

KITSELAS

2225 Gitaus Road
Terrace, BC
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KITSELAS Chief and Council have struck an independent Custom Election Code Committee to develop a custom election process that is specific to Kitselas. The Committee consists of community members who have volunteered their time to review the existing election process and draft a Custom Election Code. Developing a Custom Election Code is a long and involved process that will change the way leadership is chosen.

However, whether or not this happens will be up to you!

The Committee would very much like your input on whether or not you even would like to have a Kitselas Custom Election Code and if so, what it should look like. You can be involved by completing this survey-yes, another survey! The Committee felt very strongly that each Kitselas member should have input into the making of this law as it will have a lasting impact on community.

Currently, Kitselas uses the leadership selection process under the Indian Act (Section 74). One of the most important decisions to be made is whether or not membership even wants a Custom Election Code or would rather remain under the current system within the Indian Act. On the next page you will find a comparison of three (3) leadership selection options available to Kitselas. If you opt for a new election process, Membership will need to ratify the Code into Law.

Your input is invaluable!

Some fine print: Survey respondents must be a member of Kitselas. Nor does the survey ask any personal information. The responses that you provide will be only used by the Committee to draft the Code and will not be shared. If you have any questions, comments or concerns about the process or regarding the survey questions please contact the Committee at our email address and we will get back to you:

electioncommittee@kitselas.com

WATCH for the date of our community meeting on the Custom Election Code process!

Sincerely,

The Custom Election Code Committee:

Edison Bolton, Alfie McDames, Lloyd McDames, Joan Mason, James Seymour

MORE INFORMATION

The Community has three options for electing leadership. Below is a comparison of the existing Indian Act, the new First Nations Elections Act and a Custom Election Code. The options listed under the Custom Election Code section are specific to a community whereas those listed under the Indian Act and First Nations Election Act cannot be customized or changed to suit the needs of the community

	<i>Indian Act</i>	<i>NEW****First Nations Elections Act</i>	<i>Custom Election Code</i>
Opting In	<p>Opting in is at the discretion of the Minister of Aboriginal Affairs and Northern Development should he or she "deem it advisable for the good government of the band".</p> <p>No provision as this the current process used by Kitselas</p>	<p>Council can request to come under the First Nations Elections Act by adopting a band council resolution; or The Minister may bring the First Nation under the First Nations Elections Act if a protracted leadership dispute in a First Nation has significantly compromised the governance of that First Nation; or if the Governor in Council has set aside an election of the First Nation under section 79 of the <i>Indian Act</i> because there was corrupt practice in connection with an election. Community can first opt into this process before undertaking a Custom Election Code.</p> <p>Council must just submit a BCR to the Minister at least six months prior to the next election. For more information on the First Nations Election Act see the link at the bottom of this section.</p>	<p>A Custom Election Code process designed by the Community. Will require Community approval through a ratification process.</p> <p>Minister to make final approval once ratified by Community.</p>
Term of office	Every 2 years	4 years	4 years
Composition of Council	One chief and one councillor for every 100	One chief and one councillor for every 100	Community can decide, for example:

