

## **TL'AZT'EN NATION ELECTION CODE**

**Penultimate Draft  
March 30, 2017**

This is the penultimate draft, meaning it is substantially final, but is still open for comment and correction prior to the ratification vote at the August Annual General Assembly. It incorporates all work to date, including the community survey and the March 22, 2017 open meeting in Tache.

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## TI'azt'en Nation Election Code

### Purpose

1. This TI'azt'en Nation Election Code is a custom election code approved by the members of TI'azt'en Nation for the election of Chief and Council and for deciding other questions by referendum vote.

### Definitions

2. In this Code,

"Appellant" means an individual who submits an appeal in accordance with this Code.

"Band" means TI'azt'en Nation #617.

"Band Member" means a person whose name appears on the TI'azt'en Nation Band membership list.

"Candidate" means a Nominee who has satisfied the requirements for inclusion on a ballot.

"Code" means this TI'azt'en Nation Election Code.

"Council" means the governing body of TI'azt'en Nation elected pursuant to this Code and includes the Chief and Councillors.

"Election" means an Election of Council held pursuant to this Code and includes a By-election or referendum.

"Electoral Officer" means the Chief Electoral Officer, a Deputy Electoral Officer and any other person appointed as an Electoral Officer by the Chief Electoral Officer.

"Good Financial Standing" means the condition of having no arrears or unauthorized debt owing to the Band or any entity owned, controlled or managed by the Band.

"Immediate Family Member" means a grandparent, parent, sibling, spouse or child.

"Indian Registration Administrator" means the person designated by the Band who is responsible for maintaining the Band membership list.

"Nomination Period" means the period during which nominations may be made and received, beginning with posting of the notice of nomination and ending 35 days prior to the day on which the Election is to be held.

"Nominee" means a Voter who is nominated and seconded in accordance with this Code.



"Oath" includes a solemn affirmation.

"Ordinarily Resident" means the place where a Band Member regularly sleeps except for temporary absences for medical, employment or educational reasons.

"Poll" means a building, hall, room or other location where voting in person by ballot takes place and includes an advance Poll.

"Reserve" means the Band community of Tache, Binche Keyoh or Dzitl'ainli.

"Resident Councilor" means a Councilor who has been elected to represent those members who are ordinarily resident in Tl'azt'en Nation.

"Tl'azt'en Nation" means the Band.

"Voter" means a Band Member who is at least 18 years of age on the day on which an Election is to be held.

### **Application**

3. This Code applies to:
  - a) Elections, and
  - b) amendment of this Code.
4. Council shall consist of:
  - a) one Chief
  - b) four Councilors for Tache who are ordinarily resident in Tache
  - c) two Councilors for Binche Keyoh who are ordinarily resident in Binche Keyoh, and
  - d) one Councilor for Dzitl'ainli who is ordinarily resident in Dzitl'ainli.
5. Council shall be elected in accordance with this Code.
6. An Election of Council shall be held on the first Thursday of June in every second year beginning in 2018.

### **Terms of Office**

7. The term of office of a member of Council shall be four years, provided that the terms of office for:
  - a) two Candidates for Tache Councilor, and
  - b) one Candidate for Binche Keyoh Councilor

who receive the most votes in the first Election under this Code shall commence when the

Chief Electoral Officer declares the results of the Election.

8. For greater certainty, section 7 is intended to establish a term of office such that the Candidates referred to in section 7 are staggered with an equal number of Candidates elected in 2016.
9. A term of office of a member of Council shall commence when the Chief Electoral Officer declares the results of the Election and shall expire when the Chief Electoral Officer declares the results of the next Election for that office.
10. A term of office may be extended for a maximum of thirty days by Band Council Resolution.

### **Electoral Officers**

11. Council shall by Band Council Resolution appoint a Chief Electoral Officer at the first Council meeting of each year in which an Election will be held.
12. The Chief Electoral Officer shall be responsible for the conduct of an Election under this Code.
13. The Chief Electoral Officer may make such orders and issue such instructions consistent with this Code as they deem necessary for the effective conduct of an Election.
14. The Band Council Resolution appointing the Chief Electoral Officer shall set out the Chief Electoral Officer's full name and address, the date of the Election, the type of Election and any special instructions.
15. The Chief Electoral Officer must have successfully completed appropriate training and be certified as an electoral officer by Aboriginal Affairs and Northern Development Canada.
16. The Chief Electoral Officers shall appoint a Deputy Electoral Officer and such other Electoral Officers as the Chief Electoral Officer deems necessary.
17. The Deputy Electoral Officer shall have the powers described in this Code as well as those powers delegated by the Chief Electoral Officer.
18. In the event that the Chief Electoral Officer cannot fulfill their duties, the Deputy Electoral Officer shall undertake the duties of the Chief Electoral Officer.
19. If the Deputy Electoral Officer is unable or unwilling to undertake the duties of the Chief Electoral Office, Council shall appoint another Chief Electoral Officer.
20. No Electoral Officer shall be:
  - a) a member of Council
  - b) a Candidate, or
  - c) an Immediate Family Member of a Candidate.

