

**SAGKEENG FIRST NATION
SAGKEENG LAWMAKERS ASSEMBLY
KĀKĒKANĀWOK ONAKONIGAWIN | ELECTION LAW**

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Sagkeeng Election Law

Contents

| | |
|--|----|
| SAGKEENG ELECTION LAW | 4 |
| Part 1 – General Provisions | 4 |
| Preamble | 4 |
| Title..... | 4 |
| Definitions..... | 4 |
| General Provisions | 6 |
| Eligibility of Electors | 6 |
| Eligibility of Candidates..... | 6 |
| Positions to be Elected | 7 |
| Selection of Electoral Officer | 7 |
| Executive Council Procedures..... | 9 |
| Part 2 – Types of Elections | 10 |
| Term of Office | 10 |
| Automatic Removals of Executive Council Members..... | 10 |
| By-Election Upon Vacancies | 12 |
| Part 3 – Recall Petitions..... | 12 |
| Requirements for a Valid Recall Petition | 12 |
| Petition Proposers | 13 |
| Offences Related to Recall Petitions | 14 |
| Disposition of Recall Petitions | 14 |
| General Provisions Related to Recall Provisions..... | 15 |
| Appeals Related to Recall Provisions..... | 15 |
| Part 4 – Conducting the Election..... | 16 |
| Notice of Election..... | 16 |
| Electors List..... | 16 |
| Corrections to the Voters List | 17 |
| Contact by Mail | 17 |
| Nomination Meeting..... | 18 |
| Multiple Nominations for a Candidate..... | 19 |
| Posting the Candidate List..... | 19 |
| Withdraw of Nomination..... | 19 |

| | |
|---|----|
| Public Forum | 20 |
| Campaigning | 20 |
| Part 5 – Voting and Counting Votes | 22 |
| Voting | 22 |
| Mail Ballots | 22 |
| Election Day | 26 |
| Voting Procedure | 28 |
| Declining to Vote | 29 |
| Secrecy of the Vote | 30 |
| Candidate Representatives | 30 |
| Securing and Preparing to Count Ballots | 31 |
| Counting Ballots | 32 |
| Recounts | 34 |
| Tie Votes | 35 |
| Retention of Ballots | 35 |
| Part 6 – Election Appeal Board | 36 |
| Purpose and Composition of the Board | 36 |
| Appointment of Appeal Board Members | 37 |
| Election Appeal Process | 38 |
| Appeal Hearing | 38 |
| Appeal Timeline | 39 |
| Decision of the EAB | 40 |
| Appeals from the EAB | 40 |
| Part 7 – Enactment | 41 |
| Process Law | 41 |
| Coming into Force and Application | 41 |
| Transition | 41 |
| Supremacy | 41 |
| Amendment | 42 |

SAGKEENG ELECTION LAW

Part 1 – General Provisions

Preamble

THE CREATOR HAS GIVEN US FREEDOM, EQUAL DIGNITY AND RULES TO FOLLOW.

WHEREAS the Anicinabek have lived and governed themselves on their ancestral lands since time immemorial;

AND WHEREAS the Anicinabek of the Sagkeeng First Nation have the inherent authority to adopt, by way of the customary legislative processes set out in the *Sagkeeng Onakonigawin*, a method for choosing its Executive Council;

AND WHEREAS the Anicinabek of the Sagkeeng First Nation have adopted a legislative process which gives every member of the community a voice in its proceedings;

WE THEREFORE set forth here the custom of the Sagkeeng First Nation as to the election of its Executive Council, and thereby constituting the Custom Election Code of the Sagkeeng First Nation.

Title

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

Definitions

2. In this law, the following words and phrases have the meanings set out herein;

- a. Anicinabek: The members of the Sagkeeng First Nation.
- b. Community Assembly: A gathering of the members of Sagkeeng First Nation ("the Community") called by the Executive Council in order to make certain administrative decisions or to seek broad community input and distinct from the exclusively legislative function of the Lawmakers' Assembly.
- c. "Corrupt Practice" means any wrongful act or omission committed, undertaken or carried out by a person in connection with this Custom Election Code including bribery,

harassment, intimidation or any other wrongful act which could reasonably influence the outcome of an election.

- d. Deputy Electoral Officer: Any person appointed by the Electoral Officer to assist with the conduct of an election. A Deputy Electoral Officer must be appointed in **Form A**.
 - e. Delegates Council: Has the same meaning as that given to it in the *Sagkeeng Onakonigawin* (Process Law).
 - f. Election Appeal Board: The body further described in Part 6 of the *Election Law* and responsible for adjudicating appeals related to elections, by-elections and referendums conducted pursuant to this Law.
 - g. Election Day: The final day on which voting takes place, held every four (4) years on the second (2nd) Monday in April.
 - h. Electoral Officer: the person appointed pursuant to this *Law* to conduct and oversee the electoral process, with the consent of a Community Assembly called for that purpose.
 - i. Executive Council: The Chief and six (6) Councillors elected pursuant to this law. The Executive Council may also be known as the “Chief and Council” or the “Band Council”.
 - j. Electors: all Members of the Sagkeeng First Nation (as that term is defined in the *Process Law*) over the age of 18 on the day of the election.
 - k. Electors List: Has the meaning given to it in section 54 of this *Law*.
 - l. General Election: The regularly scheduled election, conducted pursuant to this *Law*, during which one Chief and six (6) Councillors are elected.
 - m. Mail Ballot: A ballot in the same form as an Election Day ballot, sent by mail to an Elector and returned to the Chief Electoral Officer by that Elector, as further described herein.
 - n. Supervising Deputy Electoral Officer: A Deputy Electoral Officer appointed by the Electoral Officer to supervise a voting location while voting is ongoing, or to supervise the counting of ballots at a voting location.
 - o. Sagkeeng First Nation: is commonly known as such, and is known to Her Majesty the Queen as the Fort Alexander Indian Band.
3. All of the terms defined in the Process Law are understood to be defined in the same way in this *Election Law*.

General Provisions

4. Unless otherwise specified in this *Law*, where a provision of this *Law* requires that “public notice” be given, that notice must be given by:
 - a. Posting notices in at least three public buildings on Sagkeeng First Nation;
 - b. Making announcements on Sagkeeng Radio;
 - c. Posting notices on the website of the Sagkeeng First Nation;
 - d. Posting an advertisement in a local newspaper with circulation in Sagkeeng First Nation;
 - e. Posting an advertisement in at least one Winnipeg newspaper.

Eligibility of Electors

5. All Members of Sagkeeng First Nation who have reached the age of 18 years on the date of an election are deemed Electors, and are eligible to vote in every election, by-election and referendum conducted by and for Sagkeeng First Nation.
6. Any Elector may nominate or second the nomination of a prospective candidate for Chief or Councillor.
 - a. No Elector may nominate or second the nomination of more than one candidate for each position.

Eligibility of Candidates

7. In order to be a candidate for an election conducted under this *Law*, a prospective candidate must have their candidacy accepted by the Electoral Officer.
8. The Electoral Officer shall accept as a candidate all prospective candidates who:
 - a. Have submitted a complete nomination form, as prescribed in **Form B**;
 - b. Is an eligible Elector as defined by this *Law*;
 - c. Have not been convicted of any indictable offence under the *Criminal Code*, or any offence whatsoever involving fraud, in the last 5 years, as evidenced by a criminal record check, conducted within six (6) months prior to the date of the Nomination Meeting.

- i. For greater certainty, no conviction arising from the prospective candidate's reasonable assertion of their inherent Indigenous rights or rights granted to them by Treaty shall be considered disqualifying for the purpose of this section.
- d. Does not appear on the Child Abuse Registry as evidenced by a Child Abuse Registry (Vulnerable Sector Screening) check, conducted within six (6) months prior to the date of the Nomination Meeting;
- e. Have been nominated and have had their nomination seconded according to the procedure set out herein.

