

1/21/2019

Fisher River Cree Nation

Custom Election Code



Custom Election Code

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1. PART 1 - PREAMBLE AND TITLE

- 1.1 This Code was developed by the Custom Election Committee through input and consultation with Fisher River Cree Nation ("**FRCN**") Members.
- 1.2 This Code shall be called the "Fisher River Cree Nation Custom Election Code".

2. PART 2 - COMING INTO FORCE

2.1 Council and Elector Approval

This Code will come into force upon the express approval of the Majority of the Electors of FRCN given at a Referendum Assembly under Part 13, following approval in principle by Council. As FRCN is currently recorded at ISC as a custom election band, it is not necessary to obtain a ministerial order proclaiming the removal of FRCN from the election provisions of the Indian Act. This Code sets out the FRCN custom for the election of Council and is set forth in this format for presentation to the FRCN Electors.

2.2 Replacing All Previous Custom

This Code supersedes and replaces any and all previous statements, verbal or in writing, of the FRCN custom for the Election of Council. The FRCN custom for the Election of Council is set out in full in this Code and any Regulations, and:

- (a) this custom can only be amended, suspended, restated, replaced, added to, or repealed, in any way, whether in whole or in part; and
- (b) a new Election custom can only be created;

by the processes expressly provided in Prius 12 and 13 of this Code, and in no other manner.

3. PART 3 - DEFINITIONS & INTERPRETATION

3.1 In this Code:

- (a) "**Administration Office**" means the FRCN administration office located at Koostatak, Manitoba, on FRCN Reserve No. 44.
- (b) "**Administrator**" means the person appointed by the Council to administer the affairs of FRCN, and failing such appointment, shall be the person holding the most senior position in the finance department of FRCN.
- (c) "**Appellant**" means the person who submits an appeal to the Election Appeal Committee in accordance with section 10.9 of this Code, in connection with an Election.
- (d) "**By-Election**" means a special election by the FRCN Electors, held between General Elections, to fill one or more Council positions that have become vacant.
- (e) "**Candidate**" means a person who has been nominated pursuant to Part 5 to be a candidate for Council in an Election.

- (f) **"Candidate's Code of Ethics"** means those guidelines, general rules of behaviour and standards in the form set out in Appendix Two, established in accordance with section 6.4 of this Code, governing the conduct of both Candidates nominated for Council, and their supporters, in the Election process.
- (g) **"Chief"** means the chief of FRCN who shall preside over meetings of Council.
- (h) **"Code"** means this Fisher River Cree Nation Custom Election Code, and any Regulations enacted under it, all as amended or replaced from time to time.
- (i) **"Conflict of Interest Guidelines for Council"** means the FRCN Conflict of Interest Guidelines for Chief and Council adopted **???, ??, ????**, as amended or replaced from time to time.
- (j) **"Contract Worker"** means a person hired as an independent contractor by FRCN, to perform services in order to achieve a prescribed objective, but retaining control over how that objective is achieved, who is solely responsible:
- i. to make all the arrangements for carrying out all his or her consulting or contracting work; and
 - ii. for his or her own equipment, materials and supplies.
- (k) **"Corrupt Practices"** means knowingly evading the law or the provisions of this Code in order to procure some benefit. Examples include but are not limited to:
- i. bribery, whether directly of any Elector or indirectly of any Elector through an Immediate Family Member of that Elector;
 - ii. providing a financial or material incentive to an Elector or an Immediate Family Member of an Elector, in exchange for a vote;
 - iii. intimidation; and
 - iv. knowingly publishing false information.
- (l) **"Council"** means the Chief and Councillors of FRCN, all elected in accordance with this Code.
- (m) **"Council Member"** means a member of Council, and includes the Chief and Councillors of FRCN.
- (n) **"Councillor"** means a member of Council other than the Chief.
- (o) **"Custom Election Code Committee"** means the committee of Electors appointed by the General Assembly, to advise and make recommendations to Council and the General Assembly concerning this Code, and having the duties and responsibilities, powers and authorities set out in this Code.
- (p) **"Days"** means calendar days.
- (q) **"Deputy Electoral Officer"** means the person who is appointed under paragraph 8.7(a)(iii) by resolution of the FRCN Electors in General Assembly, for a two-year term, to assist the Electoral Officer in the conduct of all Elections held during that term.

- (f) **"EAC Member"** means a person appointed under paragraph 8.7(a)(ii) to the Election Appeal Committee.
- (s) **"Election"** means either a General Election, a By-Election or a Second Ballot Election, in any case held pursuant to the provisions of this Code.
- (t) **"Election Appeal Committee" or "EAC"** means the body appointed by resolution of the FRCN Electors in General Assembly made under paragraph 8.7(a) (ii) of this Code, for a [redacted] year term, having the duties and responsibilities, powers and authorities set out in Part 10 or elsewhere in this Code.
- (u) **"Election Date"** means the date as determined under either subsection 8.6(a), paragraph 8.7(a)(i) or paragraph 8.8(b)(i) of this Code, of the next Second Ballot Election, General Election. or By-Election, as the case may be.
- (v) **"Elector"** means a person eligible to vote in an Election, and includes any FRCN Member who is 18 years of age or older on the Election Date, regardless of whether he or she lives on or off Reserve.
- (w) **"Electoral Officer"** means the person who is appointed under paragraph 8.7(a)(iii) by resolution of the FRCN Electors in General Assembly, for a [redacted] year term, who has the responsibility for the conduct of all Elections held during that term.
- (x) **"General Assembly"** means an assembly of the FRCN Electors convened by the Administrator:
 - i. of which written notice of the assembly date, hour and location and any resolutions proposed to be passed by the assembly, are:
 - (A) posted at all FRCN Posting Sites by the Administrator; and
 - (B) forwarded by mail to all Off-Reserve Electors by the Administrator;
 at least 21 days prior to the date of the assembly;
 - ii. at which a quorum shall be those FRCN Electors present in person, whether or not their number represents a broad consensus of the FRCN Electors;
 - iii. at which the FRCN Electors present are given an opportunity to be heard; and
 - iv. at which any resolution proposed to be binding on FRCN is passed by a Majority of the Electors voting;
 provided that:
 - v. only an assembly of FRCN Electors convened by the Administrator shall be a General Assembly having the legal authority to make resolutions binding on FRCN; and
 - vi. the approval, amendment or repeal of this Code, in whole or in part, can only be considered at a Referendum Assembly as more particularly described in Part 13, and not at a General Assembly.

- (y) **"General Election"** means an election by the FRCN Electors for all FRCN Council positions.
- (z) **"Good Faith"** means with honesty of intention, and freedom from knowledge of circumstances which ought to place that person upon inquiry as to whether the transaction is unconscientious.
- (aa) **"Immediate Family Member"** means for the purpose of this Code:
- i. a husband, wife, sister, brother, mother, father, daughter, son, ward, grandmother, grandfather, granddaughter, grandson, first uncle, first aunt, or first cousin of an Elector; and
 - ii. any other relative living in the same dwelling as the Elector for a continuous period of at least **one** year;
- provided that:
- iii. the persons described **in** paragraph (i) may be **in** law, step, adopted, or common law relatives of the Elector; and
 - iv. any relationship within the members of the family group of the Elector can be by blood, marriage, adoption, or "common law relationship", which for the purposes of this subsection shall mean a marriage-like relationship where there is cohabitation in a conjugal relationship for a continuous period of at least one year.
- (bb) **"In-Camera"** means with reference to a General Assembly, a General Assembly closed to anyone but Council Members, Electors, the Administrator, the Registrar, the FRCN recording secretary, anyone authorized by this Code, and anyone else authorized to be present by a resolution of the General Assembly.
- (cc) **"ISC"** means the Indigenous Services Canada of the federal government.
- (dd) **"Majority"** means:
- i. in the case of a vote at a General Assembly, a simple majority of the Electors voting; and
 - ii. in the case of a vote at a Referendum Assembly held under Part 13, a simple majority of the Electors voting in the referendum.
- (ee) **"Member"** means a person whose name appears on the FRCN Membership List or who is entitled to have his or her name appear on the FRCN Membership List.
- (ff) **"Membership"** means the Members, collectively.
- (gg) **"Membership List"** means the official list of names and addresses of FRCN Members, maintained by FRCN.
- (hh) **"Nomination Meeting"** means the meeting at which FRCN Electors nominate and second the nomination of Candidates for an Election.
- (ii) **"Off Reserve Elector"** means an Elector not Ordinarily Resident on Reserve.
- (jj) **"On Reserve Elector"** means an Elector Ordinarily Resident on Reserve.

- (kk) **"Ordinarily Resident on Reserve"** means the residential status of an Elector who is considered to have his or her ordinary residence on Reserve, if the Reserve can be described as the place:
- i. where he or she normally eats and sleeps;
 - ii. where he or she receives mail;
 - iii. of residence of that person's Immediate Family Members who share his or her dwelling space; and
 - iv. in proximity to that person's place of employment;
- except that:
- v. if a person while working usually has his or her meals and is employed and sleeps in one or more other places involving travel, the place of ordinary residence is where that person returns when not working;
 - vi. if a person usually sleeps in one place and has his or her meals or is employed in another place, the place of ordinary residence is where that person sleeps;
 - vii. a person can have one place of ordinary residence only, and he or she shall retain such place of ordinary residence until another is acquired; and
 - viii. temporary absence from the place of ordinary residence for education, medical reasons, employment, or other reasons does not cause a loss or change of ordinary residence.
- (ll) **"Polling Station"** means the on-Reserve location(s) determined by the Electoral Officer as the site at which voting in person will take place for an Election.
- (mm) **"Proceeding"** means with respect to the Election Appeal Committee, any Election recount request, report, appeal, inquiry, complaint, or other matter to be decided or made by the Committee, pursuant to this Code.
- (nn) **"Referendum Assembly"** means an assembly of the FRCN Electors convened by the Administrator for the sole purpose of considering the approval, amendment or repeal of this Code, in whole or in part, as more particularly described in Part 13.
- (oo) **"Referendum Declaration Form"** means the form set out in Appendix Six to this Code.
- (pp) **"Registrar"** means the person appointed by Council from time to time to maintain the FRCN Membership List.
- (qq) **"Regulations"** means regulations enacted under this Code.
- (rr) **"Rejected Ballot"** means a ballot referred to in subsection 8.5(v) that has been improperly marked and/or defaced by an Elector, so as to not clearly indicate the Elector's choice of Candidate, which ballot is not included in the tally of valid ballots cast during an Election.
- (ss) **"Return of Poll"** means the written summary of Election results prepared, signed and posted by the Electoral Officer in accordance with subsection 8.5(aa), or as otherwise required under this Code.

- (tt) **"Reserve"** means any one of the reserves set apart by the Federal Crown under the *Indian Act* of Canada, for the use and benefit of the FRCN Membership.
- (uu) **"Scrutineer"** means an individual selected by a Candidate to be present at a Polling Station on the Election Date, to observe that the voting process is being conducted in accordance with this Code, and to immediately report any irregularities to the Electoral Officer or the Deputy Electoral Officer.
- (vv) **"Second Ballot Election "** means a follow-up election by the FRCN Electors, held under section 8.6 following an Election, for the purpose of breaking a tie in the voting by the Electors between two or more Candidates for a Council position.
- (ww) **"FRCN"** means the Fisher River Cree Nation.
- (xx) **"FRCN Community Complex"** means the FRCN community complex located at Koostatak, Manitoba.
- (yy) **"FRCN Community Newsletter"** means the official newsletter published by FRCN periodically throughout the calendar year.
- (zz) **"FRCN Employee"** means any person working for pay under the direct supervision and control of FRCN and obliged to obey the lawful orders of FRCN, and includes any person so working on a permanent, temporary, full time, part time, casual or relief basis, but does not include employees of companies, societies, partnerships, joint ventures or other organizations in which FRCN has an ownership interest.
- (aaa) **"FRCN Posting Sites"** means at the Administration Office, on the official FRCN website controlled through the Administration Office, at the FRCN Community Complex, and in the FRCN Community Newsletter.
- (bbb) **"Voter Declaration Form"** means the form set out in Appendix Five to this Code.
- (ccc) **"Voters List"** means the list prepared by the Electoral Officer, with the assistance of the Registrar, consisting of the names in alphabetical order, addresses, birth dates and band membership numbers of the Electors.

