

# Election Code

Draft for Review

**WHEREAS** the Indian Act provides for First Nation taking control of their own election process.

**AND WHEREAS** it is the desire of the Sandy Bay First Nation people to establish a recognized and approved form of Government to meet the needs of the Sandy Bay First Nation people and to protect the sovereignty of the Sandy Bay First Nation and the vested interests of the Sandy Bay members under all laws heretofore enacted;

**AND WHEREAS** it is the desire of the Sandy Bay First Nation to continue its move toward self-government and to that end establish a form of election procedures in accordance with the customs and the current trends and practices to the Sandy Bay First Nation.

### **Title & Preamble**

1. This code shall be called the "Sandy Bay First Nation Band Election Code" of the Sandy Bay First Nation.
2. The Sandy Bay First Nation Election Code supersedes Section 74 – 80 the Indian Act. The Sandy Bay First Nation Election Code shall set out the framework and procedures for all Sandy Bay First Nations Elections, By-Elections and Appeals.

### **Definitions**

3. In this code:

**Appeal Board** means the body appointed Electoral Committee and by a Band Council Resolution to review and make decisions concerning removal from office and election appeals and complaints.

**Appeal board members** means a board consisting of 6 persons selected by the Electoral Committee, it will consist of the following:

- a. TBD
- b. Elder
- c. TBD
- d. University College Professor or student
- e. TBD

**By-election** means a special election to fill a position on the Council that has become vacant when a majority of Council tenders their resignation.

**Candidate** means a person who:

- a. is the full age of 18 years,
- b. is a member of the Sandy Bay First Nation enrolled on the band list;
- c. has been nominated to be a candidate for one of the positions of Chief or Councilor in the accordance with this code.
- d. has not been convicted of an offence for which he/she has been charged by indictment as defined by the Criminal Code of Canada, whether they have received a pardon or not;

- e. has posted a fee of \$ **500.00** for those nominated for Chief and \$ **250.00** for those nominated for Council. These fees are non-refundable and will be used to offset election expense by the Band. A withdrawal of candidacy shall not result in a refund of these fees. These fees are the onus of the candidate.
- f. is nominated as moved and seconded by persons who themselves are eligible to be electors, as defined herein.
- g. Must submit a Criminal Record Check and Child Abuse Registry at their own expense.
- h. Has not been found guilty of a corrupt practice in an election held by Sandy Bay First Nation by the Minister of Aboriginal Affairs and Northern Development Canada in the past, and in the future by the Appeal Board.
- i. Valid drivers license.

**Chief** means that member of the Sandy Bay First Nation elected as **Chief** pursuant to these procedures.

**Councilor** means members of the Sandy Bay First Nation elected as a **Councilor** pursuant to these procedures.

**Council** means the Chief and Council selected pursuant to this code.

**Code** means the Sandy Bay First Nation Election Code.

**Consecutive Term** means a **4-year** term of office. **(Further discussion)**

**Corrupt practices** means bribery direct or indirect, or providing a financial or material incentive or favoritism to an elector in exchange for a vote or during the nomination and election process.

**Criminal Code of Canada** is a law that codifies most criminal offences and procedures in Canada.

**Deputy Electoral Officer** means a person appointed by the Electoral Officer to assist him/her in the conduct of the election process.

**Duly Convened Meeting by Council** means a meeting called by Chief and Council with quorum to discuss matters pertaining to Sandy Bay First Nation matters.

**Election** means a general election of the Sandy Bay First Nation held pursuant to the provisions of this code.

**Elector** means a person who:

- a. is the full age of 18 years; and
- b. is a member of the Sandy Bay First Nation enrolled on the Band List

**Electoral Officer** means a person, appointed by Electoral Committee and a Band Council Resolution before each election, to the Sandy Bay First Nation Chief and Council for the purpose of carrying out the duties set out in these procedures.

**Electoral Committee** means members of the Sandy Bay First Nation appointed to uphold, amend and enforce the rules and regulations of this code and are actively involved in the process of this code.

- a. Appoint Appeal Board
- b. Appoint Electoral Officer
- c. Collect fees for candidates for Chief and Council
- d. Hold fees in trust in special bank account
- e. Inform Appeal Board of any appeals.

**Elder** means a band member who is at least 65 years of age.

**Indian Registration Administrator (I.R.A)** means the band employee responsible for maintaining the Sandy Bay band membership list.

**Indictable Offense** these are more serious offences and include theft over \$5,000, break and enter, aggravated sexual assault and murder.

**Mail in Ballot** means a ballot mailed in accordance with this code.

**Petitioner** means an individual who submits a petition in accordance with this code with respect to an election.

**Polling Station** means a building, hall or room, which is selected as the site at which voting takes place.

**Proof of Identity** Identification such as a government-approved picture ID, Birth certificate or medical card.

**Rejected Ballots** means those ballots that have been improperly marked and/or defaced by elector(s), which are not included in the tally of valid ballots cast during the counting of the votes.

**Resolution** means a Sandy Bay First Nation Band Council Resolution adopted at a duly convened meeting of Council.

**Scrutineer** means a person appointed in writing by a Candidate to represent the Candidate during the voting procedure and during the counting of ballots. Written appointment of the Scrutineer by the Candidate shall be delivered to the Electoral Officer 48 hours prior to the date of election.