Positions to be Elected

9. All elections for the Executive Council, including by-elections, shall be held pursuant to this *Law*.

- a. The Executive Council may also be known as the "Chief and Council" or the "Band Council"

10. The Executive Council consists of one position of 'Chief' and six (6) positions of 'Councillor'.

11. The Electoral Officer shall declare elected the candidate for Chief who receives the most votes.

12. The Electoral Officer shall declare elected the six (6) candidates for Councillor who receive the most votes.

Selection of Electoral Officer

13. The Executive Council and the Delegates' Council shall jointly provide to a Community Assembly, the name and qualifications of a proposed Electoral Officer;

- a. For a general Executive Council Election, no later than 90 days prior to Election Day;
- b. For a By-Election, no more than 15 days after the need for the by-election is known;
- c. For any other election, as soon as possible after the need for the election is known.

14. The Community shall consider the Executive Council and Delegates' Council's choice for Electoral Officer and, if the Community agrees that the proposed Electoral Officer is qualified to serve as Electoral Officer and do so in a fair and impartial manner, the Community shall indicate their consent to the Executive and Delegates' Councils by majority vote conducted by show of hands or equivalent means.

15. If, after reviewing the proposed Electoral Officer's qualifications, the Community does not reasonably believe that they are qualified to be Electoral Officer, or reasonably believes that they will not be capable of conducting the election in a fair and impartial manner, they shall indicate to the Executive and Delegates' Councils that they do not consent to the choice.
16. The Executive and Delegates' Councils must not again nominate the rejected Electoral Officer until at least the subsequent election.

Code of Conduct

17. All members of the Executive Council shall, at all times during their term, whether or not they are in Sagkeeng and whether or not they are in public, abide by the rules set out in this section. All members of the Executive Council shall;
 - a. Honour, respect and model the Seven Teachings;
 - b. Strictly maintain the confidentiality of the personal and financial information of employees and members of the Sagkeeng First Nation who, by virtue of their position, members of the Executive Council become aware of personal or financial information about, subject to any other laws of Sagkeeng;
 - c. Treat other members of the Executive Council and other members of the Sagkeeng First Nation with respect;
 - d. Not use their position to unjustly enrich themselves or their immediate families as defined herein;
 - e. Not participate in any decision which would result in a conflict of interest;
 - f. Not engage in conduct which is racist, sexist or otherwise discriminatory;
 - g. Not use their power in an abusive or oppressive manner.
18. Any Member of Sagkeeng First Nation who alleges that a member of the Executive Council has breached any section of the Code of Conduct, may bring their allegation to a joint session of the Executive Council and the Delegates' Council, and the members of the Councils as jointly assembled shall consider the allegation, allow the impugned Council member to make representations, and determine, by majority vote, whether the allegation has merit.
 - a. If the Joint Session of the Councils determines that the allegation does have merit, they may impose any such sanction that they consider reasonable in the circumstances,

including but not limited to; issuing a written or verbal censure, imposing a fine, suspending with or without pay, or removing from office.

- b. A decision of a joint session of the Executive Council and the Delegates' Council made pursuant to section 18 may be appealed to the Judicial Council.

19. If a member of the Executive Council is removed pursuant to section 18 of this law, that person shall not be permitted to be a candidate in the election immediately following their removal, whether that election is a by-election or general election, but may be a candidate in subsequent elections.

Executive Council Procedures

20. The day-to-day administration of Sagkeeng shall be conducted by the Executive Council, at duly convened meetings.

- a. In order for a meeting of the Executive Council to be duly convened;

- i. At least five (5) members of the Executive Council must be present at the meeting;
- ii. The meeting must either be a Regular meeting, or all Executive Council Members must have received notice of the meeting, including its subject and any resolutions to be considered, no less than 48 hours prior to the start of the meeting.

21. Regular meetings of the Executive Council shall be held every second week, on a day and at a time determined by Executive Council Resolution at the first meeting of the Executive Council following an election, held at the call of the Chief.

22. An agenda, including any resolutions to be considered, for each Regular meeting shall be distributed to every member of the Executive Council no later than 24 hours prior to the meeting.

23. The Chief shall chair every meeting of the Executive Council;

- a. If the Chief is absent from a meeting of the Executive Council, the Councillor who received the most votes in the most recent election shall chair the meeting.

24. At each Regular meeting, each member of the Executive Council shall report on the work that they did for Sagkeeng since the previous meeting.

25. By consensus, the members of the Executive Council may be assigned 'portfolios', for which they will have primary responsibility for at least one year.
 - a. All members of the Executive Council may participate in decisions and activities regardless of whether they hold the relevant portfolio for that decision or activity.
26. All meetings of the Executive Council shall be open for any Member of Sagkeeng to attend, unless a majority of the Executive Council votes to conduct a confidential session, in which case only members of the Executive Council and required support personnel may be present.
27. Any member of the Executive Council may invite a person who is not a Member of Sagkeeng to attend an Executive Council Meeting, and shall explain the purpose of that person's presence at the start of the meeting.
28. By majority vote, the Executive Council may remove any person other than a member of the Executive Council from Executive Council meetings, if that person's presence is disruptive or otherwise interfering with the ability of the Executive Council to conduct its business.

Part 2 – Types of Elections

Term of Office

29. Subject to other provisions of this *Law*, members of the Executive Council shall hold office for four (4) years.
30. The successful candidates in an election for the Executive Council shall take office at 9:00am on the day immediately following Election Day.
31. The term of the Executive Council shall expire immediately prior to the incoming Executive Council taking office.
32. For greater certainty, there shall be no limit to the number of terms a member of the Executive Council may serve.

Automatic Removals of Executive Council Members

33. The term of any member of the Executive Council shall end, and that person's position shall become vacant if;
 - a. The member is convicted of an indictable offence;

- i. For greater certainty, no conviction arising from the Executive Council Member's reasonable assertion of their inherent Indigenous rights or rights granted to them by Treaty shall be considered disqualifying for the purpose of this section.
 - b. The member is convicted of any offence involving fraud;
 - c. The member dies or resigns from their office;
 - d. The member is absent from three consecutive meetings of the Executive Council without providing an acceptable explanation for their absence to the Executive Council in advance;
 - e. The member is absent from any one of four quarterly general band meetings, without notifying the Delegates' Council in advance and providing a reason for their absence, which will be provided to the Community;
 - f. The member is absent from any meeting of the Lawmakers' Assembly, without providing the Delegates' Council with a reasonable explanation for their absence in advance;
 - g. Not later than January 31st each year of their term, the member fails to produce to the Community evidence that they have not been convicted of an indictable offence in the previous calendar year, by providing an updated Criminal Record Check to the Executive Council and the Delegates' Council.
 - h. A completed Petition for Recall is submitted to the Executive Council, in accordance with the procedure set out in this *Law*;
 - i. A member is removed in accordance with this *Law*.
 - j. The Election Appeal Board, the Sagkeeng Judicial Council or a court of competent jurisdiction finds pursuant to an appeal submitted in accordance with this *Law* that a violation of this *Law* occurred which on a balance of probabilities, had it not occurred, the results of the election would have been different.
34. Where any position on the Executive Council becomes vacant pursuant to section 33 of this *Law* with 8 months or more prior to the next scheduled election, the Executive Council, with the consent of the Community, shall immediately appoint an Electoral Officer who shall call a by-election and post a notice of Nomination meeting as set out in this *Law* no more than 30 days after the position became vacant.

By-Election Upon Vacancies

35. Where any of the positions of Chief or Councillor become vacant pursuant to section 33 of this *Law* with less than 8 months before the next scheduled election, the candidate(s) who received the next highest number of votes for Councillor in the previous general election shall be appointed as "Acting Councillor".
36. If the position of Chief or Councillor becomes vacant pursuant to section 33 of this *Law* with 8 months or more prior to the next scheduled election, an Electoral Officer shall immediately be appointed pursuant to this law, who shall call a by-election and post a notice of Nomination meeting as set out in this *Law* no more than 30 days after the position becomes vacant.

