

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 The Neskonlith Indian Band *Custom Election Regulations December 2, 1996*, as amended on January 25, 2007, is hereby repealed and replaced with this *Neskonlith Indian Band Custom Election and Governance Code, 2026* (the “Code”).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

### 3. INTERPRETATION

- 3.1. The following definitions apply in this Code:

- (a) “**Appellant**” means an individual who submits an appeal of an Election, in accordance with this Code.
- (b) “**Band**” means the Neskonlith Indian Band.
- (c) “**Band Council Resolution**” means a formal resolution adopted by the Council and approved by quorum during a duly convened Council meeting.
- (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 Member who has been nominated to be a candidate for the position of Kukpi7 or Tkwapila7 and who meets the requirements to be a candidate under this Code.
- (g) “**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.
- (h) “**Code**” means this *Neskonlith Indian Band Custom Election and Governance Code, 2026*.
- (i) “**Code of Ethics**” means guidelines, general rules of behaviour and standards established in accordance with section 18.1 of this Code, which govern the conduct of Candidates running for office and their supporters relating to their participation in the electoral process.
- (j) “**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.
- (k) “**Council**” means the body composed of those persons elected pursuant to this Code to govern the Band.
- (l) “**Director of Operations**” means the Employee position within the Band administration that reports directly to Council and has responsibility for overseeing the day-to-day operations of the Band.
- (m) “**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.
- (n) **“Election”** means a general election or By-Election of the Band held pursuant to the provisions of this Code.
- (o) **“Election Adjudicator”** means a person who has been appointed to the role of election adjudicator by Council in accordance with this Code.
- (p) **“Election Report”** means the final report of the Chief Electoral Officer, submitted under section 28 in substantially the form set out in Appendix J.
- (q) **“Elector”** means a person who:
  - (i) is a Member of the Band; and
  - (ii) at least 18 years of age on Polling Date.
- (r) **“Election Regulations Committee”** means the committee established by Council as more particularly described under section 12.
- (s) **“Electoral Assistant”** means a person appointed by the Chief Electoral Officer to assist him or her in the conduct of the Election process.
- (t) **“Employee”** means an employee of the Band and includes both full-time and part-time employees.
- (u) **“Fundamental Amendments”** mean any amendments to this Code which result in the removal of, addition of, or materially change any of the rights and obligations set out in the provisions of this Code.
- (v) **“General Band Meeting”** means all routine meetings of the Band to discuss and vote on general Band business.
- (w) **“Kukpi7” or “Chief”** means the position of Kukpi7 or chief of the Band. The Kukpi7 is a member of Council.
- (x) **“Mail-in Ballot”** means a ballot package mailed or delivered to an Elector in accordance with this Code.
- (y) **“Member”** means a registered member of the Band.
- (z) **“Membership Clerk”** means the Band Employee responsible for maintaining the Band’s membership list, including Member addresses and contact information.
- (aa) **“Minor Amendments”** mean minor or clerical amendments to this Code which do not materially affect the rights and obligations set out in the provisions, including textual changes to correct grammatical errors, typographical errors, referencing errors, and other administrative changes.
- (bb) **“Nomination Meeting”** means the public meeting at which persons nominate Members to stand as Candidates in an Election.

- (cc) **“Oath of Electoral Officer”** means the oath taken by the Chief Electoral Officer and Electoral Assistant in accordance with this Code, as set out in Appendix A.
- (dd) **“Oath of Nominated Persons”** means the oath taken by nominated Candidates to run for office in accordance with this Code, as set out in Appendix D.
- (ee) **“Oath of Office”** means the oath taken by an elected Candidate to uphold the office in accordance with this Code, as set out in Appendix B.
- (ff) **“Ordinarily Resident”** refers to the place where an Elector is ordinarily resident.
- (gg) **“Polling Date”** means the day on which an Election, By-Election, or Referendum is to be held under this Code.
- (hh) **“Polling Station”** means a building, hall or room which is selected as the site at which voting takes place.
- (ii) **“Public Voters List”** means the list of names of Members eligible to vote in an Election which is publicly posted.
- (jj) **“Referendum”** means a referendum on amendments to this Code conducted in accordance with Part G of this Code.
- (kk) **“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.
- (ll) **“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.
- (mm) **“Reserve”** means Neskonlith 1, Neskonlith 2, and Switsemalph 3.
- (nn) **“Resources of the Band”** means any equipment, material, Member data or intellectual property of the Band or a Related Body.
- (oo) **“Salmon Arm Candidate”** means a Candidate who:
- (i) is Ordinarily Resident on Switsemalph 3;
  - (ii) declares at the time of nomination that they are running as the Salmon Arm Candidate; and
  - (iii) meets all other requirements to be a Candidate under this Code.
- (pp) **“Salmon Arm Tkwamipla7”** means the Salmon Arm Candidate elected to hold the designated seat described in section 6.2.

