.
- 25.4 If the Members in attendance pass a motion to formally consider a proposed change to this Code in accordance with Sections 25.1, 25.2 and 25.3, the proposed change will be deemed formally considered.
- 25.5 Once a proposed change is considered to be formally considered, the Administrator will distribute the proposed change to all Members and the issue can be discussed again at a second duly convened Band meeting.
- 25.6 Once a proposed change is considered to be formally considered, the Administrative Services Manager may seek an independent, written, legal opinion on the legality of the proposed change.
- 25.7 At the second duly convened Band meeting, the formally considered change will be discussed further, including the written, legal opinion, if it was sought.
- 25.8 At the second duly convened Band meeting where the change is to be formally considered, amendments to the proposed changes are acceptable, if the amendments:
 - a) do not fundamentally alter the original intent of the formally considered change; and

b) are consistent with the legal opinions that may have been obtained.

25.9 If the members deem that the formally considered change or an amended version of the formally considered change is appropriate, the Members will pass a motion by a majority of the members present at the second duly convened Band meeting that the proposed change or its amended version is approved by the members.

25.10 Once a change has been passed at a duly convened Band meeting, it will come into effect immediately and this Code will be updated immediately by the Administrative Services Manager to reflect the new changes.