Part 3 – Recall Petitions

Requirements for a Valid Recall Petition

37. Any Elector may request permission from the Lawmakers Assembly to initiate a Petition for Recall by providing notice at least fourteen (14) days prior to the Lawmakers Assembly meeting that they intend to seek that permission.
- a. At the meeting of the Lawmakers Assembly, the Proposer must make a presentation setting out the reason(s) why they want to initiate a Recall Petition, and the Lawmakers Assembly shall discuss, consider and vote on whether the petition can be initiated.
 - i. When determining whether the Petition may be initiated, the Lawmakers Assembly must consider whether the Petition Proposer has presented a reasonable basis for the removal of the member of the Executive Council.
 - ii. The member or members of the Executive Council who are the subject(s) of the proposed Petition shall be entitled to speak during the Lawmakers Assembly's consideration.
38. After permission is received, a Petition Proposer may submit to the Delegates' Council a petition bearing the names, signatures, and mailing addresses of no fewer than 50% plus 1, of the number of Electors who voted in the immediately preceding general election, requesting that a member of the Executive Council be removed from their office.
- a. In order to be validly submitted, all signatories to the Petition for Recall must;
 - i. Be eligible Electors as defined in this *Law*;

- ii. Provide their full legal name, signature and mailing address;
- iii. Have voted in the previous general election.

1. This section does not apply to a Member who was not an eligible Elector at the previous general election due to being under the age of 18, and such Members shall be permitted to sign a Petition for Recall.

- b. Any signatories not meeting the requirements set out herein shall not be counted for the purpose of determining whether the requisite number of Electors acceded to the Petition for Recall.
 - c. For greater certainty, where 1000 Electors vote in the immediately preceding general election, a Petition for Recall must have not less than 501 Electors as signatories.
39. In order to be considered validly submitted, a Petition for Recall must clearly state on each page on which signatures will be collected;
- a. The name of the Member whose removal from office is sought;
 - b. The reason for their proposed removal, including if applicable the specific section of Sagkeeng or other laws which the Member is alleged to have breached;
 - c. That the Petition for Recall will be submitted to the Delegates' Council in accordance with this section of this *Law*;
 - d. That the Petition for Recall is irrevocable, and that if validly submitted, the Member will be removed from their position;
 - e. The name and contact information of the Proposer or Proposers of the Petition for Recall.

Petition Proposers

40. Each Petition for Recall shall have one or more Proposers, who must be eligible Electors and who must not have been candidates in the immediately preceding General Election.
- a. Proposers of a Petition for Recall must answer any reasonable question put to them on the topic of the Petition for Recall by an Elector, and must provide Electors with a means by which to ask such questions.

- b. Prior to preparing and collecting signatories for a Petition for Recall, Proposers must notify the member of the Executive Council who will be the subject of the Petition for Recall of the reason for their proposed removal

Offences Related to Recall Petitions

- 41. No person may, by act or omission, coerce an Elector to sign or not sign a Petition for Recall.
 - a. For greater certainty, this provision does not prevent Members from engaging in discussions or persuasive activities to convince Electors to sign or not sign a Petition for Recall.
 - b. For the purposes of this section, coercion shall include, but not be limited to, any promise of benefit or threat of a sanction.
 - c. Any person who is aware of behavior in contravention of this section may make Application to the Sagkeeng Judicial Council for a determination, and upon determining that this section has been contravened, the Sagkeeng Judicial Council may impose such punishment as it sees fit, including but not limited to quashing the proposed Petition for Recall.

Disposition of Recall Petitions

- 42. A completed Petition for Recall must be submitted to the Delegates' Council by the Proposer of the Petition for Recall, and the Delegates' Council shall designate a person or persons to objectively confirm the validity of the Petition for Recall and;
 - a. If the Petition for Recall is complete and valid, the Delegates' Council shall inform the Executive Council that the impugned member of the Executive Council is, as of that day, removed from office, and directing that a by-election be called in accordance with this *Law*; or
 - b. If the Petition for Recall is incomplete or otherwise invalid, the Delegates' Council shall inform the Executive Council and shall post public notice advising the Members of Sagkeeng First Nation of such.

General Provisions Related to Recall Provisions

43. A Petition Proposer shall be entitled to view the Electors List from the previous General Election, and must not use that list for any purpose other than determining which Electors are eligible signatories for Petitions for Recall.
44. No Petition for Recall will be valid which is submitted with eight months or less remaining in the regular term of the Executive Council.
45. A Member removed from their position by a valid Petition for Recall may not be nominated as a candidate in the subsequent by-election.
46. If a Petition for Recall is submitted with respect to a member of the Executive Council, and that Petition for Recall is determined to be invalid, no further Petition for Recall may be submitted by the Petition Proposer for the remainder of the Term.

Appeals Related to Recall Provisions

47. The Proposer of a Petition for Recall may bring an Application before the Sagkeeng Judicial Council if they believe that;
 - a. The Petition for Recall was wrongfully deemed invalid; or
 - b. The Petition for Recall was deemed valid but the impugned Member was not removed from their position.
48. On any Application brought under section 47 of this *Law*, the Lawmakers Assembly, as represented by the Delegates Council, shall be the Respondent and the Member of the Executive Council who is the subject of the Petition for Recall shall be granted Intervenor status if they so desire.
49. The Member of the Executive Council who is the subject of a Petition for Recall may bring an Application before the Sagkeeng Judicial Council if the Petition for Recall was deemed valid and the subject Member believes;
 - a. That a corrupt practice occurred with respect to the collection of signatures on the Petition for Recall or with respect to the proposal of the Petition for Recall;
 - b. That any part of this *Law* or any other law of the Sagkeeng First Nation was violated and that such violation may have impacted the outcome of the Petition for Recall;

50. On any Application brought under section 49 of this *Law*, the Lawmakers Assembly and the Proposer of the Petition for Recall may be Respondents, as appropriate, and the Sagkeeng Judicial Council may order the appearance of such other parties as it deems necessary for the fair and just determination of the Application.
51. Where an Application is brought under section 49 of this *Law*, Sagkeeng Judicial Council shall grant an order staying the removal of the Applicant until the final determination of the Application.
52. On an Application brought pursuant to this Part, the Sagkeeng Judicial Council may make such orders as it deems just in the circumstances, including but not limited to;
- a. Quashing or upholding the Petition for Removal; or
 - b. Prohibiting the Proposer from proposing any further Petitions for Removal.

Part 4 – Conducting the Election

Notice of Election

53. At least sixty (60) days prior to Election Day, the Electoral Officer shall post public notices pursuant to section 4 of this *Law* informing Electors of the election. These notices must include:
- a. The day or days, times and locations of all voting places;
 - b. What, if any, documentation the Electors will be required to bring to the voting place in order to receive a ballot;
 - c. Notice that a copy of this *Law* is available for public viewing at the Sagkeeng Executive Council administration office;
 - d. If there will be advance polls, the day or days, times and locations of all advance poll locations; and
 - e. Where the vote includes a referendum or plebiscite, the referendum or plebiscite question;

Electors List

54. The person responsible for maintaining the list of Sagkeeng Members shall provide the list of those members who will be 18 years of age or older on the scheduled date of the election to

the Electoral Officer within 15 days of the Electoral Officer's appointment. This list shall be referred to as the Electors List.

- a. In the event that there is no person responsible for maintaining the list of Sagkeeng Members, the Government Secretary shall produce and provide the list to the Electoral Officer.

55. A copy of the Electors List shall be made available for viewing to all Members at the Sagkeeng Executive Council Administration office.

56. Any Candidate in an election may request and must be provided with a copy of the Electors List containing only the names of eligible Electors and no other information.

Corrections to the Voters List

57. Where any person believes that:

- a. Their name has been incorrectly omitted from the Electors List;
- b. Their name has been included in Electors List but is in some way incorrect;
- c. A person's name has been included on the Electors List but that person should not be eligible to vote.

That person may apply to the Electoral Officer in writing, to have the Electors List corrected.

58. Corrections to the Electors List may be made at any time from the date the Electors List is published, until the close of voting on the day of the Election.

Contact by Mail

59. As soon as possible after being appointed, and in any event no more than 15 days after receiving the Electors List, the Electoral Officer shall request the current mailing addresses or email addresses from any Electors who wish to receive information from the Electoral Officer or from candidates directly. The Electoral Officer shall make these requests publicly and clearly, including in (but not limited to) the following:

- a. Notices posted in all public buildings in Sagkeeng First Nation;
- b. Announcements on Sagkeeng Radio
- c. Notices in local newspapers, including at least one notice posted in a Winnipeg newspaper;

d. Notice posted on the Sagkeeng First Nation website.

