

Ts'kw'aylaxw Election Code

1. Election Code

- 1.1. This Election Code ("Code") repeals and replaces any and all previous election codes including any written document or oral statement.
- 1.2. Any amendments to this Code, including deletions and additions, may be made at a duly convened General Assembly Meeting. For greater certainty, it is not necessary to convene a Special Assembly Meeting.

2. Council of Ts'kw'aylaxw First Nation

- 2.1. Members of Ts'kw'aylaxw First Nation eligible to vote ("electors") will elect the council of Ts'kw'aylaxw First Nation (the "Council") as follows:
 - 2.1.1. five (5) councillors; and
 - 2.1.2. one (1) chief.
- 2.2. The chief and councillors hold office for a three (3) year term commencing at the expiry of the term of office of the chief and councillors they are replacing.
- 2.3. The election for chief and councillors will be every three (3) years and the election date will be in March.
- 2.4. Any person elected to Council will be sworn into office at an Oath of Office Ceremony that will take place the day after the election or second ballot in accordance with Appendix "A".

3. Transition Period

- 3.1. The term of office of the existing Council will expire on the election date.
- 3.2. Notwithstanding section 3.1, the former Council will remain available for consultation purposes to the newly elected Council for a thirty (30) day period and will provide supportive consultation in good faith.
- 3.3. Each member of the former Council will be paid an honorarium for each consultation meeting attended with then newly elected Council during the transition period.

4. Election Process

- 4.1. At least sixty (60) days before the expiry of the term of Council, Council will hold a Council meeting to:
 - 4.1.1. set the election date; and
 - 4.1.2. appoint an independent election officer to oversee the election process.
- 4.2. The election officer will carry out all duties set out in this Code and more specifically set out in **Appendix "B"** in a professional and confidential manner and in full compliance applicable laws.
- 4.3. The election officer may only appoint a member of Ts'kw'aylaxw First Nation to the positions of deputy election officer. If no member of Ts'kw'aylaxw First Nation eligible to carry out the duties of deputy election officer accepts an offer of appointment, the election officer may appoint a non-member.

5. Candidates

- 5.1. A member of Ts'kw'aylaxw First Nation who is at least eighteen (18) years or older on the date of the nomination meeting may run as a candidate for either the position of chief or the position of councillor.
- 5.2. A member is not eligible to be nominated as a candidate or to run as a candidate if the member:
 - 5.2.1 has been convicted of a designated indictable offence and sentenced for a minimum of ten (10) years;
 - 5.2.2 has been removed from office in accordance with this Code in the last six (6) years; or
 - 5.2.3 has not resigned from their position with the band administration office.
- 5.3 If a candidate becomes ineligible the election officer may remove the candidate from the ballot.

6. Nominations

- 6.1. The election officer will hold a nomination meeting at least thirty (30) days in advance of the election date in a manner that permits as many members as possible to attend in person.
- 6.2. The election officer will be the chair of the nomination meeting.

- 6.3. A candidate must be nominated by at least two (2) members of Ts'kw'aylaxw First Nation at the nomination meeting.
- 6.4. A candidate will either accept or reject a nomination at the nomination meeting by communicating directly with the chair.
- 6.5. Within five (5) days of accepting a nomination, a candidate must submit a written confirmation, attached as **Appendix "C"**, to the election officer that the candidate:
 - 6.5.1. is eligible to run for office; and
 - 6.5.2. agrees to abide by the Code and applicable laws.
- 6.6. A candidate may withdraw as a candidate by submitting a statement in writing to the election officer at least ten (10) days prior to the election date.
- 6.7. If at the close of the nomination meeting or at any time before the election date the number of candidates does not exceed the number of vacant positions for either chief or council, the election officer will declare candidates as duly elected by acclamation and the election process will be deemed completed.

7. Voters List

- 7.1. The election officer will:
 - 7.1.1 prepare a voters list of all electors of the Ts'kw'aylaxw First Nation; and
 - 7.1.2 publish the voters list at least forty-five (45) days prior to the election date.
- 7.2 An elector is a person who is a registered member of Ts'kw'aylaxw First Nation.
- 7.3 Up to five (5) days before the election date, a member of Ts'kw'aylaxw First Nation may apply to the election officer to remove a name of a person from the voters list.
- 7.4 Prior to removing a name from the voters list the election officer must provide written notice to the affected person and provide that person an opportunity to prove he or she is a member of Ts'kw'aylaxw First Nation entitled to vote on the election date.
- 7.5 A member of Ts'kw'aylaxw First Nation who is eighteen (18) years or older on the election date, may, up to the close of the poll on the election date, apply to the election officer or deputy election officer to:
 - 7.5.1 add his or her name to the voters list by signing a declaration confirming his or her status as an elector and providing appropriate documentation; or
 - 7.5.2 correct the spelling of his or her name or any other errors on the voters list relating to that elector by providing appropriate documentation.

