

# NESKONLITH CUSTOM ELECTION AND GOVERNANCE CODE, 2026

## PART A: BACKGROUND

### 1. REPEAL AND REPLACEMENT

- 1.1. The Neskonlith Indian Band Custom Election Regulations December 2, 1996, as amended on January 25, 2007, is hereby repealed and replaced with this Neskonlith Indian Band Custom Election and Governance Code, 2026 (the “Code”).

### 2. EFFECTIVE DATE

- 2.1. This Code is effective as of July 11, 2026.

### 3. INTERPRETATION

- 3.1. The following definitions apply in this Code:

- (a) “**Assistant**” means a person appointed by the Chief Electoral Officer to assist him or her in the conduct of the Election process.
- (b) “**Appellant**” means an individual who submits an appeal of an Election, in accordance with this Code.
- (c) “**Band**” means the Neskonlith Indian Band.
- (d) “**By-Election**” means a special Election to fill a position on Council that has become vacant.
- (e) “**Calendar Days**” when referring to the Election schedule, means all days are counted, excluding statutory holidays.
- (f) “**Candidate**” means a Band Member who has been nominated to be a candidate for the position of Chief or Councillor and who meets the requirements to be a candidate under this Code.
- (g) “**Chief**” or “**Kukpi7**” means the position of chief or kukpi7 of Neskonlith Indian Band. The Chief is a Member of Council.
- (h) “**Chief Electoral Officer**” means the person appointed by Band Council Resolution who has the ultimate responsibility for administering an Election in accordance with this Code.
- (i) “**Code**” means this *Neskonlith Indian Band Custom Election and Governance Code, 2026*.
- (j) “**Code of Ethics**” means guidelines, general rules of behaviour and standards established in accordance with Appendix A of this Code, which govern the conduct of Candidates running for office and their supporters relating to their participation in the electoral process.
- (k) “**Corrupt Practice**” means bribery, direct or indirect, or providing a financial or material incentive to an Elector in exchange for a vote or to compel a person to vote or refrain from voting through intimidation, inducement or duress.
- (l) “**Council**” means the body composed of those persons elected pursuant to this Code to govern the Neskonlith Indian Band.
- (m) “**Councillor**” or “**Tkwamipla7**” means a duly elected member of the Council of Neskonlith Indian Band.

- (n) “**Director of Operations**” means the Employee position within the Neskonlith Indian Band administration that reports directly to Council and has responsibility for overseeing the day-to-day operations of the Band.
- (o) “**Disciplinary Measure**” means any of:
- (i) removal from office; or
  - (ii) suspension from office, with or without honorarium, for a period of up to 1 month; or
  - (iii) a written reprimand, with or without a public apology.
- (p) “**Election**” means a general Election or By-Election of the Band held pursuant to the provisions of this Code.
- (q) “**Election Adjudicator**” means a person who has been appointed to the role of election adjudicator by Council in accordance with this Code.
- (r) “**Elector**” means a person who:
- (i) is a Member of the Band; and
  - (ii) at least 18 years of age on Election day.
- (s) “**Employee**” means an employee of the Neskonlith Indian Band and includes both full-time and part-time employees.
- (t) “**Mail-in Ballot**” means a ballot package mailed or delivered to an Elector in accordance with this Code.
- (u) “**Member**” means a registered Member of the Neskonlith Indian Band.
- (v) “**Membership Clerk**” means the Band Employee responsible for maintaining the Band’s Membership list, including Member addresses and contact information.
- (w) “**Nomination Meeting**” means the public meeting at which persons nominate Members to stand as Candidates in an Election.
- (x) “**Oath**” means a solemn affirmation.
- (y) “**Ordinarily Resident**” refers to the place where an Elector is ordinarily resident.
- (z) “**Polling Station**” means a building, hall or room which is selected as the site at which voting takes place.
- (aa) “**Private Voters List**” means the list of names and other information about Members eligible to vote in an Election which is not publicly posted.
- (bb) “**Public Voters List**” means the list of names of Members eligible to vote in an Election which is publicly posted.
- (cc) “**Referendum**” means a referendum on amendments to this Code conducted in accordance with Part G of this Code.
- (dd) “**Related Body**” means:

- (i) any agency of which the Band is a Member;
  - (ii) any corporation in which the Band has a material interest or that is controlled by the Band;
  - (iii) any partnership in which the Band or another Related Body of the Band is a partner; or
  - (iv) a trust of the Band.
- (ee) “**Rejected Ballot**” means a ballot that has been improperly marked and/or defaced by an Elector, or a mail-in ballot which is received after the posted deadline, which is not included in the tally of valid ballots cast during the counting of the votes.
- (ff) “**Reserve**” means Neskonlith 1, Neskonlith 2, and Switsemalph 3.
- (gg) “**Resources of the Band**” means any equipment, material, Member data or intellectual property of the Band or a Related Body.
- (hh) “**Salmon Arm Candidate**” means a Candidate who:
- (i) is Ordinarily Resident on Switsemalph 3;
  - (ii) declares at the time of nomination that he or she is running as the Salmon Arm Candidate; and
  - (iii) meets all other requirements to be a Candidate under this Code.
- (ii) “**Traditional Dispute Resolution Practices**” means traditional Secwépemc methods of dispute resolution, which may include but are not limited to restorative justice practices, including:
- (i) Elder-led circles;
  - (ii) Community circles;
  - (iii) Family dialogue;
  - (iv) Sxexékw (restitution), through things like compensation, gifts, community service etc.;
  - (v) Ceremony and spiritual cleansing, through activities like smudging, song, prayer, sweat-lodge, fasting, etc.; and
  - (vi) Witnessing and public accountability, through acts like listening, shaming, apology, etc.
- (jj) “**Voter Declaration Form**” means a document that sets out, or provides for:
- (i) the name of the Elector;
  - (ii) the Band Membership or registry number of the Elector or, the date of birth of the Elector; and
  - (iii) the name, address, and telephone number of a witness to the signature of the Elector.
- (kk) “**Voters List**” means the list of Members eligible to vote in an Election which is not publicly

posted, and which sets out the name, Band number, and date of birth of each eligible voter.

## **PART B: PEOPLE**

### **4. CANDIDATES**

- 4.1. Only Electors who meet the requirements of a Candidate as set out in this Code may be nominated as a Candidate.
- 4.2. A Candidate must:
- (a) reside within 50 kilometers of a Reserve;
  - (b) be at least 18 years of age as of Election day;
  - (c) provide a resume within 48 hours of accepting a nomination, which shall be available for viewing by any Elector at the Band office until the day of the Election;
  - (d) not have been declared mentally incompetent under federal or provincial law;
  - (e) not owe any undischarged debts to the Band;
  - (f) not be involved in any active litigation against the Band;
  - (g) authorize the Band to perform a criminal record check;
  - (h) not have previously been removed from office or employment with the Band due to a contravention of the Neskonalith Indian Band Financial Administration Law;
  - (i) not have been terminated for just cause from the Band; and
  - (j) not been convicted of an indictable offence, or an offence relating to family violence during the 10 years prior to the Nomination Meeting.
- 4.3. A Candidate for the position of Chief must have previously completed at least one full term on Council.

### **5. NOMINATORS**

- 5.1. In order to be entitled to nominate a Candidate for Election, both the nominator and must be an Elector, on the Voters List. In order to be entitled to nominate a Candidate at an Election, an Elector shall, on the day of the Nomination Meeting:
- (i) be at least 18 years of age; and
  - (ii) be included on the Voters List.

- 5.2. Any Elector may propose or second the nomination of any qualified person to serve as the chief or councillor verbally at the Nomination Meeting.

### **6. COUNCIL**

- 6.1. The Council shall consist of:
- (a) One (1) Chief; and
  - (b) Six (6) Councillors.