21. The Chief Electoral Officer, Deputy Electoral Officer and every Electoral Official must swear an Oath to:
  - a) uphold and comply with this Code
  - b) fulfill the duties and responsibilities of their office faithfully, honestly, impartially and to the best of their abilities, and
  - c) keep confidential, during and after their term of appointment, any confidential information.
22. The Chief Electoral Officer shall establish an Election file and place on that file all documentation associated with the Election.
23. Following final determination of any Election appeal, the Chief Electoral Officer shall transfer the Election file to TI'azt'en Nation.
24. The Chief Electoral Officer must:
  - a) uphold and abide by this Code
  - b) remain neutral in the conduct of their duties
  - c) refrain from providing any preferential treatment or expressing support for, or opposition to, a Candidate
  - d) not accept anything of value in exchange for preferential treatment or access to confidential information
  - e) not discriminate against anyone because of race, religion, sex, age or handicap
  - f) not pressure or influence another Electoral Officer to favor a Candidate, and
  - g) avoid conflicts of interest by abstaining from decision-making where the Chief Electoral Officer has a personal or private interest in a matter.
25. Council may by Band Council Resolution terminate the services of a Chief Electoral Officer if the Chief Electoral Officer does not comply with this Code or otherwise fails to fulfill their duties.
26. In the event that Council terminates the services of a Chief Electoral Officer, Council shall forthwith notify the Candidates of the name and contact information of the new Chief Electoral Officer.

## **Voters List**

### **Preparation of Voters List**

27. The Chief Electoral Officer shall prepare a Voters list setting out the names of all known Voters in alphabetical order.
28. The Chief Electoral Officer shall post the Voters list in the Band administration office at least fifty days prior to the day on which the Election is to be held.
29. For the purpose of preparing the Voters list the Indian Registration Administrator shall provide the Chief Electoral Officer, within three days of the Chief Electoral Officer's appointment:

- a) the name, Band membership number, date of birth, and residency of all Band Members who will be at least 18 years of age on the day on which the Election is to be held, and
  - b) the last known address of all Voters who do not ordinarily reside on a Reserve.
30. After an Election, the Chief Electoral Officer shall provide the Indian Registration Administrator with any updated addresses of Voters who do not ordinarily reside on a Reserve that are known to the Chief Electoral Officer.
31. Voters are deemed responsible for providing the Indian Registration Administrator with their current address.

#### **Confidentiality of Voters' Addresses**

32. No Voter's address shall be disclosed by the Chief Electoral Officer without the consent of the Voter.
33. The Chief Electoral Officer may provide to a Candidate a list of the names and addresses of Voters who have consented to have their addresses disclosed to Candidates.

#### **Amendment of Voters List**

34. The Chief Electoral Officer shall, upon presentation of documentary or other proof satisfactory to the Chief Electoral Officer:
- a) add to the Voters List the name of a Voter whose name has been omitted
  - b) revise the Voters List to correctly set out the name of any Voter that has been incorrectly set out, and
  - c) remove the name of a person who is not a Voter.
35. Where a person's name has been removed from the Voters list under section 34(c) the Chief Electoral Officer shall as soon as practicable notify that person in writing that:
- a) their name has been removed from the Voters list, and
  - b) the reason for removal of their name from the Voters List.
36. A person whose name has been removed from the Voters list may, at any time prior to the close of the polls on voting day, provide information to the Chief Electoral Officer showing why their name should not have been removed.
37. After considering all information and representations provided under section 36, the Chief Electoral Officer may:
- a) restore the person's name to the Voters List, or
  - b) confirm the removal of the person's name from the Voters list.
38. The decision of the Chief Electoral Officer under section 37 is final and not subject to appeal.



39. A person whose name does not appear on the Voters list shall be entitled to vote if that person, prior to the close of polls on the date of the Election, presents documentary proof satisfactory to the Chief Electoral Officer of their eligibility to vote.

### Notifications

40. In addition to the method required for posting any notice or other information provided for in this Code, the Chief Electoral Officer may use or cause to be used such electronic, digital or social media as the Chief Electoral Officer reasonably believes will enable information to reach a maximum number of Voters.

### Nominations

#### Method of Nomination

41. A Candidate may be nominated only in accordance with this part.
42. No less than 42 days prior to the date on which the Election is to be held, the Chief Electoral Officer shall issue a notice of nomination which shall include:
  - a) the positions for which nominations may be made
  - b) the duration of the Nomination Period
  - c) the procedure by which a Voter may nominate or second the nomination of a Candidate
  - d) the date on which the Election is to be held
  - e) the name and contact information of the Chief Electoral Officer, and
  - f) such other information as the Chief Electoral Officer deems advisable.
43. The Chief Electoral Officer shall cause the notice of nomination to be
  - a) posted in the Band administration office, and
  - b) publicized by such other means as the Electoral Officer considers necessary.
44. A nomination must be moved by a Voter and seconded by another Voter.
45. A Voter may nominate a Candidate by delivering or mailing a written nomination and a completed, signed and witnessed Voter Declaration Form to the Chief Electoral Officer before the end of the Nomination Period.
46. A nomination that is not received by the Chief Electoral Officer before the end of the Nomination Period is void.
47. A nomination that has not been seconded prior to the end of the Nomination Period is void.
48. The Chief Electoral Officer shall confirm whether a nominee is eligible to be a Candidate for the office to which they have been nominated.

49. If a nominee receives more than one nomination for the same office, only the first nomination will be accepted.
50. A Voter may nominate and second no more than:
- a) one nominee for the office of Chief, and
  - b) one nominee for the office of Councilor.

