

**SAGKEENG
ELECTION ACT (DRAFT)**

Whereas the Sagkeeng Nation's Executive Council have the duty to oversee the governance, economic and social aspects of its citizens, the Fort Alexander Indian reserve and its traditional territories;

Whereas the Executive Council of the Sagkeeng Nation is empowered to make laws by the Creator, by the Anicinabek Peoples of Sagkeeng, and by Aboriginal and Treaty rights as protected by Section 35 of the *Constitution Act, 1982*;

And Whereas the Executive Council of the Sagkeeng Nation are desirous to enact this law to achieve fairness and accountability in the selection of its governance and leadership; and

Therefore the Executive Council of Sagkeeng with the benefit of public consultation and upon the direction and acceptance of the Lawmakers Assembly do hereby exercise our inherent right to govern ourselves and make this law.

Title

1. This *Law* shall be known as the *Sagkeeng Election Act*.

Definitions

2. In this *Act*, the following words and phrases mean:
 - a) Election Appeal Board: the five-member body who are responsible for the investigation and adjudication of an election appeal as provided in Part 5 of this Act.
 - b) Electoral Officer: the person appointed and authorized, three (3) months prior to an election, by an Order of Sagkeeng First Nation Government duly signed by a quorum of the Executive Council to oversee an election.
 - c) Electorate: those citizens eligible to vote as defined by this *Act*.
 - d) Executive Council: Sagkeeng Chief and Council.
 - e) Deputy Electoral Officer: any person appointed by the Electoral Officer to assist with the conduct of an election.
 - f) Sagkeeng citizens: those persons who are Fort Alexander Band

members and/or as identified as Sagkeeng citizens by Sagkeeng law.

g) Quorum: a majority of the Executive Council.

PART 1 GENERAL

Eligible Citizens

3. Unless otherwise provided by Sagkeeng law, Sagkeeng citizens who have reached the age of 18 years regardless of residency are eligible to nominate, be nominated, and vote in a Sagkeeng election.

Composition of Executive Council

4. The Executive Council shall consist of one (1) Chief and four (4) Councillors.

Chief

5. The Chief shall be that citizen, who was nominated for that position or, in the event of an election poll, by that candidate who received the greatest number of votes from eligible voters.

Councillors

6. The Councillors shall be those citizens, who were nominated for that position or, in the event of an election, by those four citizens who received the greatest number of votes from eligible voters.

Citizens Take Office

7. Notwithstanding the submission of an election appeal as set out in Part 5 of this *Act*, the successful citizens, as noted in section 5 and 6, shall officially take office of the Executive Council the first Monday following the election.

Drug Testing

8. All citizens elected pursuant to this *Act* shall submit to illegal drug testing immediately upon taking office and every 6 months thereafter and those results shall be publicly posted and consequences of said testing shall be dealt with in accordance with the Sagkeeng drug policy.

Term of Office

9. Subject to section 10 and 11, the Executive Council shall hold office for

three (3) years.

An Office of Executive Council becomes Vacant

10. An office of the Executive Council shall become vacant if:

- (a) A member of the Executive Council dies or resigns from office;
- (b) Sagkeeng citizens declare in petition form, signed by 51% of the total number of voting electorate in the prior election and submitted to the Executive Council:
 - (i) that a member or members of the Executive Council cannot or will not perform his or her duties as a member of the Executive Council to the satisfaction of the electorate; and/or
 - (ii) it is in the best interests of Sagkeeng a member or members of the Executive Council shall no longer hold office of the Executive Council; or
- (c) The Election Appeal Board, pursuant to an appeal as provided in Part 5 of this *Act*, is satisfied:
 - (i) activity occurred with respect to the election, and/or
 - (ii) a violation of this *Act* or other Sagkeeng law

and that should such activity and/or violations have not occurred the results of the election would have been different.

Vacancy of Executive Council

11. The office of the Executive Council shall become vacant where

- (a) the petition submitted to the Executive Council, pursuant to subsection 10(b), seeks the removal from office a majority of the Executive Council; or
- (b) the Election Appeal Board, pursuant to subsection 10(c), is of the opinion the election of the Executive Council shall be set aside.

11(1) In the event the Executive Council is removed from office as provided in section 11 the elected council shall remain in office until an election is held.

Notice of Bye-Election

12. Where any office of the Executive Council becomes vacant as

provided in section 10 more than eight (8) months before an election would normally be held, the Electoral Officer shall post notice of a nomination meeting as provided in Part 2 of this *Act*.

Acting Chief

13. Where the position of Chief has become vacant the Councillor who had the most votes in the preceding election shall assume the position of Acting Chief until an election is held pursuant to the provisions of this *Act*.

Deputy Electoral Officer

14. The electoral officer may appoint persons deputy electoral officers to assist in the conduct of the election.

**PART 2
NOMINATION PROCESS**

Nomination Meeting – Copies of *Sagkeeng Election Act*

15. The electoral officer shall, at least four (4) weeks in advance of the nomination meeting, post public notice of the day, time and place of a nomination meeting and the notice shall indicate copies of this *Act* are available at the Executive Council Administration Office for Sagkeeng citizens. Notice shall be provided through public media, including public posting in Sagkeeng, Sagkeeng Radio, local newspapers and on the Sagkeeng website: www.sagkeeng.ca.

Voters List/Availability

16. The Band Membership Clerk, or the person identified through Sagkeeng law, shall provide the electoral officer with a current list of Fort Alexander band members over the age of 18 years in alphabetical order, of which shall be made available to all band members upon request and available for inspection at the Sagkeeng Executive Council administration office.

Additions/Deletions to Voters List

17. The electoral officer may add or delete electors on the voters list upon being satisfied that a person is eligible or ineligible to be on the list.

Electors' Mailing Addresses/Distribution

18. The electoral officer shall, upon being appointed or soon thereafter, request, through public media, including public posting in Sagkeeng, Sagkeeng Radio, local newspapers and on the Sagkeeng website:

www.sagkeeng.ca, the current mailing addresses from electors that wish to nominate or vote through mail. Electors must clearly give express permission to have their addresses distributed to candidates.

