

TZEACHTEN FIRST NATION

ELECTION REGULATIONS & PROCEDURES

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Approved by the Tzeachten membership on February 9, 1993
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1.0 Definitions

1.1 In these Regulations, the following definitions apply:

<i>Adjudicator</i>	means an individual appointed under section 20.0;
<i>By-election</i>	means an Election held for the purpose of filling a vacant Council position other than through a general Council Election;
<i>Council</i>	means the Tzeachten First Nation Council elected pursuant to these Regulations consisting of one (1) Chief and four (4) Councillors;
<i>Deputy Electoral Officer</i>	means a person chosen in accordance with these Regulations to assist the Electoral Officer with the duties of that office;
<i>Election</i>	means the process used pursuant to these Regulations to duly elect the members of Council;
<i>Elector</i>	means all those individuals on the Membership List that have reached the age of eighteen (18) years as of the date of the Election, regardless of whether they live on Tzeachten Lands or not, who are on the Electors' List;
<i>Electoral Officer</i>	means the person chosen in accordance with these Regulations to carry out and oversee the Election process;
<i>Electors' List</i>	means the list of names of persons who are eligible to vote in an Election pursuant to these Regulations;
<i>Enrolment Officer</i>	means the person appointed by Council to carry out duties pursuant to the Tzeachten Membership Code;
<i>General Manager</i>	means the most senior person in the Tzeachten administration responsible for the overall management, administration and delivery of programs and services to the Tzeachten membership;
<i>Indictable Offense</i>	means an indictable offense as set out in the <i>Criminal Code</i> of Canada and includes serious offenses such as murder, acts of terrorism, robbery, drug trafficking, treason, and certain types of sexual assault;
<i>Member</i>	means a person on the Membership List;
<i>Membership List</i>	means the list of names of persons who are members of the Tzeachten First Nation pursuant to the Tzeachten Membership Code enacted on November 24th, 1992, as amended;

<i>Regulations</i>	means these Tzeachten First Nation Election Regulations and Procedures;
<i>Special Poll</i>	means a special Election held for the purpose of breaking a tie vote that occurred during a general Council Election; and
<i>Tzeachten Lands</i>	means Tzeachten Indian Reserve #13 and any other Reserve lands added to Tzeachten reserves.

2.0 Election of Council

- 2.1 The Council shall consist of one (1) Chief and four (4) Councillors.
- 2.2 The offices of Chief and Councillor shall be determined by a secret ballot in an Election, or in the event of a vacancy on Council, in a By-election conducted pursuant to these Regulations.
- 2.3 By-elections shall be held on the date set by the Electoral Officer in accordance with Section 52.0.

3.0 Term of Office and Commencement and End of Term

- 3.1 Subject to these Regulations, the term of office for Chief and Councillors shall be approximately four (4) years.
- 3.2 Except with respect to a By-election held in accordance with section 52.0 the Election for Chief and Councillors shall be held on the first Wednesday of April in the year their term of office expires.
- 3.3 Prior to taking office after an election, elected candidates must take an oath of office at a swearing-in ceremony. The swearing-in of the Chief and Councillors shall take place at a Tzeachten community event not later than forty-five (45) days after being elected.
- 3.4 The term of office for Chief and Councillors commences for each successfully elected candidate at the date and time the successful elected candidate has sworn their oath of officer after:
- (a) the Electoral Officer publicly declares the results of the Election under subsection 17.7, 17.10 or section 18.0; and
 - (b) any candidates elected by acclamation meets the requirement to participate in an all-candidates' meeting or to provide a written platform or list of commitments.
- 3.5 Subject to any vacancy arising under these Regulations or any removal from Council in accordance with these Regulations, the term of office for each Chief or Councillor expires upon the Council members in the next Election swearing their oath of office according to subsections 3.3 and 3.4.

4.0 Eligible Elector

4.1 To be eligible to vote in an Election, a person must, as of the date of the Election:

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

5.0 Eligibility Criteria for Office

5.1 Any candidate for the office of Chief or Councillor must:

- (a) qualify as an Elector;
- (b) be nominated for that office, in accordance with the procedures set out in these Regulations;
- (c) not be excluded from candidacy under subsection 5.3 in relation to section 42.0 [removal from office];
- (d) not be excluded from candidacy under subsection 5.4 in relation to subsection 27.1(d) [Election appeal];
- (e) not have been convicted of an Indictable Offence in Canada or a felony in the United States within ten (10) years prior to their nomination provided that conviction of an offence relating to the assertion or exercise of aboriginal rights or title shall be deemed not to be a conviction for the purposes of this section;
- (f) provide a copy of a criminal record check; and
- (g) be a Member in good standing.

5.2 No candidate may run for office of both Chief and Councillor in the same Election.

5.3 Anyone removed from office pursuant to section 42.0 shall not be eligible to stand for Election:

- (a) if removed under subsection 42.1(a) for the remainder of the term; or
- (b) if removed under subsection 42.1(b), (c) or (d) for a period of six (6) years from the time of their removal from office.

5.4 Anyone whose election was declared invalid pursuant to subsection 27.1(d) based on their involvement in corrupt or fraudulent practice in relation to an Election shall not be eligible to stand for Election for a period of six (6) years from the time their election was declared invalid.

5.5 Tzeachten First Nation employees who are elected into office must resign their position as employees as soon as reasonably possible following the Election day, and

unless otherwise authorized by a Resolution of a quorum of Council, no later than within thirty (30) days.

