

CONSTANCE LAKE FIRST NATION



CONSTANCE LAKE
FIRST NATION

CUSTOM ELECTION CODE

**DRAFT VERSION FOR THE
RATIFICATION VOTE**

JANUARY 2021

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PART I – DEFINITIONS

DEFINITIONS IN CODE

1. In this code, except where the context otherwise indicates, the following definitions apply:
 - a. "Election Appeals Board" means the body appointed by Band Council Resolution to review and make decisions concerning petitions for removal from office, ratification vote appeals and election vote appeals in accordance with Part XII of this Code;
 - b. "CONSTANCE LAKE First Nation" means the CONSTANCE LAKE First Nation, also commonly referred to as CONSTANCE LAKE Reserve 92;
 - c. "Band Council Resolution" means a resolution of Chief and Council, and "BCR" and "Resolution" shall have corresponding meanings;
 - d. "Candidate" means a person who:
 - i. Is a member of CONSTANCE LAKE First Nation
 - ii. Has or will have attained the age of eighteen (18) years of age on or before Election day;
 - iii. Has been nominated as a candidate in accordance with Part IV of this code.
 - e. "Chief" means the person who is elected to serve as the spokesperson of CONSTANCE LAKE First Nation, working together with the direction and assistance of the Councilors;
 - f. "Code" means this CONSTANCE LAKE First Nation Custom Election Code;
 - g. "Conflict of Interest" means:
 - i. Where a person has a personal interest in the matter;
 - ii. Where a person has a family interest in the matter in relation to their immediate family;
 - iii. Where a person has an interest in relation to their close personal friend;
 - iv. Where a person has a financial interest in the matter; and
 - v. Where a person has a professional or business interest in the matter.
 - h. "Corrupt or Fraudulent Practice" includes, but is not limited to, direct or indirect bribery, or providing a financial or material incentive to an Elector in exchange for a vote;

- j. "Council/Executive Secretary" means an employee of CONSTANCE LAKE First Nation who is responsible for providing secretarial and other support to the Council and/or Executive Director;
- k. "Council" means collectively, the Chief and Council or CONSTANCE LAKE First Nation;
- l. "Councilor" means individually a member of Council of CONSTANCE LAKE First Nation;
- m. "Deputy Electoral Officer" means a person selected by the Council to assist the Electoral Officer in the conduct of the election process;
- n. "Elder" means a Member who is sixty (60) years of age or older.
- o. "Electoral Officer" means a person, appointed by Band Council Resolution before each election, who has been authorized to conduct the election under this Code;
- p. "Elector" means a person who is:
 - i. A Member of CONSTANCE LAKE First Nation
 - ii. Has attained the age of eighteen (18) years of age on or before the day of the vote; and
 - iii. Includes Members residing on and off CONSTANCE LAKE First Nation;
- q. "Executive Director" means the most senior employee of CONSTANCE LAKE First Nation who is responsible for overseeing the administration of CONSTANCE LAKE First Nation and "Executive Director", "Director of Operations", "Band Manager", and/or "Chief Executive Officer" shall have corresponding meanings;
- r. "Intervenor" means a person who intervenes in support or against a motion or resolution put forward under CLFN Custom Election Code.
- s. "Member" means a person whose name appears or is entitled to appear on the Membership List of CONSTANCE LAKE First Nation in accordance with its membership policy and "Membership" and "Band Member" shall have corresponding meanings;
- t. "Membership Clerk" or "Indian Registry Administrator" means an employee of CONSTANCE LAKE First Nation who is responsible for maintaining the Membership list of CONSTANCE LAKE First Nation;

- u. "Ordinary Resident" shall be determined by the facts in each case and without limiting the foregoing, some of the factors that can be considered are:
 - i. Where a person normally eats and sleeps;
 - ii. Where a person receives personal mail;
 - iii. The residence of his or her immediate family; and
 - iv. A place in proximity to the person's place of employment.

A person can only be an Ordinary Resident in one place at a time, and a person is an Ordinary Resident in that place until another place of ordinary residence is acquired. A person may be temporarily absent from a place of ordinary residence for education, medical or temporary employment reasons.

- w. "Polling Station" means a building, hall or room which is selected to be the site where the election of the Chief and Council shall be conducted;
- x. "Ratification Officer" means the person who is contracted by the Council to conduct the ratification vote on the proposed amendments to this Code;
- y. "Rules of Campaigning" means guidelines, general rules of behavior and standards established in accordance with Part V of this Code to govern the conduct of candidates running for office and their supporters relating to their participation in the election process;
- z. "Scrutineer" means a person who is authorized by a candidate to remain in the polling station during the election process.
- aa. "Valid Photo Identification" means a form of identification which contains the name and photograph of the bearer, through such identification as:
 - i. A driver's license
 - ii. An Ontario Photo Card
 - iii. A Certificate of Indian Status card; and
 - iv. A passport

PART II – MAKE UP, ELECTION AND TERM OF COUNCIL

MAKE UP OF CHIEF AND COUNCIL

- 2. The Council shall consist of one (1) Chief, one (1) Deputy Chief and five (5)

Councilors for a total Council Body of seven (7).

PROCESS OF ELECTION FOR CHIEF AND COUNCILLORS

3. Chief and Councilors shall be elected by a vote held in accordance with this Code.
4. The Council Member with the highest votes will be the Deputy Chief. In the event of a tie by vote, the newly elected Council will determine who will be the Deputy Chief at the first official meeting of Council.

TERM OF OFFICE

5. The term of office for the positions of Chief and Councilors shall be four (4) years. The term of office for the positions of Chief and Councilors commences on the day immediately following the election vote and expires four (4) years from that date or on the date of the next election for their office, and subject to section 8 of this Code.
6. An elected member shall not be a Chief and Council member more than two (2) consecutive terms. **Question#4 on the questionnaire.**

VACANCY IN TERM OF OFFICE

7. The position of Chief or Councilor may become vacant during the term of office in accordance with Part X of this Code.

EXTENSION OF TERM OF OFFICE

8. The term of office may, under mitigating circumstances, be continued beyond four (4) years if such continuation is not opposed by the votes of more than fifty percent (50%) of the members of Council. This continuation shall not exceed sixty (60) consecutive days.

BY-ELECTION TERM OF OFFICE

9. The successful candidate in a by-election shall hold office for the remainder of the original term of office of the Chief and Councilor whom he or she is elected to replace.

ELECTION APPEAL TERM OF OFFICE

10. In the event that a successful election appeal results in a new general election, the former Council members shall remain in office until the newly elected Council commences their duty on the date immediately following the election vote.

PART III – CALLING OF ELECTION

SETTING OF ELECTION DATE

11. Council shall, by Band Council Resolution, establish the date on which the election is to be held, which must be a minimum of fifty-five (55) consecutive days prior to the fourth anniversary of the last general election, and subject to section 8 of this Code, no later than ten (10) consecutive days following the fourth anniversary of the last general election.

TENDERING AND SELECTING OF AN ELECTORAL OFFICER

12. The Council shall be responsible for selecting an Electoral Officer and a Deputy Electoral Officer through a tendering process that shall occur a minimum of seventy-five (75) consecutive days before the expiration of the Council's term of office. Except for the First General Election called upon ratification of the Custom Code, wherein Council may extend the Electoral Officers duties to include the General Election Nomination process and General Election providing that the Custom Code has passed Ratification. In this instance a General Election is to be held no later than (date to be determined once the Custom Election code is ratified.)

APPLICATION TO DEPUTY ELECTORAL OFFICER

13. For greater certainty, all references to the Electoral Officer in this Code include the Deputy Electoral Officer.

ELECTORAL OFFICER'S CONTRACT FOR SERVICES

14. Upon the selection of an Electoral Officer through a tendering process in accordance with Section 11 of this Code, the Council and the Electoral Officer shall enter into a contract for services in which the contract shall include, but not be limited to, the following provisions:

- a. The Electoral Officer's full name and address;
- b. The responsibilities of the Electoral Officer;
- c. The compensation of the Electoral Officer;
- d. The term of the contract for services;
- e. The date of the election;
- f. The type of election that is to be conducted (general election or by-election);
- g. That the election shall be conducted in accordance with this Code;
- h. The participation of the Electoral Officer in any election appeal; and
- i. Any special instructions.

