

**ANISHINAABEG OF NAONGASHIING**  
**CUSTOM ELECTION CODE**

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Custom Election Code

August 9 2005

## **ANISHINAABEG OF NAONGASHIING**

### **CUSTOM ELECTION CODE**

We, the Anishinaabeg of Naongashiing by virtue of our inherent right and traditional freedom to regulate our own internal affairs, do hereby adopt and declare these provisions as our custom election rules, provisions, regulations and procedures.

These custom election rules, provisions, regulations and procedures are declared by us and are to be cited as the Anishinaabeg of Naongashiing Custom Election Code.

The provisions found in the Indian Act, R.S.C. 1985, C. I-5 respecting the Band Elections of Chiefs and Band Councils, being sections 74, 75, 76, 77, 78, and 79 inclusive, do not and shall not apply to the Anishinaabeg of Naongashiing.

#### 1. Definitions

For the purposes of this Custom Election Code:

- a. "Appellant" means an individual who in accordance with paragraph 18 of this Custom Election Code submits an appeal of the results or of the process of an Election.
- b. "Candidate's Agent" means a representative of a Candidate.
- c. "Custom Election Code" means the rules, provisions, regulations and procedures as set out and prescribed in this code for the conduct of an election of the Anishinaabeg of Naongashiing.
- d. "By-Election" means a special election held pursuant to this Custom Election Code anytime during the current tenure of a Council for the purpose of filling a vacant position in the office of the Chief or a Councillor prior to the end of the term of office for that Councillor or the Chief.
- e. "Candidate" means a person who meets the qualifications as set out in paragraph 5.a. of this Custom Election Code and seeks or has been proposed to serve in the office of Chief or a Councillor.
- f. "Chief" means the Elector who is elected pursuant to this Custom Election Code to hold office of the Chief of the Anishinaabeg of Naongashiing.
- g. "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.

- h. "Councillor" means the eligible Elector who is elected pursuant to this Custom Election Code to hold office of a councillor of the Council.
- i. "Council" means the duly elected Chief and Councillors in council.
- j. "Council of Elders" means the three (3) Elders appointed by the Electorate according to paragraph 4.
- k. "Deputy Electoral Officer" (also referred to as the "deputy") means the person appointed by the Electors to assist in the duties and responsibilities of the Electoral Officer.
- l. "Elder" means a respected, culturally oriented person who is an Elector.
- m. "Election" means an election held according to the custom, tradition and process of the Anishinaabeg of Naongashiing as codified by this Custom Election Code.
- n. "Election Date" means the date for an Election as selected by the Electoral Officer according to paragraph 2.b of this Custom Election Code.
- o. "Elector" means a member of the Anishinaabeg of Naongashiing who:
  - i. has attained the age of eighteen (18) years;
  - ii. is living on or off Reserve; and
  - iii. is listed on the Anishinaabeg of Naongashiing membership list as compiled and maintained from time to time by Indian and Northern Affairs Canada.
- p. "Elector's List" means the list of the Electors eligible to vote in an Election, as prepared by the Band Membership Clerk in accordance with this Custom Election Code.
- q. "Electoral Officer" means the person appointed by the Electors to administer the rules, provisions, regulations and procedures set out established and declared by this Custom Election Code.
- r. "Electorate" mean all the Electors on the Elector's List.

- s. "Mail-In Application" means the form of application for an Elector to obtain a Mail-In Ballot. The Mail-In Application will require that the applicant for a Mail-In Ballot include on application their name and mailing address (including postal code) together with the membership number and date of birth of the Elector and such other relevant information as requested by the Electoral Officer.
- t. "Mail-In Ballots" means a Ballot mailed or delivered in accordance with paragraph 13 of this Custom Election Code.
- u. "Malfeasance" means the wrongdoing or unlawful misconduct by the Electoral Officer or in the office of Chief or Councillor.
- v. "Nomination Meeting" means the meeting held in accordance with this Custom Election Code for the purpose of nominating Candidates for an Election.
- w. "Referendum" means a special Election wherein the Electors may decide in favour or against a question deemed by the Chief a Councillor or a Candidate of extraordinary importance to the Anishinaabeg of Naongashiing including the adoption or amendments to this Custom Election Code.
- x. "Reserve" means the tract of land, the legal title to which is vested in Her Majesty, which has been set apart by Her Majesty for the use and benefit of the Anishinaabeg of Naongashiing.
- y. "Resident" means in relation to this Custom Election Code a person who has their dwelling and home on the Reserve.
- z. "Voter Declaration Form" means a document that sets out or provides for;
  - i. the name, address and telephone number of the Elector;
  - ii. the band membership or registry number of the Elector;
  - iii. the name, address and telephone number of the witness to the signature of the Elector on the Voter Declaration Form.