6.0 Appointment of Electoral Officers Adjudicator

- 6.1 Council shall by resolution, at least ninety (90) days prior to the date on which the Election is to be held, appoint a qualified Electoral Officer and a qualified Deputy Electoral Officer an Adjudicator.
- 6.2 If an Electoral Officer and Deputy Election Officer and Adjudicator have not been appointed within the time set out in subsection 6.1, the Electoral Officer and Deputy Election Officer Adjudicator shall be appointed by the General Manager as soon as possible.
- 6.3 The Deputy Electoral Officer shall have such powers as described in this section and those powers of the Electoral Officer as are delegated to them by the Electoral Officer.
- 6.4 The Electoral Officer and Deputy Electoral Officer shall:
- (a) be qualified to carry out their roles and have at least some electoral experience;
 - (b) not be a member of Council;
 - (c) not be a candidate in the Election;
 - (d) not be a Member;
 - (e) not be a salaried employee of Tzeachten First Nation;
 - (f) not have a vested interest in the outcome of the Election;
 - (g) not be a holder of other contracts for services with Tzeachten First Nation; and
 - (h) preferably, be certified under subsection 2(2) of the First Nation Elections Regulation (Canada).
- 6.5 The Electoral Officer and Deputy Electoral Officer shall swear an oath of office before a justice of the peace, notary public or duly appointed commissioner for taking affidavits. The oath shall confirm their duty to:
- (a) uphold and comply with these Regulations and all relevant Tzeachten First Nation laws;
 - (b) fulfil the duties and responsibilities of their office under these Regulations;
 - (c) carry out their duties faithfully, honestly, impartially and to the best of their abilities;

- (d) keep confidential, both during and after their term of office, any matter or information which, under these Regulations, Tzeachten First Nation law or policy, is considered confidential; and
- (e) always act in the best interests of Tzeachten First Nation in carrying out their duties.

6.6 The Electoral Officer and Deputy Electoral Officers shall file sworn oaths of office with the General Manager before assuming their office.

6.7 The Electoral Officer may make such orders and issue such instructions consistent with the provisions of these Regulations as he or she may from time to time deem necessary for the effective administration of the Election.

7.0 Membership Contact Information

7.1 The Enrollment Officer shall, within seven (7) days of the Electoral Officer assuming office, provide the Electoral Officer with the names and contact information of those Members eligible to be on the Electors' List.

7.2 The contact information shall be used only for the purposes of providing notices, mail-in ballots or other documents to Electors who are entitled to receive them under these Regulations. Except for these purposes, the contact information shall not be disclosed by the Electoral Officer without the consent of the Elector.

7.3 Electors shall be responsible for providing the Enrollment Officer or the Electoral Officer with current contact information.

7.4 A document shall be considered properly provided if it was sent, mailed or delivered via the most recent contact information of the Elector.

8.0 Electors' List

8.1 The Electoral Officer shall work with the Enrolment Officer to review and prepare an Electors' List within ten (10) days of assuming office. Two lists shall be made: a public version with names only and a second list with full details which shall be kept confidential within Tzeachten administration. The Electors' List shall contain the names of the eligible Electors of the Tzeachten First Nation.

8.2 The Electoral Officer shall post the public Electors' List in a public area of the Tzeachten administration building and in other conspicuous place or places on Tzeachten Lands, and on the Tzeachten webpage, and any electronic communication system of the day, as may be determined by the Electoral Officer, no later than forty (40) days prior to the date on which the Election is to be held.

8.3 Any person or Member may apply to the Electoral Officer for a revision or revisions to the Electors' List on the grounds that it incorrectly sets out the name of an Elector or otherwise fails to accurately list and record the names of all eligible Electors.

- 8.4 The application made under subsection 8.3 shall set out the reasons why a person's name should be removed from or added to the Electors' List together with any documents supporting the application.
- 8.5 After consideration of all information and representations relating to proposed amendments to the Electors' List the Electoral Officer shall add or delete names to the Electors' List based on whether, in their view, the persons qualify as Electors.
- 8.6 Where possible, the Electoral Officer shall deliver or mail written notice of the decision to a person whose name has been added to or deleted from the Electors' List and shall post the decision in a public area of the Tzeachten administration building and in other conspicuous place or places on Tzeachten Lands as may be determined by the Electoral Officer at least twenty-five (25) days prior to the date on which the Election is to be held. If such notice is not possible within the time frame set out above, the Electoral Officer shall prepare it as soon as possible, even if, due to last minute submissions, he or she is not able to provide the notice until after the Election day.
- 8.7 The decision of the Electoral Officer under subsection 8.5 is final and not subject to appeal.
- 8.8 The Electoral Officer shall, at least twenty-five (25) days prior to the date on which the Election is to be held, post the most recent version of the public Electors' List in a public area of the Tzeachten administration building and in other conspicuous place or places on Tzeachten Lands as may be determined by the Electoral Officer.

9.0 Notice of Nomination Meeting

- 9.1 At least thirty-one (31) days prior to the date on which the nomination meeting is to be held, the Electoral Officer shall publish a notice in the Tzeachten newsletter sent to Electors or shall deliver, send or mail written notice to Electors at their contact information, and post the notice of the nomination meeting on the digital media sharing form of the day advising of the nomination meeting.
- 9.2 The notice shall include:
- (a) the date, time, duration and location of the nomination meeting and a statement that Electors may attend and nominate candidates;
 - (b) notification that a copy of these Regulations can be obtained at the Tzeachten administration building;
 - (c) the places where copies of the public Electors' List will be available; and
 - (d) the telephone number and email address of the Electoral Officer.

10.0 Nomination Process

- 10.1 The nomination meeting notice shall be posted at least thirty-one (31) days prior to the nomination meeting, and therefore no less than sixty-eight (68) days prior to the date of the Election.

- 10.2 At the time and place specified in the notice of the nomination meeting, the Electoral Officer shall declare the nomination meeting open for the purpose of receiving nominations.
- 10.3 The nomination meeting shall remain open for two (2) hours from when it commenced.
- 10.4 During the nomination meeting, the Electoral Officer shall:
- (a) verify the most recent Elector's List with the membership in attendance;
 - (b) announce the rules in the event of a tie vote;
 - (c) announce the name of Adjudicator.
 - (d) announce that the candidates have seven (7) days from the end of the nomination meeting to get their biographies to the General Manager; and
 - (e) state that the General Manager then has two (2) days to post the list of candidates and their biographies in the Tzeachten newsletter sent to Electors or shall deliver, send or mail written list and biographies to Electors at their contact information, and post on the digital media sharing form of the day.
- 10.5 All nominations must be proposed and seconded by different eligible Electors.
- 10.6 Any person who is an eligible Elector may propose or second a nomination of persons who are eligible to be candidates under section 5.0 to serve as Chief or Councillor.
- 10.7 No Elector may nominate or second more than two persons to serve as Chief or more than four persons to serve as Councillors.
- 10.8 Notwithstanding subsection 10.7 in the case of a By-election, any person who is an Elector may propose or second the nomination of not more than two persons for each of the vacancies on Council.
- 10.9 Nominated candidates must be present to accept their nomination or the candidate must provide, or have delivered to the Electoral Officer, a notarized letter accepting their nomination.
- 10.10 Nominated candidates may provide the Electoral Officer with a letter stating how they would like their name to appear on the ballot, which may include a nickname in brackets.
- 10.11 After nominating or seconding a candidate, the Elector shall sign a sworn declaration in the presence of the Electoral Officer, or Deputy Electoral Officer, or deliver a notarized letter of confirmation via mail, email, or fax, confirming their nomination or seconding of the candidate. This must be done within seven (7) days of the nomination meeting.
- 10.12 The candidates shall have seven (7) days following the nomination meeting to get their Biographies to the General Manager.
- 10.13 Candidates may decline their nomination prior to the close of the nomination meeting.

