

TA'AN KWÄCH'ÄN COUNCIL
THE RULES OF PROCEDURE FOR THE ELDERS COUNCIL

April 2005

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Preamble

1. Our vision for the citizens of the Ta'an Kwäch'än Council is for the preservation, balance and harmony of our traditional territory. We will honour, respect, protect and care for our environment, people, economy and traditional culture as practiced by the elders. We encourage our citizens to participate in the well being of our nation by building a unified, healthy and self-reliant community. The Ta'an Kwäch'än Council will recognize all its citizens as equals and will respect the free expression of their views.
2. These rules are established pursuant to section 7.2.8 of the Constitution.

Title

3. These rules of procedure may be cited as *The Rules of Procedure for the Elders Council*.

Definitions

4. "Constitution" means the *Constitution of the Ta'an Kwach'an Council*.
5. "Director" means Family Director pursuant to the Constitution.
6. With the exception of sections 4 and 5, the definitions of the Constitution shall also apply to these rules of procedure.

Authority

7. The Elders Council may make decisions as set out in the Constitution or established in the laws of the Ta'an Kwäch'än Council. All activities and decisions of the Elders Council shall be in accordance with the laws of the Ta'an Kwach'an Council and these rules of procedure.

Membership

8. In accordance with the Constitution, and subject to section 9 of these rules of procedure, the Elders Council is made up of all citizens who are sixty years of age or older.
9. If a citizen holds a position as a Director and sits on the Board, that citizen can not be a member of the Elders Council while he or she holds the position of Director.

Meetings

10. The Elders Council shall hold a minimum of four meetings per year.

11. In accordance with the Constitution, before any meeting of the Elders Council, a public notice of the date, time and location of the meeting shall be posted in the main administration building of the Ta'an Kwäch'än Council.
12. The Elders Council shall identify a chair to oversee the activities of the Elders Council.

Chair

13. The chair shall be responsible for
 - a) calling the meetings of the Elders Council;
 - b) providing direction to support staff;
 - c) chairing the meetings of the Elders Council; and
 - d) any other duties or direction set out in these rules of procedure or as directed by the Elders Council.

Support staff

14. There shall be support staff for the Elders Council as identified by the Elders Council.
15. The support staff shall be responsible for
 - a) notifying members of the Elders Council of upcoming meetings;
 - b) coordinating the meetings of the Elders Council;
 - c) carrying out decisions of the Elders Council as directed by the Elders Council; and
 - d) any other duties and direction as set out in these rules of procedure or identified by the Elders Council.

Meetings open to citizens

16. Any Ta'an Kwäch'än citizen may attend a meeting of the Elders Council as an observer. No citizen shall be excluded except in accordance with these rules of procedure.
17. A citizen who does not respect these rules of procedure or direction of the Elders Council shall be directed, by the chair, to leave the meeting.

Presentations to the Elders Council by citizens

18. (1) Any citizen who wishes to make a presentation to the Elders Council at a meeting must provide written notice to the chair no later than 24 hours before the meeting. The notice shall indicate the citizen's name and the matter on which he or she wishes to speak.
 - (2) The notice period referred to in subsection (1) may be waived by consensus of the Elders Council.

19. The time for each citizen's presentation at a meeting shall be limited to a maximum of ten minutes. Each member of the Elders Council may ask two questions to the citizen who made the presentation at the end of his or her presentation.
20. Citizens should avoid repetition of the comments of previous speakers. The purpose of the presentations is to provide information and the citizen's view for the consideration of the Elders Council. Any questions raised by the citizen will not necessarily be answered or responded to by the Elders Council at that meeting.
21. Except when the citizen is answering a direct question from a member of the Elders Council, all remarks shall be addressed to the Elders Council as a whole and not to individual members of the Elders Council.
22. (1) The Elders Council may close the presentations even if not all citizens have had the opportunity to speak or end the time to speak to allow the meeting to proceed with its agenda and deal with its business.

(2) If a citizen who provided written notice to the chair under section 18 of these rules of procedure did not have an opportunity to speak, he or she shall be provided such an opportunity at the next scheduled meeting.