3.2 Gender and Number

Any reference in this Code to the masculine shall be taken to include the feminine, and the singular, the plural, or body corporate as the context requires.

3.3 Notice

All information to be mailed under this Code to an Elector shall be mailed using regular Canadian postal service to the Elector's last known mailing address provided to FRCN, and if so mailed, shall be deemed to have been duly and properly mailed for all purposes under this Code.

3.4 Confidentiality

Any documents, information or other records received pursuant to this Code by any person in confidence, shall remain confidential, except where disclosure is expressly authorized by this Code, other laws, Council,

the Electoral Officer or the Election Appeal Committee.

3.5 Titles and Headings

Any titles or headings are for ease of reference only and are not to be used for the purpose of interpretation of this Code.

4. PART 4 - COUNCIL

4.1 Elections for Council

The Chief and Councillors of FRCN shall be selected by the Electors by means of Elections held pursuant to this Code.

4.2 Composition of Council

- (a) **Composition** The Council will consist of one Chief and **four** Councillors.
- (b) **Number of Councillors** There shall be no increase or decrease in the number of Councillors regardless of any change in the number of Members of FRCN.
- (c) **Position of Chief** The previous positions on Council of "community chief" and "political chief" are now combined in the position of "Chief".

4.3 Term of Office

- (a) **Term** Subject to this Code, Council Members will be elected to hold office for a term of two years.
- (b) **Beginning of Term** The term of office for each of the Chief and Councillor positions shall start at 12:01 a.m. on the day of the swearing-in ceremony for the newly elected Council, which ceremony shall be held no later than the first Monday following the Election.
- (c) **Council Oath of Office and Confidentiality** Each newly elected Council Member shall at the swearing in ceremony swear the Council Oath of Office and Confidentiality, attached as Appendix One, failing which that Council position shall be deemed vacant.
- (d) **Council in Office During Election** The existing Council:
 - i. will remain in office during the Election process until the start of the term of office under subsection (b) above, for the newly elected Council; and
 - ii. will attend meetings of the newly elected Council and otherwise be available to the newly elected Council, for **two** weeks following the start of the term of office for the newly elected Council, though not able to act in any official capacity as Council Members during that period.

4.4 Meetings

- (a) **First Meeting** The first meeting of the newly elected Council shall be held on the first Monday following the Election, with the written notice of the meeting date, hour and location to be provided to each Council Member by the Administrator.

- (b) **Summoning Special Meetings** The Chief or a quorum of Council can summon a special meeting of Council at any time, with written notice of the meeting date, hour and location to be provided to each Council Member by the Administrator.
- (c) **Chief to Preside** The Chief shall preside over all meetings of Council.
- (d) **Calling the Meeting to Order** Upon a quorum being present, the Chief shall take the chair and call the Council meeting to order.
- (e) **Chairman** In the absence of the Chief, a chair of the Council meeting shall be selected from those Councillors present, to preside over the meeting, until the arrival of the Chief.
- (f) **Order and Procedure** The Chief or designated chair shall maintain order and decide all questions of procedure at Council meetings.

4.5 Quorum of Council

- (a) **Quorum** A quorum for Council is four Council Members present in person.
- (b) **No Quorum Present** If no quorum is present 30 minutes after the time appointed for the Council meeting, the Council secretary shall call the roll and take the names of the Council Members present and Council shall stand adjourned until the next meeting.

5. *PART 5 - NOMINATION - WITHDRAWAL PROCESS*

5.1 Qualification to Nominate

Only an Elector may nominate or second the nomination of a Candidate for Council.

5.2 Eligibility for Nomination

- (a) Only a FRCN Member, 18 years of age or older on or before the Nomination Meeting date, may be nominated as a Candidate for Council.
- (b) FRCN Employees are not eligible for nomination as Candidates for Council, while Contract Workers are eligible.
- (c) If an Immediate Family Member of a nominee has already been nominated as a Candidate for an Election, the second nomination will be void.
- (d) A nominee may have one or more Immediate Family Members who are FRCN Employees or Contract Workers.

5.3 Date of Nomination Meeting

The Nomination Meeting shall be conducted by the Electoral Officer on a date determined by the Electoral Officer in consultation with the Administrator, which date shall be at least 28 days prior to the Election Date.

5.4 Notice of Nomination Meeting

- (a) **Date of Posting** The Electoral Officer shall post a notice of the Nomination Meeting at least **14** days prior to the date set for that meeting, at all the FRCN Posting Sites.
- (b) **Notice to Include** The notice of Nomination Meeting shall include:
 - i. the date, hour and location of the meeting;
 - ii. a statement that:
 - (A) Electors who are unable to attend the Nomination Meeting, may only nominate **one** Candidate in writing, and may only second in writing a nomination for one other Candidate, regardless of how many Council positions are to be filled;
 - (B) that the nomination or seconding letter must be accompanied by a properly completed Voter Declaration Form; and
 - (C) the deadline for the Electoral Officer receiving any such nomination or seconding letters, together with Voter Declaration Forms, is at or before the Nomination Meeting;
 - iii. a statement that all Candidates must acknowledge either in writing or orally to the Electoral Officer that they are willing to run for office. If no such acknowledgement is received at or before the Nomination Meeting, the nomination will not stand;
 - iv. a statement that an Elector who expects to be nominated, but who is unable to attend the Nomination Meeting, may write a letter to the Electoral Officer stating that if nominated, he or she will accept the nomination, and the deadline for the Electoral Officer receiving such letters, being at or before the Nomination Meeting;
 - v. a statement that each Elector is responsible to ensure that the Registrar:
 - (A) has his or her current and correct mailing address; and
 - (B) is informed in writing of any errors in the Voters List relating to that Elector;
 - vi. the name, signature, address, telephone number and fax number of the Electoral Officer.
- (c) **Mail out Notices** The Electoral Officer shall mail a copy of the notice of the Nomination Meeting and a Voter Declaration Form to each Off-Reserve Elector, at least **14** days prior to the date set for that meeting.

5.5 Proceedings at the Nomination Meeting

- (a) **Chair** At the date, hour and location specified in the notice of the Nomination Meeting, the Electoral Officer shall chair the Nomination Meeting and declare it open for the purpose of receiving nominations.
- (b) **Nomination** Each nomination of a Candidate shall be moved by one Elector and seconded by a different Elector.

- (c) **Mail in Nominations** The Electoral Officer will read aloud at the Nomination Meeting, all nomination and seconding letters that have been received with properly completed Voter Declaration Forms.
- (d) **Close of Nominations** Nomination or seconding letters received by the Electoral Officer after the close of the Nomination Meeting are void.
- (e) **Seconding a Nomination** A nomination is seconded by either:
 - i. an Elector who is present at the Nomination Meeting stating that he or she seconds the nomination;
 - ii. the Electoral Officer receiving a second written nomination from a different Elector for that Candidate; or
 - iii. the Electoral Officer receiving a letter from a different Elector seconding the nomination for that Candidate.
- (f) **Limit** An Elector can at any Nomination Meeting only nominate one Candidate and only second a nomination for one other Candidate, regardless of how many Council positions are to be filled.
- (g) **End of Meeting** The Nomination Meeting will end two hours after it opened, upon a motion to close being called by the Electors present at the meeting and accepted by the Electoral Officer.
- (h) **Acclamation** If at the close of the Nomination Meeting, the number of Candidates does not exceed the number of vacant positions for either Chief or Councillor, as the case may be, the Electoral Officer shall declare those Candidates as duly elected by acclamation, and shall declare an Election to be held for all positions where the number of Candidates exceeds the number of vacancies.

5.6 Withdrawal of Candidates

Any Candidate who has been nominated may withdraw at least 24 days prior to the Election Date, by filing with the Electoral Officer a written withdrawal of his or her candidacy, which shall have been sworn by the Candidate before a notary public or a commissioner of oaths.

5.7 Removal of Candidate's Name from Ballot

Where a Candidate:

- (a) withdraws from the Election under section 5.6;
- (b) is disqualified under subsection 6.5(a); or
- (c) has lost the right prior to the Election Date, of candidacy in the Election, under subsection 10.11 (f);

that Candidate's name will be removed by the Electoral Officer from the ballot, and any votes cast for that Candidate shall be deemed null and void.

5.8 Candidates Remaining

- (a) If the removal of a Candidate's name from the ballot under subsection 5.7:

- i. results in the number of Candidates remaining not exceeding the number of vacant positions for either Chief or Councillor, as the case may be, the Electoral Officer shall declare the remaining Candidates for that position as duly elected by acclamation; or
- ii. results in no Candidate standing for election either as Chief, or for one of the Councillor positions, as the case may be, the Electoral Officer shall post a notice at all FRCN Posting Sites of a By-Election to be held on a date to be determined by the General Assembly.

5.9 Acclamation

- (a) Where any Council positions are filled by acclamation under subsection 5.5(h) or paragraph 5.8(a)(i), the Electoral Officer shall immediately post a signed notice of acclamation to the Membership setting out the names of the persons acclaimed and stating:
 - i. that a vote will not be conducted in respect of those positions in the Election;
 - ii. the positions, if any, on Council that remain to be filled in the Election, and the Candidates remaining for those positions; and
 - iii. whether the Election is proceeding as scheduled on the Election Date, or has been cancelled as all vacant Council positions have been filled.
- (b) The notice of acclamation must be posted by the Electoral Officer at all FRCN Posting Sites.

6. PART 6 – CANDIDATE CRITERIA

6.1 Criminal Record Check

All Candidates nominated for an Election must within **five** days of the Nomination Meeting, provide the Electoral Officer with written confirmation in a form satisfactory to the Electoral Officer, that:

- (a) a criminal record check has been initiated by the Candidate at the police detachment office closest to the Administration Office or otherwise satisfactory to the Electoral Officer; and
- (b) the results will be available to the Electoral Officer prior to the Election Date.

6.2 Confidentiality

- (a) The Electoral Officer is the only person who may review the criminal record check, provided that if the check is relevant to any Proceeding before the Election Appeal Committee, that committee may review the check.
- (b) The Electoral Officer shall maintain the criminal record check as a confidential document pending the expiry of all relevant appeal periods under this Code, after which the check will be returned to the Candidate.

6.3 Declaration of Candidate

All Candidates nominated for an Election must within **five** days of the Nomination Meeting, provide the Electoral Officer with a written declaration sworn by the Candidate before a notary public or a

commissioner for taking affidavits, in a form satisfactory to the Electoral Officer, declaring:

- (a) that the Candidate if elected agrees to be drug and alcohol free while:
 - i. undertaking any duties of a Council Member; or
 - ii. serving, in any capacity, and whether internally or externally to the FRCN community, as a representative of FRCN;
- (b) that the Candidate has a sufficient education level or relevant life experience to fully understand and contribute to the business administration function of Council, if elected;
- (c) whether the Candidate has a personal development and wellness plan in place;
- (d) that the Candidate if elected agrees to fully participate in personal development and healing sessions that will promote personal wellness, if requested by a General Assembly;
- (e) that the Candidate if elected can assist FRCN in progressing positively;
- (f) that the Candidate if elected, will punctually attend all Council meetings, General Assemblies and meetings of other organizations to which he or she serves as a representative of FRCN, unless there is a valid reason for absence, lateness or leaving early, **in** which case he or she shall notify the Chief, or **in** the absence of the Chief, a Councillor, in advance of the meeting;
- (g) that the Candidate if elected undertakes to follow the Conflict of Interest Guidelines for Council; and
- (h) that all debt obligations of the Candidate to FRCN are currently in good standing, and will be kept in good standing, if the Candidate is elected.