FAILURE TO SELECT ELECTORAL OFFICER

15. If an Electoral Officer has not been selected in accordance with Section 11 of this Code, the Constance Lake First Nation Executive Director or CEO shall be responsible for issuing the tender and selecting the Electoral Officer within seven (7) consecutive days following the time provided for Section 11 of this Code for Council's formal approval.

QUALIFICATIONS OF ELECTORAL OFFICER

16. The Electoral Officer must be a person who:
 - a. Is not a member of CONSTANCE LAKE First Nation;
 - b. Does not have immediate family that are members of CONSTANCE LAKE First Nation;
 - c. Does not have a "Conflict of Interest" as defined herein;
 - d. Is at least twenty-one (21) years of age; and
 - e. Has experience in the conduct of elections or has received appropriate training.

OATH OF OFFICE FOR ELECTORAL OFFICER

17. The Electoral Officer must swear an oath to uphold the office in accordance with this Code.

RESPONSIBILITIES AND ETHICS OF ELECTORAL OFFICER

18. The Electoral Officer is responsible for managing and executing all pre-electoral, electoral and post-electoral processes and procedures included in this Code. The Electoral Officer must:

- a. Uphold and abide by the rules and regulations established in this Code;
- b. Remain neutral and professional in the conduct of duties of his or her office and refrain from providing any preferential treatment or expressing support for or against any candidate;
- c. Not accept anything of value (including but not limited to money, offers of employment, gifts, travel) in exchange for preferential treatment or access to a public official or non-public information; and
- d. Not discriminate against anyone because of race, religion, sex, age or handicap, except in accordance with this code with respect to what constitutes an eligible voter.

APPOINTMENT OF INTERPRETERS

19. The Electoral Officer may appoint an interpreter(s) to provide interpretation services in the election process, as may be required.

ISSUANCE OF INSTRUCTIONS

20. In addition to the provisions in this Code, the Electoral Officer may make such decisions and issue such instructions consistent with the provisions of this Code, as he or she may deem necessary for the effective administration of the election.

INFORMATION OF ELECTORS

21. At least fifty-two (52) consecutive days before the day on which an election is to be held, the Membership Clerk/Indian Registry Administrator shall provide to the Electoral Officer:
 - a. The names of all Electors;
 - b. The Band Membership numbers of all Members set forth in subsection (a);
 - c. The dates of birth of all Members set forth in subsection (a); and
 - d. The last known addresses, if any, of all electors that are not an ordinary resident on CONSTANCE LAKE First Nation.

MEMBERSHIP CLERK/INDIAN REGISTRY ADMINISTRATOR DISCLOSURE OF ADDRESS

22. In relation to this Code, and with the exception of providing the address of Electors to the Electoral Officer in accordance with Subsection 21(d) of this Code, the Membership Clerk/Indian Registry Administrator shall not disclose the address of Electors to any Member, Candidate or person.

ELECTORS RESPONSIBILITY TO PROVIDE CURRENT ADDRESS

23. To fulfill the requirements of Section 21 of this Code, all members are responsible for providing the Membership Clerk/Indian Registry administrator with their current addresses. For greater certainty, CONSTANCE LAKE First Nation assumes no responsibility where a member fails to provide his or her accurate and current address to the Membership Clerk/Indian Registry Administrator.

USE OF ELECTORS ADDRESSES

24. An Elector's address shall be used by the Electoral Officer only for the purpose of providing the notice of nomination meeting, nomination meeting package, notice of election, mail-in ballot packages or other election documents to Electors who are entitled to receive them under this Code.

CONSENT TO DISCLOSE ADDRESS FORM

25. An Elector may submit to the Electoral Officer a written consent to disclose address form, which shall authorize the Electoral Officer to provide the Elector's address to all Candidates who request it. The Electoral Officer shall not provide Candidates with the address of an Elector who does not submit this form.

RECEIPT OF ADDRESS THROUGH OTHER SOURCES

26. For greater certainty, the Electoral Officer is not responsible if a candidate receives the address of an elector through a source or means other than in accordance with Section 24 or this Code from the Electoral Officer and such a release, unless it is independently a violation of this Code, shall not invalidate an election conducted under this Code.

DISCLOSURE OF ELECTORS ADDRESSES

27. A Candidate for election as Chief or Councilor may obtain from the Electoral Officer the addresses of electors who have issued their written consent to disclose address form, to distribute his or her campaign material, which must be in compliance with the Rules of Campaigning set forth at Section 56 of this Code.

CONFIRMATION OF VOTERS

28. On request by an elector, the Electoral Officer shall confirm whether the name of a person is on the voters list.

REVISIONS TO VOTERS LIST

29. The Electoral Officer shall revise the voters list upon presentation of documentary evidence which demonstrates that:
 - a. The name of an elector has been omitted from the voters list;
 - b. The name of an elector is incorrectly set out in the voters list;
 - c. The name of a deceased band member in the voters list; or
 - d. The name of a person not qualified to vote is included in the voters list.

ADDITIONS TO VOTERS LIST

30. An elector may on the date of the election vote, demonstrate that his/her name has been omitted from or incorrectly set out in the voters list by presenting his/her Status Card, if none, a Status Verification Letter with photo signed by Indian Registry Administrator to the Electoral Officer as evidence that the elector is entitled to vote.

REMOVAL FROM VOTERS LIST

31. An elector may demonstrate that the name of a person not qualified to vote has been included in the voters list by presenting in writing to the Electoral Officer, no later than twenty-five (25) consecutive days prior to the date of the election vote, evidence that the person:
 - a. Is neither on the Membership List nor entitled to have his or her name entered on the Membership List; or
 - b. Will not be at least eighteen (18) years of age on the date on which the election is to be held.

NOTICE OF ELIGIBILITY CHALLENGE

32. Where the Electoral Officer believes or has information that a person whose name is on the voters list is not an Elector, or where an Elector demonstrates that the name of a person not qualified appears on the voters list, the Electoral Officer shall send out a written notice to the person whose eligibility is challenged at least fourteen (14) consecutive days prior to the date of the election vote. The notice shall include the reasons for seeking the removal of

the name from the voters list, any supporting documents, and state that the person may provide documentary proof to the Electoral Officer refuting the challenge, and that such evidence may be presented until the close of the polls on the day of the election.

ADDITIONS OR DELETIONS FROM VOTERS LIST

33. After considering all information and representations relating to Amendments of the voters list, the Electoral Officer shall add or delete names from the voters list based on whether persons qualify as electors. This decision of the Electoral Officer is final and is not subject to appeal or review by any court or judicial body.

PART IV – NOMINATION PROCESS

POSTING NOTICE OF NOMINATION MEETING

34. The Electoral Officer shall, at least twenty (20) consecutive days before the date on which the nomination meeting is to be held, post a notice of nomination meeting in CONSTANCE LAKE First Nation at the following public locations:
 - a. Band Administration office;
 - b. CLFN Website
 - c. CLFN Official Facebook Community News
 - d. Other public places within CLFN as may seem advisable to Electoral Officer.

Except for the first General Election Called to implement the Custom Code the notice of Nomination will occur at the announcement of the ratification vote results. (This needs to be more general – “only after a ratification vote for the adoption of or an amendment to CLFN Custom Election shall the nomination occur after the ratification results.”)

CONTENT OF NOTICE OF NOMINATION MEETING

35. The notice of nomination meeting shall include:
 - a. The date, time, duration and location of the nomination meeting;
 - b. The date on which the election vote will be held and the location of the Polling Station;
 - c. The name, email address, phone and fax number, if any, of the Electoral Officer;

- d. The statement that an elector can nominate or second the nomination of a candidate in person at the nomination meeting;
- e. The statement that any Elector may vote either by mail-in ballot prior to the date of the election vote or in person at the Polling Station on the day of the election vote; and
- f. The statement that if the elector wants to receive campaign information from candidates, the elector must provide the Electoral Officer with a consent to disclose address form.

MAILING NOMINATION MEETING PACKAGE

- 36. At least twenty (20) consecutive days before the date on which the nomination meeting is to be held, the Electoral Officer shall mail to every elector who is not an ordinary resident on CONSTANCE LAKE First Nation for which he or she has received an address, a nomination meeting package which shall include:
 - a. The notice of nomination meeting;
 - b. The statement that the elector may nominate or second a candidate in person at the nomination meeting;

Except for the first General Election called upon ratification of the Custom Code, the nomination package will be sent to voters immediately following the ratification. (This needs to be more general- " Only after a ratification vote for the adoption of or amendment to the CLFN Custom Election shall the nomination package be sent occur after the ratification results.)