Duration of Nomination Meeting

19. The electoral officer shall open the meeting for nominations for a period of five (5) consecutive hours and record those Sagkeeng citizens who have been nominated.

Nominee and Nomination Fee \$50

20. A Sagkeeng citizen is a nominee for the position of either Chief or Councillor where

(a) that citizen was moved for nomination and seconded by Sagkeeng citizens, and

(b) at the nomination meeting or immediately thereafter has provided to the electoral officer a nonrefundable administration fee of \$50 payable to Sagkeeng First Nation to be used to assist in the cost of the election.

Failure to Pay Nomination Fee

21. The electoral officer shall remove any nominated person on the election ballot if that person has failed to pay the nomination fee.

Mailed Nominations

22. The electoral officer shall publicly announce at the nomination meeting and record any nominations received by mail.

Secondments

23. Nominees may be seconded by mail or by the electorate in attendance at the nomination meeting. Mailed nominations must clearly show eligibility to nominate, including name and treaty status number or in any other manner indicated by Sagkeeng law.

Chief or Councillor Nomination

24. A Sagkeeng citizen can only be nominated for either the position of Chief or Councillor and if nominated for both shall indicate which nomination has been accepted.

Failure to Chose Nomination

25. Where, in section 24, the nominee has failed to choose his or her nomination the electoral officer shall assume the second nomination has been declined.

Nominee Acceptance in Attendance

25. Immediately upon nomination the nominee in attendance shall accept or reject their nomination.

Non Attendance/Acceptance by Letter

27. A nomination may be accepted by letter, signed by the nominee for the position nominated delivered by a nominator to the electoral officer at the nomination meeting.

Contact Nominee Not Non-Attendance

28. The electoral officer shall contact the nominees that were not in attendance at the nomination meeting to confirm their rejection or acceptance of their nomination.

Reasonable Effort – Non Contact of Nominee

29. Should the electoral officer, after making a reasonable effort to contact the nominee, fails to contact the nominee the electoral officer shall deem non contact of nominee as rejection of their nomination.

Voluntary Withdraw of Nomination

30. Sagkeeng citizens may, in writing to the electoral officer withdraw his or her nomination provided written notice has been received two (2) weeks prior to the date of the election poll.

Posting of Nominees

31. The electoral officer shall post a list of nominated citizens in public places in Sagkeeng and on the Sagkeeng website: www.sagkeeng.ca, the day after nomination or shortly thereafter.

Notice of Public Forum

32. Prior to the date of polls the electoral officer shall post notice inviting all nominees to attend a public forum or forums to allow nominees an opportunity to express their views and to respond to questions from Sagkeeng citizens.

PART 3 ELECTION POLL PROCEDURES

Election Polls

33. The electoral officer shall, through public media, including public posting in Sagkeeng, Sagkeeng Radio, local newspapers and on the Sagkeeng website: www.sagkeeng.ca., at least four (4) weeks in advance of the election polls, post public notice of the day, time and place of the election polls and the notice shall indicate copies of this *Act* are available at the Sagkeeng Executive Council administration office.

Times and Place of Polls

34. The Winnipeg election poll and Sagkeeng election polls located on North Shore and South Shore shall be kept open from 8 am. to 6 pm.

Choice of Poll

35. The electoral officer, immediately upon being authorized to oversee the Sagkeeng Election, shall request from the electorate their choice of election poll location through public media, including public posting in Sagkeeng, Sagkeeng Radio, local newspapers and on the Sagkeeng website: www.sagkeeng.ca.

Failure to Inform

36. Electorate who fail to inform the electoral officer of their election polling location choice shall be deemed to have chosen their last place of voting.

Election Ballots

37. The electoral officer shall prepare the election ballots in the following manner:

- a) list candidates in alphabetical order by first and last name of the candidate;
- b) chief and councillor candidates shall be listed separately;
- c) candidates with similar names shall be clearly distinguished with additional information; and
- d) candidates may request the use of nicknames in addition to registered birth name.

Mail-in Ballots

38. At least six (6) weeks before the day on which an election is to be held, the electoral officer shall mail, to every elector who has provided their mailing addresses, a package consisting of

- a) a ballot, initialed on the back by the electoral officer,
- b) an outer, postage-paid return envelope, pre-addressed to the electoral officer,
- c) a second, inner envelope marked "Ballot" for insertion of the completed ballot,
- d) a voter declaration form,
- e) a letter of instruction regarding voting by mail-in ballot, and
- f) a statement identifying the location of all polling places, and advising the elector that he or she may vote in person at a polling place on the day of the election in accordance with subsection 39(2) in lieu of voting by mail-in ballot.

Residents May Receive Mail-in Ballots

38(1) At the request of an elector who resides on the reserve, the electoral officer shall provide an election package as described in section 38.

Record of Mail-In Ballots

39. The electoral officer shall indicate on the voters list that a ballot has been provided to each elector to whom a mail-in ballot was mailed or otherwise provided and keep a record of the date on which, and the addresses to which, each mail-in ballot was mailed.

Voting By Mail-in Ballot

39(1) An elector may vote by mail-in ballot by

- a) marking the ballot by placing a cross, check mark or other mark, that clearly indicates the elector's choice but does not identify the elector, opposite the name of the candidate or candidates for whom he or she desires to vote;

- b) folding the ballot in a manner that conceals the names of the candidates and any marks but exposes the electoral officer's initials on the back;
- c) placing the ballot in the inner envelope and sealing that envelope;
- d) completing and signing the voter declaration form in the presence of a witness who is at least 18 years of age;
- e) placing the inner envelope and the completed voter declaration form in the outer envelope; and
- f) delivering or, subject to subsection 39(6), mailing the mail-in ballot to the electoral officer before the time at which the polls close on the day of the election.

Elector Assistance with Mail-In Ballot

39(2) Where an elector is unable to vote as provided in subsection 39(1), the elector may enlist the assistance of another person to mark the ballot and complete and sign the voter declaration form in accordance with that subsection.

Witness Attestation

39(3) A witness referred to in paragraph 39(1)(d) shall attest to:

- a) The fact that the person completing and signing the voter declaration form is the person whose name is set out in the form; or
- b) Where the elector enlisted the assistance of another person under subsection 39(2), the fact 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.

Spoiled Mail-in Ballot/Replacement

39(4) An elector who inadvertently spoils a mail-in ballot may obtain another ballot by returning the spoiled ballot to the electoral officer.

Lost Mail-in Ballot/Replacement

39(5) An elector who loses a mail-in ballot may obtain another ballot by delivering to the electoral officer a written affirmation that the elector has lost

the mail-in ballot, signed by the elector in the presence of the electoral officer.

Void Mail-In Ballots

39(6) Mail-in ballots that are not received by the electoral officer before the time at which the polls close on the day of the election are void.

Mail-in Ballot Recipients

39(7) An elector to whom a mail-in ballot was mailed or provided under subsection 38 is not entitled to vote in person at a polling place other than in accordance with subsection 45(2).

Ballot Boxes

40. The electoral officer shall procure or cause to be procured as many ballot boxes as there are polling places, and shall cause to be prepared a sufficient number of ballot papers for the purpose of the election.

Supply Ballot Papers

41. The electoral officer shall, before the poll is open, cause to be delivered to his deputy the ballot papers, materials for marking the ballot papers, and a sufficient number of directions-for-voting as may be prescribed.

Voting Compartments

42. The electoral officer or his deputy shall provide a compartment at each polling place where the electors can mark their ballot papers free from observation, and he may appoint a constable to maintain order at such polling place.

Two Agents Per Candidate

43. A candidate shall be entitled to not more than two agents in a polling place at any one time and shall identify in writing their agents to the electoral officer.

Ballot Box Inspection

44. The electoral officer or his deputy shall, immediately before the commencement of the poll, open the ballot box and call such persons as may be present to witness that it is empty; he shall then lock and properly seal the box to prevent it being opened without breaking the seal and shall place it in view for the reception of the ballots, and the seal shall not be broken nor the box unlocked during the time appointed for taking the poll.

Electors Receive Ballots

45. Subject to subsection 39(7), where a person attends at a polling place for the purpose of voting, the electoral officer or deputy electoral officer shall, if the person's name is set out in the voters list, provide the person with a ballot.

Recording of Ballot Recipient

45(1) The electoral officer or his deputy shall cause to be placed in the proper column of the voters' list a mark opposite the name of every voter receiving a ballot paper.

Mail-in Ballot Returned or Lost

45(2) An elector to whom a mail-in ballot was mailed or provided under section 38 may obtain a ballot and vote in person at a polling place

- a) if the elector returns the mail-in ballot to the electoral officer or deputy electoral officer; or
- b) where the elector has lost the mail-in ballot, the elector provides the electoral officer or deputy electoral officer with a written affirmation that the elector has lost the mail-in ballot, signed by the elector in the presence of the electoral officer or deputy electoral officer.

Explain Vote

45(3) The electoral officer or his deputy may and when requested to do so shall explain the mode of voting to a voter.

Voting

45(4) After receiving a ballot, an elector shall

- a) immediately proceed to the compartment provided for marking ballots;
- b) mark the ballot by placing a cross, check mark or other mark, that clearly indicates the elector's choice but does not identify the elector, opposite the name of the candidate or candidates for whom he or she desires to vote;
- c) fold the ballot in a manner that conceals the names of the candidates and any marks, but exposes the initials on the back; and

- d) deliver the ballot to the electoral officer or deputy electoral officer.

Deposit of Ballot

46. On receipt of a completed ballot, the electoral officer or deputy electoral officer shall, without unfolding the ballot, verify the initials placed on it and deposit it in the ballot box in the presence of the voter and any other persons entitled to be present at the polling place.

Voting Privacy

47. While any voter is in the compartment for the purpose of marking his ballot paper, no other person shall, except as provided in section 48, be allowed in the same compartment or be in any position from which he can see the manner in which such voter marks his ballot paper.

Voters Assistance at Poll

48. At the request of any voter who is unable to vote in the manner set out in subsection 45(4), the electoral officer or deputy electoral deputy shall assist that voter by marking his or her ballot in the manner directed by the voter in the presence of another elector selected by the voter as a witness and place the ballot in the ballot box.

Reasons for Voting Assistance

49. The electoral officer or his deputy shall state in the voters' list in the column for remarks opposite the name of such elector the fact that the ballot paper was marked by him at the request of the voter and the reasons therefor.

Cancelled Ballots

50. A voter who has inadvertently dealt with his ballot paper in such a manner that it cannot be conveniently used shall, upon returning it to the electoral officer or his deputy, be entitled to obtain another ballot paper, and the electoral officer or his deputy shall thereupon write the word "cancelled" upon the spoiled ballot paper and preserve it.

Decline to Vote

51. Any person who has received a ballot paper and who leaves the polling place without delivering the ballot paper to the electoral officer or his deputy, in the manner provided, or if, after receiving the ballot paper, refuses to vote, shall forfeit his right to vote at the election, and the electoral officer or

his deputy shall make an entry in the voters' list in the column for remarks opposite the name of such person to show that such person received the ballot paper and declined to vote, and the electoral officer or his deputy shall mark upon the face of the ballot paper the word "declined", and all ballot papers so marked shall be preserved.

Not Appearing on Voters List

52. An elector whose name does not appear on the voters' list may vote at an election if the electoral officer or his deputy is satisfied that such person is qualified to vote.

Voting after Poll Closed

53. Every elector who is inside the polling place at the time fixed for closing the poll shall be entitled to vote before the poll is closed.

Transportation of Ballots

54. After the polls the ballots shall be immediately transported to the RCMP Station in Powerview by the Electoral Officer and Deputy Electoral Officers for safe-keeping.

Counting of Ballots

55. The counting of ballots shall occur in Sagkeeng the day after the polls beginning at 10:00 am.

Counting of Mail-In Ballots

56. As soon as is practicable after the close of the polls, the electoral officer or deputy electoral officer shall, in the presence of any candidates or their agents who are present, open each envelope containing a mail-in ballot that was received before the close of the polls and, without unfolding the ballot,

- a) reject the ballot if
 - i. it was not accompanied by a voter declaration form, or the voter declaration form is not signed or witnessed,
 - ii. the name of the elector set out in the voter declaration form is not on the voters list, or
 - iii. the voters list shows that the elector has already voted;
or

- b) in any other case, place a mark on the voters list opposite the name of the elector set out in the voter declaration form, and deposit the ballot in a ballot box.

Counting of Votes in Ballot Boxes

57. The Electoral Officer or deputy electoral officer shall, in the presence of any candidates or their agents who are present, open all ballot boxes and

- a) examine the ballot papers and reject all ballot papers
 - i. that have not been supplied by him,
 - ii. by which votes have been given for more candidates than are to be elected, or
 - iii. on which anything appears by which the voter can be identified;
- b) declare a ballot paper containing the names of candidates for more than one office, on which votes are given for more candidates for any office than are to be elected, to be void as regards all the candidates for such office; but such ballot paper shall be good as regards the votes for any other offices in respect of which the voter has not voted for more candidates than are to be elected;
- c) subject to review on recount or on an election appeal, take a note of any objection made by any candidate or his agent to any ballot paper found in the ballot box and decide any question arising out of the objection;
- d) number such objection and place a corresponding number on the back of the ballot paper with the word "allowed" or "disallowed", as the case may be, with his initials;
- e) from the ballots not rejected or declared void under paragraph (b), count the votes given for each candidate who has not withdrawn before the close of the polls; and
- f) prepare and sign a statement of the number of votes for each candidate and the number of ballots rejected.

Recount

58. Where it appears that two or more candidates who would otherwise have been elected have an equal number of votes, the electoral officer shall

hold a recount within 24 hours of counting the last ballot.

Tie-Breaking Election

59. In the event there is a tie after a recount the electoral officer shall hold a further election poll in one place in Sagkeeng within fourteen (14) days after the previous poll at which the eligible voters shall vote for one of the two or more candidates who had an equal number of votes in the election.

Declaring of Elected Candidates

60. Immediately after the completion of the counting of the votes, the electoral officer shall publicly declare to be elected the candidate or candidates having the highest number of votes.

Post Election Results

61. Within four days after completion of the counting of the votes, the electoral officer shall prepare a statement indicating the number of votes cast for each candidate, the number of rejected ballots and the names of the candidates duly declared elected and the statement shall be posted within Sagkeeng, announced on Sagkeeng Radio, and posted on the Sagkeeng website: www.sagkeeng.ca.

Retention of Ballot Papers

62. The electoral officer shall retain, in his or her possession, all ballot papers in sealed containers for a thirty one (31) day period beginning either the day after the vote count, an automatic recount, or until the Election Appeal Board has rendered its final decision whatever occurs last.

Destruction of Ballot Papers

63. After the expiration of the required number of days as provided in section 62, the electoral officer shall destroy the ballot papers in the presence of two witnesses who shall make a written statement that they witnessed the destruction of those ballot papers.

PART 4 ELECTION APPEAL BOARD

Composition of Board

64. The Election Appeal Board shall be composed of five (5) members.

Eligible Persons

65. The following person(s) are eligible to be members of the Election Appeal Board if they are not:

- a) The Electoral Officer;
- b) Deputy Electoral Officers;
- c) A Nominee in the election;
- d) Immediate family of a nominee including siblings, sons, daughters, mother, father, wife, husband, aunts, uncles, nieces, nephews, grandparents, first cousins;
- e) Agent of a nominee (i.e., Scrutineer);
- f) A person closely associated with the conduct of the election;
- g) A person in a conflict of interest with the subject matter of the appeal; or
- h) A person incapable of rendering a fair and objective decision.

Acceptance of Potential Board Members

66. Immediately after the receipt of an election appeal, the electoral officer shall publicly post notice requesting names of those who wish to be considered for membership of the Election Appeal Board.

Posting of Notice – Public Assembly

67. Not less than 7 days after the receipt of an election appeal, the electoral officer shall post notice of a public assembly for the purpose of selecting members of the Election Appeal Board, specifying the day, time and place of the meeting.

Provide Copies of Appeal

68. The electoral officer shall provide copies of the election appeal, this Act and the list of applicants for the Election Appeal Board at the public assembly held pursuant to section 67.

Names Withdrawn for Board

69. At the public assembly the electoral officer shall deposit in a box the collected names and withdraw, one at a time, a name of a person.

Selection of Eligible Persons as Board Member

70. With each person drawn a majority in attendance shall by a show of hands accept or reject a person deemed to be eligible as a Board member based on the criteria set out in section 65.

Five Members Chosen

71. The selection procedure provided in section 69 and 70 will continue until the public assembly has secured the names of five persons to preside as Election Appeal Board members or until all the names submitted for consideration have been exhausted.

Executive Council Appoints

72. Where the procedures set out in this *Act* fails to secure a minimum of five members for an Election Appeal Board the Executive Council shall appoint the Election Appeal Board adhering to the criteria set out in section 65

Notice of Membership

73. Immediately after the selection of Election Appeal Board members, the electoral officer shall notify each selected person of their Board membership and publicly post a list of the members.

Selection of Chairperson

74. Immediately upon notification, or shortly thereafter, the Election Appeal Board shall meet and select a Chairperson by majority vote.

Removal of Board Member

75. At any time during the election appeal process the majority of the Election Appeal Board may remove a member in writing to the Executive Council and the electoral officer where they are of the opinion that a member should not, is unwilling, or cannot participate in the election appeal process.

PART 4 ELECTION APPEAL PROCESS

Submission of Appeal

76. Prior to the expiration of forty-five (45) days after the electoral officer has announced the election results for the purpose of declaring the citizens elected, a Sagkeeng citizen may submit, to the Electoral Officer, with the support 500 citizens over the age of 18 years duly noted in petition form, an election appeal where it is believed

- (a) activity occurred with respect to the election, and/or
- (b) a violation of this *Act* or other Sagkeeng Law

and that should such activity and/or violations have not occurred the results of

the election would have been different.

Appeal

77. The election appeal shall clearly set out the activity and/or violations of this *Act* that were alleged to have occurred that should such activity and/or violations have not occurred the results of the election would have been different.

Copy of Election Appeal to Members

78. Immediately after the selection of the Election Appeal Board, the electoral officer shall provide a copy of the election appeal to each Board member.

Board May Order Appearance and Question

79. The Election Appeal Board shall by registered mail, or in a manner appropriate for the occasion, notify all persons deemed necessary for the proper investigation and adjudication of the election appeal issues.

Authority to Dismiss Appeal or Portion thereof

80. The Election Appeal Board may dismiss the election appeal or any portion thereof where a person's refusal to cooperate renders the Board incapable to properly investigate the appeal or portion thereof.

Written Reasons

81. The Election Appeal Board, upon the completion of its investigation shall provide a detailed written report of its final decision with respect to the issues arising out of the election appeal.

Declare Election Void

82. The Election Appeal Board may order a new election for all members of the Executive Council or a portion thereof.

Presentation of Final Decision

83. The Election Appeal Board shall hold a public meeting and through its Chairperson present its final decision.

Disbandment

84. The Election Appeal Board shall disband after the presentation of its final decision with respect to the issues arising out of the election appeal.

No Appeal of Final Decision

85. There shall be no appeal to any judicial or quasi-judicial institution within Sagkeeng, Canada or the province of Manitoba with respect to the Election Appeal Board's final decision of the issues arising from the election appeal.

Community Ratification

86. This *Act* shall become Sagkeeng law with community ratification through the Sagkeeng Law-making process.

Application

87. This law shall apply to Sagkeeng Executive Council Elections and for greater certainty shall replace the *Indian Act* election provisions that govern the election process of the Fort Alexander Indian Band.

Amendment

88. This *Act* may be amended utilizing the process described in section 3 of the *Process Law*.

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 - (i) activity occurred with respect to the election, and/or
 - (ii) a violation of this *Act* or other Sagkeeng law

and that should such activity and/or violations have not occurred the results of the election would have been different.

Vacancy of Executive Council

11. The office of the Executive Council shall become vacant where

- (a) the petition submitted to the Executive Council, pursuant to subsection 10(b), seeks the removal from office a majority of the Executive Council; or
- (b) the Election Appeal Board, pursuant to subsection 10(c), is of the opinion the election of the Executive Council shall be set aside.

11(1) In the event the Executive Council is removed from office as provided in section 11 the elected council shall remain in office until an election is held.

Notice of By-Election

12. Where any office of the Executive Council becomes vacant as

provided in section 10 more than eight (8) months before an election would normally be held, the Electoral Officer shall post notice of a nomination meeting as provided in Part 2 of this *Act*.

Acting Chief

13. Where the position of Chief has become vacant the Councillor who had the most votes in the preceding election shall assume the position of Acting Chief until an election is held pursuant to the provisions of this *Act*.

Deputy Electoral Officer

14. The electoral officer may appoint persons deputy electoral officers to assist in the conduct of the election.

**PART 2
NOMINATION PROCESS**

Nomination Meeting – Copies of *Sagkeeng Election Act*

15. The electoral officer shall, at least four (4) weeks in advance of the nomination meeting, post public notice of the day, time and place of a nomination meeting and the notice shall indicate copies of this *Act* are available at the Executive Council Administration Office for Sagkeeng citizens. Notice shall be provided through public media, including public posting in Sagkeeng, Sagkeeng Radio, local newspapers and on the Sagkeeng website: www.sagkeeng.ca.

Voters List/Availability

16. The Band Membership Clerk, or the person identified through Sagkeeng law, shall provide the electoral officer with a current list of Fort Alexander band members over the age of 18 years in alphabetical order, of which shall be made available to all band members upon request and available for inspection at the Sagkeeng Executive Council administration office.

Additions/Deletions to Voters List

17. The electoral officer may add or delete electors on the voters list upon being satisfied that a person is eligible or ineligible to be on the list.

Electors' Mailing Addresses/Distribution

18. The electoral officer shall, upon being appointed or soon thereafter, request, through public media, including public posting in Sagkeeng, Sagkeeng Radio, local newspapers and on the Sagkeeng website:

www.sagkeeng.ca, the current mailing addresses from electors that wish to nominate or vote through mail. Electors must clearly give express permission to have their addresses distributed to candidates.

Duration of Nomination Meeting

19. The electoral officer shall open the meeting for nominations for a period of five (5) consecutive hours and record those Sagkeeng citizens who have been nominated.

Nominee and Nomination Fee \$50

20. A Sagkeeng citizen is a nominee for the position of either Chief or Councillor where

(a) that citizen was moved for nomination and seconded by Sagkeeng citizens, and

(b) at the nomination meeting or immediately thereafter has provided to the electoral officer a nonrefundable administration fee of \$50 payable to Sagkeeng First Nation to be used to assist in the cost of the election.

Failure to Pay Nomination Fee

21. The electoral officer shall remove any nominated person on the election ballot if that person has failed to pay the nomination fee.

Mailed Nominations

22. The electoral officer shall publicly announce at the nomination meeting and record any nominations received by mail.

Secondments

23. Nominees may be seconded by mail or by the electorate in attendance at the nomination meeting. Mailed nominations must clearly show eligibility to nominate, including name and treaty status number or in any other manner indicated by Sagkeeng law.

Chief or Councillor Nomination

24. A Sagkeeng citizen can only be nominated for either the position of Chief or Councillor and if nominated for both shall indicate which nomination has been accepted.

Failure to Choose Nomination

25. Where, in section 24, the nominee has failed to choose his or her nomination the electoral officer shall assume the second nomination has been declined.

Nominee Acceptance in Attendance

25. Immediately upon nomination the nominee in attendance shall accept or reject their nomination.

Non Attendance/Acceptance by Letter

27. A nomination may be accepted by letter, signed by the nominee for the position nominated delivered by a nominator to the electoral officer at the nomination meeting.

Contact Nominee Not Non-Attendance

28. The electoral officer shall contact the nominees that were not in attendance at the nomination meeting to confirm their rejection or acceptance of their nomination.

Reasonable Effort – Non Contact of Nominee

29. Should the electoral officer, after making a reasonable effort to contact the nominee, fails to contact the nominee the electoral officer shall deem non contact of nominee as rejection of their nomination.

Voluntary Withdraw of Nomination

30. Sagkeeng citizens may, in writing to the electoral officer withdraw his or her nomination provided written notice has been received two (2) weeks prior to the date of the election poll.

Posting of Nominees

31. The electoral officer shall post a list of nominated citizens in public places in Sagkeeng and on the Sagkeeng website: www.sagkeeng.ca, the day after nomination or shortly thereafter.

Notice of Public Forum

32. Prior to the date of polls the electoral officer shall post notice inviting all nominees to attend a public forum or forums to allow nominees an opportunity to express their views and to respond to questions from Sagkeeng citizens.

PART 3 ELECTION POLL PROCEDURES

Election Polls

33. The electoral officer shall, through public media, including public posting in Sagkeeng, Sagkeeng Radio, local newspapers and on the Sagkeeng website: www.sagkeeng.ca, at least four (4) weeks in advance of the election polls, post public notice of the day, time and place of the election polls and the notice shall indicate copies of this *Act* are available at the Sagkeeng Executive Council administration office.

Times and Place of Polls

34. The Winnipeg election poll and Sagkeeng election polls located on North Shore and South Shore shall be kept open from 8 am. to 6 pm.

Choice of Poll

35. The electoral officer, immediately upon being authorized to oversee the Sagkeeng Election, shall request from the electorate their choice of election poll location through public media, including public posting in Sagkeeng, Sagkeeng Radio, local newspapers and on the Sagkeeng website: www.sagkeeng.ca.

Failure to Inform

36. Electorate who fail to inform the electoral officer of their election polling location choice shall be deemed to have chosen their last place of voting.

Election Ballots

37. The electoral officer shall prepare the election ballots in the following manner:

- a) list candidates in alphabetical order by first and last name of the candidate;
- b) chief and councillor candidates shall be listed separately;
- c) candidates with similar names shall be clearly distinguished with additional information; and
- d) candidates may request the use of nicknames in addition to registered birth name.

Mail-in Ballots

38. At least six (6) weeks before the day on which an election is to be held, the electoral officer shall mail, to every elector who has provided their mailing addresses, a package consisting of

- a) a ballot, initialed on the back by the electoral officer,
- b) an outer, postage-paid return envelope, pre-addressed to the electoral officer,
- c) a second, inner envelope marked "Ballot" for insertion of the completed ballot,
- d) a voter declaration form,
- e) a letter of instruction regarding voting by mail-in ballot, and
- f) a statement identifying the location of all polling places, and advising the elector that he or she may vote in person at a polling place on the day of the election in accordance with subsection 39(2) in lieu of voting by mail-in ballot.

Residents May Receive Mail-in Ballots

38(1) At the request of an elector who resides on the reserve, the electoral officer shall provide an election package as described in section 38.

Record of Mail-In Ballots

39. The electoral officer shall indicate on the voters list that a ballot has been provided to each elector to whom a mail-in ballot was mailed or otherwise provided and keep a record of the date on which, and the addresses to which, each mail-in ballot was mailed.

Voting By Mail-in Ballot

39(1) An elector may vote by mail-in ballot by

- a) marking the ballot by placing a cross, check mark or other mark, that clearly indicates the elector's choice but does not identify the elector, opposite the name of the candidate or candidates for whom he or she desires to vote;

- b) folding the ballot in a manner that conceals the names of the candidates and any marks but exposes the electoral officer's initials on the back;
- c) placing the ballot in the inner envelope and sealing that envelope;
- d) completing and signing the voter declaration form in the presence of a witness who is at least 18 years of age;
- e) placing the inner envelope and the completed voter declaration form in the outer envelope; and
- f) delivering or, subject to subsection 39(6), mailing the mail-in ballot to the electoral officer before the time at which the polls close on the day of the election.

Elector Assistance with Mail-In Ballot

39(2) Where an elector is unable to vote as provided in subsection 39(1), the elector may enlist the assistance of another person to mark the ballot and complete and sign the voter declaration form in accordance with that subsection.

Witness Attestation

39(3) A witness referred to in paragraph 39(1)(d) shall attest to:

- a) The fact that the person completing and signing the voter declaration form is the person whose name is set out in the form; or
- b) Where the elector enlisted the assistance of another person under subsection 39(2), the fact 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.

Spoiled Mail-in Ballot/Replacement

39(4) An elector who inadvertently spoils a mail-in ballot may obtain another ballot by returning the spoiled ballot to the electoral officer.

Lost Mail-in Ballot/Replacement

39(5) An elector who loses a mail-in ballot may obtain another ballot by delivering to the electoral officer a written affirmation that the elector has lost

the mail-in ballot, signed by the elector in the presence of the electoral officer.

Void Mail-In Ballots

39(6) Mail-in ballots that are not received by the electoral officer before the time at which the polls close on the day of the election are void.

Mail-in Ballot Recipients

39(7) An elector to whom a mail-in ballot was mailed or provided under subsection 38 is not entitled to vote in person at a polling place other than in accordance with subsection 45(2).

Ballot Boxes

40. The electoral officer shall procure or cause to be procured as many ballot boxes as there are polling places, and shall cause to be prepared a sufficient number of ballot papers for the purpose of the election.

Supply Ballot Papers

41. The electoral officer shall, before the poll is open, cause to be delivered to his deputy the ballot papers, materials for marking the ballot papers, and a sufficient number of directions-for-voting as may be prescribed.

Voting Compartments

42. The electoral officer or his deputy shall provide a compartment at each polling place where the electors can mark their ballot papers free from observation, and he may appoint a constable to maintain order at such polling place.

Two Agents Per Candidate

43. A candidate shall be entitled to not more than two agents in a polling place at any one time and shall identify in writing their agents to the electoral officer.

Ballot Box Inspection

44. The electoral officer or his deputy shall, immediately before the commencement of the poll, open the ballot box and call such persons as may be present to witness that it is empty; he shall then lock and properly seal the box to prevent it being opened without breaking the seal and shall place it in view for the reception of the ballots, and the seal shall not be broken nor the box unlocked during the time appointed for taking the poll.

Electors Receive Ballots

45. Subject to subsection 39(7), where a person attends at a polling place for the purpose of voting, the electoral officer or deputy electoral officer shall, if the person's name is set out in the voters list, provide the person with a ballot.

Recording of Ballot Recipient

45(1) The electoral officer or his deputy shall cause to be placed in the proper column of the voters' list a mark opposite the name of every voter receiving a ballot paper.

Mail-in Ballot Returned or Lost

45(2) An elector to whom a mail-in ballot was mailed or provided under section 38 may obtain a ballot and vote in person at a polling place

- a) if the elector returns the mail-in ballot to the electoral officer or deputy electoral officer; or
- b) where the elector has lost the mail-in ballot, the elector provides the electoral officer or deputy electoral officer with a written affirmation that the elector has lost the mail-in ballot, signed by the elector in the presence of the electoral officer or deputy electoral officer.

Explain Vote

45(3) The electoral officer or his deputy may and when requested to do so shall explain the mode of voting to a voter.

Voting

45(4) After receiving a ballot, an elector shall

- a) immediately proceed to the compartment provided for marking ballots;
- b) mark the ballot by placing a cross, check mark or other mark, that clearly indicates the elector's choice but does not identify the elector, opposite the name of the candidate or candidates for whom he or she desires to vote;
- c) fold the ballot in a manner that conceals the names of the candidates and any marks, but exposes the initials on the back; and

- d) deliver the ballot to the electoral officer or deputy electoral officer.

Deposit of Ballot

46. On receipt of a completed ballot, the electoral officer or deputy electoral officer shall, without unfolding the ballot, verify the initials placed on it and deposit it in the ballot box in the presence of the voter and any other persons entitled to be present at the polling place.

Voting Privacy

47. While any voter is in the compartment for the purpose of marking his ballot paper, no other person shall, except as provided in section 48, be allowed in the same compartment or be in any position from which he can see the manner in which such voter marks his ballot paper.

Voters Assistance at Poll

48. At the request of any voter who is unable to vote in the manner set out in subsection 45(4), the electoral officer or deputy electoral deputy shall assist that voter by marking his or her ballot in the manner directed by the voter in the presence of another elector selected by the voter as a witness and place the ballot in the ballot box.

Reasons for Voting Assistance

49. The electoral officer or his deputy shall state in the voters' list in the column for remarks opposite the name of such elector the fact that the ballot paper was marked by him at the request of the voter and the reasons therefor.

Cancelled Ballots

50. A voter who has inadvertently dealt with his ballot paper in such a manner that it cannot be conveniently used shall, upon returning it to the electoral officer or his deputy, be entitled to obtain another ballot paper, and the electoral officer or his deputy shall thereupon write the word "cancelled" upon the spoiled ballot paper and preserve it.

Decline to Vote

51. Any person who has received a ballot paper and who leaves the polling place without delivering the ballot paper to the electoral officer or his deputy, in the manner provided, or if, after receiving the ballot paper, refuses to vote, shall forfeit his right to vote at the election, and the electoral officer or

his deputy shall make an entry in the voters' list in the column for remarks opposite the name of such person to show that such person received the ballot paper and declined to vote, and the electoral officer or his deputy shall mark upon the face of the ballot paper the word "declined", and all ballot papers so marked shall be preserved.

Not Appearing on Voters List

52. An elector whose name does not appear on the voters' list may vote at an election if the electoral officer or his deputy is satisfied that such person is qualified to vote.

Voting after Poll Closed

53. Every elector who is inside the polling place at the time fixed for closing the poll shall be entitled to vote before the poll is closed.

Transportation of Ballots

54. After the polls the ballots shall be immediately transported to the RCMP Station in Powerview by the Electoral Officer and Deputy Electoral Officers for safe-keeping.

Counting of Ballots

55. The counting of ballots shall occur in Sagkeeng the day after the polls beginning at 10:00 am.

Counting of Mail-In Ballots

56. As soon as is practicable after the close of the polls, the electoral officer or deputy electoral officer shall, in the presence of any candidates or their agents who are present, open each envelope containing a mail-in ballot that was received before the close of the polls and, without unfolding the ballot,

- a) reject the ballot if
 - i. it was not accompanied by a voter declaration form, or the voter declaration form is not signed or witnessed,
 - ii. the name of the elector set out in the voter declaration form is not on the voters list, or
 - iii. the voters list shows that the elector has already voted;
or

- b) in any other case, place a mark on the voters list opposite the name of the elector set out in the voter declaration form, and deposit the ballot in a ballot box.

Counting of Votes in Ballot Boxes

57. The Electoral Officer or deputy electoral officer shall, in the presence of any candidates or their agents who are present, open all ballot boxes and

- a) examine the ballot papers and reject all ballot papers
 - i. that have not been supplied by him,
 - ii. by which votes have been given for more candidates than are to be elected, or
 - iii. on which anything appears by which the voter can be identified;
- b) declare a ballot paper containing the names of candidates for more than one office, on which votes are given for more candidates for any office than are to be elected, to be void as regards all the candidates for such office; but such ballot paper shall be good as regards the votes for any other offices in respect of which the voter has not voted for more candidates than are to be elected;
- c) subject to review on recount or on an election appeal, take a note of any objection made by any candidate or his agent to any ballot paper found in the ballot box and decide any question arising out of the objection;
- d) number such objection and place a corresponding number on the back of the ballot paper with the word “allowed” or “disallowed”, as the case may be, with his initials;
- e) from the ballots not rejected or declared void under paragraph (b), count the votes given for each candidate who has not withdrawn before the close of the polls; and
- f) prepare and sign a statement of the number of votes for each candidate and the number of ballots rejected.

Recount

58. Where it appears that two or more candidates who would otherwise have been elected have an equal number of votes, the electoral officer shall

hold a recount within 24 hours of counting the last ballot.

Tie-Breaking Election

59. In the event there is a tie after a recount the electoral officer shall hold a further election poll in one place in Sagkeeng within fourteen (14) days after the previous poll at which the eligible voters shall vote for one of the two or more candidates who had an equal number of votes in the election.

Declaring of Elected Candidates

60. Immediately after the completion of the counting of the votes, the electoral officer shall publicly declare to be elected the candidate or candidates having the highest number of votes.

Post Election Results

61. Within four days after completion of the counting of the votes, the electoral officer shall prepare a statement indicating the number of votes cast for each candidate, the number of rejected ballots and the names of the candidates duly declared elected and the statement shall be posted within Sagkeeng, announced on Sagkeeng Radio, and posted on the Sagkeeng website: www.sagkeeng.ca.

Retention of Ballot Papers

62. The electoral officer shall retain, in his or her possession, all ballot papers in sealed containers for a thirty one (31) day period beginning either the day after the vote count, an automatic recount, or until the Election Appeal Board has rendered its final decision whatever occurs last.

Destruction of Ballot Papers

63. After the expiration of the required number of days as provided in section 62, the electoral officer shall destroy the ballot papers in the presence of two witnesses who shall make a written statement that they witnessed the destruction of those ballot papers.

PART 4 ELECTION APPEAL BOARD

Composition of Board

64. The Election Appeal Board shall be composed of five (5) members.

Eligible Persons

65. The following person(s) are eligible to be members of the Election Appeal Board if they are not:

- a) The Electoral Officer;
- b) Deputy Electoral Officers;
- c) A Nominee in the election;
- d) Immediate family of a nominee including siblings, sons, daughters, mother, father, wife, husband, aunts, uncles, nieces, nephews, grandparents, first cousins;
- e) Agent of a nominee (i.e., Scrutineer);
- f) A person closely associated with the conduct of the election;
- g) A person in a conflict of interest with the subject matter of the appeal; or
- h) A person incapable of rendering a fair and objective decision.

Acceptance of Potential Board Members

66. Immediately after the receipt of an election appeal, the electoral officer shall publicly post notice requesting names of those who wish to be considered for membership of the Election Appeal Board.

Posting of Notice – Public Assembly

67. Not less than 7 days after the receipt of an election appeal, the electoral officer shall post notice of a public assembly for the purpose of selecting members of the Election Appeal Board, specifying the day, time and place of the meeting.

Provide Copies of Appeal

68. The electoral officer shall provide copies of the election appeal, this Act and the list of applicants for the Election Appeal Board at the public assembly held pursuant to section 67.

Names Withdrawn for Board

69. At the public assembly the electoral officer shall deposit in a box the collected names and withdraw, one at a time, a name of a person.

Selection of Eligible Persons as Board Member

70. With each person drawn a majority in attendance shall by a show of hands accept or reject a person deemed to be eligible as a Board member based on the criteria set out in section 65.

Five Members Chosen

71. The selection procedure provided in section 69 and 70 will continue until the public assembly has secured the names of five persons to preside as Election Appeal Board members or until all the names submitted for consideration have been exhausted.

Executive Council Appoints

72. Where the procedures set out in this *Act* fails to secure a minimum of five members for an Election Appeal Board the Executive Council shall appoint the Election Appeal Board adhering to the criteria set out in section 65

Notice of Membership

73. Immediately after the selection of Election Appeal Board members, the electoral officer shall notify each selected person of their Board membership and publicly post a list of the members.

Selection of Chairperson

74. Immediately upon notification, or shortly thereafter, the Election Appeal Board shall meet and select a Chairperson by majority vote.

Removal of Board Member

75. At any time during the election appeal process the majority of the Election Appeal Board may remove a member in writing to the Executive Council and the electoral officer where they are of the opinion that a member should not, is unwilling, or cannot participate in the election appeal process.

PART 4 ELECTION APPEAL PROCESS

Submission of Appeal

76. Prior to the expiration of forty-five (45) days after the electoral officer has announced the election results for the purpose of declaring the citizens elected, a Sagkeeng citizen may submit, to the Electoral Officer, with the support 500 citizens over the age of 18 years duly noted in petition form, an election appeal where it is believed

- (a) activity occurred with respect to the election, and/or
- (b) a violation of this *Act* or other Sagkeeng Law

and that should such activity and/or violations have not occurred the results of

the election would have been different.

Appeal

77. The election appeal shall clearly set out the activity and/or violations of this *Act* that were alleged to have occurred that should such activity and/or violations have not occurred the results of the election would have been different.

Copy of Election Appeal to Members

78. Immediately after the selection of the Election Appeal Board, the electoral officer shall provide a copy of the election appeal to each Board member.

Board May Order Appearance and Question

79. The Election Appeal Board shall by registered mail, or in a manner appropriate for the occasion, notify all persons deemed necessary for the proper investigation and adjudication of the election appeal issues.

Authority to Dismiss Appeal or Portion thereof

80. The Election Appeal Board may dismiss the election appeal or any portion thereof where a person's refusal to cooperate renders the Board incapable to properly investigate the appeal or portion thereof.

Written Reasons

81. The Election Appeal Board, upon the completion of its investigation shall provide a detailed written report of its final decision with respect to the issues arising out of the election appeal.

Declare Election Void

82. The Election Appeal Board may order a new election for all members of the Executive Council or a portion thereof.

Presentation of Final Decision

83. The Election Appeal Board shall hold a public meeting and through its Chairperson present its final decision.

Disbandment

84. The Election Appeal Board shall disband after the presentation of its final decision with respect to the issues arising out of the election appeal.

No Appeal of Final Decision

85. There shall be no appeal to any judicial or quasi-judicial institution within Sagkeeng, Canada or the province of Manitoba with respect to the Election Appeal Board's final decision of the issues arising from the election appeal.

Community Ratification

86. This *Act* shall become Sagkeeng law with community ratification through the Sagkeeng Law-making process.

Application

87. This law shall apply to Sagkeeng Executive Council Elections and for greater certainty shall replace the *Indian Act* election provisions that govern the election process of the Fort Alexander Indian Band.

Amendment

88. This *Act* may be amended utilizing the process described in section 3 of the *Process Law*.