**Unanimous** quorum of 5 members the Sandy Bay First Nation Council.

**Voters List** means the list of Sandy Bay members eligible to vote in an election.

### **Chief and Council**

4. The Sandy Bay First Nation Council shall consist of 1 Chief and 6 Councilors who shall be elected in accordance with these procedures. **(further discussion)**

4.1 The Chief and Councilors shall hold office for 3 years.

- 4.2 The start date for the term is the following day after the previous term expires.
- 4.3 There shall be a formal meeting of the Administrative staff and the new Chief and Council within 3 to 5 business days of the election for the purpose of getting a thorough briefing on matters affecting the Sandy Bay First Nation.
- 4.4 No member of the Council may be absent from for three consecutive Council meetings, without being authorized to do so by the Council.
- 4.5 The Chief & Council shall fulfill the following roles and responsibilities:
- a. to represent and protect our First Nation's rights, language, culture and traditions
  - b. to promote and protect our inherent and Treaty rights;
  - c. to reflect and implement our peoples' goals, priorities and primary interests;
  - d. to foster democratic processes and consensus decision-making;
  - e. to promote unity, harmony, fairness and respect among our people;
  - f. to oversee our economy and resources;
  - g. to effectively manage the fiscal and financial affairs of the First Nation including full and open accountability to our people;
  - h. to provide for the fair reconciliation of grievances, appeals and disputes;
  - i. to ensure that "Conflict of Interest" is avoided.
- 4.6 At least 60 days prior to the date of an election, the Electoral Committee shall appoint an Electoral Officer and the members of the Appeal Board. A written statement setting out the name of the Electoral Officer and the members of the Appeal Board shall be posted in the Sandy Bay First Nation Government Administration and Council Offices and such other places on the Sandy Bay Reserve as the Chief and Council deem necessary.
- 4.7 Except in emergencies, when an election has been called, the incumbent Chief and Councilors shall only expend the required financial resources to maintain the current operation of the band office, more specifically the regular bills accompanied by an invoice and salaries.
- 4.8 The term of office for the Chief and Councilors commences as stated in section 4.2 and all elected Council members must swear the oath of office under section 19.

## **VACANCY**

5. The Chief or Councilor position may become vacant if, while in office:
- a. the Chief or Councilor resigns in writing from office of his/her own accord;
  - b. the Chief or Councilor has been unable to perform the functions of his/her office for more than six months due to illness or other incapacity;
  - c. the Chief or Councilor dies;
  - d. the Chief or Councilor is removed from office in accordance with section 7;
  - e. is charged and/or convicted during their term of an offence under the Criminal Code of Canada.

5.1 In the event that the office of the Chief or Councilor becomes vacant, the candidate who had the next highest votes in the last general election shall fill the vacancy and hold office for the remainder of the Council's term of office.

5.2 In the event that a majority (quorum) of Chief and Council tender their resignation on the same date, then a by election shall be held, in accordance with these procedures to fill the positions of Chief and all Council positions.

### **OATH OF OFFICE**

6. A candidate is in breach of the Oath of Office herein who, directly or indirectly offers a bribe to influence an elector to vote or refrain from voting for a particular candidate, or during term of office, accepts or agrees to accept a bribe that is offered.

6.1 A candidate is in breach of the Oath of Office herein who, by intimidation or duress, compels a person to vote or refrain from voting or to vote or refrain from voting for a particular candidate in an election.

### **REMOVAL OF COUNCIL MEMBERS FROM OFFICE**

7. The office of **Chief** or **Councilor** becomes vacant when a person who holds that office:

- a. dies; or
- b. resigns in writing from his/her office or
- c. is convicted of an offense for which he/she has been charged by indictment; or
- d. has been absent from three Council meetings within a one-year period without prior authorization from Council;
- e. fails to uphold the Oath of Office guidelines;
- f. fails to remove himself from a Conflict of Interest situation; or
- g. accepts or offers a bribe, forges a Council document or otherwise acts dishonestly in his role.
- h. abuses his office such that the conduct negatively affects the dignity and integrity of the employees, community, or of Council;
- i. misuse of band funds for personal gain.

### **PROCEDURE**

8. Proceedings to declare a candidate ineligible to continue to hold the office of Chief or Councilor shall be initiated by:

- a. Elector submitting to the Appeal Board a petition on which shall appear:
  - i. the ground pursuant to section 7 on which removal of a Chief or Councilor is sought;
  - ii. the evidence in support of the form of an affidavit signed and dated by a Commissioner of Oaths;
  - iii. a non-refundable filing fee of \$100.00.
- b. a majority of Council members passing a Band Council Resolution and submitting a petition to the Appeal Board on which shall appear:

- i. the ground pursuant to section 7, on which removal of the Chief or Councilor is sought;
- ii. the evidence in support of the resolution; and
- iii. the signatures of all Council members who voted for the removal.

8.1 On receipt of a petition, the Appeal Board shall verify that the petition complies with section 7. If the petition does not comply, the Appeal Board shall so notify the petitioner(s).