- 6.2. One Councillor position shall be reserved for a Salmon Arm Candidate who, upon nomination, signs a declaration and provides proof to the Electoral Officer within 48 hours that they are Ordinarily Resident on Switsemalph 3 Reserve.
- 6.3. Notwithstanding s. 6.2, if no Band Member is nominated to run as the Salmon Arm Candidate, the position set out in s. 6.2 shall be open to any Candidate residing within fifty kilometers of a Reserve.
- 6.4. Chief and Councillors shall be elected by a vote held in accordance with this Code.
- 6.5. Upon being elected, a member of Council must resign any employment, and may not hold any other employment during their term of office.
- 6.6. The term of office for the position of Chief and Councillors shall be four years.
- 6.7. The term of office for newly elected Chief and Councillors shall commence the day following the Election, upon the execution of an Oath of Office.
- 6.8. Subject to any vacancy arising under this Code, the term of office for Chief and Councillors expires on Election Day.
- 6.9. A Chief or Councillor position will automatically become vacant if:
- (a) the Chief or Councillor fails to sign and Oath of Office upon taking office, no later than the date of the swearing in ceremony;
  - (b) the Chief or Councillor resigns in writing, by way of letter to the Council;
  - (c) the Chief or Councillor misses three consecutive Council meetings without excuse by a quorum of Council;
  - (d) the Chief or Councillor has been unable to perform the functions of his or her office for more than three months due to illness or other incapacity;
  - (e) the Chief or Councillor dies;
  - (f) the Chief or Councillor is removed from office in accordance with this Code; or
  - (g) the Chief or Councillor is convicted of a criminal offence not related to the exercise of Aboriginal title and rights while in office.
- 6.10. Upon a Council position becoming vacant in accordance with s. 6.9, Council will confirm the vacancy by way of Band Council Resolution, which shall be posted in a public place on each Reserve.
- 6.11. If there are no vacancies on Council, quorum shall be four members of Council.
- 6.12. If there is one vacancy on Council, quorum shall be three members of Council.
- 6.13. If there is more than one vacancy on Council, a By-Election must be held as soon as practicable.

## **7. ELECTION ADJUDICATOR**

- 7.1. The Election Adjudicator for an Election shall be appointed by a Band Council Resolution not less than 100 days before an Election is scheduled to be held.
- 7.2. In the event that an Election Adjudicator is unable or unwilling to act, Council must appoint a replacement Election Adjudicator by way of Band Council Resolution as soon as practicable.

- 7.3. The Band Council Resolution for the appointment of the Election Adjudicator shall contain his or her full name and address, the date of the Election, the type of Election which is to be conducted (general Election or by-Election), the amount of remuneration, as well as any special instructions.
- 7.4. Notice of the appointment of the Election Adjudicator and contact information for the Election Adjudicator must be posted on the Band's website as soon as practicable following the appointment of the Election Adjudicator.
- 7.5. The Election Adjudicator shall be a person who:
- (a) is a member in good standing of the Law Society of British Columbia;
  - (b) is not a Member of the Band;
  - (c) has no vested interest in the outcome of the Election;
  - (d) is at least 19 years of age;
  - (e) accepts the position in writing; and
  - (f) has experience in the adjudication of Elections or has received appropriate training.

## **8. CHIEF ELECTORAL OFFICER**

- 8.1. The Chief Electoral Officer shall be appointed by a Band Council Resolution not less than 100 days before an Election is scheduled to be held, and not less than 50 days before a Referendum is to be held.
- 8.2. The Band Council Resolution for the appointment of the Chief Electoral Officer shall contain his or her full name and address, the date of the Election, the type of Election which is to be conducted (general Election or by-Election), the amount of remuneration, as well as any special instructions.
- 8.3. Notice of the appointment of the Chief Electoral Officer and contact information for the Chief Electoral Officer must be posted on the Band's website as soon as practicable following the appointment of the Chief Electoral Officer.
- 8.4. The Chief Electoral Officer shall be a person who:
- (a) is not a Member of the Band;
  - (b) has no vested interest in the outcome of the Election;
  - (c) is at least 19 years of age;
  - (d) accepts the position in writing; and
  - (e) has experience in the conduct of Elections or has received appropriate training.
- 8.5. The Chief Electoral Officer shall swear an Oath of Office, as set out in Appendix "B", to uphold the office in accordance with this Code.
- 8.6. The Chief 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.
9. The Chief Electoral Officer may, in writing, extend or abridge any timeframe prescribed by this Code where the Chief Electoral Officer is satisfied that strict compliance is impossible, impractical, or would prejudice the integrity of the electoral process, provided that:

- (a) the adjustment is the minimum necessary to address the circumstances giving rise to it;
- (b) notice of the adjustment, including the reasons therefor, is posted at the community notice board and on the First Nation's website (if any) as soon as practicable;
- (c) no adjustment may alter the sequence of electoral events or extend the total period from the date of an election call to the date of the election by more than 30 days in the aggregate without the written consent of the Council; and
- (d) the Chief Electoral Officer records the adjustment and reasons in the official electoral record.

9.2. The Chief Electoral Officer shall carry out his / her duties in accordance with this Code.

## **10. ASSISTANT TO THE CHIEF ELECTORAL OFFICER**

- 10.1. One or more Assistants may be appointed and authorized by the Chief Electoral Officer to carry out any duties relevant to the Election.
- 10.2. An Assistant may be a Band Member but may not be a Candidate and may not vote in the Election.
- 10.3. An Assistant shall have such powers as delegated to the Assistant by the Chief Electoral Officer.
- 10.4. An Assistant shall swear an oath of office as set out in Appendix "B".

## **11. WHIPMAN**

- 11.1. The Whipman is an independent and impartial officer of the Band responsible for:
  - (a) assisting Membership in communicating matters of importance to Chief and Council, as necessary;
  - (b) authoritatively interpreting this Code in the event of an ambiguity, discrepancy or lack of clarity;
  - (c) receiving and trying to resolve complaints about a Member of Council using Traditional Dispute Resolution Practices;
  - (d) ensuring fair investigation of complaints, where necessary, and
  - (e) reporting findings to the Membership.
- 11.2. The Whipman shall be appointed by majority vote of eligible voters at a General Band Meeting for a fixed term of four (4) years and may be reappointed by majority vote of eligible voters at a General Band Meeting for one additional term.
- 11.3. The Whipman may be removed by majority vote of eligible voters at a General Band Meeting.
- 11.4. The Whipman must not be:
  - (a) a Member of the Band; or
  - (b) a past or present employee of the Band, or
  - (c) an immediate family Member of:
    - (i) A Member of Council; or

(ii) An employee or former employee of the Band.

11.5. The Whipman must possess the following qualifications:

- (a) Be indigenous;
- (b) Have demonstrated proficiency in practicing two-eyed seeing (understanding and being able to apply both western and Secwepemc perspectives to a situation);
- (c) Have a demonstrated understanding of traditional Secwepemc laws and protocols;
- (d) Have a demonstrated understanding of western laws and procedural fairness;
- (e) Be a good communicator; and
- (f) Possess a demonstrated commitment to upholding ethical behaviour.

11.6. The Whipman must be available to meet with Band Members on a regularly scheduled basis either in person, or by other means.

11.7. The Whipman shall be entitled to receive an hourly stipend in accordance with Neskonlith's Honoraria and Stipend Policy.

## **12. MEMBERSHIP CLERK**

12.1. The Membership Clerk shall maintain accurate and up-to-date records of the Members of the Band for the purposes of this Code.

12.2. The Chief Electoral Officer may rely on the membership information provided by the Membership Clerk.

## **PART C: ELECTORAL PROCESSES**

### **13. THE VOTERS LIST**

13.1. At least 80 days before the day on which an Election is to be held, the Membership Clerk shall prepare a Private Voters List containing the names of all of the Electors who have attained the age of 18 years on the date on which the Election is to be held in alphabetical order, along with their Band number, date of birth, and address, and give the list to the Chief Electoral Officer.

13.2. At least 80 days before the day on which an Election is to be held, the Membership Clerk shall prepare a Public Voters List containing only the names of the Electors in alphabetical order and shall give the list to the Chief Electoral Officer.

13.3. An Elector's address and personal information shall be used by the Chief Electoral Officer only for the purpose of effectively administering the Election.

13.4. The Chief Electoral Officer shall post a copy of the Public Voters List in a public area of the Band administration building and in such other places such as may be determined by the Chief Electoral Officer, no later than 50 days prior to Election day.

13.5. On request, the Chief Electoral Officer or Assistant to the Chief Electoral Officer shall confirm whether the name of a person is on the Voters List.

13.6. The Chief Electoral Officer shall revise the Voters List upon presentation of documentary evidence which demonstrates that:

- (i) the name of an Elector has been omitted from the Voters List;
- (ii) the name of an Elector is incorrectly set out on the Voters List; or
- (iii) the name of a person not qualified to vote is included on the Voters List.