	<p>members of the First Nation (minimum of two/ maximum of 12 councillors)</p> <p>Minister can authorize a different number of councillors upon request.</p>	<p>members of the First Nation (minimum of two and maximum of 12 councillors)</p> <p>Council can decide by resolution to reduce the number of councillor positions.</p>	<ul style="list-style-type: none"> ▪ 300 – 750 Members: 1 Chief + 4 Councillors ▪ 751 – 1000 members: 1 Chief + 5 Councillors ▪ 1001 – 1500 members: 1 Chief + 6 Councillors ▪ *Under no conditions will First Nation support more than 1 Chief + 7 Councillors
Electoral Officers	<p>The electoral officer is appointed by Council with the approval of the Minister.</p>	<p>Electoral officers must be certified through a training program approved by the Minister. The electoral officer is appointed by Council, the Minister's approval of the appointment is no longer required. The Minister appoints an electoral officer only when the band council cannot form quorum to make binding decisions.</p>	<p>Council appoints a qualified Electoral Officer by BCR.</p>
Election Period	<p>Minimum of 79 days</p>	<p>Minimum of 65 days</p>	<p>Campaign Period: 45 days (begins 9 days after nomination meeting and ends one day before polls open)</p> <p>Total Election Period: 100 days (begins when Council passes a BCR announcing the election date and the appointment of an Electoral Officer)</p>
Qualifications to nominate, and be, a candidates for Chief and Councillor	<p>Only candidates nominated for councillor positions must be a member of the First Nation and be at least 18 years of age on the day of the nomination meeting. <i>Individuals running for position of Chief do not need to be a member.</i></p>	<p>Candidates nominated for any position must be a member of the First Nation and be at least 18 years of age on the day of the nomination meeting.</p>	<p>Candidates must be an Elector:</p> <ul style="list-style-type: none"> ▪ First Nation member ▪ 18 years (on the date of Election) ▪ Included or eligible to be included on the Voter's List
Rules and procedures for the nomination of candidates	<p>An elector can nominate a candidate in writing prior to the nomination meeting or orally at the meeting.</p>	<p>An elector can nominate a candidate in writing prior to the nomination meeting or orally at the meeting.</p> <p>A person can be a candidate for only one position for the same election.</p> <p>A First Nation may choose</p>	<p>Only an Elector may nominate a fellow Elector either in writing by mail or orally in person at the Nomination Meeting.</p>

		to impose a fee of up to \$250 on each candidate to be refunded if the candidate receives more than 5 per cent of the total votes cast.	
Candidate acceptance	Persons nominated automatically become candidates and their names are placed on the ballot unless they withdraw in writing.	Persons nominated must submit a written declaration and acceptance of nomination, and if applicable, the candidacy fee, or their name will not appear on the ballot.	<p>In order to qualify for candidacy, a nominee must:</p> <ul style="list-style-type: none"> ▪ Be a registered member, ▪ Be 18 years of age on Election Day, ▪ Prove that he has not been convicted of an offence, ▪ Submit and pay for a Criminal Record Check. ▪ Be in good standing with the First Nation. ▪ Not be bankrupt under the Bankruptcy and Insolvency Act on Election Day. <p>To accept a nomination, a Candidate must:</p> <ul style="list-style-type: none"> ▪ Sign and deliver an Acceptance of Nomination Form to the Electoral Officer, ▪ Submit a \$500 nomination fee, ▪ Agree to complete a two (2) day “Introduction to Council Roles and Responsibilities.” Course.
Qualifications to vote	To be eligible to vote, a person must be a member of Kitselas and be at least 18 years of age on election day.	To be eligible to vote, a person must be a member of Kitselas and be at least 18 years of age on election day.	<ol style="list-style-type: none"> 1. Member of Kitselas. 2. 18 years of age on Election Day. 3. Included, or eligible to be included, on the Voter’s List.
Mail-in ballots	<p>The electoral officer sends a mail-in ballot to all off-reserve electors whose addresses appear on the list provided by Kitselas.</p> <p>The electoral officer will also respond to specific requests for a mail-in ballot and can do so until polling day.</p>	<p>Electors wishing to vote by mail-in ballot must provide a written request to the electoral officer along with a photocopy of an identification document. The electoral officer will send mail-in ballot packages to all those electors whose request is received on or before the 6th day before the election. After this time, no mail-in ballots will be given out and the elector</p>	<p>Electors resident on or off-reserve shall be issued a mail-in ballot package not less than 45 days before the Election Day.</p> <p>Also have the option to provide secure ‘on-line’ voting procedures.</p>