## 2. Composition, Tenure and Remuneration of Council

- a. The Council of the Anishinaabeg of Naongashiing will be composed of one (1) Chief and two (2) Councillors.

- b. In the fourth year following the year in which the Chief and Councillors are elected to their offices, on such date during the month of November as selected by the Electoral Officer there shall be an election for the offices of Chief and Council.
- c. The Electors shall establish within sixty (60) days following the Installation of a Council the remuneration to be paid to the Chief and Council at a meeting of the Electors called for such purpose. Any change to the remuneration to be paid to a Chief and Council shall not increase or decrease the remuneration previously paid to a Chief and Council in excess of an amount equal to the rate of increase in the Consumer Price Index for Canada (All items)

### 3. Elections

- a. The Chief will be that Candidate for Chief who receives the greatest number of votes in the election for Chief in one complete round of voting.
- b. The designated number of Councillors will be elected in order of the highest number of votes received by the Candidates for Councillor in one complete round of voting.
- c. The elected Chief and the Councillors will assume official duties of their office thirty (30) days from the Election Date or a By-Election, as the case may be, and provided that the proper installation procedures as set out in paragraph 20 have been completed. The previous Chief and Councillors will continue to hold office until the installation of the new Council.

### 4. Council of Elders

- a. The persons serving as the Council of Elders as at the date of this Election Code will remain in their office until they resign or on their death;
- b. A replacement person to the Council of Elders, or an additional person to serve as a member of the Council of Elders, will be appointed by a consensus of the Electorate at a meeting called for that purpose prior to an Election. In the event a consensus is not able to be reached then a vote of the Electors shall be held to select the replacement person to the Council of Elders.
- c. The Council of Elders will ensure that proper traditional protocols and ceremonies are observed before and after the Election and that the actual nomination and voting procedures, including the installation of the

Electoral Officer, the Deputy Electoral Officer, the Chief and the Councillors is undertaken and followed.

- d. The Elders will be present during the opening and closing of nominations, the Nomination Meeting and voting procedures on the Election Date.
- e. The Elders may receive such honorariums at such time and in such amounts as determined by Council.

5. Eligibility for the Office of Chief and Councillor

- a. Any Elector is eligible to hold the office of the Chief or a Councillor provided that he or she:
  - i. is not an undischarged bankrupt person;
  - ii. has attained the age of eighteen (18) years;
  - iii. has understanding and respect for the traditional customs and values of the Anishinaabeg of Naongashiing;
  - iv. has expressed in writing that they are committed to being a Resident if they are elected as Chief or a Councillor throughout their term of Office;
  - v. is a Resident three (3) months prior to an Election Date;
  - vi. subject to the terms of paragraphs 5.c. and 5.d. has not been convicted of an indictable offence, a Corrupt Practice, a breach of trust or an offence relating to an Election;
  - vii. has an understanding of the Anishinaabe language; and
  - viii. is listed on the Anishinaabeg of Naongashiing membership list as compiled and maintained from time to time by Indian and Northern Affairs Canada.
- b. An Elector is eligible to hold the office of the Chief or a Councillor notwithstanding that such person is temporarily away from the Reserve on a training program, is attending school or is in a hospital.
- c. No Elector who has been found guilty of an indictable offence, a Corrupt Practice, a breach of trust or an offence relating to an Election within the past five (5) years prior to an Election Date is eligible for election to the office of the Chief or a Councillor.