#### **Duties of Chief Electoral Officer**

51. At the end of the Nomination Period, the Chief Electoral Officer shall:
- a) if only one nominee has been nominated as Candidate for Chief, declare that nominee to be elected by acclamation
  - b) if the number of nominees nominated as a Candidate for an office of Councilor does not exceed the number of Councilors to be elected for that office, declare the Councilor or Councilors, as the case may be, to be elected by acclamation, or
  - c) if more than the required number of nominees is nominated as Candidate for Chief or Councilor, announce that an Election will be held for the offices not filled by acclamation.
52. For greater certainty, a Candidate must meet all eligibility requirements prior to the Chief Electoral Officer declaring them to be duly elected by acclamation.
53. On the day following the end of the Nomination Period, the Chief Electoral Officer shall post in the Band administration office, a list of nominees, their nominators and seconders and the offices for which they are nominated.
54. The Chief Electoral Officer will as soon as practicable following the close of nominations, notify each nominee that they have been nominated and provide to each nominee, the Candidate Acceptance and Declaration Form.
55. If the Chief Electoral Officer, after making reasonable inquiries, is unable to notify a nominee of their nomination prior to the All Candidates Forum, the nomination shall be deemed to be withdrawn.

#### **Responsibilities of Nominees**

56. Within five days of being notified of their nomination a nominee shall
- a) execute a Candidate Acceptance and Declaration Form accepting their nomination and confirming their eligibility to be a Candidate, and
  - b) file the Candidate Acceptance and Declaration Form with the Chief Electoral Officer by mail, facsimile, electronic transmission or by hand, and
  - c) pay the applicable deposit referred to in section 57 or 58.
57. A Candidate for Chief must pay a non-refundable deposit of \$200.00.
58. A Candidate for Councilor must pay a non-refundable deposit of \$100.00.



59. A deposit shall be in the form of cash, money order, or certified cheque.
60. All deposits shall be held in trust by the Chief Electoral Officer and be paid to TI'azt'en Nation after all proceedings in the Election and any appeals have been concluded.
61. Subject to sections 66 and 71, if a nominee provides an executed Candidate Acceptance and Declaration Form and pays the applicable deposit, the nominee will be a Candidate and their name will be included on the ballot.
62. A nominee who fails to submit a Candidate Acceptance and Declaration Form, biographical profile or deposit to the Chief Electoral Officer prior to the All Candidates Forum will be deemed to have declined the nomination and will not be included on the ballot.
63. No person shall accept a nomination if that person is knowingly not eligible to be a Candidate.

### Qualifications of Candidates

64. A Candidate must:
  - a) have been nominated in accordance with this Code
  - b) be at least twenty-one years of age on the day the Election is to be held
  - c) not have outstanding criminal charges and, if convicted previously, must have completed the sentence at least five years prior to the date of the Election, unless the Candidate provides proof of an official pardon
  - d) subject to section 66, be in Good Financial Standing
  - e) have signed the Candidate Acceptance and Declaration Form
  - f) have paid the deposit
  - g) have been a Band Member for at least 24 months immediately preceding the Election
  - h) have traditional knowledge, including ability to understand TI'azt'en Nation culture or speak the Dakelh language
  - i) have a minimum of a Grade 12 or adult Dogwood diploma
  - j) abstain from drug or alcohol abuse
  - k) not be an employee of TI'azt'en Nation, and
  - l) have not violated this Code.
65. A Candidate for the office of Chief must have been ordinarily resident on a Reserve for at least twelve months immediately prior to the date on which the Election is to be held.
66. A Nominee who is not in Good Financial Standing must, prior to the end of the Nomination Period, provide to the Chief Electoral Officer a written agreement that includes a payment plan approved by the Director of Finance.
67. A Chief or Councillor who has resigned during their term of office may not be a Candidate in the next Election following their resignation.

68. An employee of Tl'azt'en Nation may be a Candidate but must resign their employment if declared elected.
69. A member of Council who is an employee of Tl'azt'en Nation prior to this Code coming into effect may complete their term of office while an employee but must comply with section 68 if elected to a term of office under this Code.
70. A nominee may be a Candidate for only one office in any one Election.
71. If at any time prior to the Election, the Chief Electoral Officer determines that a Candidate does not meet the qualifications set out in section 64, the Chief Electoral Officer shall disqualify the Candidate.

#### **Withdrawal of Candidate**

72. A Candidate may withdraw from candidacy by submitting a written notice of withdrawal to the Chief Electoral Officer.
73. Every notice of withdrawal shall be posted at the Polls.
74. A Candidate who withdraws shall forfeit the deposit.
75. In the event that withdrawal of one or more Candidates results in an office being uncontested, the Chief Electoral Officer shall declare the remaining Candidate or Candidates, as the case may be, elected by acclamation.
76. In the event that all offices are filled by acclamation the Chief Electoral Officer shall post in the Band administration office and mail to every voter who does not ordinarily reside on a reserve, a notice that sets out the names of the persons who have been acclaimed and states that an Election will not be held.
77. A Candidate who is deceased before the close of the Polls shall be deemed to have withdrawn.

#### **All Candidates Forum**

78. An All Candidates Forum must be held no later than seven days before the date of the Election.
79. A Candidate must attend the All-Candidates forum.
80. A Candidate who does not attend the All-Candidates forum shall be disqualified and not included on a ballot.
81. Notwithstanding section 80, a Candidate who experiences the death of an Immediate Family Member within seven days prior to the All Candidates Forum or who is unable to participate by reason of illness may participate by remote technology or by video presentation.

