



# TAKLA NATION

HEALTH ▪ PROSPERITY ▪ TRADITION

Takla Lake First Nation Election Code

Effective January 23, 2015

## Custom Election Code

October 15, 2014

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**TAKLA LAKE FIRST NATION  
CUSTOM ELECTION CODE**

**WHEREAS** "we" the Takla Lake First Nation, are an independent First Nation with a right of self-government and aboriginal rights and title in our Territory;

We wish to retain control of our own system of electing our Chief and Council and to amend our Takla Custom Election Code which was passed on April 26, 2004 by our members; and

Takla has been advised by Aboriginal Affairs and Northern Development Canada and by advisors that the former Election Code was potentially not in compliance with Canadian law, particularly in relation to the rights of off-Reserve members;

**THEREFORE**, based the terms of amendment in Section 15 of this Code, consistent with the previous Election Code, we hereby repeal our April 26, 2004 Custom Election Code and replace it with this new Takla Custom Election Code dated October 15, 2014.

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## DEFINITIONS AND INTERPRETATION

"Appeals Authority" means the individual, entity or group appointed to review complaints and appeals and make binding decisions with respect to appellant and Council submissions to address complaints and appeals subject to terms of the Code.

"Appellant" means the person who has submitted an appeal or complaint relating to an election;

"Band" means the Takla Lake First Nation;

"Band Administrator" means the person appointed by Council to oversee all Takla Lake First Nation operations. If there is no Band Administrator, the Financial Controller will carry out the Band Administrator functions under this Election Code;

"By-election" means a special election to fill a position on the council that has become vacant before the expiry of the term of office;

"Candidate" means a Band Member who:

- (a) Is the age of eighteen (18) years or older on the day of the nomination meeting;
- (b) Has been a Band Member for a period of not less than twelve (12) consecutive months immediately preceding the day of the nomination meeting;
- (c) Has been duly nominated to be a candidate under the provisions of this Code; and
- (d) Who has declared that there is no impediment to the candidacy;

"Candidates' Scrutineer" means an individual appointed in writing by the candidate they are representing to observe activities at a polling station;

"Chief" means the elected Takla representative on Council under this Code that in addition to rights and responsibilities of a Councilor is the leader and Chief of Takla;

"Code" means this Takla Custom Election Code;

"Council" means the body composed of elected Takla representatives under this Code;

"Deputy Chief" means the Councilor with the highest number of votes who, in the absence of the Chief, is designated as the Council meeting chair.

"Electoral Officer" means a person appointed by the Band Council Resolution before each election who has responsibility for overseeing the nomination meeting, election and post-election procedures and, where required, includes any duly appointed deputy Electoral Officers;

"Election" means a general Takla election or by-election held under this Code;

"Elector" means a person who:

- (a) is a Band Member; and
- (b) is the age of eighteen (18) years or older on the day of the nomination meeting is held;

"Elder" means a Band member who is fifty-five (55) years of age or over;

"Member" means person who is on the list of Takla Lake First Nation Band Members and has all the rights and responsibilities as a Band Member described herein and in Takla Lake First Nation policy;

"Ordinarily Resident" generally means:

- (a) the place the person normally eats and sleeps;
- (b) the place the person receives personal mail;
- (c) the residence of the person's immediate family;
- (d) the place of employment of the person;
- (e) that a person can only be ordinarily resident in one place at one time, and a person is ordinarily resident in that place until another place of ordinary residence is established; and
- (f) that a person may be temporarily absent from their 'ordinary residence' for such purposes as education, medical care and temporary employment.

"Polling Station" means a place selected to be the site for voting to take place;

"Takla" means the Takla Lake First Nation; and

"Voters List" means the list of Eligible Electors as developed, maintained and amended by the Electoral Officer under this Code.

The use of masculine pronouns in this document is for convenience only and includes the feminine.

**1. COUNCIL SIZE, TERM, QUORUM AND CONDUCT OF MEETINGS***Council*

1.1 Takla Council shall consist of five (5) members: one (1) Chief and four (4) Councillors, one of whom will also be the Deputy Chief.

(a) The Council shall be elected under this Election Code and the Council elected under this Election Code shall be the duly authorized representatives of Takla.

*Council Terms*

1.2 The term of office for all Councillors shall be four (4) years, with elections to be held on a staggered basis every two (2) years.

1.3 Elections shall be held every two years, with the last polling station being held no later than the third Saturday of May with the first election under this revised Election Code being held on May 14, 15 and 16, 2015.

1.4 In the first election under this revised Election Code:

(a) The Chief plus the two (2) Councillors with the highest vote totals amongst Councillors shall be elected to initial terms of four (4) years;

(b) The Councillor with the second highest number of votes shall also be the Deputy Chief.

