



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 Band Council Resolution in accordance with Part 13 to review and make decisions concerning Election Appeals.

“Appellant” means an individual who submits an Election Appeal.

“Band Council Resolution” means a resolution duly and lawfully passed by Council.

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

“Candidate” means an individual who:

- a. Is at least 18 years of age on the day on which the Election is held;
- b. Is a Lil'wat member; and
- c. Has been nominated to be a candidate in an Election and whose nomination has been confirmed pursuant to the provisions of this Code.

“Chief” means the Political Chief or the Cultural Chief.

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

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

“Councillor” means a Council member referred to in section 4.c.

“Cultural Chief” means the Council member referred to in section 4.b.

“Day” is defined, for the purpose of counting days before an Election or to a

related activity, as excluding the first day and the last day. For all other calculations of time, the first day must be excluded and the last day included.

“Deputy Electoral Officer” means a person appointed by the Electoral Officer for the purposes of an Election to assist the Electoral Officer in the conduct of the Election.

“Election” means a General Election, a By-election or a runoff vote under 130.

“Election Appeal” means an appeal under section 153.

“Electoral Officer” means a person, appointed by Band Council Resolution before each Election, who has the responsibility for conducting the Election, including the Nomination Meeting and post-Election procedures.

“Elector” means an individual who:

- a. Is a Lil'wat member; and
- b. Is at least 18 years of age on the day on which the Election is held; or
- c. Is eligible to be a Lil'wat member and has been added to the Voters List or permitted to vote on Election day in accordance with Part 6.

“General Election” means an election held under section 5.

“Indictable Offence” means those offences for which an individual has been charged by way of indictment under the Criminal Code of Canada.

“Lil'wat Chief Administrative Officer” means the most senior member of the Lil'wat Nation administration.

“Lil'wat member” means a member of Lil'wat Nation determined in accordance with the Lil'wat Citizenship Code.

“Lil'wat membership list” means the membership list maintained in accordance with the Lil'wat Citizenship Code.

“Lil'wat reserve” means a reserve of Lil'wat Nation within the meaning of the Indian Act, R.S.C 1985, c I-5.

“Mail-in Ballot” means a ballot mailed or delivered in accordance with section 117.

“Nomination Meeting” means the meeting at which persons come forward to nominate and second candidates for an Election.

“Oath of Office” means an oath sworn in accordance with section 31, 50, 138 or 150, as applicable.

“Polling Station” means a building, hall or room that is selected as the site at which voting takes place in accordance with section 98.

“Political Chief” means the Council member referred to in section 4.a.

“Registrar” means the employee responsible for maintaining the Lil'wat 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 membership number of the Elector or, if the Elector does not have a membership number, the date of 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 Lil'wat 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; and
 - c. Eleven (11) Councillors.

Mode of Election for Chiefs and Councillors

5. The Political Chief, Cultural Chief and Councillors will be elected by a vote held in accordance with this Code.
6. Subject to section 9, Council will, by Band Council Resolution, establish the

date on which an Election is to be held, which in the case of a General Election must be

- a. No sooner than 100 Days prior to the end of their term of office; and
 - b. No later than July 31 of the General Election year.
7. No referendum or other voting process will be held within 100 Days prior to the date on which a General Election is to be held.
 8. Council may, by Band Council Resolution, approve electronic voting for any General Election provided:
 - a. The electronic voting software is provided by a reputable electronic voting software company which guarantees total secrecy wherein individual voter choices shall be encrypted in such a way as to ensure total voter anonymity;
 - b. Any possibility of an Elector voting both electronically and in person or by mail is eliminated; and
 - c. Council, by Band Council Resolution, approves rules and procedures governing electronic voting, including rules and procedures regarding electronic voting packages and incorporating results from electronic voting into the Election results.

