



**OPASKWAYAK CREE NATION**

**ELECTION CODE**

**Opaskwayak Cree Nation Election Code**

**TABLE OF CONTENTS**

<b>PREAMBLE</b>	5
<b>PART 1</b>	6
<b>APPLICATION AND INTERPRETATION OF CODE</b>	
1. Application of Code	6
2. Short Title	6
3. Coming into Effect	6
4. Definitions	6
5. Interpretation	10
6. Deadlines	10
<b>PART 2</b>	11
<b>CHIEF AND COUNCIL</b>	
7. Composition of Chief and Council	11
8. Term of Office	11
9. Quorum of Chief and Council	11
10. Remuneration	11
11. Chief and Council Oath of Office	11
12. Vacancies	12
13. First Meeting of Elected Chief and Council	13
14. Annual Checks-Vulnerable Sector, Criminal Records and Child Abuse Registry Checks	13
15. Quarterly Drug Tests	13
<b>PART 3</b>	13
<b>HOLDING OF ELECTION AND ELIGIBILITY REQUIREMENTS</b>	
16. Holding of a General Election	13
17. Provision for Holding of General Election	14
18. Eligibility for Nomination and Election	14
19. Police Records, Child Abuse Registry, Bankruptcy and Level of Education Checks	15
<b>PART 4</b>	17
<b>ELECTORAL OFFICER</b>	
20. Hiring of Electoral Officer	17
21. Term of Employment of Electoral Officer	17
22. Remuneration of Electoral Officer	17
23. Deputy Electoral Officer(s)	17
24. Duty of Electoral Officer	18
25. Responsibilities and Ethics	18
26. Oath of Office	19
<b>PART 5</b>	19
<b>VOTERS LIST</b>	
27. Preparation and Posting of Preliminary Voters List	19
28. Amendment of Voters List	19
29. Posting of Final Voters List	20
30. Master Voters List	20
31. Contents of Master Voters List	20

**Opaskwayak Cree Nation Election Code**

32.	Access to Master Voters List	20
33.	Use of Information	20
34.	Addresses of Electors	20
35.	Release of Final Voters List and Mailing Addresses of Electors to Candidates	21
<b>PART 6</b>		21
<b>NOMINATION MEETING AND PROCEDURES</b>		
36.	Notice of Nomination Meeting and Election	21
37.	Nomination Meeting	22
38.	Nomination Meeting Procedures	22
39.	Candidate Orientation	22
40.	Validation and Declaration of Acceptance of Nomination	23
41.	Election by Acclamation	23
42.	Withdrawal of Candidates	23
43.	Calling of Election	24
44.	Secrecy of Voting	24
<b>PART 7</b>		24
<b>PREPARATION OF BALLOTS AND MAILING OF BALLOTS</b>		
45.	Preparation of Ballots	24
46.	Mailing of Ballots	24
<b>PART 8</b>		25
<b>MAIL-IN VOTING PROCEDURES</b>		
47.	Procedures for Voting by Mail-In Ballot	25
48.	Safekeeping of Mail-In Ballots	26
<b>PART 9</b>		26
<b>ELECTION DAY</b>		
49.	Polling Station	26
50.	Mobile and Advance Polling Stations	26
51.	Equipment for the Election	26
52.	Procedures for Opening of Polling Station	27
53.	Scrutineers	27
54.	Voting Procedures at Polling Stations	27
<b>PART 10</b>		28
<b>COUNTING OF BALLOTS</b>		
55.	Processing of Mail-In Ballots	28
56.	Ballot Boxes	29
57.	Preparation for the Counting and Processing of Ballots	29
58.	Counting of Ballots	30
59.	Objections	30
60.	Recounting of Votes	30
61.	Tie Vote	31
62.	Declaration of Results	31
63.	Electoral Officer's Report	31
64.	Disposition of Ballots	31

**Opaskwayak Cree Nation Election Code**

<b>PART 11</b>	32
<b>SUSPENSION OR REMOVAL OF COUNCIL MEMBERS FROM OFFICE</b>	
65. Grounds for Removal of Council Members from Office	32
66. Procedure	32
67. Penalties	34
<b>PART 12</b>	34
<b>BY-ELECTIONS</b>	
68. Filling Vacancies	34
<b>PART 13</b>	35
<b>CAMPAIGN CODE OF ETHICS, PROHIBITIONS AND CORRUPT PRACTICES</b>	
69. Campaign Code of Conduct	35
70. Campaign Signs and Posters	36
71. Obstruction of Electoral Officer	37
72. Eligibility for Nomination and Election	37
73. Publication of False Statements to Affect Election Results	37
74. False Statement of Withdrawal of Candidate	37
75. Voters List	37
76. Ballots	38
77. Voting	38
78. Disclosure of Election Information	39
79. Corrupt Practices	39
80. Penalties	39
<b>PART 14</b>	40
<b>OPASKWAYAK CREE NATION ELECTION BOARD</b>	
81. Immediate Relatives	40
82. Appointment of the OCN Election Board	40
83. Composition	41
84. Eligibility	41
85. Term of Office	41
86. Quorum	41
87. Officers of the Board	42
88. Oath of Office	42
89. Vacancies on the Election Board	42
90. Removal of OCN Election Board Members from Office	42
91. Procedure	43
92. Duty of the Opaskwayak Cree Nation Election Board	44
93. Conflict of Interest	44
<b>PART 15</b>	45
<b>ELECTION APPEALS</b>	
94. Filing of Election Appeals	45
95. Grounds for Appeals	45
96. Procedures Upon Receipt of Appeal	45
97. Response to the Appeal	46
98. Holding of Inquiry of Appeals	46
99. Decision	46

**Opaskwayak Cree Nation Election Code**

<b>PART 16</b>	<b>46</b>
<b>COMPLAINTS</b>	
100. Filing of Complaints	46
101. Procedures upon Receipt of Complaint	47
102. Response to the Complaint	47
103. Holding of Inquiry of Complaints	47
104. Decision	47
105. Role Model Conduct and Drug/Alcohol Abuse	48
106. Drug testing	48
<b>PART 17</b>	<b>50</b>
<b>POLICIES AND PROCEDURES</b>	
107. Administrative Procedures and Policies	50
<b>PART 18</b>	<b>50</b>
<b>AMENDMENTS TO CODE</b>	
108. Amendments	50
109. Submission of Proposed Amendments	50
110. Notice of Amendments	50
111. Electors May Comment on Proposed Amendments	50
112. Special Meeting on Proposed Amendments	51
113. Referendum on Proposed Amendments	51
114. Elections after Amendment of the Code	52
<b>PART 19</b>	<b>52</b>
<b>HEARINGS</b>	
115. Application of Hearings	52
116. Decision to Hold Hearings	52
117. Preliminary Requirements for Hearings	52
118. Principles of Fairness and Natural Justice	53
119. Parties and Roles	53
120. Conduct of Hearings	54
121. Written and Video Hearings	55
122. Documents	56
123. Adjournments	56
124. Records and Confidentiality	56
125. Deliberation and Decision	57
126. Delivery of Documents and Decisions	57
<b>PART 20</b>	<b>58</b>
<b>DEATHS, NATURAL DISASTERS AND PANDEMICS</b>	
127. Deferral Dates for Mandatory Timeframes as Identified in the Election Code	58
APPENDIX "A" – Candidate Checklist	59

## PREAMBLE

**WHEREAS** the Opaskwayak Cree Nation and its members have and continue to be guided by the seven traditional teachings: **Truth, Humility, Respect, Wisdom, Love, Honesty and Courage**;

**AND WHEREAS** the Electorate of the Opaskwayak Cree Nation are a self-governing people who have historically always lived in their Traditional Lands and Territories, now recognized under Treaty #5 with the Queen in Right of Canada.

**AND WHEREAS** the Electorate of the Opaskwayak Cree Nation have provided direction to adopt an Opaskwayak Cree Nation Election Code to govern Chief and Council Elections in place of the Indian Band Election Regulations and section 74 of the Indian Act;

**AND WHEREAS** the Electorate has been provided the opportunity to take part in the development and approval of the Opaskwayak Cree Nation Election Code through questionnaires and community meetings;

**AND WHEREAS** the Electorate have voted and adopted this Opaskwayak Cree Nation Election Code at a Community Vote held on September 15, 2011;

**AND WHEREAS** this Opaskwayak Cree Nation Election Code will govern Chief and Council Elections once the Minister of Indian and Northern Affairs Canada orders the removal of the Opaskwayak Cree Nation from the application of sections 74 through 79 of the Indian Act.

**AND WHEREAS** as a result of the Community Vote held on September 15, 2011, the Minister of Indian and Northern Affairs Canada, has ordered the removal of the Opaskwayak Cree Nation from the application of sections 74 through 79 of the Indian Act.

**AND WHEREAS** the Opaskwayak Cree Nation Election Code was signed by Chief and Council of the Opaskwayak Cree Nation on November 16, 2012;

**AND WHEREAS** the Opaskwayak Cree Nation Election Code was amended, by way of referendum held March 1, 2016;

**AND WHEREAS** the Opaskwayak Cree Nation Election Code was further amended, by way of a referendum of the Electors of the Opaskwayak Cree Nation held November 28, 2018.

**AND WHEREAS** the Opaskwayak Cree Nation Election Code was further amended, by way of a referendum of the Electors of the Opaskwayak Cree Nation held March 17, 2021.

**AND WHEREAS** this Opaskwayak Cree Nation Election Code governs all aspects of elections of Chief and Council, including, without restriction:

- i) The conduct of Elections;
- ii) Ethical campaign practices;
- iii) Complaints and Appeals relating to Elections;
- iv) Removal of members of Chief and Council;
- v) Appointment and duties of Electoral Officer;
- vi) Appointment and duties of the Election Board;

**NOW THEREFORE BE IT RESOLVED THAT:**

---

## PART 1

### APPLICATION AND INTERPRETATION OF CODE

#### 1. Application of Code

(1) This Code will apply to all General Elections and By-Elections held on the Opaskwayak Cree Nation for the purpose of electing a Chief and Council.

#### 2. Short Title

(1) This Code may be cited as the Opaskwayak Cree Nation (OCN) Election Code.

#### 3. Coming into Effect

(1) This Code came into effect upon:

- (a) adopted, by referendum dated September 15, 2011, by the Electorate of OCN; and
- (b) the passing of a Ministerial Order dated September 5th, 2012, removing the Opaskwayak Cree Nation from the application of sections 74 through 79 of the *Indian Act*.

#### 4. Definitions

(1) In this Code the following words and expressions will mean:

**“Advance Poll”**: a poll taken in advance of Election Day to allow Electors who will be unable to cast their vote on Election Day to vote;

**“Affidavit”**: a signed written statement setting out facts, which has been sworn or solemnly affirmed before a Commissioner for Oaths, Notary Public, or other authorized person;

**“Amendment”**: an addition or deletion to the Election Code taking effect as of a specified date;

**“Appeal”**: a petition, statement, or Affidavit submitted by a Candidate, Elector or group of Electors, contesting the results of an election, as set out in Part 15 of the OCN Election Code;

**“Appellant”**: a Candidate, Elector or group of Electors who submits an Appeal in writing respecting any Election as provided for by the terms of this Code, as set out in Part 15 of the OCN Election Code;

**“Ballot”**: a formal document approved by the Electoral Officer which contains the names of the Candidates as set out in section 45 of this Code;

**“Band Registrar”**: the person responsible for maintaining the OCN Membership list;

**“Benefits”**: a personal, financial, social, or other kind of advantage, profit, gain or gift, direct or indirect, which is accrued, through misconduct, conflict of interest, or breach of provision of the Election Code;

**“By-Election”**: a special Election held in accordance with Part 12 of this Code to fill a position that has become vacant;

**“Campaign Code of Ethics”**: the guidelines, general rules of behaviour and standards established in accordance with Part 13 of this Code, which governs the conduct of Candidates running for office and their supporters relating to their participation in the Electoral process;

**“Candidate”**: a person who:

- (a) is 18 years of age or older on the Day on which an Election is held;
- (b) is a member of OCN pursuant to OCN Citizenship Code;
- (c) has been nominated to be a Candidate and has indicated acceptance of their nomination in accordance with the provisions of this Code; and

## **Opaskwayak Cree Nation Election Code**

(d) has fulfilled the requirements of section 18 and section 19 of this Code.

**"CEO"**: means the Chief Executive Officer (CEO), who is responsible for leading the administration or management of the Opaskwayak Cree Nation and who reports directly to Chief and Council. The CEO can also appoint a designate to carry out the duties on the CEO's behalf;

**"CFO"**: means the Chief Financial Officer (CFO) of Opaskwayak Cree Nation, authorized by Chief and Council to manage and administer financial matters for Opaskwayak Cree Nation;

**"Chief"**: that Candidate elected to the office of Chief in accordance with this Code;

**"Chief and Council"**: the governing body of the Opaskwayak Cree Nation, also referred to as the Onekanew mena Onuschekekewuk, composed of those Candidates elected in accordance with this Code;

**"Child Abuse Registry"**: the list maintained by Manitoba Family Services and Consumer Affairs which contains the names of persons who have been found to have abused a child;

**"Code"**: the OCN Election Code;

**"Complaint"**: an Affidavit submitted by an Elector or group of Electors alleging a violation or noncompliance of this Code, as set out in Part 16 of the OCN Election Code;

**"Complainant"**: a person who submits a Complaint under section 100 of this Code;

**"Conflict of Interest"**: a situation where a person, as a result of a relationship, be it family, business or social, may be biased or might appear to be biased in fairly carrying out their duties and related decision making;

**"Corrupt Practices"**: unethical actions, statements, advertising, claims or activities, including emails, Facebook, social media, other electronic means, telephone, television, radio, print or any other medium, taken by a Candidate or their representative(s) or agent(s) in an Election to gain an advantage in an Election and includes, but is not limited to, the prohibitions and Corrupt Practices contained in Part 13 of this Code;

**"Councillor"**: those Candidates elected to the office of Councillors in accordance with this Code;

**"Days"**: except as otherwise stated, means calendar Days, which shall include all Days in a year, including weekends and holidays, without exception. For greater certainty, business Days shall include only the weekdays from Monday, through Friday, excluding weekends, Saturdays and Sundays, and any Federal, Provincial or Opaskwayak Cree Nation decreed or mandated holiday, which occurs during a period between Monday and Friday;

**"Deputy Electoral Officer(s)"** (hereinafter referred to as **"Deputies"**): any person appointed by the Electoral Officer to assist in the Election process.

**"Drugs"**: includes, for the purposes of the OCN Election Code, but are not limited to:

- (a) Drugs prohibited or subject to control under the Controlled Drugs and Substances Act, the Criminal Code or any other law; and
- (b) substances such as alcohol, solvents, prescription medications or other substances which are or may be legal, which have the effect of intoxication or reduction of a person's abilities

**"Elder"**: an OCN Elector who is at least fifty (50) years of age and is recognized as an Elder by the OCN Council of Elders appointed by the Chief and Council;

**"Election"**: an Election or By-Election held in accordance with this Code;

**"Election Administrative Officer"**: means the employee or staff person, retained by or on behalf of, or seconded to, the Election Board, who provides administrative assistance and services to the Election Board;

**Opaskwayak Cree Nation Election Code**

**“Election Period”:** the period between the dates the Electoral Officer posts the Notice of Nomination Meeting and Election and the date of the Election;

**“Elector”:** a person who is:

- (a) a member of OCN pursuant to the OCN Citizenship Code; and
- (b) 18 years of age or older on the Day on which the Election is held.

**“Electorate”:** that portion of the OCN Membership who qualify as Electors of OCN.

**“Elector Declaration Form”:** a document that sets out, or provides for:

- (a) the name of an Elector;
- (b) the OCN Membership or registry number of the Elector; and
- (c) the name, address and telephone number of a witness to the signature of the Elector.

**“Electoral Officer”:** the individual contracted under the terms as set out in Part 4 (Electoral Officer) of this Code;

**“Ethics”:** the acknowledgement and respect of the rights of others to be treated fairly and with dignity in accordance with Part 13 of this Code;

**“Executive Assistant to Chief and Council”:** shall mean the person or position responsible for receiving notifications, maintaining files and records, and preparing schedules and documents for the Chief and Council;

**“Executive Office”:** the offices of the Chief Executive Officer and Chief Financial Officer;

**“Final Voters List”:** the list of eligible Electors prepared and updated as required and publicly posted by the Electoral Officer in consultation with the Band Registrar;

**“General Election”:** an Election held in accordance with this Code at the end of the term of office of a sitting Chief and Council;

**“Good Financial Standing”:** a person who does not have delinquent arrears/outstanding accounts with OCN, including the Housing Authority. The person does not have to be debt free so long as the person is making their agreed payments to their outstanding loans and their accounts are current;

**“Government Services Branch Office”:** office at which Election Administrative Officer is located (the Post Office building);

**“Immediate Relative”:** includes:

- (a) spouse (legal or common law);
- (b) child (natural or custom/adopted);
- (c) parent or stepparent;
- (d) current or former foster child, ward or guardian of the spouse or common law partner;
- (e) grandchildren;
- (f) brothers, sisters, step-brothers, step-sisters including adopted or long-term foster, natural or custom/adopted;
- (g) the grandfather or grandmother;
- (h) father/mother of the spouse or common-law partner; or
- (i) current or former foster parent;

**“Individual”:** A member of the general public who is 18 years of age or older;

**Opaskwayak Cree Nation Election Code**

**“Licenced Trustee in Bankruptcy”:** a person licensed by the Superintendent of Bankruptcy to administer proposals and bankruptcies and manage assets held in trust;

**“Mail-In Ballot”:** a Ballot provided by the Electoral Officer to the Elector for mailing in accordance with Part 8 of this Code;

**“Master Voters List”:** the list of voters prepared in accordance with section 30;

**“Membership”:** the body comprised of those persons whose names are entered on the Membership List of OCN;

**“Mobile Poll”:** A Polling Station established for the purpose of taking the votes of Electors who are residents of treatment centres, medical care facilities, patients in hospitals, jails, prisons or shut-ins who cannot otherwise attend a Polling Station;

**“Nomination Meeting”:** a designated meeting at which Electors come forward to nominate and/or second Candidates for an Election;

**“Nominee”:** an Elector who has been nominated as a Candidate at a Nomination Meeting, but who has not yet fulfilled all requirements to be a Candidate;

**“Oath of Office”:** a sworn statement or affirmation by the Electoral Officer, Deputy Electoral Officer, Election Board member, Chief, Councillor or Elector solemnly vowing to carry out duties and responsibilities specified by the particular Oath and which may be sworn before:

- (a) a Justice of the Peace;
- (b) a Notary Public;
- (c) a duly appointed Commissioner for Oaths; or
- (d) any other person as may be provided for in this Code.

