

THESSALON FIRST NATION
CUSTOM ELECTION CODE

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DEFINITIONS

“Code” means Thessalon Band Custom Election Code.

“Electoral Officer” means a person appointed by the Band Council before each election who will have the responsibility for conducting the nomination meeting and the election.

“Election” means a general Band election or by-election held pursuant to the provisions of this code.

“Elector” means a person who:

- i) is a member of the Band, and
- ii) ~~is the full age of eighteen (18) years on or before the day on which the nomination meeting is held.~~

~~“Candidate” means a Band Member who:~~

- i) is the full age of eighteen (18) years or older on or before the day on which the nomination meeting is held;
- ii) has been a band member for a period of not less than twelve (12) months immediately preceding the day on which the nomination meeting is held;
- iii) has been nominated to be a candidate pursuant to the provisions of this Code; and
- iv) is ordinarily resident on Thessalon First Nation Reserve No. 12 and has resided on the Thessalon First Nation for a continuous period of twelve (12) months immediately preceding the nomination meeting;
- v) Candidates for Chief and Council must reside on Thessalon First Nation Reserve No. 12.

Whether a person is “ordinarily resident” on the reserve shall be determined by the facts in each case, and without limiting the foregoing, some of the factors that can be considered are:

- i) the place the person normally eats and sleeps;
- ii) the place the person receives personal mail;
- iii) the residence of the person’s immediate family
- iv) the place of employment of the person, and if the person is absent from the reserve, the reason for being absent
- v) that a person can only be ordinarily resident in one place at one time and a person is ordinarily resident in that place until another place or ordinary residence is acquired.

“Deputy Electoral Officer” or “deputy” means a person or persons appointed by the electoral officer to assist him or her in the election process or in the event of illness, death, etc. to conduct the election.

“Elder” means a Band member who is fifty (50) years of age or over.

“Polling Station” means a building, hall or room which is selected to be the site for voting to take place.

“Band Council” means the body composed of those persons elected pursuant to this Code.

“Mail-in-Ballot” means a ballot mailed or delivered in accordance with Appendix “A” Regulations which are attached and form part of the Band Custom Election Code.

“To Nominate” means to propose or second a nomination.

“Regulations” Appendix “A” to this code are regulations in support of this code’s core governing provisions.

SECTION 1

PRE-NOMINATION PROCEDURE

- 1.1 The electoral officer shall be appointed not less than sixty (60) days before the Date selected by the Band Council as the date on which the election will be held. In the case of a general election, the date of the nomination meeting shall be within thirty (30) days before the end of the term of Band Council
- 1.2 The electoral officer shall be appointed by Band Council Resolution which will contain his/her full name, the date and time for the nomination meeting, the type of election which is to be conducted (general election or by-election), as well as any special instructions.
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- 1.3 The electoral officer shall prepare a voters list containing the names of all the electors in alphabetical order.
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- a) Since the First Nation controls their own membership, the Band shall provide the electoral officer with a list of the names of all electors at least sixty (60) days before the date of the election.
- b) The Band shall provide the electoral officer with the last known addresses of the voters or electors who do not reside on the reserve at least sixty (60) days before the date of the election.
- c) At least forty-five (45) days before the date of the election, the electoral officer shall mail, to every off-reserve voter, a package consisting of: a notice of nomination, an initialed nomination ballot, a return envelope, pre-addressed to the electoral officer; a second envelope marked "Nomination Ballot"; a voter declaration form; instructions regarding nominating by mail-in ballot;
- 1.4 The electoral officer shall establish an election file and place on this file copies of all documentation associated with the election, and that the file shall remain open until such time as the appeal period of fourteen (14) days has expired. The file shall then be closed and kept at the Band Office.
- 1.5 The electoral officer shall appoint deputies and interpreters as he deems necessary and shall document the details of this on the election file, subject to section 4.8.

1.6 -- The electoral officer shall, at least have twenty (20) days before the date set out --
for the nomination meeting on his appointing B.C.R., draft and post a notice of
nomination meeting. The electoral officer shall determine who is an elector and
who is eligible to be a candidate prior to the election, subject to paragraph 5.12.
The notice of nomination meeting shall be posted in the Band Office and the other
public places, as the electoral officer deems necessary.

1.7 The notice of nomination meeting as referred to in Section 1.6 and 3.0 shall be
posted on the reserve, and shall contain and set out:

- a) the voters list;
- b) which electors are eligible to be candidates;
- c) the time, date and place of the nomination meeting;
- d) the position or positions open for election
- e) a copy of this Code.

