



Lil'wat Nation Election Code

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PART 1: PREAMBLE & TITLE

1. This code will be called the Lil'wat Nation Election Code.

PART 2: COMING INTO FORCE

2. This code comes into force upon the passing of a Ministerial Order proclaiming the removal of the Lil'wat Nation from the election provisions of the Indian Act.

PART 3: DEFINITIONS

3. In this code:

“Appeal and Dispute Resolution Board” means the body appointed by Council Resolution in accordance with Part 13 of this Code to review and make decisions concerning the petitions for removal from office and election appeals.

“Appellant” means an individual who submits an appeal in accordance with this code with respect to an election.

“By-election” means a special election to fill a position on the council that has become vacant.

“Candidate” means a Lil'wat member who:

- a. Is at least 18 years of age on the day on which the nomination meeting is held;
- b. Is a member of the Lil'wat Nation; and
- c. Has been nominated to be a candidate pursuant to the provisions of this code

“Code” means the leadership selection system set out herein.

“Code of ethics” means guidelines, general rules of behaviour and standards established in accordance with Part 5 of this Code, which govern the conduct of candidates running for office and their supporters relating to their participation in the Electoral process.

“Corrupt Election Practices” means bribery, direct or indirect, or providing a financial or material incentive to an Elector in exchange for a vote.

“Council” means the body comprised of those individuals selected pursuant to this Code.

“Cultural Chief” means the duties and responsibilities of the Cultural Chief are to:

- a. Act as the Lil'wat Council's official spokesperson and cultural ambassador at ceremonial and/or other cultural activities such as funerals, graveyard cleanings, official grand opening, protocol, etc.
- b. Provide guidance to the Chief at Council Meetings and General Assemblies to ensure business is carried out in a culturally respectful and productive manner;
- c. Mentor and provide cultural guidance to Councillors and staff
- d. Carry out other duties required of all Councillors.

"Day" or "Days" is defined for the purpose of counting days before an election or to a related activity, a day that does not include the day when the initial activity takes place, nor the day of the function itself.

"Deputy Electoral Officer" means any person appointed by the Electoral Officer for the purposes of an election to assist him in the conduct of the election process.

"Elder" means a member of the Lil'wat Nation who is at least 65 years of age.

"Election" means a general election or by-election to select a Chief or Council of the Lil'wat Nation held pursuant the provisions of this Code.

"Electoral Officer" means a person, appointed by Council Resolution before each election, who has the responsibility for conducting the nomination meeting, the election and post-election procedures.

"Elector" means an individual who:

- a. Is a member of the Lil'wat Nation; and
- b. Is at least 18 years of age on the day on which the election is held.

"Lil'wat Council Orientation Session" refers to a one-day governance course run by the Lil'wat administration on roles and responsibility of Chief and Council that nominees must take before the nomination meeting for nominees to be eligible to run for Council.

"Mail-in Ballot" means a ballot mailed or delivered in accordance with section 117 of this Code.

"Nomination Meeting" means the meeting at which persons come forward to nominate and second candidates at the election.

"Oath" means a solemn affirmation.

“Polling station” means a building, hall or room that is selected as the site at which voting takes place.

“Political Chief” means the duties and responsibilities of the Political Chief includes but is not limited to:

- a. Consult Lil'wat members on a regular basis to determine the strategic direction sought by the Lil'wat members, including Council's formal position on significant matters,
- b. Represent and advocate the official views and interests of Lil'wat Nation when dealing with other First Nation, Federal, Provincial and Regional governments; private industry representatives; aboriginal organizations; media; and the general public as required,
- c. Act as the lead negotiator in lobbying efforts and negotiations on behalf of Lil'wat Nation,
- d. Act as Chairperson at Council meetings, and General Assemblies to ensure business is carried out in a respectful and productive manner,
- e. Participate in Committees, Boards or other institutions to which he or she has been assigned by Council Resolution,
- f. Foster a mutually respectful working relationship with the Senior Administrator of the Lil'wat Nation,
- g. Provide a regular report to Council on his or her activities to be recorded in Council minutes,
- h. Duties and responsibilities as directed by Council Resolution.

“Registrar” means the employee responsible for maintaining Lil'wat Nation's membership list.

“Rejected ballot” means those ballots that have been improperly marked and/or defaced by Elector(s) which are not included in the tally of valid ballots cast during the counting of votes.

“Voter Declaration Form” means a document that sets out, or provides for:

- a. The name of the Elector;
- b. The Band membership or registry number of the Elector or, if the Elector does not have a Band membership or registry number, the date of the birth of the Elector; and
- c. The name address and telephone number of a witness to the signature of the Elector.

“Voters List” means the list of band members eligible to vote in an election.

PART 4 – THE COUNCIL

Composition and Size

4. The Council will be comprised of 13 individuals: 2 Chiefs and 11 Councillors with designated seats as follows:
 - a. One (1) Political Chief
 - b. One (1) Cultural Chief
 - c. Eleven (11) Councillors.
5. The first meeting of Council will be:
 - a. Called by the Political Chief,
 - b. No later than 30 days after its election, on a day, hour and place to be stated in a notice given to each member of the Council; and,
 - c. Meetings will thereafter be held on such days and at such times as may be necessary for the business of the council or the affairs of the Lil'wat Nation.
6. No member of the Council may be absent from meetings of Council for three consecutive meetings without being authorized to do so by the Council.
7. The Political Chief of Lil'wat Nation or a quorum of the Council will summon a special meeting of the Council.
8. The secretary to Council will notify each member of Council of the day, hour and location of each meeting of Council.
9. A majority of the whole Council will constitute a quorum.
10. If no quorum is present within 30 minutes after the time appointed for the meeting, the secretary will call the roll and take the names of the members of Council then present, and Council will stand adjourned until the next meeting.
11. The Political Chief of Lil'wat Nation will be the Chair at meetings of Council.
12. Upon a quorum being present, the Chair will call the meeting to order.
13. In the absence of the Political Chief, a Chair will be chosen from among the Councillors that will be determined by a vote of Council.
14. The Chair will maintain order and decide all questions of procedure.

