



KITSELAS BAND COUNCIL

2225 Gitau Road, Terrace, BC. V8G

Phone 250-635-5084 Fax 250-635-5335

AND TAKE NOTICE, that the following is a summary of the proposed *Kitselas Committees Law*:

Kitselas has the power to establish committees pursuant to the *Kitselas Reserve Lands Management Act*. Kitselas has also traditionally managed its own methods of governance since time immemorial, which have involved community participation. One method Kitselas uses to ensure community participation in the management of Kitselas affairs is the establishment of committees to act as advisors to the Kitselas Administration.

To date Kitselas has established committees to assist with the administration of Kitselas Lands, Finances, the implementation of Kitselas policies, the delivery of Kitselas services, and the management of relationships between Kitselas and third parties, such as proponents of major industry.

With the exception of the Finance and Audit Committee (which is governed by rules under the *Kitselas Financial Administration Law*), there are no set rules and standards for the establishment or operation of Kitselas committees. Therefore, Council views it to be in the best interests of Kitselas to set minimum standards for the establishment and operation of Kitselas committees by enacting a *Kitselas Committees Law*.

The proposed *Kitselas Committees Law* sets out a clear rules and processes for:

- the establishment, renewal and dissolution of committees;
- the appointment and removal of committee members (and of Kitselas representatives to joint committees, which are those committees that cross over between Kitselas and some third party entity);
- the financial management of, and responsible financial authorities for, committees;
- the development and approval of Terms of Reference for committees;
- the requirements for Terms of Reference for committees;
- default Terms of Reference that apply to all committees that do not have approved Terms of Reference; and
- the transition of existing committees into compliance with the proposed *Committees Law* if it is enacted.

Please direct all questions, deliver all written notices, and provide Council with notice of your intent to make an oral presentation, by contacting:

Debbie Moore
Interim Chief Administrative Officer
Kitselas Administration Office
2225 Gitau Road
Terrace, British Columbia
V8G 0A9
Phone: 1-250-635-5084
Email: ceo@kitselas.com



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**NOTICE OF PROPOSED COMMITTEES LAW &
INVITATION FOR WRITTEN OR ORAL PRESENTATIONS**

TO: Kitselas Members
FROM: Council
DATE: July 19, 2016

TAKE NOTICE that pursuant to section 6.1 of the *Kitselas Reserve Lands Management Act*, and Kitselas's Aboriginal Right to govern its own affairs in accordance with Kitselas customs, traditions and laws, Council proposes to enact a *Kitselas Committees Law*;

AND TAKE NOTICE that pursuant to sections 7.3 to 7.5 of the *Kitselas Reserve Lands Management Act*, Council is:

- providing members with notice of the proposed *Kitselas Committees Law*; and
- inviting members to provide written submissions or oral presentations on the proposed *Kitselas Committees Law*.

AND TAKE NOTICE that if you wish to make a written submission to Council in relation to the proposed *Kitselas Committees Law*, your written submission must be received by Council **no later than 4:00pm on September 30, 2016** and may be:

- dropped off in person at the Kitselas Administration Office;
- sent by mail to the Kitselas Administration office; or
- emailed to: ceo@kitselas.com;

AND TAKE NOTICE that if you wish to make an oral presentation in relation to the proposed *Kitselas Committees Law*, you must provide notice of your intent to do so by contacting Debbie Moore, Interim Chief Administrative Officer, at the Kitselas Administration Office. Oral presentations must be no longer than ten (10) minutes in duration. Council has scheduled an Oral Presentation Hearing to take place as follows:

Date: September 21, 2016
Location: Kitselas Administration Office
Time: 5:30PM – 8:30PM

AND TAKE NOTICE that you will find a copy of the proposed *Kitselas Committees Law* attached to this notice;

**KITSELAS
COMMITTEES LAW, 2015**

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WHEREAS

A. Kitselas has an inherent right to self-governance, which is recognized and affirmed under section 35 of the *Constitution Act* as an aboriginal right and includes a right to govern Kitselas affairs in accordance with Kitselas customs, traditions and laws;

B. It is a Kitselas custom for the Council of Kitselas to manage the decision-making structures of Kitselas and provide guidance and governance to the Kitselas community;

