

Wet'suwet'en First Nation
Custom Election Code 2017

Dated for Reference January 30th, 2017 - Lawrence Lewis,
Ratification Officer

A handwritten signature in black ink, appearing to be 'Lawrence Lewis', located below the typed name.

1. DEFINITIONS

- “Band Manager” shall mean the most senior band administrative and active staff position employed by the Council.
- “Candidate” shall mean any Elector duly and properly nominated and seconded at the Nomination Meeting.
- “Code” shall mean the Custom Election Code of the Wet’suwet’en First Nation.
- “Council” shall mean Chief & Council, or Chief, or Council and in any event whichever represents the remaining elected offices of the Wet’suwet’en First Nation.
- “Elector” shall mean a duly and properly registered Member of the Wet’suwet’en First Nation who is at least 18 years of age on the election day.
- “Electors List” shall mean the list prepared identifying every eligible Elector.
- “INAC” shall mean Indian and Northern Affairs Canada or its equivalent.
- “Member” shall mean a duly and properly registered person of the Wet’suwet’en First Nation.
- "Proxy Form" shall mean a form which identifies the voting Elector by full legal name, mailing address, date of birth, Indian Registry Number (Status or Band Number), and signature; and which authorizes another Elector identified by full legal name, mailing address, date of birth, Indian Registry Number (Status or Band Number), and signature to vote on behalf of the voting Elector.
- “Quorum” shall mean at least 2 members of Council.
- “Resolution” shall mean a properly formatted, written, dated and signed Band Council Resolution by at least a Quorum of Council.
- "Scrutineer" shall mean the Candidates agent appointed in writing to the Returning Officer to monitor and observe the polling location and official count of the Ballots.
- “Voter” shall mean the Elector.

2. ELECTION / BY-ELECTION

- a. The Wet'suwet'en First Nation Chief & Council shall be comprised of:
 - i. One (1) Chief; and
 - ii. Two (2) Councillors.
- b. There shall be an Election conducted every three years during the month of May.
- c. The Election shall be conducted pursuant to and in accordance with this Code.
- d. The Office of Chief & Council shall expire on the last Calendar day of May in an Election year, and the New Chief & Council shall assume office pursuant to and in accordance with this Code on the 1st day of June in an Election Year.
- e. There shall be only one (1) physical polling station.
- f. Electronic voting shall be permitted pursuant to and in accordance with this Code.
- g. No By Election shall be necessary, other than to maintain quorum, if there is less 180 days to the next Election.
- h. A By Election shall be conducted pursuant to and in accordance with this Code.
- i. The persons attaining elected office, from time to time, in accordance with this Election Code, shall be the Council of the Wet'suwet'en First Nation and shall act for and on behalf of all members of the Wet'suwet'en First Nation always.

3. VACANCY

- a. An elected office becomes vacant when:
 - i. the Candidate fails to take the Oath of Office and sign the Oath of Office in accordance with this Code;
 - ii. an elected official is convicted of an indictable offence; or
 - iii. an elected official resigns, is deceased, or is no longer a Member of the Wet'suwet'en First Nation.
- b. Notwithstanding Section 1 (e), where quorum must be maintained, the Council shall select a Elector from one of the Traditional Families to fill the vacancy until the next Election Day; and, in exercising its duties under this section, the Council shall first select from the other Candidate(s) for that office, in descending order of the number of votes

received in the previous Election or By Election for that office.

4. PRE-ELECTION/BY ELECTION COUNCIL MEETING

- a. At the first scheduled meeting of Council in January of the Election year, and within 5 days of a vacancy occurring, the Council shall convene a meeting of the Council for enacting a Resolution pursuant to and in accordance with this Code to:
 - i. Appoint the Returning Officer;
 - ii. Appoint the Liaison Officer;
 - iii. Select the Election/By Election day and Poll Location(s);
 - iv. Select the Nomination Meeting day and location; and
 - v. Select the Speech day.
- b. In the event Council, has not or is unable to, pass a Resolution in accordance with Section 4 the Band Manager shall make all those final determinations no later than February 1st or within 7 days in the event of a vacancy.

5. RETURNING OFFICER

- a. Shall be any individual who is:
 - i. At least 21 years old;
 - ii. Not a Member of the Wet'suwet'en First Nation; and
 - iii. Experienced at conducting First Nation elections.