60. Electors who provide their mailing address or email address in order to receive information from candidates must sign and submit the declaration contained in **FORM D**, authorizing the Electoral Officer to provide their address to the candidates.

Nomination Meeting

61. Any Member who is eligible to be a candidate pursuant to this *Law* may be nominated as a candidate at the Nomination Meeting.

62. The Nomination Meeting shall be held not less than 45 days, and not more than 60 days, prior to the election.

63. The Nomination meeting shall continue for four (4) hours from the time it begins.

64. At least fifteen (15) days in advance of the nomination meeting, the Electoral Officer shall post public notices of the Nomination Meeting.

a. The Notice of Nomination Meeting shall, where practicable, be accompanied by copies of this *Law*.

b. Where it is not reasonable to post this *Law* with the Notice, instructions shall be provided in the notice for Members to obtain copies of this *Law*.

65. The Notice of Nomination Meeting must include:

a. The date, time and location of the Nomination Meeting;

b. Notice that the Nomination Meeting will last for four hours from the time it begins;

c. The eligibility criteria to become a candidate, as set out in section 8 of this *Law*;

d. Instructions on how a prospective candidate can be nominated, as set out in section 6 of this *Law*;

66. Only an Elector may nominate or second the nomination of a prospective candidate.

67. When a Member nominates a candidate, they must make a statement to those present explaining why they are nominating that person. A Member not present at the Nomination Meeting may submit their Nomination by sending a Nomination Form to the Electoral Officer and including a written statement explaining why they are nominating that person. At the Nomination Meeting, a person designated by the Electoral Officer, but not the Electoral Officer themselves, shall read the written statement to those present.

- a. A Nomination Form sent by a Member not present at the Nomination Meeting must be received by the Electoral Officer no later than the day prior to the Nomination Meeting.
68. Upon accepting their nomination, the Candidate must make a statement to those present explaining why they are running for the position and describe their qualifications, education (traditional and academic), or experience.
69. After a prospective candidate is nominated and their nomination is seconded, that prospective candidate shall indicate to the Electoral Officer whether they accept or decline their nomination.
- a. If a prospective candidate is unable to attend the Nomination Meeting, they may provide the Electoral Officer with written confirmation that they accept their Nomination along with an explanation for their absence, and the said explanation will be read aloud by the Electoral Officer. This confirmation must be received by the Electoral Officer before the close of the Nomination Meeting, and must be signed by the candidate and at least one witness.
70. A Member becomes a candidate upon their acceptance as a candidate by the Electoral Officer in accordance with section 8 of this *Law*.

Multiple Nominations for a Candidate

71. A Member may only be nominated for the position of Chief or the position of Councillor, and if a Member is nominated for both positions, they shall indicate prior to the end of the Nomination meeting which nomination they will accept. If the Member fails to indicate which Nomination they accept, the Electoral Officer shall not accept their Nomination for either position.

Posting the Candidate List

72. Within 24 hours following the end of the Nomination Meeting, the Electoral officer shall confirm which candidates met the requirements of section 8 of this *Law* and shall provide public notice of the list of accepted candidates as soon as possible thereafter.

Withdraw of Nomination

73. A candidate whose candidacy has been accepted but who no longer wants to be a candidate, must provide notice to the Electoral Officer in **Form E** no later than 21 days prior to Election Day. Any candidate who has not withdrawn by that time will be listed on the ballot.

Public Forum

74. The Electoral Officer shall organize and hold at least one Public Forum in Sagkeeng First Nation for candidates to present their views to Members and to respond to questions from Members.
75. The format of the Forum shall be at the discretion of the Electoral Officer who shall consult with candidates prior to determining the format but is not bound by the suggestions of the candidates.
76. Regardless of the format, the following rules shall apply to the Public Forum;
- a. All candidates for Chief and all candidates for Councillor shall be entitled to speak for the same amount of time as the others running for their position, but the candidates running for Chief may be given more time to speak than the candidates running for Councillor.
 - b. The order in which candidates speak shall be determined by the Electoral Officer placing the name of each candidate on identical pieces of paper in a container and one at a time, choosing names from the container. The order in which candidates' names are chosen from the container is the order in which they will speak.
 - i. The Electoral Officer shall provide candidates with notice of when the order of speakers will be selected, and any Candidate or their designate may attend and witness the order selection process.
 - c. The Electoral Officer shall ensure that adequate security is present at the forum, and that no abuse, harassment or threatening conduct is permitted to occur.
 - d. Attendance at the Public Forum by candidates is optional.

Campaigning

77. From the close of the Nomination Meeting until the close of voting on Election Day candidates must refrain from any activity which could reasonably be construed as "buying votes", including but not limited to:
- a. Providing money to Sagkeeng members (whether or not they are Electors) for any purpose whatsoever;
 - b. Providing goods or services to Sagkeeng members at less than fair market value;

- c. Promising Sagkeeng members access, benefits or positions in exchange for their support, whether explicit or implied;
- 78. For greater clarity, this section does not include benefits of general application.
 - a. “Benefits of general application” refers to any benefit (whether monetary or otherwise) to which a Member would have been entitled regardless of an ongoing election.
- 79. For greater certainty, section 77 prohibits any current members of the Executive Council from accessing any funding provided through the Discretionary Funding, Special Needs Funding or any other monies derived from Band programming for the specified period.
- 80. A candidate will have breached section 77 of this *Law* if the decision maker determines on a balance of probabilities that the candidate committed the prohibited Act.
- 81. Notwithstanding any other provision of this *Law*, any candidate who is found to have breached section 77 of this *Law* will be removed from the ballot or, if the election has already taken place and the Candidate was successful, will be removed from office and an immediate by-election called.
- 82. If a Member believes that a Candidate has breached section 77 of this *Law* they may bring their allegations to;
 - a. The Electoral Officer, if the complaint is made prior to the close of voting on Election Day;
 - i. Upon receiving allegations pursuant to this Section, the Electoral Officer shall investigate whether the complaint is substantiated, permit the accused candidate to make representations, and resolve the complaint in a manner which reasonably protects the integrity of the election process.
 - ii. If a complaint under this section is substantiated, the Electoral Officer may issue a sanction to the candidate up to, and including, disqualification, or such lesser sanction as may be reasonable in the circumstance.
 - iii. A decision of the Electoral Officer pursuant to this section may be appealed to the Election Appeal Board.
 - b. The Election Appeal Board, if the complaint is made after the close of voting on Election Day;

83. Any current member of the Executive Council who is a candidate for election is prohibited from accessing or making use for the purpose of campaigning any information, lists, technologies, or tools which would not be available to them but for their position on the Executive Council.
84. During the campaign, every candidate must produce a platform stating their positions on issues of importance to the Members with sufficient detail so that a reasonable Elector is able to determine why they are running for office, and what they hope to accomplish while in office.

Part 5 – Voting and Counting Votes

Voting

85. The Electoral Officer shall prepare the ballots for the election as set out herein:
- a. Separate ballots shall be prepared for the position of Chief and the position of Councillor;
 - b. Candidates shall be listed in alphabetical order by their first name;
 - c. Candidates with names which, in the opinion of the Electoral Officer, may be confused for each other, shall be clearly distinguished with additional identifying information at the discretion of the Electoral Officer;
 - d. Candidates may request the use of nicknames, which shall be included in the ballot along with the candidates' registered birth names.
 - a. The Electoral Officer shall have the discretion to refuse to include nicknames which, in their opinion;
 - i. Are vulgar or derogatory;
 - ii. Are not generally used to identify the Candidate; or
 - iii. May confuse an Elector as to the identity of the Candidate.