**“OCN”:** the Opaskwayak Cree Nation;

**“Opaskwayak Cree Nation Administration”** (hereinafter referred to as “OCN Administration”): the administrative arm of OCN;

**“Opaskwayak Cree Nation Election Board”** (hereinafter referred to as “the Election Board”): the body appointed in accordance with Part 14 of this Code to review and make decisions concerning Election Appeals and Complaints, oversee the Election Code Amendment process, and carry out the duties as assigned under the OCN Election Code;

**“OCN Branches”:** is a corporation or other branches owned or controlled, in whole or in part, directly or indirectly, by Opaskwayak Cree Nation; including Opaskwayak Education Services, Opaskwayak Health Services, Opaskwayak Business Enterprises, Opaskwayak Cree Nation Child and Family Services, Opaskwayak Infrastructure, Opaskwayak Lands & Natural Resources, Opaskwayak Operations and Opaskwayak Government Services;

**“OCN Membership List”:** the list of those persons who are members of OCN;

**“PDF”** (Portable Document Format): a file format created using Adobe Acrobat, Acrobat Capture, or similar products that has captured all the elements of a printed document as an electronic image that can be viewed, printed, or forwarded to someone else;

**“Polling Station”:** a designated building, hall or room which is selected for voting to take place;

**“Preliminary Voters List”:** the initial list of Electors prepared in consultation with the Band Registrar and publicly posted by the Electoral Officer;

**“Private Property”:** property on the OCN 21E Lands that is not otherwise designated for public use or access;

**“Post-Secondary Education”:** a level of education beyond a Grade 12 or Mature Grade 12 diploma which may include: an apprenticeship or trade certificate, other certificates from different disciplines,

## **Opaskwayak Cree Nation Election Code**

diploma, bachelor's degree, master's degree, doctoral degree, or post-doctoral degree from a recognized college or university;

**"Public Property"**: any property owned by OCN 21E Lands on which is designated for public use and access, excluding roads; and

**"Scrutineer"**: an Elector appointed under subsection 53(1) by a Candidate to represent them at the Polling Station and counting of the Ballots.

### **5. Interpretation**

- (1) Except as otherwise provided, a reference in this Code to the Electoral Officer includes the Deputy Electoral Officer(s) and vice versa.
- (2) Except as otherwise provided, a reference in this Code to an Election includes a General Election or a By-Election.
- (3) Except as otherwise provided, a reference in this Code to a Voters List includes the Preliminary Voters List, the Final Voters List and the Master Voters List.
- (4) Land Laws, By-Laws, Laws or enactments under other authority of OCN shall take precedence in the interpretation of this Code.
- (5) In the case of confusion or uncertainty in any provision of this Code, the interpretation shall be guided by the spirit and overall intention of the Code, rather than technical wording.
- (6) This Code will be interpreted in accordance with the following, in priority:
  - (a) in a manner consistent with the values and traditions of the Membership of Opaskwayak Cree Nation and in accordance with sections 25 and 35 of the *Constitution Act, 1982*;
  - (b) in accordance with the Laws, By-Laws, Codes, regulations and policies enacted or adopted by OCN;
  - (c) in accordance with appropriate Federal Law; and
  - (d) in accordance with appropriate Manitoba Law.
- (7) No technical defect, breach or failure in the conduct or implementation of the obligations, good faith, and duties set out in this Code shall be considered material or shall affect the application of this Code, except where it can be shown that the failures were malicious or had a material effect on the conduct of the Election.
- (8) Section Headings and Titles may be used as a guideline to assist in interpreting or identifying the intent of sections of this Code.
- (9) Records of Election Board Meetings, Band Community meetings, the development and ratification process may be used to facilitate the interpretation of this Code.
- (10) Where any part, section, subsection or provision of this Code is struck down or struck out by a Court of Law, that section, subsection or provision will be deemed to be severed, and the remainder of this Code will remain and continue in force.

### **6. Deadlines**

- (1) In this Code where a deadline falls on a non-business Day, such as a Saturday, Sunday, or recognized OCN Holidays, Federal and/or Provincial Holidays, then the first business Day after the deadline shall be deemed to be the deadline.
- (2) No meetings of the Election Board, Chief and Council, Community Meetings, By-Elections, Votes, Referendum or Hearings of any sort shall be conducted during the Holy Week, defined as the week preceding Easter.

## PART 2

### CHIEF AND COUNCIL

#### 7. Composition of Chief and Council

- (1) The Chief and Council of OCN will be composed of One (1) Chief, and Eight (8) Councillors elected by the Electors of OCN in accordance with this Code.
- (2) No member of Chief and Council, during their term of office:
  - (a) may hold a position as an Employee, Supervisor, or Manager of Opaskwayak Cree Nation, or of any OCN Entity;
  - (b) where an Employee of Opaskwayak Cree Nation, or any OCN Entity, becomes a Candidate, if elected, shall be required to take a leave of absence from their Employment for the period of their term of office.
  - (c) any Employee who declines to take a leave of absence if elected, shall be deemed to have resigned from their position on Chief and Council, a vacancy will be created and the process established in Part 12 will take place.

#### 8. Term of Office

- (1) The term of office for Chief and Council will be for a period of two (2) years commencing at noon, 12:00 a.m., on the Monday following the date on which a General Election is held.

#### 9. Quorum of Chief and Council

- (1) A quorum of Chief and Council shall consist of a majority of the number of positions of Chief and Council, but shall not be less than five (5). The Chief shall be counted for purposes of quorum.
- (2) In the event of unforeseen circumstances, there are vacancies resulting in too few Councillors for quorum, those Councillors remaining will act as an interim quorum until the vacancies are filled and a quorum is restored.
- (3) When a valid quorum of Chief and Council has been established, each decision of the interim quorum will be reviewed and ratified or rejected by motion or resolution. Ratification will be at the discretion of the quorum, but will not be unreasonably withheld.

#### 10. Remuneration

- (1) Remuneration for Chief and Council will be determined by OCN pay scales and relevant comparable pay scales of other First Nations' leadership. Remuneration will remain in effect throughout the duration of the elected term. Any annual salary increments may be applicable, dependant on the annual budget process set out by OCN Operations.

#### 11. Chief and Council Oath of Office

- (1) Within fourteen (14) Days of the commencement of their term of office, a Candidate who has fulfilled all requirements herein and has been elected Chief or Councillor will swear an Oath of Office before the Membership of OCN, swearing to:
  - (a) uphold and comply with the OCN Code of Ethics and Conduct and all Codes, Laws, By-Laws and regulations of OCN;

### **Opaskwayak Cree Nation Election Code**

- (b) carry out their duties faithfully, honestly, impartially, without prejudice, to the best of their ability and in the best interests of OCN;
- (c) keep confidential, both during and after their term of office, any matter or information which, under any Codes, Laws and By-Laws of OCN, is considered confidential; and
- (d) will follow and fulfill the spirit and intent of the Oath of Office, over and above technical compliance, during their term of office.

(2) The Oath referred to in subsection 11(1) will be administered by one of the following:

- (a) Electoral Officer;
- (b) Elder appointed by the Council of Elders;
- (c) Justice of the Peace;
- (d) Notary Public;
- (e) duly appointed Commissioner for Oaths;
- (f) Clergy of any faith as may be deemed appropriate by the Chief and Council; or
- (g) recognized spiritual leader as may be deemed appropriate by the Council of Elders.

(3) Where a Chief or Councillor, due to circumstances beyond their control, is unable to take the Oath of Office within the time stipulated in subsection 11(1), that Chief or Councillor shall be required to take the Oath of Office as soon as they are able to do so, and within 30 Days of when the results were declared.

(4) Further to the Oath of Office and subsection 11(1):

- (a) the Electoral Officer shall not declare a Candidate elected until all required checks have been completed and received, and
- (b) a Chief or Councillor will not take Office until they swear or affirm an Oath of Office, and all required checks have been completed and received.

## **12. Vacancies**

(1) The office of Chief or Councillor becomes vacant when the Elector who holds that office:

- (a) is convicted by way of indictment, excluding convictions arising from the assertion of aboriginal rights or title;
- (b) is convicted of a child abuse offence or has their name entered in the Child Abuse Registry;
- (c) resigns from their office;
- (d) in the event of their demise;
- (e) is removed from office in accordance with this Code;
- (f) is unable to perform their duties for six (6) consecutive months or more, due to debilitation, illness or other medical condition as certified by an appropriate medical authority or as ruled upon by a court of competent jurisdiction;
- (g) does not swear an Oath of Office as required by this Code;
- (h) fails to provide a current Vulnerable Sector Check (which includes the Criminal Records Check) and Child Abuse Registry Check by June 30 in each year during their term in office, to the Election Administrative Officer to be submitted to the OCN Election Board; or
- (i) Where an OCN employee does not take a leave of absence as per paragraph 7(2)(c).

## **Opaskwayak Cree Nation Election Code**

(2) Where a vacancy occurs, the Chief and Council will, subject to subsection 68(1) and (2), immediately follow process in accordance with Part 12 of this Code.

### **13. First Meeting of Elected Chief and Council**

(1) The first meeting of the elected Chief and Council will be held not later than seven (7) Days after a quorum has taken their Oath of Office.

### **14. Annual Checks - Criminal Records Vulnerable Sector and Child Abuse Registry Checks**

(1) Annual records checks dated between January 1 and June 30 in each year of their term of office are to be completed. All Chief and Council members shall make applications to renew their Vulnerable Sector Check (which includes a Criminal Records Check), Child Abuse Registry Check, and submit their current Vulnerable Sector Check (which includes a Criminal Records Check) and Child Abuse Registry Check and submit them in a sealed envelope to the Election Administrative Officer for the OCN Election Board, no later than June 30.

(2) All fees related to the Vulnerable Sector Check, including Criminal Records Check, and Child Abuse Registry Check required under section 14(1), shall be the responsibility of OCN.

### **15. Quarterly Drug Tests**

(1) At a duly convened meeting, the Election Board will randomly draw a name of a Chief and Council member to undergo a Drug test within two weeks of the following dates: January 1, April 1, July 1 and October 1 in each year.

(2) Each Chief and Council member who has been selected for testing will be required to provide hair follicle samples to determine whether or not there is the presence of Drugs. Hair follicle samples determine the presence of Drugs within a 90 Day time period.

(3) The quarterly drug test(s) of Chief and Council will be completed by the end of each month identified in subsection 15 (1).

(4) Any member of Chief and Council shall be required to comply with drug tests, upon selection by the Election Board.

(5) No more than one member of Chief and Council shall be selected with a Drug test in each quarter.

(6) All fees and costs relating to the implementation of drug tests shall be the responsibility of OCN. Where a member of Chief and Council fails a drug test, then they shall be required to reimburse OCN for these costs.

(7) Where a selected member of Chief and Council refuses to take a drug test, then they will be deemed to have admitted to drug or alcohol abuse in such manner as to affect their reputation and performance as a member of Chief and Council.

(8) Where a selected member of Chief and Council undergoes a Drug test which yields a positive result for the presence of Drugs, then the provisions of this Election Code governing Drug testing, at section 106 shall apply.

---

## **PART 3**

### **HOLDING OF ELECTION AND ELIGIBILITY REQUIREMENTS**

#### **16. Holding of a General Election**

(1) A General Election for the offices of Chief and Council will be held on the third (3rd) ThursDay of September in the year in which it is required.

**17. Provision for Holding of General Election**

- (1) The Chief Financial Officer of OCN will provide for the holding of a General Election within the Annual Budget of OCN for the fiscal year in which a General Election is required.
- (2) The Chief Financial Officer of OCN will provide for the holding of Election Board Business and Amendment process, within the Annual Budget of OCN each fiscal year.

**18. Eligibility for Nomination and Election**

- (1) A Candidate for the office of Chief must:
  - (a) be an Elector of OCN, as defined in this Code;
  - (b) within ninety (90) Days of being elected, reside within a fifty (50) kilometer radius of the OCN 21E Lands;
  - (c) upon being elected, must take a leave of absence, if employed by OCN as per paragraph 7(2)(b);
  - (d) be nominated for that office in accordance with the procedures set out in this Code;
  - (e) not have been convicted by way of indictment within six (6) years prior to their nomination excluding convictions arising from the assertion of Aboriginal Rights or Title;
  - (f) not currently listed on the Child Abuse Registry;
  - (g) be in Good Financial Standing;
  - (h) publicly disclose to the Membership as part of their candidacy and register these with the Election Board and Electoral Officer:
    - (i) any amount owing to OCN and the repayment status;
    - (ii) shares in companies and partnerships;
    - (iii) any external board directorships;
    - (iv) as part of the nomination package, these disclosures will be posted for Membership by the Election Board at the Head Office Government Services Branch Office and Executive Office, on official OCN social media, published in the Natotawin, and delivered or mailed or emailed to Electors residing outside of the fifty (50) kilometre radius of the OCN 21E Lands;
  - (i) not have been under the authority of a Trustee in Bankruptcy within six (6) years prior to their nomination;
  - (j) submit to a Drug test at their own cost, as directed or prescribed by the Election Board;
  - (k) pay a non-refundable fee by cash in the amount of one hundred fifty dollars (\$150.00) payable at the Opaskwayak Cree Nation Payment Centre if they are running for the office of Chief, and
  - (l) must have successfully completed a post-secondary program from a recognized college or university.
- (2) A Candidate for the office of Councillor must:
  - (a) be an Elector of OCN, as defined in this Code;
  - (b) within ninety (90) Days of being elected, reside within a fifty (50) kilometer radius of the OCN 21E Lands;
  - (c) upon being elected, must take a leave of absence, if employed by OCN as per paragraph 7(2)(b);

### **Opaskwayak Cree Nation Election Code**

- (d) be nominated for that office in accordance with the procedures set out in this Code;
- (e) not have been convicted by way of indictment within six (6) years prior to their nomination excluding convictions arising from the assertion of Aboriginal Rights or Title;
- (f) not currently listed on the Child Abuse Registry;
- (g) be in Good Financial Standing;
- (h) publicly disclose to the Membership as part of their candidacy and register these with the Election Board and Electoral Officer:
  - (i) any amount owing to OCN and the repayment status;
  - (ii) shares in companies and partnerships;
  - (iii) any external board directorships;
  - (iv) as part of the nomination package, these disclosures will be posted for Membership by the Election Board at the Head Office Government Services Branch Office and Executive Office, on official OCN social media, published in the Natotawin, and delivered or mailed or emailed to Electors residing outside of the fifty (50) kilometre radius of the OCN 21E Lands;
- (i) not have been under the authority of a Trustee in Bankruptcy within six (6) years prior to their nomination;
- (j) shall submit to a Drug test at their own cost, as directed or prescribed by the Election Board;
- (k) pay a non-refundable fee by certified cheque, cash or money order in the amount of fifty dollars (\$50.00) if they are running for the office of Councillor; and
- (l) must have successfully completed a Grade 12 diploma program or mature Grade 12 diploma equivalent; if a candidate has successfully completed a post secondary program from a recognized college/university, this will supersede the minimum Grade 12 requirements.

(3) An Elector may be nominated for any position of Chief or Councillor in any Election, the Nominee:

- (a) can only be a Candidate for one of the offices, either Chief or Councillor;
- (b) will select which Candidacy, on the Acceptance of Nomination Form, the office he/she chooses to stand for in the Election; and
- (c) upon signing the Acceptance of Nomination Form will be deemed as final, with the exception of the withdrawing of candidacy.