RECORD OF SENT NOMINATION MEETING PACKAGES

- 37. The Electoral Officer shall record the names of the electors to whom a nomination package was mailed, the addresses of those electors and the date on which the nomination meeting package was mailed or advertised by community channel, media or bulletin.

HOW TO NOMINATE OR SECOND A CANDIDATE

- 38. An Elector may nominate or second the nomination of any qualified person to serve as the Chief or Councilor in person at the nomination meeting. Furthermore, nominating or seconding a Candidate by proxy is not permitted. Subject to Part III, Section 46.

TIMEFRAME FOR NOMINATION MEETING

39. The nomination meeting shall be held at least thirty (30) consecutive days prior to the date of the election vote. Except for the first call for election nomination process upon ratification of the Custom Code. (This needs to be more general-only after ratification vote for the adoption of a amendment to the CLFN Custom Election Code shall the nomination process occur after the ratification results,)

DURATION OF NOMINATION MEETING

40. The nomination meeting shall remain open for at least three (3) consecutive hours.

CHAIRING OF NOMINATION MEETING

41. The Electoral Officer is responsible for chairing the nomination meeting.

MAINTAINING ORDER AND SECURITY

42. The Electoral Officer shall maintain order at all times during the nomination meeting and may remove any person who, in his or her opinion, is disrupting or otherwise interfering with the proceedings.

ATTENDANCE AT NOMINATION MEETING

43. All Members may attend the nomination meeting to witness the nomination of Candidates, unless removed in accordance with Section 44 of this Code. For greater certainty, persons who are not members are not entitled to attend the nomination meeting

OPENING OF NOMINATION MEETING

44. At the time and place set for the nomination meeting, the Electoral Officer shall declare the nomination meeting open for the purpose of receiving the nomination of candidates for the available Council positions.

NOMINATING AT THE NOMINATION MEETING

45. Following the opening of the nomination meeting, electors in attendance at the nomination meeting may nominate and/or second candidates.

LIMITATION ON NOMINATION OR SECONDING BY AN ELECTOR

46. Any elector may nominate or second no more than once for Chief and nominate and second not than once for each of the councilor position.

RECORDING OF NOMINATIONS

47. To be a candidate for an office, a person must be qualified for the office and must be both nominated and have the nomination seconded. The Electoral Officer shall record the name of the candidate, the nominator and the seconder and confirm by those present at the meeting that the proposed candidate is qualified to be a candidate in the election vote.

END OF NOMINATION MEETING

48. At the end of the nomination meeting, the Electoral Officer shall:
- a. If only one (1) person has been nominated for election as Chief, declare that person to be elected;
 - b. If the number of persons nominated to serve as Councilors does not exceed the number to be elected, declare those persons to be elected; and
 - c. Where more than the required number of persons are nominated for election as Chief or Councilors announce that an election will be held.

LIST OF NOMINEES

49. Within two (2) consecutive days following the nomination meeting and the timeframe by which candidates must accept nomination in accordance with Section 52 of this Code, the Electoral Officer shall post the list of nominees and the offices for which they are nominated at the following public locations in CONSTANCE LAKE First Nation:
- a. Band Administration office
 - b. CLFN Website
 - d. CLFN Official Facebook or other Council approved social media
 - c. Other public places within CLFN as may seem to be advisable to the Electoral officer.

PART V – CANDIDATES FOR CHIEF AND COUNCILLORS

QUALIFIED PERSON TO BE CANDIDATE

50. For an elector to be a candidate in an election vote, he or she must:
- a. Be a member of CONSTANCE LAKE First Nation;
 - b. Be at least eighteen (18) years of age;
 - c. Not have been convicted of an indictable offence where a pardon has not been granted or as stated in Part XXVII of the Criminal Code of Canada;
 - d. Not be an employee of CONSTANCE LAKE First Nation or its associated organizations; (Questionnaire, Question # 13)
 - e. Must agree to take and successfully pass a Drug Test.
 - f. If running for the position of Chief, be a local resident of CONSTANCE LAKE First Nation and have lived on the reserve for at least six (6) months or be prepared to move to CONSTANCE LAKE within thirty (30) days of taking office. Any costs associated with moving will not be covered by the First Nation;
 - g. If running for the position of Councilor, be an ordinary resident on CONSTANCE LAKE First Nation; (This is illegal as per Gull Bay First Nation Court Case)
 - h. Not have an active litigation against CONSTANCE LAKE First Nation; and
 - i. Not be prevented from running for elected office under Part V of this Code.

CANDIDATE FOR ONLY ONE OFFICE

51. A member may not be a candidate for Chief and Councilor in a single election. A member nominated as a candidate for the office of Chief and the office of Councilor must declare which office he or she intends to seek, if any.

ACCEPTANCE OF NOMINATION

52. A member that has been nominated as a Candidate in the election vote that desires to accept a nomination must sign and file with the Electoral Officer by email, facsimile transmission or in person within five (5) consecutive days of the nomination meeting:
- a. A written statement accepting the nomination of either Chief or Councilor;
 - b. A written declaration that he or she is qualified to be a candidate in compliance with Section 50 of this Code;
 - c. A written statement that he or she shall comply with the Rules of Campaigning as set forth in Section 56 of this Code; and
 - d. Provide the deposit as required in Section 53 of this Code.

Failure to submit the above within five (5) consecutive days of the nomination meeting shall result in that member forfeiting his or her candidacy and he or she not being a candidate in the election vote.

DEPOSIT FOR POSITIONS OF CHIEF, DEPUTY CHIEF OR COUNCILLOR

53. All Candidates for the position of Chief must post a deposit of two hundred fifty dollars (\$250.00) and all Candidates for the position of Councilors must post a deposit of one hundred dollars (\$100.00) in the form of cash or a money order made payable to CONSTANCE LAKE First Nation and may be deposited directly with the Electoral Officer or the Executive Director. All deposits are non-refundable.

A receipt will be provided for all deposits received, which shall include the name of the person who paid the deposit, the date it was received, and the signature of the Electoral Officer or the Finance Officer who received the deposit. Funds received as deposits shall be placed in special account for Elections in the Name of the CONSTANCE LAKE First Nation.

WITHDRAW OF CANDIDACY

54. A candidate may withdraw his or her candidacy by submitting to the Electoral Officer a written statement withdrawing his or her nomination within five (5) consecutive days of the date on which the nomination meeting was held. A candidate who withdraws his or her candidacy shall forfeit any deposit that may have been provided.

Any Candidate that fails to provide the deposit within the five (5) consecutive days will be deemed as withdrawal.

DEATH OF CANDIDATE

55. A candidate who passes away before the close of the election vote shall be considered to have withdrawn his or her candidacy.

RULES OF CAMPAIGNING BY CANDIDATES

56. All candidates must comply with the following Rules of Campaigning:
- a. There shall be no coercion of voters;
 - b. Candidates or their supporters shall not offer bribes or indirectly influence

- an elector to vote or refrain from voting for a particular candidate, nor shall a candidate or elector accept or agree to accept a bribe that is offered;
- c. Candidates or their supporters shall not use any pretense or plot, including an elector to vote or refrain from voting or to vote or refrain from voting for a particular candidate in an election;
 - d. Candidates shall respect the right and freedom of other candidates to organize and campaign;
 - e. Candidates shall respect the rights of electors to obtain information from other candidates;
 - f. Ethically, focusing on political issues and platforms;
 - g. Candidates shall not conduct smear campaigns or ones of rumours and innuendos about other candidates;
 - h. Candidates shall conduct their campaign non-violently, without intimidating elector or opposing candidates;
 - i. Candidates shall not interfere with the Electoral Officer in the performance of his or her duties;
 - j. Candidates shall commence their campaign after their acceptance and end at 11:59 p.m. prior to the election day, which includes distribution of any campaign-related printed materials;
 - k. Campaign posters shall not be posted on any Band Buildings and be removed after the election day; and
 - l. Shall not distribute any election-related printed materials except such materials as may be distributed by the Electoral Officer for the purpose of conducting the election.

BREACH OF CAMPAIGN RULES

57. A member may file an appeal with the Custom Election Appeals Board in accordance with Parts XI of this Code where he or she alleges that a candidate breached the Rules of Campaigning.