6.4 Candidate's Code of Ethics

- (a) Each Candidate nominated for an Election must within five days of the Nomination Meeting, provide the Electoral Officer with the Candidate's Code of Ethics, in the form set out in Appendix Two, signed by the Candidate, and witnessed.
- (b) Each Candidate is responsible to the FRCN Membership to see that all his or her supporters comply fully with the Candidate's Code of Ethics during the Election process.

6.5 Disqualification

- (a) The Electoral Officer shall disqualify from the Election any Candidate:
 - i. not providing the Electoral Officer within five days of the Nomination Meeting, with the documentation specified:
 - (A) in section 6.1 regarding initiating a criminal record check;
 - (B) in section 6.3 regarding the declaration of Candidate; or
 - (C) in subsection 6.4(a) regarding the Candidate's Code of Ethics; or

- ii. whose criminal record check shows any conviction within the **five** years prior to the Election Date for any indictable offence, excluding offences of a non-violent nature related to the defense of aboriginal rights or title.
- (b) A complaint alleging a violation by a Candidate, or any of his or her supporters, of the Candidate's Code of Ethics attached as Appendix Two, will be dealt with through the Election Appeal Committee, under section 10.11, which will determine whether the Candidate in question has lost the right of candidacy in that Election.

7. PART 7 - ELECTORAL OFFICER AND DEPUTY

7.1 Role of Electoral Officer and Deputy

- (a) **Electoral Officer** The Electoral Officer will with the assistance of the Registrar, prepare the Voters List, will administer the process for the nomination of Candidates for Election, will administer the Election process, will supervise the Deputy Electoral Officer, and will have such other duties and responsibilities, powers and authorities as are set out in this Code, and the Oath of Office and Confidentiality attached as Appendix Three.
- (b) **Deputy Electoral Officer** The Deputy Electoral Officer will act under the direction of the Electoral Officer, and will have such other duties and responsibilities, powers and authorities as are set out in this Code, and the Oath of Office and Confidentiality attached as Appendix Three.
- (c) **Facilitating the Right to Vote** The Electoral Officer will administer the Election process under this Code in a manner which facilitates the right of each Elector to vote in that Election.

7.2 Oath of Office and Confidentiality

Prior to the Electoral Officer or Deputy acting in any capacity under this Code, each must swear the Oath of Office and Confidentiality attached as Appendix Three and file it with the Administrator.

7.3 Reference to Committee

The Electoral Officer will refer all questions or concerns regarding this Code, not within his or her authority to determine under this Code, to the Election Appeal Committee, for consideration by the Committee under section 10.8.

7.4 Appeal to Election Appeal Committee

- (a) All decisions of the Electoral Officer made pursuant to his or her authority under this Code are final and binding, subject to the right of appeal under subsection (b).
- (b) An appeal lies to the Election Appeal Committee under section 10.9, by any person directly affected, from any decision of the Electoral Officer made pursuant to his or her authority under this Code.

8. PART 8 - ELECTIONS

8.1 Notice of Election

- (a) **Postings** When an Election is to be held, the Electoral Officer shall at least **21** days prior to the Election Date, post:

- i. a notice of election at all FRCN Posting Sites; and
- ii. the Voters List at the Administration Office, on the official FRCN website controlled through the Administration Office, and at the FRCN Community Complex.

(b) **Notice to include** The notice of election shall include:

- i. the positions on Council to be filled by the Election;
- ii. the date of the Election;
- iii. the hours that the Polling Station(s) will be open for voting on the Election Date, which will be from 8:00 AM to 8:00PM;
- iv. the location of the Polling Station(s);
- v. the time and location for the counting of the votes;
- vi. a statement that the Voters List is posted for viewing by the Electors at the Administration Office, on the official FRCN website controlled through the Administration Office, and at the FRCN Community Complex;
- vii. a statement that ballots will be mailed to Off-Reserve Electors;
- viii. a statement that each Elector is responsible to ensure that the Registrar:
 - (A) has his or her current and correct mailing address; and
 - (B) is informed in writing of any errors in the Voters List relating to that Elector;
- ix. a statement that an Elector can only vote once, either at the Polling Station on Reserve or through a mail in ballot; and
- x. the name, signature, address, telephone number and fax number of the Electoral Officer.

8.2 Mode of Selection

The Chief and Councillors shall be selected by an Election held pursuant to the provisions of this Code.

8.3 Mail in Ballots

- (a) **Mail in Ballot Package** The Electoral Officer shall mail to every Off-Reserve Elector at least 21 days prior to the Election Date, and shall mail to every Elector whose request to vote by mail in ballot has been received at least 10 days prior to the Election Date, a mail in ballot package consisting of:
- i. A ballot prepared by the Electoral Officer, initialed on the back by the Electoral Officer;
 - ii. An inner postage paid return envelope, pre-addressed to the Electoral Officer;

- iii. A second inner envelope marked "Ballot" for insertion of the completed ballot;
- iv. A Voter Declaration Form;
- v. The notice of election;
- vi. A letter of instruction regarding voting by mail in ballot which shall also include:
 - (A) a statement advising Electors that they may vote in person at any Polling Station on the Election Date if they return their mail in ballot to the Electoral Officer at the Polling Station, or provide to the Electoral Officer a written declaration sworn before a notary public or a commissioner for taking affidavits that the mail in ballot has been lost;
 - (B) the location of all Polling Stations; and
 - (C) a list of the names of any Candidates who were acclaimed.
- (b) **On Reserve Mail in Ballot Package Request** An On Reserve Elector who is unable to vote in person on the Election Date may, at least 10 days prior to the Election Date, request a mail in ballot package from the Electoral Officer.
- (c) **Off Reserve Mail in Ballot Package Request** An Off Reserve Elector who has not received a mail in ballot package may, at least 10 days prior to the Election Date, request a mail in ballot package from the Electoral Officer.
- (d) **Delivery of Mail in Ballot Package** Upon receipt of a request for a mail in ballot package, the Electoral Officer shall mail or deliver, a mail in ballot package to the Elector making the request.
- (e) **Mail in Ballot Procedures** The Electoral Officer shall:
 - i. indicate on the Voters List, to which Electors a mail in ballot package has been mailed or otherwise delivered and keep a record of the date on which, and the address to which, each mail in ballot package was mailed or otherwise delivered;
 - ii. prior to receipt of any mail in ballots:
 - (A) call on two persons present to witness that the mail in ballot box is empty before sealing and locking it; and
 - (B) obtain a statement from the two witnesses each attesting to the fact that he or she witnessed the empty mail in ballot box being sealed; and
 - iii. ensure that the seal is not broken and not leave the mail in ballot box unlocked or unsecured at any time prior to the closing of the polls.
- (f) **Method of Voting by Mail in Ballot** An Elector shall vote by mail in ballot by:
 - i. placing an "X" or other mark on the ballot that clearly indicates the Elector's choice but does not identify the Elector, opposite the name of the Candidate or Candidates for whom the Elector desires to vote;

- ii. folding the ballot in a manner that conceals the names of the Candidates or any marks, but exposes the Electoral Officer's initials on the back;
 - iii. inserting the completed ballot in the inner envelope marked "Ballot and sealing the envelope;
 - iv. completing and signing the Voter Declaration Form in the presence of a person who is at least 18 years of age, and who signs and completes the form as the witness;
 - v. placing the inner envelope marked "Ballot" and the completed, signed and witnessed Voter Declaration Form in the postage paid return envelope pre-addressed to the Electoral Officer; and
 - vi. delivering, mailing or otherwise ensuring receipt by the Electoral Officer of the return envelope pre-addressed to the Electoral Officer, before the close of polls on the Election Date.
- (g) **Inability to Vote by Reason of Disability** Where an Elector is unable by reason of illness, disability or infirmity, to vote by mail in ballot, in the manner set out in subsection (f):
- i. the Elector may enlist the assistance of another person who is at least 18 years of age to mark the ballot and complete and sign the Voter Declaration Form on behalf of the Elector, in accordance with that subsection; and
 - ii. the Electoral Officer shall state on the Voters List opposite the name of the Elector, the name of the person who marked the ballot on behalf of the Elector, as indicated on the Voter Declaration Form, and the name, address and phone number of the witness signing the Voter Declaration Form.
- (h) **Witness** A witness to a Voter Declaration Form completed with a mail in ballot, shall attest:
- i. that the Elector completing and signing the form is the Elector whose name is set out in the form; or
 - ii. that the Elector is the person whose name is set out in the form and that the ballot was marked according to the directions of the Elector.
- (i) **Mail in Ballots not Included** Mail in ballots received by the Electoral Officer after the close of polls on the Election Date shall not be counted.
- (j) **Procedures Upon Receipt of Mail in Ballot** If the Electoral Officer receives the return envelope, pre-addressed to the Electoral Officer, before the close of polls on the Election Date, the Electoral Officer will open that envelope, and if the Voter Declaration Form is properly completed, signed and witnessed, the Electoral Officer will:
- i. state on the Voters List opposite the name of the Elector that the Elector has voted by mail in ballot, and the date that such ballot was received; and
 - ii. initial the "Ballot" envelope over its seal, and lock it in a box. The mail in "Ballot" envelopes will not be opened until after the poll is closed on the Election Date, and the ballots are being counted.
- (k) **Mail in Ballot Box** The mail in ballot box will be locked and kept in the care of the Electoral Officer until it is opened after the poll is closed on the Election Date.

8.4 Polling Stations

- (a) **Establishing Polling Stations** The Electoral Officer will establish on Reserve at least one Polling Station for each Election.
- (b) **Voting Compartment** The Electoral Officer shall provide a voting compartment in the Polling Station where each Elector can mark his or her ballot free from observation and the Electoral Officer may appoint security to maintain order inside and outside the Polling Station.
- (c) **Hours** The Polling Station(s) are to be kept open continuously for voting, on the Election Date, from 8:00 AM to 8:00 PM.