(c) The two (2) other Councillors who are successfully elected in the first election under this revised Election Code but who have the lowest vote totals shall each have a term of two (2) years. Subsequent elections for these two Councillor positions will be for four (4) terms.

1.5 The terms of all Chief and Councillors positions shall end precisely at midnight on the third Friday of May in the respective year that their term is to end, subject to Sections 1.2 to 1.4 of this Code, at which time their respective positions shall be open for election.

*Oath of Office*

1.6 Despite subsections 1.2 to 1.4, no Councillor including the Chief shall participate in any meetings, make any decisions, sign any documents or receive any honoraria, pay or expense reimbursements until he or she has been sworn in and signed a notarized copy of the official Takla Oath of Office.

(a) This section does not apply to voting to break a tie under subsections 11.10 and 11.11.

*Quorum*

1.7 The quorum for Council will be a simple majority of the Councillors. If the number of Council is an even number, the quorum is one (1) more than half the members. The quorum for a five (5)-person Council is three (3).

*Conduct of Meetings*

1.8 The Chief will chair meetings of Council if present.

(a) The Deputy Chief will chair meetings with a majority of Councillors present when the Chief is not present.

1.9 When a formal Council meeting is not possible, decisions on a matter may be made by a Band Council Resolution, provided that:

(a) all Councillors are notified and given an opportunity to review and sign the

- Resolution,
- (b) the Resolution is signed by a majority of Councillors,
- (c) the resulting Resolution is sent to all Councillors, and
- (d) the Resolution is summarized or reviewed at the next meeting of Council.

## 2. ROLE AND CONDUCT OF COUNCIL

- 2.1 Council shall represent Takla membership and exercise all of its powers including, but not limited to, protecting Aboriginal rights and title, consideration, development and passing of Takla laws, bylaws, and policies, and overseeing the financial management and administration of Takla.
- 2.2 Councillors will refer staff and community members who have complaints or concerns to speak first with the Band Manager or other administrative representative appointed by Council, and will only respond to such complaints or concerns if they have not been satisfactorily addressed at the administrative level.
- 2.3 Council shall act in the best interests of Takla at all times and Councillors shall not put their interests ahead of Takla's interests.
- 2.4 Council shall seek to avoid any conflict of interest or perception of conflict of interest and will comply with the Conflict of Interest rules or guidelines set out in the Takla Policy Manual or any Takla Band Council Resolution, law or bylaw.
- 2.5 Council shall be accountable to Takla members and shall conduct business and make decisions in an open, transparent and accountable manner.
- 2.6 Council shall demonstrate good governance and leadership by setting and following decision making processes solely intended to achieve the objectives of promoting good health, independence, and the general interests for and of Takla and its Members.
- 2.7 Council shall seek to maintain and enhance the quality of life for all Members through effective, responsible and respectful governance and administration.
- 2.8 Council will comply with all requirements, including the accountability requirements set out in the Takla Policy and Procedure Manual and in any relevant law, bylaw, policy, funding or other agreement, program or terms of reference.
- 2.9 Councillors will act in a diplomatic manner and refrain from abusive conduct, verbal attacks, swearing and any personal attacks on Councillors, staff, committees, the community or Band members.
- 2.10 Councillors shall prepare themselves for meetings, listen respectfully and attentively to all discussions, and focus on the business at hand. Councillors will not interrupt speakers, make personal comments, or otherwise disturb or disrupt meetings.
- 2.11 Councillors shall be compassionate and understanding in carrying out their roles and duties.
- 2.12 Councillors will carry out their duties and make all decisions in a fair and impartial manner. Councillors will respect diversity and will not discriminate against any individual or family. All decisions will be made objectively and based on merit and substance and not on personal or political issues or other unrelated considerations.
- 2.13 Any Council member charged in a court of law with an indictable offense will be presumed innocent unless proven otherwise but in the interest of stable governance will temporarily step down from Council and will not participate in any meetings or decision-

- making until the legal issue is resolved or a new election takes place, which occurs first.
- 2.14 For greater certainty, subsection 2.13 does not apply to a Councillor who is charged with an indictable offense due to efforts made in furtherance of exercising or protecting Takla's aboriginal rights or title or as part of carrying out legitimate duties or responsibilities as a Council member.

### 3. ELIGIBILITY FOR OFFICE

- 3.1 To be eligible to run for Chief or Council of Takla, an individual must:
- (a) Be at least eighteen (18) years old on the day of the nomination meeting; and
  - (b) Be a Takla Member and have been a Member for a period of not less than twelve (12) months immediately preceding the day of the nomination meeting.

### 4. PRE-NOMINATION PROCEDURES

#### *Electoral Officer*

- 4.1 Band Council shall appoint a qualified individual as Electoral Officer by Band Council Resolution not less than ninety (90) days before the end of the term of office of any Councillor.
- 4.2 If Council fails to appoint a qualified Electoral Officer as required by subsection 4.1, the Band Administrator shall appoint a qualified Electoral Officer not less than eighty-five (85) days before the end of the term of office of any Councillor.
- 4.3 The Electoral Officer must 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 18 years of age; and
  - (d) has experience in the conduct of elections or has received appropriate training.
- 4.4 The Electoral Officer shall be appointed by a Takla Band Council Resolution, or, if necessary under subsection 4.2 by registered letter, which will contain, at a minimum:
- (a) the full name and address of the Electoral Officer;
  - (b) the terms of his or her appointment, the rate of pay, and the estimated budget to carry out the election in accordance with this Election Code;
  - (c) the type of election (general or by-election);
  - (d) the proposed date of the nomination meeting and election and any other key dates; and
  - (e) any other special instructions or relevant information that are consistent with this Election Code.
- 4.5 The Electoral Officer may appoint in writing any such deputy electoral officers, interpreters or security personnel that he or she deems necessary and Takla shall pay for these positions.

#### *Election File*

- 4.6 The Electoral Officer shall establish an election file and place in this file copies of all documentation associated with the election and this file shall remain open until the post-election appeal period of thirty (30) days has expired.



(a) The Electoral Officer shall then close the file and send it to the Takla Band Office.

*Nomination Meeting Date*

4.7 The Electoral Officer shall, in consultation with Council, confirm the dates for the election, and for the nomination meeting which shall be between forty (40) and forty-five (45) days before the election date.

*Voters List*

4.8 At least seventy-nine (79) days before the election date, Council, the Band Administrator, the membership clerk or another individual appointed by Council shall provide the Electoral Officer with an initial master voters list containing:

- (a) the names of all Takla Electors listed alphabetically;
- (b) their birth dates;
- (c) their membership numbers; and
- (d) the last known address of each Elector.

4.9 The Electoral Officer shall keep the master voters' list strictly confidential, use the information strictly for the purpose of conducting the election, and not share or use the information for any other purpose except as explicitly set out in this Code.

4.10 The Electoral Officer shall review the initial master voters list and from it prepare a Voters List.

4.11 At least ten (10) days prior to the nomination meeting and after each amendment to the Voters List, the Electoral Officer shall post, or cause to be posted, at the Takla Band Offices at Takla Landing and Prince George and if possible on the Takla web-site, the list of names (and no other information) on the Voters List and make copies available for any Takla Member upon request.

4.12 Any Band Member may provide additional information or ask questions regarding the Voters List and the Electoral Officer may, at his or her sole discretion, amend the Voters List at any time subject to the criteria defining Electors.

4.13 Each time the Electoral Officer amends the Voters List, he or she shall repeat the process set out in subsections 4.11 and 4.12.

*Nomination Meeting*

4.14 At least seventy-two (72) days before the date of the election, the Electoral Officer shall:

- (a) Post a notice in the Takla Band Offices at Takla Landing and Prince George, and if possible on the Takla web-site; and
- (b) Mail, to every Elector for whom he or she has an address, a package containing at least:
  - (i) A notice of the nomination meeting including the date, time, place and expected duration of the meeting;
  - (ii) A statement that a copy of the Voters List may be obtained from the Electoral Officer or other designated location(s) which may include the Takla Administration Offices;
  - (iii) The eligibility requirements for candidates;
  - (iv) The number and type of positions to be elected;
  - (v) A statement that a copy of this Election Code may be obtained from the Electoral Officer or other designated official which may include the Band Administrator;
  - (vi) A statement that any Elector may nominate a candidate by mail-in nomination;

- (vii) A copy of the Nomination Form and a self-addressed return envelope; and
  - (viii) The date, time and location of the Election poll.
- 4.15 In the event that the Electoral Officer cannot fulfill his/her duties, an existing deputy electoral officer shall be appointed to undertake the duties of the Electoral Officer.
- (a) In the absence of an existing deputy electoral officer, Council shall as soon as possible appoint a new Electoral Officer by Band Council Resolution, or if Council fail to appoint a replacement Electoral Officer within seven (7) days of the original Electoral Officer's resignation or departure, the Band Administrator shall make the appointment.

## 5. NOMINATION ELIGIBILITY

- 5.1 Only Electors are eligible to nominate or second a nomination of a candidate.
- 5.2 Only Electors who meet all of the eligibility requirements to be a candidate may be nominated as a candidate.
- 5.3 Each Elector may nominate a maximum of two (2) candidates and second a maximum of two (2) candidates.
- 5.4 A candidate who is nominated for both Council and Chief may run for both positions.
- 5.5 All candidates who are nominated and who wish to accept their nomination must:
- (a) Prior to the end of the nomination meeting, pay to the Electoral Officer by cash, money order or certified cheque, a refundable deposit in the amount of \$150 for the position of Chief and \$100 for the position of Councillor; and
  - (b) Sign a declaration stating:
    - (i) That they have read and understood and agree to act in full compliance with the Takla Lake First Nation Policy and Procedure Manual including the provisions prohibiting abuse of drugs and alcohol;
    - (ii) That they authorize Takla to recover from them at any time any debts they owe to Takla;
    - (iii) That they will provide a Criminal Record check to the Electoral Officer within thirty (30) days of the nomination meeting;
    - (iv) That they will effectively begin their position upon signing the Oath of Office, as soon as possible within one (1) week of the election results, if they are elected.
- 5.6 A candidate who is already on Council may be nominated for the position of Chief when the position is open for election prior to the scheduled end of his or her term.
- 5.7 Nominations must be received and accepted by the Electoral Officer as per the terms of Section 7.

## 6. NOMINATION MEETING

- 6.1 The nomination meeting shall be held between forty (40) and forty-five (45) days before the date of the election as per subsection 4.7.
- 6.2 At the time and place advertised in the notice for the nomination meeting, the Electoral Officer shall:
- (a) Declare nomination meeting open;
  - (b) Explain the purpose of the meeting;

- (c) Summarize the nomination procedure, the limits on nomination and seconding, and the eligibility requirements for nominators and candidates;
  - (d) Announce any valid mail-in nominations received; and
  - (e) Invite nominations of candidates for the advertised available positions.
  - (f) Facilitate appointment of the Appeals Authority subject to terms of Section 12.
- 6.3 The Electoral Officer shall keep the nomination meeting open for a minimum of two (2) hours or until he or she believes that all Electors present have had an opportunity to make their nominations.
- 6.4 The Electoral Officer shall maintain order at all times during the nomination meeting and has the authority to order the removal of any person who, in his or her opinion, is disrupting or otherwise interfering with the meeting.
- 6.5 To be complete and valid, any nomination must include:
- (a) A completed nomination form in the form set out by the Electoral Officer;
  - (b) Signatures from the nominator, seconder and candidate;
  - (c) The signed declaration form from the candidate as required by subsection 5.5; and
  - (d) The refundable deposit as required by subsection 5.5.
- 6.6 The Electoral Officer shall record the name of each candidate nominated, the nominator and the seconder, and shall determine and announce whether the nomination is valid.
- 6.7 Any person nominated may decline the nomination at the nomination meeting.
- (a) A candidate wishing to decline or withdraw must give the Electoral Officer a signed notice witnessed and signed by another adult.
  - (b) Candidates may withdraw at any time up to the close of the poll on election day, but their deposit becomes non-refundable if they withdraw before the election day.
  - (c) Despite subsection 6.7(b), if the Electoral Officer receives a duly signed withdrawal less than thirty-seven (37) days before the election date, the candidate's name will appear on the ballot but votes for the candidate who has withdrawn will not be counted.
- 6.8 If the number of candidates nominated by the end of the nomination meeting for the position of Chief or Councillor is less than or equal to the number of positions open for election for that position, the Electoral Officer will declare the nominated candidates for that position to be elected by acclamation.
- 6.9 If the number of candidates nominated by the end of the nomination meeting for the position of Chief or Councillor exceeds the number of positions open for election for that position, the Electoral Officer will announce the date of the election.

## 7. PRE-ELECTION PROCEDURE

### *Election Notices*

- 7.1 Not less than thirty-five (35) days before the election date, the Electoral Officer shall post an election notice setting out the dates, times and places for voting in the election poll.
- 7.2 The election notice shall:
- (a) Be posted in the Takla Band Offices in Takla Landing and Prince George and, if possible, on the Takla web-site and in other places deemed appropriate by the Electoral Officer; and

## (b) Include:

- (i) Notice that a copy of this Code and the Voters List may be obtained from the Electoral Officer or from another specified locations which may include the Takla Landing or Prince George Band Offices;
- (ii) The names of the candidates and location where they are ordinarily resident; and
- (iii) The dates, times and locations of Polling Stations.

*Packages by Mail*

7.3 At least thirty-five (35) days before the date of the election, the Electoral Officer shall mail to every off-Reserve member for whom he or she has a mailing address, a package consisting of:

- (a) A copy of the election notice;
- (b) A statement that a copy of the Voters List may be obtained from the Electoral Officer or another designated location which could include the Takla Administration Office;
- (c) A statement that a copy of this Election Code may be obtained from the Electoral Officer or another designated locations which may include the Takla Landing and Prince George Band Offices;
- (d) A statement that any Elector may vote by mail-in ballot or may vote in person on the election day;
- (e) Instructions for voting by mail-in ballot;
- (f) A Voter Declaration Form;
- (g) A ballot;
- (h) An envelope labelled "Ballot Only"; and
- (i) A self-addressed, stamped, return envelope.

*Polling Stations*

- 7.4 The Electoral Officer shall establish at least one (1) polling station on the Reserve at Takla Landing and at least one (1) polling station at the Takla Administration office in Prince George.
- 7.5 The Electoral Officer shall prepare enough ballots and each ballot will have the names, in alphabetical order by last name followed by first name and, if appropriate nickname, of all of the candidates for Chief and Council.
- 7.6 The Electoral Officer shall provide enough ballot boxes, marking pencils, voting instructions, and other materials as required to carry out the election.
- 7.7 The Electoral Officer shall set up polling booths at the locations set out in the notice and shall ensure that each polling booth has sufficient screens or other appropriate arrangements to ensure voter privacy.
- 7.8 The Electoral Officer shall, when required, appoint an interpreter for all voters who require assistance for any reason and the interpreter shall assist the voter in the presence of the Electoral Officer.
- 7.9 If the Electoral Officer intends to open the mail-in ballots before the close of the poll, he or she must specify the time and place and notify all candidate of that intention and invite them to have a scrutineer present to observe the opening.

**8. CODE OF CONDUCT FOR CAMPAIGNS**

**8.1 All Candidates shall campaign:**

- (a) according to rules and regulations established in this Code and pursuant to the Code of Conduct for Council;
- (b) without coercion, vote-buying or bribery of any kind;
- (c) respecting the rights and freedoms of parties to organize and campaign;
- (d) respecting the rights of voters to obtain information from a variety of sources and to attend political rallies;
- (e) ethically, focusing on political issues and candidate platforms, instead of conducting smear campaigns or ones of rumour and innuendo;
- (f) non-violently, without intimidating opposing party candidates, opposition supporters or the media, and without the use of language inciting their own supporters to violence;
- (g) respecting the freedom of the press to cover the campaign and to express opinions on the campaign;
- (h) respecting the electoral officials and not interfering with the performance of their duties; and
- (i) accepting and complying with the official election results and the final decision of the Appeals Authority.

**9. ALL-CANDIDATES FORUM**

- 9.1 The Electoral Officer shall ensure that there is at least one (1) all-candidates forum that is held at least two (2) weeks before the date of the election.
- (a) The electoral officer or Band Administrator will develop a list of candidate questions consistent with candidacy criteria set out in this Code.
  - (b) The all-candidates forum shall be chaired by the Takla Band Administrator, Electoral Officer or another neutral individual who is not an Elector.
  - (c) Each candidate may choose whether or not to participate in the all-candidates forum.

**10. ELECTION POLL**

- 10.1 The Electoral Officer, along with any deputy Electoral Officers that he or she has formally appointed, shall be in attendance at the time and place set out in the notice of poll.
- 10.2 The Electoral Officer shall not vote in the election.
- Initial pre-inspection of ballot boxes*
- 10.3 The Electoral Officer shall, immediately before the commencement of the poll, and in the order set out directly below:
- (a) Open the ballot boxes and call such persons as may be present to witness that it is empty;
  - (b) Lock or seal each box to prevent it from being opened and then place it in view for the reception of the ballots and shall ensure that the lock or seal is not broken or unlocked until the voting is finished and the ballots are ready for counting; and
  - (c) If the ballot boxes are to be used in one location and then taken to a second location

on a following day, ensure that the ballot boxes remain locked or sealed and are stored in a secure location.

*Polling hours and keeping order*

10.4 The Electoral Officer shall keep the polling booths open from 9:00 a.m. to 8:00 p.m.

10.5 The Electoral Officer shall maintain order in the polling stations at all times and has the authority to order the removal of any person who, in his or her opinion, is disrupting or otherwise interfering with the meeting.

10.6 Each candidate shall be entitled to have up to two (2) scrutineers in a polling place at any one time.

*Voting procedure*

10.7 The Electoral Officer shall initial each unmarked ballot form before giving the ballot to an elector.

10.8 Each elector, after receiving the ballot shall:

(a) Proceed directly to the place provided for marking ballots;

(b) Mark his or her ballot by placing an "X" that clearly indicates the elector's choice, in the space provided on the ballot opposite the name of the desired candidate;

(c) Repeat the placing of an "X" for up to as many candidates as there are positions available; and

(d) Fold and deposit the ballot in the ballot box supplied.

10.9 While any elector is in the place provided for marking ballots, no other person, except an interpreter acting in accordance with subsection 7.8, shall be allowed in the same compartment or in the same area or be in a position to see how the elector is voting.

10.10 Any person who is a Takla member at least eighteen (18) years of age but whose name does not appear on the Voters List may present identification and evidence of membership to be verified by the Electoral Officer, and if the Electoral Officer is satisfied that the person is eligible to vote, the Electoral Officer shall add the name of the person to the Voters List and the person shall be allowed to vote at the polling station.

10.11 The Electoral Officer shall note upon the Voters List any irregularity in connection with voting by any elector and shall specifically note on the Voters List any ballots marked with the aid of an interpreter in accordance with subsection 7.8.8 but shall not note the candidates for whom such a ballot was cast.

10.12 An elector who has made a mistake with his or her ballot may return it to the Electoral Officer who shall write the word "canceled" upon the ballot, preserve it, and issue another ballot to the elector.

(a) The Electoral Officer shall not give more than two replacement ballots to any one elector.

10.13 Any elector who has received a ballot and who leaves the polling place without voting or without placing the ballot in the ballot box, shall forfeit his or her right to vote at the election.

(a) The Electoral Officer shall make an entry in the Voters List in the column for remarks opposite the name of such an elector to show that the elector received a ballot but did not complete his or her vote.

(b) If the elector hands the unmarked ballot back to the Electoral Officer, the Electoral Officer shall mark upon the face of the ballot the word "declined" and all ballots so

marked shall be retained separately by the Electoral Officer.

- 10.14 Every elector who is inside the polling place at the close of the poll at 8:00 p.m. and who has not yet voted shall be entitled to vote before the poll is closed.

## 11. CLOSING OF THE POLL

11.1 Immediately following the close of the poll, the Electoral Officer shall, in the presence of any candidates, their agents or scrutineers, and any electors who wish to remain:

- (a) Open each envelope containing a mail-in ballot (if applicable) that was received before the close of the polls and, within unfolding the ballot, reject any ballot that:
- (i) Was not accompanied by a duly completed Voter Declaration Form; or
  - (ii) Was filled out by an individual whose name is not on the Voters List; or
  - (iii) Was filled out by an individual whose name is marked on the Voters List as having already voted; or

(b) In any other case, place a mark on the Voters List opposite the name of the Elector set out in the Voter Declaration Form, and deposit the ballot in the ballot box.

11.2 Despite subsection 11.1, the Electoral Officer may open the mail-in envelopes at a time other than 8:00 p.m., provided he or she has given all the candidates adequate notice of their right to have a scrutineer present on their behalf.

### *Counting Ballots*

11.3 Once all of the eligible mail-in ballots have been inserted into the ballot boxes, the Electoral Officer shall open each ballot box and begin counting ballots.

11.4 When the counting begins, the Electoral Officer shall open each ballot box, examine each ballot, and reject any ballot that;

- (a) Has not been provided by the Electoral Officer;
- (b) Contain a higher number of votes than the number of positions available for election;
- (c) Contains a mark that may identify an elector; or
- (d) Does not clearly indicate the candidate preference of the elector.

11.5 The Electoral Officer shall accept ballots that contain votes for less than the number of positions available for election, provided such ballots do not have any other flaws requiring their rejection.

11.6 The Electoral Officer shall count the valid ballots and document the results on the Electoral Officer's Report.

11.7 The Electoral Officer shall take a note of any objections made by any candidate or his agent or scrutineer to any of the ballots found in the ballot box and decide any questions arising out of the objection.

- (a) All such objections shall be numbered and the corresponding number placed on the back of the ballot paper with the word "allowed" or "disallowed", as the case may be, accompanied by the initials of the Electoral Officer.

11.8 If a Councillor whose term has not expired is running for Chief and receives enough votes to be declared elected, the Electoral Officer shall declare him or her elected as Chief and his or her Councillor position shall be declared vacant.

- (a) Any such vacancy will be immediately filled by the candidate for Councillor with the next highest number of votes, after other Councillor positions being elected have

been designated as filled, who shall be elected for the balance of the vacated term.

11.9 The Electoral Officer shall immediately declare the results of the poll and announce the elected candidates.

#### *Ties*

11.10 If there is a tie for the position of Chief, the Electoral Officer shall initiate a public recount of the votes for the tied candidates for that position.

(a) If, after the ballot recount, there is still a tie, the Electoral Officer shall announce there will be a run-off election for the tied candidates.

11.11 If there is a tie for the final Councillor position, the Electoral Officer shall initiate a public recount for the tied candidates for that position. Then, if there still remains a tie, the tie shall be solved at a special meeting of the newly-elected Chief and Council. Each member of Council shall have one vote to cast by secret ballot for the purpose of breaking the tie. Those candidates tied shall not vote.

#### *Statement of Results*

11.12 The Electoral Officer shall prepare and sign two (2) copies of the Official Statement of Results of Election and forward one copy to the Department of Aboriginal and Northern Affairs and one copy to the Band Administrator or other designated Takla official.

11.13 The Electoral Officer shall post the Official Statement of Results of Election in the same places as the Notice of Poll was posted and shall mail a copy of the statement to all off-reserve Eligible Voters within four (4) days of the Election.

11.14 The Electoral Officer shall, within four (4) days of the election, complete and sign an election report, which shall contain, at a minimum:

- a) a list of all candidates;
- b) the number of ballots cast;
- c) the number of votes for each candidate;
- d) the results of any tie-breaking procedures;
- e) the number of voters who required assistance or interpretation;
- f) the number of spoiled ballots;
- g) the number of rejected ballots;
- h) the number of ballot packages mailed to off-reserve members and picked up by on-reserve members;
- i) the number of mail-in ballots returned as undeliverable;
- j) the number of mail-in ballots returned with valid ballots; and
- k) the number of mail-in ballots returned but not accepted.

11.15 The electoral officer shall forward one copy of the election report to the Department of Aboriginal Affairs and one copy to the Band Administrator.

## 12. APPEALS AUTHORITY

12.1 At least seventy-two (72) days before the election, the Band Administrator will post a notice which recommends an independent Appeals Authority for a one (1) year term beginning on the day of the election.

(a) The appointment must be made in consultation with the electors no later than at the nomination meeting to be held per terms of subsections 6.1 and 6.2.



(b) The Appeals Authority must:

- (i) Be independent of the Takla Lake First Nation and have no interest whatsoever in the result of an election,
- (ii) Consist of a lawyer, retired judge, Justice of the Peace and/or other recognized individual or entity deemed authorized to evaluate election appeals and complaints.

12.2 The Appeals Authority shall supervise and administer all election appeals, in accordance with the provisions of this Code.

12.3 In the event that the Appeals Authority cannot fulfill its role, the Band Administrator must ensure an alternative Appeals Authority is assigned subject to Sections 12.1 and 12.2.

*Refunds of deposits after appeal period*

12.4 After the appeal period has expired, in the case where no election appeal has been filed in accordance with this Code, or after all appeals have been decided, the Electoral Officer shall issue a cheque in the amount of the deposit paid under subsection 6.5, as the case may be, to each candidate who has received 15% of the total votes cast at the election.

- (a) The Electoral Officer shall remit any remaining funds to the Band.

### 13. APPEAL PROCEDURE

13.1 Any candidate, or eligible elector may, within thirty (30) days of the election, appeal the election if he or she has grounds for believing that:

- (a) there was corrupt practice in connection with the election;
- (b) there was a violation of this Code that might have affected the result of the election;
- or
- (c) a candidate in the election was ineligible to be a candidate.

13.2 Notice of appeal, in writing, containing details verified by affidavit, together with a fee of \$100 (by cash, certified cheque or money order) shall be hand delivered or sent by registered mail addressed to the Appeals Authority, c/o the Band Office within thirty (30) days of the election. It is the responsibility of the eligible voter filing the appeal to provide the relevant evidence.

- (a) The grounds for the appeal shall be clearly stated, including references to any relevant sections of this Code.

13.3 The Appeals Authority will inform the Electoral Officer, all candidates and the newly elected Council, of the allegations raised in the appeal.

- (a) The Appeals Authority may conduct or authorize such further investigation into the appeal allegations as it deems appropriate and necessary.

13.4 After a review of all of the evidence that it has received, the Appeals Authority shall:

- (a) deny the appeal on the grounds that the evidence presented did not reveal an infraction of this Code, or on the grounds that an infraction of this Code was revealed but the infraction did not affect the result of the election, or
- (b) uphold the appeal and call for a new election for the position(s) affected; and/or
- (c) make such recommendations as it believes appropriate to avoid similar future problems.

13.5 If a new election or by-election is required, it shall take place as soon as possible and

- shall be conducted pursuant to the provisions of this Code.
- 13.6 If, because of an appeal, there is a new general election, the term of the newly elected Council shall not be lengthened and shall still end in accordance with the term lengths set out in Part 1 of this Election Code.

#### 14. VACANCIES AND REMOVAL FROM COUNCIL

- 14.1 The Chief or a Councillor may be removed from office or their position on Council may become vacant if, while in office, he or she:
- violates this Code, or his or her oath of office;
  - misses three (3) consecutive regular Council meetings without written authorization from a quorum of Council;
  - fails to maintain a standard of conduct expected of a member of Council;
  - has been convicted of an indictable offense since his or her election;
  - accepts or offers a bribe, forges a Council document, signs a cheque without authorization, or otherwise acts dishonestly in his role;
  - is negligent in failing to ensure the safety and protection of the community's members and property;
  - fails to follow all relevant laws and policies;
  - uses his or her office for personal financial gain or for the financial benefit of members of his or her family to the detriment of the Council or the Band as a whole;
  - abuses his or her office such that the conduct negatively affects the dignity and integrity of the community or of Council;
  - encourages others to commit any of the above acts or omissions;
  - engages in such other conduct as may be determined by Council to be of such a serious nature that the removal is necessary and appropriate; or
  - resigns, dies or is declared incompetent or incapacitated by a qualified medical doctor.
- 14.2 If a situation described in subsection 14.1 occurs:
- Council may decide to pass a Band Council Resolution at a duly convened regular Council meeting, declaring the position of the Chief or Councillor in question to become vacant and any such Resolution takes effect immediately or at a date set out in the Resolution; or
  - A group of members may submit a petition for removal as set out in subsection 14.3.
- Petition by Members*
- 14.3 Any elector may submit a petition to the Appeals Authority which shall include:
- evidence in support of the petition,
  - the signature of the appellant,
  - signatures of at least 25% of all eligible electors of the Band in support of the petition, and
  - a non-refundable filing fee of \$100.
- 14.4 The Appeals Authority shall:
- review the petition and determine whether or not the petition is complete and valid under terms of this Code and Takla Policy and Procedure Manual; and

- (b) Subject to the review above, within twenty (20) days schedule a hearing and post notice at the Takla Administration offices and on the Takla web-site and provide notice of a review hearing to all Members for whom there is a current known mailing address.

*Hearing to review petition*

- 14.5 The Appeals Authority shall hold the hearing and invite evidence or comments from any Member and any reliable source.
- 14.6 Within five (5) days of the hearing, the Appeals Authority shall:
- (a) rule that the petition stands and that the Council position in question is vacant; or
  - (b) dismiss the position; and
  - (c) provide written reasons for the decision.

*Ruling on petition*

- 14.7 The Appeals Authority shall send written notice of the ruling to Council, the appellants, and the Council member who is subject of the petition for removal.
- 14.8 The decision of the Appeals Authority is final and binding on all parties, subject to any appeal to court.
- 14.9 In the event that the Chief or a Councillor in question is removed, he or she will be disqualified from being a candidate of an election for a period of six (6) years commencing on the date of the Appeals Authority's ruling.
- 14.10 If a vacancy occurs on Council, and there are more than six (6) months remaining in the Council's term of office, Council shall call a by-election to be held under the provisions of this Code for the vacant position.
- (a) A person filling such a vacancy shall, subject to the provisions of this Code, serve until the term of the member of Council whom he or she replaced, expires.
- 14.11 If the Chief is removed from office, the Deputy Chief shall assume the duties of Chief until the next by-election or election.
- 14.12 If the Deputy Chief is removed from office, the Councillor with the next highest number of votes in the election for Chief shall assume the duties of Deputy Chief until the next by-election or election.

**15. AMENDMENTS TO THE CODE**

- 15.1 Any proposed amendments to this Code must be first presented to Council in writing.
- 15.2 If Council supports the proposed amendments, with or without changes, it shall hold a minimum of two community meetings and mail the proposed amendments to all Members for whom there is a current address and give them at least ninety (90) days to consider the proposed amendments.
- 15.3 Any Band member who wants to challenge the proposed amendments must do so in writing, to Council within the ninety (90) day period.
- 15.4 If no challenge is received, then the amendment shall become effective if confirmed by a Band Council Resolution passed at any time after the ninety (90) day period has expired.
- 15.5 If a challenge is received in writing from a member, then to take effect, a mail-in or in person ratification vote must be held on the proposed amendments by polling all Takla electors, on- and off-reserve.

- 15.6 If a ratification vote is deemed necessary and held, the majority decision of the vote shall be binding on Council, regardless of the number of electors who vote.
- 15.7 Subject to the above process, the amended Code will be immediately enacted as the Takla Lake First Nation Election Code and shall be passed by Council by Band Council Resolution.
- 15.8 If Council determines that a review of the Code and/or additional support of the process is necessary to advance any of the steps in subsections 15.1 to 15.6, it may appoint a Committee subject to pre-defined and communicated criteria and timelines.

## 16. NO LIABILITY

- 16.1 Neither Takla Council, administration or staff, any election officials, nor any Takla members shall be liable for any claims, losses or damages resulting from the inadvertent deletion or addition of an individual's name to the Voters List or any inadvertent breach of this Election Code.

## 17. SEVERABILITY

- 17.1 If any part of this Election Code is declared to be invalid or unenforceable by any court, such invalidity or unenforceability shall not affect the validity or enforceability of any other part of this Election Code.

## 18. REGULATIONS, PROCEDURES AND FORMS

- 18.1 Council may, by Band Council Resolution, pass Regulations that are consistent with this Election Code and supplement or revise Takla's policy and procedure manual.
- 18.2 Council may approve, by Band Council Resolution, changes to procedural rules for the meetings of Band Council, forms, and other administrative rules for the better administration of this Code.