7.6 Any decision of the election officer or deputy election officer is final.

8. Voting

8.1. Only an elector of Ts'kw'aylaxw First Nation is entitled to vote in the election and may only vote once in person at a designated polling station.

8.2. All voting will be carried out by secret ballot in accordance with the voting procedures posted by the elections officer.

8.3. The election officer and any deputy election officers will ensure that:

8.3.1. all ballot boxes remain locked and sealed at each polling station; and

8.3.2. ballot boxes are not left unattended at each polling station at any time on election day.

8.4. The election officer will unlock and break the seals of the ballot boxes and commence counting the ballots.

8.5. The election officer will examine all ballots, make determination of spoiled or rejected ballots and make decisions on objections to ballots in accordance with voting procedures posted by the election officer.

8.6. Candidates and scrutineers are entitled to be present and witness the unlocking and breaking of the seals of ballot boxes but may not delay the commencement of the vote count.

8.7. Immediately after counting the ballots and determining the candidates elected, the electoral officer will publicly declare to be elected those candidates with the highest number of votes for the vacant position of chief or councilors.

8.8. The election officer will immediately publish the return of poll confirming the election details at the polling locations for at least thirty (30) days.

8.9. In the event of a tie between two or more candidates preventing one or more vacant positions from being filled, the election officer will publish notice of a second ballot immediately following the result of any tied votes.

8.10. The second ballot will be held seven (7) days after the election date and wherever possible on a Saturday.

9. Appeals

9.1. A member of Ts'kw'aylaxw First Nation may file an election appeal in writing to the election officer within five (5) days of the election date for the following reasons:

- 9.1.1. there was a contravention of the Code; or
- 9.1.2. there was a corrupt practice in connection with the election.

An appeal must be in writing and supported by evidence.

9.2. The election officer will render a decision in writing with reasons no later than five (5) days of receipt of the appeal.

9.3. Notwithstanding section 9.1, a member may, by a court of competent jurisdiction, contest the election of the chief or a councillor on the basis that a contravention of this Code likely affected the result.

9.4. An application must be filed within thirty (30) days of the date the election results were announced. A court of competent jurisdiction includes the Federal Court or the British Columbia Supreme Court. The applicant must serve notice on the election officer and all of the candidates that participated in the election.

10. Removal from Office

10.1 The office of chief or councillor of Ts'kw'aylaxw First Nation becomes vacant when the person that holds that office:

- 10.1.1. is convicted of any indictable offence;
- 10.1.2. dies or resigns his or her office;
- 10.1.3. is absent from more than three (3) consecutive duly convened meetings of Council without authorization; or
- 10.1.4. is or becomes ineligible to hold office by virtue of this Code.

10.2 Ten or more members of Ts'kw'aylaxw First Nation may, upon notice in writing to Council, request a General Assembly be held within ten (10) days to consider a motion of non-confidence in one or more members of Council.

10.3 The notice of a motion of non-confidence must set out the following information:

- 10.3.1 the alleged misconduct that gives rise to the motion of non-confidence;
- 10.3.2 a summary of the argument and alleged facts; and
- 10.3.3 a list of documents and evidence to be relied upon.

10.4 A motion of non-confidence must be based on a serious breach of conduct that threatens the well-being of Ts'kw'aylaxw First Nation and its membership.

10.5 Further, a motion of non-confidence must be submitted based on facts and sworn statements of belief and opinion. Frivolous and vexatious motions of non-confidence may result in legal action against the members for slander and liable.

10.6 Any motion of non-confidence is invalid unless the members bringing the motion of non-confidence comply with section 10.0 of the Code.

10.7 As soon as practicable, Council will publish notice of the General Assembly and the reason for the General Assembly including a summary of the motion of non-confidence.

10.8 Council will appoint a neutral third party to chair the General Assembly and the agenda will be as follows:

- 10.8.1 presentation of the motion of non-confidence;
- 10.8.2 response to the motion of non-confidence;
- 10.8.3 question from the membership;
- 10.8.4 deliberation; and
- 10.8.5 vote of non-confidence by secret ballot.

10.9 Any member of Ts'kw'aylaxw First Nation may, by a court of competent jurisdiction, contest the results of a vote on a motion of non-confidence on the following grounds:

- 10.9.1 failure to comply with this Code; or
- 10.9.2 the vote was based on false or inaccurate information.