In camera discussions

23. The Elders Council shall decide when its discussions will be held *in camera* and only the members of the Elders Council and staff, as required, shall attend such discussions of the Elders Council. Any member of the Elders Council who has a conflict of interest and all others shall be asked to leave the meeting room.
24. All *in camera* discussions shall be recorded on audio tape. As soon as possible after each meeting, the chair of the Elders Council shall turn over the tape for safekeeping to the legal counsel of the Ta'an Kwäch'än Council. Any audio tape in the custody of the legal counsel shall be released only with the consent of the Elders Council.

Decisions

25. The Elders Council shall try to make decisions which all the Elders at the meeting agree with. If agreement cannot be reached and a decision of the Elders Council is required, then a vote by show of hands shall be taken. In the case of a vote, three-quarters of those present must vote in favour of the decision for the vote to pass.

Quorum

26. The quorum for a meeting of the Elders Council shall be six elders from at least three of the traditional families.

Conflict of interest

27. A member of the Elders Council shall disclose to the Elders Council any direct or indirect financial or other personal interest that he or she or a member of his or her immediate family has in any matter before the Elders Council and shall not take part in the discussions of the Elders Council with respect to that matter or vote on that matter.

28. (1) Where a disagreement arises as to whether an Elders Council member or a member of his or her immediate family has a direct or indirect financial or other personal interest in a matter before the Elders Council, the Elders Council shall decide, by a vote, whether that Elders Council member or a member of his or her immediate family has such an interest and the affected Elders Council member shall not take part in that vote.
- (2) Where the Elders Council finds pursuant to subsection (1) that the Elders Council member or a member of his or her immediate family has a direct or indirect financial or other personal interest in a matter before the Elders Council, that Elders Council member shall not take part in the discussions of the Elders Council with respect to that matter or vote on that matter.

Minutes

29. (1) It is the responsibility of the chair to ensure accurate minutes of the previous meeting are recorded and distributed to the members of the Elders Council at the next scheduled meeting.
- (2) The minutes of a meeting referred to in subsection (1) shall set out a summary of the motions and resolutions passed or considered by the Elders Council.
- (3) Each action item shall be passed and recorded as a motion.
- (4) The minutes of a meeting referred to in subsection (1) shall be tabled for acceptance and amendment as a record of the meeting. The chair shall sign the minutes after they have been approved by the Elders Council.
30. The clerk of the central register shall maintain custody of all minutes of the meetings of the Elders Council.
31. Notwithstanding section 24 of these rules of procedure, the clerk of the register of laws shall maintain custody of all resolutions and motions made by the Elders Council pursuant to the *Resolutions and Motions Regulations*, TKC, c.2.

Joint meetings of the Elders Council and Board

32. The Elders Council and Board may jointly hold a meeting to deal with specific matters. Joint meetings of the Elders Council and Board should not be held ordinarily.

Audio or video recordings

33. Notwithstanding section 24 of these rules of procedure, unless the Elders Council provides its consent, a meeting of the Elders Council may not be photographed or recorded in audio or video by any person.

Decisions respecting the Judicial Council

34. Pursuant to section 7.3 of the Constitution, the Elders Council may remove a judge of the Judicial Council.
35. The Elders Council shall only consider complaints that are provided in writing and that have also been provided to the judge in question.

36. As soon as possible after receiving a complaint, the chair shall notify all members of the Elders Council of the complaint.
37. The chair shall set a date within 30 days of receiving the complaint to hold a meeting to consider the complaint.
38. The chair shall notify the complainant and the judge of the date for the meeting.
39. The process for dealing with an application to remove a judge shall be in accordance with the schedule.

Written correspondence

40. All correspondence and written requests of the Board shall be sent to the Elders Council, care of the Ta'an Kwäch'än Council, at the following address:

Mail: 117 Industrial Road
Whitehorse, Yukon
Y1A 2T8

or

Fax: (867) 667-4295

Financial accountability

41. The Elders Council shall work with the Board and Manager of Finance to establish and manage a budget for the Elders Council.

Where there are matters not covered by these rules of procedure

42. The Elders Council may make such rules of procedure not inconsistent with these rules of procedure in respect of matters not specifically provided for, as it may be necessary from time to time.