Suspension or Delay of Election Process

9. The Electoral Officer may suspend or delay any step in the Election process, including for certainty the Election day established by Council under section 9,
 - a. For health or safety reasons for the community, including severe inclement weather, a natural disaster or another disaster which impacts or poses an imminent threat to the health or safety of the community; or
 - b. Due to a death in the community.
10. The Electoral Officer must before making a decision to suspend or delay a step in the Election process seek the guidance of the Cultural Chief.
11. The Cultural Chief must when providing guidance under section 10 consider established community cultural protocol, if any.
12. If a step in the Election process is suspended or delayed under this Part, the Electoral Officer or a Deputy Electoral Officer will
 - a. Post a notice of the suspension or delay in a public area of the Lil'wat Nation administration building and in such other conspicuous places on a Lil'wat reserve as may be determined by the Electoral Officer; and

- b. Mail a notice of the suspension or delay to every Elector who does not reside on a Lil'wat reserve in respect of whom the Electoral Officer has been provided with, or has been able to obtain an address.
13. A notice under section 12 must include
- a. The reason for the suspension or delay; and
 - b. The new date for the applicable step in the Election process, and any resulting changes to the dates of subsequent steps in the Election process.
14. If a step in the Election process is suspended or delayed under this Part, that step must not be held sooner than 14 Days after the notice under section 12 is posted and mailed.

Term of Office

15. The term of office for a Chief or Councillor commences when that Council member swears an Oath of Office and, except as expressly provided otherwise under this Code, expires 4 years from the date of the Election in which he or she was elected.

Vacancy

16. A Council position may become vacant if, while in office, the Council member:
- a. resigns in writing from office of his or her own accord;
 - b. has been unable to perform the functions of his or her office for more than six months due to illness or other incapacity; or
 - c. dies.
17. Unless otherwise provided in this Code, in the event the office of Political Chief, 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 by Council, by Band Council Resolution.
18. No By-election will be held if there are less than ten 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.
19. 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, the Council member must resign his or her Council position prior to the Nomination Meeting for the By-election.

20. Except as expressly provided in this Code, the rules and procedures in this Code will apply to By-elections.
21. The successful Candidate in a By-election will hold office for the remainder of the original term of office of the Council member whom he or she is elected to replace.

PART 5: ETHICAL CAMPAIGNING

22. Candidates must operate their campaign according to the following rules and regulations. 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 Electors 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 Officer and any Deputy Electoral Officers and not interfere with the performance of their duties; and,
 - h. Subject to the right of appeal under section 153, accept and comply with the official Election results and a final decision of the Appeal and Dispute Resolution Board.
23. No person will during an Election period:
 - a. Directly or indirectly offer 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;
 - b. Accept or agree to accept a bribe that is offered; or
 - c. By intimidation or duress, or by any pretence or contrivance, compel or induce a person to:

- i. Vote or refrain from voting; or
 - ii. Vote or refrain from voting for a particular Candidate.
- 24. No person will, on the day the Election is held, on the premises of a Polling Station;
 - a. Distribute any Election-related printed materials except such materials as may be distributed by the Electoral Officer or a Deputy Electoral Officer for the purpose of conducting the election;
 - b. Attempt to interfere with or influence any Elector in marking his or her ballot; or
 - c. Attempt to obtain information as to how an Elector is about to vote or has voted.

PART 6: PRE-NOMINATION PROCEDURE

Appointment of Electoral Officer

- 25. An Electoral Officer will be appointed by Band Council Resolution not less than 100 Days before the expiration of the Council's term of office.
- 26. The Band Council Resolution for the appointment of the Electoral Officer will contain the Electoral Officer's 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.
- 27. If an Electoral Officer has not been appointed within the time set out in section 25, the Electoral Officer will be appointed by the Lil'wat Chief Operating Officer as soon as possible.
- 28. The Electoral Officer must be an individual who:
 - a. Is not a Lil'wat member;
 - 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.
- 29. In the event that the Electoral Officer cannot fulfill his or her duties, an existing Deputy Electoral Officer, who meets the criteria of an Electoral Officer, will be appointed by Band 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.

Electoral Officer Responsibilities and Ethics

30. The Electoral Officer is responsible for managing and executing all pre-Election, Election, and post-Election 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 or her 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 or her 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.
31. The Electoral Officer must swear an Oath of Office containing the provisions set out in section 30.

Voters List

32. 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.
33. 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 a Lil'wat reserve.
34. Electors are responsible for providing the Registrar with their current

addresses.