6. LIAISON OFFICER

- a. Shall be a Wet'suwet'en First Nation staff person who:
 - i. Can create the Electors List, and who is eligible to handle sensitive and confidential Member information;
 - ii. Is eligible to manage access and egress of Wet'suwet'en First Nation buildings; and
 - iii. Is available to assist with election processes and support the Returning Officer for the term of the Election or By Election period.
- b. The Liaison Officer shall for the purposes of fulfilling their requirements of this Code report directly to the Ratification Officer.

7. ELECTORS' LIST

- a. At least 90 days before the Election or By Election, the Liaison Officer shall prepare a Electors' List for the Ratification Officer ensuring that the Electors' List does not contain the name of a person who is:
 - i. Not an eligible Elector;
 - ii. Not a Member of the Wet'suwet'en First Nation, or
 - iii. A deceased Member.
- b. The Ratification Officer shall ensure that at least one copy of the Electors' List is posted in a conspicuous public area of Wet'suwet'en First Nation offices at all times during the election period, and shall provide it in an electronic format to any Elector upon request.
- c. Any Member may apply to have the Electors' List revised on the grounds that the name of an Elector is incorrectly set out therein or the name of a person not eligible to vote is included therein.
- d. If satisfied that the Electors' List should be corrected, the Returning Officer shall:
 - i. Make the necessary correction and provide to the Council written reasons therefore; and,
 - ii. Cause a copy of the revised Electors' List to be posted in accordance with section 7 (b).
- e. The Liaison Officer shall:
 - i. cause to be made and delivered to the Returning Officer sufficient copies of the final Electors' List, consecutively numbered, for use by the Returning Officer, Candidates and Scrutineers during the Advance Poll Day and the Election or By-election; and,
 - ii. ensure that all such copies are returned to the Returning Officer at the close of the polling station(s).
- f. No person shall:
 - i. tamper with the original or any copy of a Electors' List;
 - ii. remove any copy of a Electors' List posted in the Wet'suwet'en First Nation offices, or from a polling station; and,

- iii. except as provided in this Code deliver or cause to be delivered to any person a copy of a Electors' List; or,
 - iv. publish or cause to be published any of the information contained in a Electors' List.
- g. A person who acts contrary to Section 7 commits an offence.

8. NOMINATION MEETING

- a. Immediately upon appointment, the Returning Officer shall prepare the Proxy Form, the Nomination Form and the Nomination Meeting Notice and ensure they are posted in a conspicuous public area of Wet'suwet'en First Nation offices at all times during the election period; on the electronic voting platform landing page; and shall provide them in an electronic format to any Elector upon request.
- b. The Liaison Officer shall provide the Proxy Form, the Nomination Form and the Nomination Meeting Notice to any Elector upon request in the format desired by the Elector (paper, facsimile, SMS Text or email).
- c. At the location and time specified in the Nomination Meeting Notice, the Returning Officer shall declare the meeting open for the purpose of receiving nominations from those names on the Electors' List who are eligible to be Candidates for the offices of Chief and Councillor.
- d. The Nomination Meeting shall remain open for at least 2 hours.
- e. The Returning Officer shall ensure that any Elector participating in the Nomination Meeting is not under the influence of any intoxicant and shall have the authority, in their sole discretion, to refuse admission to or to remove from such meeting any person so influenced.
- f. An Elector shall not be eligible to be nominated for more than one office.
- g. An Elector may, by Nomination Form duly signed by that Elector, nominate or second the nomination of no more than three other Electors, one (1) ONLY for the office of Chief, and two (2) ONLY for the office s of Councillor received by the Returning Officer in person at the meeting set for nominations, or if received prior to the end of the Nomination Meeting by:
 - i. Mail addressed to the "Returning Officer";