PART VI – PRE-ELECTION PROCEDURE

WHERE OFFICE IS FILLED BY ACCLAMATION

58. Where the offices of Chief and all offices of Councilor are filled by acclamation, the Electoral Officer shall within five (5) consecutive days following the nomination meeting, prepare a notice that sets out the names of the persons who have been acclaimed and state that an election will not be held and:
- a. Mail the notice to every Elector who does not ordinarily reside on CONSTANCE LAKE First Nation; and
 - b. Post the notice at the following public locations in CONSTANCE LAKE First Nation:
 - i. Band Administration office;
 - ii. CLFN Website
 - iii. CLFN Official Facebook or other Council Approved Social Media
 - iv. Other public places within CLFN as may seem advisable to Electoral officer.

TIMEFRAME FOR ELECTION

59. The election shall be held at least thirty (30) consecutive days after the day on which the nomination meeting was held.

PREPARATION OF BALLOTS

60. The Electoral Officer shall prepare ballot papers setting out:
- a. The names of the candidates nominated for election as Chief;
 - b. The names of the candidates nominated for election as Councilors; and
 - c. The maximum number of candidates that may be elected for the position of Chief and Councilor.

WHERE CANDIDATES HAVE SAME NAME

61. Where two (2) or more candidates have the same name, the Electoral Officer shall add to the ballots such additional information as is necessary to distinguish between the candidates.

USE OF NICKNAME ON BALLOT

62. The ballot may, at the request of the candidate, include his or her commonly used name or nickname, in addition to the candidate's legal name.

POSTING THE NOTICE OF ELECTION

63. The Electoral Officer shall, within two (2) consecutive days after the day on which the nomination meeting was held, prepare and post a notice of election at the following public locations in CONSTANCE LAKE First Nation:
 - a. Band Administration office;
 - b. CLFN Website
 - c. CLFN Official Facebook or other Council Approved Social Media
 - d. other public places within CLFN as may seem advisable to the Electoral Officer.

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CONTENT OF NOTICE OF ELECTION

64. The notice of election shall include:
- a. The date of the election vote;
 - b. The location and times at which the Polling Station will open and close;
 - c. The time and location of the counting of the votes;
 - d. The name, email address, and the phone number of the Electoral Officer;
 - e. The statement that any elector may vote either by mail-in ballot prior to the date of the election vote or in person at the Polling Station on the date of the election vote; and
 - f. A statement that the voters list is posted for public viewing and its location.

MAILING THE MAIL-IN BALLOT PACKAGE

65. The Electoral Officer shall, at least twenty-eight (28) consecutive days prior to the date on which the election is to be held, mail to every elector who is not an ordinary resident on CONSTANCE LAKE First Nation and to every elector whose written request to vote by Mail-in ballot has been received, a mail-in ballot package consisting of:
- a. The notice of election set out in Section 63 of this Code;
 - b. The statement that the elector may vote either by submitting the mail-in ballot prior to the date of the election or in person at a Polling Station on the date of the election;
 - c. If applicable, a list of the names of any candidates that were acclaimed;
 - d. The mail-in ballot in which the elector may vote for candidates to the positions of Chief and/or Councilor;
 - e. The letter of instruction explaining how to complete and submit the mail-in ballot and voters declaration form;
 - f. Instructions that if an elector is unable to mark the ballot on his or her own and requires the assistance of another person, that the person who provides such assistance must complete the enclosed assistance to mark the ballot form;
 - g. The mail-in ballot initialed on the back by the Electoral Officer;
 - h. The voter declaration form to be completed by the elector which shall set out the name of the elector; the Band membership number of the elector; the date of birth of the elector; a photocopy of the elector's Valid Photo Identification; and the name, address and telephone number of the person who witnessed the elector signing the voter declaration form;
 - i. The statement that the mail-in ballot and voter declaration form must be properly completed and valid;

- j. The statement stating in accordance with Section 93, which is a spoiled ballot;
- k. The statement that the completed mail-in ballot and voter declaration form must be returned to the Electoral Officer prior to the close of the Polling Station to be valid;
- l. A second inner envelope marked "ballot" for insertion of the completed mail-in ballot; and
- m. A postage-paid envelope, pre-addressed to the Electoral Officer.

Except for the first General Election to be held following ratification of the Custom Code. Mail in ballots will be mailed following the nomination meeting and sent by express post for receipt forthwith.

ELECTOR REQUEST FOR MAIL-IN BALLOT PACKAGE

- 66. An elector who is not an ordinary resident on CONSTANCE LAKE First Nation who has not received a mail-in ballot package, or an elector who is an ordinary resident on CONSTANCE LAKE First Nation but is unable to vote in person on the day of the election may, at least ten (10) consecutive days prior to the date on which the election is to be held, request a mail-in ballot package from the Electoral Officer. Upon receipt of the request, the Electoral Officer shall mail or deliver a mail-in ballot package to the elector.

RECORD OF MAIL-IN BALLOT PACKAGES

- 67. The Electoral Officer shall record on the voters list the names of the electors to whom a mail-in ballot package was mailed or otherwise provided to, the addresses of those electors, and the date on which the mail-in ballot package was mailed or otherwise provided.

RECORD OF RETURNED MAIL-IN BALLOT PACKAGES

- 68. The Electoral Officer shall retain all mail-in ballot packages sent to electors that may be returned by mail to him or her. The Electoral Officer shall record the name of the elector to whom the mail-in ballot package was sent to, the address of that elector, and the date on which the mail- in ballot package was returned.

VOTING BY MAIL-IN BALLOT

- 69. An elector shall vote by mail-in ballot by:

- a. Placing an "X" on the mail-in ballot opposite the name of the candidate or candidates for whom he or she desires to vote;
- b. If applicable, ensuring that the assistance to mark ballot form is completed by the person who assisted the Elector in marking the mail- in ballot;
- c. Folding the mail-in ballot in a manner that conceals the names of the candidates or any marks, but exposes the Electoral Officer's initials on the back;
- d. Placing the mail-in ballot in the inner envelope marked "ballot" and sealing the envelope;
- e. Completing and signing the voter declaration form in the presence of a witness who is at least eighteen (18) years of age;
- f. Placing the inner envelope marked "ballot", the completed voter declaration form and assistance to mark ballot form if applicable, in the postage-paid envelope pre-addressed to the Electoral Officer; and
- g. Delivering, mailing or otherwise ensuring receipt by the Electoral Officer of the envelope before the close of Polling Station on the day of the election.

ASSISTANCE TO MARK MAIL-IN BALLOT

70. Where an elector is unable to vote in the manner set out in Section 69(a) of this Code, the elector may enlist the assistance of another person to mark the mail-in ballot and complete and sign the voter declaration form. A person who has assisted an elector to mark his or her mail-in ballot shall sign the assistance to mark ballot form declaring that the elector is the person whose name is set out in the voter's ballot; and that the mail- in ballot was marked according to the directions of the elector.

RECEIPT OF COMPLETED MAIL-IN BALLOTS

71. All mail-in ballots shall be retained unopened by the Electoral Officer in a secure location until the date of the election.

NON-RECEIPT OF MAIL-IN BALLOTS

72. Any mail-in ballots not received by the Electoral Officer prior to the date of the election will not be valid or included in the election.

EQUIPMENT FOR THE ELECTION

73. The Electoral Officer shall, before the Polling Station is open, supply the Polling Station with;

- a. Sufficient ballot boxes;
- b. A sufficient number of ballots;
- c. A sufficient number of voting compartments enabling electors to mark their ballots free from observers;
- d. Instruments for marking ballots;
- e. A sufficient number of voting instructions;
- f. All other equipment necessary to establish and equip the Polling Station;
and
- g. A copy of the final voters list.

LOCATION OF POLLING STATION

74. The Polling Station will be located in Constance Lake.

VOTING COMPARTMENTS

75. The Electoral Officer shall provide at least three (3) voting compartments in the Polling Station where electors can mark their ballots free from observation.

SECURITY OF POLLING STATION

76. The Electoral Officer may appoint security to maintain order in the Polling Station.

PART VII – ELECTION DAY

POLLING HOURS

77. The Polling Station shall be open from 9 a.m. until 8 p.m. local time on the day of the election.

VERIFICATION OF THE BALLOT BOX

78. The Electoral Officer shall, immediately before the opening of the Polling Station:
- a. Open each ballot box and call such persons as may be present to witness that it is empty and complete a written statement to that effect, verified by a witness;
 - b. Lock and properly seal each ballot box in a manner preventing it from being opened without breaking the seal; and
 - c. Place each ballot box in public view for the receipt of the ballots.