35. 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.
36. Except for the purposes noted in section 35, the Electoral Officer will not disclose an Elector's address without the consent of the Elector.
37. 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.
38. The Electoral Officer will post, or cause to be posted, the Voters List in a public area of the Lil'wat Nation administration building and in such other conspicuous places on a Lil'wat reserve as may be determined by the Electoral Officer, no later than 72 Days prior to the date on which the Election is to be held.
39. On request, the Electoral Officer or a Deputy Electoral Officer will confirm whether the name of a particular person is on the Voters List.
40. The Electoral Officer will, in accordance with this Part, revise the Voters List upon presentation of documentary evidence which demonstrates that:
 - a. The name of an Elector has been incorrectly 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 in the Election is included on the Voters List.
41. An individual, or an Elector acting on his or her 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 is incorrectly set out on the Voters List by presenting in writing to the Electoral Officer evidence that the Elector:
 - a. Is on the Lil'wat membership list or is entitled to have his or her name entered on the Lil'wat membership list; and
 - b. Will be at least 18 years of age on the date on which the Election is to be held.

42. An individual may demonstrate the name of an individual not qualified to vote in the Election 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 membership list nor entitled to have his or her name entered on the Lil'wat membership list; or
 - b. Will not be at least 18 years of age on the date on which the Election is to be held.

43. 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 42, an individual demonstrates to the Electoral Officer the name of a person not qualified to vote in the Election 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.

44. The notice given under section 43 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.

45. 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.

46. An individual whose name does not appear on the Voters List will be entitled to vote on Election day, provided he or she presents documentary evidence to the Electoral Officer or a Deputy Electoral Officer demonstrating to the Electoral Officer or the Deputy Electoral Officer's satisfaction that he or she
 - a. Is on the Lil'wat membership list or is entitled to have his or her name entered on the Lil'wat membership list; and
 - b. Is at least 18 years of age on Election day.

Appointment of Deputies and Interpreters

47. The Electoral Officer will appoint Deputy Electoral Officers and

- interpreters as he or she deems necessary, who will work under his or her direction.
48. A 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.
 49. A Deputy Electoral Officer will not be a Council member or a Candidate.
 50. Every Deputy Electoral Officer will swear an Oath of Office to:
 - a. Uphold and comply with this Code and all laws of the community;
 - b. Fulfill the duties and responsibilities of his or her office under this Code;
 - c. Carry out his or her duties faithfully, honestly, impartially and to the best of his or her abilities;
 - d. Keep confidential, both during and after his or her 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 or her duties.
 51. The Electoral Officer may make such orders and issue such instructions consistent with the provisions of this Code as he or she may deem necessary for the effective administration of the Election.

PART 7: THE NOMINATION PROCESS

Notice of Nomination Meeting and Mail-In Procedures

52. Council, by Band Council Resolution, shall determine the location of the Nomination Meeting.
53. The Electoral Officer will, at least 30 days before the date on which the Nomination Meeting is to be held, post a notice of the Nomination Meeting in a public area of the Lil'wat Nation administration building and in such other conspicuous places on a Lil'wat reserve as may be determined by the Electoral Officer.
54. 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 a Lil'wat reserve in respect of whom the Electoral Officer has been provided with, or has been able to obtain an address.

55. 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 Station;
 - c. The name and phone number of the Electoral Officer;
 - d. A statement that any Elector 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 in the Election; and
56. 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

57. Subject to section 55, any Elector may nominate or second the nomination of any individual qualified 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, provided the nomination and Voter Declaration Form are received before the time set for the Nomination Meeting; or
 - b. Verbally, at the Nomination Meeting.

Nomination Meeting

58. The Nomination Meeting will be held at least 42 days prior to the date on which the Election is to be held.
59. 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.
60. The Electoral Officer is responsible for managing and conducting the Nomination Meeting.
61. 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 section 57.a.