8.2 In a case where the petition complies with section 7, the Appeal Board shall:

- a. determine that the grounds put forth in the affidavit are not true and dismiss the appeal; or
- b. schedule a review hearing, which shall take place within 30 days from the date on which the appeal was submitted to the board.
- c. In a case where the appeal has been dismissed under subsection 8.2 (a), Appeal Board shall so inform the petitioner(s) in writing and provide a rationale.
- d. In a case where the Appeal Board schedules a hearing under subsection 8.2(b), the board shall send a written notice of the hearing by registered mail to Council, the petitioner(s) and the Council member who is the subject of the petition for removal.
- e. The written notice described in section 8.2 (d) shall set out:
  - i. the nature of the hearing and all related particulars;
  - ii. the date, time and location of the hearing; and
  - iii. a statement that the petitioner(s), any member of Council or the Council who is the subject of the petition for removal may, at the hearing, make a presentation to the board, which may include the presentation of documents and testimony by witnesses.

8.3 The Appeal Board shall conduct a hearing at the time and place set out in the notice provided under section 8.2 (e).

8.4 Within ten (10) business days of the day on which the hearing under section 8.2 (e) is held, the Appeal Board shall rule:

- a. that the petition shall be allowed to stand, and declare the Council position of the member of Council who is the subject of the petition to be vacant or:
- b. that the petition is dismissed.

8.5 The Appeal Board shall send, by registered mail, a written notice of the ruling made under section 8.4 to Council, the petitioner (one who started the appeal) and the Council member who is the subject of the petition for removal.

8.6 The decision of the Appeal Board made under section 8.4 is final and binding upon all parties. Any appeal to a court of law shall be founded in law and not fact.

8.7 If the Council position is declared vacant under subsection 8.4(a), the Appeal Board shall further declare the Chief or Councilor removed from office shall be disqualified from being a candidate for a period of 6 years commencing on the date of the board's final ruling. If an Appeal is taken from the board's ruling, the period of 6 years will start at the final decision of the Appeal.

8.8 The vacant position will be filled under Section 5.1 of this Code.

### **BY ELECTIONS**

9. 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 90 days after the date on which the position is declared vacant.

9.1 No by-election shall be held if there are less than 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.

9.2 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 must resign his Council position prior to the nomination meeting for the by-election. They forfeit their seat on Council regardless of the outcome of the by-election

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

### **PRE-NOMINATION PROCEDURE**

10. The Electoral Officer as recommended by Electoral Committee shall be appointed by a Band Council Resolution not less than 45 days before the expiration of the Council's term of office.

10.1 The Electoral Officer must be a person who:

- a. is at least 21 years of age
- b. is a Band Member of the Sandy Bay First Nation
- c. has experience in the conduct of elections or has received appropriate training with references.

10.2 The Electoral Officer shall appoint a Deputy Electoral Officer to assist in the election process as set out in this code.

10.3 The Electoral Officer shall appoint peace officer/security for the election process.

10.4 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 observation;
- d. instruments for marking the ballots;
- e. a sufficient number of voting instructions as may be required;
- f. all other equipment necessary to establish and equip the polling stations; and
- g. the final voters list.



## **VOTERS LIST**

11. At least 40 days before the day on which an election is to be held, the Electoral Officer shall obtain the names and band membership numbers of all band members who will have attained the age of 18 years on the date on which the election is to be held.
- 11.1 The Indian Registry Administrator shall, no later than 40 days before the date on which the election is to be held, provide the Electoral Officer with the last known addresses, if any, of all electors who do not reside on the reserve.
- 11.2 Electors are responsible for providing the Indian Registry Administrator with their current addresses.
- 11.3 An elector's address shall be used by the Electoral Officer only for the purpose of providing notices, mail-in ballots or other election documents to electors who are entitled to receive them under this code.
- 11.4 Except for the purposes noted in section 10.3, the Electoral Officer shall not disclose an elector's address without the consent of the elector.
- 11.5 A candidate for election as Chief or Councilor may obtain from the Electoral Officer a list of the names and addresses of electors who have consented to have their addresses disclosed to candidates for election related materials only.
- 11.6 At least 40 days before the day on which an election is to be held, the Electoral Officer shall prepare a voters list containing the names of all of the electors in alphabetical order.
- 11.7 The Electoral Officer shall post the voters list in a public area of the band administration building and in such other conspicuous places on the reserve as may be determined by the Electoral Officer, no later than 40 days prior to the date on which the election is to be held.
- 11.8 On request, the Electoral Officer or Deputy Electoral Officer shall confirm whether the name of a person is on the voters list.

## **NOMINATIONS**

12. The Electoral Officer shall set a meeting of the electors of The Sandy Bay First Nation to be held 15 days prior to the date set for an election, for the purpose of nominating candidates for the office of Chief and for Councilors
- 12.1 The call for nominations shall be made in the form of written notices, to be posted 15 days prior to the date of the meeting, in public places most frequented by the members of Sandy Bay First Nation, the written notice shall include:
  - a. the time, date and place where the nomination meeting is to be held;
  - b. the offices open for elections; and