- (qq) **“Special Band Meeting”** means a Band meeting called to discuss and decide upon specific and/or urgent Band business.
- (rr) **“Tkwapla7”** or **“Councillor”** means a duly elected member of the Council of Neskonlith Indian Band.
- (ss) **“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.
- (tt) **“Voter Declaration Form”** means a document in the form of Appendix H 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.
- (uu) **“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.
- (vv) **“Whipman”** means the person described in section 10.1.

## **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 Polling Date;
  - (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 *Neskonlith 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.

## 5. NOMINATORS

- 5.1. In order to be entitled to nominate a Candidate for Election, both the nominator and seconder 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 Kukpi7 or Tkwamipla7 verbally at the Nomination Meeting.

## 6. COUNCIL

- 6.1. The Council shall consist of:
  - (a) One (1) Kukpi7; and
  - (b) Five (5) Tkwamipla7s.
- 6.2. One Tkwamipla7 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 (the “**Salmon Arm Tkwamipla7**”).
- 6.3. Notwithstanding s. 6.2, if no 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. Kukpi7 and Tkwamipla7s 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 Kukpi7 and Tkwamipla7s shall be four years.
- 6.7. The term of office for newly elected Kukpi7 and Tkwamipla7s 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 Kukpi7 and Tkwamipla7s expires on Polling Date.
- 6.9. A Kukpi7 or Tkwamipla7 position will automatically become vacant if:

- (a) the Kukpi7 or Tkwamipla7 fails to sign an Oath of Office upon taking office, no later than the date of the swearing in ceremony;
  - (b) the Kukpi7 or Tkwamipla7 resigns in writing, by way of letter to the Council;
  - (c) the Kukpi7 or Tkwamipla7 misses three consecutive Council meetings without excuse by a quorum of Council;
  - (d) the Kukpi7 or Tkwamipla7 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 Kukpi7 or Tkwamipla7 dies;
  - (f) the Kukpi7 or Tkwamipla7 is removed from office in accordance with this Code; or
  - (g) the Kukpi7 or Tkwamipla7 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 the Oath of Electoral Officer.
- 8.6. The Chief Electoral Officer may make such orders and issue such instructions consistent with the provisions of this Code as they may deem necessary for the effective administration of the Election.
- 8.7. 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 Band'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.
- 8.8. The Chief Electoral Officer shall carry out his / her duties in accordance with this Code.

## **9. ELECTORAL ASSISTANT**

- 9.1. One or more Electoral Assistants may be appointed and authorized by the Chief Electoral Officer to carry out any duties relevant to the Election.
- 9.2. An Electoral Assistant may be a Member but may not be a Candidate and may not vote in the Election.
- 9.3. An Electoral Assistant shall have such powers as delegated to the Electoral Assistant by the Chief Electoral Officer.

9.4. Each Electoral Assistant shall swear the Oath of Electoral Officer.

## **10. WHIPMAN**

10.1. The Whipman is an independent and impartial officer of the Band responsible for:

- (a) assisting Membership in communicating matters of importance to Kukpi7 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.

10.2. 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.

10.3. The Whipman may be removed by majority vote of eligible voters at a General Band Meeting.

10.4. 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.

10.5. 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.

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

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

## **11. COMMITTEES**

- 11.1. From time to time, as required, Council will establish committees to provide community involvement in a specific portfolio. Committees will be formed by way of Band Council Resolution.
- 11.2. Council is responsible for establishing the committee, setting its mandate, and approving the Terms of Reference in accordance with the *Neskonlith Indian Band Financial Administrative Law* or any successor thereof.