**19. Police Records, Child Abuse Registry, Bankruptcy, Drug tests and Level of Education Check**

(1) For the purposes of paragraphs 18(1)(e), (f), (i), (j) and (l), and paragraphs 18(2)(e), (f), (i), (j) and (l), all Electors nominated at a Nomination Meeting and who have accepted their nomination will provide the Electoral Officer, no later than 4:30 p.m. on August 9 in a year in which an election is to be held, copies of:

- (a) the results of their Vulnerable Sector Check, including Criminal Records Check as per paragraph 18(1)(e) and paragraph 18(2)(e);
- (b) the results of their Child Abuse Registry Check as per paragraph 18(1)(f) and paragraph 18(2)(f);
- (c) an official search record verifying that the Candidate has never been bankrupt, or in the case of bankruptcy, a Certificate of Discharge from the Superintendent of Bankruptcy Canada, verifying discharge from Bankruptcy at least six (6) years prior to the Election as per paragraph 18(1)(i) and paragraph 18(2)(i);

**Opaskwayak Cree Nation Election Code**

- (d) a certificate or test result from a recognized drug testing company approved by the Election Board, attesting or verifying that the Candidate has not used illegal Drugs in the previous ninety (90) Days prior to the test, as per paragraph 18(1)(j) and paragraph 18(2)(j);
- (e) a diploma or sworn Affidavit attesting to the level of education attained, as per paragraph 18(1)(l) or paragraph 18(2)(l);
  - (i) the Candidate for the position of Chief must have attained a level of education to include a successfully completed a post-secondary program from a recognized college or university;
  - (ii) The Candidate for the position of Councillor must have attained a level of education to include a Grade 12 diploma or Mature Grade 12 diploma equivalent, or must have successfully completed a post-secondary program from a recognized college or university.
- (2) For the purposes of paragraph 18(1)(l) and paragraph 18(2)(l), acceptable copies of documents for proof of level of education attained are:
  - (a) official copy of a high school diploma or official copy of transcripts as issued by a recognized/accredited education institution;
  - (b) official copy of a valid Mature Grade 12 Diploma (or equivalent) or official copy of transcripts as issued by a recognized/accredited education institution;
  - (c) official copy of a diploma or degree from an accredited post-secondary educational institution;
  - (d) official copy of a transcript from an accredited post-secondary educational institution, confirming attendance, course load and marks;
- (3) All Nominees shall, within seven (7) Days of the close of the Nomination Meeting, apply to get the documents required under subsection 19(1) or subsection 19(2), and shall provide proof of having done so by submitting a receipt of fees paid or other documentation of proof to the Electoral Officer. All fees and obligations, including required submissions to the Electoral Officer with respect to obtaining the documents required under subsection 19(1) or subsection 19(2), shall be the responsibility of the Nominee.
- (4) All Candidate documents and required applications and fees are to be:
  - (a) if applicable, paid at the OCN Payment Centre;
  - (b) the OCN Payment Centre shall issue a receipt, and the Nominee will provide a copy to the Electoral Officer;
  - (c) all other fees shall be paid to the issuing agency requiring the fee;
  - (d) copies of all receipts or other documentation of proof of payment or application shall be submitted to the Electoral Officer by the Nominee; and
  - (e) refer to Checklist which is **Appendix “A”**.
- (5) A Nominee who fails to provide any one of the documents listed in subsection 19(1) and subsection 19(2), within the time required shall not be a Candidate at the election and his or her name will not appear on the Ballot.
- (6) The Electoral Officer shall declare invalid a Nominee's Candidacy if the results of the Police Records Check or Vulnerable Sectors Check provide evidence that the Nominee has been convicted by way of indictment of an offense, excluding convictions arising from the assertion of Aboriginal Rights or Title, within the previous six (6) years before the date of their nomination.
- (7) The Electoral Officer shall declare invalid a Nominee's Candidacy if the results of the Child Abuse Registry Check provide evidence that the Nominee is on the Registry.
- (8) The Electoral Officer shall declare invalid a nomination if:
  - (a) the Nominee refuses or fails to obtain any of the required record checks;

## **Opaskwayak Cree Nation Election Code**

- (b) the Nominee's search record for bankruptcy shows that the Nominee has been under bankruptcy previously and the Nominee refuses or fails to obtain or submit a Certificate of Discharge from the office of the Superintendent of Bankruptcy Canada; and
- (c) the Nominee's search record for bankruptcy shows that the Nominee has been under bankruptcy previously and the Certificate of Discharge shows that the Nominee's period of Bankruptcy has been within the last six (6) years.

(9) Any Nominee refusing a Vulnerable Sector Check, Criminal Record Check, a Child Abuse Registry Check or Bankruptcy Check or to submit proof of education level attained will be deemed to have declined his/her nomination.

(10) The Election Board shall specify the type of Drug test required, and approved testing companies, but it will be the responsibility of the Nominee to obtain the test and pay the costs of the test.

(11) Any Nominee refusing to comply with or participate in a Drug test will be deemed to have declined his/her nomination.

(12) Where a Nominee's Drug test yields an unclear result requiring further interpretation, the Nominee will be required to do another Drug test to determine a positive or negative result.

(13) All copies of documents submitted under subsection 19(1) and subsection 19(2), by Nominees will be maintained by the Election Administrative Officer for one year.

---

## **PART 4**

### **ELECTORAL OFFICER**

**20. Hiring of Electoral Officer**

- (1) The Chief Executive Officer, of OCN will, on a contract basis, hire a Officer in accordance with the contracting policies of OCN Administration. The hiring of the Electoral Officer shall be made on or before April 1 in the year in which an Election is to be held.
- (2) The Electoral Officer will not be a member of Chief and Council, or a Board Member of the OCN Election Board. The person who is hired as the Electoral Officer waives, if an Elector, their right to nominate or be nominated for a position on Chief and Council.
- (3) The person who is hired as the Electoral Officer waives, if an Elector, their right to exercise a vote at the Election.

**21. Term of Employment of Electoral Officer**

- (1) The term of employment of the Electoral Officer will be based on the signed contract.

**22. Remuneration of Electoral Officer**

- (1) The Electoral Officer and Deputies will be paid in accordance with rates as prescribed by OCN Administration.
- (2) Where an Appeal(s) has been filed with respect to an Election, the Electoral Officer will be paid on a per diem basis for actual time spent on the Appeal(s) at a rate prescribed by OCN Administration.

**23. Deputy Electoral Officer(s)**

- (1) The Electoral Officer will immediately, upon assuming their position, post advertisements for the positions of Deputy Electoral Officers, setting out the qualifications, term and remuneration for the positions.

### **Opaskwayak Cree Nation Election Code**

- (2) The Electoral Officer will, within four (4) weeks, appoint at least one (1) or more Deputy Electoral Officers(s) as may be required to carry out their duties and to fulfill the provisions this Code and shall designate one (1) of them as their replacement should they become unable to perform their duties due to illness or other incapacity.
- (3) The Deputy Electoral Officer(s) shall have and exercise the general or specific duties and powers as the Electoral Officer may delegate to them.
- (4) Where the Electoral Officer is unable to perform their duties due to illness or other incapacity, the Deputy Electoral Officer who has been designated as the replacement shall have and may exercise the functions of the Electoral Officer.
- (5) The Deputy Electoral Officer(s) will not be members of Chief, Council or the OCN Election Board.
- (6) Person(s) appointed as Deputy Electoral Officer(s) waive, if an Elector their right to nominate or be nominated for a position on Chief and Council.
- (7) Person(s) appointed as Deputy Electoral Officer(s) may vote, if an Elector at an Election provided they are eligible to do so.
- (8) A Deputy Electoral Officer who is acting as the Electoral Officer under subsections 23(2) and (4), on the date of the Election shall be deemed to have waived their right to vote.
- (9) At least one (1) Deputy Electoral Officer shall be required to be fluent in Cree.

#### **24. Duty of Electoral Officer**

- (1) The Electoral Officer, shall conduct and oversee Elections, and shall assist the Election Board, during the Election period, in addition to the duties and powers contained in the OCN Election Code the Electoral Officer has the following duties and powers:
  - (a) exercises the powers and perform the duties and functions that are necessary for the administration of this Code;
  - (b) ensures that all Deputy Electoral Officers act with fairness and impartiality and in compliance with this Code;
  - (c) issues to Deputy Electoral Officers the instructions necessary for the administration of this Code;
  - (d) ensures that all Electors have a fair and reasonable opportunity to participate in the election;
  - (e) refers questions of interpretation to the Election Board;
  - (f) where a Complaint is brought during an Election Period, assist the Board as directed, and provide evidence or testimony as required during the investigation and hearing of a Complaint; and
  - (g) where an Appeal is brought, assist the Board as directed, and provide evidence or testimony as required during the investigation and hearing of an Appeal.

#### **25. Responsibilities and Ethics**

- (1) The Electoral Officer and the Deputy Electoral Officers must:
  - (a) uphold and abide by the provisions of this Code;
  - (b) remain neutral and professional in the conduct of the duties of their office, and refrain from providing any preferential treatment or expressing support for or opposition to any candidate;
  - (c) not accept anything of value, including but not limited to money, offers of employment, gifts, travel, in exchange for preferential treatment or access to a public official or non-public information;

### **Opaskwayak Cree Nation Election Code**

- (d) not discriminate against anyone on grounds prohibited by the Canadian Charter of Rights and Freedoms and the Canadian Human Rights Act;
- (e) use public office facilities to fulfill the terms of their office, and not for personal or partisan benefit;
- (f) not pressure or intimidate other officials or personnel to favour a certain candidate; and
- (g) avoid conflict of interest, or the appearance of conflict of interest, by abstaining from decision making where the Electoral Officer or a Deputy Electoral Officer has a personal or private interest in the matter at issue.

#### **26. Oath of Office**

- (1) The Electoral Officer and their Deputies shall be bound by the Oath for the duration of their term and will swear an Oath of Office before a Justice of the Peace, Notary Public or duly appointed Commissioner for Oaths of Office; swearing to:
  - (a) uphold and comply with this Code, Laws and By-Laws of OCN;
  - (b) carry out their duties faithfully, honestly, impartially, without prejudice to the best of their ability, and in the best interests of OCN; and
  - (c) keep confidential, both during and after their term of office, any matter or information which, under any Codes, Laws and By-Laws of OCN, is considered confidential.
- (2) The Electoral Officer and Deputies will file sworn Oaths of Office with the Government Services Branch Office and Executive Office or its successors prior to carrying out their duties.

---

## **PART 5**

### **VOTERS LIST**

#### **27. Preparation and Posting of Preliminary Voters List**

- (1) Within five (5) Days of the Electoral Officer taking office, the Band Registrar will provide the Electoral Officer with a list of the names of all Electors of OCN. The Band Registrar will be responsible for providing updates to the list until the date of the Election.
- (2) The Electoral Officer will prepare a Preliminary Voters List containing the names of all Electors in alphabetical order by surname.
- (3) The Electoral Officer will post the Preliminary Voters List at the Government Services Branch Office and Executive Office of OCN and at least three (3) public places within the OCN 21E Lands at least thirty (30) Days prior to the Election being held.

#### **28. Amendment of Voters List**

- (1) Any Elector may apply to have the Preliminary Voters List corrected and the Electoral Officer will revise the Preliminary Voters List where it is demonstrated that:
  - (a) the name of an Elector has been omitted;
  - (b) the name of an Elector is incorrectly set out; or
  - (c) the name of a person not qualified as an Elector is included.
- (2) For the purposes of subsection 28(1):

### **Opaskwayak Cree Nation Election Code**

- (a) an Elector may demonstrate that the name of an Elector has been omitted from or incorrectly set out in the Preliminary Voters List by presenting to the Electoral Officer evidence from the Band Registrar that the Elector:
  - (i) is on the Membership List;
  - (ii) will be eighteen (18) years of age or older on the Day of the Election; and
  - (iii) is qualified to vote at Opaskwayak Cree Nation Elections.
- (b) an Elector may demonstrate that the name of a person not qualified to vote has been included in the Preliminary Voters List by presenting to the Electoral Officer evidence from the Band Registrar that the person:
  - (i) is not on the Membership List;
  - (ii) will not be eighteen (18) years of age or older on the Day of the Election; or
  - (iii) is not qualified to vote at Opaskwayak Cree Nation Elections.

(3) After consideration of all information and representations relating to Amendments to the Preliminary Voters List, the Electoral Officer will, after having consulted with the Band Registrar and received written documentation containing the Band Registrar's decision, correct, add or delete names to the Preliminary Voters List based on whether the person(s) in question qualify as Electors.

(4) At least twenty-one (21) Days prior to the date on which the Election is to be held, the Electoral Officer will give the person, whose name has been the subject of an Amendment to the Preliminary Voters List, written notice of the decision.

#### **29. Posting of Final Voters List**

(1) At least ten (10) Days prior to the date on which an Election is to be held, the Electoral Officer will post a Final Voters List at the Government Services Branch Office and Executive Office and in at least three (3) public places within OCN 21E Lands.

#### **30. Master Voters List**

(1) The Electoral Officer shall prepare a master list of qualified Electors, to be known as the Master Voters List, which shall be used for the purpose of verifying the identity of an Elector arriving at the Polling Station to cast a Ballot.

#### **31. Contents of Master Voters List**

(1) The Master Voters List shall contain, for each Elector who is included in it, their surname, given name(s) and status number, alias(es), date of birth, address, and confirmation where consent is given to release mailing address or email.

#### **32. Access to Master Voters List**

(1) No one, other than the Electoral Officer, their Deputies, the Election Board, and the Election Administrative Officer shall have access to the Master Voters List.

#### **33. Use of Information**

(1) The information contained in the Master Voters List will be kept confidential and will not be used for any purpose other than the following:

- a) for mail out Ballots;
- b) verifying the identity of Electors voting by mail, or at Advance Polls;

### **Opaskwayak Cree Nation Election Code**

- c)* verifying the identity of Electors arriving at the Polling Station;
- d)* verifying the identity or Electors signing a petition for removal submitted to the Election Board pursuant to subsection 66 (1) and 66 (3).

#### **34. Addresses of Electors**

- (1) Within five (5) Days of the Electoral Officer taking office, the Election Administrative Officer will provide the Electoral Officer with the last known Mailing address, if available, of all Electors who do not reside within a fifty (50) kilometre radius of the OCN 21E Lands, and of any Elector residing within a fifty (50) kilometre radius of the OCN 21E Lands who consents to the release of their address.
- (2) The mailing address will be used only for the purpose of providing notice(s), Mail-In Ballots or other documents to Electors who are entitled to receive them.
- (3) Electors will be responsible for providing the Election Administrative Officer or the Electoral Officer with their current mailing address.
- (4) The mailing address of any Elector will not be disclosed to anyone by the Electoral Officer or the Election Administrative Officer without the written consent of the Elector.

#### **35. Release of Final Voters List and Mailing Addresses of Electors to Candidates**

- (1) Candidate for Election for the office of Chief or Councillor may obtain from the Electoral Officer the Preliminary Voters List and the mailing addresses of any Electors on or off OCN 21E Lands who have consented to have their address released to the Candidates.
- (2) The publication and mailing expenses related to campaign promotional materials will be the responsibility of the Candidate.

---

## **PART 6**

### **NOMINATION MEETING AND PROCEDURES**

#### **36. Notice of Nomination Meeting and Election**

- (1) The Electoral Officer will set the date of the Nomination Meeting and post at the Government Services Branch Office and Executive Office and in at least three (3) public places within the OCN 21E Lands, a Notice of Nomination Meeting and Election, on or before May 6<sup>th</sup> in the year in which an Election is required.
- (2) The setting of the date of the Nomination Meeting shall take into account the timing of deadlines with respect to business Days.
- (3) The Notice of Nomination and Election will be posted and advertised so as to provide sufficient notice to Electors living off OCN.
- (4) The Notice of Nomination Meeting and Election will state the:
  - (a) date, time, duration and location of the Nomination Meeting;
  - (b) date on which the Election will be held and the location of the Polling Station;
  - (c) name and phone number of the Electoral Officer; and
  - (d) Advance Poll and Mobile Poll Information.
- (5) The Electoral Officer will send, by regular mail, on or before May 6<sup>th</sup> in the year in which an Election is required, to those Electors living outside the fifty (50) kilometre radius of the OCN 21E Lands, and for whom a current mailing address is known or has been provided by the Band Registrar:

### **Opaskwayak Cree Nation Election Code**

- (a) a Notice of Nomination Meeting and Election (Off-OCN 21E Lands Electors);
- (b) a Mail-In Nomination Form;
- (c) an Elector Declaration;
- (d) the statement that any Elector may vote by Mail-In Ballot;
- (e) the statement that, if the Elector wants to receive information from Candidates, the Elector will indicate, in writing, their agreement to have their name released to the Candidates; and
- (f) a summary of the procedures governing the nomination of Candidates as provided for in this Code.

(6) The Electoral Officer will record the names of Electors living off OCN 21E Lands to whom a Notice of Nomination Meeting and Election (Off-OCN 21E Lands Electors) was mailed, the addresses of those Electors and the date on which the notices were mailed. It is the Electoral Officer's responsibility to record mail returned unclaimed.

**37. Nomination Meeting**

(1) A Nomination Meeting for a General Election will be held on or before June 6 in the year in which an Election for Chief and Council is required.

**38. Nomination Meeting Procedures**

- (1) Subject to subsection 38(2), the Electoral Officer will convene the Nomination Meeting at the time and date stated in the Notice of Nomination Meeting and Election.
- (2) The Nomination Meeting will remain open from 6 p.m. to 9 p.m. and a minimum of three (3) hours.
- (3) The nominations for the offices of Chief and Councillors will be conducted simultaneously.
- (4) An Elector may nominate or second a Candidate:
  - (a) orally at the Nomination Meeting, provided that they sign an "Elector Declaration Form" confirming or affirming their nomination or second, witnessed by the Electoral Officer or Deputy Electoral Officer, before the end of the Nomination Meeting.
  - (b) by faxing, emailing or Mailing a Nomination Form and a signed and witnessed Elector Declaration form to the Electoral Officer on or before the date of the Nomination Meeting.
- (5) Mailed, emailed or faxed nominations that are not accompanied by a signed and witnessed Elector Declaration form will be declared void.
- (6) Mailed, emailed or faxed nominations that are not received by the Electoral Officer by 4:30 p.m., local time, on the date set for the Nomination Meeting will be declared void.
- (7) For clarity, emailed nominations must contain scanned PDF format copies or equivalent, of the completed and signed Nomination and Elector Declaration forms.
- (8) The Electoral Officer will, at the commencement of the meeting, announce the opening of nominations received by mail, email or fax.
- (9) All nominations whether received by mail, fax, or made orally at the Nomination Meeting must be seconded by an Elector present at the Nomination Meeting subject to subsections 38(10) to (11).
- (10) An Elector is entitled to nominate or second the nomination of only one (1) Elector for the office of Chief.
- (11) An Elector is entitled to nominate or second the nomination of only one (1) Elector for the office of Councillor.
- (12) A nomination that has not been seconded by the end of the Nomination Meeting will be deemed to be void.

## **Opaskwayak Cree Nation Election Code**

- (13) An Elector who has either nominated or seconded an Elector, may not make a further nomination or second, regardless of whether the nominated or seconded Elector declines.
- (14) A record shall be kept of all Electors and their nominations or seconds.

### **39. Candidate Orientation**

- (1) Prior to the deadline set for the receipt of the “Acceptance of Nomination Form” by the Electoral Officer, those Candidates considering accepting their nomination may attend an orientation session that shall be organized and held by the OCN Election Board at a date and time determined by the Board.
- (2) The Orientation Session will explain the election process, requirements and deadlines contained in the Code.