13.7. After consideration of all information and representations relating to amendments of the Voters List, the Chief Electoral Officer shall add or delete names from the Voters List based on whether persons qualify as Electors.

#### **14. THE DEBTORS' LIST**

14.1. The Director of Operations shall provide a debtors list setting out the Members of the Band who have an outstanding debt to the Band to the Electoral Officer at least one day prior to the Nomination Meeting.

#### **15. NOTICE OF NOMINATION MEETING**

15.1. The Chief Electoral Officer shall, at least 30 days before the date on which the Nomination Meeting is to be held, post a notice of Nomination Meeting at the Band administration office and in such other places, including on social media, as may be determined by the Electoral Officer.

15.2. The Electoral Officer shall, at least 30 days before the date on which the Nomination Meeting is to be held, mail a notice of the Nomination Meeting and Election to every Elector who does not reside on a Reserve and for whom the Electoral Officer has been provided with an address.

15.3. A notice of a Nomination Meeting shall include:

- (a) the date, time, duration and location of the Nomination Meeting;
- (b) the date on which the Election will be held;
- (c) the location of each Polling Station;
- (d) the name and contact information of the Electoral Officer;
- (e) a description of the manner in which an Elector can nominate a Candidate, or second the nomination of a Candidate;
- (f) a description of eligibility requirements to be a Candidate; and
- (g) a description of the requirements to accept a nomination for Candidate.

15.4. The Electoral Officer shall 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.

#### **16. HOLDING OF NOMINATION MEETING**

16.1. A Nomination Meeting shall be held at least 50 days prior to the date on which the Election is to be held.

16.2. The Chief Electoral Officer is responsible for managing and conducting a Nomination Meeting in accordance with best practices as determined by the Chief Electoral Officer.

16.3. The Electoral Officer shall conduct a Nomination Meeting as follows:

- (a) in person; and

- (b) online through a communications platform that enables Electors to participate and submit nominations through video, such as Zoom or comparable platform.
- 16.4. A Nomination Meeting shall remain open for two hours.
- 16.5. The Chief Electoral Officer shall maintain order at all times during a Nomination Meeting and may cause to be removed any person who, in his or her opinion, is disrupting or otherwise interfering with the proceedings.
- 16.6. A Candidate must be nominated by an Elector and seconded by another Elector.
- 16.7. An Elector may nominate no more than one eligible person for Chief and one eligible person for Councillor.
- 16.8. The nomination procedure shall be as follows:
- (a) The Chief Electoral Officer shall call for nominations for the position of Chief.
  - (b) Once there are no further nominations for the position of Chief, the Chief Electoral Officer shall call for nominations for the position of Salmon Arm Councillor.
  - (c) Once there are no further nominations for the position of Off-Reserve Councillor, the Chief Electoral Officer shall call for nominations for the remaining Councillor positions.
- 16.9. At the time of nomination, the Chief Electoral Officer shall verify that a proposed Candidate is not listed on the debtors list and shall not permit the proposed Candidate to run for office if they are on the debtors list.
- 16.10. For each position, the Chief Electoral Officer shall record the name of the Candidate and whether they have been nominated for Chief or Councillor and shall record the name of the nominator and the seconder.
- 16.11. At the end of the first Nomination Meeting:
- if there is no more than one Candidate for the position of Chief, the Chief Electoral Officer shall not declare the Candidate elected by acclamation at that time, and shall instead convene a second Nomination Meeting for the position of Chief to be held fourteen (14) days after the first Nomination Meeting to enable additional Candidates to come forward;
- (a) if, at the end of the second Nomination Meeting, there is no more than one Candidate for the position of Chief, the Chief Electoral Officer shall declare that Candidate to be elected by acclamation, subject to confirmation of eligibility and execution of the Oath of Office;
  - (b) if there is no more than one Candidate for the position of Salmon Arm Councillor, the Chief Electoral Officer shall not declare the Candidate elected by acclamation at that time, and shall instead convene a second Nomination Meeting for the position of Salmon Arm Councillor to be held fourteen (14) days after the first Nomination Meeting to enable additional Candidates to come forward;
  - (c) if, at the end of the second Nomination Meeting, there is no more than one Candidate for the position of Salmon Arm Councillor, the Chief Electoral Officer shall declare that Candidate to be elected by acclamation, subject to confirmation of eligibility and execution of the Oath of Office;

- (d) if there are no more Candidates for Councillor than there are Councillor positions to be filled, the Chief Electoral Officer shall convene a second Nomination Meeting for the position of Councillor to be held fourteen (14) days after the first Nomination Meeting to enable additional Candidates to come forward;
- (e) if, at the end of the second Nomination Meeting, there are no more Candidates for Councillor than there are Councillor positions to be filled, the Chief Electoral Officer shall declare those Candidates elected by acclamation, subject to confirmation of eligibility and execution of the Oath of Office;
- (f) if at any Nomination Meeting there is more than one Candidate for the position of Chief, the Chief Electoral Officer shall announce that an Election will be held for the position of Chief;
- (g) if at any Nomination Meeting there is more than one Candidate for the position of Salmon Arm Councillor, the Chief Electoral Officer shall announce that an Election will be held for the position of Salmon Arm Councillor; and
- (h) if at any Nomination Meeting there are more Candidates for the position of Councillor than the number to be elected, the Chief Electoral Officer shall announce that an Election will be held for the positions of Councillor.
- 16.12. A Candidate must sign a confirmation of eligibility, in person and in the form of Appendix “C”, prior to the close of a Nomination Meeting or their nomination will be declared invalid by the Chief Electoral Officer.
- 16.13. If there is only one Nomination Meeting, the first Nomination Meeting will be the “final Nomination Meeting”. If there are two Nomination Meetings, the second Nomination Meeting will be the “final Nomination Meeting”.
- 16.14. Within 24 hours of the final Nomination Meeting:
- (a) a Candidate must pay a non-refundable \$200.00 Candidate fee in cash or by way of certified cheque made out to the Neskonlith Indian Band within 24 hours of being nominated or their nomination will be declared invalid by the Chief Electoral Officer.
- 16.15. Within 48 hours of the final Nomination Meeting:
- (a) a Candidate may withdraw his or her candidacy by submitting a witnessed and signed written withdrawal of nomination to the Chief Electoral Officer.
- 16.16. Within 72 hours of the final Nomination Meeting:
- (a) if a position on Council is filled by acclamation, the Chief Electoral Officer shall post in at least one conspicuous place on each Reserve, and in such other places as the Chief Electoral Officer deems fit, a notice that sets out the names of the persons who have been acclaimed and states that an Election will not be held for those positions.
- (b) If an Election is to be held for a position on Council, the Chief Electoral Officer shall post in at least one conspicuous place on each Reserve, and in such other places as the Chief Electoral Officer deems fit, a list of Candidates and their nominators and seconders.
- 16.17. Within seven days of the final Nomination Meeting:
- (a) The Chief Electoral Officer shall post a notice of Election shall post in at least one conspicuous places on each Reserve, and in such other places as the Chief Electoral Officer deems fit.

- (b) The notice of Election shall include:
  - (i) the date of the Election;
  - (ii) the times at which the Polling Station(s) will open and close;
  - (iii) the location of the Polling Stations and methods of voting;
  - (iv) the time and location of the counting of the votes; and
  - (v) a statement that the Public Voters List is posted and its location.

16.18. A Candidate who dies before the close of the polls on Election day shall be considered to have withdrawn his or her candidacy and the \$200 Candidate fee will be returned to the Candidate's estate.

## **17. CAMPAIGNING**

17.1. Candidates shall conduct themselves in accordance with the Oath of Nominated Persons and Candidates that choose to campaign shall do so in accordance with the following Code of Ethics:

- (a) according to the rules and regulations established in this Custom Election and Governance Code;
- (b) without coercion or vote-buying;
- (c) respecting the right and freedom of other Candidates to organize and campaign;
- (d) respecting the rights of voters to obtain information from a variety of sources;
- (e) ethically, focusing on political issues and Candidate platforms;
- (f) non-violently, without intimidating opposing Candidates or opposition supporters;
- (g) respecting the Chief Electoral Officer and the Assistant(s) to the Chief Electoral Officer and not interfering with their performance of their duties; and
- (h) accepting and complying with the official Election results and the final decision of the Appeals Adjudicator.

17.2. Candidates who are Members of Council shall not campaign during the hours of 8 am – 4 pm, Monday to Friday, and shall not use the Resources of the Band or a Related Body to campaign.

