

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
- C) Resident on Tribal Ancestral Hunting Lands
- D) A person who is away from the Tribal Lands for educational or training reasons and who intends to return to the Tribal Lands (especially where family is on the Tribal Land) is considered on Tribal Lands for election purposes.
- E) A man has a house on the Tribal Lands and moves with his family to a seasonal type of job off the Tribal Land. He is a resident of the Tribal Lands and is considered on Tribal Lands for election purposes because his home is on Tribal Lands and he will return at the end of his seasonal employment.

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

- F) A person with a full time job off the Tribal Lands but who returns on weekends and holidays to visit his family who live on the Tribal Lands is considered to be on Tribal Lands for election purposes.**
- G) A single person whose family is on Tribal Lands but works off Tribal Lands and comes back for weekends and holidays is also considered to be on Tribal Lands for election purposes.**

BUT

- H) An individual with a full time job off Tribal Lands whose family is off Tribal Lands is considered to be off Tribal Lands for election purposes, no matter how frequently he or she visits the Tribal Lands.**
 - I) A man or woman separated from their family which is on Tribal Lands and who lives and works off Tribal Lands is considered to be off Tribal Lands for election purposes.**
 - J) It should be noted that a small number of unqualified voters will not result in an election being set aside unless the number of unqualified voters 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.**
 - K) Subject to the other provisions of this section. The question as to where a person is or was resident at any material time or during any material period shall be determined by reference to all the facts of the case:**
 - L) The place of ordinary residence of a person is, generally, that place which has always been, or which he has adopted as the place of his habitation or**
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home, where a person usually sleeps in one place and has his meals or is employed in another place, the place of his ordinary residence is where that person sleeps:

- M) A person can have one place of ordinary residence only and he shall retain such place of ordinary residence only and he shall retain such place of ordinary residence until another is acquired;
- N) Temporary absence from a place of ordinary residence does not cause a loss or change of place of ordinary residence.

Section 3 Political Representation

One (1) Head Chief, one (1) Second Chief, and one (1) Councillor for every fifty band members meeting resident guidelines. There should be no more than two (2) Councillors and no more than nine (9) Councillors. Before additional Councillors are added to the Council 1/3 of the fifty (50) band members must be resident, ie., 117 members instead of 101.

The First Chief, Second Chief and all Councillors will be voted in for same (3) year term at the General Election to be held in the month of June, commencing June 2008. [5]

5. Amend 08/05/21

Section 5 RESPONSIBILITIES OF OFFICE

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]

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

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]

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

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]**

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

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 that the office shall be vacated. Should the regular term be up less than ninety (90) days for 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;**
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- 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**
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declare the bylaw to be in force at any time before the expiration of that period.

Section 7 **Council of Elders**

- A) Shall be appointed by Council to advise Council in Tribal Traditions
- B) Shall render final judgements on election appeals

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**

- 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 six (6) clear days prior to the date of the proposed nomination meeting and at least twelve (12) clear days prior to the date set for the election.
 - B) 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.
 - C) 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, and the 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
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does not exceed the requisite number, the Electoral Officer shall declare the persons so nominated duly elected.

- D) 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.
- E) 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.
- F) 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 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.
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- 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.**
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- 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.**
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- 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 cross 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.**
 - 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**
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- 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**
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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

- A) Within thirty days after an election any candidate at the election or any elector who gave or tendered his vote at the election who has reasonable grounds for believing that:

1. there was corrupt practice in connection with the election;
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- 2. there was a violation of the Act or these regulations that might have affected the result of the election; or**
- 3. a person nominated to be a candidate in the election was ineligible to be a candidate;**

may lodge an appeal by forwarding by registered mail to the electoral officer particulars thereof duly verified by affidavit.

- B) Where an appeal is received by the electoral officer pursuant to subsection one, the electoral officer shall within seven days of the receipt of the appeal forward a copy of the appeal together with all supporting documents by registered mail to the Elders and to each candidate in the electoral section.**
- C) Any candidate may within fourteen days of the receipt of the copy of appeal forward to the Electoral Officer by registered mail a written answer to the particulars set out in the appeal together with any supporting documents relating thereto duly verified by affidavit.**
- D) All particulars and documents filed in accordance with the provisions of this section shall constitute and form the record.**
- E)**
- 1) The Electoral Officer may, if the material that has been filed is not adequate for deciding the validity of the election complained of, conduct such further investigation into the matter as he or she deems necessary in such manner as he or she deems expedient;**
 - 2) Such investigation may be held by the Electoral Officer or by any person designated by the Electoral Officer;**
 - 3) Where the Electoral Officer designates a person to hold such an investigation, such person shall submit a detailed report of the investigation to the Electoral Officer for consideration.**
- F) Where it appears that:**
- 1) there was corrupt practice in connection with an election;**
 - 2) there was a violation of the Constitution or these regulations that might have affected the result of an election or;**
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- 3) a person nominated to be candidate in an election was ineligible to be a candidate, the Electoral Office shall report to the Council of Elders accordingly.**

Section 8-6 SECRECY OF VOTING

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