### **40. Validation and Declaration of Acceptance of Nomination**

- (1) Electors, duly nominated and seconded for the office of Chief must, within seven (7) Days after the Nomination Meeting, forward to the Electoral Officer:
  - (a) a signed copy of the Acceptance of Nomination form, indicating the acceptance of their nomination;
  - (b) a copy of the receipt as proof of payment of the non-refundable fee of one hundred and fifty dollars (\$150.00); and
  - (c) proof of application for the documents required under subsection 19(1) and subsection 19(2).
- (2) Electors, duly nominated and seconded for the office of Councillor must, within seven (7) Days after the Nomination Meeting, forward to the Electoral Officer:
  - (a) a signed copy of the Acceptance of Nomination form indicating the acceptance of their nomination;
  - (b) a copy of the receipt as proof of payment of the non-refundable fee of fifty dollars (\$50.00); and
  - (c) proof of application for the documents required under subsection 19(1) and subsection 19(2).
- (3) A nominated Elector who does not fulfill the requirements under subsection 40(1) or 40(2) will be deemed not to have accepted their nomination and their name will not appear on the Ballot.
- (4) All fees shall be deposited with OCN Payment Centre and shall be applied toward the cost of holding the Election.

### **41. Election by Acclamation**

- (1) If, at the close of the Nomination Meeting or the period allowed for the completion of the “Acceptance of Nomination Form”, there is only one (1) Nominee for the office of Chief, the Electoral Officer will declare that Nominee elected to the office of Chief by acclamation, provided the Nominee has signed the “Acceptance of Nomination Form” and fulfills the requirements under sections 18 and 19.
- (2) If, at the close of the Nomination Meeting or the period allowed for the completion of the “Acceptance of Nomination Form”, there are eight (8) or less Nominees for the office of Councillor, the Electoral Officer will declare those Nominees elected to the office of Councillor by acclamation, provided those Nominees have signed the “Acceptance of Nomination Form” and fulfills the requirements under sections 18 and 19.
- (3) Where the offices of Chief or Councillor are filled by acclamation, the Electoral Officer will post at the Government Services Branch Office and Executive Office and in at least three additional (3) public places within OCN 21E Lands, and mail to every Elector residing outside of the fifty (50) kilometre radius of the OCN 21E Lands and to whom a Notice of Nomination Meeting and Election was sent:
  - (a) a notice that sets out the names of the Electors elected by acclamation; and

## **Opaskwayak Cree Nation Election Code**

(b) a statement that an Election will not be held for those offices filled by acclamation.

### **42. Withdrawal of Candidates**

(1) A Nominee or Candidate may withdraw their nomination or candidacy at any time prior to the opening of the poll, by submitting to the Electoral Officer a written withdrawal of nomination signed by the Candidate in the presence of the Electoral Officer, a Justice of the Peace, a Notary Public, or a Commissioner for Oaths.

### **43. Calling of Election**

(1) Upon the closing of the Nomination Meeting and the number of Nominees exceeds the number of required positions, the Electoral Officer will announce the date of the Election, as set out in the notice referred to in subsection 36(1).

(2) Within five (5) Days after the Nomination Meeting, and through whatever means available, the Electoral Officer will notify those Nominees not present at the Nomination Meeting of their nomination and will further advise them of the process for accepting or declining their nomination.

(3) Within eight (8) Days following the Nomination Meeting, the Electoral Officer will post a list of all Nominees at the Government Services Branch Office and Executive Office and in at least three (3) public places within OCN 21E Lands.

### **44. Secrecy of Voting**

(1) Voting at a General Election or By-Election will be by secret Ballot only.

---

## **PART 7**

### **PREPARATION OF BALLOTS AND MAILING OF BALLOTS**

#### **45. Preparation of Ballots**

(1) The Ballot forms for the office of Chief and Councillor must be in separate colors, clearly distinguishable from each other.

(2) The Electoral Officer will prepare sufficient Ballot papers setting out in a single column(s):

- (a) the names of the Candidates nominated for Election as Chief, in alphabetical order by surname; and
- (b) the names of the Candidates nominated for Election as Councillors, in alphabetical order by surname.

(3) Where two (2) or more Candidates have the same name or their names are so similar so as to potentially cause uncertainty as to the identity of a Candidate, the Electoral Officer will add to the Ballots any additional information as is necessary to distinguish between those Candidates subject to the written consent of the Candidates to do so.

(4) For further clarity, the additional information referred to in subsection 45(3) may include:

- (a) the name the Candidate is commonly known by;
- (b) the nickname or alias the Candidate is commonly known by; or
- (c) any other information as mutually agreed upon by the Candidates.

**46. Mailing of Ballots**

(1) At least thirty-five (35) Days prior to the Day on which an Election is to be held, the Electoral Officer will mail to every Elector who makes a formal request, and to every Elector who resides outside of the fifty (50) kilometre radius of the OCN 21E Lands, and for whom a current Mailing address is available, a package consisting of:

- (a) a letter of instruction regarding voting by Mail-In Ballot;
- (b) a Ballot for each of the offices of Chief and Councillors, initialled on by the back by the Electoral Officer;
- (c) a pre-addressed, postage-paid return envelope to the Electoral Officer;
- (d) a second envelope marked "Ballot" for the insertion of the all the completed Ballots;
- (e) an Elector Declaration form;
- (f) a Notice:
  - (i) identifying the location of the Polling Station, Advance Poll and Mobile Poll;
  - (ii) advising the Elector that, subject to subsection 54(13), they may vote in person at the Polling Station on the Day of the Election in lieu of voting by Mail-In Ballot; and
  - (iii) a list of the names of any Candidates who were elected by acclamation, if applicable.

(2) At the request of an Elector who resides within the fifty (50) kilometre radius of the OCN 21E Lands, the Electoral Officer will provide a package referred to in subsection 46(1), to that Elector.

(3) The Electoral Officer shall record the name and address of every Elector who receives a Mail-In Ballot under subsection 46(1) or subsection 46(2).

---

**PART 8**

**MAIL-IN VOTING PROCEDURES**

**47. Procedures for Voting by Mail-In Ballot**

(1) An Elector will vote by Mail-In Ballot by:

- (a) marking the Ballot by placing a cross, check mark or other mark, that clearly indicates the Elector's choice but does not identify the Elector, opposite the name of the Candidate(s) for whom they desire to vote;
- (b) folding the Ballot in a manner that conceals the name(s) of the Candidate(s), and the manner in which the Elector has voted, but exposes the Electoral Officer's initials on the back;
- (c) placing and sealing the Ballot in the envelope marked "Ballot";
- (d) completing and signing the Elector Declaration form in the presence of a witness who is eighteen (18) years of age or older;
- (e) placing the envelope marked "Ballot" and the witnessed Elector Declaration form in the pre-addressed, postage paid return envelope; and
- (f) delivering or mailing the Mail-In Ballot to the Electoral Officer before the time at which the polls are scheduled to close on the Day of the Election.

(2) Where an Elector by reason of disability is unable to vote in the manner as set out in subsection 47(1), the Elector may enlist the assistance of another person to mark the Ballot and complete and sign the Elector Declaration form in accordance with subsection 47(1).

### **Opaskwayak Cree Nation Election Code**

- (3) A person referred to in subsection 47(2), will attest to the fact that the Elector completing and signing the Elector Declaration form is the Elector whose name is set out in the form and that the Ballot was marked according to the directions of the Elector. Where the Electoral Officer has reason to believe that an Elector may be of unsound mind, then the Electoral Officer shall investigate, before allowing the Ballot.
- (4) An Elector who inadvertently loses or spoils a Mail-In Ballot may obtain another Ballot by notifying the Electoral Officer. The Electoral Officer shall then record the lost or spoiled Ballot by the Elector, and shall issue a replacement Mail-In Ballot.
- (5) An Elector to whom a Mail-In Ballot was mailed or provided under Section 46 is not entitled to vote in person at the Polling Station other than in accordance with subsection 54(16).

#### **48. Safekeeping of Mail-In Ballots**

- (1) On or before the date on which the Mail-In Ballots are mailed to Electors, the Electoral Officer will ensure that arrangements are made at a nearby Canada Post Office for the reception and safekeeping of Mail-In Ballots.
- (2) All Mail-In Ballots addressed to the Electoral Officer will not be opened by anyone other than the Electoral Officer in accordance with the provisions of this Code.

---

## **PART 9**

### **ELECTION DAY**

#### **49. Polling Station**

- (1) There shall be only one (1) polling station set up on the OCN 21E Lands on the Election Day for any Election held under this Code.

#### **50. Mobile and Advance Polling Stations**

- (1) Before Election Day, the Electoral Officer shall conduct one or more Mobile and Advance Polls for Electors residing within a fifteen (15) kilometre radius of OCN and who are residents of treatment centres, medical care facilities, patients in hospitals, jails or prisons or shut-ins on Election Day.
- (2) The Electoral Officer may make arrangements with the appropriate institution for Electors who are residents of treatment centres, medical care facilities, patients in hospitals, jails or prisons to cast their votes at a Mobile Poll.
- (3) For clarity, the Mobile and Advance Polls shall be conducted on separate Days prior to the Election Day.

#### **51. Equipment for the Election**

- (1) The Electoral Officer will, before the Polling Station is open, supply the Polling Station with:
  - (a) sufficient Ballot boxes clearly identified in which shall be placed Ballots for Chief and Ballots for Councillor;
  - (b) a sufficient number of Ballots;
  - (c) a sufficient number of voting compartments enabling Electors to mark their Ballots free from observation;
  - (d) instruments for marking;
  - (e) a sufficient number of voting instructions;

### **Opaskwayak Cree Nation Election Code**

- (f) all other equipment as necessary to establish and equip the Polling Station; and
- (g) the Master Voters List.

(2) The Electoral Officer will ensure the supervision of the Ballot boxes and all other equipment used at an Election and will keep written confirmation of same.

(3) A Ballot box will be designed in a manner so that Ballots are secure and cannot be withdrawn or removed without opening the box.

#### **52. Procedures for Opening of Polling Station**

- (1) The Electoral Officer will, immediately before the commencement of the poll and in the presence of a witness(es):
  - (a) open the Ballot box and verify that it is empty, and complete a Witness Declaration at the Opening of the Poll;
  - (b) close and seal the Ballot box in a manner preventing it from being opened without breaking the seal; and
  - (c) place the Ballot box in public view for the reception of the Ballots.
- (2) The Electoral Officer will provide compartments at the Polling Station situated in a place where the Electors can mark their Ballot free from observation.
- (3) The Electoral Officer will ensure that the arrangements for security have been made to maintain order and security.
- (4) The Electoral Officer will ensure arrangements are made to have a First Nation Safety Officer accompany the Electoral Officer during the transport of the sealed Ballot boxes for safekeeping.
- (5) The Polling Station will be kept open from 9:00 a.m. until 8:00 p.m. on Election Day.

#### **53. Scrutineers**

- (1) A Candidate may appoint Scrutineers who are Electors and who are not Candidates to observe proceedings at the Polling Station and the counting of the Ballots.
- (2) Only one (1) Scrutineer of a Candidate may be present in the Polling Station at any time.
- (3) A Candidate's Scrutineer must present to the Electoral Officer a duly completed Statement of Appointment of an Agent/Scrutineer, signed by the Candidate, in order to be permitted to remain at the Polling Station.

#### **54. Voting Procedures at Polling Stations**

- (1) The Electoral Officer shall designate at least one (1) Deputy Electoral Officer who is fluent in the Cree language at the Polling Station to assist any Electors requesting assistance under subsections 54(2) and 54(3).
- (2) An Elector who requires assistance must inform the Electoral Officer before receiving a Ballot.
- (3) Where an Elector requires assistance, only the Electoral Officer or a Deputy Electoral Officer may assist as follows:
  - (a) may read out the list of names of Candidate for Chief, and the list of names for Candidates for Council;
  - (b) may, upon request, assist the Elector in marking the Ballot, as instructed or directed by the Elector.
  - (c) may, upon request, fold and deposit the Ballot.

**Opaskwayak Cree Nation Election Code**

- (4) No person, including friends, family or relatives, of the Elector may interfere with the acts or operations of the Electoral Officer or Deputy Electoral Officer in assisting the Elector.
- (5) An Elector will not be permitted to have a friend or family member to provide assistance or witness the assistance from the Election staff at the Polling Station.
- (6) Where the Elector refuses the assistance of the Electoral Officer or Deputy Electoral Officer, and only wants the assistance of a friend or family member, then the Elector may request a Mail-In Ballot, to be completed away from the polling area.
- (7) When an Elector appears at the Polling Station for the purpose of voting at an Election, the Electoral Officer will:
  - (a) verify that the Elector's name is on the Final Voters List;
  - (b) that the Elector has not yet voted in the Election; and
  - (c) initial the back of the Ballot for Chief, the Ballot for Councillor and hand the Ballots to the Elector.
- (8) The Electoral Officer will place a mark opposite the Elector's name on the Master Voters List indicating that the Elector has received a Ballot.
- (9) Each Elector receiving a Ballot will immediately proceed to the voting compartment to cast their vote. The Elector will then fold the Ballot leaving the initials of the Electoral Officer exposed.
- (10) Subject to subsections 54(1) to 54(4), only one (1) person will be in a voting compartment at any one time.
- (11) An Elector who has spoiled or damaged a Ballot, has inadvertently marked the name of a Candidate for whom he/she does not wish to vote or has otherwise rendered the Ballot unusable and has not yet deposited their Ballot in the Ballot box may receive another Ballot from the Electoral Officer.
- (12) Upon receiving a spoiled, damaged, inadvertently marked or otherwise unusable Ballot, the Electoral Officer shall write the word "Spoiled" on the back of the Ballot and set it aside.
- (13) Upon presentation of the spoiled, damaged, inadvertently marked or otherwise unusable Ballot, the Electoral Officer will give another Ballot to the Elector and record that another Ballot was given on the Final Voters List opposite the name of the Elector.
- (14) Any Elector who has received a Ballot and leaves the Polling Station without casting a vote or refuses to vote forfeits their right to vote, and the Electoral Officer will mark "declined" on the Final Voters List opposite the Elector's name noting the reason.
- (15) An Elector, to whom a Mail-In Ballot was mailed or provided under sections 46 and 47 of this Code, may obtain a Ballot and vote in person at the Polling Station, if:
  - (a) the Elector returns the Mail-In Ballot to the Electoral Officer, or;
  - (b) where the Elector has lost the Mail-In Ballot, provides the Electoral Officer a duly completed Declaration of Lost or Misplaced Mail-In Ballot, signed in the presence of either the Electoral Officer, a Justice of the Peace, Notary Public or a Commissioner for Oaths.
- (16) An Elector whose name does not appear on the Master Voters List may vote at an Election provided that they can substantiate to the Electoral Officer, by showing proper credentials signed and provided by the Band Registrar, that they are eligible to vote, and that Elector must sign a Declaration of Eligibility.
- (17) An Elector attending the Polling Station for the purpose of voting and who, in the reasonable opinion of the Electoral Officer, is clearly intoxicated so as to impair their judgment will not be allowed to vote, and will be escorted from the premises by security personnel if they refuse to leave on their own accord.
- (18) Every Elector who is inside the Polling Station at the fixed time for the closing of the poll will be allowed to vote if they have not yet done so.

## PART 10

### COUNTING OF BALLOTS

#### 55. Processing of Mail-In Ballots

- (1) The Electoral Officer will be responsible for receiving Mail-In Ballots up until the close of voting.
- (2) The Electoral Officer, and a Commissioner for Oaths, on the Day prior to voting, will pick up all Mail-In Ballots returned by Electors from the designated mail area.
- (3) The Electoral Officer Commissioner for Oaths, will, on the Day prior to the Election:
  - (a) open any returned envelopes and confirm that the Elector is on the Final Voters List and that the "Elector Declaration Form", at a minimum, has:
    - (i) the name and the status number of the Elector; and
    - (ii) the signatures of the Elector and a witness;
  - (b) reject any Mail-In Ballot where the "Elector Declaration Form" has not been properly filled out, signed and witnessed;
  - (c) open each "Ballot" envelope and confirm the authenticity of the Ballot by checking the affixed initials;
  - (d) if there is nothing to indicate that the Elector has already voted, accept the Ballot and make a notation on the Final Voters List of the date in which the Mail-In Ballot was received;
  - (e) ensure that the Ballots are placed in the appropriate Ballot box(es);
  - (f) ensure the Ballot box(es) is sealed and transported for safekeeping by the First Nation Safety Officer as outlined in section 56; and
  - (g) ensure the completion of the necessary witness statement.
- (4) An Elector is entitled to a single vote and is not permitted to change a vote once cast by Mail-In Ballot. If the Elector personally appears at the Polling Station to cast a vote and a Mail-In Ballot has been received and processed, the Mail-In Ballot will count as the Elector's sole vote and the Elector will not be permitted to vote in person.
- (5) Mail-In Ballots received prior to the closing of the Polling Station will be processed before the actual counting of the votes in the same manner as indicated in paragraphs 55(3)(a) to (e).
- (6) All Mail-In Ballots received by mail will not be valid nor be recorded if they are received by the Electoral Officer after Election Day and will not be opened by any person.

#### 56. Ballot Boxes

- (1) Prior to starting the count of the Ballots for Councillor, the Electoral Officer will:
  - (a) examine the Ballot boxes to determine if the seals on the ballot boxes are intact and that they have not been tampered with in any way; and
  - (b) that the Ballot box(es) have been received in good order;
  - (c) then sign and complete the "Confirmation of Transportation and Securing of Ballot Box Declaration".