17.3. If a Candidate is a board member or official or Employee of the Band or a Related Body, the Candidate shall not use the Resources of the Band or Related Body to campaign.

## **18. ELECTION OFFENCES**

18.1. Every person shall be guilty of an offence and commits a Corrupt Practice who, during an Election period, directly or indirectly offers a bribe to influence an Elector to vote or refrain from voting for a particular Candidate, or during an Election period, accepts or agrees to accept a bribe that is offered.

18.2. Every person shall be guilty of an offence and commits a corrupt Election practice who, by intimidation, inducement or duress, compels a person to vote or refrain from voting for a particular Candidate in an Election.

## **19. PREPARATION OF BALLOTS**

- 19.1. The Chief Electoral Officer shall prepare ballot papers setting out the names of the Candidates nominated for:
- (a) the position of Chief;
  - (b) the position of Salmon Arm Councillor;
  - (c) the position of Off-Reserve Councillor; and
  - (d) for the position of Councillor.
- 19.2. The Candidates for each position shall be set out on the ballot in alphabetical order by surname.
- 19.3. Where two or more Candidates have the same name, the Chief Electoral Officer shall add to the ballots such additional information as is necessary to distinguish between those Candidates. The ballot may, at the request of the Candidate, include a Candidate's commonly used nickname.

## **20. MAIL-IN BALLOTS**

- 20.1. An Elector who is unable to vote in person on Election day may, at least fifty-five days prior to the date on which the Election is to be held, request a mail-in ballot package from the Chief Electoral Officer.
- 20.2. The Chief Electoral Officer shall, at least forty days prior to the date on which the Election is to be held, mail to every Elector whose application to vote by mail-in ballot has been received, a mail-in ballot package consisting of:
- (a) a ballot initialled on the back by the Chief Electoral Officer;
  - (b) a letter of instruction regarding voting by mail-in ballot;
  - (c) an inner postage-paid return envelope, pre-addressed to the Chief Electoral Officer;
  - (d) a second inner envelope marked "ballot" for insertion of the completed ballot;
  - (e) a voter declaration form which shall set out:
    - (i) the name of the Elector;
    - (ii) the Membership number and date of birth of the Elector; and
    - (iii) the name, address and telephone number of the witness to the signature of the Elector;
- 20.3. The Chief Electoral Officer shall 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.
- 20.4. An Elector shall vote by mail-in ballot by:
- (a) placing an "X" or other mark that clearly indicates the Elector's choice opposite the name of the Candidate or Candidates for whom the Elector desires to vote;
  - (b) folding the ballot in a manner that conceals the names of the Candidates or any marks, but exposes the Chief 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 nineteen years of age;
- (e) placing the inner envelope and the completed, signed and witnessed voter declaration form in the postage-paid envelope; and
- (f) delivering, mailing or otherwise ensuring receipt by the Chief Electoral Officer of the envelope before the close of polls on the day of the Election.

20.5. Where an Elector is unable to vote in the manner set out in s. 20.4, the Elector may enlist the assistance of a witness to mark the ballot and complete and sign the voter declaration form in accordance with that section.

20.6. A witness referred to in s. 20.5 shall 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; or
- (b) the fact that the Elector is the person whose name is set out in the form and that the ballot was marked according to the directions of the Elector.

20.7. Mail-in ballots that are not received by the Chief Electoral Officer before the close of polls on the day of the Election shall not be counted.

## **21. POLLING STATIONS**

21.1. The Chief Electoral Officer shall, before the Polling Stations are open, supply each Polling Station with:

- (a) sufficient ballot boxes;
- (b) a sufficient number of ballots;
- (c) a sufficient number of voting compartments enabling Electors to mark their ballots free from observation;
- (d) instruments for marking the ballots;
- (e) a sufficient number of voting instructions as may be required;
- (f) all other equipment necessary to establish and equip the voting locations; and
- (g) the final Voters List.

21.2. The Chief Electoral Officer shall establish at least one Polling Station on the Neskonlith 2 Reserve and one Polling Station on the Switsmalph 3 Reserve.

## **22. ELECTRONIC VOTING**

22.1. The Chief Electoral Officer may permit electronic voting in the Election.

22.2. In the event that the Chief Electoral Officer permits electronic voting in the Election, the Chief Electoral Officer, must set the voting day(s) and hours for electronic voting and provide clear and prominent notice of this on the Band's website, and in such other places as the Chief Electoral Officer deems fit.

- 22.3. If the Chief Electoral Officer permits electronic voting in the Election, the voting day(s) and hours for electronic voting must be complete no later than 48 hours before Election day.
- 22.4. The Electoral Officer is responsible for acquiring the technology, including software, for electronic voting, and administering, maintaining, monitoring and performing audits of the electronic voting system.
- 22.5. Any electronic voting system chosen by the Chief Electoral Officer for the Election must:
- (a) comply with industry-leading practices for the conduct of e-voting in elections;
  - (b) be able to be electronically secured;
  - (c) permit electronic ballots to be recorded but not deleted;
  - (d) maintain the secrecy of the votes;
  - (e) have appropriate access control mechanisms sufficient to prevent unauthorized access to, or interference in, the Election;
  - (f) reliably identify an eligible Elector;
  - (g) verify on the Voters List whether or not an eligible Elector has already voted;
  - (h) if the individual is an eligible Elector and has not already voted in the Election, provide an electronic ballot to the eligible Elector;
  - (i) provide the eligible Elector with the applicable voting instructions for marking the electronic ballot;
  - (j) permit the eligible Elector to mark the electronic ballot and record it in the electronic voting system; and
  - (k) indicate on the Voters List that the eligible Elector has voted as soon as the electronic ballot is recorded in the electronic voting system.
- 22.6. Electronic voting may be suspended by the Chief Electoral Officer if the Chief Electoral Officer considers that the integrity of the voting is at risk.
- 22.7. If the Chief Electoral Officer suspends voting, the Chief Electoral Officer must immediately notify the Neskonlith Council, Director of Operations and the Electors, and follow the directions given in relation to the suspension.
- 22.8. As soon as reasonably practicable after the close of electronic voting, the Electoral Officer must cause the electronic voting system to generate a list of all eligible Electors who voted by electronic voting.
- 22.9. A printed and electronic copy of the list created under s. 22.8 must be delivered to the Electoral Officer within 24 hours of the close of electronic voting and the Electoral Officer must, as soon as reasonably practicable, place a mark on the Voters List opposite the name of each eligible Elector who voted by electronic voting indicating the eligible Elector has voted in that Election.

## **23. ELECTION DAY**

- 23.1. The Polling Station at Switsemalph 3 Reserve shall be open from 8 a.m. until 6 p.m. local time on the day of the Election.
- 23.2. The Polling Station at Neskonlith 2 Reserve shall be open from 8 a.m. until 7 p.m. local time on the day

of the Election.

- 23.3. A Member who votes in person must do so at the Polling Station closest to where they are Ordinarily Resident.
- 23.4. A Candidate shall be entitled to not more than two scrutineers in a Polling Station at any one time.
- 23.5. A Candidate's scrutineer shall present a letter of authorization to the Chief Electoral Officer or the Assistant to the Electoral Officer, signed by the Candidate, in order to be permitted to remain in the Polling Station.
- 23.6. The Electoral Officer or Assistant to the Electoral Officer shall, immediately before the commencement of the poll:
- (a) open the ballot box and call such persons as may be present to witness that it is empty;
  - (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.
- 23.7. Voting shall be by secret ballot.
- 23.8. No Elector may vote by proxy or authorize another person to vote on his or her behalf.
- 23.9. The Chief Electoral Officer or Assistant to the Electoral Officer shall maintain order at all times in the Polling Station and may cause to be removed any person who in any way interferes, disrupts or attempts to influence the orderly conduct of the poll.
- 23.10. No person shall, on the day the Election is held, on the premises of the Polling Station which includes the parking lot area:
- (a) distribute any Election-related printed materials except such materials as may be distributed by the Chief Electoral Officer or Assistant to the 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.
- 23.11. The voting procedure shall be as follows:
- (a) Each Elector, on arriving at the Polling Station, shall give his or her name to the Chief Electoral Officer or Assistant to the Electoral Officer and shall show identification, if requested to do so.
  - (b) The Chief Electoral Officer or Assistant to the Chief Electoral Officer shall take steps to verify that the Elector has not previously voted in the Election.
  - (c) The Chief Electoral Officer or Assistant to the Chief Electoral Officer shall, if the Elector's name is set out in the Voters List, and if they are satisfied that the Elector has not previously voted in the Election, initial the ballot and provide it to the Elector.
  - (d) The Chief Electoral Officer or Assistant to the Chief Electoral Officer shall cause to be placed in the proper column of the Voters List a mark opposite the name of every Elector receiving a ballot paper.