## **12. ELECTION REGULATIONS COMMITTEE**

- 12.1. Upon the enactment of this Code, Council shall establish an Election Regulations Committee consisting of between five (5) and ten (10) members.
- 12.2. The initial members of the Election Regulations Committee shall be appointed by Council and must have appropriate qualifications or experience to sit on the Election Regulations Committee, as determined by Council acting reasonably.
- 12.3. In reviewing applications for the initial members of the Election Regulations Committee, Council shall make reasonable efforts to appoint:
  - (a) Members residing on each of the Band's reserves;
  - (b) at least one Member residing off-reserve;
  - (c) at least one Secwepemc elder; and
  - (d) Members representing different Band families.
- 12.4. The initial members of the Election Regulations Committee shall be appointed for a term of one year.
- 12.5. The initial members of the Election Regulations Committee shall elect a Chair and Vice-Chair of the Committee.
- 12.6. The initial Election Regulations Committee shall work with Council to create Terms of Reference for the Election Regulations Committee, including establishing selection criteria for the addition or removal of Committee members.
- 12.7. In addition to any role granted to it under its mandate and Terms of Reference, the primary responsibility of the Election Regulations Committee is the periodic review of this Code to identify any proposed areas for amendment under Part G.
- 12.8. Where the provisions of the mandate and/or Terms of Reference of the Election Regulations Committee conflict with this Code, the provisions of this Code will apply.

## **13. MEMBERSHIP CLERK**

- 13.1. The Membership Clerk shall maintain accurate and up-to-date records of the Members of the Band for the purposes of this Code.
- 13.2. The Chief Electoral Officer may rely on the membership information provided by the Membership Clerk.

## **PART C: ELECTORAL PROCESSES**

## **14. THE VOTERS LIST**

- 14.1. At least 80 days before the day on which an Election is to be held, the Membership Clerk shall prepare a 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.
- 14.2. An Elector's address and personal information shall be used by the Chief Electoral Officer only for the purpose of effectively administering the Election.
- 14.3. 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.
- 14.4. 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 Polling Date.
- 14.5. On request, the Chief Electoral Officer or Electoral Assistant to the Chief Electoral Officer shall confirm whether the name of a person is on the Voters List.
- 14.6. 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.
- 14.7. 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.

## **15. THE DEBTORS' LIST**

- 15.1. 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.

## **16. NOTICE OF NOMINATION MEETING**

- 16.1. 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 Chief Electoral Officer.
- 16.2. The Chief 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 Chief Electoral Officer has been provided with an address.
- 16.3. A notice of a Nomination Meeting shall be in the form of Schedule C and 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 Chief 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.

16.4. The Chief 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.

## **17. HOLDING OF NOMINATION MEETING**

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

17.2. 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, acting reasonably.

17.3. The Chief 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.

17.4. A Nomination Meeting shall remain open for two hours.

17.5. 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.

17.6. A Candidate must be nominated by an Elector and seconded by another Elector.

17.7. An Elector may nominate no more than one eligible person for Kukpi7 and one eligible person for Tkwamipla7.

17.8. The nomination procedure shall be as follows:

- (a) The Chief Electoral Officer shall call for nominations for the position of Kukpi7.
- (b) Once there are no further nominations for the position of Kukpi7, the Chief Electoral Officer shall call for nominations for Salmon Arm Tkwamipla7.
- (c) Once there are no further nominations for the position of Salmon Arm Tkwamipla7, the Chief Electoral Officer shall call for nominations for the remaining Tkwamipla7 positions.

17.9. 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.

17.10. For each position, the Chief Electoral Officer shall record the name of the Candidate and whether they have been nominated for Kukpi7 or Tkwamipla7 and shall record the name of the nominator and the seconder.