## **Opaskwayak Cree Nation Election Code**

### **57. Preparation for the Counting and Processing of Ballots**

- (1) The official tally sheets used for the recording of Ballots will be large sheets of paper affixed to a wall and clearly visible with the name of the Candidate written clearly across the top of the sheet.
- (2) The area in which the official tally sheets are affixed will be set up in such a way so as to prohibit observers from attending within three (3) metres of any tally sheet.
- (3) No Elector who is a Candidate shall participate in the counting and processing of Ballots.
- (4) No Elector or a person, who is an Immediate Relative of a Candidate, will be assigned to a tally sheet for that Candidate.
- (5) The Electoral Officer will ensure that enough persons have been appointed to assist in the counting, recording and processing of Ballots prior to the Day on which the Ballot count is to be conducted.
- (6) The Electoral Officer will appoint adult persons to record the official count, and each person appointed will be assigned to no more than five (5) tally sheets.

### **58. Counting of Ballots**

- (1) Immediately after the Mail-In Ballots have been processed and deposited, the Electoral Officer (in the presence of any Candidates or their Scrutineers) will:
  - (a) open the Ballot box(es) for Chief and begin the count;
  - (b) open the Ballot box(es) for Councillor and begin the count within twenty-four (24) hours of the close of the Polling Station; and
  - (c) examine each Ballot and if valid will then proceed to call out the name(s) of the Candidate for which a vote was cast.
- (2) Where the Electoral Officer finds a Ballot that is not valid, the Electoral Officer will announce that the Ballot has been disqualified from the count and write the word "Rejected" on the back of the Ballot along with their initials, and any Scrutineer present may examine the Ballot.
- (3) The Electoral Officer, in the presence of Candidates or their Scrutineers, will reject Ballots:
  - (a) that have not have been supplied by the Electoral Officer;
  - (b) on which votes have been given for more Candidates than are to be elected;
  - (c) on which anything appears to identify the Elector; and
  - (d) that appear to have been defaced or spoiled in any manner.
- (4) A Ballot on which the number of votes is less than the number of Candidates to be elected will be deemed valid and will be included in the count.
- (5) Where the counting of Ballots includes the use of multiple tally sheets, the Electoral Officer will announce each vote in a manner to allow enough time for all tally sheets to be marked properly.

### **59. Objections**

- (1) Where a Scrutineer puts forth an objection on the rejection of a Ballot, the Electoral Officer will number each objection using the "Record of Objections" and place a corresponding number on the back of the Ballot with the word "Objected" and their initials.
- (2) The Elector Officer will decide on any question arising out of an objection.

**60. Recounting of Votes**

(1) Where the difference in the number of votes between an elected Candidate and a Candidate not elected, for any of the offices of Chief or Councillor is ten (10) votes or less, the Electoral Officer will:

- (a) immediately call for and conduct, within forty-eight (48) hours of the close of the counting of the Ballots for Chief, a recount of all votes and a re-examination of all rejected Ballots; and
- (b) immediately call for and conduct, within forty-eight (48) hours of the close of the counting of the Ballots for Councillor, a recount of all votes and a re-examination of all rejected Ballots.

**61. Tie Vote**

(1) Prior to the counting of Ballots, the Electoral Officer shall announce to all persons present that should there be a tie, after a recount has been conducted, between Candidates for any of the offices of Chief or the last position of Councillor, the tie will be broken according to the following procedure:

- (a) a box designated for the conducting of a draw shall be made available and placed in full view of all those present;
- (b) the Electoral Officer shall open the box and present it for viewing to those present to show that it is empty;
- (c) the Electoral Officer will then write the names of the Candidates who are tied on separate pieces of paper and show those present each piece of paper with the Candidate's name on it;
- (d) the Electoral Officer will place each piece of paper with the Candidate's name on it in the box to be used for the breaking of the tie;
- (e) the Electoral Officer will then reach into the box and, without looking, draw out a piece of paper;
- (f) the Candidate whose name is drawn first shall be declared elected by the Electoral Officer.

**62. Declaration of Results**

(1) Immediately after the completion of the counting of the Ballots, the Electoral Officer will publicly declare elected:

- (a) the Candidate for Chief receiving the most votes; and
- (b) the eight (8) Candidates for Councillor receiving the most votes.

(2) The Electoral Officer will prepare and sign a Statement of Results indicating the number of votes cast for each Candidate, and shall:

- (a) post the information on the OCN website; and
- (b) post copies at the OCN Government Services Branch Office and Executive Office and in three (3) additional public places within the OCN 21E Lands.

**63. Electoral Officer's Report**

(1) Within ten (10) Days after Election Day, the Electoral Officer will complete the Electoral Officer's Report and distribute the report as follows:

- (a) one (1) copy to the OCN Election Board for their review and records;
- (b) one (1) copy to be filed at OCN Executive Office;
- (c) one (1) copy to Natotawin for publishing;
- (d) retain one (1) copy to be kept on file at the Government Services Office;
- (e) one (1) copy to the Minister of Crown-Indigenous Relations or its successors; and

## **Opaskwayak Cree Nation Election Code**

- (f) one (1) copy to the Communications Department for posting to social media.
- (2) The Electoral Officer and a witness will sign the Electoral Officer's Report.

### **64. Disposition of Ballots**

- (1) The Electoral Officer will deposit all Ballots, whether counted or rejected, in a sealed container and forward them to the Government Services Branch Office and Executive Office for safekeeping for a period of at least thirty-five (35) Days.
- (2) If, at the expiration of the thirty-five (35) Days, no Appeal has been filed with the OCN Election Board, the Electoral Officer will destroy the Ballots in the presence of either a Justice of the Peace, Notary Public or Commissioner for Oaths who will "sign a Destruction of Ballot Papers", indicating that they witnessed the destruction of said Ballots.

---

## **PART 11**

### **SUSPENSION OR REMOVAL OF COUNCIL MEMBERS FROM OFFICE**

#### **65. Grounds for Removal of Council Members from Office**

- (1) The Chief or Councillor may be suspended or removed from office and be declared ineligible to run for office for six (6) years if they are found guilty of:
  - (a) violating this Code, their Oath of Office or the OCN Code of Conduct and Ethics;
  - (b) falsifying Vulnerable Sector Checks (which includes a Criminal Record Check), Child Abuse Registry Checks, Bankruptcy Search Checks, Drug tests, educational attainment records or Affidavits, or any other document or record, required of a Candidate for Chief and Council in the Election;
  - (c) failing to attend three (3) consecutive regular meetings of council without being reasonably excused from attendance by a quorum of the Chief and Council;
  - (d) failing to maintain a standard of conduct expected of a member of Chief and Council as provided for in the OCN Code of Conduct and Ethics;
  - (e) gross negligence or dereliction of duty;
  - (f) failing to act honestly and in good faith in the best interests of OCN;
  - (g) having been convicted by way of indictment since their election;
  - (h) accepting or offering a bribe, forging a Chief and Council document or otherwise acting dishonestly in their role;
  - (i) encouraging others to commit any of the above acts or omissions;
  - (j) drug abuse and/or alcohol abuse which impairs or affects their reputation and performance as a member of Chief and Council; and
  - (k) bankruptcy during their term of office;
  - (l) not having a Good Financial Standing with OCN.
- (2) Where the OCN Code of Ethics and Conduct provides authority for the Chief and Council to undertake interim suspensions, suspensions and other disciplinary matters, with respect to members of Chief and Council, and where the Chief and Council fails to act, then upon notice to the Chief and Council, the Election Board may exercise this authority.

**66. Procedure**

- (1) Proceedings to declare a person ineligible to continue to hold office as a member of Chief and Council shall be initiated by any Elector(s) or other Individual(s) submitting to the OCN Election Board a petition on which shall appear all of the following:
  - (a) the grounds pursuant to section 65 on which removal of a Chief and Council member is sought;
  - (b) the evidence in support of the petition;
  - (c) the signature of the petitioner;
  - (d) the signatures of at least two hundred (200) eligible Electors of OCN band in support of the petition; and
  - (e) a non-refundable filing fee of two hundred dollars (\$200.00).
- (2) Or, proceedings to declare a person ineligible to continue to hold office as a member of Chief and Council shall be initiated by Chief and Council, or any member of Chief and Council, submitting, either directly by Chief and Council, or through the CEO, to the OCN Election Board a petition on which shall appear:
  - (a) a majority of Chief and Council members passing a Band Council Resolution and submitting a petition to the Election Board on which shall appear:
    - (i) the grounds pursuant to section 65 on which removal of a member of Chief and Council is sought;
    - (ii) the evidence in support of the resolution; and
    - (iii) the signatures of all Chief and Council members who voted for the removal;
  - (b) in the event that Chief and Council pass a band council resolution to remove the said Councillor, which does not include the grounds under subparagraph 66(2)(a)(i), or evidence under subparagraph 66(2)(a)(ii) then CEO will be deemed to be directed by Chief and Council, to forward supplementary documents to the petition, complying with the requirements of subparagraphs 66(2)(a)(i) and 66(2)(a)(ii) to the to the Election Board in a timely fashion.
- (3) On receipt of a petition, the Election Administrative Officer shall verify that the petition complies with sections 65 and 66. Verification shall include comparison of the names on the petition with the OCN Membership List kept on file by the Band Registrar.
- (4) If the petition does not comply, the OCN Election Board shall so notify the petitioner(s) and dismiss the Complaint. In a case where the petition complies with sections 65 and 66, the OCN Election Board shall:
  - (a) determine if the grounds put forth in the petition are either frivolous in nature or unsubstantiated and if they are, dismiss the petition; or
  - (b) schedule a review hearing, which shall take place within twenty (20) Days from the date on which the petition was submitted to the Election Board.
- (5) In a case where the petition has been dismissed under paragraph 66(4)(a), the OCN Election Board shall inform the petitioner(s) in writing and provide the reason for its decision.
- (6) In a case where the OCN Election Board schedules a hearing under paragraph 66(4)(b), the Board shall send a written notice of the hearing by registered mail to Chief and Council, the petitioner(s) and the Chief and Council member who is the subject of the petition for removal.
- (7) The written notice described in subsection 66(6) shall set out:
  - (a) the nature of the hearing and all related information;
  - (b) the date, time and location of the hearing; and
  - (c) a statement that the petitioner(s), any member of Chief and Council or the Chief and Council member who is the subject of the petition for removal may make a presentation to the Election Board, which may include the presentation of documents and testimony by witnesses.
- (8) The OCN Election Board shall conduct a hearing at the time and place set out in the notice provided under subsection 66(6).

### **Opaskwayak Cree Nation Election Code**

- (9) Within five (5) Days of the Day on which the hearing under subsection 66(7) is held, the OCN Election Board shall rule:
  - (a) that the petition be allowed to stand, and declare the Chief and Council member who is the subject of the petition to be subject to any one or more of the penalties in section 65; or
  - (b) that the petition is dismissed.
- (10) The OCN Election Board shall send, by registered mail, a written notice of the ruling made under subsection 66(8), to Chief and Council, the petitioner(s) and the Councillor who is the subject of the petition for removal.
- (11) The decision of the OCN Election Board made under subsection 66(9), is final and binding upon all parties.

#### **67. Penalties**

- (1) The penalties that the OCN Election Board may impose on the Chief or Council member found guilty under subsection 66(9), includes, but may not be limited to:
  - (a) removal of the Chief or Council member and their position declared vacant;
  - (b) suspension, without pay and honorarium, of the member from participating in any and all Chief and Council business;
  - (c) suspension of voting rights or other privileges or rights of the member;
  - (d) for clarity, rights and privileges includes but is not limited to honoraria, travel allowances, or other Benefits or entitlements as the member may be entitled to;
  - (e) suspension or termination of the member's appointment to OCN committees, and boards;
  - (f) by resolution request the resignation of the member;
  - (g) direct the member to return any Benefits that may have resulted from actions based on the grounds contained in the petition submitted under subsection 65(1);
  - (h) where a member is directed to return any said Benefits under subsection 67(1)(h) and refuses to do so, the Election Board may authorize the following:
    - (i) suspending the member's participation in all Chief and Council business until the debt is paid;
    - (ii) legal action, including seeking a Judgement, Garnishing Order, or debt collection proceedings against the member;
  - (i) any costs incurred by OCN in collecting the debt mentioned in subsections 67(1)(g) or (h) will form a charge payable and enforceable against the Chief or Council member;
  - (j) a fine of up to one thousand dollars (\$1,000.00); and
  - (k) notification of the OCN Membership of any actions taken by distribution of a written notice, including posting a notice in prominent places on OCN 21E Lands or by publishing the notice in the Natotawin.
- (2) Any suspension imposed under this section shall be for a minimum of one (1) month up to a maximum of six (6) months.
- (3) If the Chief and Council position is declared vacant under subsection 67(1)(a), the Election Board may further declare the Chief or Councillor removed from office to be disqualified from being a Candidate in a General or By-Election for the OCN Chief and Council for a period of up to six (6) years commencing on the date of the Board's ruling.

## PART 12

### BY-ELECTIONS

#### 68. Filling Vacancies

- (1) Where there is a vacancy in the Chief position in accordance with section 12, the Election Board shall offer the position:
  - (a) within the first year following the Election date, a By-Election for Chief will be called. In the interim, the Councillor with highest votes in the current term will be appointed acting Chief until the new Chief is elected; or
  - (b) after the first year following the Election date, the Councillor with highest votes in the current term will be appointed Chief for the remainder of the term and the vacated position of Councillor will not be filled.
- (2) Where there is a vacancy in a Councillor position in accordance with section 12, the Election Board shall offer the position:
  - (a) to the Candidate for the position who received the second highest number of votes in the last General Election;
  - (b) Where a Candidate with the second highest number of votes declines, the position shall be offered to the Candidate who received the third highest number of votes;
  - (c) If none of the Candidates set out accept the position, then a By-Election shall be held pursuant to subsection 68(3).
- (3) Where there is a vacancy in either the Chief or Councillor position, which is not filled in accordance with subsections 68(1) or 68(2), in accordance with the Code, then upon notice from the Election Board, the Chief and Council will immediately call a By-Election and the procedures for the holding of a General Election will apply with any technical modifications as the OCN Election Board and the Electoral Officer may deem appropriate.
- (4) Any technical modifications done under subsection 68(3), shall be done so as to allow Electors living off OCN 21E Lands sufficient and reasonable opportunity to take part in the By-Election.
- (5) The Electoral Officer will place advertisements in newspapers and in locations deemed necessary, to advise Electors living off OCN 21E Lands of the By-Election.
- (6) A By-Election will not be held if the remainder of the term of office of the current Chief and Council is less than six (6) months.
- (7) Any Elector who is elected in a By-Election will serve the remainder of the term of the vacant position to which they are elected.
- (8) Given that a Councillor elected during a General Election has given their commitment to serve out their term as Councillor upon their Election, no sitting Councillor shall run in a By-Election held for the office of Chief.
- (9) In the event that all members of Chief and Council are removed from their positions, the Election Board will call a Special Election for all positions for the remainder of the term. The members of Chief and Council who are removed will not be eligible to run in the Special Election.

## PART 13

### CAMPAIGN CODE OF ETHICS, PROHIBITIONS AND CORRUPT PRACTICES

#### 69. Campaign Code of Conduct

- (1) Candidates must campaign:
  - (a) according to the rules and regulations established in this Code;
  - (b) without coercion or vote buying;
  - (c) respecting the right and freedom of other Candidates to organize and campaign, and to reach out to Electors with their messages;
  - (d) refraining from abusing or misusing electronic or social media, including facebook, in unethical ways, including to disparage or insult other Candidates or to make improper claims or statements;
  - (e) refrain from slander, defamation, derogatory, disparaging or insulting statements, references, depictions, of other Candidates, in any medium or by any means, nor make improper claims or statements in any campaign materials, campaign promises or campaign speech;
  - (f) respecting the rights of Electors to obtain information from a variety of sources and to attend political rallies, events, debates, forums or other activities;
  - (g) ethically, focussing on political issues and Candidate platforms, instead of conducting smear campaigns, ones of rumour and innuendo or making or publishing any false statements in relation to the personal character or conduct of any Candidate;
  - (h) non-violently, and without the use of intimidation;
  - (i) respecting the freedom of the media to cover and express opinions on the campaigns; and
  - (j) respecting the Electoral Officer and Deputy Electoral Officers and not interfering with the performance of their duties;
  - (k) may campaign through various means such as email, social media, ads, posters, pamphlets, radio, events and door to door.
- (2) No Candidate, or person acting on behalf of a Candidate, will, as a part of their campaign, promise cash, material or any other distributions to Individual Electors, specific groups of Electors or the Membership as a whole.
- (3) No Candidate shall conduct their campaign or distribute campaign materials of any kind on the Day of the Election.
- (4) All Candidates must comply with Part 13 while campaigning.

#### 70. Campaign Signs and Posters

- (1) All Candidates shall sign a “Declaration Form” indicating whether they intend to put up signs and posters in the community. Candidates who intend to put up posters must pay a deposit of fifty dollars (\$50.00) which will be refunded upon compliance with subsection 70(8).
- (2) Campaign posters, must be submitted to the Electoral Officer for approval, prior to posting and shall include the following:
  - (a) only contain the Candidates name or alias/nickname;
  - (b) photo of head shot only;
  - (c) date of Election;
  - (d) no offensive slogans or hashtags.

### **Opaskwayak Cree Nation Election Code**

- (3) Campaign posters shall not be placed:
  - (a) on school property;
  - (b) church property;
  - (c) residences or facilities operated by OCN Child and Family Services; or
  - (d) on Private Property without the consent of the owner/occupant;
- (4) Subject to subsections 70(2), 70(3) and 70(5), OCN Entities may allow the placement of campaign posters on property owned by them but must allow equal opportunity to all Candidates.
- (5) Campaign posters affixed to trees shall not be fastened with nails, screws, bolts or any other fastener that damages the tree.
- (6) During an Election Period no person shall vandalize, deface or remove a campaign poster or sign of a Candidate.
- (7) Where an agent of a Candidate or the Candidate himself/herself defaces or removes a campaign poster of another Candidate, that Candidate shall be deemed to have contravened this Code and, if found guilty by the Election Board, may be penalized according to the provisions of this Code.
- (8) All Candidates will remove their campaign posters and signs located on public property within seven (7) Days after Election Day.
- (9) With the exception of private homes and Private Property, no person will campaign or advertise in connection with an Election in the Polling Station or within one hundred metres (100m) of a Polling Station on the Day of an Election.
- (10) No person will:
  - (a) post or display in, or on the exterior surface of, the Polling Station, any campaign literature or other material that could be taken as an indication of support for or opposition to the Election of a Candidate; or
  - (b) in the Polling Station or in any place where voting at an Election is taking place, influence or attempt to influence Electors to vote or refrain from voting for a particular Candidate.
- (11) Any Candidate, Elector or Person may report an alleged breach of Part 13 herein, by notifying the Electoral Officer or a Deputy Electoral Officer.
- (12) Where, in the execution of their duties, the Electoral Officer or Deputy Electoral Officers, observe or receive notice of an alleged breach of Part 13 herein, the Electoral Officer shall be under a duty to investigate the alleged breach, and to notify the Election Board of both the allegation and the results of the investigation.