8.5 Manner of Voting

- (a) **Secret Ballot** Every vote at the polls shall be cast by secret ballot, so that the Elector making the vote cannot be identified with the vote made.
- (b) **Ballots** The ballots shall be prepared by the Electoral Officer, and shall list all Candidates for the office of Chief and for the office of Councillor, with each list in alphabetical order, and a widely used nickname may be included at the request of that Candidate.
- (c) **List of Mail in Ballots** On the Election Date, in an effort to avoid any situation of an Elector casting more than one vote in the Election, the Electoral Officer and the Deputy shall ensure that the Voters List clearly indicates which Electors have already cast their vote through a mail in ballot.
- (d) **Voting Day Procedures** Before opening the polls, the Electoral Officer or the Deputy shall:
 - i. deliver to the poll the ballots and materials for marking them;
 - ii. post voting instructions at the poll, as necessary;
 - iii. call on two persons present to witness that the ballot box is empty before sealing and locking it; and
 - iv. obtain a statement from the two witnesses each attesting to the fact that he or she witnessed the empty ballot box being sealed.
- (e) **Ballot Box** The Electoral Officer and the Deputy shall ensure the seal is not broken nor leave the ballot box unlocked or unattended at the polling station at any time the polls are open.
- (f) **Identification** The Electoral Officer, or the Deputy, may require a person to present identification prior to voting, if that person's identity as an Elector is unknown or in doubt.
- (g) **Decision on Eligibility** Only the Electoral Officer may determine the eligibility of a person to vote in an Election, and the decision of the Electoral Officer is final.
- (h) **Ballot Procedures - Electoral Officer** The Electoral Officer or the Deputy shall:
 - i. place his or her initials on the back of the ballot to verify that the ballot was issued by him or her;

- ii. have the Elector sign his or her name in the proper place on the Voters List when he or she is given a ballot; and
 - iii. explain the method of voting if requested by an Elector.
- (i) **Ballot Procedures - Electors** Each Elector receiving a ballot shall:
- i. place an "X" or other mark on the ballot that clearly indicates the Elector's choice but does not identify the Elector, opposite the name of the Candidate or Candidates for whom the Elector desires to vote;
 - ii. fold the ballot in a manner that conceals the names of the Candidates or any marks, but exposes the initials of the Electoral Officer or Deputy on the back; and
 - iii. deliver the ballot to the Electoral Officer or the Deputy who shall, without unfolding the ballot, verify his or her initials and at once deposit the ballot in the ballot box in the presence of the Elector.
- (j) **Inability to Vote by Reason of Disability** The Electoral Officer or the Deputy may, at the request of any Elector who is unable by reason of illness, disability or infirmity, to vote in the normal manner, assist the Elector by marking his or her ballot in the manner directed by the Elector, within the presence and observation of one or more Scrutineers if present in the Polling Station.
- (k) **Recording Assistance** The Electoral Officer or the Deputy shall state on the Voters List opposite the name of an incapacitated Elector described in subsection 8.5 (j):
- i. that the ballot was marked by the Electoral Officer or the Deputy at the request of the Elector; and
 - ii. the reason for the request.
- (l) **Spoiled Ballots** An Elector who has dealt with a ballot in such a manner that it cannot be used, shall upon returning it to the Electoral Officer or Deputy, be entitled to another ballot, and the Electoral Officer or Deputy shall write the word "Cancelled" upon the spoiled ballot and preserve it.
- (m) **Forfeiting the Right to Vote** Any Elector who:
- i. has received a ballot and who leaves the Polling Station without delivering the ballot to the Electoral Officer or Deputy in the manner provided;
 - ii. if, after receiving the ballot, refuses to vote; or
 - iii. appears to the Electoral Officer or the Deputy to be in any way impaired by alcohol or drugs;
- shall forfeit the right to vote in the Election, and the Electoral Officer or Deputy shall make an entry in the Voters List opposite the name of such Elector to show that such Elector:
- iv. received the ballot and declined to vote, and if the ballot is returned, the Electoral Officer or Deputy shall write the word "Declined" upon the ballot and preserve it; or

- v. had observable symptoms of impairment by alcohol or drugs in the Polling Station, and shall list the symptoms;

as the case may be.

- (n) **Elector not on the Voters List** Any Elector whose name does not appear on the Voters List may exercise his or her right to vote by following the process set out in paragraph 9.3(d)(i).
- (o) **Influencing Electors** No person shall:
 - i. electioneer or attempt to influence an Elector in any manner whatsoever;
 - ii. attempt to interfere with an Elector marking a ballot; or
 - iii. attempt to obtain information about the vote by an Elector;in, at, or near the Polling Station.
- (p) **Scrutineers** A Candidate is entitled to not more than one Scrutineer at each Polling Station, at any one time.
- (q) **Naming Scrutineers** Any Candidate appointing a Scrutineer, shall provide the Electoral Officer or the Deputy with a letter naming the Scrutineer, prior to the opening of the polls on the Election Date.
- (r) **Closing of Poll** Every Elector who is inside the Polling Station at the time fixed for closing the poll shall be entitled to vote before the poll is closed.
- (s) **Closing of Second Polling Station** Immediately upon the closing of the poll, if the Deputy Electoral Officer has been in charge of a second Polling Station, the Deputy will seal and lock the ballot box at that station, seal the slot through which ballots are put into the ballot box, and sign the seals. The Deputy will then immediately bring that ballot box to the Electoral Officer at the first Polling Station. The Deputy Electoral Officer may be accompanied by one or more Scrutineers.
- (t) **Unlocking Ballot Boxes** Only the Electoral Officer may unlock and break the seals on the regular and mail in ballot boxes. As soon as each box is opened, the ballots are to be counted by the Electoral Officer, or the Deputy.
- (u) **Witnesses to Unlocking Ballot Boxes** All Scrutineers and Candidates have the right to be present and witness the unlocking and breaking of the seals on the regular and mail in ballot boxes, and counting of the ballots, at the closing of the poll on the Election Date.
- (v) **Rejected Ballots** The Electoral Officer or Deputy shall examine each ballot and reject any:
 - i. that have not been initialed on the back by the Electoral Officer or Deputy;
 - ii. upon which votes have been made for more Candidates than are to be elected to a particular position on Council, as void for all votes cast on that ballot for any position;
 - iii. that have been improperly marked and/or defaced by an Elector, so as to not clearly indicate the Electors' choice of Candidate; or

iv. upon which anything appears by which the Elector can be identified.

(w) **Objection to Ballots** The Electoral Officer or Deputy shall:

- i. take a note of any objection made by any Candidate or Scrutineer to any ballot in the ballot box, and decide any questions arising out of the objection, subject to review on a recount under section 10.7 or on an Election appeal under section 10.9;
- ii. number all such objections and place a corresponding number on the back of the ballot, with the word "allowed" or "disallowed", as the case may be, with the initials of the Electoral Officer or Deputy; and
- iii. include in the votes given for each Candidate each ballot marked "allowed".

(x) **Publicly Declare Election Results** Immediately after counting the ballots and determining the Candidates elected, the Electoral Officer shall publicly declare to be elected those Candidates having the highest number of votes for the vacant Chief or Councillor positions.

(y) **Ballots Sealed in an Envelope** The Electoral Officer shall, in the presence of one or more Scrutineers, place all ballots in an envelope to be sealed and kept by the Electoral Officer until the later of:

- i. eight weeks after the Election; and
- ii. the conclusion of any appeals or complaints commenced in regard to the Election.

(z) **Destroying Ballots** Upon the expiry of the period of time specified in subsection (y), the sealed ballots shall be destroyed by the Electoral Officer.

(aa) **Return of Poll** The Electoral Officer shall within two days after the Election:

- i. prepare and sign the Return of Poll confirming:
 - (A) the Election results, including the names of the Candidates elected and ranked in the order of the number of votes received, from highest to lowest;
 - (B) the number of ballots cast;
 - (C) the number of rejected ballots and disallowed ballots under subsections 8.5 (v) and (w) respectively;
 - (D) the number of votes for each Candidate; and
- ii. post the Return of Poll at all the FRCN Posting Sites.

(bb) **Reporting Election Results** The Electoral Officer will report in writing the results of the Election to ISC and the Assembly of First Nations and prepare a press release setting out the names of the newly elected Council Members, all within eight days following the Election.

8.6 Second Ballot Election

- (a) **Holding a Second Ballot Election** In the event of a tie vote between two or more Candidates preventing one or more Council positions from being filled by Election, the Electoral Officer will post a notice at all FRCN Posting Sites of a Second Ballot Election to be held on a date to be determined by the General Assembly, which date shall be not less than 28 days following the Election, to break the tie.
- (b) **Procedures** The Second Ballot Election shall be conducted according to the time limitations and in the same manner as a By-Election in which the Nomination Meeting has already been held, and with any other necessary changes in points of detail.

8.7 General Election Date, Appointments, Vacancies and Removals

- (a) **General Assembly** The FRCN Electors in a General Assembly held at least 60 days before the expiry of the current [redacted]- year term of office of Council, shall:
 - i. set the date of the next General Election, which shall be 56 days or more after the General Assembly;
 - ii. appoint the members of the Election Appeal Committee, which will hold office for a [redacted]-year term, starting the day after the General Assembly; and
 - iii. appoint the Electoral Officer and Deputy Electoral Officer for a [redacted]-year term, starting the day after the General Assembly.
- (b) **Vacancy and Non-Confidence:** The provisions of paragraphs 8.8 (a) (i), (ii), (iv) and (v), regarding vacancy on Council, and of section 8.9 regarding votes of non-confidence, apply to the Electoral Officer and Deputy Electoral Officer, provided that:
 - i. any vacancies in either position are filled by way of appointment by the General Assembly rather than a By-Election; and
 - ii. the Administrator shall act in the place of the Electoral Officer in all procedural matters under section 8.9;and with any other necessary changes in points of detail.

8.8 Vacancy on Council

- (a) **Position is Vacant** A position on Council shall be deemed vacant when a person holding that position:
 - i. resigns in writing from that position, which resignation is only effective when presented to and accepted by a General Assembly, after which it is in-evocable;
 - ii. dies;
 - iii. has not attended:
 - (A) three consecutive regularly scheduled meetings of Council; or

- (B) **more than one-third** of the regularly scheduled meetings of Council in any period of 12 consecutive calendar months;

unless in either case, excused by a resolution of Council;

- iv. is convicted on or after the Election Date, of any indictable offence, excluding offences of a non-violent nature related to the defense of aboriginal rights or title;
- v. is removed from office under section 8.9 by a vote of non-confidence at a General Assembly;
- vi. is the subject of an Election appeal and it is determined by the Election Appeal Committee under subsection 10.9(f), that his or her Election is invalid, should be set aside, or that some other person is duly elected; or
- vii. is the subject of an Election complaint and it is determined by the Election Appeal Committee under subsection 10.11(h), that his or her Election should be set aside or that some other person is duly elected.

(b) **By-Election to be Held** Upon a vacancy on Council arising in any of the circumstances set out in subsection (a):

- i. if the vacancy arises more than four calendar months prior to the expiry of the current term of office of Council, a By- Election shall be held, on a date to be determined by a General Assembly, which By-Election shall be held **60** days or more after the General Assembly;
- ii. the By-Election shall be conducted in the same manner as a General Election, with any necessary changes in points of detail;
- iii. the Council Member who is elected in the By-Election will hold office only for the remaining portion of the term of office of the Council to which he or she is elected;
- iv. which results in Council not being able to get a quorum pending the By-Election, because there are less than four Council Members, the General Assembly referred to in paragraph (i) shall have the additional power to appoint only the minimum number of interim Council Members necessary for a quorum, to hold office:
 - (A) starting at 12:01 a.m. on the day of the swearing-in ceremony for those interim Council Members, which ceremony shall be held no later than the first Monday following the General Assembly; and
 - (B) during the By-Election process and following the By-Election, until the start of the term of office under subsection 4.3(d), for the incoming Council Members elected in the By-Election;
- v. any interim Council Members appointed under paragraph (iv):
 - (A) shall comply with Part 6, other than the requirement for the Candidate's Code of Ethics in subsection 6.4, all with any necessary changes in points of detail;
 - (B) are subject to disqualification under subsection 6.S(a), other than under subparagraph 6.S(a)(i)(C) in relation to the Candidate's Code of Ethics; and

(C) are not subject to either the appeal process in section 10.9 or the complaint process in section 10.11, with regard to that appointment to office; and

vi. the General Assembly referred to in paragraph (i) shall be held on the first date available as determined by the Administrator, keeping in mind the notice requirements for a General Assembly set out in subsection 3.1(x).