- 10.14 The Electoral Officer shall canvas all the nominees for their acceptance.
- 10.15 If only one eligible candidate is nominated for the office of Chief, the Electoral Officer shall, after ensuring that this candidate has participated in an all-candidates' meeting or has provided a written statement of his or her election platform or commitments to the Electoral Officer to be posted for viewing by Members, declare that candidate to be elected.
- 10.16 Where the number of eligible candidates nominated for the office of Councillor does not exceed the number of positions available, the Electoral Officer shall, after ensuring that each candidate has participated in an all-candidates' meeting or has provided a written statement of his or her election platform or commitments to the Electoral Officer to be posted for viewing by Members, declare such candidates to be elected, subject to swearing an oath and meeting any other requirements under these Regulations
- 10.17 In the event that more than the required number of persons are nominated for the offices of Chief or Councillor, the Electoral Officer shall declare that a poll will be held.
- 10.18 The Electoral Officer shall announce that an all-candidates' meeting will be held at least seven (7) days prior to the day of the election, the General Manager will make the requisite arrangements.
- (a) The all-candidates' meeting shall allow for at least 8-10 minutes per candidate to provide their platform or commitments and each candidate must provide some information about their platform or commitments.
 - (b) The biographies of each candidate shall be made available or posted at the all-candidates' meeting.
 - (c) The order of candidates presentation shall be oldest to youngest.
 - (d) A question and answer period will follow to allow the Membership to ask questions of the candidates.
 - (e) For greater certainty, all candidates are required to present at the all-candidates' meeting and answer questions, even those who are to be elected by acclamation under subsections 10.15 or 10.16.
- 10.19 Within nine (9) business days of the close of the nominations, the Electoral Officer shall post in a public area of the Tzeachten administration building and in other conspicuous place or places on Tzeachten Lands as may be determined by the Electoral Officer as well as posted on the digital media format of the day, the list of nominated candidates, their biographies and the offices for which they are nominated.

11.0 Withdrawal of Candidates

- 11.1 A candidate who has accepted their nomination and subsequently decides to withdraw, must notify the Electoral Officer within three (3) business days of the close of the nomination meeting by providing a notarized letter of withdrawal.

11.2 If a candidate withdraws after the time period set out in subsection 11.1, the candidate may submit a notarized letter of withdrawal to the Electoral Officer but, if the ballots have already been prepared, the candidate's name will remain on the ballots.

12.0 Notice of Election

12.1 Whenever an Election is required, the Electoral Officer shall, at least sixty-eight (68) days prior to the date on which the Election is to be held, post a notice of Election in a public area of the Tzeachten administration building and in other conspicuous place or places on Tzeachten Lands, as well as posted on the digital media format of the day and as may be determined by the Electoral Officer.

12.2 The notice of Election shall include:

- (a) the date of the Election
- (b) the date and time of the nomination meeting;
- (c) the time the polling stations will be open and closed;
- (d) the location of the polling stations; and
- (e) a statement that the public Electors' List is posted in a public area of the Tzeachten administration building.

12.3 The Election day poll will take place no sooner than thirty seven (37) days after the nomination meeting.

13.0 Preparation of the Polling Station

13.1 The Electoral Officer is responsible for preparing the ballots.

13.2 There will be separate ballots for the positions of Chief and Council.

13.3 The Electoral Officer shall prepare ballots setting out:

- (a) the number of candidates to elect for each office;
- (b) the names of the candidates nominated for election as Chief in alphabetical order; and
- (c) the names of the candidates nominated for election as Councillors in alphabetical order.

13.4 The ballot may, at the written request of the candidate, include a candidate's commonly used nickname in brackets provided the candidate's official legal name is also included.

13.5 The ballot shall indicate that the Elector is to signify his or her choice of candidate(s) by clearly marking an "X" or other mark in the appropriate space opposite the name of the candidate(s).

- 13.6 The Electoral Officer shall provide at least one ballot box. The ballot box must be capable of being locked and sealed. Pencils and instructions for marking the ballots must be provided in each voting booth.
- 13.7 The Electoral Officer shall place voting booths in area which is easily accessible and where the Electors can mark their ballots in secrecy without interference.
- 13.8 The Electoral Officer may appoint a constable or sergeant of arms to maintain order at the polling place.

14.0 Advance Poll

- 14.1 An advance poll shall be held on a day that is between ten (10) and five (5) days before the Election day.
- 14.2 The proceedings at advance polls will be the same as proceedings on polling day, except that the ballot boxes will be sealed at the close of the poll and the Electoral Officer shall ensure safekeeping of the boxes. These boxes will be opened and the ballots counted at the same time as the ballots cast on Election day.
- 14.3 The location and time of the advance poll shall be determined by the Electoral Officer, pursuant to these Regulations.

15.0 Voting by Mail-in Ballot

- 15.1 Electors wishing to vote by mail-in ballot must send a written request for a mail-in ballot to the Electoral Officer by mail, e-mail or fax, along with a copy of an identification document (for example, an Indian Status Card, a drivers licence, a health card, etc.). The request must be received by the Electoral Officer twenty-one (21) days prior to the Election day.
- 15.2 The Electoral Officer must, upon being satisfied as to the identity of the Elector, send a mail-in ballot package to all the Electors who have made a request in accordance to subsection 15.1.
- 15.3 The Electoral Officer will send a mail-in ballot package to Electors until the tenth (10th) day before the Election day. After that time, the Elector can only vote in person on Election day or at the advance poll.
- 15.4 The mail-in ballot package shall consist of:
- (a) a postage paid return envelope pre-addressed to the Electoral Officer (applicable to Canadian addresses only);
 - (b) a ballot initialled by the Electoral Officer;
 - (c) another inner envelope for the ballot; and
 - (d) an Elector declaration form.