#### **71. Obstruction of Electoral Officer**

- (1) No person shall willfully obstruct an Electoral Officer, or Deputy Electoral Officer, in the performance of their duties.

#### **72. Eligibility for Nomination and Election**

- (1) No Nominee will sign a nomination paper consenting to be a Candidate, knowing that they are not eligible to be a Candidate.

#### **73. Publication of False Statements to Affect Election Results**

- (1) No person will, with the intention of affecting the results of an Election, make or publish any false statement of fact in relation to the personal character or conduct of a Candidate.

**Opaskwayak Cree Nation Election Code**

**74. False Statement of Withdrawal of Candidate**

(1) No person will knowingly publish a false statement of the withdrawal of a Candidate.

**75. Voters List**

(1) No person will:

- (a) apply to be included in a Final Voters List in a name that is not their own;
- (b) make a false or misleading statement orally or in writing, relating to their qualification as an Elector or relating to any other information referred to in subsections 18(1) and 18(2), and 19(1) of this Code;
- (c) make a false or misleading statement, orally or in writing, relating to another person's qualification as an Elector, surname, given names, sex, civic address or mailing address for the purpose of having that person's name deleted from the Voters List;
- (d) request that the name of a person who is not qualified as an Elector be included on the Voters List;
- (e) apply to have included in the Voters List the name of a deceased person, a fake person, an animal or thing; or
- (f) use personal information that is recorded in the Voters List for a purpose other than to enable Candidates to communicate with Electors in accordance with section 35 of this Code.

**76. Ballots**

(1) No person will or attempt to:

- (a) fraudulently print a Ballot; or
- (b) use a forged Ballot;

(2) No Electoral Officer will:

- (a) fraudulently initial or attempt to fraudulently initial a Ballot or any paper purported to be a Ballot;
- (b) issue or cause to be counted false or fraudulent Ballots, or discard, conceal or obstruct the counting of valid Ballots; or
- (c) place on a Ballot any writing, number or mark, with the intent to identify the Elector to whom the Ballot is to be, or has been, given.

(3) No person will attempt to:

- (a) apply for a Ballot in a name that is not their own;
- (b) forge, alter or deface a Ballot or the initials of the Electoral Officer;
- (c) willfully destroy a Ballot;
- (d) without authority, supply a Ballot to a person;
- (e) deposit in a Ballot box any paper other than the Ballot the person has been given under this Code;
- (f) without authority, take or have a Ballot in their possession;
- (g) without authority, destroy, damage, take, open or otherwise interfere with a Ballot box; or
- (h) willfully destroy a Ballot that results in the forfeiture of an Elector's right to vote.

**77. Voting**

- (1) No person will be present in the Polling Station except those authorized by this Code and those present for the purposes of voting.
- (2) No person will, at a poll for an Election, vote or attempt to vote:
  - (a) more than once;
  - (b) knowing that they are not entitled or qualified to vote; or
  - (c) under any name other than their own.
- (3) No person will influence another person to vote at an Election knowing that the other person is not entitled or qualified to vote under this Code.
- (4) No person will interfere with or attempt to interfere with an Elector who is in a voting compartment.
- (5) Unless authorized by this Code, no person will
  - (a) be in a voting compartment with an Elector;
  - (b) be in a position from which the person can see for whom an Elector marks their Ballot; or
  - (c) at the Polling Station, obtain or attempt to obtain information as to how an Elector intends to vote or has voted.
- (6) No person who assists an Elector to vote pursuant to subsections 47(2) and 47(3) and 54(1) through 54(4) will:
  - (a) influence or attempt to influence the Elector in the selection of the Candidate for whom the Elector votes or intends to vote; or
  - (b) mark the Elector's Ballot contrary to the Elector's instruction.
- (7) No person will cause, or attempt to cause, any disturbance at a Nomination Meeting or at the Polling Station.

**78. Disclosure of Election Information**

- (1) An Electoral Officer, Deputy or any other person will not divulge any information in respect of the conduct of an Election:
  - (a) except as authorized under this Code; or
  - (b) unless that officer or person is required to give evidence in the course of an Election Appeal or a legal proceeding respecting the Election.

**79. Corrupt Practices**

- (1) Every person is guilty of an offence who, during an Election, directly or indirectly offers a bribe to influence an Elector to vote or refrain from voting for a particular Candidate, or during an Election, accepts or agrees to accept a bribe that is offered.
- (2) Every person is guilty of an offence who, by intimidation or duress, compels an Elector:
  - (a) to vote or refrain from voting;
  - (b) to vote or refrain from voting for a particular Candidate; or
  - (c) by any pretence or contrivance to vote or refrain from voting for a particular Candidate.
- (3) Every person is guilty of a corrupt practice, who contravenes sections 69 to 79, of this Code.
- (4) Every person who submits or attempts to submit a document required under subsection 19(1) or subsection 19(2) that is forged, falsified or obtained under false pretences is guilty of a corrupt offence.

**80. Penalties**

- (1) Any Elector who is found guilty by the Election Board of having committed an offence under this Code, may further be declared by the Election Board to be:
  - (a) disqualified immediately as a Nominee or Candidate in an Election or By-Election;
  - (b) ineligible to be a Candidate at an election of Chief and Council for a period of six (6) years;
  - (c) ineligible to hold any appointment, commission, or office under the authority and control of the Chief and Council; and/or
  - (d) a fine or penalty of two hundred dollars (\$200.00).
- (2) Notwithstanding any other Part of this Code, where a fine or penalty is levied under this Code, the Elector shall be ineligible to stand as a Nominee or Candidate while the fine or penalty is outstanding.

---

**PART 14**

**OPASKWAYAK CREE NATION ELECTION BOARD**

**81. Immediate Relatives**

- (1) For the purposes of section 82, Immediate Relatives include:
  - (a) spouse (legal or common law);
  - (b) child (natural or custom/adopted);
  - (c) parent or stepparent;
  - (d) current or former foster child, ward or guardian of the spouse or common law partner;
  - (e) grandchildren;
  - (f) brothers, sisters, step-brothers, step-sisters including adopted or long-term foster, natural or custom/adopted;
  - (g) the grandfather or grandmother;
  - (h) father or mother of the spouse or common-law partner; or
  - (i) current or former foster parent.

**82. Appointment of the OCN Election Board**

- (1) The Chief and Council shall appoint the Board six (6) months prior to Election Day in a year in which a General Election is required.
- (2) At least twenty-eight (28) Days prior to end of the term office of the Election Board, the Chief and Council shall post a call for resumes of OCN members who wish to sit as members of the OCN Election Board.
- (3) The call for resumes shall be for a period of not less twenty-eight (28) Days.
- (4) The call for resumes will be:
  - (a) posted at the Government Services Branch Office and Executive Office, published in the Natotawin, and delivered or mailed to Electors residing outside of the fifty (50) kilometre radius of the OCN 21E Lands;
  - (b) posted in at least three public (3) places within OCN 21E Lands;
  - (c) uploaded or posted to the OCN Website and Facebook page; and

## **Opaskwayak Cree Nation Election Code**

- (d) emailed to every Elector whose email address is on record.
- (5) At the conclusion of the posting period, the Chief and Council shall review all applications and appoint the members of the Election Board.
- (6) When appointing members to the Election Board, Chief and Council shall ensure no members appointed are Immediate Relatives as defined in section 81.
- (7) Where there are not enough applicants to avoid appointing more than one Immediate Relative to another member, Chief and Council shall post another call for resumes until all positions are filled;
- (8) In the event all appointed positions are not filled on the Election Board, the required number of current members will stay on until positions can be filled.

### **83. Composition**

- (1) The Election Board will be comprised of five (5) voting members appointed from among the Electors of OCN appointed by Chief and Council as per subsection 82(1); and
- (2) Two (2) Elders appointed by the Chief and Council, including one (1) male and one (1) female, shall sit as additional non-voting Ex-Officio members of the Election Board; and
- (3) One (1) member from Jr. Chief and Council appointed by Chief and Council shall sit as additional non-voting Ex-Officio members of the Election Board.

### **84. Eligibility**

- (1) To sit as a member of the Board, a person must:
  - (a) be an Elector of OCN;
  - (b) be aware of OCN culture, traditions, principles, values, customs;
  - (c) be knowledgeable of the Election Code;
  - (d) not have been convicted of an offense by way of indictment within the previous six (6) years prior to their appointment;
  - (e) not be listed on the Child Abuse Registry;
  - (f) at least once each year, submit a current Vulnerable Sector Check which includes a Criminal Record Check and Child Abuse Registry check to the Election Board for record keeping purposes; and
  - (g) not have been found guilty by the Election Board of a corrupt practice in connection with an Election, as defined in this Code.
- (2) A person sitting as a member of the Election Board is not eligible to and will not be nominated nor run as a Candidate in any Election for the offices of Chief and Council, for at least six (6) months after their resignation, termination or departure from the Election Board, further they will not be eligible to nominate or second a nomination, for an Election or By-Election.
- (3) A sitting Chief and Council member may apply to be appointed to the Election Board and shall, upon confirmation of their appointment, immediately resign from the Chief and Council.
- (4) Where a Chief and Council member resigns due to their appointment to the Election Board, no By-Election need be held.

### **85. Term of Office**

- (1) The term of office for the Election Board will begin six (6) months prior to the next Chief and Council General Election.
- (2) Notwithstanding subsection 85(1), the term of office for the Election Board appointed pursuant to section 82 shall terminate six (6) months prior to the next General Election.

## **Opaskwayak Cree Nation Election Code**

(3) A minimum of one (1) or more Election Board member(s) may be re-appointed by Chief and Council for another term. The Election Board will determine which board members are eligible to be reappointed for another term. This will provide continuity for the incoming board.

### **86. Quorum**

(1) The quorum of the Election Board shall be three (3).

(2) In the event of unforeseen circumstances, there are vacancies resulting in too few Election Board members for quorum, those members remaining will act as an interim quorum until the vacancies are filled and a quorum is restored.

### **87. Officers of the Election Board**

(1) At its first meeting following its appointment, the Election Board shall appoint a Chairperson and a Vice-Chairperson and forward their names to the Chief and Council and post them at the Government Services Branch Office and Executive Office of OCN and in at least three (3) public places within OCN 21E Lands.

### **88. Oath of Office**

(1) Members of the Election Board will swear or affirm an Oath of Office before either a Justice of the Peace, Notary Public, or a Commissioner for Oaths, swearing or affirming to:

- (a) uphold and comply with this Code, Laws and By-Laws of OCN;
- (b) carry out their duties faithfully, honestly, impartially, without prejudice, to the best of their ability, and in the best interests of OCN; and
- (c) keep confidential, both during and after their term of office, any matter or information which, under any Codes, Laws and By-Laws of OCN, is considered confidential;

and, while serving as a member of the Election Board, shall at all times abide by and uphold the Oath of Office and its spirit and intent.

(2) Members of the Election Board will file sworn or affirmed Oath of Office with the Government Services Branch Office and Executive Office or its successors prior to assuming office.

### **89. Vacancies on the Election Board**

(1) The office of an Election Board member becomes vacant when the Elector who holds that office:

- (a) is convicted by way of indictment, excluding convictions arising from the assertion of Aboriginal Rights or Title;
- (b) is convicted of a child abuse offence or has their name entered in the Child Abuse Registry;
- (c) resigns from their office;
- (d) in the event of their demise;
- (e) is unable to perform their duties for six (6) consecutive months or more, due to debilitation, illness or other medical condition as certified by an appropriate medical authority or as ruled upon by a court of competent jurisdiction;
- (f) is removed from office for cause in accordance with this Code; or
- (g) upon the expiration of their term.

(2) Where a vacancy occurs, the Election Board shall forward a written request to the Chief and Council for the posting and filling of the vacancy.

### **Opaskwayak Cree Nation Election Code**

(3) A vacancy may not be posted or filled if the remainder of the term of office of the current Election Board is less than six (6) months.

## **90. Removal of OCN Election Board Members from Office**

(1) An OCN Election Board Member may be removed from office if they:

- (a) violate the OCN Election Code, the OCN Election Code Procedures Policy, their Oath of Office or the OCN Code of Conduct and Ethics;
- (b) fail to attend three (3) consecutive regular meetings of the OCN Election Board without being reasonably excused from attendance by a quorum of the OCN Election Board;
- (c) fail to act impartially, in good faith, with due care, diligence and skill, and/or maintain a standard of conduct that a reasonably prudent person would be expected to act in their capacity as a member of the OCN Election Board;
- (d) have been convicted by way of indictment since their appointment;
- (e) accept or offer a bribe, forge an OCN Election Board document or otherwise acts dishonestly in their role;
- (f) engage in activities which compromise their role as a member of the OCN Election Board; or
- (g) encourage others to commit any of the above acts or omissions.

## **91. Procedure**

(1) Proceedings to remove a member of the OCN Election Board may be initiated by a majority of OCN Election Board members passing an OCN Election Board resolution, including applicable schedules and attachments on which shall appear:

- (a) the grounds on which removal of an OCN Election Board member is sought;
- (b) the evidence in support of the resolution; and
- (c) the signatures of all OCN Election Board members who voted for the removal.

(2) Upon the passing of an Election Board resolution removing a member of the Election Board, the Chair/Vice-Chair of the Election Board shall forward, by hand delivery by a First Nations Safety Officer or registered mail, a notice to the member in question, which shall contain:

- (a) notice of the removal;
- (b) a copy of the Resolution;
- (c) any additional documentation or evidence supporting the Resolution;
- (d) a statement advising the Board member of their right to request a Reconsideration;
- (e) the time period allowed to make the request;
- (f) the form in which the request must be made; and
- (g) the party the request must be made to.

(3) Within fourteen (14) Days of the Day on which the notice is delivered or mailed, the member who is the subject of the removal may, by request in writing delivered to the Chair of the Election Board, request the Board to Reconsider its decision, and rescind the removal.

(4) In the event that no written request for the Election Board to Reconsider its decision is received within fourteen (14) Days, then the Resolution shall be deemed to be final and binding, with no further appeal, and the Election Board shall forward the Resolution to the Chief and Council, together with a notification

### **Opaskwayak Cree Nation Election Code**

that there is now a vacancy on the Election Board, and that a posting for the filling of the vacancy is required.

- (5) In the event of receipt of a request for Reconsideration in writing, the Chair of the Election Board shall within fourteen (14) Days convene a special sitting of the Election Board to hear the reconsideration, as follows:
  - (a) the Member shall have the right to attend the special sitting for the purpose of responding to evidence or information, to present new evidence or information, and to make arguments and submissions;
  - (b) the Member shall not be present for the Election Board's final deliberations and review; and
  - (c) upon the conclusion of the Reconsideration, the Election Board may either rescind or uphold its original resolution removing the Member.
- (6) In the event that the Election Board votes to rescind the Resolution, then the Election Board member shall be notified in writing of the decision, and reinstated as of the date of the Reconsideration;
- (7) In the event that the Election Board upholds its original Resolution, then the Election Board member shall be notified in writing of the decision, and the Board member shall be considered removed, as of the date of the original Resolution.
- (8) The decision on a reconsideration shall be final and binding upon all parties and there shall be no further appeal.
- (9) In the event that the Election Board, upon Reconsideration, upholds its original resolution, then the Election Board shall forward a copy of the Resolution and the Reconsideration to the Chief and Council, together with a notification that there is a vacancy on the Election Board and requesting an appointment, unless it is within the last six (6) months of the board term. The board members who remain shall be deemed to be a quorum.

## **92. Duty of Opaskwayak Cree Nation Election Board**

(1) The Election Board shall have the following duties:

- (a) investigate and rule on all Election/By-Election Appeals under the terms as provided for in this Code;
- (b) investigate and rule on Complaints submitted to it by Electors before, during and after an Election;
- (c) investigate and rule on Complaints and allegations of noncompliance or violation of any provision in this Code and make decisions as to the guilt or innocence of involved Individuals, ensuring enforcement of penalties under sections 67 and 80;
- (d) receive and investigate requests for Drug testing, and where required, implement Drug testing, and such further measures thereto as may be required;
- (e) review this Code after every General Election/By-Election and recommend Amendments, if necessary to the Electors of OCN;
- (f) receive and rule on Amendments to this Code submitted to it by any Elector of OCN;
- (g) oversee the Amendment process for this Code;
- (h) in accordance with section 39, conduct the orientation of Candidates running in a General Election/By-Election;
- (i) in accordance with the Interpretation sections, to make rulings and interpretations, with respect to the meaning, intention, implementation and effect of the Election Code;
- (j) removal of Election Board Member, pursuant to the Election Code;

## **Opaskwayak Cree Nation Election Code**

- (k) hearing and determining requests for reconsideration of decisions of the Election Board, by interested parties;
- (l) exercise all powers, duties or obligations conferred in, required by, or implied by any other Part of this Election Code; and
- (m) do all things necessary or ancillary in order to fulfill or give effect to the above duties.