SECTION 2

NOMINATION ELIGIBILITY

- 2.1 Only electors may nominate or second a nomination of a candidate.
- 2.2 Only electors who meet the requirements of a "candidate" as set out in this Code may be nominated as a candidate.
- 2.3 A candidate may run for the position of Chief or Councillor, but not both
- 2.4 A deposit of two hundred dollars (\$200.00) must be posted by all the candidates for the position of Chief and paid to the Electoral Officer.
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- ~~2.5 A deposit of one hundred dollars (\$100.00) must be posted by all candidates for the position of Councillor and paid to the Electoral Officer.~~
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- ~~2.6 The deposit shall be in the form of cash, money order, or certified cheque, and a receipt for the deposit shall be given to the candidate by the electoral officer or deputy. The deposit must be paid within forty-eight (48) hours of the nomination meeting. Should a candidate for Chief or Councillor fail to pay their deposit as set out above, they shall be removed as a candidate by the electoral officer.~~
- 2.7 If by certified cheque or money order, the deposit shall be made payable to the Band.
- 2.8 All funds received as deposits during the election process, including those funds received pursuant to Paragraph 7.5, shall be placed in the Band General Account and shall be non-refundable. Such funds shall be used to offset election expenses.

SECTION 3

NOMINATION MEETING

3.0 The nomination meeting shall be held at least thirty (30) days before the date of the election. At least twenty (20) days before the date of the nomination meeting, the electoral officer must post notice of the nomination meeting in at least one conspicuous place on the reserve and mail nomination meeting packages to the off-reserve electorate.

The nomination meeting notice must include date, time, location, and duration of the meeting; date of the election; a statement that any off-reserve elector may nominate by mail-in ballot, descriptions of the manner by which people can nominate or second the nomination of candidates; a statement that if the voter wishes to receive information from candidates, he or she can agree to have his or her address released to candidates.

~~3.1 At the time and place advertised, the electoral officer shall declare the nomination meeting open for the purpose of receiving the nominations of candidates for the positions advertised.~~

3.2 The electoral officer shall keep the meeting open for a minimum of two hours or until such time as all nominations from electors then present have been received whichever shall last occur, and thereafter the meeting may be closed at the discretion of the electoral officer.

3.3 The electoral officer shall maintain order at all times during the nomination meeting and may remove any person who, in his/her opinion, is disrupting or otherwise interfering with the meeting.

3.4 Any elector may propose or second the nomination of any qualified person to serve as the Chief or Councillor. The electoral officer shall record the name of the candidate, the nominator, and the seconder and confirm to the meeting that the proposed candidate is eligible to be elected to the position of Chief or Councillor of the Band.

SECTION 4

PRE-ELECTION PROCEDURE

- 4.1 The electoral officer shall, if the number of candidates nominated does not exceed the number of positions open at the end of the meeting, declare such candidates elected by acclamation.
- 4.2 If the number of candidates nominated exceeds the number of positions open for election, the electoral officer will announce the date of the election. The date of the election shall be thirty (30) days of the nomination meeting.
- ~~4.3 The electoral officer or his deputy shall without undue delay, post a notice setting out the time and place and date for voting. Such notice shall be posted in the Band Office and other conspicuous public places as deemed necessary by the electoral officer. This notice shall be posted not less than twenty-four (24) days prior to the date scheduled for the election.~~
- 4.4 There will be established one (1) polling station at a location on reserve as determined by the electoral officer.
- 4.5 The electoral officer or his deputy shall have ballot papers prepared and place on the ballot papers the full and completed names, listed in alphabetical order, of all the candidates for Chief, and Councillors
- 4.6 The electoral officer or his deputy shall obtain sufficient ballot boxes, a sufficient number of ballot papers for the purpose of the election, instruments for marking, a sufficient number of directions-for-voting as may be required and all other equipment as necessary to establish and equip the voting locations.
- 4.7 The electoral officer or his deputy shall construct or erect polling booths at the locations set out in the notice, and the polling booths shall be such that the privacy of the voter is maintained.
- 4.8 The electoral officer or his deputy shall, where necessary and when required, appoint an interpreter, who will be a member of the Band, for all voters who are unable to read or are unable because of blindness or other physical cause to vote in the manner prescribed by section 5.8 and the interpreter shall assist such voter in the presence of the agents of the candidates in the polling place and of no other person, and shall place the marked ballots in the ballot box.