Duration of Nomination Meeting

62. The Nomination Meeting will remain open for at least 3 hours.

Maintaining Order and Security

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

Nomination Procedure

64. Mailed nominations that are not received by the Electoral Officer before the time set for the Nomination Meeting, or accompanied by a completed, signed and witnessed Voter Declaration Form, are void.
65. The Electoral Officer will record the name of each proposed candidate, the nominator and the seconder and confirm to those present at the Nomination Meeting that the proposed candidate is eligible to be elected to the position of Political Chief; Cultural Chief or Councillor, as applicable.
66. An individual present at the Nomination Meeting who is eligible to do so may second the nomination of any person nominated in writing.
67. Where the same person receives two written nominations for the same office, the second nomination will constitute a secondment of the first nomination.
68. Any Elector may nominate no 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.
69. No later than the day following the Nomination Meeting, the Electoral Officer or a Deputy Electoral Officer will
- a. Post or cause to be posted in a public area of the Lil'wat Nation administration building and in such other conspicuous places on a Lil'wat reserve as may be determined by the Electoral Officer, a list of nominees and the offices for which they are nominated; and
 - b. Make reasonable efforts to inform any nominees who were not present at

the Nomination Meeting of their nomination.

PART 8: CANDIDACY

70. Only Electors who meet the requirements of a candidate as set out in this Code may be nominated as a candidate in an Election.
71. An individual may only be a candidate for one of the offices of Political Chief, Cultural Chief or Councillor in any Election.
72. In order to be eligible to stand as a candidate in an Election, an individual must:
 - a. Be an Elector; and
 - b. Not have been convicted of an Indictable Offence within the previous three years.
73. Within five (5) Days of the Nomination Meeting, each nominee must present the following documents to the Electoral Officer:
 - a. A notice of acceptance of his or her nomination; or
 - b. A declaration confirming the withdrawal of his or her nomination.
74. As soon as reasonably possible following the Nomination Meeting, each nominee must provide the Electoral Officer proof satisfactory to the Electoral Officer that the nominee has not been convicted of an Indictable Offence within the previous three years, in the form of a criminal record check.
75. A nominee will file documents required under section 73 to the Electoral Officer by mail, facsimile, scanned email, or in person.
76. An individual nominated as a candidate for more than one position on Council must declare within the five day period referred to in section 78 which office he or she intends to seek, if any.
77. No person will accept candidacy in an Election if that person is not eligible to be a candidate in accordance with this Code.
78. A nominee who fails to submit the documents required under section 73 to the Electoral Officer within 5 Days of the Nomination Meeting will be removed as a nominee and his or her name will not be included on the

ballot.

Withdrawal

79. A nominee may withdraw his or her nomination within 5 Days of the date on which the Nomination Meeting was held by submitting a written withdrawal of nomination to the Electoral Officer.
80. A Candidate who dies before the close of the polls will be considered to have withdrawn his or her candidacy.

PART 9 – PRE-ELECTION PROCEDURE

Acclamation

81. At the end of the five day period referred to in section 73, the Electoral Officer will:
 - a. If only one individual has been confirmed as a Candidate for Political Chief, declare that person to be elected;
 - b. If only one individual has been confirmed as a Candidate for Cultural Chief, declare that person to be elected;
 - c. If the number of persons confirmed as Candidates for the vacant Councillor positions does not exceed the number to be elected, declare those persons to be elected; or
 - d. Where more than the required number of persons are confirmed as Candidates for Political Chief, Cultural Chief or Councillors, announce that an Election will be held.
82. 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 a Lil'wat reserve, and mail to every Elector who does not reside on a Lil'wat reserve in respect of whom the Electoral Officer has been provided with, or has been able to obtain an address, 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 83 through 144 will not apply.

Ballots

83. The Electoral Officer will prepare ballot papers setting out:

- a. The names of the Candidates for election as Political Chief, in alphabetical order by surname;
 - b. The names of the Candidates for election as Cultural Chief, in alphabetical order by surname; and
 - c. The names of the Candidates for election as Councillors, in alphabetical order by surname.
84. 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 a Candidate, include the candidate's commonly used nickname.