- d. Notwithstanding paragraph 5.c. of this Custom Election Code any conviction of an indictable offence which in the opinion of the Electoral Officer was committed in the pursuit or defense of, or in the exercise of. Aboriginal and / or treaty rights does not disqualify such Elector from being a Candidate in an Election to the office of the Chief or a Councillor.
- e. In an Election, an Elector may serve as a candidate for the office of only one of either the Chief or a Councillor.

6. Vacancies, Resignation, Recall and Removal

- a. The office of the Chief or a Councillor will become vacant when the person holding such office:
  - i. dies, resigns or is otherwise unwilling to continue to hold their office;
  - ii. is determined by a court of competent jurisdiction to be a mentally incompetent person;
  - iii. is an undischarged bankrupt person;
  - iv. is voted by the Electorate to be removed from their office by a vote of fifty-one (51%) percent of the persons voting in favour of the removal where at least twenty five (25%) percent of the Electorate are present for the vote; or
  - v. forfeits the office in accordance with paragraphs 6.b. or 6.c.
- b. The Chief or a Councillor who during the term of their office is convicted of an indictable offence, except in the pursuit or defense of, or in the exercise of aboriginal and / or treaty rights shall automatically forfeit their office.
- c. The Chief or a Councillor who during the term of their office is found guilty in any court of a misdemeanor involving misconduct reflecting on the dignity and integrity of Anishinaabeg of Naongashiing, Malfeasance in office, or gross neglect of duty, may be removed from office by a majority vote of the Electorate at a meeting called for that purpose with at least twenty five (25%) percent of the Electorate present at the meeting. Before any vote is referred to the Electorate by Council as provided by this subparagraph, such Councillor shall be given a written statement of the charges and shall be given an opportunity to answer to the Electorate at the meeting called by the Council for that specific purpose. The decision of the Electorate shall be final.

- d. Any Councillor or the Chief may resign from office by tendering a written resignation to the Council, and upon receipt thereof by the Council it will become effective.

7. By-Elections

- a. In the event of a vacancy in the Office of Chief or a Councillor, and provided that no less than six (6) months remains in the term of the vacated office the remaining Council members will instruct the Electoral Officer to call a By-Election to fill and complete the remaining term of the vacant office within thirty (30) days after the vacancy has taken effect.
- b. By-Elections will be held in accordance with this Custom Election Code In the event of a vacancy in the Office of the Chief the Councillor who received the highest number of votes in the last Election shall be installed as the temporary Chief until the vacancy is filled in accordance with this Custom Election Code. The person serving in the role as temporary Chief may be a candidate in a By-Election for the office of Chief.

8. Referendum

A Referendum on any question deemed by the Council to be of extraordinary importance to the Electors including major land surrenders, designations, acquisitions, major capital expenditures and any amendments to this Custom Election Code and any other codes of the Anishinaabeg of Naongashiing will be referred to the Electors in accordance with this Custom Election Code, provided that the full and complete text of the question be provided to the Electors no less then thirty (30) days prior to the date of such Referendum.

9. Electoral Officer and Deputy Electoral Officer

- a. The Electoral Officer and the Deputy Electoral Officer shall be appointed by the Electorate no less then ninety (90) days and no more then one hundred and twenty days (120) prior to the month of November in the Year an election is to be held according to paragraph 2.b. at a meeting called for that purpose by the Council and shall serve during the term of the newly elected Council.
- b. The Electoral and Deputy Electoral Officers will cause all arrangements, notices, agendas, supplies, locations, personnel including a sergeant-at-arms for all meetings to be made pursuant to and in accordance and compliance with this Custom Election Code.