SECTION 5

ELECTION POLL

- 5.1 The electoral officer with such appointed deputies as he deems necessary shall be in attendance at the time and place as is set out in the notice of poll. The electoral officer shall not be allowed to vote in the election unless a tie results between the councillor or chief candidates.
- 5.2 the electoral officer shall immediately before the commencement of the poll open the ballot box (es) and call such persons as may be present to witness that it is empty, he shall then lock the box to prevent it from being opened and shall place it in the view for the reception of the ballots and the box shall not be unlocked during the time appointed for taking the poll.
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- ~~5.3 The electoral officer shall keep the polling booth(s) open from 9:00 a.m. to 8:00 p.m. local time.~~
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- 5.4 The electoral officer and his deputies shall maintain order at all times in the polling station and may cause to be removed any person who in anyway interferes, disrupts or attempts to influence the orderly conduct of the poll.
- 5.5 Persons presenting themselves for the purpose of voting shall, upon being confirmed by the electoral officer or one of his deputies as an elector, be given up to two (2) ballots, each of a different colour, one (1) colour for the election of the Chief, and one for the election of the Councillors.
- 5.6 All candidates shall be entitled to not more than two (2) agents in a polling place at one time.
- 5.7 The electoral officer, or a deputy, shall initial each ballot upon giving it to the elector.
- 5.8 Each elector, after receiving the ballots, shall proceed directly to the place provided for marking ballots and shall mark his/her ballots by placing an X or other mark that clearly indicates the elector's choice, in the space provided on each ballot opposite the name of the candidate, and shall then deposit the ballots in the ballot box supplied. While any elector is in the place provided for marking ballots, no other person, except as provided in paragraph 4.8, shall be allowed in the same compartment or be in any position from where they can see how the elector is voting:
- 5.9 The electoral officer or a deputy shall note upon the voters list any irregularity in connection with voting and shall specifically note on the voters list any ballots

marked by the electoral officer or the deputy at the request of an elector pursuant to paragraph 4.8, but shall not note the candidate for whom the ballot was cast.

5.10 A voter who has inadvertently dealt with his ballot paper(s) in such a manner that it cannot be conveniently used, shall return it to the electoral officer or a deputy who shall write the word "cancelled" upon the ballot paper(s) and preserve it.

5.11 Any person who has received ballots and who leaves the polling place without delivering the same to the electoral officer or a deputy in the manner provided, or after receiving the ballots, refuses to vote, shall forfeit his right to vote at the election, and the electoral officer or a deputy shall make an entry in the voters list in the column for remarks opposite the name of such person to show that such person received the ballots and declined to vote; in which case the electoral officer or the deputy shall mark upon the face of the ballots the word "declined" and all ballots so marked shall be preserved.

~~5.12 Any person who is a Band member over the age of eighteen (18) years, but whose name does not appear on the voters list, may present identification and evidence of membership to be verified by the electoral officer or a deputy, and if the electoral officer or the deputy is satisfied that the person is eligible to vote pursuant to this Code, the person shall be added to the voters list and allowed to vote at the polling station.~~

5.13 Every elector who is inside the polling place at 8:00 p.m. shall be entitled to vote before the poll is closed.

SECTION 6

ELECTION TABULATION

- 6.1 Immediately following the close of the poll, the electoral officer shall, in the presence of such candidates or their agents, and any electors as may be present, open the mailed in ballots and:
- a) examine the ballots and reject any that are not initialed by the electoral officer or a deputy, or any ballots that, in the electoral officer's opinion, do not give a clear indication of the voter's preference. If any of the ballots (the ballots for the Chief or the ballots for the Councillors) have more votes than there are vacancies for that position, that ballot shall be rejected. All rejected ballots shall be preserved;
 - ~~b) reject any ballot papers upon which anything appears by which the voter can be identified;~~
 - ~~c) subject to review on recount or an election appeal, take note of any objections made by any candidate or his agent to any of the ballots found in the ballot box and decide any questions arising out of the objection;~~
 - d) number such objections and place a corresponding number on the back of the ballot paper with the word allowed or disallowed as the case may be, with his initials;
- 6.2 Open the ballot box or boxes and:
- a) examine the ballots and reject any that are not initialed by the electoral officer or a deputy, or any other ballots that, in the electoral officer's opinion, do not give a clear indication of the voter's preference. If any of the ballots (the ballots for the Chief or the ballots for the Councillors) have more votes than there are vacancies for that position, that ballot shall be rejected. All rejected ballot papers shall be preserved for 28 days then destroyed subject to any appeal;
 - b) reject any ballot papers upon which anything appears by which the voter can be identified;
 - c) subject to review on recount or on an election appeal, take note of any objections made by any candidate or his agent to any of the ballots found in the ballot box and decide any questions arising out of objection;