- c. the voters list, containing a list of all eligible electors as define herein.
- 12.2 At the time and place specified in the notice, the Electoral Officer shall declare the meeting open for the purpose of receiving nominations, and any person who is an elector may propose or second the nomination of any qualified person to serve as a Chief or Councilor, and the meeting shall remain open for not less then 2 hours after commencement. **(Further discussion 1 hour for Chief and 1 hour for Councilor)**
- a. an elector may nominate or second only 1 candidate for Chief and only 1 candidate for Councilor.
- b. a candidate may run for the office of Chief or Councilor but not both.
- c. the nomination meeting will be kept open for 2 hours, between the hours of **6:00 P.M. to 8:00 P.M. (Further discussion)**
- 12.3 The submission of a candidate's nomination papers must be accompanied with their criminal record check, child abuse registry and a \$ 500.00 non-refundable fee for candidates for Chief and \$ 250.00 non-refundable fee for candidates for Councilor, cash, certified cheques or money orders made payable to the Electoral Committee will be accepted.
- 12.4 All funds received as candidate deposit fees under this code will be non refundable and shall be placed in a special bank account, which contains only those funds. The funds shall be held in trust by the Electoral Committee, in this account and then paid out of to offset the cost of election.
- 12.5 A candidate, who fails to submit the documents and deposit required under section 12.7 of this code, with the Electoral Officer by 8:00 p.m. on the day of the nominations forfeits their candidacy and will not be a candidate in the election.
- 12.6 If the nominee is present at the nomination meeting, he or she shall sign the following documents:
- a. a notice of acceptance of nomination; and
- b. a sworn declaration confirming their eligibility as a candidate.
- 12.7 Candidates employed by the Sandy Bay First Nation or it's affiliates shall take a leave of absence without pay not less than 15 days prior to the election day, and if elected shall resign his/her position.
- 12.8 Where only one person is nominated for Chief, the Electoral Officer shall declare that person to be elected Chief by acclamation.
- 12.9 Where only four persons are nominated for Councilor, the Electoral Officer shall declare them to be elected Councilors by acclamation.
- 12.10 Where more then the required number of persons is nominated for election as Chief or Councilors, the Electoral Officer shall announce that an election will be held

12.11 On the day following the nomination meeting, the Electoral Officer shall post in at least one conspicuous place on the reserve a list of nominees, their nominators and seconder and the offices for which they are nominated.

12.12 The Electoral Officer is responsible for managing and conducting the nomination meeting.

12.13 Where the office of Chief and all offices of Councilor are filled by acclamation:

- a. the Electoral Officer shall post in at least one conspicuous place on the reserve, and mail to every elector who does not reside on the reserve, a notice that sets out the names of the persons who have been acclaimed and states that an election will not be held.

### **WITHDRAWAL**

13. Any person nominated for office may withdraw their candidacy at the nomination meeting or by filing a withdrawal form within 5 days after the nomination meeting.

13.1 A candidate who withdraws shall forfeit his/her deposit.

13.2 Withdrawal forms will be provided to candidates from Electoral Officer.

13.3 A candidate who dies before the close of the polls shall be considered to have withdrawn his/her candidacy and the deposit will be returned to the estate.

### **PRE-ELECTIONS PROCEDURES**

14. The Electoral Officer shall, within 48 hours following the nomination meeting, post in the Sandy Bay First Nation offices, and such other places on the First Nation a notice setting out;

- a. the date of the election
- b. the time when polling station will open and close,
- c. the location of the polling station on the Sandy Bay First Nation.
- d. the time and location of the counting of the votes;, and
- e. A statement that the voters list is posted for public viewing and its location.

14.1 The date of the election shall not exceed more that 15 days from the date of the notice stated in section 14 (a) of this code.

14.2 The Electoral Officer shall post one or more copies of the voters list in a conspicuous place at the Sandy Bay First Nation Band office.

14.3 Any person who believes his/her name should be added/deleted on the voter's list may apply to the Electoral Officer for a determination.

14.4 Electoral offices shall contact Indian Registry Administrator to determine if the individuals name should be added/deleted, and will make the necessary correction to the voters list in the presence of representatives of the candidates.

14.5 All electors are required to vote according to the manner as set out in this Code.

14.6 The Electoral Officer shall prepare ballot papers setting out:

- a. the names of the candidates nominated for Chief, in alphabetical order by surname, also including a photograph of the candidate;
- b. the names of the candidates nominated for Councilor in alphabetical order by surname, also including a photograph of the candidate.

## **MAIL IN BALLOTS**

15. An elector who wishes to obtain a mail-in voting package must complete and sign a request to vote by mail-in ballot and return it to the Electoral Officer along with proof of identity and proof of address. If the Electoral Officer is in receipt of an elector's request to vote by mail-in ballot proof of identity at least 10 days before the day on which the election is to be held, then the Electoral Officer shall mail, a mail-in ballot package to the elector who so requests consisting of:

- a. ballot(s) for Chief and Council initialed on the back by the Electoral Officer;
- b. an inner postage-paid return envelope, pre-addressed to the Electoral Officer;
- c. a second inner envelope marked "ballot" for insertion of the completed ballots;
- d. a voter declaration form, which shall set out:
  - i) the name of the elector;
  - ii) the membership number and date of birth of the elector; and address and phone number; and
  - iii) the name, address and telephone number of the witness to the signature of the elector;
- e. a letter of instruction regarding voting by mail-in ballot which shall also include:
  - i) a statement-advising electors that they may vote in person at the polling station on the day of the election if they return their mail-in ballot to the Electoral Officer at the polling station or swear a written declaration before the Electoral Officer.

15.1. The Electoral Officer shall indicate on the voters list that a ballot has been provided to each elector to whom a mail-in ballot was mailed and keep a record of the date on which, and the address to which, each mail-in ballot was mailed.