17.11. At the end of the first Nomination Meeting:

if there is no more than one Candidate for the position of Kukpi7, 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 Kukpi7 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 Kukpi7, 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 Tkwamipla7, 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 Tkwamipla7 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 Tkwamipla7, 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 Tkwamipla7 than there are Tkwamipla7 positions to be filled, the Chief Electoral Officer shall convene a second Nomination Meeting for the position of Tkwamipla7 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 Tkwamipla7 than there are Tkwamipla7 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 Kukpi7, the Chief Electoral Officer shall announce that an Election will be held for the position of Kukpi7;
- (g) if at any Nomination Meeting there is more than one Candidate for the position of Salmon Arm Tkwamipla7, the Chief Electoral Officer shall announce that an Election will be held for the position of Salmon Arm Tkwamipla7; and
- (h) if at any Nomination Meeting there are more Candidates for the position of Tkwamipla7 than the number to be elected, the Chief Electoral Officer shall announce that an Election will be held for the positions of Tkwamipla7.

17.12. A Candidate must sign a confirmation of eligibility, in person and in the form of Appendix E, prior to the close of a Nomination Meeting or their nomination will be declared invalid by the Chief Electoral Officer.

17.13. 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”.

17.14. Within 24 hours of the final Nomination Meeting, each Candidate must:

- (a) pay a non-refundable \$200.00 Candidate fee in cash or by way of certified cheque made out to the Band; and
- (b) provide the Chief Electoral Officer with a signed Oath of Nominated Persons;

or their nomination will be declared invalid by the Chief Electoral Officer.

17.15. 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.

17.16. 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; and
- (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.

17.17. Within seven days of the final Nomination Meeting:

- (a) The Chief Electoral Officer shall post a notice of Election, in the form set out in Appendix F, 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;
  - (v) the list of Candidates and information on how to view the Candidate resumes;
  - (vi) the date, time, and location of the Candidate Forum; and
  - (vii) a statement that the Public Voters List is posted and its location.

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

## **18. CAMPAIGNING**

18.1. 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.

- 18.2. 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.
- 18.3. 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.

## **19. ELECTION OFFENCES**

- 19.1. 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.
- 19.2. 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.

## **20. CANDIDATE FORUM**

- 20.1. A Candidate Forum must be held no sooner than fourteen (14) days after the notice of Election has been posted and no later than fourteen (14) days before Polling Day.
- 20.2. The Candidate Forum must be held:
  - (a) in person; and
  - (b) online through a communications platform that enables Electors to participate and submit nominations through video, such as Microsoft Teams, Zoom, or comparable platform.
- 20.3. The Electoral Officer must make all necessary arrangements to hold the Candidate Forum and appoint a facilitator for the Candidate Forum.
- 20.4. At the Candidate Forum, the facilitator must allow each Candidate to address the Electors for a minimum of two (2) minutes and a maximum of five (5) Minutes.
- 20.5. Following the address of the Candidates, the facilitator must conduct a question-and-answer period, limited to one (1) question per Elector.
- 20.6. The Candidate Forum facilitator must separate the addresses and the question-and-answer periods into separate back-to-back sessions for each position, beginning with the position for Kukpi7, then the Salmon Arm Tkwapila7, and ending with the other Tkwapila7 positions.
- 20.7. If a Candidate has a valid reason that they are unable to attend the Candidate Forum in person, they must inform the Electoral Officer in writing. If the Electoral Officer accepts the reason as valid, they must notify the Candidate and the facilitator that the Candidate must:
  - (a) where practicable, attend and participate in the Candidate Forum online; or

- (b) provide a written address that is no longer than the prescribed times set out in section 20.4, to be read out loud at the Candidate Forum by the Facilitator or a person appointed by the absent Candidate.

20.8. All Candidates must address the Candidate Forum, and, if a Candidate does not address the Candidate Forum:

- (a) the facilitator must inform the Electoral Officer in writing; and
- (b) the Electoral Officer must declare the Candidate ineligible to be a Candidate, except where, in the opinion of the Electoral Officer, the Candidate has a reasonable excuse for not addressing at the Candidate Forum.

## **21. PREPARATION OF BALLOTS**

21.1. The Chief Electoral Officer shall prepare ballot papers, in substantially the form of Appendix G, setting out the names of the Candidates nominated for:

- (a) the position of Kukpi7;
- (b) the position of Salmon Arm Tkwamipla7; and
- (c) for the position of Tkwamipla7.