Notice of Election

85. An Election will be held at least 42 Days after the day on which the Nomination Meeting was held.
86. The Electoral Officer will, within 1 day after the day on which the Nomination Meeting was held, post or cause to be posted a notice of election in at least one conspicuous location on a Lil'wat reserve.
87. The notice of election will include:
- a. The date of the Election;
 - b. The times at which the Polling Station(s) will open and close;
 - c. The location of the Polling Station (s);
 - 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

88. 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 does not reside on a Lil'wat reserve in respect of whom the Electoral Officer has been provided with, or has been able to obtain an address; and to every Elector who submits a request for a mail-in ballot in accordance with this Part. A mail-in ballot package will consist of:
- a. A ballot initialed 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, or provide for:
 - i. The name of the Elector;
 - ii. The membership number or 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 posted under section 86; 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 or a Deputy Electoral Officer at a Polling Station or swear a written declaration before the Electoral Officer or a Deputy Electoral Officer, lawyer, notary or 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.
89. An Elector who resides on a 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.
90. An Elector not residing on a 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.
91. Upon receipt of a request for a mail-in ballot package under section 89 or 90, the Electoral Officer will mail or deliver a mail-in ballot package described in section 88 to the Elector who so requests.
92. 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.
93. An Elector may 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 the Candidate or

- Candidates for whom he or she 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;
 - f. If mailed, ensuring receipt by the Electoral Officer of the envelope no later than 1 day before Election day; or
 - g. If hand delivered to the Electoral Officer or a Deputy Electoral Officer at a Polling Station, ensuring receipt by the Electoral Officer or Deputy Electoral Officer up to the close of polls on Election day.
94. Where an Elector is unable to vote in the manner set out in section 93, 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.
95. A person referred to in section 94 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.
96. Mail in ballots that are not received by the Electoral Officer in accordance with section 93.f or 93.g will not be counted.

Equipment for the Election

97. The Electoral Officer will, before a 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

- 98. Council, by Band Council Resolution, shall establish at least one Polling Station on a Lil'wat reserve.
- 99. The Electoral Officer will provide a voting compartment in each Polling Station where Electors can mark their ballots free from observation and the Electoral Officer may appoint security to maintain order in a Polling Station.

PART 10 - ELECTION DAY

Electoral Officer

- 100. For certainty, the Electoral Officer will not be allowed to vote in the Election.

Scrutineers

- 101. A Candidate will be entitled to not more than two scrutineers in a Polling Station at any one time.
- 102. A Candidate's scrutineer must present a letter of authorization to the Electoral Officer or a Deputy Electoral Officer, signed by the Candidate, in order to be permitted to remain in a Polling Station.

Polling Hours

- 103. Each 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

- 104. The Electoral Officer or a Deputy Electoral Officer will, immediately before the commencement of the poll:
 - a. Open each 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

105. Voting will be by secret ballot.
106. No Elector may vote by proxy or authorize another person to vote on his or her behalf.
107. The Electoral Officer or a Deputy Electoral Officer will maintain order at all times in each 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.

Voting Procedure

108. Each individual on arriving at a Polling Station will give his or her name to the Electoral Officer or a Deputy Electoral Officer as well as government issued photo I.D. if requested by the Electoral Officer or the Deputy Electoral Officer.
109. The Electoral Officer or a Deputy Electoral Officer will, if the individual's name is set out in the Voters List, place his or her initials on the ballots(s) and provide the ballot(s) to the Elector.
110. The Electoral Officer or a 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.
111. An Elector to whom a mail-in ballot was mailed or provided under section 88, 89 or 90 may obtain a ballot and vote in person at a Polling Station if:
 - a. The Elector returns the mail-in ballot to the Electoral Officer or a Deputy Electoral Officer; or
 - b. Where the Elector has lost the mail-in ballot, the Elector provides the Electoral Officer or Deputy Electoral Officer with a written declaration that the Elector has lost the mail-in ballot, signed by the Elector in the presence of the Electoral Officer or Deputy Electoral Officer, or a lawyer, notary or commissioner for taking oaths.
112. The Electoral Officer or a Deputy Electoral Officer will, when requested do so, explain the method of voting to an Elector.