C. In 1996 fourteen First Nations and Canada signed the Framework Agreement on First Nation Land Management, which established a process by which each of these communities could consider the option of assuming control over their reserve lands and resources by:

- developing a land code and a community approval process;
- concluding an individual agreement with Canada; and
- ratifying their land code and individual agreement through a vote of their eligible members;

D. In 1999 Canada passed the *First Nations Land Management Act* to ratify the Framework Agreement on First Nation Land Management;

E. In 2001 the fourteen First Nations and Canada agreed to amend the Framework Agreement to make it possible for additional First Nations to become signatories of the Framework Agreement on First Nation Land Management;

F. Pursuant to subsection 6(3) of the *First Nations Land Management Act* and clause 6.1 of the Framework Agreement on First Nation Land Management, a First Nation may enter into an

individual agreement with the Minister that brings the First Nation into the land management regime set out in the *First Nations Land Management Act*;

G. An individual agreement:

- describes the land that must be subject to a land code;
- provides for the transfer and administration of that land;
- describes the interests or rights and licences that have been granted by Canada to the First Nation in relation to that land;
- describes the date and other terms of the transfer to the First Nation of Canada's rights and obligations as grantor of those interests or rights and licences; and
- sets out the environmental assessment process that must apply to projects on that land until the enactment of a First Nations law in relation to that subject;

H. Pursuant to subsection 6(1) of the *First Nations Land Management Act* and clause 5 of the Framework Agreement on First Nation Land Management, a First Nation that wishes to establish a land management regime must develop and adopt a land code applicable to all land in a reserve of the First Nation;

I. Pursuant to sections 10 to 12 of the *First Nations Land Management Act* and clause 7 of the Framework Agreement on First Nation Land Management, the Kitselas membership approved the *Kitselas Reserve Lands Management Act* and the Individual Agreement between Kitselas and Canada;

J. Pursuant to section 11 of the *Kitselas Reserve Lands Management Act*, the Council of Kitselas may, by Order establish standing and ad hoc committees of Members or others and enact a law establishing policies, processes and criteria for the operation of such committees;

K. The Council of Kitselas deems it to be in the best interests of Kitselas to enact a law for establishing policies, processes and criteria for the operation of committees that are formed under Kitselas' right to self-governance and the *Kitselas Reserve Lands Management Act*;

L. The Council of Kitselas has provided its members an opportunity to review this law and provide written or oral presentations regarding this law in accordance with sections 7.3 to 7.5 of the *Kitselas Reserve Lands Management Act*, and has considered any presentations given by Kitselas members;

NOW THEREFORE the Council of Kitselas duly enacts as follows:

**PART I
CITATION**

1. This Law may be cited as the *Kitselas Committees Law, 2016*.

**PART II
DEFINITIONS AND REFERENCES**

Definitions

2. Unless the context indicates the contrary, in this Law:

“ad hoc committee” means a committee that is formed for a limited period of time to address a specific need and is dissolved when that specific need has been addressed;

“committee” means a standing committee, ad hoc committee, or both;

“committee member” means a person appointed by Council to be a member of a committee in accordance with this Law;

“Council” means the Chief and Council of Kitselas and any successor elected government of Kitselas;

“*First Nations Land Management Act*” means the *First Nations Land Management Act*, S.C. 1999, c.24;

“Framework Agreement” means the Framework Agreement on First Nations Land Management entered into between the Government of Canada and fourteen (14) First Nations, on February 12, 1996, as amended;

“*Indian Act*” means the *Indian Act*, R.S.C., 1985, c. I-5;

“Individual Agreement” means the Individual Agreement made between Kitselas and Her Majesty in right of Canada in accordance with clause 6.1 of the Framework Agreement;

“joint committee” means a committee that is comprised of:

(a) one or more Kitselas representatives; and

(b) one or more representatives of a third party entity;

“Kitselas” means the Kitselas First Nation within the meaning of the *Indian Act* for whose use and benefit in common Kitselas Lands have been set apart by Canada, and all references in this Law to Kitselas are references to the “First Nation” as that term is defined in the *Kitselas Reserve Lands Management Act*;