15. The order of business at each regular meeting of the Council will be as follows:
 - a. Reading, amending (if necessary) and adoption of the minutes of the previous meeting;
 - b. Unfinished business;
 - c. Presentation and reading of correspondence and petitions;
 - d. Presentation and consideration of reports of Committees;
 - e. New business;
 - f. Hearing delegations; and,
 - g. Adjournment
16. Each resolution will be presented or read by the mover, and when duly moved and seconded and placed before the meeting by the Chair, will be open for discussion and consideration.
17. After a resolution has been placed before the meeting by the Chair, it will be deemed to be in the possession of Council, but it may be withdrawn by consent of the majority of the Council members present.
18. When any Council member desires to speak, he will address his remarks to the Chair and confine himself to the question then before the meeting.
19. In the event of more than one Council member desiring to speak at one time, the Chair will determine who is entitled to speak.
20. The Chair or any Council member may call a Council member to order while speaking, and the debate will then be suspended and the Council member will not speak until the point of order is determined.
21. A Council member may speak only once on a point of order.
22. Any member of Council may appeal the decision of the Chair to Council and all appeals will be decided by a majority vote and without debate.
23. All questions before Council will be decided by majority vote of the Councillors present.
24. The Chair will not be entitled to vote unless the votes in favour and against the issue are equal, in which case the Chair will cast the deciding vote.

25. Every member of Council present when 'question' is called, will vote thereon unless:
 - a. Council excuses him; or,
 - b. Unless he has a personal conflict in the issue in question, in which case he will declare his interest and may recuse himself or will be required to recuse himself by a majority vote of other Council members.
26. A member of Council who refuses to vote will not be counted in the vote outcome but will be included in the quorum.
27. Any member may require the question or resolution under discussion to be read for his information at any period of the debate, but not so as to interrupt a member who is speaking.
28. The regular meetings of the Council will be open to members of Lil'wat Nation, and no member will be excluded from a regular meeting except for:
 - a. In-camera meetings (discussion of staff salaries; staff problems and other personal and private issues that may be brought before Council).
 - b. Improper conduct.
29. The Chair may expel or exclude from any meeting any person who causes a disturbance at the meeting.
30. The Council may, at its first meeting, appoint in lieu of the committee of the whole Council the following Standing Committees:
 - a. Housing
 - b. Reserve Lands
 - c. Land Use Referral
 - d. Culture and Heritage
 - e. Finance
31. The Council may appoint Special Committees on any matters as the interests of Lil'wat Nation may require.
32. A majority of the members of a Committee will be a quorum.
33. The Political Chief of Lil'wat Nation will be an ex-officio member of all Committees and be entitled to vote at all Committee meetings, and other members of the Council may attend meetings of a Committee and may with

- the consent of the Committee take part in the discussion but will not be entitled to vote.
34. The general duties of Standing and Special Committees are as follows:
- a. To report to the Council from time to time as often as the interests of Lil'wat Nation may require:
 - i. All matters connected with the duties imposed on them, and;
 - ii. Recommend such action by the Council in relation to those duties as they may deem necessary and expedient; and
 - b. To consider and report upon all matters referred to them by the Council or the Political Chief of the Lil'wat Nation.
35. Special meeting of Committees will be called at the request of the Chairman or a majority of the Committee or, in the absence of the Chairman, on request of the Political Chief of Lil'wat Nation.

Mode of Election for Chiefs and Councillors

36. The Political Chief, Cultural Chief and Councillors will be elected by a vote held in accordance with this Code.
37. The term of office for the position of Political Chief, Cultural Chief and Councillors will not exceed 4 years.
38. Council will, by Council Resolution, establish the date on which the election is to be held, which must be no sooner than 100 days prior, and no later than 10 days following, the end of the term of Council.
39. The term of office for Chiefs and Councillors commences when all elected Council members swear an oath of office under section 163 and, subject to any vacancy arising under this Code, expires 4 years later.
40. The successful candidate in a by-election will hold office for the remainder of the original term of office of the Political Chief, Cultural Chief or Councillor whom he is elected to replace.
41. In the event that a successful appeal results in a new general election, the term of the newly elected Council will commence on the date all elected

Council members swear the oath of office under section 163, and expires 4 years later.

Vacancy

42. The Political Chief, Cultural Chief or Councillor position on Council may become vacant if, while in office:
 - a. resigns in writing from office of his own accord;
 - b. has been unable to perform the functions of his office for more than six months due to illness or other incapacity;
 - c. dies;
 - d. is removed as per section 177 b.
43. Unless otherwise provided in this Code, in the event the office of Political Chief or Cultural Chief or Councillor becomes vacant, a by-election will be held within 90 days after the date on which the position is declared vacant.
44. No by-election will be held if there are less than 3 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.
45. No sitting Council member is eligible to be a candidate in a by-election. If a Council member wishes to be a candidate in a by-election, he must resign his Council position prior to the nomination meeting for the by-election.
46. Except as expressly provided in this Code, the rules and procedures in this Code will apply to by-elections.
47. The Electoral Officer will be appointed by Council Resolution not less than 100 days before the expiration of the Council's term of office.

PART 5: CODE OF ETHICS

48. Candidates must operate their campaign according to the rules and regulations established in this Code and pursuant to the following Code of Ethics. Candidates will:
 - a. Refrain from coercion or vote-buying;
 - b. Respect the right and freedom of other parties to organize and campaign;

- c. Respect the rights of voters to obtain information from a variety of sources and to attend political rallies;
 - d. Refrain from committing slander or libel against opposing candidates;
 - e. Refrain from violence, without intimidation to the opposing candidates, their supporters or the media; and without the use of language inciting their own supporters to violence;
 - f. Respect the freedom of the press to cover the campaign and to express opinions on the campaign;
 - g. Respect the Electoral officials and not interfere with the performance of their duties; and,
 - h. Accept and comply with the official election results and the final decision of the Appeal and Dispute Resolution Board.
49. Every individual is in breach of the Code of Ethics who during an election period:
- a. Directly or indirectly offers a bribe to influence an Elector to:
 - i. Vote or refrain from voting; or,
 - ii. To vote or refrain from voting for a particular candidate; or.
 - b. Accepts or agrees to accept a bribe that is offered.
50. Every individual is in breach of the Code of Ethics who:
- a. By intimidation or duress, or by any pretence or contrivance, compels or induces a person to:
 - i. Vote or refrain from voting; or,
 - ii. Vote or refrain from voting for a particular candidate in an election.