- (e) The Chief Electoral Officer or Assistant to the Chief Electoral Officer shall, when requested to do so, explain the method of voting to the Elector.
- (f) After receiving a ballot, an Elector shall:
  - (i) immediately proceed to the compartment provided for marking ballots;
  - (ii) mark the ballot by placing an “X” that clearly indicates the Elector's choice opposite the name of the Candidate or Candidates for whom he or she desires to vote;
  - (iii) fold the ballot in a manner that conceals the names of the Candidates and any marks, but exposes the Chief Electoral Officer’s initials; and
  - (iv) deliver the ballot to the Chief Electoral Officer or Assistant to the Chief Electoral Officer.
- (g) On receipt of a completed ballot, the Chief Electoral Officer or Assistant to the Chief Electoral Officer shall, without unfolding the ballot, verify the initials placed on it and the Elector shall deposit it in the ballot box.

23.12. At the request of any Elector who is unable to vote in the manner set out in the voting procedures, the Chief Electoral Officer or Assistant to the Chief Electoral Officer shall assist that Elector by marking his or her ballot in the manner directed by the Elector in the presence of another individual selected by the Elector as a witness and shall place the ballot in the ballot box. The Chief Electoral Officer or Assistant to the Chief Electoral Officer shall note on the Voters List opposite the name of an Elector requiring assistance the fact that the ballot paper was marked by him or her at the request of the Elector and the reasons therefore.

23.13. Every Elector who is inside the Polling Station at the time fixed for closing the poll shall be entitled to vote before the poll is closed.

## **24. COUNTING OF VOTES**

24.1. Mail-in ballots shall be dealt with as follows:

- (a) The Chief Electoral Officer shall record the date a mail-in ballot is received and shall, as soon as practicable, deposit the mail-in ballots unopened in a secure and locked location in the Band administration office or the Chief Electoral Officer’s offices until the day of the Election.
- (b) Following the close of the last poll on Election day, the Chief Electoral Officer or Assistant to the Chief Electoral Officer shall, in the presence of any Candidates or their agents who are present, open each envelope containing a mail-in ballot that was received before the close of the polls and, without unfolding the ballot:
  - (i) reject the ballot if:
    - A. it was not accompanied by a voter declaration form, or the voter declaration form is not signed or witnessed;
    - B. the voter declaration form does not contain a date of birth or a Band number that matches the information contained for that Elector on the Voters List;
    - C. the name of the Elector set out in the voter declaration form is not on the Voters List;

D. the Voters List shows that the Elector has already voted; or

- (ii) 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.

24.2. Ballots cast at the Switsemalph 3 Polling Station shall be dealt with as follows:

- (a) Immediately following the close of the last poll at the Switsemalph 3 Polling Station, all ballots therefrom shall be transported to the Neskonlith 2 Polling Station and deposited in the Neskonlith 2 ballot box.

24.3. Electronic votes shall be dealt with as follows:

- (a) Immediately following the close of the last poll at Neskonlith 2 Reserve, the Chief Electoral Officer shall print out the results of the electronic votes.

24.4. The votes shall be counted as follows:

- (a) The Chief Electoral Officer or Assistant to the Chief Electoral Officer shall supply all persons present and who so request with a tally sheet to keep their own tally of the votes.
- (b) The Chief Electoral Officer shall announce the number of electronic votes received by each Candidate.
- (c) Immediately after the announcement of the results of the electronic votes, the Chief Electoral Officer or Assistant to the Chief Electoral Officer shall, in the presence of any Electors, Candidates or their agents who are present, open all ballot boxes and examine each ballot.
- (d) The Chief Electoral Officer or Assistant to the Chief Electoral Officer shall call out the names of the Candidates for whom the votes were cast on all valid ballots. An Assistant to the Chief Electoral Officer shall verify the name marked on the ballot and mark a tally sheet in accordance with the names being called out for the purpose of arriving at the total number of votes cast for each Candidate.
- (e) In the event that an Elector raises an objection to the tally immediately after the ballots are counted, the votes shall be recounted by the Chief Electoral Officer and verified by the Assistant to the Electoral Officer.

24.5. In examining the ballots, the Chief Electoral Officer or Assistant to the Chief Electoral Officer shall reject any ballots that:

- (a) do not contain the initials of the Chief Electoral Officer or Assistant to the 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.

24.6. The Chief Electoral Officer or Assistant to the Chief Electoral Officer shall attach a note to each ballot rejected which outlines the reason for rejection.

24.7. Subject to review on recount or on an Election appeal, the Chief Electoral Officer or Assistant to the Electoral Officer shall take a note of any objections made by any Candidate or his or her agent to any of the ballots found in the ballot box and decide any questions arising out of the objection.

- 24.8. The Chief Electoral Officer or Assistant to the Chief Electoral Officer shall number objections to ballots raised pursuant to s. 24.7 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.
- 24.9. Upon completion of the count, if it is not possible to determine the successful Candidate(s) due to an equal number of votes being cast (i.e., tie vote), the Chief Electoral Officer shall immediately conduct a recount.
- 24.10. If the recount results in a second tie and fails to determine a successful Candidate, the Chief Electoral Officer shall cast ballots in order to break the tie. The Chief Electoral Officer shall place the names of the Candidates having the same number of votes on an unused ballot and place each in a receptacle. Without looking, he or she shall 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 shall constitute the Candidate(s) for whom the Electoral Officer shall cast a vote.
- 24.11. Following completion of the count, the Chief Electoral Officer shall deposit all ballot papers in sealed envelopes, including those rejected, spoiled and unused, and shall retain these ballots and all materials in connection with the Election.

## **25. DECLARATION OF ELECTED CANDIDATES**

- 25.1. As soon as practicable following completion of the count and the determination of the successful Candidates, the Chief Electoral Officer shall publicly declare which Candidates have been elected.

## **26. ELECTION REPORT**

- 26.1. Following the declaration of elected Candidates the Chief Electoral Officer shall complete and sign an Election Report which shall contain:
- (a) the names of all Candidates;
  - (b) the number of ballots cast for each; and
  - (c) the number of rejected ballots.
- 26.2. Within four days after completion of the counting of the votes, the Chief Electoral Officer shall:
- (a) sign and post, in at least one conspicuous places on the Neskonlith 2 reserve and Switsemalph 3 reserve, the Election Report prepared in accordance with s. 26.1;
  - (b) forward a copy of the Election Report to the Director of Operations, and
  - (c) forward a copy of the Election Report to Indigenous Services Canada.

## **27. RETENTION OF ELECTION MATERIALS**

- 27.1. All ballots and materials retained in accordance with s. 24.11 shall be retained for 45 days from the date on which the Election was held or until a decision on an Election appeal is rendered, whichever date is later, after which time the Electoral Officer shall, unless directed otherwise by the Council, destroy them in the presence of two witnesses who shall make a declaration that they witnessed the destruction of those papers.

## **28. ADMINISTERING OF OATH OF OFFICE**

- 28.1. The Whipman shall administer an Oath of Office to each successful Candidate as soon as practicable following the Election.