“Kitselas Land” means those lands set out in section 5.1 of the *Kitselas Reserve Lands Management Act*;

“Kitselas member” means a person whose name appears, or is entitled to appear on the Kitselas band membership list;

“Kitselas representative” means a person who is a member of a joint committee and who represents the interests of Kitselas on that joint committee;

“*Kitselas Reserve Lands Management Act*” means the *Kitselas Reserve Lands Management Act*, dated for reference June 19, 2005;

“responsible department” means the department appointed by Council to provide oversight of a committee;

“standing committee” means a committee that is required for an indefinite period of time;

“third party entity” means a person, company, partnership, society, government or other legal entity that is not Kitselas, and includes a company that is:

- (a) wholly owned by Kitselas; or
- (b) a subsidiary of a company that is wholly owned by Kitselas.

Interpretation

3. This Law must be interpreted:

- (a) in accordance with the culture, traditions and customs of Kitselas, unless otherwise provided; and
- (b) in a fair, large and liberal manner.

4. Unless the context otherwise requires, words and expressions used in this Law have the same meaning as in the *Kitselas Reserve Lands Management Act*.

5. In this Law:

- (a) the use of the word “must” denotes an obligation that, unless this Law provides to the contrary, must be carried out as soon as practicable after this Law comes into effect or an event occurs that gives rise to the obligation under this Law;
- (b) unless it is otherwise clear from the context, the use of the word “including” means “including, but not limited to”, and the use of the word “includes” means “includes, but is not limited to”;

(c) headings and subheadings are for convenience only, do not form a part of this Law and in no way define, limit, alter or enlarge the scope or meaning of any provision of this Law;

(d) a reference to a statute includes every amendment to it, every regulation made under it and any law enacted in substitution for it or in replacement of it;

(e) unless it is otherwise clear from the context, the use of the singular includes the plural, and the use of the plural includes the singular;

(f) unless it is otherwise clear from the context, the use of the masculine includes the feminine, and the use of the feminine includes the masculine;

(g) where a time is expressed to begin or end at, on or with a specified day, or to continue to or until a specified day, the time includes that day;

(h) where a time is expressed to begin after or to be from a specified day, the time does not include that day; and

(i) where anything is to be done within a time after, from, of or before a specified day, the time does not include that day.

6. If there is an inconsistency or conflict between this Law and the *Kitselas Reserve Lands Management Act*, the *Kitselas Reserve Lands Management Act* must prevail.

Application

7. (1) This Law applies to:

(a) committees established by Council pursuant to Kitselas aboriginal right to self-governance to assist in the administration of Kitselas lands and resources, programs and services;

(b) committees established by an Order of Council pursuant to section 11.1 or 11.8 of the *Kitselas Reserve Lands Management Act*; and

(c) where specifically mentioned, joint committees.

(2) For greater certainty, this Law does not apply to the Finance and Audit Committee established pursuant to the *Kitselas Financial Administration Law, 2012*.

8. Where any law or regulation of Canada or the Province or any other Kitselas law, by-law or policy applies to any matter covered by this Law, compliance with this Law does not relieve the person from also complying with the provisions of the other applicable laws, regulations, by-laws and policies.

9. If any provision of this Law is held invalid by a court of competent jurisdiction, the invalid provision must be severed from and must not affect the remaining provisions of this Law.

PART III COMMITTEES

Recommending Committees

10. (1) The following persons may recommend the establishment of a committee to Council:

- (a) a member with a petition signed by twenty (20) members in support of the recommendation;
- (b) a Kitselas director;
- (c) the chief executive officer of Kitselas; or
- (d) a member of Council.

(2) A recommendation under subsection (1) must be in writing and include:

- (a) the proposed name of the committee;
- (b) whether the committee is proposed to be an ad hoc or standing committee;
- (c) the proposed objectives of the committee;
- (d) the proposed duties and functions of the committee;
- (e) the name of the responsible department that is proposed to provide oversight of the committee; and
- (f) unless the applicant is a member, a budget for the committee's operations, which must be within the annual budget for the responsible department that is proposed to provide oversight of the committee.