8.9 Votes of Non-Confidence

- (a) **Bringing Forward a Motion of Non-Confidence** A motion of non-confidence in one or more Council Members or the entire Council, for removal from Council, shall not be brought before a General Assembly unless ten or more Electors give the Council Members in question 30 days written notice of the non-confidence motion, duly signed by each of these Electors, setting out:
- i. the circumstances including the provisions of the law or any governing authority binding upon the Council Members in question, alleged to have been breached;
 - ii. a summary of the argument and evidence against the Council Members in question; and
 - iii. the date, hour and location of the In-Camera General Assembly where the matter will be decided.
- (b) **Date of In-Camera General Assembly** Upon a copy of the written motion of non-confidence being filed with the Administrator, the Administrator shall determine the date, hour and location of the In-Camera General Assembly where the matter will be decided.
- (c) **Notice Posted at FRCN Posting Sites** The Electoral Officer shall post at all FRCN Posting Sites, the notice of the non-confidence motion, at least 21 days prior to the date of the In-Camera General Assembly.
- (d) **Notice to Off Reserve Electors** The notice of the non-confidence motion shall be forwarded by mail to all Off-Reserve Electors by the Electoral Officer, at least 21 days prior to the date of the In-Camera General Assembly.
- (e) **Legal Counsel-Council Member** The Council Members in question have the opportunity to bring legal counsel to the In-Camera General Assembly, upon giving the Electoral Officer 14 days written notice setting out the name, address, telephone number and fax number of the legal counsel.
- (f) **Legal Counsel-Electors** The Electors alleging non-confidence shall also have the opportunity to bring legal counsel to the In-Camera General Assembly, upon giving the Electoral Officer seven days written notice setting out the name, address, telephone number and fax number of the legal counsel.
- (g) **Council Member Entitlement** At the In-Camera General Assembly, the Council Members in question will be given an opportunity to be heard and to present evidence, witnesses, arguments and written submissions to the General Assembly. Each Council Member in question shall be entitled:
- (A) to be present while the allegations against him or her, and all supporting evidence, witnesses, arguments and written submissions are presented to the General Assembly;
 - (B) to dispute, correct or contradict anything which is prejudicial to his or her position; and

(C) to question both the Electors alleging non-confidence, and the witnesses against him or her.

- (h) **Questions** Each Council Member in question, shall answer questions put to him or her by:
- i. firstly, the Electors alleging non-confidence; and
 - ii. secondly, the General Assembly.
- (i) **Deliberations** The General Assembly may ask the Council Members in question to excuse themselves from the deliberations by the General Assembly on the matter.
- (j) **Voting** The General Assembly shall decide the motion of non-confidence separately for each Council Member in question, by deciding whether or not each Council Member in question is removed from Council, and shall decide each such motion, either:
- i. by a secret ballot, upon ballots prepared by the Electoral Officer, with the balloting and vote counting conducted by the Electoral Officer; or
 - ii. on a show of hands;
 - iii. as the General Assembly shall determine.
- (k) **Advising the Council Members** The Electoral Officer shall immediately advise the Council Members in question of the decision of the General Assembly on the motion of non-confidence, and shall provide those Council Members with a copy of the written resolution of the General Assembly as soon as is practical.
- (l) **Elections** A vote of non-confidence in a Council Member made by a General Assembly, shall not affect the eligibility of that Council Member to be a Candidate in any Election that follows.
- (m) **Final and Binding** The decision of the General Assembly on the motion of non-confidence is final, conclusive, and binding, and is not subject to further appeal.

9. PART 9 - VOTING

9.1 Eligibility to Vote

All FRCN Electors are eligible to vote in an Election.

9.2 Address of Electors

Each Elector is responsible to ensure that the Registrar has his or her current and correct mailing address.

9.3 Voters List

- (a) **Preparation** The Electoral Officer shall at least 49 days prior to the Election, with the assistance of the Registrar, prepare a Voters List, of all the Electors of FRCN.
- (b) **Removing Name from List** Any Elector may at least 10 days prior to the Election Date, apply

to the Electoral Officer to remove from the Voters List the name of a person who is not an Elector.

- (c) **Proof of Eligibility** Before removing the name of any person from the Voters List, the Electoral Officer must inform the affected person and give that person an opportunity to prove that he or she is an Elector.
- (d) **Name to List** Any FRCN Member who is 18 years of age or older on the Election Date, may, up to the close of the poll on the Election Date, apply to the Electoral Officer to:
 - i. add his or her name to the Voters List, by signing a written statement confirming his or her status as an Elector, before the Electoral Officer or Deputy; or
 - ii. correct the spelling of his or her name or any other errors in the Voters List relating to that Elector.

10. PART 10 - ELECTION APPEAL COMMITTEE

10.1 Role of Committee

- (a) The Election Appeal Committee will:
 - i. observe the conduct of any Elections initiated within its year term of office specified in paragraph 8.7(a)(ii), and will retain authority to the conclusion of any Proceedings commenced under this Code for those Elections; and
 - ii. exercise the other duties and responsibilities, powers and authorities set out in this Part, or elsewhere in this Code.

10.2 Conditions for Appointment

- (a) **Restrictions** A person appointed to the Election Appeal Committee, cannot, during the term of office of that committee:
 - i. be nominated as a Candidate or be a Candidate;
 - ii. second the nomination of a Candidate;
 - iii. be an Electoral Officer or Deputy;
 - iv. be the Registrar;
 - v. be a Council Member;
 - vi. be a FRCN Employee;
 - vii. be a member of the Custom Election Code Committee; or
 - viii. be a Scrutineer;but may be a Contract Worker.

- (b) **Nominations** Any nomination or seconding contrary to subsection (a) is void.
- (c) **Eligibility** Any FRCN Member 21 years of age or older on the first day of the term of the Election Appeal Committee, is eligible for appointment to that committee.
- (d) **Oath of Office and Confidentiality** Prior to a person appointed to the Election Appeal Committee acting in any capacity under this Code, that person shall swear the Oath of Office and Confidentiality attached as Appendix Four and provide it to the Administrator.

10.3 Conflict of Interest

- (a) **Definition** A conflict of interest arises when an EAC Member's private interest conflicts with his or her duty to FRCN. This could arise from a "Real", "Potential" or "Apparent" conflict of interest for an EAC Member or his or her Immediate Family Member, and may be of a personal, financial or other nature. For this purpose:
 - i. a "Real" conflict of interest occurs when an EAC Member exercises a power, duty or function on behalf of FRCN and at the same time knows that there is the opportunity to further a private interest;
 - ii. a "Potential" conflict of interest occurs when there exists some private interest that could influence an EAC Member in the contemplated exercise of a power, duty or function on behalf of FRCN, which exercise has not taken place; and
 - iii. an "Apparent" conflict of interest occurs when there is a reasonable apprehension which reasonably well-informed persons could properly have that a "Real" conflict of interest exists on the part of an EAC Member.
- (b) **Determination of Whether Conflict Exists** Any question raised to the EAC of whether a conflict of interest exists for an EAC Member shall be determined by resolution of the EAC.
- (c) **Declaration of Conflict** An EAC Member must arrange his or her private and business affairs and conduct himself or herself in a manner to avoid any conflicts of interest at FRCN. In cases where a conflict of interest cannot be avoided, an EAC Member has an obligation to declare a conflict for that particular issue to the EAC prior to discussion or voting on the issue by the EAC. The EAC Member must excuse him/herself from both the discussion and voting on that issue.
- (d) **Member to State Position** The EAC may invite the EAC Member in conflict to state his or her position on the issue, prior to discussion and voting by the EAC.
- (e) **Uncertainty as to Conflict** Where an EAC Member is uncertain as to whether he or she is in a conflict of interest, that EAC Member must immediately raise the possible conflict with the EAC, and the EAC shall determine by resolution whether or not a conflict exists. The EAC Member raising the possible conflict shall refrain from voting on the question of whether that conflict exists.
- (f) **Possible Conflict of Another EAC Member** Any EAC Member who perceives another EAC Member to have a possible conflict of interest must immediately raise the possible conflict with the EAC. The EAC shall determine by resolution whether or not a conflict exists. The EAC Member perceived to be in a possible conflict shall refrain from voting on the question of whether that conflict exists.
- (g) **Personal or Family Relationship** An EAC Member will be deemed not to have a Real, Potential or

Apparent conflict of interest by reason of personal or family relationship for any matter before the EAC, unless an Immediate Family Member is:

- i. directly involved; or
- ii. has a conflict of interest;

for that matter.

10.4 Composition

- (a) **Number of Members** The Election Appeal Committee will have an odd number of members, such as three, five, seven, and so on, with the minimum number being three.
- (b) **Quorum** A quorum for meetings of the Election Appeal Committee will consist of **three** EAC Members present in person.
- (c) **Quorum not Available** If a quorum of the Election Appeal Committee is not available at any time for any reason, including a conflict of interest for an EAC Member, to deal with any Proceeding before the EAC, then:
 - i. the vacancy on the EAC shall be filled forthwith by a General Assembly, either for the balance of the term of the EAC, or only for the specific matter for which a conflict of interest for an EAC Member has arisen, as the case may be; and
 - ii. any time limitations in this Code for the EAC to deal with that Proceeding, are automatically extended by the number of days recorded by the Administrator for which a quorum of the EAC was not available for that Proceeding, with any necessary changes in points of detail.
- (d) **Chair and Vice-Chair** The EAC will choose from amongst its members, at its first meeting in each term, a chair and vice-chair. The vice-chair will act in the absence of the chair.
- (e) **Chair to Preside** The chair of the EAC will preside at all meetings of the EAC.
- (f) **Vacancy and Non-Confidence** The provisions of paragraphs 8.8 (a) (i) to (v), regarding vacancy on Council, and section 8.9 regarding votes of non-confidence, apply to the EAC Members, provided that any vacancies on the EAC are filled by way of appointment by the General Assembly rather than a By-Election, and with any other necessary changes in points of detail.

10.5 Majority Determination

- (a) **Voting** Each member of the Election Appeal Committee shall have one vote, including the chair.
- (b) **Majority** The affirmative votes of a majority of the EAC Members present at a meeting at which a quorum is present is sufficient to make a decision binding on the EAC.
- (c) **No Proxies** EAC Members cannot vote by proxy.

10.6 Policy and Procedure

- (a) **Regulation** The Election Appeal Committee may develop its own policy and procedure in the form of a draft Regulation which can be brought into force following the process set out in section 12.2.
- (b) **Policy and Procedure** The policy and procedure of the Election Appeal Committee may deal with:
 - i. any type of Proceeding before the EAC; and
 - ii. the other duties and responsibilities, powers and authorities of the EAC set out in this Code.

10.7 Recount

- (a) **When to Hold a Recount** Upon:
 - i. a Candidate's request during the ballot count on the Election Date;
 - ii. completion of the ballot count on the Election Date, where two or more Candidates are either tied or separated by only one vote, from being elected to Council; or
 - iii. a direction from the Election Appeal Committee, made following a written request for a recount, signed and dated by a Candidate, verified by affidavit, and received at the Administration Office no later than the seventh day by 4 pm after the day of posting in the Administration Office of the Return of Poll for that Election, and which affidavit sets out facts showing a mistake in the ballot count which could materially affect the results of the Election;

the Electoral Officer will do a recount of all the ballots cast in the Election for any Council positions that may be affected.

- (b) **Recounts in Case of a Tie** The Electoral Officer may do up to two recounts under paragraph 10.7(a)(ii), as required to determine which Candidates are elected, or if the determination still cannot be made, will declare that there will be a Second Ballot Election to be held pursuant to section 8.6.
- (c) **Request for Recount** Prior to making a decision under paragraph 10.7(a)(iii), on a request for a recount, the EAC will give all the other Candidates a copy of the recount request and supporting affidavit, and will give all Candidates an opportunity to be heard.
- (d) **Return of Poll** Following a recount, the Electoral Officer shall prepare and sign a new Return of Poll confirming the recount results and post the Return of Poll at all the FRCN Posting Sites.

10.8 Report of Election Appeal Committee

- (a) **Filing Report** Within 30 days following an Election, the Election Appeal Committee will provide a written report to the Council and the Membership about the Election, by filing the report with the Administration Office.
- (b) **Report to Consider** The report will consider:
 - i. all questions or concerns regarding this Code, referred to the EAC by the Electoral Officer under section 7.3; and
 - ii. whether the Election was conducted in a manner consistent with this Code.