PART 6: PRE-NOMINATION PROCEDURE

Appointment of Electoral Officer

51. The Council Resolution for the appointment of the Electoral Officer will contain his full name and address, the date of the election, the type of the election which is to be conducted (general election or by-election), as well as any special instructions.
52. If an Electoral Officer has not been appointed within the time set out in section 47, the Electoral Officer will be appointed by the Administrator as soon as possible.
53. The Electoral Officer must be an individual who:
- a. Is not a member of Lil'wat Nation;
 - b. Has no vested interest in the outcome of the election;

- c. Is at least 18 years of age; and,
 - d. Has experience in the conduct of elections or has received appropriate training.
54. In the event that the Electoral Officer cannot fulfill his duties, an existing Deputy Electoral Officer will be appointed by Council Resolution, to undertake the duties of the Electoral Officer. In the absence of an existing Deputy Electoral Officer, Council will appoint a new Electoral Officer.

Oath of Office

55. The Electoral Officer must swear an Oath of Office in accordance with section 163 of this Code.

Responsibilities and Ethics

56. The Electoral Officer is responsible for managing and executing all pre-Electoral, Electoral, and post-Electoral processes and procedures included in this Code. The Electoral Officer must:
- a. Uphold and abide by the rules and regulations established in this Code;
 - b. Remain neutral and professional in the conduct of the duties of his office, and refrain from providing any preferential treatment or expressing support for or opposition to any candidate;
 - c. Not accept anything of value (including but not limited to money, offers of employment, gifts, travel) in exchange for preferential treatment or access to a public official or non-public information;
 - d. Not discriminate against anyone because of race, religion, sex, age or disability;
 - e. Use public office facilities to fulfill the duties of his office, and not for personal or partisan benefit;
 - f. Not pressure or intimidate other officials or personnel to favour a certain candidate; and
 - g. Avoid conflicts of interest, or the appearance of conflicts of interest, by abstaining from decision making where the Electoral Officer has a personal or private interest in the matter at issue.

Voters List

57. At least 79 days before the day on which the election is to be held, the Electoral Officer will obtain from the Registrar the names, membership numbers, and dates of birth of all Lil'wat members who will have attained the age of 18 years of age on the date on which the election is to be held.

58. The Registrar will, no later than 79 days before the date on which the election is to be held, provide the Electoral Officer with the last known addresses, if any, of all Electors who do not reside on the Lil'wat reserve.
59. Electors are responsible for providing the Registrar with their current addresses.
60. An Elector's address will be used by the Electoral Officer only for the purpose of providing notices, mail-in ballots or other election documents to Electors who are entitled to receive them under this Code.
61. Except for the purposes noted in section 60, the Electoral Officer will not disclose an Elector's address without the consent of the Elector.
62. A candidate for election as Chief or Councillor may obtain from the Electoral Officer a list of names and addresses of Electors who have consented to have their addresses disclosed to candidates.
63. At least 79 days before the day on which an election is to be held, the Electoral Officer will prepare a Voters List containing the names of all of the Electors in alphabetical order.
64. The Electoral Officer will post the Voters List in a public area of the Lil'wat Nation administration building and in such conspicuous places on the reserve as may be determined by the Electoral Officer, no later than 72 days prior to the date on which the election is held.
65. On request, the Electoral Officer or Deputy Electoral Officer will confirm whether the name of a particular person is on the Voters List.
66. The Electoral Officer will revise the Voters List upon presentation of documentary evidence which demonstrates that:
 - a. The name of an Elector has been omitted from the Voters List;
 - b. The name of an Elector is incorrectly set out on the Voters List; or,
 - c. The name of an individual not qualified to vote is included on the Voters List.
67. An individual, or an Elector acting on his behalf, may, no later than 2 days prior to the date on which an election is to be held, demonstrate that the name of an Elector has been omitted from or incorrectly set out in the Voters

- List by presenting in writing to the Electoral Officer evidence from the Registrar that the Elector:
- a. Is entitled to have his name entered on the Band List;
 - b. Will be at least 18 years of age on the date on which the election is to be held; and,
 - c. Is qualified to vote in Lil'wat Nation elections.
68. An individual may demonstrate the name of an individual not qualified to vote has been included on the Voters List by presenting in writing to the Electoral Officer, no later than 15 days prior to the date on which the election is to be held, evidence that the person:
- a. Is neither on the Lil'wat Nation membership list nor entitled to have his name entered on the membership list;
 - b. Will not be at least 18 years of age on the date on which the election is to be held; or
 - c. Is not qualified to vote in Lil'wat Nation elections.
69. Where the Electoral Officer believes or has information that a person whose name is on the Voters List is not an Elector, or where, in accordance with section 68, an Elector demonstrates to the Electoral Officer the name of a person not qualified to vote appears on the Voters List, the Electoral Officer will give written notice to the person whose eligibility is challenged at least 10 days prior to the date on which the election is to be held.
70. The notice given under section 69 will include the reasons for seeking the removal of the name from the Voters List and any supporting documents, and will provide notice that a written reply may be sent to the Electoral Officer, which must be received no later than 4 days prior to the date on which the election is to be held.
71. After consideration of all information and representations relating to amendments of the Voters List, the Electoral Officer will add or delete names from the Voters List based on whether persons qualify as Electors.
72. An individual whose name does not appear on the Voters List will be entitled to vote on election day, provided he presents documentary proof to the Electoral Officer demonstrating his qualifications as an Elector to the Electoral Officer's satisfaction.