Establishment of Committees

11. (1) Council has exclusive authority to establish a committee by band council resolution that sets out:

- (a) the name of the committee;
- (b) whether the committee is an ad hoc committee or standing committee;
- (c) the objectives of the committee;

(d) the duties and functions of the committee; and

(e) the name of the responsible department that will provide oversight of the committee.

(2) Council must not establish a committee unless Council has obtained a budget for the committee's operations from the responsible department that will provide oversight of the committee, which must be within the annual budget for the responsible department.

(3) Committees that are not established in accordance with subsection (1) are not recognized by Kitselas.

(4) Decisions made by committees that are not established in accordance with subsection (1) are not recognized by Kitselas.

Committee Budgets

12. The director of a responsible department that provides oversight of a committee is responsible for developing and managing annual budgets for the operating costs of that committee.

Committee Member and Kitselas Representative Remuneration

13. (1) As soon as practicable after this Law comes into force, Council must prescribe the remuneration rates that will be allowed for committee members and Kitselas representatives.

(2) On an annual basis and upon the establishment of a new committee, Council must review the remuneration rates that will be allowed for committee members and Kitselas representatives.

(3) For greater certainty, an employee of Kitselas who is a committee member or Kitselas representative must not receive remuneration as a committee member or Kitselas representative unless their work for the committee or joint committee is conducted separate from their employment.

Financial Authority

14. The director of a responsible department that provides oversight of a committee has exclusive decision-making power over all financial decisions relating to expenditures out of the annual budget of that committee.

Authority to Appoint and Remove a Committee Member or Kitselas Representative

15. (1) Council has authority to appoint and remove both committee members and Kitselas representatives to or from a committee or joint committee.

(2) Council may delegate their authority under subsection (1) to the director of the responsible department for the committee or joint committee.

Default Process for the Appointment of a Committee Member or Kitselas Representative

16. Where a committee or joint committee has no terms of reference setting out the process for appointing a committee member or Kitselas Representative, the process must be as follows:

(a) Council must invite persons to express their interest in being a committee member or Kitselas Representative by posting an invitation for expressions of interest on the Kitselas website and in the Kitselas administration office setting out:

(i) the name of the committee or joint committee;

(ii) the objectives of the committee or joint committee;

(iii) the name of the position that is vacant on the committee or joint committee;

(iv) the eligibility criteria to be a committee member or Kitselas representative;

(v) a statement inviting eligible persons to express their interest to be a committee member or Kitselas representative in writing to Council;

(vi) information regarding the form in which such expression of interest must be provided;

(vii) the name of the person to whom the expression of interest must be directed, and

(viii) the expiry date by which eligible persons must express their interest to be a committee member or Kitselas representative, which must be no earlier than fourteen (14) days after the date that the notice is posted on the Kitselas website and in the Kitselas administration office; and

(b) after the expiry date for the receipt of expressions of interest, Council, or a person delegated by Council to make such appointment, must appoint the committee member or Kitselas representative, taking into consideration:

(i) all expressions of interest received;

(ii) any recommendations from the director of the responsible department for the relevant committee or joint committee;

(iii) the need for a fair representation on the committee or joint committee of community interests and diversity; and

(iv) the need for the committee or joint committee to be composed of persons with knowledge of Kitselas, including oral knowledge and history.

PART IV

TERMS OF REFERENCE REQUIREMENTS AND DEFAULT PROVISIONS

Development of Committee Terms of Reference

17. The terms of reference for a committee may be developed by the committee, or by the director who is assigned oversight of that committee by Council.

Approval of Committee Terms of Reference

18. Council has exclusive authority to approve the terms of reference for a committee.

Required Subject Matter to be in Committee Terms of Reference

19. The terms of reference for a committee must be comprised of the following subject matter:

- (a) definitions;
- (b) objectives;
- (c) eligibility to be a committee member;
- (d) committee structure;
- (e) duties and functions of the committee;
- (f) assignment of duties and functions;
- (g) committee meeting procedures, including:
 - (i) quorum,
 - (ii) voting,
 - (iii) scheduling and notification of meetings,
 - (iv) minute taking and provision of minutes, and
 - (v) openness of meetings,
- (h) reporting;
- (i) amendments; and
- (j) effective date.