- (c) **Report to Include** The EAC report will include observations and recommendations on the Election processes.
- (d) **Availability** The Administration Office will make the EAC report available to Council, the Membership, the Electoral Officer and the Deputy.

10.9 Appeal to Election Appeal Committee

- (a) **Grounds for Appeal** In connection with an Election, an appeal:

- i. alleging that the Election is invalid by reason of:

- (A) a contravention of this Code;

- (B) the Election being unlawful; or

- (C) Corrupt Practices in connection with the Election;

Lies to the Election Appeal Committee, by any Elector; and

- ii. from any decision of the Electoral Officer, lies to the Election Appeal Committee, by any person directly affected.

- (b) **Deadline for Filing an Appeal** The appeal must be in writing, signed and dated by the Appellant, verified by affidavit, and received at the Administration Office no later than the seventh day by 4 pm after the day of posting in the Administration Office of the Return of Poll either for that Election, or for any recount conducted under section 10.7 for that Election, whichever is later.
- (c) **Material Affect on Election** The Election of a Council Member shall not be declared invalid by reason only of an irregularity or non-compliance with this Code or any mistake in the use of forms, if it appears to the Election Appeal Committee that the Election was conducted in good faith and in accordance with the principles laid down by this Code, and unless the irregularity, non-compliance or mistake, materially affected the results of the Election.
- (d) **Decision** If an appeal is properly filed, the Election Appeal Committee will hear and decide the appeal, and will post the decision in writing with supporting facts and reasons, in the Administration Office by the earlier of:
 - i. ten days after the filing of the Appeal; or
 - ii. 30 days after the Election Date;

except that if the appeal is properly filed under subsection 10.9(a)(ii) at least seven days prior to the Election Date, the EAC will use diligent efforts to complete all processes for that appeal, including posting the decision in writing, prior to the Election Date.

- (e) **Written Copy of Decision** The Administrator shall forthwith provide a written copy of the EAC decision to all parties to the appeal, and will make the decision available to Council, the Membership, the Electoral Officer and the Deputy.

(f) **Validity of Election** The Election Appeal Committee shall, on hearing an appeal regarding the validity of an Election, either:

- i. confirm the Election;
- ii. determine the Election is invalid;
- iii. determine the Election of any person should be set aside;
- iv. determine that some other person is duly elected;
- v. determine that no other person is duly elected; and/ or
- vi. make any other order, direction, declaration or record necessary to dispose of the appeal;

and shall if its decision results in one or more vacancies on Council, post a notice at all FRCN Posting Sites of a By-Election to be held, on a date to be determined by the General Assembly, pursuant to paragraph 8.8(b)(i).

(g) **Appeal of Decision of Electoral Officer** The Election Appeal Committee shall, on hearing an appeal from any decision of the Electoral Officer, make any order, direction, declaration or record necessary to dispose of the appeal.

10.10 Inquiries

(a) **Electoral Process** If there is within 90 days following an Election, a written request made by either Council or a General Assembly, the Election Appeal Committee shall conduct an inquiry into how the FRCN electoral process could be improved to better reflect the freedom of choice of the FRCN Electors exercised through a democratic process.

(b) **Result of the Inquiry** If an inquiry is requested under subsection (a), then within 180 days following the Election, the Election Appeal Committee will provide a written report to the Council and the Membership about the results of the inquiry, by filing the report with the Administration Office.

(c) **Availability** The Administration Office will make the EAC report available to Council, the Membership, the Electoral Officer and the Deputy.

10.11 Complaints Regarding Candidates

(a) **Violation by a Candidate** In connection with an Election, a complaint alleging a violation by a Candidate, or any of his or her supporters, of the Candidate's Code of Ethics attached as Appendix Two, will be dealt with through the Election Appeal Committee, which will determine whether the Candidate in question has lost the right of candidacy in that Election.

(b) **Who can File a Complaint** The complaint may be filed by a Candidate, Elector, or other person, any of whom is directly affected by the conduct subject to the complaint.

(c) **Deadline for Filing a Complaint** The complaint must be in writing, signed and dated by the complainant, verified by affidavit, and received at the Administration Office no later than the seventh day by 4 pm after the day of posting in the Administration Office of the Return of Poll either for that Election, or for any recount conducted under section 10.7 for that Election, whichever is

later.

- (d) **Decision** If a complaint is properly filed, the Election Appeal Committee will hear and decide the complaint, and will post the decision in writing with supporting facts and reasons, in the Administration Office by the earlier of:

- i. ten days after the filing of the complaint; or 30 days after the Election Date;

except that if the complaint is properly filed at least seven days prior to the Election Date, the EAC will use diligent efforts to complete all processes for that complaint, including posting the decision in writing, prior to the Election Date.

- (e) **Written Copy of Decision** The Administrator shall forthwith provide a written copy of the EAC decision to all parties to the complaint, and will make the decision available to Council, the Membership, the Electoral Officer and the Deputy.
- (f) **Right of Candidacy** Upon hearing the complaint, the Election Appeal Committee will determine whether there has been a material violation of the Candidate's Code of Ethics by the Candidate, or his or her supporters, and if so will order that the Candidate has lost the right of candidacy in that Election.
- (g) **Loss of Candidacy Prior to Election** The loss by a Candidate under subsection 10.11(f) prior to the Election Date, of the right of candidacy in the Election will result in the removal, under subsection 5.7, of that Candidate's name from the ballot.
- (h) **Loss of Candidacy After Election** Upon the loss by a Candidate under subsection 10.11(f) on or after the Election Date, of the right of candidacy in the Election, the Election Appeal Committee shall:
- i. determine that the Election of that Candidate shall be set aside;
- ii. determine that some other person is duly elected; and/or
- iii. determine that no other person is duly elected;
- and shall if its decision results in a vacancy on Council, post a notice at all FRCN Posting Sites of a By-Election to be held, on a date to be determined by the General Assembly, pursuant to paragraph 8.8(b)(i).
- (i) **Disposing of Complaint** The Election Appeal Committee shall, on hearing a complaint under this section, make any order, direction, declaration or record necessary to dispose of the complaint.

10.12 Procedure for Appeals and Complaints

- (a) **Notice** The Election Appeal Committee will provide three days written notice of:
- i. any appeals or complaints, and supporting affidavits filed under this Part; and
- ii. the date, hour and location of the EAC hearing;
- to:
- iii. any person the subject of an appeal under paragraph 10.9(a)(i);

- iv. the Electoral Officer, in the case of an appeal under paragraph 10.9(a)(ii); and
 - v. the Candidate subject to a complaint under subsection 10.11(a).
- (b) **Summary Manner** The Election Appeal Committee shall hear and determine any appeals or complaints filed under this Part, in a summary manner, without formal pleadings.
- (c) **Legal Counsel** All persons appearing before the EAC shall be entitled to be represented by legal counsel.
- (d) **Hearing** An EAC hearing shall be open to all FRCN Electors.
- (e) **Disclosure** No person appearing before the EAC shall be required to disclose for whom he or she voted in the Election.
- (f) **Procedure** At the EAC hearing, the person in question against whom the appeal or complaint is filed will be given an opportunity to be heard and to present evidence, witnesses, arguments and written submissions to the EAC. The person in question shall be entitled:
- i. to be present while the allegations against him or her, and all supporting evidence, witnesses, arguments and written submissions are presented to the EAC;
 - ii. to dispute, correct or contradict anything which is prejudicial to his or her position; and
 - iii. to question both the appellant or complainant, as the case may be, and the witnesses against him or her.
- (g) **Questions** Each person in question against whom an appeal or complaint is filed shall answer questions put to him or her by:
- i. firstly, the appellant or complainant, as the case may be; and
 - ii. secondly, the EAC.
- (h) **Deliberations** The EAC may continue deliberations on the appeal or complaint, after the EAC hearing is concluded.
- (i) **Acting as Council Member** A duly elected Council Member who is subject to an appeal or a complaint, may vote and otherwise act as a Council Member, pending the decision by the EAC on the appeal or complaint.

10.13 General Powers

- (a) **Powers** The Election Appeal Committee in respect of any Proceeding before it:
- i. has the power to examine records and make the investigations it considers necessary;
 - ii. has the power to fix the times and places for any hearings;
 - iii. has the power to designate the method of taking evidence, either by affidavit or oral testimony, or

both, provided that any allegations of Corrupt Practices shall be proved by oral testimony;

- iv. has the power of designating which persons are to be notified and how they are to be served, whether personally or substitutional;
- v. has custody of all documents, evidence, and other records before it;
- vi. has the power to require the attendance of any person to give evidence, produce any relevant document, answer all proper questions and give all necessary information;
- vii. has the power to extend or change, on the written application of a party to a Proceeding, a Candidate, the Administrator, the Electoral Officer, Council or a General Assembly, or on its own motion, any time period or limitation period set out in this Code, but only after written notice of the proposed extension or change, and an opportunity to be heard, has been given to all parties affected, and provided that it appears to the EAC that the extension or change:
 - (A) will improve and not materially detract from any Election process; or
 - (B) enhances the freedom of choice of the FRCN Electors exercised through a democratic process;

which extension or change shall be made by decision in writing, with supporting facts and reasons, posted in the Administration Office;

- viii. shall act impartially, fairly and reasonably, and in accordance with the principles of natural justice and fairness;
 - ix. shall consider that the onus is on the person filing the recount request, appeal or complaint, to satisfy the EAC that the request, appeal or complaint is justified and should be acted upon by the EAC; and
 - x. may retain legal counsel independent of FRCN, at the cost of FRCN, for advice on matters relating to any Proceeding.
- (b) **Operation** A recount request, appeal or complaint shall not operate as a stay of any Election process.
 - (c) **Determination** Following the determination of the recount request, appeal or complaint by the EAC, the Council, Electoral Officer and Administrator must take whatever steps are necessary to implement that determination.
 - (d) **Costs** FRCN will pay the costs and expenses of operation, for the Election Appeal Committee.
 - (e) **Minutes** Minutes of Election Appeal Committee meetings shall contain a record of the resolutions made, and may contain descriptions of the discussion that took place.

10.14 Authority of Election Appeal Committee

The Election Appeal Committee has exclusive authority to:

- (a) make directions for Election recounts under paragraph 10.7(a)(iii);

- (b) make reports to Council and the Membership on Election processes, pursuant to section 10.8;
- (c) hear and decide Election appeals, pursuant to section 10.9;
- (d) conduct Election inquiries, pursuant to section 10.10;
- (e) hear and decide Election complaints, pursuant to section 10.11;
- (f) determine all questions or concerns regarding this Code, referred to the EAC by the Electoral Officer under section 7.3; and
- (g) discharge the other duties and responsibilities, and exercise the other powers and authorities of the EAC set out in this Code.

10.15 Decisions

- (a) **In Writing** The Election Appeal Committee will issue all decision(s) in writing, with supporting facts and reasons, so that the Membership can verify:
 - i. the justification, transparency and intelligibility within the decision-making process; and
 - ii. that all relevant law and evidence has been considered.
- (b) **Posting Decisions** The Election Appeal Committee will, on the day that it issues a decision, post the decision in writing in the Administration Office, and that office shall make the decision available to all parties to that Proceeding, Council the Membership, the Electoral Officer and the Deputy.

10.16 Final and Binding

- (a) **Determining Validity of Elections** The validity of the Election of a Council Member shall not be called into question or determined other than in accordance with this Part, and the determination shall be made only by the Election Appeal Committee.
- (b) **No Further Appeal** A decision of the Election Appeal Committee on any Proceeding before it is final, conclusive and binding, and is not subject to further appeal. Each such decision is subject to judicial review in Federal Court.