Appointment of Deputies and Interpreters

73. The Electoral Officer will appoint Deputies and interpreters as he deems necessary, who will work under his direction.
74. The Deputy Electoral Officer will have such powers as described in this Code as well as those powers of the Electoral Officer as delegated to the Deputy by the Electoral Officer.
75. A Deputy Electoral Officer will not be a member of the Lil'wat Council or a candidate in the election.
76. Every Deputy Electoral Officer will swear an Oath of Office to:
 - a. Uphold and comply with this Code, the Code of Ethics and all laws of the community;
 - b. Fulfill the duties and responsibilities of his office under this Code;
 - c. Carry out his duties faithfully, honestly, impartially and to the best of his abilities;
 - d. Keep confidential, both during and after his term of office, any matter or information which, under this Code, Lil'wat Nation law or policy, is considered confidential; and,
 - e. Always act in the best interests of Lil'wat Nation in carrying out his duties.
77. The Electoral Officer may make such orders and issue such instructions consistent with the provisions of this Code as he may deem necessary for the effective administration of the Election.

PART 7: THE NOMINATION PROCESS

Notice of Nomination Meeting and Mail-In Procedures

78. The Electoral Officer will, at least 30 days before the date on which the nomination meeting is to be held, post a notice of nomination meeting in a public area of the Lil'wat Nation administration building, and in such conspicuous places on the reserve as may be determined by the Electoral Officer.
79. The Electoral Officer will, at least 30 days before the date on which the nomination meeting is to be held, mail a notice of the nomination meeting and a nomination form and a Voter Declaration Form to every Elector who does not reside on the reserve in respect of whom the Electoral Officer has been provided with, or has been able to obtain an address.
80. A notice of a nomination meeting will include:

- a. The date, time, duration and location of the nomination meeting;
 - b. The date on which the election will be held and the location of each polling place;
 - c. The name and phone number of the Electoral Officer;
 - d. The statement that any voter may vote by mail-in ballot;
 - e. A description of the manner in which an Elector can nominate a candidate, or second the nomination of a candidate; and
 - f. The statement that, if the Elector wants to receive information from candidates, the Elector can agree to have his or her address released to the candidates.
81. The Electoral Officer will record the names of the Electors to whom a notice of the nomination meeting was mailed, the addresses of those Electors, and the date on which the notices were mailed.

Eligibility To Nominate

82. Subject to section 80, any Elector may propose or second the nomination of any qualified individual to serve as Political Chief; Cultural Chief or Councillor:
- a. By delivering or mailing a written nomination and a completed, signed and witnessed Voter Declaration Form to the Electoral Officer before the time set for the nomination meeting; or,
 - b. Verbally, at the nomination meeting.

Nomination Meeting

83. The nomination meeting will be held at least 42 days prior to the date on which the election is to be held.
84. At the time and location set for the nomination meeting, the Electoral Officer will declare the nomination meeting open for the purpose of receiving the nomination of candidates for the available Council positions.
85. The Electoral Officer is responsible for managing and conducting the nomination meeting.
86. Immediately following the opening of the nomination meeting, the Electoral Officer will read aloud all written nominations and secondments that have been received by mail or delivered in accordance with subsection 82(a).

Duration of Nomination Meeting

87. The nomination meeting will remain open for at least 3 hours.

Maintaining Order and Security

88. The Electoral Officer will maintain order at all times during the nomination meeting and may cause to be removed any person who, in his opinion, is disrupting or otherwise interfering with the proceedings.

Nomination Procedure

89. Mailed nominations that are not received by the Electoral Officer before the time set for the nomination meeting are void.
90. The Electoral Officer will record the name of the candidate, the nominator and the seconder and confirm to those present at the meeting that the proposed candidate is eligible to be elected to the position of Political Chief; Cultural Chief or Councillor of the Lil'wat Nation.
91. An individual present at the nomination meeting who is eligible to do so may second the nomination of any person nominated in writing.
92. Where the same person receives two written nominations for the same office, the second nomination will constitute a secondment of the first nomination.
93. Any Elector may nominate or second more than:
- a. One eligible person for the office of Political Chief;
 - b. One eligible person for the office of Cultural Chief, and;
 - c. The number of eligible persons equivalent to the vacancies for the office of Councillor.
94. At the end of the nomination meeting, the Electoral Officer will:
- a. If only one individual has been nominated for election as Political Chief, declare that person to be elected;
 - b. If only one individual has been nominated for election as Cultural Chief, declare that person to be elected;
 - c. If the number of persons nominated to serve as Councillors does not exceed the number to be elected, declare those persons to be elected;
 - d. Where more than the required number of persons is nominated for election as Political Chief, Cultural Chief or Councillors, announce that an election will be held.

95. On the day following the nomination meeting, the Electoral Officer will post in a public area of the Lil'wat Nation administration building, and in such conspicuous places on the Lil'wat reserve as may be determined by the Electoral Officer, a list of nominees, their nominators and seconders and the offices for which they are nominated.

PART 8: CANDIDACY

96. Only Electors who meet the requirements of a candidate as set out in this Code may be nominated as a candidate.
97. An individual may only be a candidate for one of the offices of Political Chief, Cultural Chief or Councillor in any election.
98. In order to be eligible to stand for election a candidate must:
- a. Be an Elector of the Lil'wat Nation;
 - b. Show proof of completion of the Lil'wat Council Orientation Session; and,
 - c. Provide a criminal record check to demonstrate proof of not having been convicted of an indictable offence within the previous three years.
99. Within five (5) Days, the nominee must present the following documents to the Electoral Officer:
- a. A notice of acceptance of nomination; or
 - b. A sworn declaration confirming the withdrawal of their nomination
100. A nominee will file documents required under section 99 to the Electoral Officer by mail, facsimile, scanned email, or in person.
101. An individual nominated as a candidate for more than one position: the office of Political Chief; Cultural Chief; and the office of Councillor, must declare which office he intends to seek (if any).
102. No person will accept candidacy in an election if that person is not eligible to be a candidate in accordance with this Code.
103. A nominee who fails to submit the documents required under section 99 to the Electoral Officer within 5 Days of the nomination meeting will be removed as a nominee and his name will not be included on the ballot.