**PART D: ELECTION APPEALS**

**29. ELECTION APPEALS**

- 29.1. A Candidate or an Elector may, within ten days from the date on which the Election was held, submit an Election appeal in writing to the Election Adjudicator.
- 29.2. An Election appeal must contain one or more of the following allegations:
- (a) that a person declared elected was not qualified to be a Candidate;
  - (b) that there was a violation of this Code that might have affected the result of the Election; or
  - (c) that there was Corrupt Practice in relation to the Election.
- 29.3. An Election appeal must:
- (a) be in writing;
  - (b) include the facts substantiating the grounds for the appeal;
  - (c) include contact information for the appellant(s); and
  - (d) be accompanied by any supporting documentation and include a \$500.00 deposit in cash or by certified cheque payable the Neskonlith Indian Band.
- 29.4. Upon receipt of an Election appeal, Election Adjudicator shall:
- (a) in the case where the appeal is submitted in accordance with s. 29.3, forward a copy together with supporting documents by hand or by registered mail to the Chief Electoral Officer and to each Candidate at the Election; or
  - (b) in the case where the Election appeal is not submitted in accordance with s. 29.3, inform the appellant(s) in writing that the appeal will not receive further consideration.
- 29.5. Any Candidate or the Chief Electoral Officer may, within fourteen days of the receipt of the appeal(s), forward to the Election Adjudicator by hand or by registered mail a written response to the Election appeal allegations, together with any supporting documentation.
- 29.6. The Election Adjudicator may conduct such further investigation into the appeal as the Election Adjudicator deems necessary.
- 29.7. After a review of all of the evidence received, the Election Adjudicator shall issue a decision finding either:
- (a) that on a balance of probabilities, the Election Adjudicator is not satisfied that the evidence presented confirms that:
    - (i) a violation of this Code has taken place that affected the result of the Election;
    - (ii) the person declared elected was not qualified to be a Candidate; or
    - (iii) there was a Corrupt Practice in relation to the Election that affected its results; or
  - (b) that on a balance of probabilities, the Election Adjudicator is satisfied that the evidence presented confirms that:

- (i) a violation of this Code has taken place that materially affected the integrity of the Election;
- (ii) the person declared elected was not qualified to be a Candidate; or
- (iii) there was a Corrupt Practice in relation to the Election that materially affected the integrity of the Election,

29.8. In the event that the Election Adjudicator finds in accordance with s. 29.7(b):

- (a) the Election Adjudicator shall uphold the appeal and set aside the election of one or more members of Council such that applicable office(s) shall immediately be deemed vacant;
- (b) make any orders reasonably necessary to ensure the effective governance of the Band pending a new Election for the applicable office(s); and
- (c) cause the Neskonlith Indian Band to repay the \$500.00 fee to the appellant.

29.9. The decision of the Election Adjudicator shall be posted in at least one conspicuous place on the Neskonlith 2 Reserve and Switsemalph 3 Reserve as well as on the Band's webpage.

29.10. The decision of the Election Adjudicator is final and not subject to further appeal.

#### **PART E: POST-ELECTION COMPLAINTS**

### **30. COMPLAINTS AND REMEDIES**

30.1. Any Member of the Band may submit a written complaint to the Whipman alleging that a Member of Council has committed misconduct, breached this Election Code, or violated applicable laws. Complaints must include sufficient detail to allow assessment.

30.2. Upon receiving a complaint, the Whipman shall determine whether the complaint, on its face, warrants further steps. If the Whipman finds the complaint frivolous, vexatious, or clearly unfounded, they shall dismiss it and provide written reasons to the complainant.

30.3. In the event that the Whipman determines that the complaint is not frivolous, vexatious, or clearly unfounded, the Whipman shall first try to engage in Traditional Dispute Resolution Practices, as determined by the Whipman, in the Whipman's sole discretion.

30.4. In the event that the Whipman determines that Traditional Dispute Resolution Practices have not been effective or are not possible, then the Whipman shall cause the Election Adjudicator to investigate the complaint. If the Election Adjudicator is unable or unwilling to act, the Whipman may appoint another person to investigate the complaint, who possesses the following qualifications:

- (a) is a member in good standing of the Law Society of British Columbia;
- (b) is not a Member of the Band;
- (c) has no vested interest in the outcome of the complaint;
- (d) is at least 19 years of age;
- (e) accepts the position in writing; and
- (f) has experience in the adjudication of complaints or has received appropriate training.

- 30.5. The investigator shall conduct the investigation in accordance with principles of natural justice and procedural fairness.
- 30.6. Upon completion, the investigator shall submit a written report to the Whipman, including findings of fact and any substantiated breaches, as well as a summary of the investigation findings for presentation to Members.
- 30.7. The Whipman shall present the summary at a Special General Meeting called for that purpose.
- 30.8. Any decision to impose a Disciplinary Measure at the Special General Meeting shall require:
- (a) a majority vote of Members present at the Special General Meeting; plus
  - (b) at least three Members from each Reserve to vote in favour of the Disciplinary Measure.
- 30.9. For clarity, Council shall have no authority to impose a Disciplinary Measure through Band Council Resolution or other means.
- 30.10. The Band shall maintain secure records of all decisions on Disciplinary Measures. These records shall be available to any Band Member, upon request.

#### **PART F: BY-ELECTIONS**

#### **31. BY-ELECTIONS**

- 31.1. In the event that the office of Chief and/or Councillor becomes vacant, a majority of the remaining council Members may direct that a by-election be held.
- 31.2. No sitting member of Council is eligible to be a Candidate in a by-election. If a member of Council wishes to be a Candidate in a by-election, he or she shall resign his or her Council position in writing to the Director of Operations prior to the appointment of a Chief Electoral Officer for the by-election.
- 31.3. A resignation in writing provided to the Director of Operations by a Councillor is binding upon the Councillor.
- 31.4. Except as expressly provided otherwise in this Code, the rules and procedures in this Code shall apply to by-elections.
- 31.5. An elected Candidate in a by-election shall hold office for the remainder of the original term of office of the Chief or Councillor whom he or she is elected to replace.

#### **PART G: AMENDMENTS**

#### **32. AMENDMENTS TO THIS CUSTOM ELECTION AND GOVERNANCE CODE**

33. Chief and Council may, by resolution passed by a majority of all members of Council, amend this Code to correct typographical, grammatical, or clerical errors, update cross-references, or make other minor amendments of a non-substantive nature that do not alter the rights of voters or candidates, the powers or duties of electoral officials, or the integrity of the electoral process. An amendment under this section shall be recorded in the official copy of the Code, noted with the date of the resolution, and communicated to the membership within 30 days.
- 33.1. The Band may amend this Custom Election and Governance Code by way of a referendum held in accordance with this Part.
- 33.2. A referendum on proposed amendments may be initiated by:

- (a) a Band Council Resolution passed by a majority of Chief and Council; or
- (b) a petition signed by at least 10% of eligible voters.
- 33.3. The proposed amendment(s) shall be set out in writing and made available to eligible voters not less than 60 days before the referendum date.
- 33.4. The Chief Electoral Officer shall give notice of the referendum at least 45 days before the vote.
- 33.5. The notice shall include:
- (a) the text and purpose of each proposed amendment;
- (b) the date, time, and location(s) of polling;
- (c) procedures for mail-in or electronic voting, if applicable; and
- (d) where and how eligible voters may obtain a full copy of the existing Code and the proposed amendments.
- 33.6. The referendum shall be conducted under the same procedures governing an election under this Code, including the maintenance of a voters list and the use of mail-in or electronic ballots if applicable.
- 33.7. Each eligible voter shall be entitled to vote “Yes” or “No” on each proposed amendment.
- 33.8. A proposed amendment shall be deemed approved where:
- (a) a majority of votes cast are in favour of the amendment; and
- (b) at least 15% of all eligible voters have cast ballots.
- 33.9. Where the participation threshold is not met, the referendum shall be deemed invalid, and the amendment shall not take effect.
- 33.10. The Chief Electoral Officer shall certify the results of the referendum within 7 days of the close of voting.
- 33.11. The results shall be posted publicly and provided to Chief and Council.
- 33.12. Where approved, the amendment shall take effect on the date it is certified by the Chief Electoral Officer, unless otherwise specified in the amendment itself.
- 33.13. A certified copy of the amended Code shall be filed with Indigenous Services Canada for information purposes.
- 33.14. No referendum shall be held within six (6) months of an Election, unless the purpose of the referendum relates directly to the conduct of that Election.
- 33.15. No amendment shall have retroactive effect unless expressly stated and approved by referendum.
- 33.16. In the event of any ambiguity or dispute respecting the conduct of a referendum, the Chief Electoral Officer shall have authority to interpret and apply the provisions of this Part in a fair and impartial manner.
- 33.17. A referendum on any other governance question may be initiated by a Band Council Resolution passed by a majority of Chief and Council, and the process set out in this Part G shall be followed by the Chief Electoral officer, *mutatis mutandis*.

**PART H: REMUNERATION, MEMBERSHIP HOURS AND REPORTING ON TRIPS**

**34. REMUNERATION**

34.1. Council shall establish a Remuneration Review Panel to review and make recommendations on the remuneration of the Chief and Councillors in accordance with this section.