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(Section 39)

REMOVAL OF JUDGES

Definitions

1. "Complainant" means the citizen who has filed a complaint with the Elders Council in accordance with these rules of procedure.
2. "party" includes the complainant, the judge of the Judicial Council and a citizen named in the complaint, other than the complainant, who has been allowed to participate in the hearings in accordance with section 14 of this schedule.

Rules for complaints

3. If an complaint is made to the Elders Council to exercise its powers or perform a duty or function conferred on the Elders Council under section 7.3 of the Constitution, the following rules shall apply:

Application

4. A citizen applying to the Elders Council for an order to remove a judge of the Judicial Council shall provide written notice to the judge named in the written complaint that the complaint is being made.
5. A complaint shall include
 - (a) the complainant's name, address for service and telephone number;
 - (b) if applicable, the name of the person designated as the contact person or agent for the complainant and this person's address for service, telephone number and facsimile number;
 - (c) the name of the judge to the dispute and his or her address, telephone number and facsimile number, and, if known, the other party's designated contact person;
 - (d) a copy of the notice provided to the other party, as described in section 3 of these rules of procedure, with proof of the notice having been sent to him or her;
 - (e) a concise statement setting out why the complainant believes that the judge has compromised the repute of the Judicial Council or obstructed the duties of the Judicial Council; and
 - (f) any other information pertinent to the issue.

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6. If, after reviewing the application, the Elders Council determines that the written complaint is incomplete, the Elders Council shall, as soon as is practicable, notify the complainant that the complaint is deficient and cannot be accepted as submitted.

Request for additional information

7. (1) The Elders Council may require a complainant to provide information, in addition to the written complaint submitted by the complainant, for the purpose of assisting the Elders Council in determining whether a complaint can be accepted.
- (2) Any information provided in accordance with subsection (1) shall be considered part of the complainant's complaint.
- (3) If a complainant fails to provide any information required to be submitted pursuant to subsection (1) within a reasonable amount of time, the Elders Council may consider the complaint withdrawn.

Acceptance of a complaint

8. (1) Once a written complaint is considered complete, the Elders Council shall review all of the information submitted by a complainant to determine if the complaint can be accepted.
- (2) The Elders Council shall notify the complainant and the other party of its decision to accept or reject the complaint as soon as possible after reviewing it.
- (3) When the Elders Council accepts a complaint it shall send a copy of the complaint to the other party.

Amendments to a complaint prior to a hearing

9. (1) After a written complaint is accepted, a complainant may amend his or her complaint by submitting to the Elders Council, in writing, the proposed amendment and reasons for the amendment.
- (2) As soon as practicable, the Elders Council shall determine whether the proposed amendment is within the scope of the complaint submitted and can be accepted or if the amendment fundamentally changes the complaint in such a way that a new complaint should be submitted by the complainant. The Elders Council shall advise the complainant of its decision in writing.
- (3) If the requested amendment is accepted by the Elders Council, the complainant shall provide a copy of the amendment and a copy of the Elders Council acceptance of the amendment to the judge.
- (4) Notwithstanding the above, no amendments to a complaint shall be made after the Elders Council has issued a notice of the hearing.

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Proceeding to a hearing

10. A hearing shall be held if any party notifies the Elders Council of their desire to proceed to a hearing.

Hearing Procedures

11. Hearings shall be open to the public.

Notice of a hearing to the parties

12. The Elders Council shall issue a written notice of a hearing to the parties no less than 21 calendar days before the date fixed for the hearing. The notice of hearing shall include
- (a) the time, date and place of the hearing;
 - (b) the final date and time for a party to file a notice of response; and
 - (c) any other information the Elders Council considers relevant.

Notice of a hearing to the public

13. At least 21 calendar days before a hearing, the Elders Council shall post a written notice in the main administration building of the Ta'an Kwäch'än Council identifying the parties to the dispute, the nature of the dispute to be resolved and the date and location of the hearing.