15.5 Mail-in ballots must be received by the Electoral Officer no later than the close of the polling stations on Election day.

15.6 An Elector shall vote by mail-in ballot by:

- (a) clearly marking the ballot with an "X" or other mark in the appropriate space opposite the name of the candidates of his or her choice;
- (b) folding the ballot in a manner so as to conceal their choices, but exposing the Electoral Officer's initials on the back;
- (c) placing the ballot in the inner envelope marked "ballot" and sealing the envelope;
- (d) completing and signing the Elector declaration form in the presence of a witness who is at least eighteen (18) years of age;
- (e) placing the inner envelope and the completed, signed and witnessed declaration form in the postage paid return envelope pre-addressed to the Electoral Officer; and
- (f) delivering to, or otherwise ensuring receipt of the envelope by, the Electoral Officer before the time at which polls close on the day of the Election.

15.7 Mail-in ballots that are not received by the Electoral Officer before the time at which the polls close on the day of the Election shall not be counted.

15.8 An Elector to whom a mail-in ballot was mailed or delivered may vote in person at a polling station if the Elector returns the unused mail-in ballot to the Electoral Officer or Deputy Electoral Officer.

16.0 Voting on Election Day

16.1 In general, the polling station shall be open from eight o'clock (8:00) in the morning until eight o'clock (8:00) in the evening on the day on which the Election is to be held.

16.2 The Electoral Officer shall, before the polling station is open:

- (a) supply the ballot box or boxes;
- (b) ensure each ballot box is examined to ensure that the box is empty in the presence of witnesses and then locked, sealed for the duration of the poll;
- (c) place the ballot box or boxes in public view for the reception of the ballots;
- (d) supply a sufficient number of ballots;
- (e) supply the most recent Electors' List;
- (f) supply the necessary materials for marking ballots; and

- (g) supply a ballot tally sheet to identify the number of confirmed votes and the number of rejected ballots.
- 16.3 Where a candidate wishes to authorize a scrutineer he or she shall provide a letter of authorization to the Electoral Officer or Deputy Electoral Officer on or before the opening of the polling station, in which the candidate names the scrutineer.
- 16.4 Persons not on the most recent Electors' List may apply to be added to the Electors' List pursuant to section 8.0. If not added to the Electors' List, the person will not be permitted to vote.
- 16.5 Each person presenting themselves at a polling station for the purpose of voting may be required to present to the Electoral Officer or Deputy Electoral Officer identification issued by the federal or provincial government or by Tzeachten First Nation.
- 16.6 Where a person does not have identification described in subsection 16.5 they shall be deemed to be properly identified if two Electors sign a sworn declaration in the presence of the Electoral Officer or Deputy Electoral officer, confirming the identity of the person.
- 16.7 Where a person is properly identified as an Elector, he or she shall sign the sign-in sheet presented by the Electoral Officer or Deputy Electoral Officer and list their membership number on the sign-in sheet.
- 16.8 Upon signing the sign-in sheet, the Elector shall receive a ballot initialed by the Electoral Officer or Deputy Electoral Officer.
- 16.9 The Electoral Officer or Deputy Electoral Officer shall strike the name of the Elector from the Electors' List upon the Elector having received their ballot.
- 16.10 The Electoral Officer or Deputy Electoral Officer shall, when requested to do so, explain the method of voting to the Elector.
- 16.11 Voting at all Elections shall be by secret ballot.
- 16.12 No Elector may vote by proxy or authorize another person to vote on his or her behalf.
- 16.13 Notwithstanding subsection 16.12, any Elector who requires assistance may request that the Electoral Officer or a Deputy Electoral Officer mark the ballot for them for candidates of the Elector's choice in the presence of the Elector.
- 16.14 In the event that an Elector votes in the manner described in subsection 16.13, the Electoral Officer or Deputy Electoral Officer shall note on the Electors' List in the column for remarks opposite the name of such Elector, the fact that the ballot was marked by him or her in the presence of the Elector and the reasons therefore.
- 16.15 Except as in the manner provided in subsection 16.13, the Electoral Officer or Deputy Electoral Officer shall ensure the Elector's privacy while in the voting compartment.
- 16.16 Upon receiving the ballot, each Elector shall:

- (a) immediately proceed to the voting compartment and clearly place an “X” or other mark in the appropriate space opposite the name of the candidates of their choice;
 - (b) fold the ballot, so as to conceal their choice in such a manner that only exposes the initials of the Electoral Officer or Deputy Electoral Officer; and
 - (c) without unfolding the ballot, have the Electoral Officer or Deputy Electoral Officer verify his or her initials and at once deposit the ballot into the ballot box in the presence of the Electoral Officer or Deputy Electoral Officer and any scrutineers present in the polling station.
- 16.17 An Elector may cast fewer votes than the number of candidates required.
- 16.18 An Elector who inadvertently spoils his or her ballot may return it to the Electoral Officer or Deputy Electoral Officer in order to obtain another ballot, and the Electoral Officer or Deputy Electoral Officer shall write the word “cancelled” upon the spoiled ballot, deposit it in an envelope for cancelled and declined ballots and provide the Elector with a new ballot initialled by the Electoral Officer or Deputy Electoral Officer.
- 16.19 An Elector who has received a ballot and subsequently decides not to vote, must return the ballot to the Electoral Officer or Deputy Electoral Officer, who shall mark the word “declined” on the face of the ballot and deposit it in an envelope for cancelled and declined ballots.
- 16.20 An Elector forfeits his or her right to vote at the Election after being provided a ballot by the Electoral Officer or Deputy Electoral Officer if that person leaves the polling station without delivering the ballot to the Electoral Officer or the Deputy Electoral Officer.
- 16.21 Any Elector who is inside the polling station at the time fixed for closing the poll shall be entitled to vote.
- 16.22 Each candidate shall be entitled to have up to two (2) scrutineers at a polling station at any one time.
- 16.23 No one other than Electors who are in the process of voting, or in the case of an elderly or physically incapacitated person, their attendant or the Electoral Officer or Deputy Electoral Officer, are permitted to be inside the voting compartment.
- 16.24 No person shall, on the day of the Election, while on the premises of the polling site or in close proximity to the polling site:
- (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) interfere with or influence, or attempt to interfere with or influence, any Elector in marking his or her ballot;