11. PART 11 - INDEMNIFICATION

FRCN indemnifies each Council Member, the Administrator, each Custom Election Code Committee member, the Electoral Officer and Deputy, each Election Appeal Committee member, the Registrar, each FRCN Employee, each Contract Worker, and every other person, any of whom is exercising any duties, responsibilities, powers or authorities under this Code, from any personal liability for any loss, damage, costs, actions or expenses of any nature or sort suffered by such person, because of anything done or omitted to be done, in good faith in any such exercise.

12. PART 12 - REGULATIONS, GUIDELINES AND APPENDICES

12.1 Custom Election Code Committee

- (a) **Appointment** FRCN may in General Assembly from time to time create a committee of such

Electors as are appointed from time to time by the General Assembly, called the Custom Election Code Committee, to advise and make recommendations to Council and the General Assembly concerning this Code, and having the duties and responsibilities, powers and authorities set out in this Code.

- (b) **Voting** All Electors appointed to the Custom Election Code Committee shall be voting members of the committee.
- (c) **Quorum** A quorum of the Custom Election Code Committee shall be a majority of the committee members present in person.
- (d) **Functioning** The Custom Election Code Committee:
 - i. shall conform in the exercise of the powers delegated to it, to any rules or restrictions imposed by the General Assembly;
 - ii. shall exercise powers not exceeding those of the General Assembly;
 - iii. shall be responsible to the General Assembly in the exercise of those powers;
 - iv. shall be chaired by an Elector appointed by the General Assembly; and
 - v. may be discharged by the General Assembly upon completion of its assignment to the satisfaction of the General Assembly.

12.2 Regulations

- (a) **Authorized Regulations** FRCN may make Regulations as follows:
 - i. such Regulations as are considered necessary and advisable, are ancillary to the Code, and are not inconsistent with the Code;
 - ii. such Regulations to provide for administrative or procedural matters for which no express, or only partial, provision has been made in this Code;
 - iii. specifying whether an Elector can be a Candidate for both Chief and Councillor positions in the same Election;
 - iv. specifying the procedure for criminal record checks to be conducted for all Candidates for Election to Council;
 - v. specifying the form of any declaration, notice, letter, statement, ballot, Return of Poll, or other record authorized or permitted under this Code;
 - vi. specifying the policy and procedure of the Election Appeal Committee on those matters set out in subsection 10.6(b);
 - vii. specifying the honorarium or other remuneration to be paid to EAC Members, and the process for reimbursement of expenses;
 - viii. establishing fees for filing Election recount requests, appeals, or complaints to the Election

Appeal Committee; and

- ix. imposing restrictions and conditions on campaigns by Candidates in respect of Elections under this Code.
- (b) **Proposing Changes** Any Elector can propose changes to a Regulation by giving his or her suggestions to the Custom Election Code Committee.
- (c) **Council Approval in Principle** The Custom Election Code Committee will present written recommendations for Regulations, or for the amendment or repeal of a Regulation, whether in whole or in part, to Council for approval in principle.
- (d) **Coming into Force** A Regulation may come into force, be amended or repealed, by resolution at a General Assembly, provided that:
 - i. 10 days written notice has been given by the Custom Election Code Committee by mail to each Off-Reserve Elector of the resolution, the proposed wording for the Regulation and of the date, hour and location of the General Assembly where the resolution will be considered; and
 - ii. the Custom Election Code Committee posts at the Administration Office, on the official FRCN website controlled through the Administration Office, and at the FRCN Community Complex, at least 10 days prior to the date set for the General Assembly, the resolution, the proposed wording for the Regulation and the date, hour and location of the General Assembly where the resolution will be considered.
- (e) **Legal Force and Effect** Regulations in force shall have the same legal force and effect as the Code.

12.3 Guidelines

The Custom Election Code Committee will authorize non-binding guidelines to explain the Election processes and further the operation of this Code, and will make any guidelines available in writing to the Membership.

12.4 Appendices

- (a) **Part of Code** The Appendices attached to this Code form part of this Code.
- (b) **Filing** Appendices One, Three, Four and Six shall upon signature be filed with the Administrator, and Appendices Two and Five shall upon signature be filed with the Electoral Officer.

12.5 Resolving Inconsistency

In the event of any inconsistency or conflict between:

- (a) the Code and any Regulation, the provisions of the Code shall apply;
- (b) the Code and any Appendix, the provisions of the Code shall apply; and

(c) any Regulation and any Appendix, the provisions of the Appendix shall apply.

13. PART 13 - COMING INTO FORCE AND AMENDMENTS TO THE CODE

13.1 Approval, Amendment or Repeal of the Code

- (a) **Proposing Changes** Any Elector can propose changes to this Code by giving his or her suggestions to the Custom Election Code Committee.
- (b) **Council Approval in Principle** The Custom Election Code Committee will present written recommendations for amendments to or repeal of this Code, whether in whole or in part, to Council for approval in principle.
- (c) **Coming into Force** This Code and any amendments or repeal of this Code will only come into force upon the express approval of the Majority of the Electors of FRCN, given at a Referendum Assembly:
- i. held on a date determined by a General Assembly, which date shall be at least 14 days after the General Assembly;
 - ii. for which the referendum for approval of this Code or any proposed amendments or repeals is put into the form of a simple written question with a "yes" or "no" answer, on a sheet of paper that is treated as both a ballot and a mail in ballot for all purposes of the Referendum Assembly;
 - iii. for which the Administrator posts at the Administration Office, on the official FRCN website controlled through the Administration Office, and at the FRCN Community Complex, a copy of this Code and any proposed approvals, amendments or repeals, and notice of the Referendum Assembly date, hour and location, all at least 10 days prior to the date of the Referendum Assembly;
 - iv. for which the Referendum Ballot Package specified in subsection 13.2, is:
 - (A) forwarded by mail to all Off-Reserve Electors by the Administrator at least 10 days prior to the date of the Referendum Assembly; and
 - (B) forwarded by mail to every Elector whose request to vote by mail in ballot has been received by the Administrator at least 7 days prior to the date of the Referendum Assembly;
 - v. at which a quorum shall be those FRCN Electors present in person, whether or not their number represents a broad consensus of the FRCN Electors;
 - vi. at which the FRCN Electors present are given an opportunity to be heard; and
 - vii. at which the referendum ballots are counted both for the Electors present and voting in person, and for those voting by the mail in referendum ballot process described in section 13.4;

provided that only a duly convened Referendum Assembly has the legal authority to approve, amend or repeal this Code, whether in whole or in part;

13.2 Referendum Ballot Package The Referendum Ballot Package referred to in paragraph 13.1(c)(iv) shall consist of:

- (a) A ballot prepared by the Administrator, initialed on the back by the Administrator;

- (b) An inner postage paid return envelope, pre-addressed to the Administrator;
- (c) A second inner envelope marked "Ballot" for insertion of the completed ballot;
- (d) A Referendum Declaration Form;
- (e) The notice of Referendum Assembly;
- (f) This Code;
- (g) Any proposed approval, amendment or repeal of this Code, in whole or in part; and
- (h) A letter of instruction regarding voting by mail in ballot which shall also include a statement advising Electors that they may vote in person at the Referendum Assembly if they return their mail in ballot to the Administrator, or provide to the Administrator a written declaration sworn before a notary public or a commissioner for taking affidavits that the mail in ballot has been lost.

13.3 Tracking Referendum Ballot Packages The Administrator shall indicate on the Voters List, to which Electors a mail in Referendum Ballot Package has been mailed or otherwise delivered and keep a record of the date on which, and the address to which, each mail in Referendum Ballot Package was mailed or otherwise delivered.

13.4 Method of Voting at Referendum Assembly by Mail in Ballot An Elector shall vote by mail in ballot at a Referendum Assembly, as follows:

- (a) placing an "X" or other mark opposite the word "yes" or "no", on the ballot, so as to clearly indicate the Elector's choice without identifying the Elector;
- (b) folding the ballot in a manner that conceals the words "yes" or "no" or any marks, but exposes the Administrator's initials on the back;
- (c) inserting the completed ballot in the inner envelope marked "Ballot" and sealing the envelope;
- (d) completing and signing the Referendum Declaration Form in the presence of a person who is at least 18 years of age, and who signs and completes the form as the witness;
- (e) placing the inner envelope marked "Ballot" and the completed, signed and witnessed Referendum Declaration Form in the postage paid return envelope pre-addressed to the Administrator; and
- (f) delivering, mailing or otherwise ensuring receipt by the Administrator of the return envelope pre-addressed to the Administrator, before the close of voting at the Referendum Assembly.

13.5 Inability to Vote by Reason of Disability Where an Elector is unable by reason of illness, disability or infirmity, to vote at the Referendum Assembly by mail in ballot, in the manner set out in section 13.4:

- (a) the Elector may enlist the assistance of another person who is at least 18 years of age to mark the ballot and complete and sign the Referendum Declaration Form on behalf of the Elector, in accordance with that section; and
- (b) the Administrator shall state on the Voters List opposite the name of the Elector, the name of the

person who marked the ballot on behalf of the Elector, as indicated on the Referendum Declaration Form, and the name, address and phone number of the witness signing the Referendum Declaration Form.

13.6 Witness A witness to a Referendum Declaration Form completed with a mail in referendum ballot, shall attest:

- (a) that the Elector completing and signing the form is the Elector whose name is set out in the form; or
- (b) that the Elector is the person whose name is set out in the form and that the ballot was marked according to the directions of the Elector.

13.7 Mail in Referendum Ballots not Counted Mail in referendum ballots received by the Administrator after the close of voting at the Referendum Assembly shall not be counted.

13.8 Procedures Upon Receipt of Mail in Referendum Ballot If the Administrator receives the envelope, pre-addressed to the Administrator, before the close of voting at the Referendum Assembly, the Administrator will open that envelope, and if the Referendum Declaration Form is properly completed, signed and witnessed, the Administrator will:

- (a) state on the Voters List opposite the name of the Elector that the Elector has voted by mail in ballot, and the date that such ballot was received; and
- (b) initial the "Ballot" envelope over its seal, and lock it in a box. The mail in referendum "Ballot" envelopes will not be opened until the close of voting at the Referendum Assembly, when the referendum ballots cast at the Referendum Assembly are being counted.

13.9 Mail in Referendum Ballot Box The mail in referendum ballot box will be locked and kept in the care of the Administrator until it is opened at the close of voting at the Referendum Assembly.

13.10 Voting Booth The Administrator will establish at the Referendum Assembly at least one voting booth, where each Elector can mark his or her ballot free from observation.

13.11 Secret Ballot Every vote at the Referendum Assembly shall be cast by secret ballot, so that the Elector making the vote cannot be identified with the vote made.

13.12 Voting Procedure at Referendum Assembly The voting procedure at a Referendum Assembly shall follow that for a General Election as set out in section 8.5, with the Administrator acting in the place of the Electoral Officer or Deputy, and with any other necessary changes in points of detail.

13.13 Recounts Upon completion of the ballot count at a Referendum Assembly, where the number of "yes" votes equals the number of "no" votes or there is only one vote difference, the Administrator may do up to two recounts of all the ballots cast, and if the matter still cannot be determined, will declare that there will be a second Referendum Assembly to determine the matter, following the same procedure as for the first Referendum Assembly as set out in this Part.

13.14 No Appeal The result of a Referendum Assembly as announced by the Administrator, is final, conclusive and binding, and not subject to appeal to the Election Appeal Committee or to any court or other body.

13.15 Clerical Changes Notwithstanding section 13.1, amendments to this Code that only involve clerical

changes, such as fixing typographical errors or renumbering sections, may be made by Council.