- ii. By facsimile transmission; or
 - iii. Other electronic transmission (email or SMS text)
- h. In the event, there is only one name properly nominated and seconded for any office being put forward at the nomination meeting, the Returning Officer shall publicly declare the Candidate for that office to be elected by acclamation.
- i. In the event, there are no names for any office put forward at the nomination meeting, the incumbent will remain in office until a By Election for the incumbent's office is held in accordance with this Election Code; failing which, the incumbent, if willing to serve, shall be deemed to have been elected for another term of office.
- j. In the event, of more than one name for any office being put forward at the nomination meeting, the Returning Officer shall declare that an Election or By Election for that office take place and shall state the date and time and place thereof.
- k. The Returning Officer shall a prepare final list of Nominated Candidates Notice within 24 hours of the Nomination Meeting and ensure the notice is posted in a conspicuous public area of Wet'suwet'en First Nation offices at all times during the election period; on the electronic voting platform landing page; and shall provide the notice an electronic format to any Elector upon request.
- l. The Liaison Officer shall provide the Final Candidates Notice to any Elector upon request in the format desired by the Elector (paper, facsimile, SMS Text or email).

9. CANDIDATE AND ELECTION PROCEDURES

- a. Within 24 hours of the Nomination Meeting, the Returning Officer shall prepare a Candidate package and shall cause the Candidate package to be delivered to each Candidate personally or by expedited postal services.
- b. The Candidate package shall contain the following information and forms:
 - i. Final list of list of Nominated Candidates Notice;
 - ii. Instructions for nominated Candidates on their Nomination Acceptance (required), participating in the Speech day (required) and Withdrawal (optional) as Candidate.
 - iii. Speech day participation request form;
 - iv. Nomination Acceptance Declaration Form; and

- v. Withdrawal Form.
- c. Each Candidate shall complete the Nomination Acceptance Declaration Form and shall deliver or cause to be delivered to the Returning Officer within 72 hours of the Nomination Meeting, properly completed, duly signed and witnessed; otherwise that person shall not be listed on the Ballot.
- d. On or before the Speech day, each Candidate shall deliver or cause to be delivered to the Returning Officer the Speech day participation request declaration, duly signed; otherwise that person shall not be entitled to deliver a speech.
- e. Ultimately it is the responsibility of the nominated Candidate to ensure they receive the Candidate package, and failure of a Candidate to receive a Candidate package shall not invalidate anything done under this Code.
- f. Whenever a Poll is to be conducted, the Returning Officer shall prepare an Election Notice and shall ensure the notice is posted:
 - i. In a conspicuous public area of Wet'suwet'en First Nation offices at all times during the election period;
 - ii. In at least one local newspaper, should it exist, with circulation within the Wet'suwet'en First Nation traditional territory;
 - iii. On the electronic voting platform landing page; and,
 - iv. shall provide the notice in an electronic format to any Elector upon request.
- g. The Election Notice shall contain this information:
 - i. The date of Election;
 - ii. The location of the polling station(s);
 - iii. The period in which the polling station(s) shall be open;
 - iv. Instructions on how the Elector may vote in person by proxy or electronically.
 - v. Date, location, and time of the Candidate Speech day event; and
 - vi. Contact information of Returning Officer.
- h. The Liaison Officer shall provide the Election Notice to any Elector upon request in the format desired by the Elector (paper, facsimile, SMS Text or email).
- i. Any Candidate who has been nominated may withdraw at any time after the

nomination meeting and prior to the close of the Poll by delivering, or cause to be delivered to the Returning Officer the properly completed, duly signed and witnessed Withdrawal Form.

- j. Upon receiving a Withdrawal Form, the Returning Officer shall, or cause the Candidates withdrawal be posted in a conspicuous public area of Wet'suwet'en First Nation offices at all times during the election period; on the electronic voting platform landing page; at each polling station; and shall provide them in an electronic format to any Elector upon request.

10. MEETING OF CANDIDATES

- a. On the Speech day, at the location specified in the Election Notice, the Returning Officer shall ensure that each Candidate present has delivered a properly completed Speech day participation request declaration; and, immediately thereafter, declare the meeting open for the purpose of receiving speeches from those persons who have been nominated for the offices of Chief and Councillor in accordance with the following rules:
 - i. the order of speeches shall be alphabetically by surname and where there is more than one Candidate with the same surname the order of speeches between these Candidates shall be determined alphabetically by given names and where these Candidates have identical given names the order of their speeches shall be determined by selection of their names from a hat under the supervision of the Returning Officer;
 - ii. the Returning Officer shall act as moderator and shall ensure that proper rules of conduct are maintained and that Electors present ask appropriate questions which relate to a Candidate's leadership and the Wet'suwet'en First Nation;
 - iii. each Candidate shall be entitled to speak for up to 5 minutes;
 - iv. after each speech, the Returning Officer shall permit questions from the audience directed to that Candidate for a period of no longer than 5 minutes; and,
 - v. each Candidate shall be entitled to deliver a 2-minute closing speech after all speeches and questions have been received after which the Returning Officer shall declare the meeting closed.
- b. The Returning Officer shall ensure that any Elector participating in this meeting is not

under the influence of any intoxicant and shall have the authority, in his or her sole discretion, to refuse admission to or to remove or caused to be removed from such meeting any person so influenced.

11. POLL READINESS PROCEDURES

- a. The Returning Officer shall, before the polling station is open, supply the polling station with:
 - i. Sufficient ballot boxes;
 - ii. A sufficient number of Ballots;
 - iii. A sufficient number of voting compartments enabling Electors to mark their Ballots free from observation;
 - iv. Instruments for marking;
 - v. A sufficient number of voting instructions as may be required;
 - vi. All other equipment as necessary to establish and equip the voting locations;
and
 - vii. The final Electors list.
- b. The Returning Officer shall not be allowed to vote in the election.
- c. The polling station shall be open from 9:00AM until 8:00PM local time on the day of the election.
- d. The electronic polling station shall remain open continuously from 9:00AM on the thirty first day prior to the election, and shall close at 8:00PM local time on the day of the election.
- e. The Candidate may appoint a Scrutineer as their agent in the polling station at any time, and may amend that appointment at any time. The Candidate must inform the Returning Officer in writing of their Scrutineer appointment or any change thereof.
- f. Returning Officer shall ensure that any Scrutineer is not under the influence of any intoxicant and shall have the authority, in his or her sole discretion, to refuse admission to or to remove or caused to be removed from such meeting any Scrutineer so influenced.
- g. The non-attendance of a Scrutineer during any part of an Election or By-election does

not invalidate anything done under this Code.

12. ELECTRONIC VOTING PROCEDURES

- a. Any Elector may cast a vote by electronic voting.
- b. Electronic voting shall be confidential and by secret ballot.
- c. Electronic voting will be permitted up to and no later than the close of the polls.
- d. The Returning Officer shall ensure that instructions for electronic voting are clearly provided on all notices, the electronic voting platform landing page, and available for distribution upon direct request from any Elector.
- e. The electronic voting platform must operate across all electronic smart platforms (smart phones, tablets, laptops and personal computers) and across all major operating systems.
- f. To cast an electronic vote, the Elector shall:
 - i. Visit the landing page (or home page) of the electronic voting platform;
 - ii. Confirm their eligibility to participate using electronic voting;
 - iii. Complete the Elector registration process;
 - iv. Confirm their Elector registration;
 - v. Declare their intent and desire to vote electronically and digitally sign;
 - vi. Complete the authentication and Elector verification process
 - vii. Mark their electronic vote; and
 - viii. Confirm their electronic vote.
- g. During the electronic vote process set out in Section 12(f) the Returning Officer will:
 - i. Receive an email notification confirming the Elector registration.
 - ii. Receive an email notification confirming the Elector voted electronically; and,
 - iii. Mark the Elector as having voted electronically on the Electors List.
- h. Where the Elector has voted electronically the Elector shall not be permitted to vote in person or by proxy.
- i. Where the Returning Officer is notified of an incomplete or failed electronic Elector registration or vote, the Returning Officer shall contact the Elector immediately with

alternative voting solutions, including proxy or voting in person.

- j. The expected electronic voting process is mapped out and appended to this Code.

13. MINIMUM ELECTRONIC VOTING PLATFORM PROTOCOLS

- a. The Returning Officer shall ensure electronic voting platform is populated by the Electors list at least 60 days prior to the vote.
- b. The Returning Officer shall have administrative access to the electronic voting platform to view and download daily reports and detailed activities reports.
- c. Individual voting results shall remain secret at all times and individual Elector choices shall be encrypted in such a way as to ensure Elector anonymity.
- d. Elector registration shall be permitted via the electronic voting platform.
- e. Voting will be permitted via the electronic voting platform.
- f. At a minimum the electronic voting platform shall provide the following threshold of Elector verification for each Elector:
 - i. Digital signature;
 - ii. Unique personal identification number (PIN);
 - iii. Registry number (status card number);
 - iv. Date of birth.
- g. Automated email notifications shall be generated in real-time to the Elector and Returning Officer of all and any activity associated with an Elector using the electronic voting platform, including:
 - i. Attempted registration and/or voting;
 - ii. Completed Elector registration;
 - iii. Completed voting;
 - iv. Failed registration and/or vote; and
 - v. System or communication failures, interruptions or lost data.
- h. Daily detailed activity reports shall be generated via email to the Returning Officer each day at 1800 hrs. and an inventory of all reports shall be maintained and accessible on the electronic voting platform.

- i. At the official close of the poll the Returning Officer shall receive an email notification summarizing the vote results, and inventory the report to be accessible on the electronic voting platform.
- j. Subject to this Code and prescribed Appeal time frame, all electronic data shall be deleted and wiped from the servers of the electronic voting platform, and certification to this effect will be provided by the Returning Officer.
- k. Once a vote is completed an email will be automatically generated and sent to the Elector via email or text message confirming the vote has been successfully completed and that their vote remains secret and confidential and is not revealed.
- l. Once an Elector has voted once electronically, they cannot vote again electronically, and shall be restricted from doing so again by the electronic voting platform program code.
- m. Electronic voting will end automatically at the official close of the electronic poll and the electronic voting platform will no longer be accessible by Electors. Any Elector who is in the electronic polling station or in the process of voting when the electronic poll is closing will receive an automatically generated “push notification” advising the Elector that he/she has five minutes left before the close of the electronic poll. The electronic poll will remain open for that individual Elector for five minutes from the delivery of the push notification. If the Elector fails to complete his/her vote within that time period and before the electronic poll closes, his/her vote will not be recorded or included in the count.
- n. Council may make additional regulations specific to electronic voting pursuant to and in accordance with this Code.

14. COUNTING OF ELECTRONIC BALLOTS

- a. After the close of the polls the Returning Officer shall add the Electronic Voting results to the results of the physical polls, and shall make a declaration certifying the recorded number of Electronic Votes.

15. PROXY FORM VOTING

- a. Subject to the provisions of this Code, a Elector may vote by Proxy Form.
- b. A Proxy Form may be accepted by the Returning Officer up to the end of the Election day and By Election Day by:
 - i. Personal delivery,

- ii. facsimile transmission; or
 - iii. electronic transmission.
- c. PROVIDED ALWAYS that an Elector or a Proxy Elector may only deliver to the Returning Officer one Proxy Form and the Returning Officer shall have absolute discretion to refuse to accept a Proxy Form, subject to providing to the Council written reasons therefore.

16. CONDUCT OF THE POLL

- a. Except as otherwise provided, voting at an Election and By-election shall be by secret ballot in the manner set forth in this Code.
- b. Immediately prior to the commencement of voting, the Returning Officer shall:
 - i. open the Ballot Box;
 - ii. permit any person present to verify that the Ballot Box is empty;
 - iii. seal the Ballot Box; and, place the Ballot Box upon the Officers' Table so that it may be observed by a Scrutineer.
- c. Subject to the provisions of this Election Code, the seal on a Ballot Box shall not be broken.
- d. The Liaison Officer shall arrange for a room in the Wet'suwet'en First Nation offices to be used as a polling station.
- e. Until the end of the Election day or the By-election day, only the Returning Officer, Liaison Officer, Candidates, Scrutineers, Electors and Proxy Electors who are actually engaged in voting, and for that time only, shall be present at a polling station.
- f. Every person in a polling station must respect and maintain the secrecy of the voting process.
- g. The Returning Officer and the Liaison Officer shall not, at any time and in any way, influence an Elector to cast a Ballot in favour of any Candidate.
- h. The Scrutineers and Candidates, while present at a polling station, shall not, in any way, influence a Elector to cast a Ballot in favour of any Candidate.
- i. Subject to the provisions of this Code, no person may interfere or attempt to interfere with a Elector when the Elector is marking the Ballot.