34.2. The Panel shall consist of three members appointed as follows:

- (a) one member nominated by Council from a list of not less than three candidates proposed by the Finance and Audit Committee, who must have financial or governance expertise and must not be a member of the Band;
- (b) one member elected by the membership of the First Nation at a Band meeting called for that purpose, who must be a member of the Band in good standing; and
- (c) one member appointed jointly by the other two Panel members, who must be independent of the Band and must have demonstrated expertise in governance, human resources, or public administration.

34.3. No person is eligible to serve on the Panel who:

- (a) is a current or former member of Council of the Band;
- (b) is an employee or contractor of the Band or a related body;
- (c) is a spouse or immediate family member of a current member of Council; or
- (d) has a financial interest in the outcome of the review.

34.4. The Panel shall:

- (a) review the remuneration of the Chief and Councillors within 90 days following each general election; and
- (b) in conducting any review, consider the following factors:
  - (i) the time commitment reasonably required to fulfil the duties of the Chief and each Councillor respectively;
  - (ii) the level of responsibility associated with each role;
  - (iii) the remuneration paid to elected officials of comparable First Nations in the region;
  - (iv) the remuneration paid to elected officials of comparable municipal governments in the province;
  - (v) the financial capacity of the First Nation; and
  - (vi) any other factor the Panel considers relevant.

34.5. In conducting a review, the Panel:

- (a) shall invite written submissions from the membership, Council, and any other person the Panel considers appropriate;

- (b) may hold a community information session to receive oral submissions;
- (c) shall prepare a written report setting out its findings and recommendations, including the reasons for its recommendations and a summary of the comparator information considered; and
- (d) shall deliver its report to Council and post it publicly at the community notice board and on the First Nation's website.

34.6. Upon receiving the Panel's report, Council:

- (a) must table the report at the next regular Council meeting and post notice that it has been received;
- (b) must, within 45 days of receiving the report, either:
  - (i) adopt the Panel's recommendations by Band Council Resolution, in which case the Remuneration Policy shall be amended accordingly effective the commencement of the next Council term; or
  - (ii) reject or modify the Panel's recommendations by resolution, in which case Council must prepare and post a written statement of reasons explaining the departure from the Panel's recommendations; and
- (c) must present the Panel's report and Council's response to the membership at the next annual community meeting.

34.7. The Band shall provide the Panel with reasonable administrative support and shall reimburse Panel members for reasonable expenses incurred in carrying out their duties. Panel members shall not receive remuneration for their service beyond expense reimbursement, but the Panel may retain independent legal or financial advice at the First Nation's expense with the approval of the Finance and Audit Committee.

34.8. The finance director shall include in the annual report of the Band a complete statement of all remuneration paid and expenses reimbursed to each member of Council during the fiscal year. This statement shall be available to any member of the Band and shall be presented at the annual community meeting.

### **35. MEMBERSHIP HOURS AND REPORTING ON TRIPS**

35.1. The Chief and Councillors shall maintain reasonable membership hours to be available to members for community business.

35.2. Membership hours may be held in person or virtually.

35.3. At least one member of Council shall:

- (a) maintain a minimum of 2 hours per week of membership hours at the Band Office or designated community space;
- (b) attend all scheduled Council and committee meetings; and
- (c) be accessible to members by appointment and electronic communication.

35.4. Notice of membership hours shall be publicized in advance in community locations and through the Band's communication channels.

35.5. Matters raised during membership hours shall be considered informal and shall not replace formal delegation, or processes set out elsewhere under this Code.

- 35.6. Where a member of Council travels or attends a conference, training, meeting, or other event on behalf of the Band, that Council member shall report back to the Members within a reasonable time regarding the purpose of the travel or attendance, the matters addressed, and any outcomes or follow-up items relevant to the Band.
- 35.7. Council shall not be in breach of this section solely because membership hours are cancelled, postponed, or reduced in a particular week where the cancellation, postponement, or reduction is reasonably necessary due to Council-approved travel, attendance at a conference, training, emergency, illness, bereavement, cultural obligation, or other circumstances beyond the reasonable control of Council or the affected Council member.

THIS Neskonlith Indian Band Custom Election and Governance Code, 2026 is hereby enacted by secret ballot at a band meeting of the Electors of Neskonlith Indian Band on the \*\* day of \*\*\*, 2026 and will come into force on the date it is authorized by the Neskonlith Indian Band members of Council.

HEREBY authorized on behalf of Neskonlith Indian Band at [location] on [date].

[signature blocks to be inserted]

DRAFT FOR FEEDBACK

**APPENDIX A**  
**NESKONLITH COUNCIL CODE OF ETHICS**

1. As a band councillor of the Neskonlith Indian band, I hereby agree to become familiar with the band laws and policies. I agree to fulfill my delegated duties to the best of my abilities, and abide by the policies of the band. I hereby also agree to abide by the following Code of Conduct.
2. I will carry out the duties of my position conscientiously, loyally, and honestly, remembering that my primary work task is to serve the band and members.
3. In my actions and words, I will promote and uphold the integrity and dignity of the Neskonlith band and its policies, programs, government and staff.
4. I will not give out official or confidential information acquired on the job unless the release of such information has been authorized by the council.
5. I will use information obtained while carrying out my delegated duties for the intended purpose only and not for my own personal gain or interests.
6. If my private interests constitute an actual or perceived conflict of interest, I will declare this to the council and Director of Operations who will direct and advise in which manner this may be addressed.
7. I will be prompt, courteous, and temperate in the performance of my duties and responsibilities.
8. I will find ways of doing my work more efficiently, effectively, and economically.
9. I will maintain a positive attitude in dealing with band employees, band members, general public and council.
10. Within my areas of responsibility, I will recommend changes of policy, priorities, or procedures, when I believe that such changes would help to meet the objectives of the Neskonlith Indian band.
11. I will conduct myself in a manner that will bring credit to me and the Neskonlith band.
12. I will show respect for the authority and jurisdictional structures of the council and administration.
13. I will continually work towards self-improvement and professional development, through self-evaluation, and availing myself of available literature, upgrading and training, when opportunities arise.
14. I will attend all meetings, workshops, conferences in their entirety, assigned to me as an official delegate of the band, and will formally report back to the band council and membership as required.
15. I will be courteous and polite towards other staff members and the general public. I will not hold paid employment while on Council.
16. I will use equipment, property, or supplies which are owned or rented by the band for authorized purposes only, will use such equipment with care, and will report any maintenance required to an appropriate staff member.
17. I will refuse fees, gifts, or other tangibles offered to me in reward for duties performed by virtue of my position except in compliance with the Conflict of Interest Regulation attached as an Appendix to the Financial Administration Law.

18. As a councillor, I will not criticize other councillors, band employees or the policies of the band Council or individual departments. If I feel changes would be advisable, I will provide constructive suggestions and/or recommendations through proper procedures and seek to make the workplace as harmonious as possible.
19. I will attempt to communicate openly with other councillors and seek to settle any internal differences in a respectful cooperative and constructive manner.
20. I will uphold community expectations of leadership in maintaining personal wellness.

Read, understood and acknowledged:

\_\_\_\_\_  
(Signature of Chief/Councillor)

\_\_\_\_\_  
(For the Neskonlith Indian band)

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

DRAFT FOR FEEDBACK

**APPENDIX B  
OATH OF OFFICE**

DECLARATION:

Sworn before the Neskonlith Indian Band Electoral Officer, a Notary Public or a duly appointed Commissioner for taking oaths.

I, do solemnly swear (or affirm) that:

1. I am a Neskonlith Band Member possessing in law the qualifications for holding office.
2. I will faithfully perform the duties of my office in a fair and equitable manner and in the best interests of all Band Members.
3. I will at all time during my term of office comply with the Neskonlith Indian Band Chief & Council Governance Policy, Council Code of Ethics, Code of Conduct and Accountability Policy and all Neskonlith laws and policies.

Sworn on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, in \_\_\_\_\_, BC.

\_\_\_\_\_  
Signature of Chief or Councillor

\_\_\_\_\_  
Signature of Electoral Officer, or Commissioner for taking oaths, or Notary Public for British Columbia.

*(circle which applies)*

**APPENDIX C  
CONFIRMATION OF ELIGIBILITY**

To be administered by the Electoral Officer or Assistant to the Electoral Officer when an Elector asks to be added to the Voters List.