Mail Ballots

86. Electors shall not be entitled to request or receive a Mail Ballot unless;
- a. the Elector's permanent or long-term residence is outside Treaty 1 Territory;

- b. the Elector temporarily lives outside Treaty 1 Territory for employment, medical or educational purposes;
 - c. the Elector lives within Treaty 1 Territory, but is unable to attend a voting location without suffering undue hardship.
 - i. For the purposes of this section, 'undue hardship' includes but is not limited to, infirmity, loss or potential loss of employment, unreasonable expense and school examinations or other assessments.
87. Any Elector described in sections 86(a), 86(b) and 86(c) of this *Law* may request a Mail Ballot by completing **Form F**, which the Electoral Officer must make available to any person who requests it, and returning it, along with the required supporting documentation set out in that Form, to the Chief Electoral Officer, which must be received no later than 21 calendar days prior to Election Day.
88. The Electoral Officer shall not be required to advertise the availability of Mail Ballots, but must explain the procedure for requesting a Mail Ballot to any Elector who meets the criteria set out in section 86 herein, and who requests information relating to Mail Ballots in writing.
89. Only the Elector who is entitled to a Mail Ballot pursuant to this part may complete **Form F** and request the Mail Ballot.
- a. It is a Corrupt Practice under this Law for any person to fill in a **Form F** for any other person.
 - i. The Chief Electoral Officer may assist, or designate a person or persons to assist Electors filling in **Form F**.
 - b. It is a Corrupt Practice under this Law for any person to submit, or facilitate the submission of a **Form F** for any Elector other than themselves.
90. Upon receiving a completed **Form F**, the Chief Electoral Officer shall confirm the information contained on that form, and shall verify that the Elector whose name appears on the form did in fact submit the form, and does in fact qualify for a Mail Ballot pursuant to this Part.
- a. Any Elector who submits a **Form F** but fails to verify their identity and qualifications to the satisfaction of the Chief Electoral Officer shall not be entitled to a Mail Ballot.

91. It is a Corrupt Practice under this Law for a person to offer any reward, benefit or incentive, or threaten any consequence, in exchange for a person requesting a Mail Ballot, or in exchange for a person voting for or against any Candidate or Candidates.
- a. For the purposes of this section, a policy proposal or election platform which is of general application, shall not be considered a reward, benefit, incentive or consequence.
92. The Chief Electoral Officer shall arrange for a secure post office box for receipt of all **Form F** and all Mail Ballots.
- a. The Chief Electoral Officer shall take such measures as are necessary to ensure that no person other than the Chief Electoral Officer has access to the post office box.
93. Mail Ballots shall be identical to the ballots used for voting on Election Day.
94. Mail Ballots sent to Electors who properly requested them shall also include a Declaration in **Form F-1**, an inner envelope and an outer envelope.
- a. The outer envelope shall have sufficient postal stamps to allow for its return to the Chief Electoral Officer at no additional cost to the Elector. It shall be pre-addressed for delivery to the secure post office box.
 - b. The inner envelope shall be smaller than, and shall fit inside, the outer envelope. It shall be blank, except it shall have written on both sides the words "CONFIDENTIAL BALLOT ENVELOPE- VOID IF RETURNED UNSEALED".
 - c. Before being sent to the Elector, the Chief Electoral Officer shall initial the Mail Ballot in the same manner as the Ballots on Election Day.
 - d. The Chief Electoral Officer shall also send with the Mail Ballot a guide for the Elector, setting out in sufficient detail the rules and requirements for completing their Mail Ballot.
95. Mail Ballots shall be sent to those Electors who properly requested them pursuant to this Law by Canada Post's Registered Mail service.
96. Electors who receive a Mail Ballot shall be encouraged by the Electoral Officer to return their Mail Ballots by Registered Mail, but no Mail Ballot will be rejected solely because it was returned by mail service other than Registered Mail.
97. Any Mail Ballot received in an unsealed envelope shall not be counted. Such Ballots shall be marked during the counting of ballots as Rejected.

98. Any Mail Ballot received without a Declaration shall not be counted. Such Ballots shall be marked during the counting of ballots as Rejected
99. Only Mail Ballots received as of the time of regular postal delivery on Election Day, or the last day of postal delivery prior to Election Day, shall be counted.
100. The list of Electors who received Mail Ballots shall be confidential, and no person other than the Chief Electoral Officer and Deputy Electoral Officers shall be permitted to know who appears on that list until voting begins on Election Day.

Advance Polls

101. In the case of either By-elections or General Elections, there shall be one day of voting prior to Election Day, this day shall be referred to as 'Advance Polls'.
102. Advance Polls will be located in one central location in Sagkeeng First Nation, not less than 3 days prior to Election Day and not more than 7 days prior to Election Day.
- a. The location of Advance Polls shall alternate between the North Shore and the South Shore of Sagkeeng First Nation in each subsequent election.
 - b. Advance Polls shall take place on a weekend, and voting during Advance Polls shall be open from 8am until 8pm.
103. Any Elector may vote during Advance Polls, and Electors shall not be required to provide a reason for voting during Advance Polls.
- a. Notwithstanding this section, any Elector who received a Mail Ballot shall not be entitled to vote during Advance Polls.
104. An Elector who votes during Advance Polls is not permitted to vote again on Election Day.
105. The list of Electors who voted during Advance Polls shall be kept separate from all other lists of Electors.
- a. Immediately following the close of Advance Polls, the Electoral Officer shall count the number of voters who cast ballots and shall announce that number to the community by posting notice at all Voting Locations and by writing the number of people who voted on the exterior of the Advance Poll Ballot box.

- b. Prior to counting the Advance Poll ballots, the Electoral Officer shall reconcile the number of ballots in the Advance Poll ballot box and ensure that they match the number of people who are listed as voted on the Advance Poll ballot box.
- 106. Following the close of voting during Advance Polls, the Electoral Officer shall mark the ballot box with the words "Advance Polls" and seal the ballot boxes in the presence of witnesses, including any Candidate Representatives present.
 - a. The Electoral Officer shall then sign the seal, and any witnesses present may also sign the seal.
- 107. Once the ballot box is sealed, the Electoral Officer shall store the Advance Poll Ballot Box in a secure location and in such a manner as to prevent any tampering from taking place.
 - a. In order to secure the ballots between Advance Polls and Election Day, the Electoral Officer may contract for the services of professional services, including but not limited to an accounting firm, security services firm, or the RCMP.
- 108. Following the close of voting on Election Day, the Advance Poll ballot box shall be taken to the voting location supervised by the Electoral Officer, and they shall be counted by the Electoral Officer in the voting location which they are supervising at the close of that polling station. Prior to opening the Ballot Box, the Electoral Officer shall ensure that their signature, and the signatures of any witnesses who signed the seal, appear on the seal.

Election Day

- 109. On Election Day there shall be three voting locations;
 - a. On the North shore, in Sagkeeng First Nation;
 - b. On the South shore, in Sagkeeng First Nation;
 - c. In Winnipeg.
- 110. An Elector may vote at any voting location. Voting shall only take place at the three voting locations.
 - a. Any Elector who was sent a Mail Ballot, regardless of whether that Elector returned the Mail Ballot, shall be ineligible to vote at a voting location on Election Day.
 - b. Notwithstanding section 110.a), an Elector who was sent a Mail Ballot but did not return it in time, may bring the Mail Ballot to a voting location on Election Day and shall be

permitted to vote by depositing their Mail Ballot in the ballot box. A Mail Ballot will only be accepted if it is sealed in the proper envelopes and includes the signed declaration as required by this Law.

111. Voting shall take place from 8:00am until 8:00pm.

- a. Any Elector who, at the time for the closing of voting, is in line to vote at any of the voting places, shall be entitled to cast their vote, even if doing so requires the voting place to continue operating after 8:00pm, but any person who is not in line at 8:00pm and who has not already voted, will not be permitted to vote.

112. Prior to the beginning of voting on Election Day, the Electoral Officer shall make appropriate marks on all lists of Electors which will be used to mark who has voted, in order to clearly identify which Electors voted during Advance Polls and which Electors received Mail Ballots.

- a. No Elector who voted during Advance Polls or who received a Mail Ballot shall be eligible to vote on Election Day.

113. The Electoral Officer shall ensure that there are sufficient ballots and ballot boxes to permit every Elector to cast their vote.

114. At every voting location, the Electoral Officer shall ensure that there is a ballot box, sufficient ballots to permit every Elector to vote, a privacy screen to allow Electors to mark their ballots in private, instructions on how to complete a ballot, and a list of all candidates.