113. 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 or she 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 or Deputy Electoral Officer’s initials on the back; and
 - d. Deliver the ballot to the Electoral Officer or Deputy Electoral Officer.
114. 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.
115. While an Elector is in the compartment for the purpose of marking his or her ballot, no other person will, except as provided in section 116, be allowed in the same compartment or be in any position from which he or she can see the manner in which the Elector marks his or her ballot.

Voting Irregularities

116. At the request of any Elector who is unable to vote in the manner set out in section 113, the Electoral Officer or a Deputy Electoral Officer will assist that Elector by marking his or her 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.
117. 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 116, the fact that the ballot was marked by him or her at the request of the Elector and the reasons therefore.
118. An Elector who has inadvertently dealt with his or her 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.

119. Any person who has received a ballot and who leaves a Polling Station 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 or her right to vote in 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

120. Every Elector who is inside a 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

121. At the time for the counting of votes set out in the notice of election posted under section 86,, the Electoral Officer or a Deputy Electoral Officer will, in the presence of any Candidates or their scrutineers who are present, open each envelope containing a mail-in ballot that was received in accordance with section 93.f or 93.g 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 membership number that matches the information provided by the Registrar for that Elector;
 - 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

122. The Electoral Officer or a 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.
123. Immediately after the mail-in ballots have been deposited in the ballot box under section 121, the Electoral Officer or a Deputy Electoral Officer will, in the presence of any Candidates or their scrutineers who are present, open all ballot boxes and examine each ballot.
124. The Electoral Officer or a Deputy Electoral Officer will call out the names of the Candidates for whom votes were cast on all valid ballots.
125. A Deputy Electoral Officer will mark a tally sheet in accordance with the names being called out under section 124, for the purpose of arriving at the total number of votes cast for each Candidate.

Ballots Not Counted

126. 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 Elector can be identified.
127. The Electoral Officer or Deputy Electoral Officer will attach a note to each ballot rejected which outlines the reason for the rejection.
128. 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 or her scrutineer to any of the ballots found in the ballot box and decide upon questions arising out the objection.
129. The Electoral Officer or Deputy Electoral Officer shall number objections to ballots raised pursuant to section 128 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 or her initials.

Tie

130. If it is not possible to determine the successful Candidate 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 at the location for the counting of votes set out in the notice of election posted under section 86.
131. If the recount fails to determine a successful Candidate, the Electoral Officer will declare a runoff vote to take place within 45 Days of the Election. Only the tied Candidates will be listed on the ballot in the runoff vote. The other elected Candidates shall be sworn in and hold office in accordance with this Code.
132. In the event that the runoff vote fails to determine a successful Candidate, 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 or she 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 be deemed to be the successful Candidate(s) for those Council positions.

PART 12 – POST ELECTION PROCEDURES

Announcement

133. After conducting the counting of the votes and establishing the successful Candidates, the Electoral Officer will declare those Candidates to be elected.
134. Following the declaration of elected Candidates made pursuant to section 133, 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.
135. Within 4 days after completion of the counting of the votes, the Electoral Officer or a Deputy Electoral Officer will:
 - a. Sign and post, in at least one conspicuous place on a Lil'wat reserve,

- the final statement of results prepared in accordance with section 134;
- b. Forward a copy of the final statement of results to the Lil'wat Chief Operating Officer.

Retention of Ballots and Other Election Material

136. 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.
137. All ballots and materials retained in accordance with section 136 will be retained for 45 Days from the date on which the Election was held or until a decision on a appeal is rendered, whichever date is later, after which time the Electoral Officer may, unless directed otherwise by Council, destroy them in the presence of two witnesses who will make a declaration that they witnessed the destruction of those papers.

Chiefs and Councillor Oath of Office

138. 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 133, swear an Oath of Office before the Electoral Officer or a lawyer, notary or commissioner for taking oaths swearing to:
 - a. Uphold and comply with this Code and all laws of the community;
 - b. Fulfill the duties and responsibilities of his or her office under this Code and all laws of the community;
 - c. Carry out his or her duties faithfully, honestly, impartially and to the best of his or her abilities;
 - d. Keep confidential, both during and after his or her 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 or her duties.
139. 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 138, the Council member or an Elector acting on his or her behalf may file a petition with the Electoral Officer for an extension of the time to swear the Oath of Office.

140. The Electoral Officer receiving a petition under section 139 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.
141. 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 138.
142. Subject to section 140, 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.
143. The Electoral Officer will give notice in writing to the elected Candidate whose office is declared vacant under section 142 and to the other elected Candidates.
144. Unless the vacancy occurring under section 142 results in a situation where 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

145. The Appeal and Dispute Resolution Board will be composed of three individuals who
 - a. are not Lil'wat members; and
 - b. have no personal or financial interest in the results of the Election for which they appointed.
146. At least one member of the Appeal and Dispute Resolution Board must have experience in the conduct of elections and complaint and appeal processes.
147. All members of the Appeal and Dispute Resolution Board will possess an understanding of the principles of the natural justice.
148. At least 35 Days before the date on which the election is to be held, the

Lil'wat Nation Council will, by Band Council Resolution, appoint three individuals to the Appeal and Dispute Resolution Board in accordance with sections 145-147.

149. The term of office of the Appeal and Dispute Resolution Board will be from its appointment under section 148 until the day on which Council selects another Appeal and Dispute Resolution Board in accordance with this Code.
150. Each member of the Appeal and Dispute Resolution Board will execute an Oath of Office and accept his or her appointment by forwarding a letter of acceptance to Council.

Functions

151. The Appeal and Dispute Resolution Board will supervise and administer, in accordance with the provisions of this Code all Election Appeals.:
152. Upon receipt of an Election Appeal, the Appeal and Dispute Resolution Board will convene one or more meetings to investigate and hold hearings, if required, and to issue binding decisions to resolve the appeal.

PART 14 – APPEAL MECHANISM

Timing

153. 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

154. An Election Appeal must sufficiently outline one or more of the following:
 - a. That the person declared elected was not qualified to be a candidate in the Election.
 - b. That there was a violation of this Code that may have affected the result of the Election; or
 - c. That there was corrupt or fraudulent practice in relation to the Election that may have affected the result of the Election.

Submission

155. An Election Appeal must be:
- a. In writing and set out in an affidavit sworn before a lawyer, notary or 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

156. 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 154 – 156, mail or deliver a copy of the appeal, including any supporting documentation, to the Electoral Officer and to each Candidate; or
 - b. In the case where the appeal is not submitted in accordance with sections 154 – 156, inform each Appellant in writing that the appeal will not receive further consideration.

Response to the Allegations

157. Any Candidate or the Electoral Officer may, within 14 days of receipt of a copy of the appeal under section 156.a, mail or deliver to the Appeal and Dispute Resolution Board a written response to the appeal allegations, together with any supporting documentation. Such response must be set out in an affidavit and sworn before a lawyer, notary or commissioner for taking oaths.

Investigation

158. 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

159. After a review of all the evidence that it has received or gathered, the Appeal and Dispute Resolution Board will rule:
- a. That the evidence presented was not sufficiently substantive to determine that:
 - i. A violation of this Code has taken place that may have affected the result of the Election;

- ii. The person declared elected was not qualified to be a candidate in the Election; or
- iii. There was a corrupt or fraudulent practice in relation to the Election that may have affected the result of the Election,

and dismiss the appeal; or

- b. That all evidence and information received or gathered allows for the reasonable conclusion that:
 - i. A violation of this Code has taken place that may have affected the result of the Election;
 - ii. The person declared elected was not qualified to be a candidate in the Election; or
 - iii. There was a corrupt or fraudulent practice in relation to the Election that may have affected the result of the Election,

and uphold the appeal by setting aside the election of one or more Council members.

- 160. A decision of the Appeal and Dispute Resolution Board made pursuant to section 159 will be:
 - a. Published in a Lil'wat Nation newsletter delivered or mailed to all Electors; or
 - b. Provided by separate written notice delivered or mailed to all Electors; and
 - c. Posted in at least one conspicuous place on a Lil'wat reserve.

- 161. A decision of the Appeal and Dispute Resolution Board is final.

Council Pending Appeal

- 162. In the event of an Election Appeal, the Candidates declared elected under section 133 shall be sworn in and hold office until the appeal is adjudicated. Should the appeal be upheld and a By-election called, the Candidates declared elected under section 133 shall continue in office until the results of the By-election are determined.

PART 15 - AMENDMENTS

- 163. 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 Electors and setting out the specific area in this Code proposed for amendment; or
 - b. A Band Council Resolution.
164. Upon receipt of an amendment proposal in accordance with section 163, 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 Lil'wat Nation administration office; and
 - c. A description of the amendment process.
165. The notice provided for in section 164 will be:
 - a. Published in a Lil'wat Nation newsletter delivered or mailed to all Electors, or
 - b. Provided by separate written notice delivered or mailed to all Electors; and
 - c. Posted in at least one conspicuous place on a Lil'wat reserve.
166. Electors may, within 14 days of publication of the notice outlined in section 164, provide comments concerning the proposed amendments in writing to Council.
167. Following receipt of comments concerning the proposed amendments pursuant to section 166, 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.
168. Council will submit the final amendment proposal to a Lil'wat Nation referendum.
169. 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.
170. Elections held under the amended Code will take place no sooner than 100 Days from the date of the referendum approving the amended Code.



File reference no.
LN 002 Agr.2019. 01.29

Lil'wat Nation Band Council Resolution
Lil'wat Nation Election Code Amendments and Referendum

The Council of Lil'wat Nation at a duly convened meeting 2019.01.29 in the Province of British Columbia

Do Hereby Resolve:

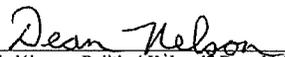
WHEREAS:

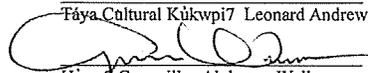
That the Lil'wat Nation Policy Review Committee along with Community Engagement (January 14th and 16th), recommend that Chiefs & Council approve the amended Lil'wat Nation Election Code dated January 29, 2019.

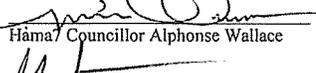
WHEREAS:

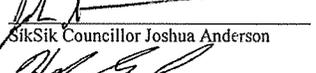
That the Chiefs & Council approve that amended Lil'wat Nation Election Code dated January 29, 2019 be taken to the Lil'wat members via referendum on March 16, 2019.

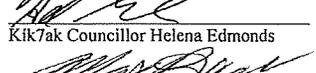
THEREFORE BE IT RESOLVED that the Lil'wat Nation Chiefs and Council hereby authorize that the amended Lil'wat Nation Election Code dated January 29, 2019 be approved and go to Referendum on March 16, 2019.

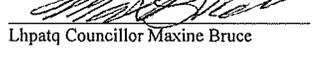

Skalúlmecw Political Kúkwpí7 Dean Nelson

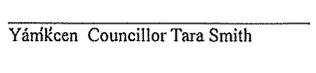

Fáya Cultural Kúkwpí7 Leonard Andrew

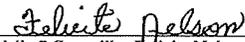

Háma7 Councillor Alphonse Wallace

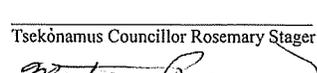

SikSik Councillor Joshua Anderson

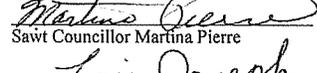

Kík7ak Councillor Helena Edmonds

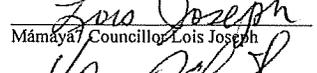

Lhpatq Councillor Maxine Bruce

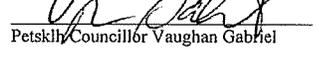

Yámíkcen Councillor Tara Smith

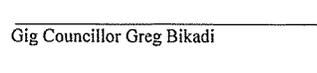

Emháka7 Councillor Felicity Nelson


Tsekónamus Councillor Rosemary Stager


Sawt Councillor Martina Pierre


Mámáya7 Councillor Lois Joseph


Petskllh Councillor Vaughan Gabriel


Gig Councillor Greg Bikadi

A QUORUM for Lil'wat Nation Council consists of 7.