- d) number such objections and place a corresponding number on the back of the ballot paper with the word allowed or disallowed as the case may be, with his initials;
 - e) count the votes given for each candidate from the ballots not rejected and make a written statement of the number of votes given to each candidate and of the number of ballots rejected and not counted by him, which statement shall be then signed by him and other persons authorized to be present as may desire to sign the same
- 6.3 After tabulation, the electoral officer shall announce the names of the candidates that received the highest number of votes and publicly declare these candidates elected.
- 6.4 Following the announcement, the electoral officer shall post in some conspicuous place a statement signed by him showing the number of votes cast for each candidate.
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- 6.5 ~~Following the election announcement, the electoral officer shall complete and sign an election report in triplicate, which shall contain:~~
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- a) a list of all candidates;
 - b) the number of ballots cast;
 - c) the number of votes for each candidate;
 - d) the number of assisted or interpreted voters;
 - e) the number of spoiled ballots; and
 - f) the number of rejected ballots
- 6.6 The electoral officer shall forward:
- a) one copy to the Region, Department of Indian Affairs; and,
 - b) one copy to the Band's Manager/Administrator
- 6.7 In the event of a tie vote for the successful Chief or Councillor position the electoral officer will cast the deciding vote based on special instructions issued under section 1.2 of this code.
- 6.8 The results of the election shall be forwarded by mail along with the appeal procedure guidelines, to all off-reserve voters who voted by mail-in ballot. This shall take place within five (5) days of the poll.

SECTION 7

ELECTION APPEALS

APPEAL BOARD

- 7.1 An Appeal Board shall be appointed fifteen (15) days prior to the election by the outgoing Chief and Council before the end of their term. The Appeal Board shall be composed of an Elder, a Youth (between the ages of 18 – 24) and a Band member who is between 25-49 years of age.
- 7.2 The Appeal Board shall supervise and administer all election appeals, in accordance with the provisions of this Code.
- ~~7.3 The members of the Appeal Board shall hold office until all appeals have been determined. No member of the election Appeal Board shall be a member of the outgoing Council, or a candidate for Council in the upcoming election.~~
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APPEAL PROCEDURE

- 7.4 Any candidate, or any elector who tendered a vote at the election, may within fourteen (14) days of the poll, appeal the election if he or she has grounds for believing that there was an error or violation of this Code during the election process that might have affected the outcome of this election.
- 7.5 An appeal of a Band election may be launched in the following manner:
- a) Notice of appeal in writing, containing details verified by affidavit, shall be sent by registered mail to the Appeal Board, c/o the Band Office, along with a deposit in the form of money order or certified cheque for one hundred dollars (\$100) in favour of the Band. This notice of appeal and the deposit must be received at the Band Office within fourteen (14) days of the election. If the appeal is upheld, the deposit will be returned, and if the appeal is denied, the deposit is forfeited to the Band, and it shall be used to offset election appeal expenses.
- 7.6 Where appeals are received by the Appeal Board pursuant to this Code:
- a) the Appeal Board shall, within seven (7) days of the end of the fourteen (14) day period described in paragraph 7.5 forward a copy of all appeals received together with supporting documents by registered mail to each candidate in the election and to the electoral officer.

- b) any candidate or the electoral officer may within fourteen (14) days of the receipt of the appeal(s), forward to the Appeal Board by registered mail a written response to the appeal allegations, together with any supporting documentation.
- c) the Appeal Board may conduct or authorize such further investigation into the appeal allegations as it deems appropriate and necessary.