- j. No person may ask a Elector in a polling station how the Elector is about to vote, or has voted.
- k. No person shall, at any time, use or attempt to use the Wet'suwet'en First Nation offices or its facilities for the purposes of influencing a Elector to cast a Ballot in favour of any Candidate.
- l. Any person who willfully contravenes any of Section 16 commits an offence

17. VOTING PROCEDURE

- a. Where a person attends to a polling station for the purpose of voting, the Returning Officer shall, if satisfied that person is a Elector or Proxy Elector, provide to that person a Ballot, marking material and a vacant Voting Compartment.
- b. During the Election and the By-election, any person whose name does not appear on the Electors' List, may submit to the Returning Officer an Elector's Declaration and one piece of photographic identification and upon being satisfied with both, the Returning Officer shall legibly print the Elector's name at the end of Electors' List and provide to that Elector a Ballot, PROVIDED ALWAYS that if the Returning Officer is not so satisfied, he or she shall inform that person, the Candidates and Scrutineers present of the reason(s) for refusing to accept the Elector's Declaration.
- c. Upon providing a Ballot to an Elector or Proxy Elector the Returning Officer shall place a check mark beside that Elector's or Proxy Elector's name on the Electors' List.
- d. An Elector may only vote for ONLY:
 - i. One (1) Chief; and
 - ii. Up to Two (2) Councillors.
- e. Each Elector receiving a Ballot shall immediately:
 - i. Sign the Electors' List beside his or her name indicating that he or she was issued a Ballot for himself or herself and if such Elector is also a Proxy Elector, he or she shall deliver to the Returning Officer the Proxy Form and sign the Electors' List beside the name of the Elector whose Proxy Form he or she has been issued indicating that he or she voted for that Elector by way of a Proxy Form;
 - ii. Proceed to the Voting Compartment;

- iii. Mark the Ballot by placing an “X” in the space provided opposite the name(s) of the Candidate(s) for whom that Elector desires to vote or in the case of a vote by Proxy Form, for whom the Proxy Elector has been instructed to vote;
 - iv. fold the Ballot so as to conceal the names of the Candidates and the mark(s) made upon the Ballot but so as to expose the initials of the Returning Officer;
- f. Each Elector upon leaving the Voting Compartment hand the Ballot to the Returning Officer who shall:
 - i. without unfolding the Ballot, verify the initials of the Returning Officer, and
 - ii. immediately deposit the Ballot into the Ballot Box in the presence of the Elector or Proxy Elector and all other persons entitled to be present in the polling station.
- g. The Returning Officer may, if requested by an Elector or Proxy Elector to do so, explain to that Elector or Proxy Elector the manner of voting, as set out in this Section and all Candidates and Scrutineers present shall be invited to listen to such explanation.
- h. The Returning Officer shall place a mark on the Electors’ List opposite the name of any Elector or Proxy Elector who receives voting assistance, indicating the reason(s) for the assistance.
- i. While any Elector or Proxy Elector is in the Voting Compartment for the purpose of marking the Ballot, no other person shall be allowed in the same Voting Compartment or be in any position to view the manner in which that Elector or Proxy Elector marks the Ballot.
- j. Notwithstanding anything in this Section, the Returning Officer, at the request of any Elector or Proxy Elector who is unable to read or who is physically challenged and thereby unable to cast a Ballot without assistance of another, shall assist that Elector or Proxy Elector by marking the Ballot in the manner directed by that Elector or Proxy Elector and place such Ballot into the Ballot Box whereupon the Returning Officer shall place a check mark beside the Elector’s or Proxy Elector’s name on the Electors’ List along with a notation that assistance was provided.
- k. Any Elector or Proxy Elector who has inadvertently dealt with the Ballot initially provided to that Elector or Proxy Elector in a manner such that it cannot be conveniently used, may return it to the Returning Officer who shall provide to that Elector or Proxy

Elector another Ballot whereupon the Returning Officer shall write the word "cancelled" upon the spoiled Ballot and deposit it into the Ballot Box.

- I. Any person who has received a Ballot and who leaves the polling station without delivering the Ballot to the Returning Officer in the manner provided for herein, or if, after receiving the Ballot, refuses to vote, shall forfeit his or her right to vote at the Election or By-election and the Returning Officer shall make a notation on the Electors' List to indicate that that person's right to vote has been so forfeited. If such ballot is returned, the Returning Officer shall write the word "declined" upon the Ballot and deposit it into the Ballot Box. In the event that the Ballot is not returned, the Returning Officer shall deposit into the Ballot Box a note stating that such Ballot was provided to a Elector or Proxy Elector but the Elector or Proxy Elector did not return the Ballot.
- m. Any Elector or Proxy Elector who remains within the polling station beyond 8:00 p.m. on Election Day or on By-election Day and who has not cast a Ballot shall be entitled to do so prior to the Ballot Boxes being opened.
- n. The Returning Officer shall ensure that any person attending at a polling station:
 - i. Is not under the influence of any intoxicant, and,
 - ii. Complies with the provisions of this Election Code; and,
 - iii. Have the sole discretion to refuse admission to, or to remove or cause to be removed, any such person so influenced or who fails to so comply.

18. COUNTING BALLOTS

- a. Immediately at the end of Election Day or By-election Day, and after every Elector or Proxy Elector provided for in Section 17 has voted, the Returning Officer shall cause the Ballot Boxes to be opened in the presence of any Candidate, Elector, Proxy Elector or Scrutineer as may be present, and empty their contents.
- b. The Returning Officer shall examine the Ballots and reject:
 - i. All Ballots having written upon them the words "declined" or "cancelled",
 - ii. All Ballots which are marked for more Candidates than are to be elected,
 - iii. All Ballots which are marked in such a way the Returning Officer is unable to clearly ascertain which Candidate(s) are voted for, and
 - iv. All Ballots which bare a mark or marks which can identify the Elector;

- c. The Returning Officer shall take note of any objection made by any Candidate or agent of a Candidate to any Ballot found in the Ballot Box, decide any questions arising out of an objection and make a notation upon that Ballot sufficient to identify it as a contested Ballot and the reasons for the contest.
- d. The Returning Officer shall count the votes given for each Candidate from the Ballots not rejected.
- e. Immediately after the completion of the counting of the votes from each polling station (including the electronic poll), the Returning Officer shall publicly declare to be elected the Candidate for each office who has obtained the highest number of votes and shall prepare a written election results declaration for posting.
- f. The Liaison Officer shall, by noon on the following day, cause to be posted the Returning Officers election results declaration in a conspicuous public area of Wet'suwet'en First Nation offices.
- g. The Returning Officer shall ensure that the election results declaration is posted on voting platform landing page and emailed to each Elector which voted electronically.
- h. Where it appears that two or more Candidates for the same office have an equal number of votes, the Returning Officer shall conduct a recount immediately.
- i. If the recount fails to determine a successful candidate, to break the tie the Returning Officer shall place the names of the Candidates having the same number of votes on a separate piece of paper and place each in a receptacle. Without looking, he shall draw as many papers as there are positions available. The candidate(s) whose name(s) appears on the piece(s) of paper the Electoral Officer has drawn from the receptacle shall constitute the successful candidate(s).

19. OATH OF OFFICE TO BE ADMINISTERED

- a. Prior to noon on the day immediately following the Election day or By Election day the Returning Officer shall administer the Oath of Office:
 - i. To the Candidate duly elected as Chief; and
 - ii. To the Candidates duly elected Councillor.
- b. No elected Chief and or Councillor may assume their elected office without first declaring and signing the Oath of Office as prescribed in this Code.

- c. The Oath of Office shall be in a form set out by the Returning Officer which each elected Candidate swears and declares they shall:
 - i. Uphold and comply with this code;
 - ii. Fulfill the duties and responsibilities of their office;
 - iii. Uphold and comply with the Laws of the Wet'suwet'en First Nation government;
 - iv. Protect and preserve Wet'suwet'en First Nation traditions, heritage, language and traditional way of life; and
 - v. Faithfully and honestly, to the outmost of their ability, perform all the duties which devolve upon them as Council of the Wet'suwet'en First Nation, without fear, favour, partiality or bias.
- d. Each Oath of Office shall be witnessed and signed by at least one Wet'suwet'en First Nation Elder in the presence of the Returning Officer.
- e. The Returning Officer shall witness and sign each Oath of Office and file the document as part of their final report to Council.
- f. If a person elected as Chief or Councillor fails to complete their Oath of Office declaration pursuant to and in accordance with this Code within 24 hours of the election, the Returning Officer shall declare the office vacant and immediately call a By Election.