82. Prior to the All-Candidates Forum, a Candidate shall provide to the Chief Electoral Officer:
- a) a one-page biographical profile confirming their education, experience and other qualifications, and
  - b) a summary of their Election platform.
83. During the All Candidates Forum, each Candidate shall have opportunity to address the Voters, following which the Voters, including other Candidates, may put relevant questions to the Candidates.
84. The All Candidates Forum shall be chaired by a Chief from a neighboring community or other independent person.

## **Conduct of Candidates**

### **Campaigns**

85. A Candidate who campaigns must do so:
- a) in accordance with this Code
  - b) respecting the right of other Candidates to organize and campaign
  - c) respecting the rights of Voters to obtain information from a variety of sources and to attend political events
  - d) ethically, focusing on political issues and Candidate platforms without coercion, vote buying, smear campaigns or rumor and innuendo
  - e) non-violently, without intimidating other Candidates, their supporters or the media, and without the use of language inciting others to violence
  - f) respecting the freedom of the media to cover the campaign and to express opinions on the campaign
  - g) respecting the Electoral Officers and not interfering with the performance of their duties, and
  - h) accepting and complying with the declared Election results and any final decision of the Appeal Board.
86. No Candidate shall campaign at a Poll.
87. Every person is in breach of this Code who:
- a) directly or indirectly offers a bribe to influence a Voter to vote or refrain from voting
  - b) directly or indirectly offers a bribe to influence a Voter to vote or refrain from voting for a particular Candidate
  - c) accepts or agrees to accept a bribe
  - d) by intimidation or duress, compels a person to vote or refrain from voting
  - e) by intimidation or duress, compels a person to vote or refrain from voting for a particular Candidate, or
  - f) in any other way induces a person to vote or refrain from voting, or to vote or refrain from voting, for a particular Candidate.

88. If, at any time during an Election, the Chief Electoral Officer reasonably concludes that:

- a) a Candidate does not meet the qualifications of a Candidate, or
- b) is in breach of this Code under section 87,

the Chief Electoral Officer shall disqualify the Candidate and any votes cast for the Candidate shall not be counted.

#### **Legal Proceedings by a Candidate**

89. If a Candidate who is a party to legal proceedings against the Band is declared elected, the Candidate will be deemed to be in a Conflict of Interest with respect to that matter while a member of Council.

### **Voting**

#### **Notice of Election**

90. The Chief Electoral Officer shall, within three days after the end of the Nomination Period, post a notice of Election in at least one conspicuous place on Tache reserve.

91. The notice of Election shall include:

- a) the offices which will be voted upon
- b) the offices filled by acclamation
- c) the date on which the Election is to held
- d) the location of the Polls
- e) the times at which the Polls will open and close
- f) the name and contact information of the Chief Electoral Officer
- g) a statement that the Voters list has been posted for public viewing and its location
- h) a statement that, if a Voter wishes to receive information from Candidates the Voter may agree to have their address released to the Candidates
- i) the time and location of the counting of the votes, and
- j) such other information as the Chief Electoral Officer deems advisable.

#### **Preparation of Ballots**

92. The Chief Electoral Officer shall prepare ballot papers listing in alphabetical order by surname:

- a) on one ballot paper, the Candidates nominated for Chief, and
- b) on a second ballot paper, the Candidates nominated for Councillor separated according to the Reserve for which they are a Candidate.

93. Where two or more Candidates have the same name, the Chief Electoral Officer shall add to the ballot such additional information as may be necessary to distinguish between those Candidates, which may, without limiting the generality of the foregoing include a Candidate's



middle name, initial or nickname.

### **Voting by Mail in Ballot**

94. The Chief Electoral Officer shall, at least 21 days prior to the date on which the Election is to be held, mail to the last known address of every Voter who is not ordinarily resident on a Reserve and to any other Voter on request, a Mail-in ballot package containing:
  - a) both ballot papers initialed on the back of each by the Chief Electoral Officer
  - b) a postage-paid return envelope, addressed to the Chief Electoral Officer
  - c) a smaller envelope marked "ballots"
  - d) a Voter Declaration Form on which the Voter can set out:
    - i) the name of the Voter
    - ii) the membership number
    - iii) the date of birth of the Voter
    - iv) the name, address and telephone number of a witness to the identity and signature of the Voter, and
    - v) a place for the signature of the witness
  - e) the notice of Election, and
  - f) a letter of instruction for voting by Mail-in ballot, which shall include a statement advising the Voter that they may vote in person at any Poll on the day of the Election if they return their Mail-in ballot to the Electoral Officer at the Poll or swear a written declaration before the Electoral Officer, and
  - g) a list of any Candidates who were acclaimed.
95. A Voter who is ordinarily resident on a Reserve and is unable to vote at a Poll on the day on which an Election is to be held, may, not more than 14 days prior to the day on which the Election is to be held, request a Mail-in ballot package from the Chief Electoral Officer.
96. A Voter not ordinarily resident on a Reserve who has not received a Mail-in ballot package may, not more than 14 days prior to the day on which the Election is to be held, request a Mail-in ballot package from the Chief Electoral Officer.
97. Upon receipt of a request for a Mail-in ballot package, the Chief Electoral Officer shall forthwith mail or cause to be delivered a Mail-in ballot package to the Voter.
98. The Chief Electoral Officer shall indicate on the Voters List that a Mail-in ballot has been provided to each Voter to whom a Mail-in ballot was mailed or otherwise provided and shall keep a record of the date on which, and the address to which, each Mail-in ballot was mailed or otherwise provided.
99. A Voter who votes by Mail-in ballot shall:
  - a) place an "X" or other mark that clearly indicates the Voters choice but does not identify the Voter opposite the name of the Candidate for Chief and opposite the name of the Candidate for Councilor for whom the Voter desires to vote
  - b) fold the ballots in a manner that conceals the names of the Candidates or any marks, but

- exposes the Chief Electoral Officer's initials on the backs of the ballots
  - c) place the ballots in the inner envelope and seal the inner envelope
  - d) complete and sign the Voter Declaration Form in the presence of a witness, who is at least 18 years of age, to the Voter's identity and signature
  - e) record the name, address and telephone number of the witness
  - f) obtain the signature of the witness
  - g) place the inner envelope and the completed, signed and witnessed Voter Declaration Form in the postage-paid return envelope, and
  - h) mail or otherwise deliver or cause to be delivered, the return envelope to the Chief Electoral Officer or an Electoral Officer at a Poll.
100. Where a Voter is unable to vote in the manner provided in section 99, the Voter may receive assistance from another person to mark the ballot and to complete and sign the Voter Declaration Form in accordance with that section.
101. Where a Voter receives assistance under section 100, the witness referred to in section 99 shall record that the Voter is the person whose name is set out in the form and that the ballot was marked according to the directions of the Voter.

#### **Rejection of Mail-In Ballot**

102. A Mail-in ballot that is not received by the Chief Electoral Officer or by an Electoral Office at a Poll prior to the close of Polls on the day of the Election shall be rejected and not counted.

#### **Voting at a Poll or Advance Poll**

103. Voting shall be by secret ballot.
104. The Chief Electoral Officer will establish a Poll in Tache and in such other locations as the Chief Electoral Officer deems necessary.
105. The Chief Electoral Officer may establish such advance Polls as the Chief Electoral Officer deems necessary and advisable, and voting at such Polls shall be conducted with such variations as are necessary in accordance with this Code, provided that ballots cast at an advance Poll:
- a) will be retained in the secure custody of the Chief Electoral Officer, and
  - b) will not be counted until after the close of Polls on the day of the Election.
106. Any Poll not presided over by the Chief Electoral Officer shall be presided over by the Deputy Electoral Officer or other Electoral Officer appointed by the Chief Electoral Officer.
107. The Chief Electoral Officer shall, before a Poll is open, supply each Poll with:
- a) one ballot box for the ballots cast for the office of Chief
  - b) one ballot box for the ballots cast for the offices of Councilor
  - c) a sufficient number of ballots



- d) a sufficient number of instruments for marking the ballots
  - e) any other materials the Chief Electoral Officer considers necessary, and
  - f) the final Voters list.
108. At each Poll the Electoral Officer shall provide a voting compartment where Voters can mark their ballots without being observed.
109. Each Poll shall be open from 8 AM to 8 PM local time on the day of an Election.
110. The Electoral Officer shall, immediately before the opening of a Poll:
- a) open each ballot box and call such persons as may be present to witness that it is empty
  - b) complete a written statement verified by a witness that each ballot box is empty
  - c) lock and properly seal each ballot box in a manner that prevents it from being opened without breaking the seal, and
  - d) place each ballot box in plain view for the deposit of ballots.
111. No Voter may vote by proxy or otherwise authorize another person to vote on their behalf.
112. The Electoral Officer shall maintain order at all times in the Poll and may remove or cause to be removed any person who interferes with or disrupts the orderly conduct of the Poll.
113. The Chief Electoral Officer may appoint security officials to maintain order in the Poll.
114. No person shall, on the day the Election is held, at a Poll:
- a) distribute any Election-related materials except such materials as may be distributed by an Electoral Officer for the purpose of conducting the Election
  - b) attempt to interfere with or influence any Voter in marking their ballot, or
  - c) attempt to obtain information as to how a Voter is about to vote or has voted.
115. Each person, on presenting themselves to vote at a Poll, shall state their name to the Electoral Officer.
116. The Electoral Officer shall, if the person's name is on the Voters List, initial the ballot for Chief and the ballot for Councilors and provide the ballots to the Voter.
117. The Electoral Officer shall cause to be placed on the Voters List a mark opposite the name of every Voter receiving the ballots to show that the Voter has voted.
118. An Electoral Officer shall on request explain the procedure for voting to a Voter.
119. After receiving a ballot, a Voter shall:
- a) immediately proceed to the compartment provided for marking ballots
  - b) mark each ballot by placing an "X" or other mark that clearly indicates the Voter's choice but does not identify the Voter opposite the name of the Candidate for whom the Voter intends to vote

- c) fold each ballot in a manner that conceals the names of the Candidates and any mark, but exposes the Electoral Officers initials on the back, and
  - d) deliver each ballot to the Electoral Officer.
120. On receipt of a completed ballot, the Electoral Officer shall, without unfolding the ballot, verify the initials placed on the ballot and return the ballot to the Voter, who shall immediately deposit the ballot in the ballot box for the office voted upon with the ballot.
121. While a Voter is in the compartment for the purpose of marking a ballot, no other person shall, except where provided for in this Code, be in the same compartment or be in any position from which they are able to see the manner in which the Voter marks the ballot.

#### **Voting by Mail-In Ballot Recipient**

122. Notwithstanding that a Voter was mailed or provided a Mail-in ballot, the Voter may vote in person at a Poll if:
- a) the Voter returns the Mail-in ballot to the Electoral Officer,
  - b) the Voter provides the Electoral Officer with a signed statement that the Voter has lost the Mail-in ballot, or
  - c) the Voter advises the Electoral Officer that the Voter wishes to cancel their Mail-in ballot and vote at the Poll.
123. A Mail-in ballot that is received from a Voter under section 122(a) shall be marked "cancelled" and not counted.
124. A Mail-in ballot received from a Voter who votes under section 122(b) or (c) shall not be counted.

#### **Special Assistance at a Poll**

125. At the request of a Voter who by reason of physical or educational disadvantage is unable to vote in the manner set out in section 119, the Electoral Officer shall assist that Voter by marking their ballot in the manner directed by the Voter in the presence of another Voter selected by the Voter as a witness and shall place the ballot in the ballot box.
126. At the request of a Voter who makes known to an Electoral Officer that they require the services of an interpreter in order to vote at a Poll, the Electoral Officer will arrange for a competent interpreter to explain the voting procedure to the Voter.
127. No interpreter may be:
- a) a Candidate, or
  - b) an Immediate Family Member of a Candidate.

128. The Electoral Officer shall note on the Voters List opposite the name of a Voter receiving assistance under section 125 or section 126 that the Voter had received assistance to vote and the details of the assistance provided.

#### **Ballot Damaged or Declined**

129. A Voter who has inadvertently dealt with a ballot in such a manner that the ballot is damaged or does not reflect the Voter's intention may, on one occasion only, return the ballot to the Electoral Officer and cast another ballot.
130. The Electoral Officer shall write the word "cancelled" upon the first ballot received under section 129 and retain the ballot.
131. Any Voter who receives a ballot and leaves a Poll without delivering the ballot to the Electoral Officer, or after receiving a ballot, refuses to vote, shall be deemed not to have voted and the Electoral Officer shall make an entry on the Voters list opposite the name of a Voter showing that the Voter received a ballot and declined to vote.
132. If the Electoral Officer receives a ballot referred to in section 131 the Electoral Officer shall mark upon the face of the ballot the word "declined" and any ballot so marked shall be retained in the election file.

#### **Close of a Poll**

133. Every Voter who is inside the Poll at the time fixed for closing the Poll shall be entitled to vote before the Poll is closed.

#### **Scrutineers**

134. A Candidate shall be entitled to have one scrutineer at a Poll at any one time.
135. A scrutineer may observe the conduct of voting, registration at the time of voting and counting of the ballots on behalf of the Candidate but may not otherwise take part in the conduct of the Election or the Poll.
136. A scrutineer must present a letter of authorization to the Electoral Officer at the Poll, signed by the Candidate, in order to be permitted to remain at the Poll.
137. A Scrutineer shall not be a Candidate or a member of Council.

#### **Counting of Ballots**

138. As soon as reasonably possible following the close of the Polls, the Chief Electoral Officer shall count the ballots.
139. The procedure for counting of ballots at any Poll other than the Poll attended by the Chief Electoral Officer shall be as set out herein provided that the Electoral Officer counting the

ballots at such other Poll shall transmit the results of the count to the Chief Electoral Officer immediately following counting of the ballots at that Poll.

140. Any person may attend and observe the counting of the ballots.
141. The Chief Electoral Officer shall open each return envelope that was received before the close of the Polls and, without opening the ballots envelope:
- a) reject the ballots if:
    - i) the ballot envelope is not accompanied by a Voter Declaration Form
    - ii) the Voter Declaration Form is not signed or witnessed
    - iii) the Voter Declaration Form does not contain a date of birth or a Band number that matches the information for that Voter on the Voters List
    - iv) the name of the Voter set out in the Voter Declaration Form is not on the Voters List, or
    - v) the Voter has voted at a Poll.
  - b) in every other case, place a mark on the Voters List opposite the name of the Voter set out in the Voter Declaration Form, open the ballot envelope and without opening the ballot, deposit the ballot in a ballot box.
142. Immediately after all Mail-in ballots have been deposited in the ballot box the Chief Electoral Officer shall, in the presence of any Candidates or their scrutineers who are present, open all ballot boxes and examine each ballot.
143. The Chief Electoral Officer must reject any ballot that:
- a) does not have the initials of the Chief Electoral Officer
  - b) does not clearly show the Voter's intention
  - c) shows more votes than there are Candidates to be elected
  - d) shows more than one vote for Councillor, or
  - e) shows any mark by which the Voter can be identified.
144. The Chief Electoral Officer shall attach a note on each rejected ballot that states the reason the ballot was rejected.
145. The Chief Electoral Officer shall call out the name of the Candidate for whom each vote was cast on each valid ballot.
146. One or more assigned Electoral Officers shall mark on a tally sheet each vote cast for each Candidate.
147. The Chief Electoral Officer shall supply any other person present who so requests with a tally sheet to keep a tally of the votes.
148. The Chief Electoral Officer shall note in writing any objection made by a Candidate or their scrutineer to any ballot and decide any question arising out of the objection.



149. The Chief Electoral Officer shall number objections to ballots raised pursuant to section 148 and place a corresponding number on the back of the ballot with the word "allowed" or "disallowed", as the case may be, with their initials.

### **Declaration of Elected Candidates**

150. After counting all votes, the Chief Electoral Officer shall declare to be elected each Candidate having the highest number of votes.
151. Following the declaration of elected Candidates the Chief Electoral Officer shall complete and sign an Election Report which shall set out:
- a) the names of all Candidates
  - b) the number of ballots cast for each Candidate
  - c) the number of rejected ballots
  - d) the number of spoiled ballots,
  - e) the number of cancelled ballots, and
  - f) the total number of printed ballots.
152. On the day immediately following the counting of votes, the Chief Electoral Officer shall:
- a) sign and post, in the Band administration office, the Election Report prepared in accordance with section 151, and
  - b) forward a copy of the Election Report to the Band administrator.

### **Disposition of Ballots**

153. The Chief Electoral Officer shall retain all ballot papers in sealed envelopes, including those rejected, spoiled, cancelled and unused, and shall retain these ballots in a secure place until they are destroyed in accordance with section 154.
154. All ballots retained in accordance with Section 153 shall be retained for 45 days from the date on which the Election was held or until a final decision on any appeal is rendered, whichever is later, after which time the Chief Electoral Officer may destroy the ballots in the presence of two witnesses who shall sign a declaration that they witnessed the destruction of the ballots.

### **Tie Vote**

155. If an equal number of votes has been recorded for two or more Candidates for an office, the Chief Electoral Officer shall immediately recount the ballots in the presence of the persons present at the Poll.
156. If the recount fails to determine an elected Candidate, the Chief Electoral Officer shall inform the Candidates and shall determine the elected Candidate by lot in accordance with the procedure set out in section 0.

157. The Chief Electoral Office shall:

- a) record the names of the Candidates having the same number of votes on separate but equal pieces of paper
- b) place the pieces of paper in an opaque receptacle
- c) without looking in the receptacle, draw one piece of paper from the receptacle, and
- d) declare that the Candidate whose name appears on the paper is elected.

### **Council Vacancies**

158. A Chief or Councilor office is vacant if, while in office:

- a) a Chief or Councilor resigns
- b) a Chief or Councilor is deceased
- c) a Chief or Councilor is removed from office
- d) a Chief or Councilor is unable to perform their duties for three or more consecutive months due to illness or other incapacity
- e) a Chief or Councilor is convicted of an indictable criminal offence, or
- f) a Chief ceases to maintain ordinary residence on a Reserve.

159. Where the office of Chief becomes vacant more than 12 months before the end of the Chief's term of office:

- a) a By-election shall be held no later than 60 days from the date on which the office became vacant, and
- b) the Deputy Chief shall serve as Acting Chief until a Candidate is declared elected as Chief.

160. The Candidate elected in a By-election shall hold office for the remainder of the vacant term.

161. Council may by unanimous Band Council Resolution leave an office vacant for the remainder of its term in order to manage budgetary limitations, to honor a Chief or Councilor who has become deceased or for emergency reasons.

162. A Councilor who becomes a Candidate in a By-election for the office of Chief must resign from Council.

163. No By-election will be held if there are less than three calendar months remaining in the term of the Chief or Councilor whose office has become vacant.

### **Appeals**

164. At the first Council meeting in a year in which an Election is to be held, Council shall by Band Council Resolution:

- a) appoint the members of the Appeal Board, and
- b) prepare a list of at least five alternate members of the Appeal Board who meet the criteria set out in Section 176.



165. The Appeal Board shall be composed of three persons who:
  - a) are at least 18 years of age
  - b) are not Band members
  - c) have no conflict of interest in the appeal process, and
  - d) have experience or training in the conduct of dispute resolution or administrative appeals.
166. The term of office of the Appeal Board shall be from the date of appointment until the date on which all appeals are finally decided.
167. Council may establish honoraria for members of the Appeal Board.
168. In addition to any honoraria established under section 167, Appeal Board members will be reimbursed for travel and meal expenses reasonably incurred in carrying out their duties.
169. Each member of the Appeal Board shall accept their appointment by letter to Council.
170. The Appeal Board shall decide, in accordance with this Code, all appeals against an Election, including an appeal against a decision of an Electoral Official.
171. A Candidate or a Voter may, within five days after the date on which an Election was held, submit an appeal alleging that:
  - a) a Candidate declared elected was not qualified to be a Candidate
  - b) there was a violation of this Code in the conduct of the Election that might have affected the result of the Election, or
  - c) there was a corrupt or fraudulent practice in relation to the Election that might have affected the result of the Election.
172. An appeal must:
  - a) be in writing
  - b) be set out in a written affidavit sworn before a Notary Public, Commissioner for Taking Affidavits or Commissioner of Oaths
  - c) set out the grounds for the appeal and the alleged facts supporting the grounds for appeal
  - d) include any supporting documentation
  - e) be accompanied by a non-refundable deposit in the amount of \$250.00 payable to Tl'azt'en Nation, and
  - f) be delivered in person or by registered mail to the Band Administrator, who will forthwith forward the appeal to the Appeal Board.
173. Upon receipt of an appeal, any Appeal Board member who is an Immediate Family Member of an Appellant, a Candidate or an Electoral Officer named in the appeal, or who may be reasonably apprehended to have a bias or conflict of interest in connection with the appeal, shall excuse themselves from the Appeal Board and Council shall appoint an alternative member from the list established under section 164(b).

174. Upon receipt of an appeal, the Appeal Board shall forward a copy of the appeal documents together with any supporting documents by registered mail to the Chief Electoral Officer and to any Candidate named in the Appeal.
175. Any Candidate named in an appeal, an Electoral Officer named in the appeal or the Chief Electoral Officer may, within ten days of the receipt of the appeal, provide to the Appeal Board in person or by registered mail, a written response to the appeal allegations, together with any supporting documentation.
176. After a review of the record and any response received the Appeal Board may rule:
  - a) that the evidence presented was not sufficient to prove on a balance of probabilities that:
    - i) a Candidate declared elected was not qualified to be a Candidate
    - ii) there was a violation of this Code that might have affected the result of the Election, or
    - iii) there was a corrupt or fraudulent practice in relation to the Election that might have affected the result of the Election,and dismiss the appeal, or
  - b) that the evidence presented was sufficient to conclude on a balance of probabilities that:
    - i) a Candidate declared elected was not qualified to be a Candidate
    - ii) there was a violation of this Code that might have affected the result of the Election, or
    - iii) there was a corrupt or fraudulent practice in relation to the Election that might have affected the result of the Election,and allow the appeal.
177. Where the Appeal Board allows an appeal, the Appeal Board may:
  - a) where the Candidate declared elected was not qualified to be a Candidate, set aside the election of that Candidate and declare that the Candidate with the next highest number of votes is elected or where there is no other Candidate, that a By-election be held, or
  - b) direct that a new Election be held, and
  - c) where appropriate, make recommendations to the Band and to the Chief Electoral Officer as to how any problem identified in the appeal can be prevented in future elections.
178. The decision of the Appeal Board shall be:
  - a) provided to the Appellant, the Chief Electoral Officer and any Candidate named in the appeal, and
  - b) posted in at least one conspicuous place at the Band administration office.
179. The Appeal Board may in its discretion order by whom, to whom, and in what manner costs of the appeal may be paid.

180. The decision of the Appeal Board is final and not subject to appeal.
181. In the event that an appeal results in a new Election or a By-election, the term of a Candidate elected in the Election or By-election shall commence when the Chief Electoral Officer declares the results of the Election or By-election and shall expire when the Chief Electoral Officer declares the results of the next Election for that office.
182. Nothing in this Code is intended to confer jurisdiction on the Appeal Board to:
  - a) consider or determine any matter involving allegation of criminal conduct, or
  - b) conduct any investigation beyond what is provided for in this Code.
183. For greater certainty, an appeal under this Code is an appeal on the record.

## **Amendment**

### **Process for Amendment**

184. An amendment of this Code may be proposed by:
  - a) a petition presented to Council, signed by fifty percent plus one of all Voters listed on the most recent Voters list describing the proposed amendment, or
  - b) a Band Council Resolution.
185. Upon proposal of an amendment, Council shall issue a notice that sets out:
  - a) a summary of the proposed amendment
  - b) a statement that a copy of the proposed amendment can be obtained at the Band administration office
  - c) a description of the amendment process, and
  - d) the date, time and place of a vote on the amendment.
186. The notice issued under section 185, shall be:
  - a) posted in the Band administration office, and
  - b) mailed to the last known address of every Voter who does not ordinarily reside on a Reserve.
187. A Voter may, within 14 days of publication of the notice under section 185, provide to TI'azt'en Nation written comments regarding a proposed amendment.
188. Comments provided under section 187 must include the name of the Voter.
189. Council shall give full and fair consideration to any comments in drafting a final amendment proposal or withdrawing a proposal made by Council.

190. Council shall submit the proposed amendment to a vote conducted in accordance with this Code.
191. If the majority of the votes cast are in favor of the proposed amendment, Council shall amend the Code accordingly and adopt the amendment by Band Council Resolution.
192. An amendment shall take effect at a time set out in the Band Council Resolution adopting the amendment.

#### **Deemed Amendment on Separation**

193. In the event that a Reserve community separates from TI'azt'en Nation, this Code shall be deemed to have been amended effective the date of separation to provide:
  - a) that this Code no longer applies to that community and its Band members, and
  - b) the number of Councillors shall be reduced by the number of Councillors provided for that community under section 4.
194. For greater certainty, no vote is required for an amendment under section 193.

#### **Postponement of Election**

195. If a death occurs in TI'azt'en Nation which in the opinion of the Chief Electoral Officer might affect the Election, the Chief Electoral Officer may, with the advice of Council, postpone the date on which the Election is to be held, provided that such postponement shall not exceed seven days.
196. Where an Election is postponed, notice of the postponement shall be provided to Band members as soon and by such means as is reasonably possible.

#### **Calculation of Time**

197. Time in this Code shall be calculated according to the Interpretation Act, R.S.C. 1985, C. I-21.

#### **Coming Into Force**

198. This code comes into force upon the:
  - a. passing of this Code in a referendum, and
  - b. issuance of an order by the Minister of Indigenous Affairs and Northern Development, which removes TI'azt'en Nation from the election provisions of the *Indian Act*.