SECRECY AND SECURITY

79. Voting shall be by secret ballot.

NO PROXY VOTING

80. No elector may vote by proxy or authorize another person to vote on his or her behalf, with the exception of receiving assistance of a person to mark the ballot in accordance with Sections 70 and 92 of this Code.

MAINTENANCE OF ORDER AT POLLING STATION

81. The Electoral Officer shall maintain order at all times in the Polling Station and may remove any person who in any way interferes, disrupts or attempts to influence the orderly conduct of the poll.

ON ELECTION DAY

82. No person shall, on the day the election is held, on the premises of the Polling Station:
- a. Not loiter after voting;

- b. Attempt to interfere with or influence any elector in marking his or her ballot; or
- c. Attempt to obtain information as to how an elector is about to vote or has voted.

SCRUTINEERS

- 83. A candidate shall be entitled to not more than two (2) Scrutineers in the Polling Station at any time. Scrutineers must present to the Electoral Officer a letter signed by the candidate authorizing the agent to remain in the Polling Station.

VERIFICATION OF ELECTORS

- 84. Each person, on arriving at the Polling Station, shall give his or her name and a piece of Valid Photo Identification to the Electoral Officer. The Electoral Officer shall, if the person's name is on the voters list, place his or her initials on the ballot, and provide the ballot to the elector.

RECORD OF BALLOTS ISSUED

- 85. The Electoral Officer shall cause to be placed in the proper column of the voters list a mark opposite the name of every person receiving a ballot.

ELECTOR WHO RECEIVED MAIL-IN BALLOT

- 86. An elector to whom a mail-in ballot package was mailed or otherwise provided prior to the date of the election, may obtain a ballot and vote in person at a Polling Station if:
 - a. The elector returns the mail-in ballot to the Electoral Officer; or
 - b. Where the elector has not exercised his or her right to vote through the mail-in ballot process set forth in this Code.

RESTRICTION FROM VOTING TWICE

- 87. To ensure no elector shall attempt to exercise his or her right to vote by both mail-in ballot and in person at the Polling Station, the Electoral Officer shall verify the list of electors who voted in person on the voters list against the mail-in ballots when opened. Should an elector be recorded as having voted both in-person and by mail-in ballot, the mail-in ballot will not be counted in the tabulation of the election votes.

METHOD OF VOTING

88. The Electoral Officer shall, when requested to do so, explain the method of voting to an elector.

VOTING PROCEDURE

89. After receiving a ballot, an elector shall:
- a. Immediately proceed to the compartment provided for marking ballots;
 - b. Placing an "X" or other mark opposite the name of the candidate or candidates for whom he or she desires to vote;
 - c. Fold the ballot in a manner that conceals the names of the candidates and any marks, but exposes the initials of the Electoral Officer on the back or the ballot; and
 - d. Return the ballot to the Electoral Officer.

VERIFICATION OF BALLOT

90. On receiving a completed ballot from an elector, the Electoral Officer shall, without unfolding the ballot, verify his or her initials placed on the back of the ballot and place it in the ballot box in the presence of the elector. If the ballot does not bear the initials of the Electoral Officer, the Electoral Officer shall write "rejected" on the ballot, not deposit it in the ballot box and shall preserve the ballot.

ATTENDANCE IN VOTING COMPARTMENT

91. While an elector is in the compartment for the purpose of marking his or her ballot, no other person shall, except as provided in Section 92 of this Code, be allowed in the same compartment or be in any position from which he or she can see the manner in which the elector marks his or her ballot.

ASSISTANCE IN VOTING

92. Where an elector is unable to vote in the manner set out in Section 89(a) of this Code, the elector may enlist the assistance of another person to mark the ballot in the manner directed by the elector. The person who has assisted an elector to mark his or her ballot shall sign the assistance to mark ballot form declaring that the person assisted the elector to mark the ballot and the ballot was marked according to the directions from the elector.

SPOILED BALLOT

93. An elector who has inadvertently dealt with his or her ballot paper in such a manner that it cannot be conveniently used shall, on one (1) occasion only, be entitled to obtain another ballot paper upon returning the spoiled ballot to the Electoral Officer. The Electoral Officer shall write the word "spoiled" upon the spoiled ballot paper and preserve it.

FORFEIT OF RIGHT TO VOTE

94. Any Elector who has received a ballot and who leaves the Polling Station without delivering the completed ballot to the Electoral Officer or refuses to vote after receiving a ballot, shall forfeit his or her right to vote at the election. The Electoral Officer shall make an entry in the voters list in the column for remarks opposite the name of the Elector to show that the Elector received a ballot, did not return the ballot and declined to vote. Where the ballot has been returned to the Electoral Officer, the Electoral Officer shall mark upon the face of the ballot the word "declined" and all ballots marked shall be preserved. For greater certainty, any Elector who has forfeited his or her right to vote will not be able to attempt to vote later in the same election.

CLOSE OF POLLS

95. At the time set out in the notice of election for the close of polls, the Electoral Officer shall announce the polls are closed and shall immediately cease to allow any elector, except those that are inside of the Polling Station, from voting.

PART VIII – COUNTING OF THE VOTES

OPENING OF THE COUNTING OF THE VOTES

96. At the time published in the notice of election for the counting of the votes, the Electoral Officer shall declare the counting of the votes open.

ATTENDANCE AT COUNTING OF THE VOTES

97. All members who are in attendance at the polling station at the opening of the counting of the votes may remain to witness the counting of the votes.

ACCESS TO THE COUNTING OF THE VOTES

98. Upon announcement of the opening of the votes, the Electoral Officer shall announce that no one is to stand behind or surround the people that are tallying the ballots and must keep noise and movement at a minimum.

OPENING MAIL-IN BALLOTS

99. The Electoral Officer shall in the presence of any electors, candidates or their scrutineers who are present, open each envelope containing a mail-in ballot that was received before the close of the polls and, without unfolding the mail-in ballot:
- a. Reject the mail-in ballot if:
 - i. The mail-in ballot does not contain the initials of the Electoral Officer;
 - ii. It is not accompanied by a voter declaration form;
 - iii. The voter declaration form does not contain the Band membership number of the elector, the date of birth of the elector, a photocopy of a Valid Photo Identification of the elector, or the name, address, telephone number, or signature of the person who witnessed the elector signing the voter declaration form;
 - iv. It is not accompanied by a photocopy of a Valid Photo Identification of the elector;
 - iv. If applicable, if it is not accompanied by the assistance to mark ballot form;
 - v. The name of the elector set out in the voter declaration form is not on the Voters list; or

- vi. The voters list shows that the elector has already voted.
- b. Accept the mail-in ballot, place a mark on the voters list opposite the name of the elector, and deposit the mail-in ballot in the ballot box if:
- i. The mail-in ballot contains the initials of the Electoral Officer;
 - ii. The mail-in ballot is accompanied by a voter declaration form;
 - iii. The voter declaration form contains the Band membership number of the elector, the date of birth of the elector and the name, address, telephone number and signature of the person who witnessed the elector signing the voter declaration form;
 - iv. The voter declaration form is accompanied by a photocopy of a Valid Photo Identification of the elector;
 - v. If applicable, is accompanied by the assistance to mark ballot form;
 - vi. The name of the elector set out in the voter declaration form is on the voters list; or
 - vii. The voters list does not show the elector having already voted.

RECORD OF REJECTED MAIL-IN BALLOTS

100. The Electoral Officer shall sign and retain all rejected mail-in ballots and shall include a statement on it as to the reason why it was rejected.
101. The Electoral Officer will call up an elector to witness the rejected ballot.

OPENING OF BALLOT BOX

102. Immediately after the mail-in ballots have been deposited in the ballot box, the Electoral Officer shall in the presence of the electors, the candidates or their scrutineers who are present, open all ballot boxes and examine each ballot.

CALLING OUT NAMES OF VOTES CAST

103. The Electoral Officer shall call out the names of the Chief's candidates, only, for whom the votes were cast on all valid ballots.
104. For the tallying of the Council candidates, the Electoral Officer shall set up two tables with a group of three people, which will include the Electoral Officer and Deputy Electoral Officer at each table and these candidates' names will not be called out.

TALLY SHEETS BY ELECTORAL OFFICER

105. The Electoral Officer shall mark a tally sheet in accordance with the procedure under Section 103 of this code, for the purpose of arriving at the total number of votes cast for each candidate.