Appendix "A"
Council Oath of Office

I, _____, am a member of Ts'kw'aylaxw First Nation, I possess the qualifications to hold this office, and I hereby agree and declare that:

1. I will uphold and abide by this Code and Oath, the Council Code of Ethics, the Code of Conduct and Conflict of Interest Guidelines, and all laws and policies duly enacted by Council;
2. I will fulfill the duties and powers of Council, faithfully, diligently and loyally so that I may serve Ts'kw'aylaxw First Nation and the membership to the best of my abilities;
3. I will maintain confidentiality on all matters related to:
 - a. all Council business unless authorized to disclose information;
 - b. all legal opinions respecting the interests of Ts'kw'aylaxw First Nation;
 - c. all administration employment and staffing issues;
 - d. any disciplinary issues for Council;
 - e. all confidential and sensitive matters; and
 - f. all in-camera information.
4. I will not disclose or share any records or information to which I am privy as a member of Council with anyone other than those expressly authorized by Council or by law.
5. I will maintain, protect and respect the privacy of each member of Ts'kw'aylaxw First Nation at all times.
6. I will always act in the best interest of Ts'kw'aylaxw First Nation and the membership.
7. I will conduct myself in a manner that represents Ts'kw'aylaxw First Nation in a positive manner.
8. I will live a clean, sound, healthy and balanced lifestyle.
9. I will encourage an atmosphere of caring and sharing amongst Ts'kw'aylaxwemc and I will discourage hostile and negative attitudes in the community.
10. I will maintain open lines of communications at all times.
11. I will promote mutual respect, trust and understanding among Council members and Ts'kw'aylaxwemc.
12. I will carry out my duties and powers of Council in a manner so that we all prosper.
13. I will work with Council as a team member to ensure that the future of Ts'kw'aylaxw First Nation will be culturally, economically, socially and politically stable.
14. I will be fair and neutral and will not show favor to any person.
15. I am aware of the non-confidence provisions of the Election Code.

I accept full responsibility and accountability for the above Oaths of office and I solemnly declare and affirm this Oath of Office and Confidentiality.

Signed: _____
Name: _____
Registry No.: _____
Dated: _____

Signed: _____
Name: _____
Witness: _____
Dated: _____

Appendix "B"
Duties of the Elections Officer

The elections officer will carry out the following duties:

1. Swear Oath of Office upon appointment.
2. Meet with Council and Staff as necessary to confirm instructions.
3. Appoint qualified deputy election officers to assist.
4. Prepare and publish the voter's list at least forty-five (45) days before the election date.
5. Schedule a nomination meeting at least thirty (30) days before the election date by posting public notices and sending notice to members.
6. Chair nomination meeting.
7. Scrutinize nomination process and forms.
8. Ensure candidates comply with Code and submit required forms.
9. Designate and make arrangements to secure polling stations.
10. Prepare all notices required to keep membership informed.
11. Oversee election procedures at voting stations.
12. Accept and adjudicate on any complaint under this Code.
13. Publish election results at the polling stations.
14. Conduct a second ballot if required.
15. Prepare and file a final report to Council.
16. Any other election process duty assigned by Council.

Appendix "C"
Candidate Declaration Form

I _____, hereby confirm that:

- I am a member of Ts'kw'aylaxw First Nation;
- I will be 18 years or older on the nomination day;
- I know of no reason why I am not eligible to run for the office of chief or councillor of Ts'kw'aylaxw First Nation;
- I have reviewed the Code and agree to abide by it and the Candidates Code of Ethics attached to this form; and
- I agree to submit a criminal records check to the elections officer on a confidential basis.

I further agree and understand that if I fail to fulfill these commitments or violate the Candidate's Code of Ethics the election officer or elections appeal committee may disqualify me from running for the office of chief or councillor.

Signed: _____

Signed: _____

Name: _____

Name: _____

Registry No.: _____

Witness: _____

Dated: _____

Dated: _____

Candidate's Code of Ethics

I will campaign:

- in an open, ethical and honest manner;
- without coercion, bribes, threats or vote buying;
- respecting the rights of other candidates and their supporters to campaign;
- non-violently, without intimidation, harassment or use of threats against anyone;
- respecting the rights of the media to express opinions on each candidate;
- in full cooperation with the elections officer; and
- by following any lawful directive of the election officer or election appeals committee.

Flow Chart

DAY	ACTION	WHO
- 60	Hold a duly convened chief and council meeting to set election date and appoint election officer	Council
- 45	Publish voters list	Election Officer
- 30	Nomination meeting	Election Officer
- 25	Candidates submit forms	Candidates
- 10	Request to delete names from voters list Notice of candidate withdrawal	Members Candidate
Election Day	Open polls, vote, announce results	Electors / Election Officer
+ 1	Publish results	Election Officer
+ 5	File an appeal	Elector
+ 7	Bi-election	Election Officer
+ 10	Decision on appeal	Election Officer
+ 30	File an application to court	Elector

Passed at a duly convened Chief and Council Meeting held January 31, 2014.

MOTION #20140131-01 To accept the Ts'kw'aylaxw Election Code as presented to council.

Moved By: Marvin Bob

Seconded By: Georgina Grinder

All in favor. Motion Passed.