Withdrawal

104. A candidate may withdraw his candidacy within 5 Days of the date on which the nomination meeting was held by submitting a written withdrawal of nomination to the Electoral Officer.
105. A candidate who dies before the close of the polls will be considered to have withdrawn his candidacy.

PART 9 – PRE-ELECTION PROCEDURE

Acclamation

106. Where the office of Political Chief, Cultural Chief and all offices of Councillor are filled by acclamation:
 - a. The Electoral Officer will post in at least one conspicuous location on the reserve, and mail to every Elector who does not reside on the Lil'wat reserve, a notice that sets out the names of the individuals who have been acclaimed and states that an election will not be held; and,
 - b. Sections 107 through 169 will not apply.

Ballots

107. The Electoral Officer will prepare ballot papers setting out:
 - a. The names of the candidates nominated for election as Political Chief, in alphabetical order by surname;
 - b. The names of the candidates nominated for election as Cultural Chief, in alphabetical order by surname; and
 - c. The names of the candidates nominated for election as Councillors, in alphabetical order by surname.
108. Where two or more candidates have the same name, the Electoral Officer will add to the ballots such additional information as is necessary to distinguish between those candidates. The ballot may, at the request of the candidate, include a candidate's commonly used nickname.

Notice of Election

109. The election will be held at least within 42 days after the day on which the nomination meeting was held.
110. The Electoral Officer will, within 3 days after the day on which the nomination meeting was held, post a notice of election in at least one conspicuous location on the reserve.

111. The notice of election will include:
- a. The date of election;
 - b. The times at which the polling station(s) will open and close;
 - c. The location of the polling stations;
 - d. The time and location of the counting of votes; and
 - e. A statement that the Voters List is posted for public viewing and its location.

Mail-in Ballots

112. At least 35 days prior to the date on which the election is to be held, the Electoral Officer will mail a mail-in ballot package to all Electors who do not reside on the Lil'wat reserve; and to every Elector who submits a request for a mail-in ballot. A mail-in ballot package will consist of:
- a. A ballot initialled on the back by the Electoral Officer;
 - b. An inner postage-paid return envelope, pre-addressed to the Electoral Officer
 - c. A second inner envelope marked 'ballot' for insertion of the completed ballot;
 - d. A Voter Declaration Form which will set out:
 - i. The name of the Elector
 - ii. The membership number and date of birth of the Elector; and
 - iii. The name, address and telephone number of the witness to the signature of the Elector;
 - e. The notice of election set out in section 110 & 111; and
 - f. A letter of instruction regarding voting by mail-in ballot which will also include:
 - i. A statement advising Electors that they may vote in person at any polling station on the day of the Election if they return their mail-in ballot to the Electoral Officer at the polling station or swear a written declaration before the Electoral Officer, a Justice of the Peace, Notary Public or Duly Appointed Commissioner for Taking Oaths that they have lost the mail-in ballot; and
 - ii. A list of the names of any candidates who were acclaimed.
113. An Elector who resides on the Lil'wat reserve and who is unable to vote in person on election day may, at least 10 days prior to the date on which the election is to be held, request a mail-in ballot package from the Electoral Officer.

114. An Elector not residing on the Lil'wat reserve who has not received a mail-in ballot package may, not later than 10 days prior to the date on which the election is to be held, request a mail-in ballot package from the Electoral Officer.
115. Upon receipt of a request for a mail-in ballot package under section 113 or 114, the Electoral Officer will mail or deliver a mail-in ballot package described in section 112 to the Electoral who so requests.
116. The Electoral Officer will indicate on the Voters List that a ballot has been provided to each Elector to whom a mail-in ballot was mailed or otherwise provided and keep a record of the date on which, and the address to which, each mail-in ballot was mailed or otherwise provided.
117. An Elector will vote by mail-in ballot by:
 - a. Placing an "X" or other mark that clearly indicates the Elector's choice but does not identify the Elector opposite the name of candidate or candidates for whom he desires to vote;
 - b. Folding the ballot in a manner that conceals the names of the candidates or any marks, but exposes the Electoral Officer's initials on the back;
 - c. Placing the ballot in the inner envelope and sealing the envelope;
 - d. Completing and signing the Voter Declaration Form in the presence of a witness who is at least 18 years of age;
 - e. Placing the inner envelope and the completed, signed and witnessed Voter Declaration Form in the postage-paid envelope; and
 - f. Delivering, mailing or otherwise ensuring receipt by the Electoral Officer of the envelope before the close of polls on day of the election.
118. Where an Elector is unable to vote in the manner set out in section 117, the Elector may enlist the assistance of another person to mark the ballot and complete and sign the Voter Declaration Form in accordance with that section.
119. A person referred to in section 118 will attest to:
 - a. The fact that the person completing and signing the Voter Declaration Form is the person whose name is set out in the form;
 - b. The fact that the Elector is the person whose name is set out in the form and the ballot was marked according to the directions of the Elector.
120. Mail in ballots that are not received by the Electoral Officer before the close of

polls on the day of the election will not be counted.

Equipment for the Election

121. The Electoral Officer will, before the polling station is open, supply the polling station with:
- a. sufficient ballot boxes;
 - b. sufficient number of ballots;
 - c. sufficient number of voting compartments enabling Electors to mark their ballots free from observation;
 - d. instruments for marking the ballots;
 - e. sufficient number of voting instructions as may be required;
 - f. all other equipment necessary to establish and equip the polling stations; and,
 - g. the final Voters List

Polling Stations

122. The Electoral Officer will establish at least one polling station on the Lil'wat reserve.
123. The Electoral Officer will provide a voting compartment in the polling station where Electors can mark their ballots free from observation and the Electoral Officer may appoint security to maintain order in the polling station.