- c. The sergeant-at-arms shall keep the peace directly or through peace officers to ensure the safe and orderly conduct of all meetings of the Electorate held pursuant to this Custom Election Code. The sergeant-at-arms may exclude or remove persons from a meeting who in their opinion, or in the opinion of the Electoral Officer or the Deputy Electoral Officer are disturbing the peace.
- d. The Council may by resolution recommend to the Electorate the appointment, suspension, removal or replacement of the Electoral Officer.
- e. The Electoral Officer will not engage in any partisan activity related to an Election, a By-Election, a Candidate or Candidates or any other matter related to this Custom Election Code or any question or questions before the Electors at a Referendum. Notwithstanding any other term, provision or rights provided for the Electors, the persons serving as the Electoral Office and Deputy Electoral Officer may not vote in an Election or a By-Election.
- f. The Council may from time to time fix the remuneration for the Electoral Officer, the Deputy Electoral Officer and other administrative personnel for purposes of this Custom Election Code.
- g. The Electoral Officer shall:
  - i. enforce fairness, impartiality and compliance with this Custom Election Code;
  - ii. issue public notices and instructions to the Electorate as are required to ensure effective execution and compliance with this Custom Election Code;
  - iii. prescribe forms and equipment for use pursuant to this Custom Election Code;
  - iv. make written reports as required and set forth in this Custom Election Code;
  - v. make recommendations to the Council, the Electorate and the Council of Elders respecting amendments to this Custom Election Code;
  - vi. where a required rule, procedure, provision or requirement is not specified in this Custom Election Code, the Electoral Officer may

with the advice of the Council of Elders exercise general direction, discretion and supervise any administrative conduct of Elections.

- h. The Deputy Electoral Officer shall take direction from the Electoral Officer in the execution, administration and conduct of an Election pursuant to this Custom Election Code.
- i. Where the Electoral Officer is absent due to sickness or other reason the Deputy Electoral Officer will assume all duties of the Electoral Officer until such time the Electoral Officer returns to their office or a replacement Electoral Officer is appointed. Notwithstanding the preceding in the event the Electoral Officer is absent from their office for more than thirty (30) days the Electorate shall appoint a replacement Electoral Officer.

10. Nomination Meeting

- a. The Electoral Officer will in consultation with the Council of Elders provide not less than fourteen (14) consecutive days notice of a Nomination Meeting by posting the time, location and hours of the Nomination Meeting in the following locations:
  - i. at the Anishinaabeg of Naongashiing administration office on the Reserve and in one or more other conspicuous places on the Reserve;
  - ii. on the Anishinaabeg of Naongashiing Web Page (if one exists); and
  - iii. any other location that the Electoral Officer deems appropriate.
- b. The Nomination Meeting will be open for no less than two (2) hours.
- c. There shall be provided a period of at least forty five (45) consecutive days from the date of a Nomination Meeting and the Election Date.
- d. The Electoral Officer shall preside at the Nomination Meeting.

11. Nomination Procedures

- a. The Electoral Officer or the Deputy Electoral Officer shall call upon the Council of Elders to conduct traditional opening and closing of meetings, protocols, ceremonies and invocations during the Nomination Meeting.
- b. The Electoral Officer shall declare the nominations open.

- c. Before any nominations are presented to a Nomination Meeting the Electoral Officer shall provide and present clear explanations of all rules regarding the Nomination Meeting and the Election in order that the Electorate has an understanding of such procedures and rules.
- d. A person who makes a nomination of a Candidate must be herself or himself an Elector on the Elector's List.
- e. An Elector making a nomination may state the reason for the nomination; and a seconder may also state the reason for seconding the nomination.
- f. Any one Elector may nominate or second the nomination for the Office of the Chief in one (1) instance only.
- g. Any one Elector may nominate or second the nomination for the Office of Councillor in two (2) instances only.
- h. If the number of nominees to be a Candidate does not exceed the number of each position to be filled at the closure of the Nomination Meeting, then the Electoral Officer shall declare the Candidates so nominated elected by acclamation.
- i. If the number of nominees to be a Candidate does exceed the number of each position to be filled at the closure of the Nomination Meeting, then the Electoral Officer shall within seventy-two (72) hours from the closing of the Nomination Meeting:
  - i. satisfy himself or herself that all nominees are eligible Candidates in accordance with this Custom Election Code; and
  - ii. formally announce the Election Date and shall post in an open public location the Election Date, Candidates and the Election procedures.