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

- a. placing an "X" or other mark that clearly indicates the elector's choice, but does not identify the elector, opposite the name of the candidate or candidates for whom he desires to vote;
- b. folding the ballot in a manner that conceals the names of the candidates or any marks but exposes the Electoral Officer's initials on the back;

- c. placing the ballot in the inner envelope and sealing the envelope;
  - d. completing and signing the voter declaration form in the presence of a witness who is at least 18 years of age;
  - e. placing the inner envelope and the completed, signed and witnessed voter declaration form in the postage-paid envelope; and
  - f. mailing the envelope to the Electoral Officer in a timely manner to ensure the ballot is received before the election.
- 15.3. Mail-in ballots that are not received by the Electoral Officer before the close of polls on the day of the election shall not be counted.
- 15.4. Mail in ballots must have a post mark from there are of residence.
- 15.5. Mail in ballots will be held at the pre-addressed location stated in 15 (b).
- 15.6. Deputy Electoral Officer will pick up mail in ballots along with 2 scrutineers and a local police officer at least 30 minutes before the post office closure.
- 15.7. Mail-in ballots will not be accepted if hand delivered to polling station. They must be mailed out.

## **ELECTIONS**

16. The polling station shall be open from 9 a.m. until 8 p.m. local time on the day of the election.
- 16.1 The Electoral Officer or Deputy Electoral Officer shall maintain order at all times in the polling station and may cause to be removed any person who in any way interferes, disrupts or attempts to influence the orderly conduct of the poll.
- 16.2 The Electoral Officer or his Deputy Electoral Officer shall immediately before the commencement of the poll:
- a. open the ballot box and call such persons as may be present to witness that it is empty;
  - b. he/she shall then lock and properly seal the box to prevent it being opened without breaking the seal and shall place it in view for the reception of the ballots,
  - c. and the seal shall not be broken and the box unlocked during the time appointed for taking the poll.
- 16.3 No person shall, on the day the election is held, on the premises of the polling station:
- a. distribute any election-related printed materials except such materials as may be distributed by the Electoral Officer or Deputy Electoral Officer for the purpose of conducting the election;
  - b. attempt to interfere with or influence any elector in marking his ballot; or
  - c. attempt to obtain information as to how an elector is about to vote or has voted,

- 16.4 Each person, arriving at the polling station, shall give his/her name to the Electoral Officer or Deputy Electoral Officer. The Electoral Officer or the Deputy Electoral Officer may request identification from an elector for the purpose of confirming his/her identity.
- 16.5 The Electoral Officer or Deputy Electoral Officer shall place a mark opposite the voter's name on the voter's list indicating that he/she received a ballot.
- 16.6 The Electoral Officer or Deputy Electoral Officer shall, if the person's name is set out in the voters list, place his initials on the ballot(s) and provide them to the elector.
- 16.7 The Electoral Officer or Deputy Electoral Officer shall, when requested to do so, explain the method of voting to the elector.
- 16.8 After receiving a ballot, an elector shall:
- a. immediately proceed to the compartment provided for marking ballots;
  - b. mark the ballot by placing an "X" or other mark that clearly indicates the elector's choice but does not identify the elector opposite the name of the candidate or candidates for whom he desires to vote;
  - c. fold the ballot in a manner that conceals the names of the candidates and any marks, but exposes the initials on the back; and
  - d. deliver the ballot to the Electoral Officer or Deputy Electoral Officer.
- 16.9 On receipt of a completed ballot, the Electoral Officer or Deputy Electoral Officer shall, without unfolding the ballot, verify the initials placed on it and deposit it in the ballot box in the presence of the elector and any other persons entitled to be present at the polling station.
- 16.10 While an elector is in the compartment for the purpose of marking his ballot, no other person shall, except as provided in this code, be allowed in the same compartment or be in any position from which they can see the manner in which the elector marks their ballot.
- 16.11. At the request of any elector who is unable to vote in the manner set out in this code, the Electoral Officer or Deputy Electoral Officer shall assist that elector by marking his ballot in the manner directed by the elector and shall place the ballot in the ballot box.
- 16.12 The Electoral Officer or Deputy Electoral Officer shall note on the voters list opposite the name of an elector requiring assistance, the fact that the ballot was marked by him/her at the request of the elector and the reasons therefore
- 16.13 An elector who has inadvertently dealt with his ballot paper in such a manner that it cannot be conveniently used shall, on one occasion only, upon returning it to the Electoral Officer or Deputy Electoral Officer, be entitled to obtain another ballot paper. The Electoral Officer or Deputy Electoral Officer shall write the word "cancelled" upon the spoiled ballot paper and preserve it.

16.14 Any person who has received a ballot and who leaves the polling place without delivering the same to the Electoral Officer or a Deputy Electoral Officer in the manner provided, or after receiving a ballot, refuses to vote, shall forfeit his right to vote at the election, and the Electoral Officer or Deputy Electoral Officer 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 a ballot and declined to vote, and the Electoral Officer or Deputy Electoral Officer shall mark upon the face of the ballot the word "declined" and all ballots so marked shall be preserved.

16.15 The doors shall be closed at 8:00 pm therefore every elector who is waiting in line shall be entitled to vote before the poll is closed.

### **OPENING MAIL-IN BALLOTS**

17. On the day of the Election, the Electoral Officer will, in full view of Deputy Electoral Officers and any 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 ballot:

a. reject the ballot if:

i. it was not accompanied by a completed voter declaration form, or the voter declaration form is not signed or witnessed;

ii the name of the elector set out in the voter declaration form is not on the voters list; or

iii the voters list shows that the Elector has already voted.