20. FINAL REPORT OF ELECTION

- a. Within 4 days following the election the Returning Officer shall prepare a final report in triplicate detailing the Election or By Election proceedings for submission to Council and providing at least one copy to the appropriate Governance Officer at the British Columbia regional office of INAC.
- b. At a minimum, the final report shall contain the following information:
 - i. The names of all candidates;
 - ii. The number of Ballots cast for each;
 - iii. The number of spoiled, rejected or cancelled Ballots;
 - iv. An accounting and balancing of all Ballots;

- v. A summary of the type of voting results (electronic, proxy and in person);
- vi. The final election results declaration;
- vii. Copies of the Oaths of Officer for each Candidate; and
- viii. The Returning Officer's declaration that the Election or By Election was conducted pursuant to and in accordance with this Code.

21. RETENTION OF BALLOTS AND OTHER ELECTION MATERIAL

- a. The Returning Officer shall deposit all ballots in sealed envelopes, including those rejected, spoiled and unused, and shall retain these Ballots and all materials in connection with the Election or By Election.
- b. All Election or By Election materials shall be retained for 45 days from the date on which the Election was held or until a decision on an appeal is rendered, whichever date is later, after which time the Returning Officer shall destroy them and make a declaration to this effect.

22. APPEAL

- a. Within 30 days after an Election or By Election, any Candidate at that Election or By Election or any Elector or Proxy Elector who gave or tendered a vote or Proxy Form at the Election or By Election, may lodge an appeal with the Federal Court by way of judicial review pursuant to the Federal Court Act, who has reasonable grounds for believing that:
 - i. there was corrupt practice in connection with the Election or By Election;
 - ii. there was a violation of this Election Code which may have affected the result of the Election or By Election; or,
 - iii. a person nominated to be a Candidate in the Election or By-election was ineligible to be a Candidate in the Election or By Election.
- b. All appeals shall be conducted at the expense of the person(s) lodging the appeal.

23. FORMS AND NOTICES

- a. The Returning Officer shall prepare and format all the necessary forms and notices required and necessary pursuant to and in accordance with this Code, and as may be required to ensure the efficient and effective execution of the Election or By Election.

24. AMENDMENT

- a. The process for development and passage of amendments to this Code may be initiated by:
 - i. A petition presented to Council, signed by at least 50% of all eligible Electors and setting out the specific area in this code proposed for amendment; or
 - ii. A Council Resolution.
- b. Upon receipt of an amendment proposal in accordance with Section 24(a) of this Council shall prepare a notice that sets out:
 - i. A summary of the proposed amendments to this code;
 - ii. A statement where the full copy of original Code and the proposed amendments can be obtained; and,
 - iii. A description of the amendment process.
- c. Council shall establish an amendment process which at a minimum provides for adequate time and consideration of the proposed amendments by Electors, enables a mechanism for consideration of Electors feedback and comments, and the opportunity for Electors to vote on the proposed amendments to the Code.
- d. The notice provided for in Section 24 (b) shall be posted in a conspicuous public area of Wet'suwet'en First Nation offices and mailed to each Elector for whom a residential mailing address is known.
- e. Electors may, within 30 days of publication of the notice provide comments concerning the proposed amendments in writing to Council.
- f. Following receipt of comments concerning the proposed amendments, Council shall review comments and make changes to the proposed amendments as they deem necessary in order to arrive at a final amendment proposal.
- g. The Council shall submit the final amendment proposal to a vote of its Electors.
- h. Should the majority of the votes cast be in favor (50% plus 1) of the proposed amendments being brought to the Code, Council shall amend the Code accordingly.
- i. An election code amendment vote shall not be undertaken with less than 180 days remaining in the regular term of office of Council.

- j. Notwithstanding this Section, Council may at any time make corrections to the Code regarding grammar, Section referencing, formatting, tense, and spelling at any time to the Code by Resolution, and must post the Resolution specifying any correction(s) in a conspicuous public area of Wet'suwet'en First Nation offices.
- k. The Council shall establish document control regulations for the Code.