REJECTION OF BALLOTS

106. In examining the ballots, the Electoral Officer must reject any ballots that:

- a. Does not contain the initials of the Electoral Officer;
- b. Does not give a clear indication of the elector's intention;
- c. Contains votes for more candidates than the offices available for election;
or
- d. Contains a mark by which the elector can be identified.

RECORD OF REJECTED BALLOTS

107. The Electoral Officer shall retain all rejected ballots and include a statement on it as to the reasons why it was rejected.

108. The Electoral Officer will call up an elector to witness the rejected ballot.

OBJECTIONS TO BALLOTS

109. Should an elector object to any ballot, the Electoral Officer shall take note of the objection and decide any questions arising from the objection.

RECORD OF BALLOT OBJECTIONS AND DECISIONS

110. The Electoral Officer shall number objections to ballots raised pursuant to Section 109 of this code 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 or her initials.

WHERE A TIE VOTE OCCURS

111. If it is not possible to determine the successful candidate for either a Chief or Councilor position due to an equal number of votes having been cast (ie. tie vote), the Electoral Officer shall immediately conduct a recount of the valid

ballots cast for that position.

CAST BALLOT TO BREAK TIE VOTE

112. If the recount determines that there is still a tie vote, the Electoral Officer shall cast a ballot in order to break the tie by placing the names of the candidates having the same number of votes on a paper and placing each in an empty container. Without looking, he or she shall draw as many papers as there are positions available. The candidate whose name appears on the piece of paper the Electoral Officer has drawn from the container shall be announced the successful candidate.

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PART IX – POST-ELECTION PROCEDURES

ANNOUNCEMENT OF ELECTED CANDIDATES

113. After completing the counting of the votes and establishing the successful candidates, the Electoral Officer shall declare to be elected the candidate for Chief or candidates for Council having the highest number of votes.

ISSUANCE OF THE ELECTION REPORT

114. Following the declaration of the elected candidates made pursuant to Section 113, of this Code, Announcement of Elected candidates, the Electoral Officer shall complete and sign an election report which shall contain:

- a. The names of all candidates;
- b. The number of ballots cast for each candidate; and
- c. The number of rejected ballots.

POSTING OF ELECTION REPORT

115. Within five (5) consecutive days after completion of the counting of the votes, the Electoral Officer shall:

- a. Forward a copy of the election report to Indigenous Services Canada;
- b. Forward a copy of the election report to the Executive Director; and
- c. Post a copy of the election report in CONSTANCE LAKE First Nation at the following locations:
 - i. Band Administration office;
 - ii. CLFN Website
 - iii. CLFN Official Facebook or other Council Approved Social Media
 - iv. Any other public place within the community.

RETENTION AND DESTRUCTION OF ELECTION MATERIAL

116. The Electoral Officer shall deposit all ballot papers in sealed envelopes, including those rejected, spoiled and unused, and shall retain these ballots and all materials in connection with the election. All ballots and materials shall be retained for seventy-five (75) consecutive days from the date on which the election was held or until a decision on an appeal is rendered, whichever date is later, after which time the Electoral Officer shall destroy them in the presence of two (2) witnesses who shall sign a written statement that they

witnessed the destruction of those papers.

ELECTION APPEALS

117. An appeal of an election must be submitted in writing to the Election Appeals Board within forty-five (45) consecutive days from the date of the election and in accordance with Part XI of this code.

CONDITION OF ASSUMING OFFICE

118. All members elected for the positions of Chief or Councilor must sign and file an office acceptance with the Electoral Officer within fourteen (14) consecutive days of being declared the successful candidate in an election.

FAILURE TO ASSUME OFFICE

119. Should a candidate fail to sign the acceptance of office within the fourteen (14) consecutive days, the Electoral Officer shall declare the office vacant and shall give notice in writing to that member and the Council. The position declared vacant will remain vacant until a by-election is called.

SWEAR IN OATH OF OFFICE

120. The First Nation will set a Swear-In Oath of Office ceremony witnessed by members of the First Nation, where all candidates will be present by signing the oath of office, the member shall swear to:
- a. Uphold and comply with this Custom Election Code and all laws of CONSTANCE LAKE First Nation;
 - b. Fulfill the duties and responsibilities of his or her office under this Code and all laws of CONSTANCE LAKE First Nation;
 - c. Carry out his or her duties faithfully, honestly, impartially and to the best of his or her abilities;
 - d. Keep confidential, both during and after his or her term of office, any matter or information which is considered confidential; and
 - e. Always act in the best interests of CONSTANCE LAKE First Nation in carrying out his or her duties.

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FAILURE TO SWEAR OATH OF OFFICE

- 121 If a Member elected as Chief or Councilor fails to attend the sworn oath of office ceremony in accordance with Section 120 of this code, shall attend

the next General Gathering and verbally state and sign the Oath of Office.

PART X – BY-ELECTION

HOLDING OF A BY-ELECTION

122. Unless otherwise provided in this Code, in the event that the office of Chief or Councilor becomes vacant, a by-election shall be held within sixty (60) consecutive days after the date on which the position is declared vacant.

THREE MONTHS REMAINING IN TERM

123. No by-election shall be held if there are less than three (3) months remaining in the term of the Council member whose office has become vacant, except where a by-election is necessary to have sufficient Council members to maintain a Quorum.

PRESENT COUNCIL MEMBER MAY NOT BE CANDIDATE

124. No sitting Council member is eligible to be a Candidate in a by- election. If a Council member wishes to be a candidate for Chief in a by-election, he or she must resign his or her Council position prior to the nomination meeting for the by-election.

CODE RULES AND PROCEDURES APPLY

125. Except as expressly provided otherwise in this Code, the rules and procedures in the Code shall apply to by-elections.

PART XI – ELECTION APPEAL BOARD

ESTABLISHMENT OF AN ELECTION APPEAL BOARD

126. The Custom Election Appeals Board is hereby established to render final decisions in all election appeals. A Band Council Resolution of the Council will grant the delegation of these powers to the appeal body.

COMPOSITION OF ELECTION APPEAL BOARD

127. The Election Board shall have a minimum of three (3) independent members who are not members of the CONSTANCE LAKE First Nation and providing that the (conflict of interest test) is met as outlined in the definition for conflict of

interest.

DUTIES AND RESPONSIBILITIES

128. The Election Appeals Board shall:

- a. Enforce this Custom Election Code;
- b. Provide election appeal services;
- c. Act fairly to persons who use its services;

QUALIFICATIONS

129. To be eligible to serve as a board member of the Custom Elections Appeals Board, a person shall:

- a. Not hold elected office in the capacity of a Chief, Deputy Chief or Councilor;
- b. Be a staff member of the Matawa First Nation Management;
- c. Have knowledge in the customs, tradition and language of the CONSTANCE LAKE First Nation;
- d. Not be convicted or a corrupt practice in connection with an election, including the acceptance of a bribe, dishonesty or willfully wrongful misconduct; and
- e. Be a minimum of eighteen (18) years or age or older.

SELECTION PROCESS

130. Board members of the Custom Election Appeals Board shall be selected through an application and interview process in which his or her skills and qualifications will be assessed, which will be delegated to a body independent of CONSTANCE LAKE First Nation by Band Council Resolution of the Council.

TERM OF BOARD MEMBERS

131. Board members of the Custom Election Appeals Board shall serve for a period designated in the code.

COMPENSATION

132. Board members of the Custom Election Appeals Board shall receive an honorarium and shall be paid reasonable expenses incurred by him or her in the performance of his or her duties in providing appeal services and attending meetings of the Custom Election Appeals Board.

ROLE AND AUTHORITY OF APPEALS BOARD

133. The Custom Election Appeals Board shall hear the presentation of evidence and arguments of the parties and shall render a final decision on the appeal. The Appeals Board has the authority to:
- a. Hear election appeals in accordance with this Code;
 - b. Accept evidence for the hearing of election appeals;
 - c. Reject appeals without a hearing if it determines that:
 - i. The appeal is not within the mandate of the Election Appeals Board, in accordance with this Code;
 - ii. The appeal is frivolous, vexatious or an abuse of process; or
 - iii. A party to the appeal acted or attempted to act in a way to improperly influence the decision of the Election Appeals Board.
 - d. Issue recommendations to CONSTANCE LAKE First Nation on such matters as the development, suspension, reconsideration, amendment or election appeal of the Code;
 - e. Confirm or reverse a decision made under this Code, in whole or in part;
 - f. Substitute its own decision for the decision made under this Code in election appeal;
 - g. Make an order to give effect to its decision;
 - h. Render interim decisions where it deems it necessary as a matter of urgency or preserve the rights of the parties to the appeal or to preserve or protect an interest in CONSTANCE LAKE First Nation; and
 - i. Other such powers as may be prescribed by this Code or by CONSTANCE LAKE First Nation.