- (c) obtain, or attempt to obtain, information as to how an Elector is about to vote or has voted; or
 - (d) disrupt, or attempt to disrupt, the voting process.
- 16.25 The Electoral Officer may request appointed security to remove any person from the polling site who is in violation of subsection 16.24.
- 16.26 At present these Regulations allow Elections to be conducted using manual processes which include handwritten ballots and a manual scrutiny of those paper ballots. While continuing to maintain these manual processes, nothing in these Regulations shall prevent the eventual use of electronic voting which will allow Electors to vote electronically where approved electronic voting devices are provided and a continued compliance to these Regulations can be ensured.
- 16.27 The Electoral Officer may delegate the Deputy Electoral Officer to retrieve a vote from an Elector who is bedridden and situated within the Chilliwack or Abbotsford municipal boundary.

17.0 Procedures at the Close of the Polls

- 17.1 Immediately after the close of the polls, the Electoral Officer shall in the presence of the Deputy Electoral Officers, candidates, scrutineers and any Electors who choose to be present and who have not been directed to leave by the Electoral Officer or security in relation to disruptive behavior, open each envelope containing a mail-in ballot that was received before the close of the polls and without unfolding the ballot:
- (a) set aside the ballot if:
 - (i) it is not accompanied by an Elector declaration form or the Elector declaration form is not signed or witnessed; or
 - (ii) the name of the person set out in the Elector declaration form is not on the Electors' List; or
 - (iii) the Electors' List shows that the Elector has already voted.
 - (b) deposit all remaining ballots in the ballot box and place a mark on the final Electors' List opposite the name of the Elector.
- 17.2 Immediately after all the valid mail-in and advance poll ballots have been deposited in the ballot box, the Electoral Officer shall open the ballot box and examine the ballots and reject all ballots that:
- (a) have not been initialled by the Electoral Officer or Deputy Electoral Officer;
 - (b) contain more votes than there are candidates to be elected;
 - (c) are marked in such a way that the Elector can be identified;

- (d) are marked in such a way that the Elector's choice cannot clearly or unambiguously be determined; or
 - (e) have been marked with "cancelled" or "declined".
- 17.3 Any rejected ballot shall not be counted as a vote cast.
- 17.4 The Electoral Officer shall report in writing the reasons for rejection of each ballot and attach that report to each rejected ballot.
- 17.5 The rejected ballot and the written report shall be held by the Electoral Officer until the expiration of any appeal period provided for in these Regulations.
- 17.6 The Electoral Officer shall:
- (a) show the ballots to be counted to any scrutineers present;
 - (b) count the votes given for each candidate from the ballots not rejected; and
 - (c) at the conclusion of the count complete and sign a ballot tally sheet setting out the number of confirmed votes for each candidate and the number of rejected ballots.
- 17.7 Immediately after the completion of the counting of the votes, the Electoral Officer shall, subject to subsection 17.8 and 17.9, publicly declare as elected:
- (a) the candidate for Chief with the highest number of valid votes; and
 - (b) the four (4) candidates for Councillor with the highest number of valid votes.
- 17.8 If the difference in vote totals between the candidate receiving the highest number of votes for Chief and another candidate for Chief is two votes or less, including a tie, the Electoral Officer shall immediately after the completion of counting of the votes conduct a recount of the votes for Chief.
- 17.9 If the difference in vote totals between the candidates for Councillor receiving the highest number of votes and another candidate for Councillor is two votes or less, including a tie, and that result could affect the results of the Councillors elected to office, the Electoral Officer shall immediately after the completion of the counting of votes conduct a recount of the votes for Councillors.
- 17.10 Upon completion of the recount the Electoral Officer shall publicly declare the results of the recount and shall declare the candidate with the highest number of votes in the recount to be elected.
- 17.11 Where, after a recount, two or more candidates have an equal number of votes for Chief or for the fourth highest vote total for the office of Councillor, the Electoral Officer shall declare the Election for that office a tie and a Special Poll for that office shall be held within thirty (30) days of the declaration of the Electoral Officer.
- 17.12 The Electoral Officer shall:

- (a) within three (3) days of the date on which the Election is held, post in a public area of the Tzeachten administration building and in other conspicuous place or places on Tzeachten Lands, as may be determined by the Electoral Officer, an Election statement signed by the Electoral Officer, showing the total number eligible Electors, the total number of votes cast, the number of rejected ballots, the number of votes cast for each candidate; and
- (b) prepare three (3) copies of the Election statement, and submit one (1) to Indigenous and Northern Affairs Canada and two (2) to the office of the Tzeachten administration.

18.0 Special Poll

18.1 Where a Special Poll for an office is required to break a tie, all the provisions of these Regulations shall apply to the Special Poll, provided:

- (a) the Electors' List for the Special Poll shall be the final Electors' List from the Election which resulted in the tie;
- (b) the candidates for office to be determined in the Special Poll shall be the candidates who received an equal number of votes for that office in the original Election; and
- (c) Sections 6.0, 9.0, 10.0, 11.0 and 15.0 shall not apply to the Special Poll required to break the tie.

19.0 Disposal of Ballots

19.1 The Electoral Officer shall deposit the ballots used in the voting and the cancelled and declined ballots in sealed envelopes and retain them for sixty (60) days after the date on which the Election is held or until a decision on an Election 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.

20.0 Appointment of Adjudicator

20.1 Council shall by resolution, at least ninety (90) days prior to the date on which the Election is to be held or at any other time as required under these Regulations, appoint a qualified individual as an Adjudicator to deal with disputes in relation to these Regulations and in regards to section 21.0.

20.2 If an Adjudicator has not been appointed within the time set out in subsection 20.1, or is not otherwise appointed by Council as required by these Regulations, the Adjudicator shall be appointed by the General Manager as soon as possible.