Do you swear (or solemnly affirm):

1. That you are a member of the Neskonlith Indian Band;
2. That you are of the full age of eighteen (18) years;
3. That you are legally entitled to vote at this election; and
4. That you have not voted before in this election;

I do: \_\_\_\_\_

\_\_\_\_\_  
Electoral Officer/ Assistant to the Electoral Officer  
*(circle which applies)*

\_\_\_\_\_  
Signature Of Elector

\_\_\_\_\_  
Name of Elector (Printed)

\_\_\_\_\_  
Address of Elector

\_\_\_\_\_  
Telephone Number of Elector

**APPENDIX D**  
**CHIEF ELECTORAL OFFICER/ ASSISTANT TO THE ELECTORAL OFFICER OATH**

As the Chief Electoral Officer/ Assistant to the Electoral Officer for the Neskonlith Indian band, I hereby agree to fulfill my duties to the best of my abilities and agree that I will:

1. uphold and abide by the rules and regulations established in the Custom Election Code and pursuant to the Code of Ethics;
2. remain neutral and professional in the conduct of the duties of my office, and refrain from providing any preferential treatment or expressing support for or opposition to any candidate;
3. 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;
4. not discriminate against anyone because of race, religion, sex, age or handicap;
5. use public office facilities to fulfill the terms of my office, and not for personal or partisan benefit;
6. not pressure or intimidate other officials or personnel to favour a certain candidate; and
7. avoid conflicts of interest, or the appearance of conflicts of interest, by abstaining from decision making where the I have a personal or private interest in the matter at issue.

Read, understood and acknowledged:

\_\_\_\_\_  
(Signature of Chief/Councillor)

\_\_\_\_\_  
(For the Neskonlith Indian band)

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**APPENDIX E  
OATH OF NOMINATED PERSONS**

Sworn before a Notary Public or a duly appointed Commissioner for taking oaths.

I, \_\_\_\_\_ (print name) have been nominated for Council.

I do solemnly swear (or affirm) that:

1. I am a member of the Neskonlith Band.
2. I am, or will be, at least 18 years old on the day of the election.
3. I do not owe any overdue monies to the band or its related bodies which have not been discharged.
4. I have no contract or interest in any contract with the Band, directly or indirectly, from which I receive or could receive financial gain.

OR

I have a contract or interest in a contract with the Band from which I receive or could receive financial gain and I have duly declared this interest to the Electoral Officer or will declare this interest within five (5) working days of having been nominated.

5. I live within 50 kilometers of the reserve.

OR

I have declared that I am running as the Salmon Arm candidate and I am ordinarily resident on the Switsemalph 3 reserve.

6. I have not been convicted of an indictable offence, or an offence relating to family violence or I have been convicted of an indictable offense or offence relating to family violence but have demonstrated to the satisfaction of Council that I have been rehabilitated.
7. I have not been convicted of a sexual assault or child molestation offence.
8. I have not been declared mentally incompetent under the Indian Act or any federal or provincial law within the last five years.
9. I will provide a resume within 48 hours of accepting nomination, which may be made available for viewing by any elector at the Neskonlith band office until the day of the election, and which demonstrates a combination of education and/or experience required to hold a council sector on a full-time basis.
10. I agree to resign from any employment, self-employment, including employment with the band or a related body upon being sworn in to office.
11. Upon being sworn into office, I will be available full-time to serve as council member from Monday to Friday during band working hours and such other times as may be required.
12. I agree that I will authorize the Band to perform a criminal record check if I am elected.

- 13. I have not previously been removed from office or employment with the band due to a contravention of the Neskonlith Indian Band Financial Administration Law;
- 14. I have never been terminated for just cause related to theft or fraud from the band or its related bodies.

\_\_\_\_\_ (signature of nominee) at

\_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Signature of Commissioner for taking oaths or Notary Public of British Columbia  
*(circle which applies)*

DRAFT FOR FEEDBACK

**APPENDIX F  
NOTICE OF NOMINATION OF CANDIDATES**

Notice is hereby given that a meeting of the Electors of the Neskonlith Indian Band will be held at \_\_\_\_\_ on \_\_\_\_\_,  
the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ from \_\_\_\_\_ o'clock until \_\_\_\_\_ o'clock of the same day for the purpose  
of nominating candidates for election to the Council of Neskonlith Indian Band.

A copy of the Voter's List is posted in the following places:

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_

All candidates must acknowledge, either in writing or orally to the Electoral Officer at the nomination meeting that they are willing to run for office. If no such acknowledgement can be obtained, the nomination shall not stand.

It is the personal responsibility of each Elector to ensure that the Band's Membership Clerk has their current and correct mailing address. The Membership Clerk must be informed in writing of any address changes or errors in its records.

Given under my hand at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Electoral Officer

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone number

\_\_\_\_\_  
Fax number

**APPENDIX G  
VOTER DECLARATION TO ACCOMPANY MAIL-IN BALLOTS**

I, \_\_\_\_\_ (print name), swear or affirm that:

1. I am a member of the Neskonlith Indian Band,
2. I will be 18 years of age or older on the upcoming election day,
3. I know of no reason why I am ineligible to vote for a candidate for Chief and for Council.

Sworn on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, in \_\_\_\_\_, BC.

\_\_\_\_\_  
Signature of Elector

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Name of witness

DRAFT FOR FEEDBACK

**APPENDIX H  
NOTICE OF POLL**

Notice is hereby given to the Electors of the Neskonlith Indian Band that a poll will be held for the election of Chief and five Councillor positions. One of the five Councillor positions is reserved for a member who is representative in Salmon Arm and ordinarily resident on Switsemalph 3 reserve.

The poll will be open on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,  
from the hour of \_\_\_\_\_ o'clock in the morning until \_\_\_\_\_ o'clock in the evening at  
\_\_\_\_\_ and \_\_\_\_\_.

A copy of the Voter's List is posted in the following places:

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_

I will attend at Neskonlith 2 on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ immediately after the close of the poll to count the votes and declare the result of the election.

Ballots will be mailed to all Electors who live off-Reserve. It is the personal responsibility of each Elector to ensure that the Band's Membership Clerk has their current and correct mailing address and is informed in writing of any address changes, or errors in its records.

Electors can vote only once, either in person at one of the on-Reserve polls or through a mail-in ballot.

Given under my hand at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
Electoral Officer

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone number

\_\_\_\_\_  
Fax number

**APPENDIX I  
BALLOT**

CHOICE(S) TO BE MARKED "X" OR BY CHECK MARK "✓".

Election of Council for the Neskonlith Indian Band this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

**FOR CHIEF**

One to be Elected. Mark Only One

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_
5. \_\_\_\_\_

**FOR COUNCILLOR**

Six to be elected

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_
5. \_\_\_\_\_
6. \_\_\_\_\_

**FOR SALMON ARM REPRESENTATIVE COUNCILLOR**

One to be elected. Must be ordinarily resident on Switsemalph 3 reserve.

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_
5. \_\_\_\_\_

**APPENDIX J  
WITNESS STATEMENT**

I do solemnly declare that, prior to the sealing of the ballot box for the 20 \_\_\_\_ election of Neskonlith Band Councillor(s), I inspected the ballot box and am satisfied that it was completely empty.

Witness (print name): \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

DRAFT FOR FEEDBACK

**APPENDIX K  
ELECTORAL OFFICER STATEMENT**

- 1. Election for Council positions: \_\_\_\_\_
- 2. Total number of votes cast: \_\_\_\_\_
- 3. Total votes cast for:

(Number of)	(Candidate)
(Number of)	(Candidate)
(Number of)	(Candidate)
(Number of)	(Candidate)
(Number of)	(Candidate)
(Number of)	(Candidate)
(Number of)	(Candidate)

4. Total number of ballots rejected and/or cancelled: \_\_\_\_\_

5. Name(s) of candidate(s) elected and ranked in order of votes received:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**APPENDIX L  
DECLARATION OF DESTRUCTION OF BALLOTS**

1. Date of election:
2. Position to be filled: Chief and Councillor(s).
3. Names of candidates elected:

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I, \_\_\_\_\_, was present when Electoral Officer \_\_\_\_\_, destroyed all ballots cast in the above noted election, and that this event took place at retained for 45 days from the date on which the election was held or until a decision on an election appeal was rendered, whichever date was later.

\_\_\_\_\_  
Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature