

TEMAGAMI FIRST NATION TRIBAL CONSTITUTION

The Temagami First Nation's political guidelines under the Tribal custom require updating and clarification. The main consideration being the interests of the majority of Band Members must be served by the elected Political representatives.

Section 1 MEMBERSHIP

- A) Registered Indians under the Indian Act.

Section 2 VOTING ELIGIBILITY

- A) Must be on Band Membership List

- B) Must be 18 (eighteen) years of age or older ①

1. General Band Meeting
2nd & Final Vote
1995/12/04

- C) It should be noted that a small number of unqualified voters or ballots ② will not result in an election being set aside unless the number of unqualified voters or ballots ③ is large enough to have affected the results. For example, if a councillor was elected by a majority of ten (10) votes over his next opponent then, up to nine (9) unqualified persons voting would not affect the election and the election would stand, but if ten (10) or more unqualified persons voted then the election of the councillor would be set aside. This might not affect the election of any other councillor or of the Chief at the same election. ⑤

5. Amended Gen. Mtg 2nd &
Final Vote on 2011/03/21

Section 3 Political Representation

There shall be one (1) chief and one (1) second chief and six Councillors elected to office. ⑤

The Chief, Second Chief and all Councillors will be voted in for the same three (3) year term at the general election to be held on the second Friday in July. Their term of office commences once the appeals process has closed. ⑤

Section 5 RESPONSIBILITIES OF OFFICE

5. Amended Gen. Mtg 2nd &
Final Vote on 2011/03/21

Section 5-1 Chiefs & Councillors:

- A) Quorum of Chief & Council to hold a duly convened Council Meeting shall be defined as the Chief plus 50% of the balance of Council.
- i. At the duly convened Council Meeting, a decision of Chief & Council requires the Chief plus 50% of the balance of Council. ④
- B) The Chiefs and Councillors responsibilities are to represent Temagami First Nation members on Band Policies, Laws, Bylaws, and Political Issues & Concerns for the good of Temagami First Nation members on N'Daki Menan. ②
- C) The Chief cannot authorize leasing of reserve land, cannot approve the sale of natural resources, cannot approve expenditure of Band revenue or Capital funds without Band majority approval.
- D) The Second Chief shall be an active member of the Council for his/her full term. He/She shall assume responsibilities of Head Chief;
- i. When notified in writing by the Head Chief that he/she will be absent;
- ii. When the Head Chief can no longer fulfill his/her responsibilities due to illness, death, or removal from office. ③
- E) When a Head Chief or Second Chief dies, resigns or is guilty of a conflict of interest, a By-election shall be held within ninety (90) days from the date

4. Amend
02/08/20
Com. Mtg.

2. Amend
02/05/09
Com. Mtg.

3. Amend
03/05/09
Com. Mtg.

that the office shall be vacated. Should the regular term be up less than ninety (90) days for (before) the Regular Election, there shall be no By-election.

- F) i) Should a Councillor's position become vacant ninety (90) days prior to the end of his/her term, a By-election will be held. ii) The office of Councillors and Second Chief shall become vacant when a Councillor or Second Chief is absent for three consecutive meetings called with proper notice. Proper notice being posted for public viewing in two (2) places, three (3) clear days before scheduled Council Meeting.
- G) Should Chief and Council reach an impasse on major issues, the matter will be brought before a Band Meeting for a majority vote.
- H) Should the Chief or member of Council be charged with a conflict of interest or acting beyond their powers of office, a petition for a Band Meeting stating clearly the charge, must be signed personally by 51% of eligible voters and presented to the Band Office. A receipt will be given to the person bringing in the petition along with a photocopy of the original. Then a date will be set for a Band Meeting not before fourteen (14) clear days when the petition was handed in at the Band Office and not later than twenty-one (21) clear days. Should the Councillor or Chief be found in conflict of interest, he/she be removed from office by 51% of Band Members voting for that purpose. Should 51% vote that the person is innocent, then the person shall retain their official position.
- I) Major policies, bylaws or amendments to either, must be supported by a Band majority vote, at meetings called for that purpose, to be in force.

Section 5-2-B Voting at Band Member Meetings

- A) Motions must have a mover and a seconder before discussion can take place on the motion.

- B) 51% of eligible voters must be in favour or against a motion before it can be passed or defeated. Excepted as stated in the following clause:
- C) Should 51% of eligible voters not be in favour or against, a vote will be taken on motions properly put forward and recorded results to be posted with a notice of another Band meeting not before fourteen (14) clear days after the first vote and no more than thirty (30) clear days after the first vote. Should a majority of eligible voters not be in favour or against at the second meeting, the same motions will be voted on and the result of this vote will be final.

Section 6

The Council can propose bylaws for any or all of the following purposes to maintain and improve the quality of life on Bear Island Reserve.

Section 6-1 Section 81 of the Indian Act

- A) to provide for the health of residents on the reserve and to prevent the spreading of contagious and infectious diseases;
- B) the regulation of traffic;
- C) the observance of law and order;
- D) the prevention of disorderly conduct and nuisances;
- E) the protection against and prevention of trespass by cattle and other domestic animals, the establishment of pounds, the appointment of

~~poundkeepers, the regulation of their duties and the provision for fees and charges for their services;~~

- F) the construction and maintenance of water courses, roads, bridges, ditches, fences and other local works;
- G) the dividing of the reserve or a portion thereof into zones and the prohibition of the construction or maintenance of any class of business trade or calling in any such zone;
- H) the regulation of the construction repair and use of buildings, whether owned by the Band or by individual members of the Band;
- I) the survey and allotment of reserve lands among the members of the Band and the establishment of a register of Certificates of Possession and Certificates of Occupation relating to allotments and the setting apart of reserve lands for common use, if authority therefore has been granted under Section 60 of the Indian Act.
- J) The destruction and control of noxious weeds;
- K) The regulation of bee-keeping and poultry raising;
- L) The construction and regulation of the use of public wells, cisterns, reservoirs and other water supplies;
- M) The control and prohibition of public games, sports, races, athletic contests and other amusements;

- N) The regulation of the conduct and activities of hawkers, peddlers or others who enter the reserve to buy, sell or otherwise deal in wares or merchandise;
- O) The preservation, protection and management of fur-bearing animals, fish and other game on the reserve;
- P) The removal and punishment of persons trespassing upon the reserve or frequenting the reserve for prescribed purposes;
- Q) With respect to any matter arising out of or ancillary to the exercise of powers under this section; and
- R) The imposition on summary conviction of a fine not exceeding one hundred dollars (\$100.00) or imprisonment for a term not exceeding thirty (30) days or both, for violation of a bylaw made under this section.

Section 6-2 Section 82 of the Indian Act

- A) A copy of every bylaw made under the authority of Section 81 shall be forwarded by mail by the Chief or a member of the Council of the Band to the Minister within four (4) days after it is made.
- B) A bylaw made under Section 81 comes into force forty (40) days after a copy thereof is forwarded to the Minister pursuant to subsection (1) unless it is disallowed by the Minister within the period, but the Minister may declare the bylaw to be in force at any time before the expiration of that period.

Section 7 **Appeals Council** ⑤

5. Amended Gen. Mtg 2nd &
Final Vote on 2011/03/21

7. The Appeal Council shall be appointed by Chiefs and Council to render final judgement on all election appeals.

7.1 The Appeals Council shall be composed of five (5) people who:

- A. Are members of Temagami First Nation**
- B. Three council members must be at least sixty (60) years of age and not employed by the Temagami First Nation.**
- C. Have submitted a letter of interest which includes the life skills and/ or qualifications.**
- D. Chiefs and Council shall appoint one of the Appeal Council members to the position of chairperson.**

7.2 At least Two (2) months before the date on which the election is to be held:

- A. Chiefs and Council shall appoint the Appeal Council in accordance with section 7.**
- B. Chiefs and Council shall comprise a list of alternate Appeal Council members, in case of resignation, conflict of interest or illness etc. prevents any committee member from fulfilling their duty.**
- C. The term of office for Appeal Council members shall be from the day of their appointment until the day on which the Chiefs and Council appoints new Appeals Council in accordance with the constitution.**

Section 8

- A) The Electoral Officer shall be appointed by Council
- B) The Electoral Officer shall appoint at least two (2) deputy electoral officers

Section 8-1 Nomination Meeting

5. Amended Gen. Mtg 2 nd & Final Vote on 2011/03/21

- A) When an Election is to be held the Electoral Officer shall post a notice in the form prescribed of a meeting of the electors for the purpose of nominating candidates for election; such notice shall be posted in one or more conspicuous places in each electoral section at least fourteen (14) ⑤ clear days prior to the date of the proposed nomination meeting and at least thirty (30) ⑤ clear days prior to the date set for the election.
- B) Nomination shall be submitted to the Electoral Officer with the form approved by Chief and Council. Nominations may be submitted by mail or hand delivered fourteen days prior to the nomination meeting. All nomination forms must be signed by the candidate, nominator and seconder. ⑤
- C) Where it is not practicable to hold a meeting for the nomination of candidates in accordance with the provisions of subsection 1, the Chief and Council may order that the meeting shall be held on a date less than six (6) clear days before the day on which the election is to be held.
- D) At the time and place specified in the notice, the Electoral Officer shall declare the meeting open for the purpose of receiving nominations, and any person who is an elector may propose or second the nomination of any duly qualified person to serve as a Chief or Councillor. To be a candidate you must be an eligible elector (voter). ⑤ The nomination meeting shall remain open for not less than two (2) hours after commencement when, if the number of persons nominated to serve on the Band Council does not exceed the requisite number, the Electoral Officer shall declare the persons so nominated duly elected.

- E) The Electoral Officer shall not close the nomination meeting until such business as he/she considers may properly be brought before it has been disposed of.
- F) In the event of more than the required number of persons being nominated for Chief and Councillors, the Electoral Officer shall declare that a poll will be held and shall name the time and the place where such a poll shall be taken.
- G) Whenever a poll is to be taken, the Electoral Officer shall, without any unreasonable delay after the nomination, cause to be posted in one or more conspicuous places within the section a notice to that effect in the form prescribed.

Section 8-2 Manner in Which Voting Shall Be Carried Out

- A) The Electoral Officer shall prepare a voters list containing the names, in alphabetical order, of all electors.
- B) The Electoral Officer shall post one or more copies of the voters(list) in a conspicuous place in the section.
- C) Any elector may apply to have the voters list revised on the ground that the name of an elector has been omitted therefrom or the name of a person not qualified to vote is included therein.
- D) If the Electoral Officer is satisfied that a list should be corrected he/she shall make the necessary correction therein.

- E) There shall be prepared ballot papers in the form prescribed containing names of the candidates for Chief and for Councillors, which shall be listed on the ballot papers in alphabetical order.
- F) Any candidate who has been nominated may withdraw at any time after his nomination but not later than forty-eight (48) hours before the time of the opening of the poll, by filing with the Electoral Officer a written withdrawal of his nomination, signed by himself in the presence of the Electoral Officer, a Justice of the Peace, a Notary Public, a Commissioner for Oaths or a Band Administrator and any votes cast for any such candidate shall be null and void.
- G) The Electoral Officer shall procure or cause to be procured as many ballot boxes as there are polling places, and shall cause to be prepared a sufficient number of ballot papers for the purpose of the election.
- H) The Electoral Officer shall, before the poll is open, cause to be delivered to his deputy the ballot papers, materials for marking the ballot papers, and a sufficient number of directions – for – voting as may be prescribed.
- I) The Electoral Officer or his/her deputy shall provide a compartment at each polling place where the electors can mark their ballot papers free from observation, and he/she may appoint a constable to maintain order at such polling place.
- J) The poll shall be kept open from nine o'clock (9:00) (standard time) in the forenoon until six o'clock (6:00) (standard time) in the afternoon of the same day, but where it appears to the Electoral Officer that it would be inconvenient to the electors to have the poll closed at six o'clock (6:00), he/she may order that it be kept open until not later than eight o'clock (8:00) (standard time) of the afternoon of the same day.

- K) A candidate shall be entitled to not more than two agents in a polling place at any one time.

Section 8-3

Voting at all elections shall be by ballot in the manner set forth in section 8-3.

The Electoral Officer or his/her deputy shall immediately before the commencement of the poll, open the ballot box and call such persons as may be present to witness that it is empty; he/she shall then lock and properly seal the box to prevent it being opened without breaking the seal and shall place it in view for the reception of ballots, and the seal shall not be broken nor the box unlocked during the time appointed for taking the poll.

At the request of any candidate or his agent or any elector, an oath or affirmation in the form prescribed as to his rights to vote shall be administered to any person tendering his/her vote at any election.

THE POLL

- A) On a person presenting himself/herself for the purpose of voting, the Electoral Officer or his/her deputy shall, if satisfied that the name of such person is entered on the voters list at the polling place, provide him with a ballot paper on which to register his/her vote.
- B) The Electoral Officer or his/her deputy shall cause to be placed in the proper column of the voters list, a mark opposite the name of every voter receiving a ballot paper.
- C) No person who has refused to take the oath or affirmation referred to in subsection fourteen of section five when request so to do shall receive a ballot paper or be permitted to vote.

- D) The Electoral Officer or his/her deputy may and when requested to do so, shall explain the mode of voting to the voter.
- E) Each person receiving a ballot paper shall forthwith proceed to the compartment provided for marking ballots and shall mark his/her ballot paper by placing a mark opposite the name of the candidate or candidates for whom he/she desires to vote; he/she shall then fold the ballot paper so as to conceal the names of the candidates and the marks on the face of the paper but so as to expose the initials of the Electoral Officer or his/her deputy and on leaving the compartment shall forthwith deliver the same to the Electoral Officer or his/her deputy who shall without folding the ballot paper, verify his/her initials and at once deposit it in the ballot box in the presence of the voter and of all other persons entitled to be present in the polling place.

5. Amended Gen. Mtg 2nd &
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- F) While any voter is in the compartment for the purpose of marking his/her ballot paper, no other person shall, except as provided in subsection (g) be allowed in the same compartment or be in any position from which he/she can see the manner in which such voter marks his/her ballot paper.
- G) The Electoral Officer or his/her deputy on the application of any voter who is unable to read or is incapacitated by blindness or other physical cause from voting in the matter prescribed by subsection (e) shall assist such voter by marking his/her ballot paper in the manner directed by such voter in the presence of the agents of the candidates in the polling place and of no other person, and place such ballot in the ballot box.
- H) Invalids or people bed ridden by bacterial illness shall have the right to request the Electoral Officer and one deputy to bring the ballot to their residence for the purpose of placing their vote in Band Elections. The

~~request will be dealt with by the Electoral Officer whose decision will be final.~~

- I) The Electoral Officer or his/her deputy shall state in the voters list opposite the name of such elector in the column for remarks, the fact that the ballot paper was marked by him/her the request of the voter and the reasons therefore.
- J) A voter who has inadvertently dealt with his/her ballot paper in such a manner that it cannot be conveniently used, shall upon returning it to the Electoral Officer or his/her deputy be entitled to obtain another ballot paper and the Electoral Officer or his/her deputy shall thereupon write the word "Cancelled" upon the spoiled ballot paper and preserve it.
- K) Any person who has received a ballot paper and who leaves the polling place without delivering the same to the Electoral Officer or his/her deputy, in the manner provided, or if, after receiving the same, refuses to vote shall forfeit his/her right to vote at the election, and the Electoral Officer or his/her deputy shall make an entry in the voters list in the column for remarks opposite the name of such person to show that such person received the ballot paper and declined to vote, in which case the Electoral Officer or his/her deputy shall mark upon the face of the ballot paper the word, "Declined" and all ballot papers so marked shall be preserved.
- L) An elector whose name does not appear on the voters list may vote at an election, providing that the Electoral Officer or his/her deputy is satisfied that such person is qualified to vote.
- M) Every elector who is inside the polling place at the time fixed for closing the poll shall be entitled to vote before the poll is closed.

N) Immediately after the close of the poll, the Electoral Officer or his/her deputy shall, in the presence of such of the candidates or their agents as may be present, open the ballot box and:

- 1. Examine the ballot papers and reject all ballot papers;**
 - (a) which have not been supplied by him/her; or**
 - (b) by which votes have been given for more candidates than are to be elected; or**
 - (c) upon which anything appears by which the voter can be identified, but no word, letter or marks written or made or omitted to be written or made by the Electoral Officer or his/her deputy on a ballot paper shall void it or warrant its rejection;**
- 2. Declare a ballot paper containing the names of candidates for more than one office, on which voters are given for more candidates for any office than are to be elected to be void as regards all the candidates for such office; but such ballot paper shall be good as regard the votes for any other offices in respect of which the voter has not voted for more candidates than are to be elected;**
- 3. Subject to review on recount or on an election appeal, take a note of any objection made by any candidate or his/her agent to any ballot paper found in the ballot box and decide any question arising out of the objection;**
- 4. Number such objection 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/her initials;**
- 5. Count the votes given for each candidate from the ballot papers not rejected and make a written statement of the number of votes given to each candidate and of the number of ballot papers rejected and not counted by him/her which statement shall be then signed by him/her and such other**

~~persons authorized to be present as may desire to sign the same.~~

- O) Immediately after the completion of the counting of the votes, the Electoral Officer shall publicly declare to be elected the candidate or candidates having the highest number of votes and he/she shall also post in some conspicuous place a statement signed by him showing the number of votes cast for each candidate.
- P) Where it appears that two or more candidates have an equal number of votes, the Electoral Officer shall give a casting vote for one or more of such candidate, but the Electoral Officer shall not otherwise be entitled to vote.
- Q) The Electoral Officer shall prepare a statement in triplicate showing the total number of votes cast for each candidate, the number of rejected ballots and the names of the candidates duly declared elected. One copy of such statement shall be forwarded to the Indian Affairs District Office and one to the Regional Office of Indian Affairs in Toronto. The statement shall be signed by the Electoral Officer and such of the candidates or their agents as are present and desire to sign it.

SECTION 8-4 DISPOSITION OF BALLOT PAPERS

- A) The Electoral Officer shall deposit all ballot papers in sealed envelopes with the Superintendent, who shall retain them in his possession for eight weeks, and unless otherwise directed by the elders or by a person authorized by them shall then destroy the ballot papers in the presence of two witnesses who shall make a declaration that they witnessed the destruction of them.

SECTION 8-5 ELECTION APPEALS

5. Amended Gen. Mtg 2nd &
Final Vote on 2011/03/21

- A) Within fourteen(14)Ⓢ days after an election any candidate at the election or any elector who has reasonable grounds for believing that:
1. there was corrupt practice in connection with the election;
 2. there was a violation of the TFN Constitution or these regulations that might have affected the result of the election;
- ⓈMay lodge an appeal by forwarding by mail or hand delivered to the Band Office, the particulars thereof duly verified by affidavit.
- B) A non-refundable deposit of \$100.
- C) The Band Office shall then forward the appeals to the Appeals Chairperson of the Council and the candidate(s) within seven (7) days.
- D) The Appeals Council may dismiss an appeal at any time if it is without merit.
- E) The candidate(s) may within seven (7) days of the receipt of the copy of appeal forward to the Band Office by mail or hand a written answer to the particulars set out in the appeal together with any supporting documents relating thereto duly verified by affidavit.
- F) The Appeals Council Shall hold a closed hearing to render a decision within seven (7) days of receiving an appeal.
- G) Where the evidence and information gathered leads the Appeals Council to reasonably conclude that:
- a. there was corrupt practice in connection with an election that might have affected the results of an election;

~~b. there was a violation of the TFN Constitution or these regulations that might have affected the result of an election;~~

They shall decide to uphold the appeal and set aside the election of any or all of the Council.

- H) A By- election is to be held the Electoral Officer shall post a notice in the form prescribed of a meeting of the electors for the purpose of nominating candidates for By-election; such notice shall be posted in one or more conspicuous places in each electoral section at least fourteen (14) clear days prior to the date of the proposed nomination meeting and at least thirty (30) clear days prior to the date set for the election.
- I) The Appeals Council shall deny an appeal if it is found to be without merit.
- J) The Appeal Council's decision shall be:
- 1) Mailed to band members and/or posted in the community's newsletter; and
 - 2) Posted in at least 2 conspicuous places on the reserve.
- K) The Appeals Council's decision is final and not subject to appeal. ⑤

5. Amended Gen. Mtg 2 nd & Final Vote on 2011/03/21
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Section 8-6 SECRECY OF VOTING

- H) Every person in attendance at a polling place or at the counting of the votes shall maintain and aid in maintaining the secrecy of the voting. No person shall interfere or attempt to interfere with a voter when marking his ballot paper or obtain or attempt to obtain at the polling place information as to how a voter is about to vote or has voted.

- I) The Electoral Officer may make such orders and issue such instructions, as he may deem necessary from time to time for the effective administration of these regulations.

- J) Such forms as are required for the purposes of these regulations shall be as are prescribed by the Electoral Officer.