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

### **COUNTING OF THE VOTES**

18. Electoral Officer will take the ballot box to the place of counting. The Electoral Officer shall then proceed to count the ballots, assisted by the Deputy Electoral Officer, in the presence of the attending electorate.

18.1 The Electoral Officer or Deputy Electoral Officer shall call out the names of the candidates for whom the votes were cast on all valid ballots.

18.2 Scrutineers will post and keep track of the results of each ballot.

18.3 A Deputy Electoral Officer shall mark a tally sheet in accordance with the names being called for the purpose of arriving at the total number of votes cast for each candidate.

18.4 In examining the ballots, the Electoral Officer or Deputy Electoral Officers must reject any ballots that:

a. do not contain the initials of the Electoral Officer or Deputy Electoral Officer;

b. do not give a clear indication of the elector's intention;

- c. contain more votes than there are candidates to be elected; or
- d. contain a mark by which the voter can be identified.

18.5 The Electoral Officer or Deputy Electoral Officer shall number objections to ballots raised 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.

18.6 The Electoral Officer or Deputy Electoral Officer shall attach a note to each ballot rejected, which outlines the reason for rejection.

18.7 The candidates receiving the most votes will be declared elected.

18.8 If it is not possible to determine the successful candidate(s) for either Chief or Councilor position due to a tie vote, the Electoral Officer shall immediately conduct a recount and publicly announce to all those present in the polling station that a recount will be immediately conducted.

18.9 If the recount fails to determine a successful candidate, the Electoral Officer shall decide the vote as follows:

- a. The Deputy Electoral Officer shall place the names of the tied candidates on a blank paper and having folded the paper and place each in an empty ballot box: and
- b. The Electoral Officer without looking shall draw for the position available. The candidate(s) whose name(s) appear on the pieces of paper the Electoral Officer has drawn shall constitute the successful candidate.

18.10 The results will then be announced to the public immediately and then posted the next working day at the Sandy Bay First Nation Band Office.

18.11 Following the declaration of elected candidates made pursuant of this code 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; and
- c. the number of rejected ballots.

18.12 One copy of such statement shall be forwarded to the Minister of Aboriginal Affairs and Northern Development in Ottawa, one copy to the Manager of Band Governance at the Manitoba Region office in Winnipeg and one copy to be filed at the band office.

18.13 The ballot boxes shall be kept in a safe and secure place at the local police detachment for 30 days, whereupon they will be destroyed unless there is an appeal.

18.14 The Electoral Officer shall destroy all the ballots, if no appeal has been launched, immediately after the 30<sup>th</sup> day of announcing the election result and declaring the winners. The record of result shall be kept for a whole election term.

## **CHIEF AND COUNCILOR OATH OF OFFICE**



19. A candidate who has been elected Chief or Councilor shall, within 10 days of the Electoral Officer's declaration under section 18.7, swear an oath of office before either the Electoral Officer, a justice of the peace, notary public or duly appointed commissioner for taking oaths to:
- a. Promote and maintain at all times, in my actions and words, integrity and dignity of the Sandy Bay First Nation Band and its programs, government, staff and members.
  - b. Prompt and conscientious in the performance of my duties
  - c. Will use initiative to find ways to fulfilling my duties efficiently, effectively, and economically.
  - d. Maintain a positive, cooperative attitude in dealing with fellow Council members, employees and band members and will work as a team member towards the betterment of the Sandy Bay First Nation Band.
  - e. Conduct myself at all times in a manner, which will bring credit to myself, the Band Council and the Band Membership.
  - f. Continually work towards self-improvement and professional development through available training, workshops and materials.
  - g. Attend all Band Council meetings punctually, unless there is a valid reason for absence or lateness, in which case I will contact the Band Manager or Chief in advance.
  - h. Attend all other meetings, workshops and conferences officially assigned to me as an official delegate of the Sandy Bay First Nation Band and will formally report back to the Council on the proceedings of those meetings
  - i. Give out official and or confidential information acquired as a result of my elected position only when the release of such information has been authorized by the Council
  - j. Not use information obtained as a result of my elected position for personal gain
  - k. Use equipment, property or supplies, which are owned or rented by the Sandy Bay First Nation Band for authorized purposes only.
  - l. Not accept fees, gifts or other tangibles offered to me in reward for duties performed by virtue of my position.
  - m. Not publicly criticize the policies of the Council or Band employees, if I feel change would be advisable, I will provide constructive suggestions at Council meetings.
  - n. If I am of the opinion that my elected position and private interests conflict, I shall declare this to the Chief and Council who will direct in which manner this may be restored.

## **APPEALS**

20. Within 30 days after the posting of the written statement by Electoral Officer pursuant to Section 18.10, any candidate or elector who has reasonable ground to believe;
- a. that there was a corrupt practice in connection with the election; or
  - b. that these procedures were not complied with; or
  - c. a person did not qualify to be a Candidate or elector as defined herein.

may appeal the election of a Candidate or Candidates by filing a written notice of appeal with the Appeal Board setting out the grounds of the appeal.