115. Immediately before the opening of the voting location, the Electoral Officer or Deputy Electoral Officer shall open the ballot box and invite all persons who may be present to observe that it is empty. The ballot box shall immediately thereafter be closed, sealed and secured so as to prevent the ballot box from being opened prior to the close of voting.

116. When an Elector attends at a voting location for the purpose of voting, the Electoral Officer or Deputy Electoral Officer shall determine whether that Elector's name appears on the Voters List, and if it does, shall determine whether they voted during advance polls. If the Elector did not vote during advance polls, the Electoral Officer or Deputy Electoral Officer shall place their mark on the back of the ballot, provide the Elector with the ballot and place a mark adjacent to the Electors name on the voters list, indicating that they voted.

117. Electors are only required to provide identification prior to receiving their ballot if;

- a. A Candidate Representative has challenged their eligibility to vote;

- b. The Electoral Officer or Deputy Electoral Officer has reasonable doubt that the Elector is who they claim to be;
 - c. Their name does not appear on the voters list and they wish to be added.
118. An elector whose name does not appear on the voters list on Election Day may present identification to the Electoral Officer and sign a declaration in **Form G** in order to be provided with a ballot and added to the Voters List.
119. An Elector whose name does not appear on the Electors List on Election Day and who does not have identification sufficient to be added to the List pursuant to section 118, may ask an Elector who is on the Electors' List to vouch for their status as an Eligible Elector if they know that Elector to be eligible, by executing a Declaration in **Form H**.
- a. An Elector may only vouch for one Elector in an Election.
120. Each Elector may only vote once in an election.
- a. Upon receiving their ballot, the Electoral Officer or Deputy Electoral Officer will stamp the back of the Elector's left hand between their thumb and index finger, with indelible ink to indicate that they have received a ballot.
 - i. Any Elector who refuses to have a stamp applied pursuant to this section shall not be entitled to receive a ballot.

Voting Procedure

121. Prior to giving an Elector a ballot, the Electoral Officer or Deputy Electoral Officer shall inspect the left hand of the Elector and ensure that it does not bear a stamp indicating that they had previously received a ballot. Any Elector whose left hand bears the stamp set out in section 120.a) must not be given a ballot.
122. Prior to giving an Elector a ballot, and in the presence of the Elector, the Electoral Officer or Deputy Electoral Officer shall initial the back of the ballot.
123. Upon receiving a ballot, an Elector shall immediately proceed to the compartment designated for marking ballots, and may cast their vote as follows:
- a. For up to one (1) candidate for Chief, by making a mark in the space provided next to their chosen candidate's name which clearly indicates the Elector's intention, but the Elector shall not make a mark which can reasonably identify the Elector.

- b. For up to six (6) candidates for Councillor, by making marks in the spaces provided next to their chosen candidates' names, which clearly indicate the Electors intention, but the Elector shall not make a mark which can reasonably identify the Elector.
- 124. Upon marking their ballot, the Elector shall fold their ballot in a manner which conceals the names of the candidates and the Electors marks, but exposes the initials on the back and shall deliver the ballot to the Electoral Officer or Deputy Electoral Officer.
 - a. After the Elector marks the ballot, the Electoral Officer or Deputy Electoral Officer shall inspect the back of the ballot, without revealing or observing the contents of the marked ballot, to determine if the ballot bears their initials. If it does, the Elector shall be permitted to put the ballot into the ballot box.
- 125. An Elector who inadvertently dealt with their ballot in such a manner that it cannot be conveniently used may return to the Electoral Officer or Deputy Electoral Officer, explain why their ballot is not usable, and request a new ballot.
 - a. Upon receiving a request for a replacement ballot, the Electoral Officer or Deputy Electoral Officer shall write the word "cancelled" on the ballot and preserve the cancelled ballot separate from all other ballots.
- 126. If an Eligible Elector is unable to attend a voting location on Election Day in order to vote as a result of their health, they may provide the Electoral Officer with a doctor's note indicating that they are unable to attend to vote, no later than five (5) days prior to Election Day and request that alternate arrangements be made for their vote to be taken, and the Electoral Officer shall make such alternate arrangements.
 - a. At all times, ballots collected by the Electoral Officer must be kept in a secure location and the ballots must be secured from tampering.

Declining to Vote

- 127. No person other than the Electoral Officer or Deputy Electoral Officer is permitted to remove a ballot or ballot box from a voting location, for any reason whatsoever.
- 128. Any Elector who has received a ballot and who leaves the voting location without putting the ballot in the ballot box, shall be deemed to have declined their right to vote, and shall not be permitted to afterwards place their ballot in the ballot box, receive a new ballot, or by any other means, cast a vote.

- a. The Electoral Officer or Deputy Electoral Officer shall maintain a tally of ballots which are given to Electors but not returned or placed in the Ballot Box.

129. An Elector who, after being given a ballot, chooses not to vote, may return the ballot to the Electoral Officer or Deputy Electoral Officer, who shall mark on the face of the ballot the word “Declined” and shall preserve the declined ballot separate from all other ballots.

Secrecy of the Vote

130. Except as set out in this section, no other person shall be allowed in the same voting compartment or be allowed to be in any position from which they could reasonably see the manner in which the Elector marks their ballot paper.

- a. This section shall not apply to a minor in the care of the Elector who cannot reasonably be left without the Elector outside the voting area.

131. No person at a voting location may, by any action or omission, influence or intimidate an Elector, or attempt to influence or intimidate an Elector with respect to the manner of their voting.

132. At the request of any Elector who is unable to vote on their own, the Electoral Officer or Deputy Electoral Officer may assist that voter by marking the Elector's ballot in the manner directed by the Elector, and in the presence of another person selected by the Elector as a witness.

- a. Prior to depositing the ballot of an Elector who was assisted in the ballot box, the Elector and the person who assisted the Elector shall execute a declaration in **Form I**.

Candidate Representatives

133. Each candidate is entitled to have not more than two representatives in each voting location at any given time.

134. Candidate Representatives shall identify themselves to the Electoral Officer or Deputy Electoral Officer promptly upon arrival at a voting location, and shall provide the Electoral Officer or Deputy Electoral Officer with their completed **Form J**, confirming their appointment as a candidate representative.

- a. No person shall be considered a candidate representative unless they have provided a completed **Form J** to the Electoral Officer or Deputy Electoral Officer.

135. While in the voting location, candidate representatives must not engage in any campaign activity, must not attempt to influence Electors and must not interfere with the voting process.
136. The Electoral Officer or Deputy Electoral Officer may order a Candidate Representative to leave the voting location if;
- a. They are engaging in any conduct prohibited in this *Law*;
 - b. They are interfering with the voting process;
137. Candidate representatives who are asked to leave by a representative of the Electoral Officer must leave the voting location immediately.
- a. Within ten (10) days of the Election Day, the Electoral Officer shall provide the candidate with written reasons for the removal of their Candidate Representative.
138. A candidate representative who believes that a person requesting a ballot is not in fact an Eligible Elector, has the right to challenge the eligibility to vote of that person, by stating to the Electoral Officer or the Deputy Electoral Officer the nature of their objection.
- a. All objections must be made prior to the Elector receiving a ballot. Any objections made after the Elector receives their ballot will not be considered.
139. Upon receiving a challenge pursuant to section 138 of this *Law*, the Electoral Officer or Deputy Electoral Officer shall consider whether or not the person who is the subject of the challenge is in fact an eligible Elector.
- a. The Electoral Officer or Deputy Electoral Officer may ask the Elector to produce additional identification.
140. The decision of the Electoral Officer with respect to the eligibility of Electors to vote is final and not subject to appeal.
141. While in the voting location, Candidate Representatives must not speak directly to Electors, and shall direct any comments or questions to the Electoral Officer or Deputy Electoral Officer.

Securing and Preparing to Count Ballots

142. Immediately after voting ends on Election Day, the senior election official at each voting location shall collect the ballot boxes and prepare to count the ballots.
- a. All ballots shall be counted immediately following the close of polls at that voting location.

- b. Prior to beginning the counting process, the Deputy Electoral Officers supervising the count at the two voting locations not supervised by the Electoral Officer must contact the Electoral Officer by telephone and confirm that they are prepared to begin the counting process.