Required Definitions

20. The terms of reference for a committee must include the following definitions:

(a) "Council" means the Chief and Council of Kitselas and any successor elected government of Kitselas; and

(b) "Kitselas" means the Kitselas First Nation within the meaning of the *Indian Act* for whose use and benefit in common Kitselas Lands have been set apart by Canada, and all references in this Law to Kitselas are references to the "First Nation" as that term is defined in the *Kitselas Reserve Lands Management Act*.

Objectives

21. The terms of reference for a committee must set out the objectives of the committee, which may include:

(a) developing and making recommendations to Council or the director of the responsible department on laws, by-laws, policies and procedures in relation to the subject-matter of the committee;

(b) examining selected matters in relation to the subject-matter of the committee and reporting any conclusions of those examinations, including recommendations, to:

(i) Council,

(ii) the director of the responsible department, or

(iii) both Council and the director of the responsible department;

(c) assisting Council or the director of the responsible department in carrying out their duties and functions; or

(d) other objectives that contribute to the development or delivery of programs and services by Kitselas.

Default Objectives

22. Where a committee has no terms of reference, the objectives of that committee are those objectives set by Council.

Eligibility to be a Committee Member

23. (1) The terms of reference for a committee must set out the minimum criteria for eligibility to be a committee member, including that a person must have independence to be a voting committee member.

(2) For greater certainty, a person has independence if they do not have a direct or indirect relationship with Kitselas that could, in the opinion of Council, reasonably interfere with the individual's exercise of independent judgment as a member of the Committee.

(3) For greater certainty, a person who is an employee of Kitselas does not have independence.

Default Eligibility to be a Committee Member

24. (1) Where no terms of reference exist for a committee, the criteria for eligibility to be a committee member must be established by Council.

(2) Despite subsection (1), the criteria for eligibility to be a committee member must comply with section 23.

Committee Composition Requirements

25. The terms of reference for a committee must require that the committee be composed of:

(a) at minimum, a total of three (3) voting committee members;

(b) at least one (1) voting committee member who is a member of Council;

(c) at least one (1) voting committee member who is a Kitselas member; and

(d) the director of the responsible department that provides oversight of the committee, who must be a non-voting committee member.

26. A committee may have voting committee members, non-voting committee members, at-large committee members, or any combination of those.

Default Committee Composition

27. Where a committee has no terms of reference, Council will determine the composition of the committee, which must meet the criteria set out in paragraphs 25(a) to (c).

Committee Structure Requirements

28. The terms of reference of a committee must set out the structure of the committee, including:

- (a) executive positions within the committee, including the chair; and
- (b) any relationships that exist between the committee, Council, the director who provides oversight of the committee, other committees, other joint committees, and relevant third party entities.

Default Committee Structure

29. Where a committee has no terms of reference:

- (a) the chair will be an executive position on the committee;
- (b) the chair will report directly to the director who provides oversight of the committee; and
- (c) the director who provides oversight of the committee will report directly to Council.

Requirements for the Duties and Functions of a Committee

30. (1) The terms of reference for a committee must set out the duties and functions of:

- (a) the committee; and
- (b) each executive position on the committee.

(2) For greater certainty, a committee must not have final decision making authority in relation to:

- (a) creating, granting, disposing of, assigning or transferring any interest or licence in or to Kitselas Lands; or
- (b) the delivery of programs or services by Kitselas.

Default Duties and Functions of Committee

31. Where a committee has no terms of reference:

- (a) the duties and functions of the committee are those duties and functions set by Council; and
- (b) the chair will be responsible for:
 - (i) making arrangements for committee meetings and notifying committee members of the date, time and place of committee meetings,

- (ii) preparing agendas for committee meetings,
- (iii) delegating responsibilities to committee members,
- (iv) reporting work of the committee to the director who provides oversight of the committee, and
- (v) maintaining a written file of the work of the committee.

32. (1) Where a committee has no terms of reference, Council has the power to assign duties and functions to that committee or to the chair of that committee.

(2) Council may delegate their power under subsection (1) to the director who is assigned oversight of a committee.