7.6 After a review of all of the evidence that it has received the Appeal Board shall:

- i) deny the appeal on the grounds that the evidence presented did not reveal an infraction of this Code, or on the grounds that an infraction of this Code was revealed but the infraction did not affect the result of the election, or,
 - ii) uphold the appeal, and call for a new election for the positions affected. This new election shall take place as soon as possible and shall be ~~conducted pursuant to the provisions of this Code. The Appeal Board shall, if necessary, give instructions to the electoral officer on how the~~ problems identified in the appeal can be corrected.
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SECTION 8

CHIEF OR COUNCILLOR'S POSITION BECOMING VACANT

- 8.1 A Chief or Councillor's position on the Band Council may become vacant if, while in office:
- a) the Chief or Councillor in question misses three (3) consecutive regular Council meetings without authorization from quorum of Council;
 - b) the Chief of Councillor in question is convicted of an indictable offense and has been sentenced for that offense; or
 - c) the Chief or Councillor in question changes his or her residence so that he or she is no longer ordinarily resident on the Band reserve.
 - d) the Chief or Councillor resigns.
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- 8.2 If a situation described in section 8.1 occurs, a motion must be presented at a duly convened regular Council meeting, calling for the position of the Chief or Councillor in question to become vacant. Thereafter, a Band Council Resolution outlining the situation and calling the position to become vacant must be signed by a quorum of the Council. If the position is declared vacant, the Chief or Councillor in question will be disqualified from being a candidate at the next election.

SECTION 9

SPECIAL PROVISIONS

- 9.1 An advanced poll may, when required, be ordered as part of special instructions given to the electoral officer upon his appointment by Council and shall take place as follows:
- a) the advanced poll shall be held within seven (7) days prior to the election poll, and shall follow all procedures prescribed for the regular poll,
 - b) all ballots from the advanced poll shall be kept in a sealed box and be placed in a locked cabinet at the administration office. This ballot box shall only be opened and the ballots therein counted during the ballot count for the regular election; and
 - c) the advanced polls shall be open not less than two (2) and not more than eight (8) hours.
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- 9.2 An Oath of Office shall be taken by each newly elected Chief and Councillor.

TERM OF OFFICE

- 9.3 The Band Council shall be composed of one (1) Chief and five (5) Councillors. The term of office for a Band Council shall be three years.
- 9.4 If a vacancy occurs on Council, and there is more than six (6) months remaining in the Council's term of office, then there may be a by-election held by the provisions of this Code for the vacant position. A person filling such a vacancy shall, subject to the provisions of this Code, serve until the three-year term of the Band Council expires.
- 9.5 If, because of an appeal there is a new general election, the three-year term of the newly elected Band Council shall commence on the day following the election.

SECTION 10

AMENDMENTS

10.1 Any proposed changes to this Code must be presented to the Band Council which shall mail the proposed changes to all Band Members and give them at least ninety (90) days to consider the proposed changes. Any band member who wants to challenge those changes must do so in writing, to the Band Council within ninety (90) day period. If a challenge is received, then to take effect, a meeting of the electors must be held and a vote by secret ballot must be taken where a majority of those who vote agree to the proposed changes. Notice of this meeting must be posted at the Band Office and at other prominent places on the reserve at least one week prior to the meeting. If no challenge is received, then to take effect, the proposed changes must be approved by the Council after the end of the ninety (90) day period.

10.2 The Chief and Council may approve, by Band Council Resolution, any procedures (including the Oath of Office and procedural rules for meetings of Band Council), forms, and other administrative rules for the better administration of this Code.

APPENDIX "A"

11.0 This code empowers the Thessalon First Nation Band Council to develop regulations in support of the core governing provisions.

Regulations governing Custom Elections:

- 1 The Band Administration shall supply the electoral officer with:
 - a) The updated list of eligible voters as outlined in the band election code.
 - b) The updated list of eligible off-reserve voters.
 - c) The last known address list of electors who do not reside on the reserve.

- ~~2 The Band Administration will endeavor to update the list of addresses of electors who do not reside on the reserve through relatives, program staff and special membership gatherings such as Pow-Wow's.~~

- 3 Notice of Election dates, advance polls and nomination meetings will be sent to Friendship Centres, newsletters, and other National and Anishnabek newspapers.
- 4 Electoral officer will notify electors of Nomination process and meetings.
- 5 Electoral officer will notify all electors of dates and places of advance polls and election poll.
- 6 Electoral officer will forward nomination mail-in ballots to off-reserve electors forty-five (45) days prior to any advance polls or election poll.
- 7 Electoral officer will forward mail-in ballots to off-reserve electors twenty-four (24) days prior to any election poll.
- 8 Any advance poll(s) will be at least seven (7) days prior to election poll.