143. The Electoral Officer and Deputy Electoral Officers shall count the ballots from all voting locations concurrently, and in the same locations as the ballots were cast, immediately following the close of voting.

144. Each candidate may appoint no more than two (2) Candidate Representatives to be present and witness the counting of ballots at each voting location, by providing their representatives with a completed **Form J**.

Counting Ballots

145. The ballots cast during Advance Polls and Mail Ballots shall be counted by the Electoral Officer at the Polling Location which they are supervising, in the same manner as the ballots cast on Election Day are counted.

146. Prior to the close of voting on Election Day but after the postal delivery for Election Day, the Electoral Officer, accompanied by bonded security personnel retained for that purpose, shall retrieve all Mail Ballots received by the deadline.

147. After the close of the polling station, and in the presence of bonded security personnel and not more than one Candidate Representative per Candidate, the Electoral Officer shall open each outer envelope, determine whether the Mail Ballot was properly submitted, and if so, deposit the Inner Envelope, still sealed, into a sealed and empty ballot box.

- a. A Mail Ballot will be properly submitted pursuant to this section if it is accompanied by a properly executed Declaration and the inner envelope remains sealed upon receipt.

148. The Electoral Officer or Supervising Deputy Electoral Officer shall, in the presence of any Candidates or Candidate Representatives who are present, open all ballot boxes and;

- a. Open the inner envelopes of all Mail Ballots and discard the envelopes;
- b. Before counting any votes, examine the ballot papers and set aside as rejected all ballot papers which;
 - i. Do not bear the Electoral Officer or Deputy Electoral Officer's signature on the back;

- ii. Bear marks by which the Elector can reasonably be identified;
 - iii. Indicate votes for more than one candidate for Chief, or more than six (6) candidates for Councillor.
- c. Record any objections made by any candidate or Candidate Representative to any ballot in the ballot box, and make a determination on any question arising out of the objection.
 - i. The person making the objection and the reason for the objection shall be recorded in **Form K**, and the corresponding number of the objection shall be written on the back of the ballot in question, along with the word "Allowed" or "Disallowed", depending on the determination of the Electoral Officer or Supervising Deputy Electoral Officer
 - 1. Any objection for which a determination was made by a Deputy Electoral Officer must be reviewed by the Electoral Officer and either confirmed or overturned.
 - ii. All ballots for which there was an objection whether ruled 'allowed' or 'disallowed' shall be kept separate from the other ballots.
- d. From the ballots not rejected or disallowed pursuant to section 148(a) and (c), count the votes for each Candidate and record the total number of votes for each candidate in a Statement of Votes, in **Form L**.
 - a. When counting ballots, the Electoral Officer or Supervising Deputy Electoral Officer shall ensure that the mark on each counted ballot is reasonably visible to all Candidate Representatives who were present.
- e. Prior to the end of the counting of ballots, the Electoral Officer or Supervising Deputy Electoral Officer shall ensure that the number of ballots counted is equal to the number of ballots given out at the voting location according to the records kept throughout the day. If the number of ballots cannot be reconciled, the Statement of Votes must include a statement to that effect.
- f. Subject to any other provision of this *Law*, upon the completion of the count of votes, the Electoral Officer or Deputy Electoral Officer shall return the ballots to the ballot box, ensuring that all rejected, spoiled and objected ballots remain separate, and shall seal the ballot box.

149. Subject to section 150 of this *Law*, upon the completion of **Form L** by a Supervising Deputy Electoral Officer, that Deputy Electoral Officer shall immediately, by telephone, contact the Electoral Officer or their designate and report the contents of their **Form L**.

- a. The Supervising Deputy Electoral Officers shall, as soon as practicable after reporting their results, travel to the location of the Electoral Officer and deliver by hand their original **Form L**, along with the re-sealed ballot box containing all of the ballots cast at their voting location.
- b. Upon receiving the results of all voting locations, the Electoral Officer shall post in a public place in Sagkeeng First Nation a Statement of Unofficial Results.
- c. 48 hours after the close of voting, and after verifying that each **Form L** is complete and that all recounts are complete, the Electoral Officer shall post or cause to be posted in a public place in Sagkeeng First Nation a Statement of Official Results.

Recounts

150. In the event that the total number of ballots counted at a voting location is not equal to the number of ballots which were recorded as having been distributed, the Electoral Officer or Supervising Deputy Electoral Officer shall conduct a recount in order to ensure that the number of ballots counted is reconciled to the number of ballots distributed.

151. In the event that the counting of ballots at a voting location results in two or more candidates for the same position having the same number of votes, or the number of votes separating two candidates is ten (10) or fewer, the Electoral Officer or Supervising Deputy Electoral Officer shall immediately conduct a recount of the ballots for that position, from that voting location.

152. In the event that total vote count from all voting locations combined results in two or more candidates for the same position having the same number of votes, or the number of votes separating two candidates is ten (10) or fewer, the Electoral Officer shall conduct a recount of all of the ballots for that position as soon as all of the ballots have been brought to the Electoral Officer's location.

153. In the event that two or more candidates for the same position are separated in the total number of votes they received by 5% or less of the total votes cast, either affected candidate may request a recount in writing (including by email, if the email is sent from the email address which the Electoral Officer has on file for that candidate), and the Electoral Officer shall conduct a recount as soon as is practicable thereafter.

- a. For greater certainty, if 1000 total votes were cast for the position of councillor, and two candidates were separated by 50 votes or fewer, either candidate would be entitled to request a recount.

154. No recounts other than those required pursuant to sections 150, 151, 152 and 153 of this *Law* will be conducted, unless ordered by the Election Appeal Committee, the Sagkeeng Judicial Council, or a court of competent jurisdiction.

Tie Votes

155. Where, after a recount, two candidates remain tied, and where there is only one position to be occupied, the tie will be broken by flipping a coin.

- a. The tied candidate whose first name comes first in alphabetic order shall be assigned the “head” of the coin.
- b. The tied candidate whose first name comes second in alphabetic order shall be assigned the “tail” of the coin.

156. The tied candidates shall be permitted to inspect the coin prior to it being thrown.

157. The Electoral Officer shall throw a \$1 Canadian coin into the air and allow it to fall onto the ground.

158. The Candidate whose side of the coin is facing up after it has fallen to the ground shall be declared elected.

Retention of Ballots

159. The Electoral Officer shall retain, in his or her possession or in a secure location of their choosing, all ballot papers in sealed envelopes for a forty-five (45) day period beginning on the latest of:

- a. The day after the vote count;
- b. The day after the last recount;
- c. The day that the Election Appeal Board renders its final decision for that election.

160. After the expiry of the retention period set out in section 159 of this *Law*, the Electoral Officer shall destroy the ballots in the presence of two witnesses who shall prepare a written statement acknowledging that they witnessed the destruction of the ballots.

161. After the expiry of the retention period, the list of Electors who voted shall be maintained by the Electoral Officer in a secure location for the entire length of the Term, and shall produce that list as necessary during a Recall process as set out in this *Law*.

Part 6 – Election Appeal Board

Purpose and Composition of the Board

162. The Election Appeal Board ("EAB") is established to hear and determine appeals of Elections conducted under this *Law*, including but not limited to;

- a. Appeals of decisions made by the Electoral Officer;
- b. Complaints of unethical, unlawful or prohibited conduct in the course of an election which reasonably could have changed the outcome of the election.

163. The EAB shall be an independent decision making body and there shall be no recourse against individual members of the EAB for decisions which they make which a Member may disagree with.

164. The EAB has exclusive jurisdiction to hear and decide all appeals related to elections conducted under this *Law*.

165. The EAB has exclusive jurisdiction to hear and decide all appeals of decisions made by the Electoral Officer.

166. Members of the EAB shall be required to develop expertise in the interpretation and application of this *Law*, and shall be considered experts.

167. The EAB shall be composed of five (5) members and one (1) alternate member.

- a. The Alternate Member shall only participate in the business of the EAB if a regular member of the EAB is unable or unwilling to do so.
- b. All members of the EAB must be Members of Sagkeeng First Nation.