20.1 To appeal an election, a notice in writing, containing details of the alleged infractions, shall be sent by registered mail to:

Sandy Bay First Nation  
Electoral Committee  
Box 109  
Marius, Manitoba  
R0H 0T0

along with a money order or certified cheque payable to Electoral Committee for \$100.00. This notice of appeal and deposit must be received at the band office within 30 days of the election poll. If the Appeal is successful, the deposit will be returned, and if denied, the deposit will be forfeited to the First Nation and will be used to offset election and election appeal expenses.

20.2 Upon receipt of the above appeal, Electoral Committee shall inform the Electoral Officer and he/she shall inform the Appeal Board and a meeting shall be held.

20.3 The Appeal Board shall hear the appeal within 30 days of the filing of the notice of appeal and shall deliver its decision within 10 days of the hearing of the appeal. The decision of the Appeal Board shall be final and binding. Any appeal to a court of law shall be founded in law and not fact.

20.4 Where the Appeal Board finds that a Candidate or Candidates have not been elected to office in accordance with these procedures, that Candidate whose election violated these procedures shall vacate the office to which he/she was elected and the Electoral Officer shall fill the vacant position as set out in Section 5.1 of this Code.

20.5 The Appeal Board shall send a copy of their decision to the Governance Office at Aboriginal Affairs and Northern Development Canada.

#### **AMENDING PROCEDURE**

21. Development and passage of amendments to this code may be initiated by:

- a. unanimous Band Council Resolution.
- b. a petition presented to Council, signed by at least 100 of all eligible electors residing on reserve setting out the specific area in this code proposed for amendment

21.1 Upon passing a Band Council Resolution in accordance with section 21, Council shall prepare a notice that sets out a:

- a. summary of the proposed amendments to this code;
- b. statement that the full copy of the proposed amendments can be obtained at the band administration office; and
- c. description of the amendment process

21.2 The notice provided for in section 21.1 shall be:

- a. published in the community's newsletter, delivered or mailed to band electors, or by separate notice delivered or mailed to all band electors; and
- b. posted in at least one conspicuous place on the reserve.

21.3 Electors may, within 14 days of publication of the notice outlined in section 21.2, provide comments concerning the proposed amendments in writing to Council.

21.4 Following receipt of comments concerning the proposed amendments pursuant to section 21.3, the Council shall review the comments and make such changes to the proposed amendments, as they deem necessary in order to arrive at a final amendment proposal.

21.5 If no written objection is received from an eligible elector in accordance to 21.1 Council shall by way of Band Council Resolution adopt the proposed amendment.

21.6 If there is any written objection from an eligible elector in accordance to 21.3 the Council shall arrange for a referendum to poll all eligible voters by a simple majority vote before proceeding with the proposed amendments. The decision of the referendum will be binding on Council.

21.7 Any amendment approved more than 3 months prior to an Election shall be effective for the next election. Any amendments approved less than 3 months prior to an Election shall not come into force until the conclusion of that Election process.

**Official Adoption**

This Band Custom Election Code is hereby-adopted this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_,

As ratified by the members of Sandy Bay First Nation.

Signatures of Duly Elected Chief & Council:

\_\_\_\_\_  
Chief

\_\_\_\_\_  
Councilor

\_\_\_\_\_  
Councilor

\_\_\_\_\_  
Councilor

\_\_\_\_\_  
Councilor

Declared before me at \_\_\_\_\_ Sandy Bay First Nation \_\_\_\_\_

Of \_\_\_\_\_ Marius \_\_\_\_\_ in the Province of \_\_\_\_\_ Manitoba \_\_\_\_\_

This \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

Must be witnessed by a person authorized as a Commissioner for the Taking of Oaths such as a lawyer, notary public, justice of peace or An INAC official authorized under S. 108 of the Indian Act.

Witness's signature

X \_\_\_\_\_

Witness' Stamp giving Title and Authorization

Expiry Date: \_\_\_\_\_

**OATH OF OFFICE**

**SANDY BAY FIRST NATION**

I, \_\_\_\_\_, so elected as Chief/Councilor hereby do solemnly swear and affirm that:

- 1. I will do my up most to carry out the duties of my position conscientiously, loyally, honestly and to the best of my abilities, remembering that my primary duty is to serve the membership of the Band.
- 2. I will conduct the business at hand in a professional manner at all times, keeping in mind that what I say and do is a reflection on the Band.
- 3. I will keep all members informed of the affairs of the band and advise them of the plans, including disclosure of all finances, and transactions by having regular Band meetings.
- 4. I agree to familiarize myself with all Sandy Bay First Nation Band government administration Policy Manuals and to abide by the policies of the Sandy Bay First Nation Band as stated in these manuals.
- 5. I shall always respect the decision of the majority arising from duly convened meetings....

So help me God.

Declared before me at \_\_\_\_\_ Sandy Bay First Nation \_\_\_\_\_

Of \_\_\_\_\_ Marius \_\_\_\_\_ in the Province of \_\_\_\_\_ Manitoba \_\_\_\_\_

This \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

<p>Must be witnessed by a person authorized as a Commissioner for the Taking of Oaths such as a lawyer, notary public, justice of peace or An INAC official authorized under S. 108 of the Indian Act.</p> <p>Witness's signature</p> <p>X _____</p>	<p>Witness' Stamp giving Title and Authorization</p> <p>Expiry Date: _____</p>
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**SANDY BAY FIRST NATION BAND ELECTION**  
**Notice of Nomination**

Nomination process will commence on \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
from \_\_\_\_\_ pm to \_\_\_\_\_ pm.