PART 10 - ELECTION DAY

Electoral Officer

124. The Electoral Officer will not be allowed to vote in the election.

Candidate's Agent

125. A candidate will be entitled to not more than two agents in the polling station at any one time.
126. A candidate's agent must present a letter of authorization to the Electoral Officer or the Deputy Electoral Officer, signed by the candidate, in order to be permitted to remain in the polling station.

Polling Hours

127. The polling station will be open from 9 a.m. until 8 p.m. local time on the day of the election.

Verification of the Ballot Box

128. The Electoral Officer or Deputy Electoral Officer will, immediately before the commencement of the poll:
 - a. Open the ballot box and call such persons as may be present to witness that it is empty and complete a written statement to that effect, verified by a witness;
 - 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.

Secrecy and Security

129. Voting will be by secret ballot.
130. No Elector may vote by proxy or authorize another person to vote on his or her behalf.
131. The Electoral Officer or Deputy Electoral Officer will maintain order at all times in the polling station and may cause to be removed any person who in any way interferes, disrupts or attempts to influence the orderly conduct of the poll.
132. No person will, on the day the election is held, on the premises of the polling station;
 - a. Distribute any election-related printed materials except such materials as may be distributed by the Electoral Officer or Deputy Electoral Officer for the purpose of conducting the election.
 - b. Attempt to interfere with or influence any Elector in marking his ballot;
 - c. Attempt to obtain information as to how an Elector is about to vote or has voted

Voting Procedure

133. Each individual on arriving at the polling station will give his name to the Electoral Officer or Deputy Electoral Officer.

134. The Electoral Officer or Deputy Electoral Officer will, if the individual's name is set out in the Voters List, place his initials on the ballots(s) and provide the ballot(s) to the Elector.
135. The Electoral Officer or Deputy Electoral Officer will cause to be placed in the proper column of the Voters List a mark opposite the name of every person receiving a ballot.
136. An Elector to whom a mail-in ballot was mailed or provided under section 112, 113 or 114 may obtain a ballot and vote in person at a polling place if:
 - a. The Elector returns the mail-in ballot to the Electoral Officer or Deputy Electoral Officer; or
 - b. Where the Elector has lost the mail-in ballot, the Elector will provide the Electoral Officer or Deputy Electoral Officer with a written affirmation that the Elector has lost the mail-in ballot, signed by the Elector in the presence of the Electoral Officer, Deputy Electoral Officer, a justice of the peace, a notary public or a commissioner for oaths.
137. The Electoral Officer or Deputy Electoral Officer will, when requested do so, explain the method of voting to the Elector.
138. After receiving a ballot, an Elector will:
 - a. Immediately proceed to the compartment provided for marking ballots;
 - b. Mark the ballot by placing an "X" or other mark that clearly indicates the Elector's choice but does not identify the Elector opposite the name of the candidate or candidates for whom he desires to vote;
 - c. Fold the ballot in a manner that conceals the names of the candidates or any marks, but exposes the Electoral Officer initials on the back; and
 - d. Deliver the ballot to the Electoral Officer or Deputy Electoral Officer.
139. On receipt of a completed ballot, the Electoral Officer or Deputy Electoral Officer will, without unfolding the ballot, verify the initials placed on it and deposit it in the ballot box in the presence of the Elector and any other persons entitled to be present at the polling station.
140. While an Elector is in the compartment for the purpose of marking his ballot, no other person will, except as provided in section 141, be allowed in the same compartment or be in any position from which he can see the manner in which the Elector marks his ballot.

Voting Irregularities

141. At the request of any Elector who is unable to vote in the manner set out in section 138, the Electoral Officer or Deputy Electoral Officer will assist that Elector by marking his ballot in the same manner directed by the Elector in the presence or another Elector selected by the Elector as a witness and will place the ballot in the ballot box.
142. The Electoral Officer or Deputy Electoral Officer will note on the Voters List opposite the name of an Elector requiring assistance, as set out in section 141, the fact that the ballot was marked by him at the request of the Elector and the reasons therefore.
143. An Elector who has inadvertently dealt with his ballot paper in such a manner that it cannot be conveniently used will, on one occasion only, upon returning it to the Electoral Officer or Deputy Electoral Officer, be entitled to obtain another ballot paper. The Electoral Officer or Deputy Electoral Officer will write the word "cancelled" upon the spoiled ballot paper and preserve it.
144. Any person who has received a ballot and who leaves the polling place without delivering the same to the Electoral Officer or Deputy Electoral Officer in the manner provided, or after receiving a ballot, refuses to vote, will forfeit his right to vote at the election, and the Electoral Officer or Deputy Electoral Officer will make an entry in the Voters List in the column for remarks opposite the name of such person to show that such person received a ballot and declined to vote, and the Electoral Officer or Deputy Electoral Officer will mark upon the face of the ballot the word "declined" and all ballots so marked will be preserved.

Closing of the Polling Station

145. Every Elector who is inside the polling station at the time fixed for closing the poll will be entitled to vote before the poll is closed.

PART 11 – COUNTING OF THE VOTES

Opening Mail-in Ballots

146. At the time for the close of the poll, published in the notice for the prepared under section 111 for the counting of the votes, the Electoral Officer or Deputy Electoral Officer will, in the presence of any candidates or their agents who are present, open each envelope containing a mail-in ballot that was received before the close of the polls and, without unfolding the ballot:
 - a. Reject the ballot if:

- i. It was not accompanied by a Voter Declaration Form, or the Voter Declaration Form is not signed or witnessed,
 - ii. The Voter Declaration Form does not contain a date of birth or a band number that matches the information contained for that Elector on the Voters List;
 - iii. The name of the Elector set out in the Voter Declaration Form is not on the Voters List; or
 - iv. The Voters List shows that the Elector has already voted.
- b. In any other case, place a mark on the Voters List opposite the name of the Elector set out in the Voter Declaration Form, and deposit the ballot in a ballot box.