		will have to vote in person either at an advance poll or at the polling station on election day.	
Offences and Penalties	None	<p>Prohibits corrupt activities surrounding the electoral process such as offering and accepting bribes, purchasing and selling mail-in ballots, obstructing the electoral process and breaching the secrecy of the vote.</p> <p>Persons who breach these prohibitions are guilty of an offence that is punishable by fines and up to five years in prison.</p> <p>Elected officials convicted of these offences are removed from office and not eligible to run again for five years in certain circumstances.</p> <p>The offence and penalty provisions are very similar to those found in the <i>Canada Elections Act</i>.</p>	<p>First Nation sets out “Campaign values and principles becoming of a First Nation.” Election campaign values and principles can include:</p> <ol style="list-style-type: none"> 1. NO coercion or vote-buying; 2. Respecting the rights of other individuals to campaign; 3. Elector’s right to obtain information from a variety of sources; 4. Focussing on political issues and not conducting smear campaigns or using rumors or innuendo; 5. Refraining from intimidating opposing candidates, opposition supporters, or the media; 6. Campaigning ends 24 hour before the opening of the polls, 7. Respect the Electoral Officer and not interfere with the performance of his duties; 8. Not use an existing political position, or Band resources, including Band office facilities, to influence Electors or promote their campaign. <p>*A breach in this behaviour may be reported to an Adjudicator for review.</p>
Removal from Office	<p>A person ceases to hold office when they die, resign or are convicted of an indictable offence.</p> <p>or</p> <p>When the Minister removes them for having committed corrupt practices in connection with an election or for having missed three consecutive meetings of</p>	<p>A person ceases to hold office when they die, resign or are convicted of an indictable offence – however, the conviction must be accompanied by a prison sentence greater than 30 consecutive days for the person to lose their position.</p> <p>No ministerial powers to remove elected officials.</p>	<p>A vacancy on Council occurs when a Chief or Councillor:</p> <ul style="list-style-type: none"> ▪ resigns in writing ▪ dies; ▪ becomes unable to perform the functions of his office ; ▪ is removed from office according to the Kitselas Governance Policy. ▪ Is convicted of an offence against people, property or convictions involving substance abuse unless the indictment involved is

	the council without authorization		<p>under s.35 of the Constitution Act and waived by a majority of Council members;</p> <ul style="list-style-type: none"> ▪ Is otherwise unable to fulfill the terms of office. <p>*OR, if the Complaints Adjudicator, upholds an appeal and sets aside the election for that position.</p>
Appeals	Directed to the Minister who may conduct an investigation and report findings to the Governor in Council. The Governor in Council may set aside the election on the report of the Minister	Directed to provincial or federal courts, which can, after hearing the particulars, set aside an election	<ul style="list-style-type: none"> ▪ Appointment of a Complaints Adjudicator to process all complaints under an appeals hearing process. ▪ The appeal must be submitted in writing along with a fee. ▪ The Complaints Adjudicator is intended to interpret the circumstances within the framework of the Election Code. ▪ The Complaints Adjudicator decision is final and legally binding. ▪ Some remedies available to the Adjudicator include: <ul style="list-style-type: none"> a. Call for re-election b. Deny the appeal c. Recommend amendments to the Code
Opting Out	No provisions (removal from the <i>Indian Act</i> election system is guided by the Department's <i>Conversion to Community Election System Policy</i>)	The First Nation must develop a community election code which must be approved by the majority of votes cast at a secret ballot vote in which at least 50 per cent of all the electors of Kitselas participate.	<p>No Opting out.</p> <p>Once the first Custom Election Code is ratified by membership, the Code can be amended thereafter.</p>

<https://www.aadnc-aandc.gc.ca/eng/1323195944486/1323196005595>

ABOUT THIS SURVEY

The Custom Election Code Committee have reviewed a draft Custom Election Code and would like your input on a number of important questions. There are some very important terms in the law that must be decided upon before a final recommendation can be presented to membership.

The Committee went through each clause of a draft Code with a view to seek out the very best options for not only the leadership selection process but also for the actual voting procedures and appeals processes. The Committee spent a great deal of time to ensure that each step of the election process will meet the future needs of Kitselas.

Background information is provided for each of the survey questions. The Committee will use your response to complete the draft Code. A copy of the draft Code will be provided to each member once the Committee has made a final review. As a final step, there will be a Community vote on the proposed law.

THE QUESTIONS

1. Please confirm that you are a member of the Kitselas First Nation and your age. The Committee really would like input from Kitselas Youth as this law will impact their future the most. Even if you are not 18 years old today, your answers to this survey are still very important.

a. I'm a Kitselas member over the age of 18 or will be in time by the next election in June, 2017.

<input type="checkbox"/>	Yes	<input type="checkbox"/>	No
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b. I'm a Kitselas member under the age of 18.