- Candidates for the positions of Chief and 4 Councilors on the Band Council for the next 3-year term.
- Obtain your application form from the Electoral Officer or the Deputy Electoral Officer.
- You must be 18 years or older to be a candidate or vote or endorse a candidate.
- Electors residing on reserve may be candidates for the position of Chief or Council or Trustee.
- Nominations form must include the **signed declaration forms** and a \$500.00 for Chief and \$ 250.00 for Councilor non-refundable fee in cheque or money order payable to the Sandy Bay First Nation Electoral Committee.
- The Electoral Officer must receive nomination forms before the end of the nomination period. Forms received after 8 PM on the date set for nominations will not be accepted.

The nominations will be held at **Sandy Bay First Nation** on \_\_\_\_\_.  
All electors have to vote in person at the designated polling station at  
Sandy Bay First Nation.

Declared before me at \_\_\_\_\_ **Sandy Bay First Nation** \_\_\_\_\_ of \_\_\_\_\_ **Marius** \_\_\_\_\_  
in the Province of **Manitoba** \_\_\_\_\_. This \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

Electoral Officer: \_\_\_\_\_

Address: \_\_\_\_\_

Email address: \_\_\_\_\_ Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

**I authorize my name and address to be released to any candidate at this election.**

\_\_\_\_\_  
*Name*

\_\_\_\_\_  
*Birth date*

\_\_\_\_\_  
*Phone*

**SANDY BAY FIRST NATION BAND ELECTION Nomination Form  
For Candidate**

*Election to be held on* \_\_\_\_\_

Nomination process will commence on \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
from \_\_\_\_\_ pm to \_\_\_\_\_ pm.

**Nomination for the Position of Chief or Councilor for  
the Sandy Bay First Nation Band**

The Sandy Bay First Nation Election Code states that a candidate can have their name submitted for one office according to section 12.2 (b).

Chief \_\_\_\_\_

Council \_\_\_\_\_

I \_\_\_\_\_ born on \_\_\_\_\_  
(name of candidate) (birth date)

Do declare that I am a Sandy Bay First Nation Band member

with the registry number 283 \_\_\_\_\_

My residency is located at: \_\_\_\_\_  
(address) (city)

Phone# \_\_\_\_\_

**Nomination papers will be only accepted with a \$500.00 non-refundable fee for the nomination of chief and \$250.00 non-refundable fee for the nomination of Councilor in the form of a certified cheque or money order to the Sandy Bay First Nation Electoral Committee**

SIGNATURE of CANDIDATE: \_\_\_\_\_

DATE: \_\_\_\_\_

By signing you are confirming that the information you have provided is true





**SANDY BAY FIRST NATION BAND ELECTION**

**To: Electoral or Deputy Electoral Officer**

**From:** \_\_\_\_\_  
**(Full name of candidate)**

**Re: Appointment of Scrutineers  
Sandy Bay First Nation Election**

I hereby appoint: \_\_\_\_\_ and  
\_\_\_\_\_ to act as

Scrutineer on my behalf on election day.

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Date**

**SANDY BAY FIRST NATION BAND ELECTION**  
**Candidate Declaration Form - Criminal Convictions/Pardons**

Last Name: \_\_\_\_\_ First Name(s):  
\_\_\_\_\_

Date of Birth: \_\_\_\_\_ Gender:  
\_\_\_\_\_

Home Address:  
\_\_\_\_\_

I have NO convictions under the *Criminal Code of Canada* up to and including the date of this declaration for which a pardon has not been issued or granted under the *Criminal Records Act*. I have NO charges that are ongoing or have been withdrawn. I have NOT been convicted or been granted a pardon for any of the sexual offences that are listed in the schedule to the *Criminal Records Act* and to my knowledge I have never been nor am I currently being investigated for any of the sexual offences that are listed in the schedule to the *Criminal Records Act*. (If you have checked this box, please date and sign this form and return it to \_\_\_\_\_);

**OR**

I have the following convictions for offences under the *Criminal Code of Canada* for which a pardon under the *Criminal Records Act* has **not** been issued or granted **OR** I have the following charges that are ongoing or have been withdrawn **OR** I have been convicted or been granted a pardon for the following sexual offences that are listed in the schedule to the *Criminal Records Act* **OR** I am aware that I am currently being investigated for the following sexual offences that are listed in the schedule to the *Criminal Records Act*. (If you have ever been charged or convicted of any criminal offence(s) for which you have not been pardoned or if you have been granted a pardon for any of the sexual offences that are listed in the *Criminal Records Act* you must provide ALL details below).

1. Date of Offence: (YYYY/MM/DD)  
\_\_\_\_\_

Charge/Offence:  
\_\_\_\_\_  
\_\_\_\_\_

Location:  
\_\_\_\_\_  
\_\_\_\_\_

Penalty/Conviction:

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*(Use additional pages if necessary)*

**I understand that failing to provide information or omission of facts may disqualify me as candidate in the current/upcoming election and/or may result in my removal from office, if elected.**

DATED at \_\_\_\_\_ this \_\_\_\_\_ day of  
\_\_\_\_\_ 20 \_\_\_\_\_

Signature: \_\_\_\_\_

Full Name: \_\_\_\_\_