Counting the Ballots

147. The Electoral Officer or Deputy Electoral Officer will supply other Deputy Electoral Officers and all persons present and who so request with a tally sheet to keep their own tally of votes.
148. Immediately after the mail-in ballots have been deposited in the ballot box under subsection 146(b), the Electoral Officer or Deputy Electoral Officer will, in the presence of any candidates or their agents who are present, open all ballot boxes and examine each ballot.
149. The Electoral Officer or Deputy Electoral Officer will call out the same names of the candidates for whom the votes were cast on all valid ballots.
150. A Deputy Electoral Officer will mark a tally sheet in accordance with the names being called out under section 149, for the purpose of arriving at the total number of votes cast for each candidate.

Ballots Not Counted

151. In examining the ballots, the Electoral Officer or Deputy Electoral Officer must reject any ballots that:
 - a. Do not contain the initials of the Electoral Officer or Deputy Electoral Officer;
 - b. Do not give a clear indication of the Elector's intention;
 - c. Contain more votes than there are candidates to be elected; or
 - d. Contain a mark by which the voter can be identified.

152. The Electoral Officer or Deputy Electoral Officer will attach a note to each ballot rejected which outlines the reason for the rejection.
153. Subject to review on recount or on an election appeal, the Electoral Officer or Deputy Electoral Officer shall take note of any objections made by any candidate or his agent to any of the ballots found in the ballot box and decide upon questions arising out the objection.
154. The Electoral Officer or Deputy Electoral Officer shall number objections to ballots raised pursuant to section 153 and place a corresponding number on the back of the ballot paper with the word "allowed" or "disallowed", as the case may be with his initials.

Other Polling Stations

155. Immediately upon completion of the counting of the ballots pursuant to sections 147 through 154 at a polling station other than that considered the principal polling station managed by the Electoral Officer, the Deputy Electoral Officer will transmit the results to the Electoral Officer.

Tie

156. If it is not possible to determine the successful candidate(s) for either a Political Chief, Cultural Chief or Councillor position due to an equal number of votes being cast (i.e. tie vote), the Electoral Officer will immediately conduct a recount in the presence of all those present in the polling station.
157. If the recount fails to determine a successful candidate, the Electoral Officer will cast ballots in order to break the tie. The Electoral Officer will place the names of the candidates having the same number of votes on a paper and place each in a receptacle. Without looking, he will draw as many papers as there are positions available. The candidate(s) whose name(s) appear on the pieces of paper the Electoral Officer has drawn from the receptacle will constitute the candidate(s) for whom the Electoral Officer will cast a vote.

PART 12 – POST ELECTION PROCEDURES

Announcement

158. After contemplating the counting of the votes and establishing the successful candidates, the Electoral Officer will declare to be elected the candidates or candidates having the highest number of votes.

159. Following the declaration of elected candidates made pursuant to section 158, the Electoral Officer will complete a final statement of results that will contain the:
 - a. Names of all candidates,
 - b. Number of ballots cast for each; and
 - c. Number of rejected ballots.
160. Within 4 days after completion of the counting of the votes, the Electoral Officer will:
 - a. Sign and post, in at least one conspicuous place on the Lil'wat reserve, the final statement of results prepared in accordance with section 159;
 - b. Mail a copy of the election report to every Elector of the Nation who does not reside on the Lil'wat reserve; and
 - c. Forward a copy of the election report to the Lil'wat Administrator.

Retention of Ballots and Other Election Material

161. The Electoral Officer will deposit all ballot papers in sealed envelopes, including those rejected, spoiled and unused, and will retain these ballots and all materials in connection with the election.
162. All ballots and materials retained in accordance with section 161 will be retained for 45 days from the date on which the election was held or until a decision on an appeal is rendered, whichever date is later, after which time the Electoral Officer may, unless directed otherwise by the council, destroy them in the presence of two witnesses who will make a declaration that they witnessed the destruction of those papers.

Chiefs and Councillor Oath of Office

163. A candidate who has been elected for Political Chief, Cultural Chief or Councillor will, within 10 days of the Electoral Officer's declaration under section 158, swear an Oath of office before either the Electoral Officer, a justice of the peace, notary public or duly appointed commissioner for taking oaths, swearing to:
 - a. Uphold and comply with this code, the Code of Ethics and all laws of the community;
 - b. Fulfill the duties and responsibilities of his office under this code, the Code of Ethics and all laws of the community;
 - c. Carry out his duties faithfully, honestly, impartially and to the best of his abilities;

- d. Keep confidential, both during and after his term of office, any matter or information which, under this code, the laws of the community or policy, is considered confidential; and
 - e. Always act in the best interests of the community in carrying out his duties.
164. Where a candidate elected as Political Chief, Cultural Chief or Councillor cannot, due to illness or other valid reason, swear the oath of office within the time prescribed in section 163, he or an Elector acting on his behalf may file a petition with the Electoral Officer for an extension of the time to swear the Oath of office.
165. The Electoral Officer receiving a petition under section 164 will determine whether the circumstances justify an extension and will provide the candidate making the request written notice of the decision, and where applicable, the extension period.
166. No person elected as Political Chief, Cultural Chief or Councillor will be permitted to assume office until they have sworn and filed with the Electoral Officer the oath of office required under section 163.
167. Subject to section 165, if a person elected as Political Chief, Cultural Chief or Councillor fails to file the sworn Oath of office with the Electoral Officer on or before the specified time period, the Electoral Officer will declare the office vacant.
168. The Electoral Officer will give notice in writing to the elected candidate whose office is declared vacant under section 167 and to the elected Political Chief, Cultural Chief and council.
169. Unless the vacancy occurring under section 167 results in a situation where the band council can no longer form a quorum, the position will remain vacant until such time as a by-election is called by council.