12. Election and Voting Procedures

- a. The Electoral Officer shall post a copy of the Electors' List in an open and public location at the same time as the announcement of the Election Date.
- b. Within seventy two (72) hours after the Electors' List is posted by the Electoral Officer, any Elector may apply to the Electoral Officer to have the Electors' List revised on any one or more of following grounds:

- i. the name of an Elector or Electors have been omitted;
  - ii. the name of an Elector or Electors is incorrectly set out;
  - iii. the name of an ineligible voter is entered on the list.
- c. If the Electoral Officer is satisfied that a revision should be made to the Voter's List then the Electoral Officer will notify the Band Membership Clerk, the Candidates and the Candidate's Agent and post the revised Electors' List. In all cases, the complete and final Electors' List must be posted thirty seven (37) days prior to the Election Date.
- d. The Electoral Officer shall prepare and ensure that all Ballots and Mail-In Ballots are clearly and properly prepared designating the Candidates for the Office of Chief and the Candidates for the Office of Councillor.
- e. The Electoral Officer shall ensure a copy of the form of Ballot and Mail-In Ballot are forwarded to the Candidates or the Candidate's Agent.
- f. The Electoral Officer shall at all times be responsible for and keep possession of the Ballots and the Mail-In Ballots until disposed of according to paragraph 17.
- g. The Electoral Officer shall immediately before the commencement of opening and counting of the Ballots and Mail-In Ballots call the Candidate or the Candidate's Agent to witness that the Ballot Boxes, the Ballots and the Mail-In Ballots are secure and not tampered with.
- h. The Electoral Officer shall ensure all Ballot Boxes, Ballots and the Mail-In Ballots are securely maintained until the end of the Election Date.
- i. The Electoral Officer shall declare that all ballots be counted and all rejected ballots be noted and why they were rejected.
- j. The ballots shall remain under lock and key until such time the appeal period and installation of elected officials are completed and at which time the ballots shall be destroyed.
- k. If an Elector is unable to read or is incapacitated by blindness or other physical cause from voting in the manner set out in this Custom Election Code, the Elector may enlist the assistance of another person to mark the ballot, complete and sign the Voter Declaration Form in accordance with this Custom Election Code.

13. Mail-In Ballot Procedures

- a. The Electoral Officer shall, at least thirty seven (37) days prior to the Election Date make available to every Elector on the Electors' List a Mail-In Application.
- b. On receipt of the Mail-In Application the Electoral Officer shall deliver to the Elector, to the address indicated on the Mail-In Application a package consisting of:
  - i. a Mail-In Ballot initialed on the back by the Electoral Officer;
  - ii. an inner postage-paid return envelope, pre-addressed to the Electoral Officer (called the "Mailing Envelope");
  - iii. a second inner envelope marked with the Voter Declaration Form printed thereon (called the "Voter Declaration Form"). The Voter Declaration Form shall set out:
    - (1) the name of the Elector;
    - (2) the signature of the Elector as sworn according to the Canada Evidence Act by the Elector in the presence of a witness;
    - (3) the membership number and date of birth of the Elector; and
    - (4) the name, address and telephone number of the witness to the signature of the Elector.
  - iv. a third envelope for insertion of the completed ballot (called the "Ballot Envelope");
  - v. letter of instruction regarding voting by Mail-In Ballot.
- c. The Electoral Officer or Deputy Electoral Officer shall, if requested to do so, explain the mail-in voting procedures.
- d. The Electoral Officer shall indicate on the Electors' List that a Mail-In Ballot has been provided to such Elector and keep a record of the date on which, and the addresses to which, each Mail-In Ballot was mailed or otherwise provided.