### **93. Conflict of Interest**

- (1) Upon receipt of an Appeal or Complaint, any Election Board member who, at any time during the Appeal or Complaint process, as a result of a relationship, be it family, business or social, and who may be biased or appear to be biased or in conflict, will excuse themselves for the duration of the Appeal or Complaint in question.
- (2) In the event of a Conflict of Interest, the remaining members will constitute a quorum.
- (3) Conflicts of Interest shall be interpreted, guided and resolved in accordance with the OCN Code of Conduct and Conflict of Interest Policy, as amended from time to time.

---

## **PART 15**

### **APPEALS**

#### **94. Filing of Appeals**

- (1) A Candidate, an Elector, or group of Electors may lodge an Appeal of an Election to the Election Board within fourteen (14) Days from the date on which the Electoral Officer declared the Candidates elected.
- (2) An Appeal submitted to the Election Board must:
  - (a) be in writing as set out in an Affidavit sworn or affirmed before a Commissioner for Oaths setting out the facts substantiating the grounds for the Appeal, accompanied by any supporting documentation;
  - (b) be accompanied by a non-refundable fee in the amount of two hundred (\$200.00) dollars in cash, payable at the Opaskwayak Cree Nation Payment Centre; and
  - (c) submit to the Election Administrative Officer at the Government Services Office, to then be delivered to the Chair in a sealed envelope.

#### **95. Grounds for Appeals**

- (1) The Appeal, along with any supporting documentation, submitted pursuant to section 94 must set out reasonable grounds that:
  - (a) the person declared elected was not qualified to be a Candidate;
  - (b) there was a violation of this Code in the conduct of the Election that might have affected the result of the Election; or
  - (c) there was corrupt or fraudulent practice in connection with the Election.

#### **96. Procedures Upon Receipt of Appeal**

- (1) Where an Election Appeal has been filed, the Election Board will, within nineteen (19) Days from the date on which the Electoral Officer declared Candidates in an Election elected:

### **Opaskwayak Cree Nation Election Code**

- (a) if the Appeal complies with the provisions of sections 94 and 95, forward a copy together with the supporting documentation by registered mail, email, or hand delivered by a First Nations Safety Officer to the Electoral Officer and to each Candidate at the Election; or
- (b) if the Appeal does not comply with the provisions of sections 94 and 95, inform the Appellant(s), in writing by registered mail, email, or hand delivered by a First Nations Safety Officer, that the matter will not receive further consideration and set out the reasons as to the decision.

(2) The Election Board may, if the material filed is not adequate for deciding the validity or non-validity of the Appeal, conduct such further investigation in the matter as it deems necessary.

#### **97. Response to the Appeal**

(1) Any Candidate, or the Electoral Officer, may forward a written response to the Appeal to the Election Board within twenty-nine (29) Days from the date on which the Candidate was declared elected in an Election.

#### **98. Holding of Inquiry of Appeals**

(1) The Election Board will convene to consider the Appeal or petition within thirty-four (34) Days from the date on which the Electoral Officer declared Candidates elected in an Election.

(2) The Election Administrative Officer will ensure that all proceedings of the inquiry are forwarded to the Executive Office for secure storage.

#### **99. Decision**

(1) The Election Board will determine whether to dismiss or uphold the Appeal within forty-four (44) Days from the date on which the Electoral Officer declared Candidates elected, based on whether the evidence presented was or was not sufficiently substantive to determine that:

- a) a violation of this Code had taken place that might have affected the result of the Election;
- b) a person declared elected was not qualified to be a Candidate; or
- c) there was a corrupt or fraudulent practice in connection with the Election that might have affected its results;

if an Appeal is upheld, the Election Board may impose penalties, up to and including removal from office and declaring the position vacant of one (1) or more Chief and Council members, as set out in section 67 or section 80 of this Code.

(2) The decision of the Election Board made pursuant to subsection 99(1) will be:

- (a) sent by registered mail to the Electoral Officer, the Candidates and the Appellant(s);
- (b) published in the Natotawin; and
- (c) posted at the Government Services Branch Office and Executive Office and in at least three public places within the OCN 21E Lands.

(3) The decision of the Election Board is final and not subject to further Appeal.

(4) The Election Board shall recognize that time is of the essence and shall endeavour, as circumstances permit, to rule on any Appeals or petitions submitted to it as soon as reasonably possible.

## PART 16

### COMPLAINTS

#### 100. Filing of Complaints

- (1) An Elector(s) or other Individual(s) may file a Complaint that a provision or provisions of this Code have not been complied with or has been violated by a member or members of the Chief and Council or any other person.
- (2) A Complaint submitted to the Election Board must:
  - (a) be in writing as set out in an Affidavit sworn or affirmed before a Commissioner for Oaths setting out the facts substantiating the grounds for the Complaint, accompanied by any supporting documentation; and
  - (b) be accompanied by a non-refundable fee in the amount of two hundred dollars (\$200.00) payable at the Opaskwayak Cree Nation Payment Centre with a receipt to be submitted with the Complaint.

#### 101. Procedures upon Receipt of Complaint

- (1) Where a Complaint has been filed, the Election Board will, within ten (10) Days after the receipt of the Complaint that:
  - (a) complies with the provisions of section 100, a copy of the Complaint along with the supporting documentation will be delivered to the subject of the Complaint by a First Nations Safety Officer; or
  - (b) does not comply with the provisions of section 100, inform the Complainant(s), in a letter delivered by a First Nations Safety Officer, that the matter will not receive further consideration and set out the reasons as to the decision.
- (2) The Election Board may, if the material filed is not adequate for deciding the validity or non-validity of the Complaint, conduct further investigation in the matter as it deems necessary.

#### 102. Response to the Complaint

- (1) The person against whom a Complaint has been filed may, within ten (10) Days of receipt of the Complaint, forward to the Election Board, by registered mail, a written response to the Complaint together with any supporting documentation.

#### 103. Holding of Inquiry of Complaints

- (1) The Election Board will, within thirty (30) Days after the receipt of a Complaint, convene to consider the Complaint.
- (2) The Election Board will ensure that all proceedings of the inquiry are recorded and deposited with the Executive Assistant to Chief and Council.

#### 104. Decision

- (1) Within ten (10) Days after the end of the period specified in subsection 103(1), the Election Board will rule:
  - (a) that the evidence presented was not sufficiently substantive to determine that a violation or noncompliance of this Code had taken place and dismiss the Complaint; or
  - (b) that all the evidence and information gathered allows for the reasonable conclusion that a violation or noncompliance of this Code has taken place and uphold the Complaint by enforcing the

### **Opaskwayak Cree Nation Election Code**

provisions of this Code against the person found guilty of the violation or noncompliance, which may, at the discretion of the Election Board, include removal from the Chief and Council.

- (2) The decision of the Election Board made pursuant to subsection 104(1) will be:
  - (a) sent by registered mail to the person who is the subject of a Complaint, Chief and Council and the Complainant(s);
  - (b) published in the Natotawin; and
  - (c) posted at the Government Services Branch Office and Executive Office and in at least three public places within the OCN 21E Lands.
- (3) The decision of the Election Board is final and not subject to further appeal.
- (4) The Election Board shall recognize that time is of the essence and shall endeavour, as circumstances permit, to rule on any Complaints submitted to it as soon as reasonably possible.

#### **105. Role Model Conduct and Drug /Alcohol Abuse**

- (1) The rules relating to the processing Complaints shall apply to sections 105 and 106 except where otherwise stated.
- (2) The Electorate of the Opaskwayak Cree Nation requires that the members of Chief and Council to at all times:
  - (a) be role models and an example for the community;
  - (b) uphold and maintain a reputation for integrity, good faith and competence for themselves and the Chief and Council; and
  - (c) exercise their duties in good faith and to the best of their abilities.

#### **106. Drug testing**

- (1) An Elector or group of Electors may file a Complaint requesting that a member of Chief and Council be tested for Drugs.
- (2) A Complaint requesting a Drug test must:
  - (a) be set out in an Affidavit sworn or affirmed before either a Notary Public or Commissioner for Oaths, setting out the facts substantiating the grounds to reasonably believe that the Chief and Council member named is or was under the influence of Drugs that affects their reputation or performance as a member of Chief and Council;
  - (b) be accompanied by a non-refundable fee in the amount of two hundred dollars (\$200.00) payable at the OCN Payment Centre with a receipt to be submitted with the Complaint.
- (3) Immediately upon receiving a Complaint requesting a Drug test, the Election Board shall review the Complaint to determine that it complies with paragraphs 106(2)(a) and (b). If it does not comply, the Election Board shall notify the Elector or Electors making the Complaint, and allow an opportunity to correct the same. If the Complaint fails to comply with paragraphs 106(2)(a) and (b) then it will be dismissed.
- (4) Immediately upon receiving a Complaint conforming to paragraphs 106(2)(a) and 106(2)(b) for a request for a Drug test, the Election Board will direct the Election Administrative Officer to contact a Drug testing company, qualified physician or other expert, to determine the appropriate Drug test, based on the information set out in the request, and shall then request a quote of the cost of the Drug test from a Drug testing facility of its choice, and forward the quote to the Complainant or Complainants.
- (5) The Complainant or Complainants will be responsible for the cost of the Drug test payable at the OCN Payment Centre.

### **Opaskwayak Cree Nation Election Code**

- (6) The Election Board shall, after the expiration of the five (5) Days referred to in subsection 106(4), determine whether the conditions of paragraphs 106(2)(a) and (b), and subsection 106(5) have been satisfied, and shall:
  - (a) in the event that either subsections 106(2)(a) or (b) or subsection 106(5) have not been satisfied, shall dismiss the Complaint, by way of notice to the Complainant in writing by ordinary mail or other notice as the Election Board determines;
  - (b) in the event that subsections paragraphs 106(2)(a) and (b) and subsection 106(5) have all been satisfied, shall give written notice to the Chief and Council member requiring them to submit to a Drug test, on an agreed date within ten (10) Days.
- (7) Where a member of Chief and Council, within the ten (10) Days, acknowledges drug or alcohol abuse affecting their reputation and performance as a member of Chief and Council, the Election Board may at its discretion, waive the Drug test.
- (8) In the event a member of Chief and Council admits to drug abuse, then the Complainant will be refunded the cost of the drug test.
- (9) Where a member of Chief and Council fails or refuses to submit to a Drug test within the ten (10) Days, they shall be deemed to have admitted to drug or alcohol abuse in such a manner as to affect their reputation and performance as a member of Chief and Council.
- (10) In the event of a positive Drug test, the member of Chief and Council, shall have the right to:
  - (a) submit evidence to establish that the Drugs results revealed by the test are the result of medical treatment or other lawful means; and
  - (b) request a second Drug test, to rule out the possibility of a false positive result at their own expense.
- (11) The Election Board may dismiss the Complaint in the event that it determines that either a second test is negative, or that the positive result is derived from medical treatment or other lawful means.
- (12) Where there is a positive Drug test result, which is not dismissed, the Election Board shall require the member of Chief and Council to submit to an assessment by a qualified Professional chosen by the Election Board, to determine:
  - (a) whether the member of Chief and Council is, addicted to Drugs or alcohol detected by the Drug test; and
  - (b) where the qualified Professional concludes that the member of Chief and Council is addicted, to Drugs or alcohol as detected, to recommend a treatment program to address the addiction.
- (13) Where the Professional reports that the member of Chief and Council has refused or failed to cooperate then the Chief and Council member shall be deemed to be addicted, and to require treatment.
- (14) Where the member of Chief and Council is determined to have consumed addictive Drugs, as a result of the drug test, but not addicted as determined by the Professional, they shall be subject to penalties, up to and including removal, as the Election Board determines.
- (15) Where the member of Chief and Council is, determined to have consumed addictive Drugs as a result of the Drug test, and is addicted, as determined by the Professional, they shall be required to comply with the treatment program recommended, and shall be subject to probation during the period of the treatment program, in order for the Election Board to monitor compliance and rehabilitation;
- (16) Where a member of Chief and Council refuses to comply or repeatedly fails to comply with a treatment program, where a treatment program proves ineffective as determined by appropriate professionals or where the member of Chief and Council has been previously required to undergo a recommended treatment program without success, then the member shall be subject to penalties, up to and including removal, as the Election Board determines.

## **Opaskwayak Cree Nation Election Code**

- (17) Where the results of a Drug test or the professional assessment are negative, the Election Board may publish the following information, excluding the name of the Chief and Council member in question:
  - (a) a description of the Complaint;
  - (b) a report on the results of the Drug test; and
  - (c) the decision of the Election Board.
- (18) A sitting member of Chief and Council who is found to have abused Drugs or alcohol in such a manner as to affect their reputation and performance as a member of Chief and Council, shall not be eligible to run for re-election.

---

## **PART 17**

### **POLICIES AND PROCEDURES**

#### **107. Administrative Procedures and Policies**

- (1) The Election Board may, by resolution, adopt policies and procedures documenting the implementation and administration of this Code.

---

## **PART 18**

### **AMENDMENTS TO CODE**

#### **108. Amendments**

- (1) This Code may be amended or repealed, by the Electors of OCN by a referendum called for that purpose, where minimum voting requirements are met pursuant to subsection 113(4).

#### **109. Submission of Proposed Amendments**

- (1) Any Elector may submit written recommendations for Amendments to any part of this Code including their reason to the Election Board for consideration.
- (2) The Election Board will reject a recommendation for Amendments where there is:
  - (a) no reason, or insufficient, inappropriate, insincere, or dishonest reasons to justify the Elector's proposed Amendments;
  - (b) proposed Amendments that would create self-serving or obvious unfairness and inequality, or otherwise invalidate the rights of Electors or compromise the Electoral process;
  - (c) proposed Amendments that would be in violation of law; or
  - (d) proposed Amendments that would be impossible to implement.

#### **110. Notice of Amendments**

- (1) Subject to subsection 109(2), upon receipt of an Amendment proposal in accordance with this Code, the Board will prepare a notice that sets out:
  - (a) a summary of the proposed Amendments to this Code;
  - (b) a statement that the full copy of the proposed Amendments can be obtained at OCN Executive Office; and
  - (c) a description of the Amendment process.

## **Opaskwayak Cree Nation Election Code**

(2) The notice will be posted:

- (a) at the Government Services Branch Office and Executive Office, on official OCN social media, in the Natotawin, and mailed or emailed to Electors residing outside of the fifty (50) kilometre radius of the OCN 21E Lands; the Electors are responsible for providing their current mailing or email addresses to the Election Administrative Officer; and
- (b) in at least three (3) places within the lands of OCN 21E Lands.

### **111. Electors May Comment on Proposed Amendments**

- (1) Electors may, within thirty (30) Days of publication of the notice outlined in section 110, provide written or emailed comments concerning the proposed Amendments to the Election Administrative Officer.
- (2) Following receipt of comments from the Electors on the proposed Amendments, the Election Board will review the comments and make changes to the proposed Amendments as they deem necessary in order to arrive at a final Amendment proposal.
- (3) Where the Election Board makes changes to a proposed Amendment it shall, as much as possible, retain the spirit and intent of the original proposed Amendment.
- (4) The Election Board shall hold at least three (3) community meetings with the Electors, in order for Electors to propose and discuss Amendments.

### **112. Special Meeting on Proposed Amendments**

- (1) The Election Board will present the final Amendment proposal to the Electors at a Special Meeting called for the purpose of presenting and reviewing the proposed final Amendments document which will be voted on at the Referendum Vote. The Electors will have the opportunity to ask questions for more clarification on the document that they will be asked to vote on in the referendum.

### **113. Referendum on Proposed Amendments**

- (1) Following the Special Meeting held pursuant to section 112, the Election Board will submit the approved final Amendment proposal in a referendum to be conducted in accordance with the Codes and By-Laws of OCN as amended from time to time.
- (2) When preparing the Referendum, the Election Board may, at its discretion, submit the Referendum as either:
  - a) a single referendum question, to approve or reject the entire Election Code and all Amendments; or
  - b) one (1) or more additional referendum questions, to approve or reject a specific Amendment or Amendments.
- (3) The Election Board, in considering whether to submit additional referendum questions shall be guided by the following principles:
  - a) the Election Board shall have sole authority to determine whether an additional referendum question is appropriate, whether one (1) or more additional referendum questions are required, the number of additional referendum questions, or wording of additional referendum questions;
  - b) the Election Board must, by recorded motion or resolution, separately approve each additional referendum question;
  - c) only substantial Amendments of significant interest or importance to the Membership, or which have significant effect on the Election Code, including, but not restricted to the conduct of Election process, the composition and powers of the Election Board, or the composition, number, term of the Chief and Council may be eligible for an additional referendum question;

### **Opaskwayak Cree Nation Election Code**

- d) technical, administrative, procedural, housekeeping, frivolous or non-serious Amendments shall not be referred to an additional referendum question;
- e) an additional referendum question may deal only with a single Amendment, or closely related Amendments;
- f) where an additional referendum question affects other parts of the Election Code, or affects the operation of the Election Code, then it shall include references to any other affected part, section, subsection or operation of the Election Code;
- g) an unrelated Amendment shall not be included with an additional referendum question, but may be a further additional question;
- h) the Election Board shall attempt to minimize the number of additional referendum questions; and
- i) Electors either individually, in person, in writing, or at a community meeting, or collectively at a vote at a community meeting, or submitted through a petition, may request that an Amendment be included as an additional referendum question, but the Election Board shall have the final decision as to whether to approve.

(4) Amendments to this Code will not be in effect unless a minimum of at least two hundred (200) of the Electors have voted on the proposed Amendments and, of those voting, at least fifty percent plus one (50% + 1) have voted in favour of the Amendments.

(5) Where the majority of the Electors voting at a referendum vote in favour of the proposed Amendments to the Code, the Code will be deemed to have been amended, and the Election Board will cause the Code to be so amended accordingly.

#### **114. Elections after Amendment of the Code**

(1) Elections held under the amended Code will take place no sooner than one hundred (100) Days from the date of the referendum.

---

## **PART 19**

### **HEARINGS**

#### **115. Application of Hearings**

(1) Where substantial disputes relating to, or allegations of material breach of, the Election Code, under sections 65-66, 69 -80, 90-91, 92, 94-99, 100-104 and 106, have been brought to the attention of the Election Board, the following procedure and process for holding hearings shall govern.