21.2. The Candidates for each position shall be set out on the ballot in alphabetical order by surname. The ballot may, at the request of the Candidate, include a Candidate's commonly used nickname.

21.3. 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.

## **22. MAIL-IN BALLOTS**

22.1. An Elector who is unable to vote in person on Polling Date 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.

22.2. 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;

22.3. 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.

22.4. 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.

22.5. Where an Elector is unable to vote in the manner set out in s. 22.4, 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.

22.6. A witness referred to in s. 22.5 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.

22.7. 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.

## **23. POLLING STATIONS**

23.1. 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.

- 23.2. 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.

## **24. ELECTRONIC VOTING**

- 24.1. The Chief Electoral Officer may permit electronic voting in the Election.
- 24.2. 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.
- 24.3. 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 Polling Date.
- 24.4. 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.
- 24.5. 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.
- 24.6. 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.
- 24.7. If the Chief Electoral Officer suspends voting, the Chief Electoral Officer must immediately notify the Candidates, sitting Council, Director of Operations, and the Electors, and follow the directions given in relation to the suspension.
- 24.8. 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.

- 24.9. A printed and electronic copy of the list created under s. 24.8 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.

## **25. POLLING DATE**

- 25.1. The Polling Date for a regularly scheduled Election will be the fourth (4<sup>th</sup>) Thursday in the month of January of every fourth year, unless otherwise required under this Code. For greater clarity, the first regular Election to be held after this Code is scheduled for January 27, 2027.
- 25.2. 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.
- 25.3. 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.
- 25.4. A Member who votes in person must do so at the Polling Station closest to where they are Ordinarily Resident.
- 25.5. A Candidate shall be entitled to not more than two scrutineers in a Polling Station at any one time.
- 25.6. A Candidate's scrutineer shall present a letter of authorization to the Chief Electoral Officer or the Electoral Assistant to the Electoral Officer, signed by the Candidate, in order to be permitted to remain in the Polling Station.
- 25.7. The Electoral Officer or Electoral 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;
  - (c) complete a certification of ballot box in the form set out in Appendix I; and
  - (d) place the ballot box in public view for the reception of the ballots.
- 25.8. Voting shall be by secret ballot.
- 25.9. No Elector may vote by proxy or authorize another person to vote on his or her behalf.
- 25.10. The Chief Electoral Officer or Electoral 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.
- 25.11. 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 Electoral 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.

25.12. 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 Electoral Assistant to the Chief Electoral Officer and shall show identification, if requested to do so.
- (b) The Chief Electoral Officer or Electoral 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 Electoral 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 Electoral 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 Electoral 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 they desire 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 Electoral Assistant to the Chief Electoral Officer.
- (g) On receipt of a completed ballot, the Chief Electoral Officer or Electoral 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.

25.13. 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 Electoral 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 Electoral 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.

25.14. 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.

## **26. COUNTING OF VOTES**

26.1. 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 Polling Date, the Chief Electoral Officer or Electoral 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.

26.2. 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.

26.3. 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.

26.4. The votes shall be counted as follows:

- (a) The Chief Electoral Officer or Electoral 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 Electoral 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 Electoral 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 Electoral 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 Electoral Assistant to the Electoral Officer.

- 26.5. In examining the ballots, the Chief Electoral Officer or Electoral Assistant to the Chief Electoral Officer shall reject any ballots that:
- (a) do not contain the initials of the Chief Electoral Officer or Electoral 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.
- 26.6. The Chief Electoral Officer or Electoral Assistant to the Chief Electoral Officer shall attach a note to each ballot rejected which outlines the reason for rejection.
- 26.7. Subject to review on recount or on an Election appeal, the Chief Electoral Officer or Electoral 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.
- 26.8. The Chief Electoral Officer or Electoral Assistant to the Chief Electoral Officer shall number objections to ballots raised pursuant to s. 26.7 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.
- 26.9. 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.
- 26.10. 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, they 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.
- 26.11. 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.

## **27. DECLARATION OF ELECTED CANDIDATES**

- 27.1. 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.

## **28. ELECTION REPORT**

- 28.1. 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.
- 28.2. 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 place on the Neskonlith 2 reserve and Switsemalph 3

reserve, the Election Report prepared in accordance with s. 28.1;

- (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.