- e. All Electors voting by Mail-In Ballot shall vote by:
  - i. placing an "X" or another mark that clearly indicates the Elector's choice on the Mail-In Ballot, but does identify the Elector opposite the name of the Candidate or Candidates for whom he or she desires to vote;
  - ii. folding the Mail-In Ballot in a manner so as to conceal the names of the Candidates or any marks, but exposes the Electoral Officers initials on the back;
  - iii. placing the Mail-In Ballot in the Ballot Envelope and sealing the envelope;
  - iv. completing and signing the Voter Declaration Envelope in the presence of a witness who has attained the age of eighteen (18) years; and
  - v. placing the:
    - (1) the Ballot Envelope into the Voter Declaration Envelope; and
    - (2) the Voter Declaration Envelope into the Mailing Envelope postage prepaid.
- f. Mail-In Ballots that are received by the Electoral Officer after the end of the day immediately prior to the Election Date and before the close of the Poll on the Election Date shall be counted. Mail-In Ballots that are not received by the Electoral Officer by the close of the Poll on the Election Date shall not be counted.

14. Closure of the Mail-In Ballots

- a. On receipt of a Mail-In Envelope the Electoral Officer shall place same in a locked box.
- b. At 4:00 p.m. on the day prior to the Election Date the Electoral Officer and the Deputy Electoral Officer shall, in the presence of the Candidate or the Candidate's Agent who are present, open the locked box in which they are stored. Each Mailing Envelope that was received at the end of the day immediately prior to the Election Date shall be opened and without opening the Voter Declaration Envelope, examine the Mail-In Ballots and reject all Mail-In Ballots if:

- i. it was not accompanied by a Voter Declaration Envelope;
  - ii. the Voter Declaration Envelope was not signed by the Elector and there is not a signature of a witness;
  - iii. the Voter Declaration Envelope does not contain a date of birth or a band membership number that matches the information contained for that Elector on the Electors' List;
  - iv. the name of the Elector set out in the Voter Declaration Envelope is not on the Electors' List;
  - v. the Electors' List shows that the Elector has already voted.
- c. Immediately thereafter the number of Mail-In Ballots which have not been rejected shall be counted and the names of each Elector who has provided a Voter Declaration Envelope which is not rejected pursuant to the terms of paragraph 14.a. shall have their name tracked on the tally sheet kept by the Electoral Officer as provided by paragraph 16.a.
- d. Immediately thereafter all Voter Declaration Envelopes which are not rejected pursuant to the terms of paragraph 14.a. shall be opened and the Ballot Envelope removed therefrom. The Ballot Envelopes shall without being opened be immediately thereafter placed in the Ballot Box.

15. Election Voting Procedure

- a. Voting shall take place on the Election Date between the hours of 10:00 a.m. and 6:00 p.m. Any person who has received a Ballot prior to the 6:00 p.m. shall be entitled to cast their Ballot.
- b. Where an Elector presents himself on the Election Date at a Polling Station for the purpose of voting, the Electoral Officer or Deputy Electoral Officer shall, if satisfied that the person has not voted in the Mail-In Ballot vote, and that the name of such person is entered on the Elector's List at the polling place, provide the Elector with a Ballot on which to register his or her vote.
- c. It shall be within the discretion of the Electoral Officer to request identification from the Elector for the purpose of confirming the identity of the Elector.
- d. The Electoral Officer or Deputy Electoral Officer shall in the appropriate column of the Elector's List make a mark opposite the name of every Elector receiving a Ballot.