Committee Meeting Procedures

33. The terms of reference for a committee must set out:

- (a) the minimum number of times per month or calendar year that the committee must hold a meeting;
- (b) the person who is responsible for scheduling and notifying committee members of meetings;
- (c) the person who is responsible for minute taking and the provision of minutes to committee members;
- (d) the method by which committee members must be notified of a meeting and provided with minutes;
- (e) the number of committee members who will constitute a quorum for a meeting;
- (f) the voting powers of each respective committee member;
- (g) the method and manner of voting at meetings; and
- (h) the openness of meetings, including whether the meetings are open to the public, open to Kitselas members, or closed meetings.

Default Committee Meeting Procedures

34. Where a committee has no terms of reference:

- (a) the committee must hold a meeting:
 - (i) at minimum four (4) times during each calendar year, and
 - (ii) as often as may be necessary for properly conducting the business and operations of the committee;
- (b) the chair must be responsible for scheduling and notifying committee members of the meeting;
- (c) any committee member may make a written request to the chair to hold a meeting;
- (d) the chair must be responsible for setting the agenda for meetings;
- (e) the agenda must include the following items:
 - (i) review and official acceptance of the minutes of the previous meeting as a true record,
 - (ii) a report from each committee member on outstanding tasks assigned to them,
 - (iii) unfinished business,
 - (iv) new business, and
 - (v) adjournment;
- (f) the chair must be responsible for delegating a committee member to be responsible for minute taking and the provision of minutes to committee members;
- (g) committee members must be notified of a meeting at least seven (7) days in advance of the date on which a meeting will be held;
- (h) committee members must be provided with minutes within fourteen (14) days of the date on which a meeting has been held;
- (i) all notifications and provision of minutes to committee members must be made:
 - (i) in person,
 - (ii) by regular mail at the committee member's last known address, or
 - (iii) by email to an email address provided to the chair by the committee member for the purpose of receiving correspondence in relation to the committee;

(j) a quorum for a meeting must be at least 50% of those committee members appointed to the committee;

(k) every committee member must be a voting committee member, except the director responsible for oversight of the committee;

(l) voting must be by show of hands; and

(m) the meetings must be open to Kitselas members as observers.

Reporting

35. The terms of reference for a committee must set out:

(a) the person to whom the committee must report;

(b) the manner in which the committee must report; and

(c) the frequency for when reporting must occur.

Default Reporting

36. Where a committee has no terms of reference:

(a) the committee must report directly to the director assigned oversight of that committee by Council;

(b) reports must include:

(i) the name of the committee,

(ii) the dates, times and locations of committee meetings that have occurred since the last report,

(iii) an update on the status of the work of the committee,

(iv) a description of upcoming work of the committee, and

(v) upcoming dates, times and locations of committee meetings;

(c) reports must be provided:

(i) at minimum every six (6) months;

(ii) in writing, and

(iii) either:

(A) in person,

(B) by regular mail at the director's work address, or

(C) by email to the director's work email address.

Amendments to Terms of Reference

37.(1) Amendments to the terms of reference for a committee may be completed by the committee, or any other person or body.

(2) Amendments to the terms of reference for a committee must be approved by Council.

Effective Date of Terms of Reference

38. The effective date for a committee's terms of reference is either:

(a) the date that Council approves those terms of reference; or

(b) any other date set by Council, which must be after the date that Council approves those terms of reference.

PART V GENERAL

Renewal and Dissolution of Committees

39. Council may renew an ad hoc committee, by Council.

40. Council may dissolve a committee if that committee is no longer required for its objectives, by Council.

Transition of Existing Committees

41. Any committees or joint committees that exist at the time this Law comes into effect are exempt from the requirements under this Law for a period of six (6) months following the date this Law comes into force and effect.

PART VI EFFECTIVE DATE

42. This Law comes into force and effect on [date].

THIS LAW IS HEREBY DULY ENACTED by the Council on this ____ day of ____,
20__, at Kitselas, British Columbia.

Chief Joe Bevan

Councillor Clarissa Spencer

Councillor Gerald Seymour

Councillor Judy Gerow

Councillor Wilfred Benner Sr.

Councillor Lynn Wright

Councillor Roxanne Ridler