PART 13: APPEAL AND DISPUTE RESOLUTION BOARD

Composition

170. The Appeal and Dispute Resolution Board will be composed of eight members as follows:

- a. One individual must have experience in the conduct of elections and complaint and appeal processes; and, possess an understanding of the principles of natural justice; and,
 - b. Lil'wat Nation members, at least 18 years of age who will provide Lil'wat with an undertaking to discharge their duties in a fair and neutral manner.
171. All members of the Appeal and Dispute Resolution Board will possess an understanding of the principles of the natural justice.
172. At least three months before the date on which the election is to be held, the Lil'wat Nation Council will:
 - a. Appoint eight individuals to the Appeal and Dispute Resolution Board in accordance with section 170 and 171.
173. The term of office of the Appeal and Dispute Resolution Board will be from its appointment under section 172 until the day on which the council selects another Appeal and Dispute Resolution Board in accordance with this code.
174. Upon receipt of an election appeal in accordance with Part 13:
 - a. Upon receipt of a complaint or an appeal, the Appeal and Dispute Resolution Board convenes a meeting to appoint a three member sub-committee to investigate and hold hearings, if required, and to issue binding decisions to resolve the complaint or appeal;
 - b. Any Appeal and Dispute Resolution Board member who is immediate family of any appellant or candidate, or who my reasonably apprehended to have a bias or conflict in connection with the appeal, will not be appointed to the sub-Committee to participate in investigation and hearing.
175. The remaining members of the Appeal and Dispute Resolution Board will appoint three members to participate on the sub-Committee to investigate the complaint in accordance with subsection 174(a).
176. Each member of the Appeal and Dispute Resolution Board will execute an Oath of Office and accept his appointment by forwarding a letter of acceptance to the Council.

Functions

177. The Appeal and Dispute Resolution Board will supervise and administer, in accordance with the provisions of this Code all:
 - a. Election appeals; and

- b. Petitions for the removal of a Council member from office in accordance with sections 48, 49, 50 or 163.

PART 14 – APPEAL MECHANISM

Timing

178. A Candidate or an Elector may, within 30 days from the date on which the election was held, submit an appeal to the Appeal and Dispute Resolution Board

Grounds for Appeals

179. An appeal submitted pursuant to section 178 must sufficiently outline one or more of the following that:
 - a. The person declared elected was not qualified to be a candidate;
 - b. There was a violation of sections 48 - 50 of this code in the conduct of the election that may have affected the result of the election; or
 - c. There was corrupt or fraudulent practice in relation to the election pursuant to section 48.

Submission

180. An appeal submitted to the Appeal and Dispute Resolution Board must be:
 - a. In writing and set out in an affidavit sworn before a notary public or duly appointed commissioner for taking oaths the facts substantiating the grounds for the appeal accompanied by any supporting documentation; and,
 - b. Accompanied by a deposit in the amount of (\$100.00).

Procedure

181. Upon receipt of an election appeal, the Appeal and Dispute Resolution Board will:
 - a. In the case where the appeal is submitted in accordance with sections 178 – 180, forward a copy together with supporting documents by registered mail to the Electoral Officer and to each candidate at the election; or
 - b. In the case where the appeal is not submitted in accordance with sections 178 - 180, inform the appellant(s) in writing that the appeal will not receive further consideration.

Response to the Allegations

182. Any candidate or the Electoral Officer may, within 14 days of the receipt of the appeal(s), forward to the Appeal and Dispute Resolution Board by registered mail a written response to appeal allegations, together with any supporting documentation.
- a. Such response must be set out in an affidavit and sworn before a notary or Justice of the Peace or a Commissioner for taking Affidavits in the Province of BC.

Investigation

183. The Appeal and Dispute Resolution Board may, if the material that has been filed is not adequate for deciding the validity of the election complained of, conduct such further investigation into the matter as the Board deems necessary.

Decision

184. After a review of all the evidence that it has received, the Appeal and Dispute Resolution Board will rule:
- a. That the evidence presented was not sufficiently substantive to determine that:
- v. A violation of this Code has taken place that might have affected the result of the election;
 - vi. The person declared elected was not qualified to be a candidate; or
 - vii. There was a corrupt or fraudulent practice in relation to the election that might have affected its results,
- and dismiss the appeal; or
- b. That all evidence and information gathered allows for the reasonable conclusion that:
- i. A violation of this Code has taken place that might have affected the result of the election;
 - ii. The person declared elected was not qualified to be a candidate; or
 - iii. There was a corrupt or fraudulent practice in relation to the election that might have affected its results,
- and uphold the appeal by setting aside the election of one or more council members.
185. The decision of the Appeal and Dispute Resolution Board made pursuant to section 184 will be:

- a. Published in the Lil'wat Nation's newsletter, which is mailed to Lil'wat members, or in a separate written notice delivered or mailed to all Lil'wat members; and
 - b. Posted in at least one conspicuous place on the reserve.
186. The decision of the Appeal and Dispute Resolution Board is final and not subject to appeal.

PART 15 - AMENDMENTS

187. The process for development and passage of amendments to this code may be initiated by:
- a. A petition presented to council, signed by at least 50% of all eligible Electors and setting out the specific area in this code proposed for amendment; or
 - b. A Council Resolution.
188. Upon receipt of an amendment proposal in accordance with section 187, Council will prepare a notice that sets out:
- a. A summary of the proposed amendments to this code;
 - b. A statement that the full copy of the proposed amendments can be obtained at the band administration office; and
 - c. A description of the amendment process.
189. The notice provided for in section 188 will be:
- a. Published in the Lil'wat Nation's newsletter, delivered or mailed to Lil'wat Electors, or by separate notice delivered or mailed to all Lil'wat Electors; and;
 - b. Posted in at least one conspicuous place on the Reserve.
190. Electors may, within 14 days of publication of the notice outlined in section 189, provide comments concerning the proposed amendments in writing to Council.
191. Following receipt of comments concerning the proposed amendments pursuant to section 191, Council will review the comments and make such changes to the proposed amendments as they deem necessary in order to arrive at a final amendment proposal.
192. Council will submit the final amendment proposal to a Lil'wat referendum.

193. Should the majority of the votes cast at a referendum be in favour of the proposed amendments being brought to the Code, Council will amend the Code accordingly.

194. Elections held under the amended Code will take place no sooner than 100 days from the Lil'wat referendum approving the Election Code Amendment.