- e. The Electoral Officer or Deputy Electoral Officer may, and when requested to do so shall, explain the mode of voting to a voting Elector.
- f. Each Elector receiving a Ballot shall forthwith proceed to the compartment provided for marking ballots and shall mark his or her Ballot by placing an "X" or another 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; the Elector shall then fold the Ballot so as to conceal the names of the Candidates and the marks on the face of the paper but so as to expose the initials of the Electoral Officer or Deputy Electoral Officer, and on leaving the compartment shall forthwith deliver the Ballot to the Electoral Officer or Deputy Electoral Officer, who shall, without unfolding the Ballot, verify his or her initials and at once deposit it in the ballot box in the presence of the Elector and of all other persons entitled to be present in the polling place.
- g. While an Elector is in the compartment for the purpose of marking his or her Ballot, no other person shall, except as provided in the following paragraph 15.g. be allowed in the same compartment or in any position from which he or she can see the manner in which such Elector marks his or her Ballot.
- h. One person of the Elector's choice, including the Electoral Officer or Deputy Electoral Officer, shall be permitted to accompany the Elector in the voting booth if the Elector is unable to read or is incapacitated by blindness or other physical circumstance. The Electoral Officer or the Deputy Electoral Officer shall state in the Elector's List, in the column for remarks, opposite the name of such Elector the fact that the Ballot was marked by another person at the request of the Elector, or the fact that another individual accompanied the Elector in the voting booth, along with the name of the other person and the reasons for the request.
- i. An Elector who has inadvertently dealt with his or her Ballot in such a manner that it cannot be conveniently used shall, upon returning it to the Electoral Officer or Deputy Electoral Officer, be entitled to obtain another Ballot, and the Electoral Officer or Deputy Electoral Officer shall thereupon write the word "cancelled" upon the spoiled Ballot, preserve it and record the circumstances.
- j. Any Elector who has received a Ballot and who leaves the polling place without delivering the Ballot to the Electoral Officer or Deputy Electoral Officer, in the manner provided, or if after receiving the Ballot refuses to vote, shall forfeit his or her right to vote at the Band Election, and the Electoral Officer or Deputy Electoral Officer shall make an entry in the

Elector's List in the column for remarks opposite the name of such Elector to show that he or she received the Ballot and declined to vote.

16. Counting of the Ballots

- a. Immediately following the close of the Poll on the Election Date the Electoral Officer and the Deputy Electoral Officer shall:
  - i. count the in person ballots and ensure that the number of ballots cast are equal to the number of ballots issued;
  - ii. count the Mail-In Ballots Envelopes and ensure that the number of Mail-In Ballots Envelopes are equal to the number of Mail-In ballots Envelopes accepted under paragraph 14.c.;
  - iii. open each Mail-In Ballot envelope and remove each Mail-In Ballot in the presence of the Candidate or the Candidate's Agent;
  - iv. ensure that each Ballot has the initials of the Electoral Officer or Deputy Electoral Officer placed on the back;
  - v. and call out the names of the Candidates for whom the votes were cast on all valid ballots;
  - vi. keep and mark a tally sheet in accordance with the names being called out for the purpose of arriving at the total number of votes cast for each Candidate.
- b. In examining the ballots, the Electoral Officer or Deputy Electoral Officer must reject any ballots that:
  - i. do not contain the initials of the Electoral Officer or Deputy Electoral Officer;
  - ii. do not give a clear indication of the Elector's intention;
  - iii. contain more votes than there are Candidates to be elected; or
  - iv. contain a mark where a voter can be identified.
- c. The Electoral Officer or Deputy Electoral Officer shall keep and attach a signed written statement to each ballot rejected which outlines the reason for rejection.

- d. Where it appears that two or more Candidates have an equal number of votes for any one position, or if the difference is three votes or less, there shall be an immediate recount.
- e. If there remains a tie after the recount, the Council of Elders and the Candidates that have equal number of votes for any position can decide on which Candidate can fill the position or direct another vote for the specific position on which there were equal votes.
- f. The signed statement in accordance with paragraph 15.e. shall be in triplicate and shall constitute the official report of the Election:
  - i. one copy shall be retained by the Electoral Officer;
  - ii. one copy shall be filed at the Office of the Anishinaabeg of Naongashiing; and
  - iii. one copy shall be provided for posting.

17. Disposition of Ballots

The Electoral Officer and the Deputy Electoral Officer shall seal in an envelope the ballots and all relevant documentation and deposit in a safe and secure place at the office of the Anishinaabeg of Naongashiing until the appeal period has expired after which time the ballots shall be destroyed.

18. Appeal Procedures

- a. Any Candidate may file an appeal on any one of all elected positions within seven (7) consecutive days after the results have been declared by the Electoral Officer on the following grounds:
  - i. there was evidence of Corrupt Practice in connection with an Election;
  - ii. there was a violation or an omission in connection with the regulations and procedures as set out and provided for by this Custom Election Code which reasonably might have affected the results of an Election.
- b. The appeal shall be filed with the Chair of the Appeal Board with all the particulars and documentation. The Board shall summon the Electoral Officer for a full hearing on the grounds for appeal.
- c. The Appeal Board may summon any person or any supporting documentation or information pertinent to the appeal to be produced. Any

information and documentation produced shall constitute a part of the official record.