FISHER RIVER CREE NATION

CUSTOM ELECTION CODE

APPENDIX ONE

Council Oath of Office and Confidentiality

I, _____ do solemnly declare that:

1. I am a Fisher River Cree Nation ("**FRCN**") Elector possessing under the Custom Election Code (the "**Code**") the qualifications for holding this office.
2. I will uphold and abide by the Code, the Council Code of Ethics, the Code of Conduct and Conflict of Interest Guidelines, the FRCN Governance Manual-Functions and Powers of the Chief and Council, this Oath of Office and Confidentiality, and all laws of FRCN validly enacted.
3. I will fulfil the duties and responsibilities, powers and authorities of a Council Member faithfully, positively, impartially, carefully, diligently, loyally, with honesty, integrity, respect and honour, remembering that the main objective is to serve the Membership to the best of my abilities.
4. I will maintain confidentiality on matters that relate to:
 - (a) employment and staff issues;
 - (b) sensitive Membership issues or issues which any FRCN Member has requested remain confidential;
 - (c) matters where FRCN legal liability may arise;
 - (d) legal opinions respecting the interest of FRCN;
 - (e) the lease, sale, purchase or exchange of real property by FRCN;
 - (f) any discipline issues for a Council Member, the Electoral Officer or Deputy, or an Election Appeal Committee member; and
 - (g) any other matter which Council by resolution determines should, in the best interest of FRCN, be dealt with in-camera;both during and after my term of office, for all records or information I may be privy to, and will not discuss any of these matters with anyone other than as expressly authorized by law.
5. I will maintain, protect and respect the privacy of each FRCN Member at all times. I agree that privacy is a basic right of each FRCN Member.
6. I will always act in the best interests of FRCN and the Membership.
7. I will set clear goals and dedicate myself to achieving them through personal commitment, discipline and consistency.

8. I will conduct myself in a manner that presents a positive image for FRCN.
9. I will live a clean, sound, healthy and balanced lifestyle.
10. I will encourage an atmosphere of caring and sharing amongst all Fisher River Cree Nation Indigenous people.
11. I will discourage hostile attitudes and encourage balance and harmony, in working relationships internal to FRCN, and between FRCN and persons external.
12. I will maintain an open line of communication between FRCN Membership, FRCN Employees, and myself on meetings and forums I have attended, and will submit meeting reports, newsletter articles, and other items that will keep the FRCN Membership and FRCN Employees informed on the activities of Council.
13. I will promote mutual respect, trust, and understanding amongst the Council Members, and amongst all Fisher River Cree Nation Indigenous people.
14. I promise to fulfill my duties in a manner so that all FRCN Members will progress and prosper.
15. I will work together with the rest of Council as a team to ensure that the future of FRCN will be culturally, economically, socially and politically stable.
16. I undertake to the FRCN Membership to discharge the duties and responsibilities, powers and authorities of this office in a fair and neutral manner, and will not show favour to any person.
17. I am aware of the provisions in the Code for a vote of non-confidence in one or more Council Members or the entire Council, to be brought before a General Assembly, which may lead to my removal from office as a Council Member.
18. I accept full responsibility and accountability for the above-mentioned oath of office.

And I make this solemn declaration, conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath.

DECLARED BEFORE ME at the _____)
of _____, in the)
Province of Manitoba, this _____ day)
of _____, 20__)
_____)

A Commissioner for taking Affidavits in the
Province of Manitoba

Signature of Council Member

Print Name of Council Member

A Notary Public in and for the Province of Manitoba

FISHER RIVER CREE NATION

CUSTOM ELECTION CODE

APPENDIX TWO

Candidate's Code of Ethics

1. Candidates for Election to Fisher River Cree Nation ("**FRCN**") Council must campaign:
 - (a) according to the duties and responsibilities, powers and authorities as are set out in the Custom Election Code (the "**Code**"), this Candidate's Code of Ethics, and the Declaration of Candidate made by the Candidate pursuant to section 6.3 of the Code;
 - (b) without coercion or votebuying;
 - (c) respecting the rights and freedoms of other Candidates and their supporters to campaign and organize;
 - (d) in an ethical manner, by focusing on political issues and Candidate platforms, avoiding any "smear" campaigns, "rumor", "gossip" or "innuendo";
 - (e) non-violently, without intimidation, harassment, the use of duress, or any type of threat or promise, whether verbal or non-verbal, against fellow Candidates, any of their supporters, actual or potential, or any Electors;
 - (f) respecting the freedom of the media to express opinions on each Candidate and his or her campaign; and
 - (g) by co-operating fully with the Electoral Officer and Deputy, the Administrator, and with the Election Appeal Committee, following all lawful directions and requirements of each and not interfering with any of them in the performance of official duties.
2. Candidates shall comply with the official Election results as determined by the Electoral Officer, and the final decision of the Election Appeal Committee on any matter before it.
3. Candidates are guilty of an offence, who at any time during an Election process:
 - (a) offer either a bribe or promise to influence to an Elector, to either vote for or refrain from voting for one or more particular Candidates, which bribe or promise is made either directly to the Elector, or indirectly, through an Immediate Family Member; or
 - (b) accepts or agrees to accept any such bribe or promise to influence that is offered, either directly to the Candidate, or indirectly, through an Immediate Family Member.
4. Candidates are guilty of an offence who, at any time during an Election process, by intimidation, harassment, duress or any type of threat or promise, whether verbal or non-verbal:
 - (a) compel an Elector to vote or refrain from voting, for one or more Candidates in an Election; or

(b) by pretense or plan, induce an Elector to vote or refrain from voting, for one or more Candidates in an Election.

5. Each Candidate is responsible for and must answer in full to the Election Appeal Committee for any violations of this Code of Ethics by any of his or hersupporters during an Election process.
6. Violations of this Code of Ethics by the Candidate or any of his or her supporters, will be dealt with through the Election Appeal Committee, which will determine whether the Candidate in question has lost the right of candidacy in that Election.

Print Name of Candidate:

Print Name of Witness to Signature of Candidate

Signature of Candidate:

Witness to Signature of Candidate

FISHER RIVER CREE NATION

CUSTOM ELECTION CODE

APPENDIX THREE

**Electoral Officer/Deputy Electoral Officer
Oath of Office and Confidentiality**

I, _____ do solemnly declare that:

1. I possess under the Custom Election Code (the "**Code**") of Fisher River Cree Nation ("**FRCN**"), the qualifications for holding this office, as:
 - (a) I have previous experience and/or training as an electoral officer or deputy;
 - (b) I am not a member of FRCN;
 - (c) I am at least 21 years of age;
 - (d) I have no vested interest in the outcome of any FRCN Election; and
 - (e) I have no potential conflict of interest in fulfilling the office of Electoral Officer, or Deputy, as the case may be.
2. I will uphold and abide by the Code and this Oath of Office and Confidentiality.
3. I will fulfil the duties and responsibilities, powers and authorities of an Electoral Officer or Deputy faithfully, positively, impartially, carefully, diligently, loyally, with honesty, integrity, respect and honour, remembering that the main objective is to serve the Membership to the best of my abilities.
4. I will maintain the confidentiality of all Election processes, both during and after my term of office, for all records or information I may be privy to, will not discuss the Election with anyone other than as expressly authorized by law, and realize that any communication by me with anyone not authorized by law, may jeopardize any Election processes.
5. I will maintain, protect and respect the privacy of each FRCN Member at all times. I agree that privacy is a basic right of each FRCN Member.
6. I will always act in the best interests of FRCN and the Membership.
7. I will conduct myself in a manner that presents a positive image for FRCN.
8. I will live a clean, sound, healthy and balanced lifestyle.
9. I will discourage hostile attitudes and encourage balance and harmony, in all Election processes.
10. I will work together with the Electoral Officer or Deputy, as the case may be, as a team, to promote mutual respect, trust and understanding.

11. I undertake to the FRCN Membership to discharge the duties and responsibilities, powers and authorities of this office in a fair and neutral manner, and will not show favour to any Candidate or other person.
12. I am aware that a potential conflict of interest, breach of confidentiality, breach of privacy, lack of fairness or lack of neutrality that threatens the integrity of any process in connection with the Election at hand will result in disciplinary measures, including possibly a vote of non-confidence in me as the Electoral Officer or Deputy, as the case may be, to be brought before a FRCN General Assembly, which may lead to my removal from office; and
13. I accept full responsibility and accountability for the above-mentioned oath of office.

And I make this solemn declaration, conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath.

DECLARED BEFORE ME at the _____)
of _____, in the)
Province of Manitoba, this _____ day)
of _____, 20__)
_____)

A Commissioner for taking Affidavits in the
Province of Manitoba

A Notary Public in and for the Province of Manitoba

Signature of Council Member

Print Name of Council Member

FISHER RIVER CREE NATION

CUSTOM ELECTION CODE

APPENDIX FOUR

**Election Appeal Committee
Oath of Office and Confidentiality**

I, _____ do solemnly declare that:

1. I am a Fisher River Cree Nation ("**FRCN**") Elector possessing under the Custom Election Code (the "**Code**"), the qualifications for holding this office.
2. I will uphold and abide by the Code and this Oath of Office and Confidentiality.
3. I will fulfil the duties and responsibilities, powers and authorities of an Election Appeal Committee member faithfully, positively, impartially, carefully, diligently, loyally, with honesty, integrity, respect and honour, remembering that the main objective is to serve the Membership to the best of my abilities.
4. I will maintain the confidentiality of all Proceedings before the Election Appeal Committee ("**EAC**"), both during and after my term of office, for all records or information I may be privy to, will not discuss the Proceedings with anyone other than as expressly authorized by law, and realize that any communication by me with anyone not authorized by law, may jeopardize any Proceedings before the EAC.
5. I will maintain, protect and respect the privacy of each FRCN Member at all times. I agree that privacy is a basic right of each FRCN Member.
6. I will always act in the best interests of FRCN and the Membership.
7. I will conduct myself in a manner that presents a positive image for FRCN.
8. I will live a clean, sound, healthy and balanced lifestyle.
9. I will discourage hostile attitudes and encourage balance and harmony, in all EAC Proceedings.
10. I will work together with the rest of the EAC as a team, to promote mutual respect, trust and understanding.
11. I undertake to the FRCN Membership to discharge the duties and responsibilities, powers and authorities of this office in a fair and neutral manner, and will not show favour to any Candidate or other person.
12. I am aware that a potential conflict of interest, breach of confidentiality, breach of privacy, lack of fairness or lack of neutrality that threatens the integrity of any process in connection with the Election at hand will result in disciplinary measures, including possibly a vote of non-confidence in one or more EAC members or the entire EAC, to be brought before a FRCN General Assembly, which may lead to my removal from office; and
13. I accept full responsibility and accountability for the above-mentioned oath of office.

And I make this solemn declaration, conscientiously believing it to be me and knowing that it is of the same force and effect as if made under oath.

DECLARED BEFORE ME at the _____)
of _____, in the)
Province of Manitoba, this _____ day)
of _____, 20__)
_____)

A Commissioner for taking Affidavits in the
Province of Manitoba

A Notary Public in and for the Province of Manitoba

Signature of Council Member

Print Name of Council Member

FISHER RIVER CREE NATION

CUSTOM ELECTION CODE

APPENDIX FIVE

Voter Declaration Form

To accompany mail in nominations and mail in ballots

I, _____ (print name), state that:

1. I am a member of the Fisher River Cree Nation, and my band membership number is

2. I will be 18 years of age or older on the upcoming Election day.
3. I know of no reason why I am ineligible to nominate a Candidate, or second the nomination of a Candidate, for Council, or to vote for a Candidate for Council.

Signed on the _____ day of _____, 20__,

in _____ (name of town or city, and Province)

(Signature of Elector)

(Signature of witness)

(Name of witness)

(Address of witness)

(Phone number of witness)