Notice of response

14. (1) A citizen, other than the complainant, who wishes to make representations to the Elders Council in relation to the complaint must file a written notice of response. The notice of response must be received by the Elders Council no later than 14 calendar days before the date fixed for the hearing.
- (2) In a notice of response, a citizen shall include:
- (a) the citizen's complete name, address for service, telephone number and facsimile number;
 - (b) if applicable, the name of the person designated as the party's contact person or agent and this person's address for service, telephone number and facsimile number;
 - (c) a clear statement of his or her interest in the dispute;
 - (d) a clear statement of his or her position;
 - (e) his or her intention as to whether or not he or she will appear at the hearing;
 - (f) a copy of all information and supporting documents that may be useful in explaining his or her position and interests; and

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- (g) a copy of any authorization appointing a representative to act on the party's behalf.
- (3) After a notice of response is filed with the Elders Council, the Elders Council, as soon as practicable, shall deliver a copy of the notice of response to the other parties.
- (4) Only notices of response that are complete and that the Elders Council considers appropriate will be accepted by the Elders Council.

Additional information

- 15. (1) As a result of reviewing the information supplied in a written notice of response and the complaint, the Elders Council may require a party to provide further information and supporting documents. The Elders Council shall specify in its request for information the date by which the information must be received and the reasons for the request.
- (2) Any information provided in accordance with subsection (1) shall be considered part of the party's notice of response or complaint, as appropriate, and shall be distributed to the other party by the Elders Council.

Interpreter

- 16. If the Elders Council receives a request, in writing, from a party for a Southern Tutchone interpreter no later than seven calendar days before the date fixed for the hearing, the Elders Council shall make best efforts to provide the interpreter at the Elders Council's expense.

Appointment to panel

- 17. The Elders Council shall identify members of the Elders Council who shall sit to hear the complaint, hereafter referred to as the panel. Once determined, only those members shall be permitted to participate in the hearing. A minimum of six elders shall constitute the panel. The panel shall be appointed no later than the date upon which the Elders Council provides the notice of hearing to the parties.

Panel chairperson

- 18. The members of the panel shall designate from among themselves a panel chairperson to preside over a hearing.

Representations at a hearing

- 19. No person other than a party that has filed a written notice of response or the applicant shall make a representation at a hearing except with the permission of the panel.

Order of appearance at hearings

- 20. (1) The order of appearance of the parties at a hearing and the process for the hearing shall be, unless otherwise determined by the panel chairperson, as follows:

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- (a) complainant's complaint to the panel;
- (b) questions on the complainant's complaint by the other party;
- (c) questions on the complainant's complaint by the panel;
- (d) submission by the other party to the panel;
- (e) questions on the other party's submission, starting with the complainant;
- (f) questions on the other party's submission by the panel; and
- (g) summary comments by the complainant and the other party, starting with the other party and ending with the complainant.

New evidence

21. No new evidence shall be introduced at a hearing without the agreement of the panel and the other party.

Objections

22. A party may object to information, such as questions or evidence, presented at the hearing. Any objection raised shall include the reasons for the objection. The panel chairperson shall provide the other party with an opportunity to respond to the objection before making a decision on the objection.

Adjournment and postponement of hearings

23. (1) The panel shall make every effort to conclude a hearing within the time scheduled. However, a panel may adjourn or postpone a hearing until a later date due to unforeseen or unexpected circumstances. Before adjourning or postponing a hearing, the panel shall make best efforts to consult the parties respecting the adjournment or postponement.
- (2) If a party requests an adjournment, the panel will consider the following in making its decision on the request:
- (a) the views of the other party;
 - (b) whether the adjournment will contribute to the resolution of the dispute;
 - (c) whether the adjournment will assist in ensuring all parties are given an opportunity to be heard on the dispute;
 - (d) the degree to which the need for the adjournment arises out of the intentional actions or the neglect of the party requesting the adjournment;
 - (e) whether, after balancing the impacts to all of the parties, the adjournment is justified in the circumstances; and

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- (f) any other factors the panel considers reasonable given the circumstances of the matter before it.

Decisions of the panel

24. Decisions of the panel shall be in writing and shall be provided to the parties no later than 60 days after the last day of the hearing.

Legal and technical assistance

25. The Elders Council may obtain legal or technical assistance with respect to an application and, or, hearing.