#### **116. Decision to Hold Hearings**

(1) The disputes or allegations shall be reviewed by a quorum of the Election Board at a validly constituted meeting, to determine:

- (a) whether the disputes or allegations are without merit on its face, in which case the Election Board may dismiss the matter;
- (b) if the disputes or allegation are with merit, but either not substantial, or have been admitted to by parties involved and may be dealt with at a regular meeting of the Election Board;
- (c) if the disputes or allegation are with merit and sufficiently serious that a formal hearing under this part is required;

## **Opaskwayak Cree Nation Election Code**

(2) In the event that the Election Board determines that a formal hearing is required, the process set out in this Part shall be followed, subject only to specific sections of the Election Code regarding process;

### **117. Preliminary Requirements for Hearings**

(1) The Election Board, at the time of, or within seven Days of determining that a formal hearing should take place, shall establish a hearing date, time, and place.

(2) All relevant parties, including Electors or Individuals involved in disputes, bringing disputes, who are making allegations, are subject of allegations, or are affected by the allegations, as determined by the Election Board, are to be notified in writing:

- (a) of the hearing date, time and place;
- (b) shall be provided with all particulars of the disputes or allegations, including where possible, copies of any documents or other material which may constitute evidence or argument;
- (c) be invited to submit any documents, notices or other materials to the Election Board in advance;
- (d) be provided with copies of the relevant sections of the Election Code, including this Part, and regulations, policies or procedures of the Election Board which are relevant to the hearing process, or to the disputes or allegations.

### **118. Principles of Fairness and Natural Justice**

(1) In holding hearings, the Election Board shall be guided by the principles of natural justice, fundamental fairness and due process, which shall include:

- (a) a party who is accused or the subject of a hearing shall have the right to know the evidence against them, in advance, if possible;
- (b) a party to a hearing shall have the right to bring evidence, including documents and witnesses;
- (c) a party has a right to question or challenge evidence which is brought;
- (d) a party has a right to be accompanied by legal advisors, advisors, counsellors, or moral support;

(2) The Election Board shall hear all sides to disputes or allegations, impartially, without conflict of interest or bias, subject to the following requirements:

- (a) all parties to a hearing must conduct themselves with respect and dignity and must not be abusive or disrespectful to the Election Board, witnesses or others;
- (b) where any party to a hearing requires a Cree interpreter, they shall advise the Election Board and an interpreter shall be provided by the Election Board. If necessary, the Election Board shall adjourn proceedings to arrange for an interpreter, if one is not available.

(3) The Election Board or Moderator applying these principles may amend or modify them as deemed appropriate where:

- (a) the situation may involve domestic or sexual abuse, violence or threats, or where a risk may be posed to the physical, or mental health, safety and well-being, or the property, of a party, the Election Board may take such reasonable steps to ensure safety and wellbeing of all parties;
- (b) it is clear to the Election Board, on the evidence that one party is not acting in good faith, or is disruptive or dishonest, may impose conditions on that party's conduct, may exclude that party from the hearing or parts of the hearing, or may make adverse inferences with respect to that party; or

### **Opaskwayak Cree Nation Election Code**

- (c) it is clear to the Election Board, on the evidence that one party cannot be found, or is avoiding or refusing to be contacted, or does not wish to participate, may proceed without that party's participation.
- (4) The Election Board, in hearings, shall be bound by its own prior decisions and precedents, and shall strive to rule consistently. It may refer to and rely upon any prior decisions and precedents, except where specifically overturned or rejected by written reasons of a Court of law.
- (5) The Election Board, in hearings, may consider, but shall not be bound by the decisions or reasons of similar Boards, Administrative Tribunals, Decision Making Bodies, or Courts dealing with similar cases.

## **119. Parties and Roles**

- (1) The Parties shall participate in hearings, in the manner set out:
  - a) The Election Board - a quorum of the Election Board shall sit to hear evidence, call witnesses, examine or cross examine witnesses, hear arguments, and deliberate;
  - b) Moderator - the Election Board shall appoint an independent moderator to preside over the hearing, whose job shall be to conduct the hearing in accordance with the rules of natural justice, in a fair and impartial manner. For greater certainty, the Moderator may:
    - i) make orders or give directions that they consider necessary to maintain order at the hearing;
    - ii) impose restrictions on parties continue participation in, testimony or evidence, or attendance at a Hearing;
    - iii) exclude a party from further participation in or attendance at a Hearing until the Election Board orders otherwise;
  - c) Parties who are the subject of disputes or allegations shall have the right to attend the hearing, to challenge evidence against them, to present evidence, and make arguments;
  - d) Parties who are bringing forward the dispute or allegations to the Election Board shall have the right to attend hearing, to present evidence, to challenge evidence brought by others, and to make arguments;
  - e) Advisor/Counsel - any party or parties who brings forth an allegation, or is subject to the disputes or allegations, or any person granted standing, may have an Individual attend to act as an advisor or counsel, support, assist, advise them;
  - f) Witnesses - Any party may bring a witness to testify. All witnesses will testify under oath or affirmation, and will be subject to examination and cross examination. Witnesses will not attend the entire hearing, but only during their testimony;
  - g) Interested Party - any person, or representative of an organization, who is accepted by a vote of the quorum of the Election Board, as having a particular interest in the hearing, or a part of, which justifies their attendance. The Election Board will, in accepting an interested party, specify the terms and conditions of that party's participation. No interested party may participate without the express permission of the Election Board;
  - h) Support - Elder, technical staff, administrative support, recording technician, language interpreter, Commissioner for Oaths or Notary Public, and such other persons as may be required by the Moderator, or the Election Board, for the conduct of the hearing.

## **120. Conduct of Hearings**

- (1) The order of proceedings during a hearing will be:

**Opaskwayak Cree Nation Election Code**

- a) Opening Statements and Oaths, will be made in the following order:
  - i) Opening Prayer;
  - ii) Smudging for those who wish to participate;
  - iii) Opening statement and review of procedure by Moderator;
  - iv) Opening statement Election Board Chair and/or members;
  - v) Swearing in and Opening Statement of parties bringing disputes or allegations;
  - vi) Swearing in and Opening Statement of parties subject of disputes or allegations;
  - vii) Swearing in may include swearing on the Bible, the eagle feather, or by affirmation;
- b) Order of Evidence, including documents and witnesses are to be presented in the following order:
  - i) Documents to be submitted first before witness testimony;
  - ii) Each witness will be sworn before testifying;
  - iii) Each witness will be examined or cross examined first by the party calling them, second by the party opposed, then third by the Election Board, before proceeding to the next witness;
  - iv) Where there are multiple parties separately bringing disputes or allegations; multiple parties who are separately subject of disputes or allegations; or multiple separate disputes or allegations, the Moderator will group, order, and prioritize each, subject to these rules;
  - v) Parties who are bringing disputes or allegations are to submit documents or call witnesses first, until all their evidence is complete;
  - vi) Parties who are the subject of disputes or allegations are to submit documents or call witnesses second, until all their evidence is complete;
  - vii) The Election Board may require or accept further documents or additional witnesses or evidence; after all evidence from parties is complete;
- c) Closing Arguments and Statements, will be made in the following order:
  - i) Parties bringing allegations or disputes;
  - ii) Parties subject of allegation or disputes;
  - iii) Election Board;
  - iv) Moderator;
  - v) Closing Prayer.

(2) Hearsay (second hand evidence where a person testifies as to what someone else witnessed, but did not witness themselves) will not be accepted on material or significant matters. The Election Board will determine the extent to which a matter is material or significant.

(3) The Election Board will have sole authority to determine what weight is given to:

- (a) hearsay on non-material or non-significant matters;
- (b) sworn Affidavits; or
- (c) unsworn written statements provided in substitution of witness testimony.

(4) Where a party or parties are not able to attend in person, the Moderator or the Election Board may permit participation in a hearing by way of:

- (a) written submissions;
- (b) teleconference; or

## Opaskwayak Cree Nation Election Code

- (c) video conference.
- (5) To ensure the hearing is confidential, the Moderator or the Election Board will verify that the party or parties who are not present are sworn in that their location is private and confidential with no outside interruptions.
- (6) The Moderator or Election Board may receive and accept information that the Election Board considers relevant, necessary and appropriate, whether or not the information would be admissible in a court of law.

### **121. Written and Video Hearings**

- (1) Where the Election Board determines by way of a motion approved by quorum that it is appropriate, a hearing may be conducted by way of video conference, teleconference, or by written submissions, and may authorize reasonable adjustments to the hearing process, so long as the spirit and intent of the hearing process is preserved.
- (2) In a written hearing, the Election Board shall:
  - (a) establish dates for written submissions;
  - (b) establish dates for the written hearing;
  - (c) written submissions include written evidence, including documents, sworn Affidavits and unsworn statements.
- (3) The Election Board shall meet to consider the submissions and make a written decision to be provided to the parties.

### **122. Documents**

- (1) Documents and records with time stamps, including receipts, screen captures, text messages, photographs, videos, audio, or letters may be submitted as evidence by any party.
- (2) A sworn Affidavit, sworn Statutory Declaration, or unsworn written statement of a person or witness may be accepted as evidence, but shall not be given the same weight as in person witness testimony, for which there has been an opportunity to examine or cross examine.
- (3) Parties are encouraged to submit any documents they intend to rely upon in advance, to the Election Board and to other parties.
- (4) Documents submitted at the date of the hearing may be accepted at the discretion of the Election Board, the Chair may then call for a recess to allow any party to review the documents or to submit additional documents.

### **123. Adjournments**

- (1) A hearing may be adjourned before it commences, upon the request of any party, if the Election Board agrees.
- (2) Once a hearing is commenced, it may only be adjourned, by decision of the Election Board where:
  - a) The time allotted for the hearing has expired and the hearing is not concluded;
  - b) The Election Board agrees that further evidence, not available at the hearing, is required.
- (3) Maximum time allowed for an adjournment is ten (10) Days, but the Election Board may allow for consecutive or successive adjournments.

### **124. Records and Confidentiality**

### **Opaskwayak Cree Nation Election Code**

- (1) Minutes and records shall be kept of all meetings of the Election Board, related to a hearing, including administrative and organizational meetings, and including deliberations following a hearing will be kept by the Election Administrative Officer.
- (2) Minutes and records of the Election Board, related to a hearing, including administrative, organization meetings, and including deliberations following a hearing are confidential, and not open to the parties.
- (3) A full audio or video recording of all hearings of the Election Board, including written, video conference and teleconference shall made, and shall be kept and maintained for a period of at least three years by the Election Administrative Officer.
- (4) Hearings of the Election Board shall be held in camera, and shall be confidential, and not open to the public; subject only to the attendance and participation of the parties and technical support.
- (5) A copy of an audio or video recording of an Election Board hearing shall be provided on flash drive or other media storage, at the written request of a party to the hearing, solely for purposes of commissioning a transcript at the cost of the party making the request. A party requesting a transcript, or copy of an audio or video recording shall be required to maintain confidentiality of personal identities involved.
- (6) A party may, by express statement or action, including posting confidential information on social media, waive their right to confidentiality. Where a party has publicly posted or taken other action, the Election Board by way of motion of a quorum, has the authority to deem that a party has waived confidentiality.

#### **125. Deliberation and Decision**

- (1) Immediately following the close of a hearing and for a period of not more than ten (10) Days, the Election Board shall deliberate, in camera.
- (2) The Election Board must, not more than ten (10) Days after the Day on which a hearing is completed, to deliver a written decision or Order to all parties.
- (3) A written decision or order of the Election Board shall set out:
  - (a) the final decision of the Election Board on the disputes or allegations;
  - (b) the reasons for the decision;
  - (c) any facts found by the Election Board, including findings of credibility;
  - (d) any direction, order, or requirement imposed upon a Party;
  - (e) the time allowed for compliance;
  - (f) any penalty issued for breach;
  - (g) any costs or fees charged or owing.
- (4) The Election Board may, if they deem it necessary or useful, after delivering a written decision or order to the parties, issue a further notice or public statement to third parties, the OCN Membership, or the general public, summarising the order or decision.

#### **126. Delivery of Documents and Decisions**

- (1) Delivery of any document to be considered in a hearing may be made personally or by sending it by registered mail, fax or email, as follows:
  - (a) to the Election Board, either to the attention of the Chair, or the Administrative Support Officer, or such other OCN personnel or division delegated to provide administrative support to the Election Board, at designated Election Administrative Office;
  - (b) to a Party, by either:

**Opaskwayak Cree Nation Election Code**

- (i) to the party themselves;
- (ii) to an adult person at their place of business or residence;
- (iii) by transmission or delivery to listed mailing address, fax number or email address;
- (c) a document is considered delivered as of the Day that it is received;
- (d) proof of receipt may include, but is not restricted to, fax confirmation, read receipt notification by email, signature on registered mail, response by any means or Affidavit of service.

---

**PART 20**

**DEATHS, NATURAL DISASTERS AND PANDEMICS**

**127. Deferral Dates**

- (1) The Election Board has the authority to:
  - a) postpone mandatory timeline dates as identified in the Election Code due to natural disasters or pandemics;
  - b) defer any mandatory timeline dates;
  - c) use their discretion to determine whether or not to move forward with community meetings via video conferencing, should safety measures prevent large gatherings during a natural disaster or pandemic.
- (2) The Election Board will communicate with the Electors in a timely manner:
  - a) via a public notice which will be posted at the Government Services Branch Office and Executive Office, published in the Natotawin, and posted on OCN multimedia platforms;
  - b) by continuing to provide notice to the Electors of the new timeline dates as the situations arise.
- (3) The Election Board has the authority to determine new timelines dates with respect to each individual situation.

**Opaskwayak Cree Nation Election Code**

**Ministerial Order JUS-81000-2-1281 issued by the Minister of Aboriginal Affairs and Northern Development Canada, John Duncan on August 31, 2012.**

**Registered as Statutory Instrument No. SCR/2012-168 on September 5, 2012 with the Privy Council Office.**

**Published in the Canada Gazette Part II, Vol. 146, No. 20 on September 26, 2012.**

**Signed by the Chief and Council of the Opaskwayak Cree Nation on November 16, 2012.**

**Amended by Referendum on March 1, 2016**

**Amended by Referendum on November 28, 2018**

**Amended by Referendum on March 17, 2021**

## APPENDIX "A"

### CANDIDATE CHECKLIST

#### CHILD REGISTRY CHECK (Online and Self Check Forms)

Estimated wait time 4 to 6 weeks

- Date Applied: \_\_\_\_\_
- Money Order for \$20.00 payable to Minister of Finance
- Submitted application either online, fax or mail, in person self-check
- Submitted proof of application/receipts that you have sent away for your documents to Electoral Officer
- All above completed
- Completed Child Registry Check submitted to Electoral Officer

#### VULNERABLE SECTORS CHECK WHICH INCLUDES A CRIMINAL RECORD CHECK (Fingerprinting)

Estimated Wait Time CRC 2-3 weeks & VS 3-6 weeks

If you live on reserve:

- Date Applied: \_\_\_\_\_
- Go to OCN Payment Centre pay the \$10.00 fee
- Go to Bank or Post Office to get two separate Money Orders
  - \$10.00 Money Order payable to the **RECEIVER GENERAL FOR CANADA**
  - \$60.50 Money Order payable to the **RECEIVER GENERAL FOR CANADA**
- Go to OCN RCMP detachment with all receipts & money orders to process both your record checks
- Submit to Electoral Officer proof of application/receipts that you have sent away for your documents
- All Completed Criminal Record Check submitted to Electoral Officer

If you live in Town (or elsewhere):

- Date Applied: \_\_\_\_\_
- Go to Town of The Pas Offices, (or other Urban or RCMP centre as applicable) pay the \$25.00 fee
  - \$70.50 Money Order payable to the **RECEIVER GENERAL FOR CANADA**
- The Pas RCMP detachment (or other Urban or RCMP centre as applicable) with all receipts to process both your record checks
- Submitted proof of application/receipts that you have sent away for your documents to Electoral Officer
- Completed final Criminal Record Check submitted

#### BANKRUPTCY CHECK

To be completed at Government Services Office

- Date Applied: \_\_\_\_\_

**Opaskwayak Cree Nation Election Code**

- OCN Payment Centre pay the \$10.00 fee for Bankruptcy Check
- Submitted proof of application/receipts to Electoral Officer
- Government Services staff completed Bankruptcy Check
- Submitted check

**DRUG TEST**

**Must be by a recognized drug testing company approved by the Election Board**

- Date Applied: \_\_\_\_\_
- Copy of Receipt as paid
- Drug test Application Form
- Submitted certificate or test result from a recognized drug testing company verifying the Candidate has not used illegal drugs in the previous 90 Days prior to the test.
- Submitted check

**EDUCATION CHECK**

- Copies of proof of education attained as below submitted:
  - GED diploma
  - High School Diploma
  - Post-Secondary Diploma/Certificate/Degree
  - Sworn Affidavit with supporting documents
- Submitted proof of education requirement to Electoral Officer
- Submitted required education documents

**CANDIDATES FEE**

- Date Paid: \_\_\_\_\_
- the Candidates fee paid to OCN Payment Centre (non-refundable)
- \$150.00 for Chief Candidates
- \$50.00 for Councillor Candidates
- Submitted proof of Receipt to Electoral Officer

**POSTER CAMPAIGN FEE**

- Date Paid: \_\_\_\_\_
- Campaign/Poster Fee \$50.00 (posters/campaigning etc, refundable once all signage is removed after Election period)

**FINAL VERSION OF AMENDED ELECTION CODE  
AS APPROVED BY REFERENDUM, DATED MARCH 17, 2021**

This Election Code Constitutes the "Opaskwayak Cree Nation Election Code" with Amendments as approved at the March 17, 2021 referendum, and authorizing the Chairperson of the Opaskwayak Cree Nation Election Board to certify this as the final approved version:

Date: April 27, 2021

Chairperson: Opaskwayak