DUTY OF FAIRNESS

134. Parties who request and/or utilize the appeal services of the Custom Election Appeals Board are entitled to:
- a. Be treated fairly by the Custom Election Appeals Board;
 - b. Be advised of his or her right to utilize the appeal services under this Code in a timely manner and provided with sufficient information to reasonably determine whether to utilize the appeal services of the Custom Election Appeals Board;
 - c. Be provided with an opportunity to present his or her position, arguments and evidence through the appeal services of the Custom Election Appeals Board in a timely manner;
 - d. Be provided with fair and impartial appeal services of the Custom Election Appeals Board in a timely manner; and

- e. Where applicable, be provided with written reasons for a decision made by the Custom Elections Appeals Board in a timely manner.

REQUESTING APPEAL HEARING

- 135. Requests for an appeal hearing by the Election Appeals Board and supporting documentation shall be submitted in writing to the Election Appeals Board.

TIMEFRAMES FOR APPEAL

- 136. Timeframes for submitting an appeal to the Appeals Board shall be those that are prescribed within this Code (for example, forty-five (45) consecutive days for an election appeal as set forth in Section 117 of this Code).

REVIEW AND RESPONSE TO REQUESTS FOR APPEAL HEARING

- 137. The Election Appeals Board shall review and provide a written response to requests for an appeal hearing within fifteen (15) consecutive days upon receipt to determine if the request comes within the mandate and authority of the Appeals Board. The written response will state whether or not the request is suitable and within the mandate of the Election Appeals Board to consider, and if so, the process in which the appeal services shall be provided.

NOTICE TO PARTIES

- 138. The Election Appeals Board shall provide written notice within fifteen (15) consecutive days to the other party, or parties to an appeal, that a request for an appeal hearing has been submitted to and will be considered by the Election Appeals Board, the evidence provided and the notice of appeal.

LOCATION OF APPEAL HEARINGS

- 139. Based on the preferences of the parties, the appeal hearing of the Appeals Board may be conducted in person, by written submission or by telephone. If the parties cannot agree to the format of how the appeal hearing will be conducted, the Election Appeals Board shall decide. Where the appeal hearing of the Election Appeals Board is to occur in person, the appeal hearing shall take place in CONSTANCE LAKE First Nation.

CHAIRPERSON AND RECORDER OF DECISION

140. The Board members of the Election Appeals Board shall determine amongst themselves as to who will serve as the Chairperson in an appeal hearing and who will be responsible for writing the final decision for the Election Appeals Board. The Chairperson shall be responsible for such duties as reviewing the ground rules and procedures of the appeal hearing with the parties and overseeing the process.

GROUND RULES AND PROCEDURES

141. The appeal hearings by the Election Appeals Board are to be offered in a comfortable, relaxed and inviting atmosphere to ensure that all Parties have the opportunity to present their arguments, to be heard, and to be respected. The Election Appeals Board will provide written information to the Parties as to what the ground rules and procedures of the appeal hearing will be prior to the occurrence of the appeal hearing and these ground rules and procedures will be reviewed again at the start of the appeal hearing.

FORMAT AND STRUCTURE OF APPEAL HEARING

142. In addition to the ground rules and procedures that will be established, the format and structure of the appeal hearing will include such aspects as an opening and closing prayer, arranging seating in a circle, providing light refreshments, having the opportunity to take breaks and other such steps that will assist in the parties and the Election Appeals Board to work together as co-operatively as possible.

ATTENDANCE AT APPEAL HEARING

143. Appeal hearings of the Appeals Board shall be open to members of CONSTANCE LAKE First Nation.

PARTICIPATION AT APPEAL HEARINGS

144. If a party or parties to an appeal refuse to participate in an appeal hearing by the Election Appeals Board, the process will continue without his or her participation.

NO RECORDING OF APPEAL HEARING

145. Appeal hearings of the Election Appeals Board will not be recorded by audio, visually or by transcription.

TRANSLATION SERVICES

146. Where a party or party to the appeal is hearing impaired, visually impaired or does not speak English, the Election Appeals Board will provide translation services for its appeal hearing. CONSTANCE LAKE First Nation shall pay the cost for such services.

EXCHANGE OF WRITTEN INFORMATION

147. Any written information or documentation that is to be relied upon or used by a party in the appeal hearing, including a list of all witnesses, shall be sent to the Election Appeals Board at least fifteen (15) consecutive days in advance of the appeal hearing occurring and such information or documents shall be treated as non-confidential. Upon receipt of such information or documentation, the Election Appeals Board shall immediately send a copy of the information or documentation to the other party or parties. The party submitting such information shall include enough copies for the number of Board members of the Appeals Board that will be participating in the appeal hearing and the other party or parties. Failure to provide the written information or documentation in advance of the appeal services process may render the information or documentation inadmissible.

WITNESSES AT APPEAL HEARING

148. The parties to an appeal may request that a witness be allowed to present direct information or evidence on the matter at an appeal hearing. Parties who wish to call witnesses must provide a written list of the name(s) of the individual(s) who will be called as a witness and a summary of the information that he or she is to present. The costs for witnesses to present shall be borne by the party requesting their attendance. The Appeals Board maintains the right to determine whether a witness will or will not be allowed to present at the appeal hearing.

REPRESENTATIVE OR LEGAL COUNSEL

149. As the intent of the appeal hearing is to provide the parties with the opportunity to personally present and resolve their appeal through a process that is less

formal, restrictive or limiting as a court system, requests for representatives or legal counsel to attend and/or present at an appeal hearing, shall be considered by the Election Appeals Board on a case- by-case basis. If representatives or legal counsel are permitted, their costs shall be borne by the party requesting his or her attendance.

INTERVENERS

150. Interveners may be granted permission to present evidence and submissions at appeal hearings where the greater interests of the CONSTANCE LAKE First Nation warrant and where the Election Appeals Board permit them to do so. Individuals or public interest groups who wish to present at an appeal hearing must submit a written application to the Election Appeals Board and the parties at least fifteen (15) consecutive days before the appeal hearing is to occur, stating the reasons and information to be presented should they be permitted to present. Should an intervener be permitted to present at the appeal hearing, the intervener will be granted a limited time in which to present his, her or their information and will not be allowed to attend the entire process.

DECISIONS OF APPEALS BOARD

151. The Appeals Board through an in-camera process shall deliberate on the matter immediately following the hearing. The Appeals Board shall render and deliver a written decision to the parties within ten (10) consecutive days following the appeal hearing. Decisions of the Appeals Board are open to the public and are final on the parties, with the exception of recommendations that may be issued in accordance with this Code.

NO APPEAL OF APPEALS BOARD DECISIONS

152. Decisions of the Election Appeals Board are final and may not be appealed to any court, or subject to judicial review of any kind.

WAIVER OF LIABILITY BY PARTIES

153. Parties to an appeal who utilize the appeal services of the Election Appeals Board shall be requested to consent in writing that the Board members of the Election Appeals Board who provide or assist in the provision of an appeal hearing under this Code shall not be liable to the parties for any act or omission in connection with the appeal hearing provided, unless the act or omission is fraudulent or involves willful misconduct.

NO COMPELLABILITY

154. The parties and the Appeals Board are not compellable to give testimony or to produce documents in a civil proceeding with respect to matters relating to or prepared or exchanged during the appeal hearing of the Appeals Board.

NOT PRODUCED AS EVIDENCE

155. Representations, statements or admissions made, or documents prepared or exchanged during the appeal hearing of the Election Appeals Board cannot be used in evidence or produced in a civil proceeding, subject to the following exceptions:

- a. Where there are reasonable grounds to believe that the disclosure is necessary to address a real or perceived threat to a person’s life or physical safety;
- b. A party consents to the disclosure of his or her own personal information; or
- c. The terms of an agreement, memorandum of understanding or plan arising from the appeal hearing may be disclosed to a court and all parties to the appeal hearing.

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PART XII – AMENDMENT AND COMING INTO FORCE

MINOR AMENDMENTS TO CODE

156. Notwithstanding this part of the Code, the Council may from time to time, arrange and make minor revisions to this Code due to:
- a. A reference in this Code to a section in another act or document that was amended and resulted in section renumbering;
 - b. A reference in this Code to an act or parts thereof that have expired, been replaced or been suspended;
 - c. Minor improvements in the language as may be required to bring out more clearly the intention of this Code, without changing the substance of the Code;
 - d. Changes in this Code as required to reconcile apparent inconsistencies with other acts or documents; and
 - e. Correction of editing, grammatical or typographical errors.

PROCESS TO AMEND THE CODE

157. Proceedings to amend the Code shall be initiated by submitting to the Members at a Band meeting:
- a. A written petition by an Elector in accordance with section 156 of the Code; or
 - b. A Band Council Resolution by the Council in accordance with section 159 of this Code.

AMENDMENT PETITION REQUIREMENTS

158. A petition submitted to the Members at a Band meeting under section 157 of this Code must include the following:
- a. The proposed amendments to the Code;
 - b. The petition signed and dated by the Elector submitting the petition;
 - c. An affidavit signed by the Elector swearing the petition is accurate;
 - d. The petition signed by at least twenty-five percent (25%) of all Electors which includes their name, Band number, signature and date of signature;
 - e. All evidence provided to the Elector to secure their signature on the petition; and
 - f. Any other information in support of the petition.

AMENDMENT BAND COUNCIL RESOLUTION REQUIREMENTS

159. A Band Council Resolution submitted under section 157 of this Code must include the following:
- a. The proposed amendments to the Code;
 - b. The signature of the Council members submitting the petition;
 - c. All evidence provided to the Council to secure their signature on the Band Council Resolution; and
 - d. Any other information in support of the petition.

TIMEFRAME FOR PETITION OR BAND COUNCIL RESOLUTION

160. A petition or Band Council Resolution for amendments to the Code may be submitted to the Members at a Band meeting at any time.

AMENDMENT PROCESS

161. Upon presentation of the petition or Band Council Resolution requesting amendments to the Code to the Members at a Band meeting:
- a. The Council or a special committee appointed for such purpose shall be responsible for preparing the draft amendments to the Code;
 - b. Conducting a minimum of four (4) community consultation sessions in CONSTANCE LAKE First Nation and/or appropriate venues as determined by Council to present the proposed amendments to the Code to the Members and to illicit their comments;
 - c. Conducting a mail-out and posting the proposed amendments to the Code;
 - d. Conducting a ratification vote on the proposed amendments to the Code; and
 - e. Upon approval by a ratification vote, the proposed amendments shall come into effect.

Part XIII- RATIFICATION VOTE PROCESS

162. The ratification vote process shall be conducted in accordance with the Custom Election vote procedures set forth at Parts III, VI, VIII and IX of this Code, with changes in procedure as necessary and as set forth in this Part.

RATIFICATION VOTE TIMEFRAME

163. The ratification vote shall be held at least forty-five (45) consecutive days after the receipt of a petition or Band Council Resolution requesting amendments to the Code.

RATIFICATION VOTE RESULT

164. A ratification vote of fifty percent plus one (50% + 1) of thirty-five percent (35%) of all eligible Electors must be in favor of the proposed amendments to the Code for the proposed amendments to be approved and implemented.

RATIFICATION VOTE APPEAL

165. An appeal of a ratification vote must be submitted in writing to the Appeals Board within forty-five (45) consecutive days of the date of the ratification vote and in accordance with Part XIII of this Code.

ELECTIONS FOLLOWING RATIFICATION VOTE

166. Elections held under the amended Code shall take place within 30 days of the first ratification and no sooner than sixty (60) consecutive days from the ratification vote for amendments other than administrative changes.

COMING INTO FORCE

167. The amended Code shall come into force when:

- a. The day following the ratification vote where the Electors approve the proposed amendments to the Code; or
- b. A day named in the proposed amendments to the Code.
- c. The day following the ratification of the Election Code automatically triggers the call for Nominations for a General Election to be held immediately.

SCHEDULES – CHART OF TIMEFRAMES

A. ELECTION VOTE TIMEFRAME

ACTION	TIMEFRAME
Setting election date	Minimum of 55 consecutive dates before the anniversary of the last election. Except for the first Election following the ratification of the Custom Code, as per Coming into Force, Section 166.
Council selecting the Electoral Officer and Deputy Electoral Officer	Minimum of 75 consecutive days before Council’s term of office expires. Except for the first Election following the ratification of the Custom Code as per Section 166.
Executive Director selecting the Electoral Officer and Deputy Electoral Officer	After 7 consecutive days following the 55 consecutive days before Council’s term of office is to expire if the Council has not done so. Except for Section 166.
Membership Clerk to provide names and addresses of Electors to Electoral Officer	At least 52 consecutive days before the election, except for section 166.
Electoral Officer to prepare and post voters list	At least 48 consecutive days before the election, except for section 166
Electors to request that their name be added to the voters list	No later than 7 consecutive days before the election.
Electors to challenge an Elector’s name from being on the voters list	No later than 25 consecutive days before the election

Electoral Officer to notify an Elector that their name on the voters list is challenged	At least 14 consecutive days before the election, or as per section 166.
Electoral Officer to post the notice of nomination meeting	At least 20 consecutive days before the nomination meeting, except for section 166
Electoral Officer to mail out the nomination meeting package to Electors who are not Ordinary Residents of CONSTANCE LAKE First Nation	At least 20 consecutive days before the nomination meeting, except for Section 166
Holding the nomination meeting	At least 30 consecutive days before the election, except for section 166 wherein nomination meeting can be held as soon as the day following ratification of the code.
Candidates acceptance of nomination	Within 5 consecutive days of the nomination meeting
Candidates withdrawing their name from the election	Within 5 consecutive days of the nomination meeting
Electoral Officer posting a notice of acclaimed positions for the office of Chief, Deputy Chief or Councillor	Within 5 consecutive days after the nomination meeting
Holding the election vote	Within 30 consecutive days after the nomination meeting or as per Section 166 implementation of Custom Code following ratification First General Election to be held on June 29, 2019 .

Electoral Officer posting the notice of election	Within 2 consecutive days after the nomination meeting
Electoral Officer mailing the mail-in ballot package to Electors who are not Ordinary Residents on CONSTANCE LAKE First Nation	At least 28 consecutive days before the election
Electors requesting a mail-in ballot package from the Electoral Officer	At least 10 consecutive days before the election
Electoral Officer posting and mailing of the election report	Within 5 consecutive days after the election
Electoral Officer destroying all election material if no election appeal	After 75 consecutive days following the election
Submitting an election appeal to the Appeals Board	Within 45 consecutive days after the election
Members of Council swearing an oath of office	Within 14 consecutive days after the election
Holding a by-election	Within 60 consecutive days from the position being declared vacant
Holding the first meeting of Council	No later than 30 consecutive days after the election

B. APPEAL HEARING TIMEFRAME

ACTION	TIMEFRAME
Submission of a petition or Band Council Resolution to the Appeals Board to remove the Chief, Deputy Chief or Councillor	Within 45 consecutive days of the grounds for removal occurring
Appeals Board notifying the parties submitted the petition or Band Council Resolution for the removal of the Chief, Deputy Chief or Councillor that it does not fulfill the necessary requirements	Within 15 consecutive days of receiving the petition or Band Council Resolution
Parties submitting the petition or Band Council Resolution having the opportunity to amend and resubmit the petition or Band Council Resolution	Within 30 consecutive days of being notified by the Appeal Board that the petition or Band Council Resolution does not fulfill the necessary requirements
Appeals Board issuing a response to a request for an appeal hearing	Within 15 consecutive days of receiving the request for an appeal hearing
Parties providing their information, evidence, and list of witnesses that will be presented at the appeal hearing to the Appeals Board	At least 15 consecutive days before the appeal hearing
Parties providing the names of persons who will serve as moral support for them at the hearing to the Appeals Board	At least 5 consecutive days before the appeal hearing
Intervenors requesting to present at the appeal hearing	At least 15 consecutive days before the appeal hearing

Appeals Board issuing a written decision on the appeal hearing	Within 15 consecutive days after the appeal hearing
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C. RATIFICATION VOTE TIMEFRAME

ACTION	TIMEFRAME
Submitting a petition or Band Council Resolution to the Members at a Band Meeting requesting amendments to the Code	At any time
Holding a ratification vote	At least 45 consecutive days of receiving a petition or Band Council Resolution requesting amendments to the Code
Appealing a ratification vote	Within 45 consecutive days after the ratification vote
Holding an election after a ratification vote	No sooner than 60 consecutive days after the ratification vote