## **29. RETENTION OF ELECTION MATERIALS**

- 29.1. All ballots and materials retained in accordance with s. 26.11 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.

## **30. ADMINISTERING OF OATH OF OFFICE**

- 30.1. A swearing in ceremony or ceremonies shall be scheduled for as soon as practicable following the Election, and in any event no later than 30 days following the declaration of the elected Candidates, at which the Whipman or Director of Operations shall administer the Oath of Office to each successful Candidate.

## **PART D: ELECTION APPEALS**

## **31. ELECTION APPEALS**

- 31.1. 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.
- 31.2. 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.
- 31.3. 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 Band.
- 31.4. Upon receipt of an Election appeal, Election Adjudicator shall:
- (a) in the case where the appeal is submitted in accordance with s. 31.3, 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. 31.3, inform the appellant(s) in writing that the appeal will not receive further consideration.

- 31.5. 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.
- 31.6. The Election Adjudicator may conduct such further investigation into the appeal as the Election Adjudicator deems necessary.
- 31.7. 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,
- 31.8. In the event that the Election Adjudicator finds in accordance with s. 31.7(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 Band to repay the \$500.00 fee to the appellant.
- 31.9. The decision of the Election Adjudicator shall be posted in at least one conspicuous place on the Neskoniith 2 Reserve and Switsemalph 3 Reserve as well as on the Band's webpage.
- 31.10. The decision of the Election Adjudicator is final and not subject to further appeal.

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

### **32. COMPLAINTS AND REMEDIES**

- 32.1. Any Member of the Band may submit a written complaint to the Whipman alleging that a Member of Council has committed misconduct, breached this Code, or violated applicable laws. Complaints must include sufficient detail to allow assessment.
- 32.2. 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.

- 32.3. 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.
- 32.4. 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.
- 32.5. The investigator shall conduct the investigation in accordance with principles of natural justice and procedural fairness.
- 32.6. 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.
- 32.7. The Whipman shall present the summary at a Special General Meeting called for that purpose.
- 32.8. 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.
- 32.9. For clarity, Council shall have no authority to impose a Disciplinary Measure through Band Council Resolution or other means.
- 32.10. The Band shall maintain secure records of all decisions on Disciplinary Measures. These records shall be available to any Member, upon request.

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

### **33. BY-ELECTIONS**

- 33.1. In the event that the office of Kukpi7 and/or Tkwamipla7 becomes vacant, a majority of the remaining council Members may direct that a By-Election be held.
- 33.2. 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, they 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.
- 33.3. A resignation in writing provided to the Director of Operations by a Tkwamipla7 is binding upon the Tkwamipla7.

- 33.4. Except as expressly provided otherwise in this Code, the rules and procedures in this Code shall apply to By-Elections.
- 33.5. An elected Candidate in a By-Election shall hold office for the remainder of the original term of office of the Kukpi7 or Tkwamipla7 whom they are elected to replace.

## **PART G: AMENDMENTS AND REFERENDUMS**

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

- 34.1. Minor Amendments may be made by way of Band Council Resolution, brought forward at the request of the Election Regulations Committee or on direction of Council. 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.
- 34.2. Fundamental Amendments to this Code may only be made by Referendum held after the Election Regulation Committee and/or Council has consulted with Members over a period of at least four (4) months, including at least one Special Band Meeting.
- 34.3. Final language for the Fundamental Amendments may be proposed by the Election Regulations Committee or Council and should be prepared by or in consultation with, or reviewed by, a member in good standing of the Law Society of British Columbia.
- 34.4. Any amendment to this Code will have no effect unless approved in accordance with the procedures set out herein.
- 34.5. A certified copy of the amended Code will be filed with Indigenous Services Canada for information purposes.

### **35. REFERENDUM PROCESS**

- 35.1. The proposed Fundamental Amendment(s) put forward for Referendum shall be set out in writing and made available to eligible voters not less than 60 days before the Referendum Polling Date.
- 35.2. The Chief Electoral Officer shall give notice of the Referendum at least 45 days before the Polling Date.
- 35.3. 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.
- 35.4. 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.
- 35.5. Each eligible voter shall be entitled to vote “Yes” or “No” on each proposed amendment.
- 35.6. 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.
- 35.7. Where the participation threshold is not met, the referendum shall be deemed invalid, and the amendment shall not take effect.
- 35.8. The Chief Electoral Officer shall certify the results of the referendum within 7 days of the close of voting.
- 35.9. The results shall be posted publicly and provided to Kukpi7 and Council.
- 35.10. 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.
- 35.11. 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.
- 35.12. No amendment shall have retroactive effect unless expressly stated and approved by Referendum.
- 35.13. 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.
- 35.14. A Referendum on any other governance question may be initiated by a Band Council Resolution passed by a majority of Kukpi7 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**

### **36. REMUNERATION**

- 36.1. Council shall establish a Remuneration Review Panel to review and make recommendations on the remuneration of the Kukpi7 and Tkwamipla7s in accordance with this section.
- 36.2. 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 Band 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.
- 36.3. 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.
- 36.4. The Panel shall:

- (a) review the remuneration of the Kukpi7 and Tkwamipla7s 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 Kukpi7 and each Tkwamipla7 respectively;
  - (ii) the level of responsibility associated with each role;
  - (iii) the remuneration paid to elected officials of comparable Bands in the region;
  - (iv) the remuneration paid to elected officials of comparable municipal governments in the province;
  - (v) the financial capacity of the Band; and
  - (vi) any other factor the Panel considers relevant.

36.5. 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 Band's website.

36.6. 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.

36.7. 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 Band's expense with the approval of the Finance and Audit Committee.

36.8. 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.

**37. MEMBERSHIP HOURS AND REPORTING ON TRIPS**

37.1. The Kukpi7 and Tkwamipla7s shall maintain reasonable membership hours to be available to members for community business.

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

37.3. 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.

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

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

37.6. 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.

37.7. 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 Band on the **\*\* day of \*\*\*\*, 2026** and will come into force on the date it is authorized by the Neskonlith Indian Members of Council.

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

**[signature blocks to be inserted]**

**APPENDIX A  
OATH OF ELECTORAL OFFICER**

As the Chief Electoral Officer/ Electoral 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)

\_\_\_\_\_  
(Name)

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

**APPENDIX B  
OATH OF OFFICE**

**DECLARATION:**

Sworn before [NAME] the [Director of Operations/Whipman] for Neskonlith Indian Band.

I, do solemnly swear (or affirm) that:

1. I am a Neskonlith 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 Members.
3. I will at all time during my term of office comply with the Neskonlith Indian Band Kukpi7 & 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 Kukpi7 or Tkwamipla7

\_\_\_\_\_  
Signature of [name/title]

**APPENDIX C**  
**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 D  
CONFIRMATION OF ELIGIBILITY**

To be administered by the Electoral Officer or Electoral 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/ Electoral Assistant to the Electoral Officer  
*(circle which applies)*

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

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

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

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

**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 Neskonalith 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)*

PROPOSED FOR VOTE

**APPENDIX F  
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 Kukpi7 and five Tkwamipla7 positions. One of the five Tkwamipla7 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 G  
BALLOT**

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

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

FOR KUKPI7

One to be Elected. Mark Only One

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

FOR TKWAMIPLA7

Six to be elected

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

FOR SALMON ARM REPRESENTATIVE TKWAMIPLA7

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

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

**APPENDIX H**  
**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 Polling Date,
3. I know of no reason why I am ineligible to vote for a candidate for Kukpi7 and for Council.

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

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

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

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

**APPENDIX I  
WITNESS STATEMENT**

I do solemnly declare that, prior to the sealing of the ballot box for the 20 \_\_\_\_ election of Neskonlith Band Tkwapla7(s), I inspected the ballot box in the presence of the below witness and am satisfied that it was completely empty.

Chief Electoral Officer (print name): \_\_\_\_\_

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

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

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

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

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

PROPOSED FOR VOTE

**APPENDIX J**  
**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) |
| (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:

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**APPENDIXK**  
**DECLARATION OF DESTRUCTION OF BALLOTS**

1. Date of election:
2. Position to be filled: Kukpi7 and Tkwamipla7(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