20.3 The Adjudicator will be required to meet the qualifications set out in section 22.0.

21.0 Duties and Responsibilities of Adjudicator

- 21.1 The Adjudicator is responsible for making final decisions in Election appeals and proceedings the for removal from office of Council members by petition or Band Council Resolution.
- 21.2 The Adjudicator shall act in fair, honest and impartial manner in making its decisions.

22.0 Qualifications of Adjudicator

- 22.1 The Adjudicator shall:
- (a) be a practicing or retired Barrister and Solicitor;
 - (b) be independent of the parties to a dispute;
 - (c) have experience or knowledge in relation to elections, or review or appeal processes;
 - (d) not be an Elector;
 - (e) not be a salaried employee of Tzeachten First Nation;
 - (f) not have a vested interest in the outcome of the Election; and
 - (g) not be a holder of other contract for services with Tzeachten First Nation.

23.0 Term of Adjudicator

- 23.1 An Adjudicator shall serve a term of three (3) years or as otherwise set out in the conditions of their appointment.

24.0 Ceasing to be an Adjudicator

- 24.1 An Adjudicator shall Immediately cease to hold their position if they:
- (a) become of unsound mind as confirmed by a court in Canada or elsewhere;
 - (b) are convicted of an Indictable Offence;
 - (c) are unable to fulfill their duties in a timely manner, after having received a written warning, and are removed by Council by Resolution;
 - (d) resign; or
 - (e) die.

25.0 Resigning as an Adjudicator

25.1 An Adjudicator may resign upon giving a written resignation to the Council or General Manager, and such resignation becomes effective when received by the Council or General Manager or at the time specified in the resignation, whichever is later.

26.0 Remuneration

26.1 Council and the General Manager are authorized to negotiate or set remuneration terms for the Adjudicator that are consistent with the Adjudicator's experience and with what other governments pay for similar services.

26.2 An Adjudicator shall receive remuneration in accordance with the terms of their appointment and shall be paid reasonable expenses incurred in the performance of their duties and responsibilities.

27.0 Election Appeals

27.1 Any candidate or Elector may file a notice of appeal with the Adjudicator, requesting that the election of the Chief or a Councillor be declared invalid, based on one or more of the following grounds:

- (a) the person declared elected was not eligible to be a candidate;
- (b) the person declared elected was not nominated in accordance with the procedures set out in these Regulations;
- (c) there was a violation of any provision of these Regulations in the conduct of the Election that might have affected the result of the Election; or
- (d) there was corrupt or fraudulent practice in relation to the Election.

27.2 Every notice of appeal shall:

- (a) identify the offices being appealed;
- (b) set out in an affidavit sworn before a notary public or duly appointed commissioner for taking oaths the facts substantiating the appeal;
- (c) be accompanied by any supporting documentation;
- (d) identify whether the candidate or Elector is seeking an Hearing to determine the Election appeal;
- (e) be accompanied with a non-refundable filing fee of seventy-five dollars (\$75) in the form of cash or money order payable to the Tzeachten First Nation; and
- (f) notwithstanding subsection 27.2(e), Council may increase the required non-refundable filing fee payment amount through a Band Council Resolution prior to the date of the notice of Election pursuant to section 12.0 of these Regulations.

- 27.3 A notice of appeal shall be filed with the Adjudicator within thirty (30) days from the date upon which the Council member was declared elected pursuant to subsection 17.7 or 17.10 or section 18.0, whichever is later.
- 27.4 The Adjudicator shall, within seven (7) days of the receipt of an appeal, forward a copy, together with all supporting documents to:
- (a) the Electoral Officer;
 - (b) each candidate in the Election; and
 - (c) the Council.
- 27.5 The Council member whose election is being appealed may file a written reply together with any supporting documents to the Adjudicator within fourteen (14) days of receipt of the appeal.

28.0 Role and Authority of Adjudicator in Election Appeals

- 28.1 The Adjudicator shall take such steps as they determine are appropriate and necessary to make a final decision with respect to the Election appeal and shall provide written reasons for any Election appeal decision including any rejection of an Election appeal or notice of appeal. .
- 28.2 The Adjudicator has the authority to:
- (a) make a final decision with respect to an Election appeal with or without a hearing;
 - (b) reject an Election appeal without a hearing, if it determines that:
 - (i) the appeal is not within the grounds set out in subsection 27.1;
 - (ii) the appeal was not filed within the time required in subsection 27.3;
 - (iii) the appeal is frivolous, vexatious, or an abuse of process; or
 - (iv) a party to appeal acted or attempted to act in way to improperly influence the decision of the Adjudicator;
 - (c) determine a hearing is necessary to make a final decision with respect to an Election appeal; or
 - (d) render interim decisions, directions or orders as the Adjudicator deems necessary with respect to the appeal.
- 28.3 The Adjudicator shall not declare an election of the Chief or a Councillor invalid only because the election was not conducted in accordance with these Regulations, if the Adjudicator is satisfied that:
- (a) the election was conducted in good faith; and

- (b) the non-compliance or violation of these Regulations did not materially affect the result of the election.

29.0 Hearings

- 29.1 The Adjudicator may request submissions from the parties with respect to a notice of appeal as to whether a hearing is necessary, and whether the hearing should be conducted in person, by written submissions or by telephone.
- 29.2 If the Adjudicator determines a hearing will be conducted in person, the Hearing shall take place on Tzeachten Lands and shall be open to Members of the Tzeachten First Nation.

30.0 Ground Rules and Procedures

- 30.1 The Adjudicator will provide written information to the parties as to what the ground rules and procedures of the appeal hearing will be prior to occurrence of the appeal hearing and these ground rules and procedures will be reviewed again at the start of the hearing. In general, the appeal hearings are to be offered in a comfortable and civil atmosphere to ensure that all parties have the opportunity to present their arguments, to be heard, and to be respected.

31.0 Attendance at Appeal Hearing

- 31.1 If a parties or parties to a hearing refuse to participate in the hearing, the process will continue without their participation.

32.0 No Recording of Appeal Hearing

- 32.1 Hearings will not be recorded in any form.

33.0 Translation Services

- 33.1 Where a witness or party to the appeal is hearing impaired, visually impaired, or does not speak English, the party must provide sufficient notice to the Adjudicator to enable to the Adjudicator to arrange for translation services for the hearing.

34.0 Exchange of Written Information

- 34.1 Any written information or documentation that is to be relied upon or used by a party in the hearing, including a list of all witnesses, shall be sent to the Adjudicator at least fifteen (15) consecutive days In advance of the hearing occurring and such information or documentation shall be treated as non-confidential. Upon receipt of such information or documentation, the Appeals Board shall immediate send a copy of the information or documentation to the other party or parties. The party submitting such information shall include enough copies for the number of Board members of the Appeals Board that will be participating in the appeal hearing, and the other party or parties. Failure to provide the written information or documentation in advance of the hearing may render the information or documentation inadmissible.

35.0 Witness at Hearing

35.1 The parties to an appeal may request that a witness be allowed to present direct information or evidence on the matter at an appeal hearing. Parties who wish to call witnesses must provide a written list of the name(s) of the individual(s) who will be called as a witness and a summary of the information that he or she is to present on. The Adjudicator will determine whether a witness will or will not be allowed to present direct information or evidence at the appeal hearing.

36.0 Representative or Legal Counsel

36.1 As the intent of the appeal hearing is to provide the parties with the opportunity to personally present and resolve their appeal through a process that is less formal, restrictive, or limiting as a court system, requests for a person representing them or legal counsel to attend or present at an appeal hearing shall be considered by the Appeals Board on a case-by-case basis. A party to an appeal hearing shall request in writing to the Adjudicator at least ten (10) days before the appeal hearing that a person represent them or legal counsel will attend or present at appeal hearing of the Adjudicator. If the representative or legal counsel are permitted by the Adjudicator, their costs shall be borne by the party requesting their attendance.

37.0 Interveners

37.1 Interveners may be granted permission to present evidence and submissions at appeal hearings where the Adjudicator permit them to do so. Individuals who wish to present at an appeal hearing must submit a written application to the Adjudicator and the parties at least fifteen (15) consecutive days before the appeal hearing is to occur, stating the reasons and information to be presented should they be permitted to present. The parties to the appeal hearing may make written submissions to the Adjudicator as to whether the Interveners should be given standing at least six (6) consecutive days before the appeal hearing is to occur. The Adjudicator will consider the application, written submissions of the parties on the granting of status to the Intervener, if any, and advise the Intervener in writing at least four (4) consecutive days before the appeal hearing is to occur as to whether they will be permitted to present at the appeal hearing. Should an Intervener be permitted to present at the appeal hearing, the Intervener will be granted a limited time in which to present their information.

38.0 Hearing Decision Timing

38.1 Within thirty (30) days of the completion of hearing, the Adjudicator shall issue a written decision together with reasons with respect to the appeal.

39.0 Decisions of the Adjudicator with Respect to Election Appeals

39.1 The Adjudicator shall provide a copy of all its decisions to the Electoral Officer, candidates, the Council, and the parties to the appeal.

39.2 The Adjudicator's final decision an Election appeal shall be:

- (a) published in the Tzeachten newsletter; and
- (b) posted in a public area of the Tzeachten administration building and in other conspicuous place or places on Tzeachten Lands as may be determined by the Adjudicator.

40.0 No Appeal of Adjudicator Decisions with Respect to Election Appeals

40.1 The decisions of the Adjudicator are final and not subject to appeal.

41.0 Council Vacancies

41.1 The office of Chief or Councillor shall automatically become vacant when the person who holds that office:

- (a) resigns from office;
- (b) loses eligibility status as per section 5.0 of these Regulations;
- (c) has his or her election declared invalid by the Adjudicator;
- (d) becomes an employee of Tzeachten First Nation;
- (e) fails to take the prescribed oath of office as required in subsection 3.3;
- (f) has been unable to perform the functions of their office for more than six consecutive months due illness or other incapacitating circumstances and has been removed from Council by Council resolution of a quorum of Council at a duly convened meeting; or
- (g) dies.

41.2 When a vacancy occurs greater than twelve (12) months prior to the next Election, the sitting Council shall call a By-election to fill that vacancy.

42.0 Conditions for Removal from Office of Chief or Councillor

42.1 A Council member may be removed from office on one or more of the following grounds if he or she is found by the Adjudicator:

- (a) to have missed three (3) Council or Membership meetings, which may include a combination thereof, within a period of twelve (12) months, without notice, permission, or just cause;
- (b) to have breached their oath of office;
- (c) to have been convicted of an Indictable Offence in Canada or a felony in the United States since their election and all appeals are completed, provided that conviction of an offence relating to the assertion or exercise of aboriginal rights

or title shall be deemed not to be a conviction for the purposes of this section;
or

- (d) to be guilty of gross misconduct or corrupt practice in connection with Council business.

43.0 Proceedings to Remove Council Member

43.1 Proceedings to remove the Chief or a Councillor from office shall be initiated by submitting to the General Manager:

- (a) a petition by an Elector in accordance with Section 46.0 of these Regulations;
or
- (b) a Band Council Resolution by the Council in accordance with Section 47.0 of these Regulations.

43.2 If there is no Adjudicator at the time proceedings to remove the Chief or a Councillor from office are initiated pursuant to subsection 43.1, the General Manager upon receipt of a petition or Band Council Resolution shall appoint any needed Adjudicator in compliance with sections 20.0 and 22.0 .

44.0 Time Limitation for Submission of Petition or Band Council Resolution

44.1 A petition or Band Council Resolution for the removal of a Council member must be submitted to the General Manager within forty-five (45) consecutive days of the grounds under section 42.0 of these Regulations occurring.

44.2 Notwithstanding subsection 44.1, the Adjudicator may determine it is appropriate to allow proceedings for the removal of a Council member to proceed outside of the time limitation in subsection 44.1, if the grounds under subsection 42.1(b), (c) or (d) of these Regulations occurred and were concealed by the Council member.

45.0 Role and Authority of Adjudicator in Proceedings with Respect to the Removal of a Council Member

45.1 The Adjudicator shall take such steps as they determine are appropriate and necessary to make a final decision with respect to the proceedings to remove a Council member and shall provide written reasons for any such decision.

45.2 The Adjudicator has the authority to render interim decisions, directions or orders as the Adjudicator deems necessary with respect to the proceeding to remove a Council member.

46.0 Petition Requirements

46.1 A petition submitted to the General Manager under subsection 43.1(a) must include the following:

- (a) identify the Council member sought to be removed;

- (b) set out the facts and evidence including any documents substantiating the grounds under section 42.0 for removal from office of the Council member;
- (c) the petition must be signed and dated by the Elector submitting the petition;
- (d) an affidavit signed by the Elector swearing the petition is accurate;
- (e) the petition signed by at least twenty percent (20%) or more of the Electors that were entitled to vote in the Election by which the Council member was elected, which includes their name, Band number, signature and date of signature;
- (f) the petition must set out all evidence provided to the Electors to secure their signature on the petition; and
- (g) a non-refundable filing fee of seventy-five dollars (\$75).

47.0 Band Council Resolution Requirements

47.1 A Band Council Resolution submitted to the General Manager under subsection 43.1(b) must include the following:

- (a) identify the Council member sought to be removed;
- (b) set out the facts and evidence including any documents substantiating the grounds under section 42.0 for removal from office of the Council member;
- (c) the signatures of the Council members submitted the Band Council Resolution; and
- (d) a non-refundable filing fee of seventy-five dollars (\$75).

48.0 Where Requirements are Not Followed

48.1 If the petition or Band Council Resolution submitted to the General Manager does not comply with sections 46.0 or 47.0 of these Regulations, the General Manager shall so notify the Elector or Council in writing within thirty (30) consecutive days from the receipt of the petition or Band Council Resolution. Upon notification of such, the Elector or Council shall have a one time option to amend and resubmit the petition or Band Council Resolution within thirty (30) consecutive days from the notification by the General Manager. If the Elector or Council does not resubmit the petition or Band Council Resolution within the said time period, the Elector or Council shall not be allowed to continue with process to remove the Council member.

48.2 If the General Manager determines the petition or Band Council Resolution does comply with sections 46.0 or 47.0 of these Regulations, the General Manager shall provide a copy of the said petition or Band Council Resolution to the Council member sought to be removed and that Council member may file a written reply together with any supporting documents to the Adjudicator within thirty (30) days of receipt of the petition or Band Council Resolution.

49.0 Process with Respect to Proceedings for Removal of Council Member

49.1 If the petition or Band Council Resolution submitted to the General Manager complies with sections 46.0 or 47.0 of these Regulations, the Adjudicator shall:

- (a) determine whether the grounds put forth in the petition or Band Council Resolution have no merit, are frivolous in nature, unsubstantiated, or have previously been determined and advise the Elector or the Council in writing that the proceedings to remove the Council member are dismissed and its reasons for its decision; or
- (b) schedule and conduct an Hearing with respect to the removal of a Council member in accordance with section 21.0 and sections 29.0 to 37.0 of these Regulations.

appoint an Adjudicator.

49.2 The Adjudicator may, their discretion give directions with respect to the process respect to proceeding for removal of a Council member pursuant to sections 45.0 and 49.0.

49.3 The Adjudicator must consult with the TAC committee and if reasonable, allow a representative from the TAC committee to be an Intervenor in the hearing pursuant to section 37.0 and the extent of its intervention will be determined pursuant to that section.

50.0 Decisions of the Adjudicator with Respect to Proceedings to Remove Council Members

50.1 The Adjudicator shall in making its written decision with reasons from the hearing may:

- (a) confirm the Council member in their office; or
- (b) remove the Council member from office and declare the office vacant.

50.2 The Adjudicator shall provide a copy of the decision to the Council, General Manager and to any party and intervenor.

50.3 The Adjudicator's decision shall be:

- (a) published in the Tzeachten newsletter; and
- (b) posted in a public area of the Tzeachten administration building and in other conspicuous place or places on Tzeachten Lands as may be determined by the Adjudicator.

51.0 No Appeal of Adjudicator Decisions with Respect to Proceedings to Remove Council Members

51.1 The decisions of the Adjudicator are final and not subject to appeal.

52.0 By-election

- 52.1 Unless otherwise provided in these Regulations, in the event that the office of Chief or Councillor becomes vacant pursuant to either section 41.0 or 42.0, a By-election shall be held within sixty (60) days after the date on which the position becomes vacant.
- 52.2 No By-election shall be held if there are less than twelve (12) 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.
- 52.3 No sitting Council member is eligible to be a candidate in a By-election.
- 52.4 If a Council member wishes to be a candidate in a By-election, he must resign his Council position prior to the nomination day for the By-election.
- 52.5 Except as expressly provided otherwise in these Regulations, the rules and procedures in these Regulations shall apply to By-elections.

53.0 Amending Provisions

- 53.1 Amendments to these Regulations may be brought forward by:
- (a) a petition presented to Council signed by twenty percent (20%) of eligible Electors accompanied with proposed amendments;
 - (b) a motion with the accompanied proposed amendments is brought forth to Council by a member of Council and subsequently passed; or
 - (c) a recommendation from Staff confirmed by a Band Council Resolution from Council.
- 53.2 No amendments shall be valid unless:
- (a) At least two community meetings of the eligible Electors are called to review the proposed amendments with at least thirty (30) days notice; and
 - (b) the amendments are approved by a ratification vote by Electors as set out in subsection 53.3.
- 53.3 Upon completion of the consultation process set out in subsection 53.2(a), a ratification vote shall be taken by the eligible Electors. The proposed amendments shall be deemed approved if a majority of the eligible Electors who participated in the vote, voted to approve the amendments.
- 53.4 Any approved amendments shall become effective five (5) business days after the vote.

54.0 Liability

54.1 Neither the Tzeachten First Nation nor its staff or Members shall be liable for any claims, losses or damages resulting from the deletion or addition of an individual's name to the Electors' List.

55.0 Severability

55.1 If any part of these Regulations is declared to be invalid or unenforceable by any court, such invalidity or unenforceability shall not affect the validity or enforceability of any other part of these Regulations.

56.0 Coming into Force

56.1 These amended regulations shall come into force upon ratification.

56.2 Any custom Election code or regulation in force in respect of the Tzeachten First Nation that pre-dates this Regulation is hereby repealed and shall no longer be of any force or effect in respect of the Tzeachten First Nation.