<input type="checkbox"/>	Yes	<input type="checkbox"/>	No
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2. Where is your primary residence?

<input type="checkbox"/>	On Reserve	<input type="checkbox"/>	Off Reserve <i>within</i> 50 kms of Gitaus or Kulspai.	<input type="checkbox"/>	Off Reserve <i>over</i> 50 kms away from Gitaus or Kulspai.
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3. Did you vote in the last Kitselas election held June 2015? If you didn't, can you tell us why not?

<input type="checkbox"/>	Yes	<input type="checkbox"/>	No
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Comments:	

5. In the last election, Kitselas went from a six (6) member council to a seven (7) member council as a result of an increase in the number of registered members. Both the Indian Act and First Nation Election Act process allows for one councillor for every 100 members for a minimum of 2 councillors to a maximum of twelve (12) councillors. The number of council positions varies from community to community, for example:

FIRST NATION	Election Type	NUMBER OF COUNCILLORS	NUMBER OF BAND MEMBERS
Gitxaala	Custom	7	1969
Kitselas	Indian Act	7	653
Tahltan	Indian Act	6	1904
Haisla	Custom	11	1887
Westbank	Self-Government/Custom	5	859
Old Massett Village Council	Custom	5	3021

Under a Custom Election Code, membership can decide what the appropriate number of councillor positions needed to effectively govern the community within the standard range of 2 to 12 positions. Below are some pros and cons for the number of councillor positions.

PROS	CONS
Having a large council should mean that decisions can be made on a timely basis as there should always be a quorum of council.	Having a small number of Councillors may mean that there may not be a consistent quorum of Council to make timely decisions or represent the community.
A smaller council is less costly to the community in that there are fewer honorariums to pay for.	A larger council is more costly to the community in that there will be more honorariums to pay for.
A larger council could be more reflective of membership opinions.	A small council may not cover all the concerns of membership.
A larger council could also provide better representation to Elders and Youth.	A small council may not provide enough representation throughout the entire community.

(5. Continued) *How many council positions should Kitselas have? Please provide us with a number and any comments that you may have.*

Number of Council positions:	
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Comments:	

6. *In a Custom Election Code there can be rules regarding an individual's eligibility to be a candidate. Eligibility to be a candidate can include:*

- Must not have been convicted of an indictable criminal offence that has not been pardoned or in relation to Aboriginal or treaty rights,
- Must not have been removed from a position on Council,
- Must not be bankrupt,
- Must not have a criminal conviction relating to theft, fraud or misuse of property,
- Must not owe a debt to Kitselas or a Kitselas business entity.

Where an individual must not have a debt owed to the Band, some communities allow that if the person has a valid repayment plan in place and is not in default with that plan, they are eligible to run for office. The repayment plan would be similar to the one required for housing arrears and must be in place at least six months prior to the election. Other communities hold that an individual must not owe any debts to the Band, repayment plan or not. If this case, an individual is not able to run for office under any circumstances. What is your preference?

<input type="checkbox"/>	Nominee must have a repayment plan in place and must not be in default of that plan similar to the repayment plans relating to housing arrears.	<input type="checkbox"/>	A nominee must not owe any debts to the Band of any amount.
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Comments:	

7. *First Nations with a Custom Election Code can stipulate where a Candidate can reside in order to be nominated. Some communities require that only candidates living on reserve(s) can be nominated, other communities allow candidates to live either on or off reserve but must be within a certain distance from principal administration office. For example, some communities state that a candidate must live within 50 or 100 kilometers of the main office. In other examples, the candidate can live anywhere in British Columbia but must ensure that they can attend all the meetings in person and at their own cost. What do you think? Choose one option only or provide more alternatives in the comments below.*

<input type="checkbox"/>	A candidate must reside on one of the Kitselas reserves only.
<input type="checkbox"/>	A candidate can reside either on or off one of the Kitselas reserves.
<input type="checkbox"/>	A candidate must live within 50 kms of the principal administration office.
<input type="checkbox"/>	A candidate must live within 100 kms of the principal administration office.
<input type="checkbox"/>	A candidate must live within British Columbia.

Comments:	