- d. Any expenditure authorized by the Appeal Board shall be charged to the Anishinaabeg of Naongashiing Administration if the appeal is upheld according to the prevailing financial policy guidelines; the expenditures incurred by the Appeal Board may be charged against the Appellant where the appeal is denied.
- e. Where an appeal is successful the Appeal Board shall immediately report to the Electorate and declare that the Election for the office which is the subject of the Appeal, in its entirety is set aside, whereupon another Election shall be immediately set into motion provided that the previous Council shall continue to hold office until the new Elections have been completed. Where the Election of any or some of the Candidates is declared invalid, a new Election shall be conducted for that office or offices only but the successful Candidate or Candidates of the Election shall be properly installed. The Candidate or Candidates elected pursuant to a new Election as contemplated and provided by this paragraph 18.e. shall hold office from the date of installation of such person in their office.

19. The Election Appeal Board

- a. The Election Appeal Board shall consist of the following persons chosen by the Electorate at a meeting called for that specific purpose:
  - i. an Elder of Anishinaabeg of Naongashiing;
  - ii. a non-member who is familiar with Anishinaabeg of Naongashiing and who is familiar with this Custom Election Code;
  - iii. another member-at-large fluent in the Anishinabe and English languages and familiar with the traditional customs and values of the Anishinabe.
- b. The members of the Election Appeal Board shall hold office until such time as all appeals are finalized.
- c. The Appeal Board may establish procedures for the conduct of its own business in accordance with the principles of fundamental justice and the values of the people of Anishinaabeg of Naongashiing.
- d. The Council may from time to time set the remuneration and expenses of the members of the Appeal Board.

20. Installation

The Council of Elders shall officiate at the installation of the new Chief and Councillors pursuant to this Custom Election Code and shall administer the Oath of Office as provided by paragraph 21 to the Chief and each Councillor.

21. Oath

I \_\_\_\_\_, humbly making this offering in the direction of the four winds and to our Grandmother Earth and to all of our spiritual guardians and to our Creator;

I do hereby invoke sacred guidance to carry out my duties without lament;

I commit myself to uphold the dignity and integrity of my people, our ancestors and the generations yet unborn in order that we may live in harmony with all creation, including other nations;

I dedicate myself to lead and walk in the traditional road kizhay-watiziwin and the values of kindness, love, sharing and respect in the Creator for all anishinabe and other people;

I ask for the vision, strength, guidance and courage to carry out my duties as a leader of the Anishinaabeg of Naongashiing honestly, faithfully and diligently.

22. Amendments to this Custom Election Code

No Chief, Councillor or Council may by any unilateral act amend or rescind any provision of this Custom Election Code. For greater certainty, any amendment may be made by fifty-one (51%) percent of the persons voting in favour of the amendment or recession where at least twenty-five (25%) percent of the Electorate are present for the vote. The full and complete text of the proposed amendment must be provided to the Electors.

23. Penalties for Infractions

Any person who willfully violates any of the provisions of this Custom Election Code shall forfeit all eligibility for office for a period of eight (8) years.

24. Adoption and Proclamation

- a. This Custom Election Code shall become effective and supersede all previous Election procedures on the date of adoption by the majority of the Electors at a Referendum called for that purpose.

- b. The amended Custom Election Code shall come into force in November 2005 and every four years thereafter from the Election Date provided that the current Council shall hold office until the new Council is installed.

CERTIFICATE OF ADOPTION

This Anishinaabeg of Naongashiing this Custom Election Code was presented to and adopted by the Electors and are effective from the \_\_\_\_\_ day of \_\_\_\_\_ in the year 2005.

\_\_\_\_\_  
Chief

\_\_\_\_\_  
Councillor

\_\_\_\_\_  
Councillor