168. The following persons are not eligible to be members of the EAB:

- a. The Electoral Officer
- b. Deputy Electoral Officers;
- c. A person who was a candidate at any point during the election;

- d. Immediate family members of a candidate in the election;
 - i. For the purposes of this law, immediate family members shall be understood to include: parents, children, siblings, spouse or intimate partner, grandparents or grandchildren.
- e. Any person appointed as a Candidate Representative in the election;
- f. A member of Chief and Council in the term immediately preceding the election;
- g. A person otherwise incapable of rendering a fair and objective decision.

Appointment of Appeal Board Members

169. The members of the EAB shall be appointed no later than thirty (30) days prior to an election.
170. One (1) member of the EAB shall be appointed by each of:
- a. The Youth Council
 - b. The Men's Council
 - c. The Women's Council
171. Two (2) members of the EAB shall be appointed by the Elders' Council.
172. The alternate member shall be appointed by the Delegates' Council.
173. Each Council, when appointing their member of the EAB, shall prepare a record of their decision making process and shall provide that record, along with the name and contact information of their appointee, to the Electoral Officer and the Government Secretary.
- a. If any Council fails to make an appointment pursuant to this section, the Delegates' Council shall make the appointment.
174. The Electoral Officer, upon receipt of notices of appointment of all five members and alternate member, shall post or cause to be posted notice of their appointment in Sagkeeng First Nation.
175. Immediately upon the appointment of all members of the EAB, the EAB shall meet and choose from amongst their members a Chairperson whose duty it shall be to chair the meetings of the EAB and distribute such notices as may be required..
176. The Executive Council shall provide the EAB with all resources which are reasonably necessary for the discharge of their duties.

- a. The Executive Council shall arrange for the services of legal counsel, independent of legal counsel for the First Nation, to provide advice to the EAB.
- b. The Executive Council shall provide a reasonable stipend for members of the EAB, which shall be set before the EAB members are appointed.

Election Appeal Process

177. The Chairperson of the EAB shall ensure that public notice is posted of the manner in which Election Appeals may be filed from the day of the Nomination Meeting until forty-five days after the Electoral Officer posts the Statement of Official Results.

178. Within thirty (30) days after the Electoral Officer has posted the Statement of Official Results, any Elector may submit an appeal to the EAB where that Member believes that:

- a. A violation of this *Law* or any other Sagkeeng law occurred, which violation might have affected the outcome of the Election;
- b. There was a corrupt practice in connection with the election;
- c. A Candidate was ineligible to be nominated;

179. In order to be validly submitted, all election appeals:

- a. Must be submitted in person or by registered mail by an Elector;
- b. Must be in the form of a Statutory Declaration and sworn or affirmed in the presence of a Commissioner of Oaths or Notary Public;
- c. Must state clearly and precisely the grounds of appeal, including references to any relevant sections of this *Law*, and where possible, including supporting documentation and the names and contact information of individuals involved in the subject of the appeal, and witnesses to the subject of the appeal, if applicable.
- d. Must be accompanied by a non-refundable Appeal Fee of \$50.00.

180. Upon receiving a validly submitted appeal, the EAB shall notify all candidates that the appeal has been received, and shall provide all candidates, and any other party who may have an interest in the outcome of the appeal, with a timeline for the determination of the appeal.

Appeal Hearing

181. The Elector who submits the Appeal shall be referred to as the 'Complainant'.

182. Where the appeal is concerning a specific candidate or candidates, that candidate or candidates shall be designated by the EAB as 'Respondents'
183. The EAB may, on its own motion or on motion of the Respondents or Intervenors dismiss all or any part of an appeal without receiving submissions, if the EAB is satisfied that it is frivolous, vexatious or an abuse of process.
184. The rules of evidence apply to EAB hearings with such modifications as the EAB may see fit to make in order to ensure the most just and fair determination of an appeal.
- a. The EAB may admit, but draw an adverse inference from hearsay evidence submitted by a party.
185. The EAB may conduct such further investigation into the matter under appeal as it deems necessary, either personally or by designating an independent investigator to do so and to provide a written report to the EAB,

Appeal Timeline

186. All appeals must be submitted within 30 days of the posting of the Statement of Results.
187. Within two (2) business days of receiving an appeal and confirming that it was validly submitted, the EAB shall notify every candidate that an appeal has been submitted and when the appeal will be heard, and shall post a copy of the appeal in a public place in Sagkeeng First Nation.
188. Not later than fourteen (14) days after being notified of the Appeal, any Candidate or Elector possessing information relevant to the appeal may submit a response to the appeal by registered mail, and that response may contain evidence, arguments and any supporting documentation in their possession.
- a. All written responses and supporting documentation must be submitted in the form of an Affidavit, sworn by the Candidate or Elector before a Commissioner of Oaths or Notary Public.
189. At any time, the EAB may submit written question or requests for additional information to one or more of the parties to an appeal, where the EAB believes that answers to certain questions or additional information will be required for the fair hearing of the appeal.

Decision of the EAB

190. The decision of the EAB must be made and communicated no later than 14 days after the deadline for receiving information set out in section 188.
191. After considering the submitted materials and the results of any additional investigation, the EAB shall make a decision which shall be made in writing, containing reasons for the decision.
192. One or more members of the EAB may issue a dissenting opinion, if they disagree with the decision of the majority.
193. When the EAB makes its decision, it must provide copies to each party, and post a copy publicly in Sagkeeng First Nation.
194. The EAB may set aside the election of one or more Candidates if it is satisfied beyond a reasonable doubt that;
- a. There was a corrupt practice in connection with the Election; or
 - b. There was a violation of this *Law* or any other law of the Sagkeeng First Nation, that might have affected the result of the Election; or
 - c. A Candidate was ineligible to be nominated.
195. Where the election of a Candidate or Candidates is set aside, the EAB shall direct the Electoral Officer to immediately call a by-election for that position or positions, and the Electoral Officer shall conduct such by-election(s) in accordance with this *Law*.

Appeals from the EAB

196. If the decision of the EAB is unanimous, there shall be no appeal under any circumstances of that decision to any court or tribunal in Sagkeeng First Nation, or to any court or tribunal in Canada or Manitoba.
197. If the decision of the EAB is not unanimous, the decision may be appealed to the Sagkeeng Judicial Council on a question of law only.
- a. An Appeal filed under section 197 must be filed with the Sagkeeng Judicial Council no later than fifteen (15) days after the decision of the EAB is issued.
 - b. The decision of the EAB, whether by majority or consensus, on all questions of fact, is final and not subject to appeal under any circumstances or to any court or tribunal, for any reason whatsoever.

198. Any Appeal made from a decision of the EAB other than as required by the procedure set out in this Part shall be dismissed and any tribunal hearing an Appeal from the EAB other than as set out in this Part shall be deemed to be without jurisdiction.

Part 7 – Enactment

Process Law

199. This *Law* is subject to the *Sagkeeng Process Law (Sagkeeng Onakonigawin)*.

Coming into Force and Application

200. This *Law* was ratified by vote of the Sagkeeng First Nation on December 10th, 2016, and came into force on and as of that day.

201. The Anicinabek acknowledge that Canada will recognize the coming into force of this *Law* when Canada's Minister of Indigenous and Northern Affairs (or successor) issues an Order to that effect.

202. This *Law* shall apply to all Sagkeeng First Nation Executive Council elections which take place after the ratification of this *Law*.

Transition

203. Until the Judicial Council *Law* has been considered and ratified pursuant to *The Process Law/Sagkeeng Onakonigawin*, all applications, questions and proceedings this *Law* would have brought before the Judicial Council shall instead be brought before the Federal Court of Canada, which shall make such determinations as are permitted under this *Law* and which shall be guided by the Seven Teachings in making decisions on proceedings brought pursuant to this *Law*.

Supremacy

204. After the ratification of this law, no elections which take place in Sagkeeng First Nation pursuant to the process set out in the *Indian Act*, the *First Nation Elections Act* or any other statute of Canada will be considered binding.

Amendment

205. This *Law* may be amended by the Lawmakers Assembly following not less than one consultation session, to which all Members of Sagkeeng are invited to attend.

206. Amendments to this Law shall be made according to the Ratification Process set out in the *Process Law/Sagkeeng Onakonigawin*.

Government Secretary:

Carl Fontaine

January 24, 2018