

ALGONQUINS OF PIKWÀKANAGÀN CUSTOM ELECTION CODE**PRINCIPLE:**

Wherever our Members live, we have a duty and an obligation to acknowledge their voting rights and always to act accordingly in their interest in applying the highest ethical standards at our disposal.

PREAMBLE:

Whereas, the Algonquins of Pikwàkanagàn assert our inherent sovereignty which emanates from our people, our culture and our Aboriginal rights, and as a natural corollary, hereby exercise our powers of self-government and self-determination as recognized and affirmed by Section 35 of the Constitution Act, 1983;

And Whereas, the Algonquins of Pikwàkanagàn have come to a community decision and desire to set out our customary leadership selection rules, and to then modify them to ensure that they continue to honour our traditions and serve the interests of our First Nation;

And Whereas, the Indian Act respects our Aboriginal right to select our leadership through the Custom of our First Nation.

In this Law, reference to the masculine includes the feminine, and references to the singular include the plural.

1.0 DEFINITIONS

“Appeal Board” means a board consisting of a minimum of three (3) Members of the Algonquins of Pikwàkanagàn appointed by Council.

“BCR” means Council Resolution

“Candidate” means a Member whom

- a) is eligible to hold office;
- b) has been duly nominated for election; and
- c) has accepted such nomination.

“Code” means this Election Code.

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

“Deputy Electoral Officer” means a person appointed by the Electoral Officer to assist him in the election process.

“Election” means an election or by-election held pursuant to the provisions of this Code.

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

“Member” means a member of the Algonquins of Pikwàkanagàn.

“Member of the Algonquins of Pikwàkanagàn” means a person whose name appears in the Algonquins of Pikwàkanagàn Membership Register or who is entitled to have his name appear on the Membership Register.

“Member of Same Family” includes father, mother, son, daughter, brother, sister, spouse and grandparents, grandchildren, step family and spouse’s family.

“Membership Register” means the list containing the name, date of birth and gender of every member of the Algonquins of Pikwàkanagàn.

“Nominator” means a voter who nominates a person for office.

“Pikwàkanagàn” means the land reserved for the use and benefit of the Algonquins of Pikwàkanagàn, (otherwise known as Indian Reserve No. 39).

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

“Scrutineer” means a person designated by the candidate to be present for the count of the ballots.

“Secunder” means a voter who seconds the nomination of a person running for office.

“Voter” means a person who, pursuant to the provisions of this Code, is eligible to vote.

2.0 GOVERNING BODY

- 2.1. The Governing Body of the Algonquins of Pikwàkanagàn shall consist of a duly elected Council comprised of one (1) Chief, and up to one (1) Councillor for every 200 members but the number of Councillors shall not be less than four (4) Councillors or exceed twelve (12). There shall be only one (1) duly elected Chief for the governing body. Council will decide on the numbers of Councillors required on the basis of workload.
- 2.2. A quorum of Council shall be half of the total number of Councillors plus one (50%+1). In order to conduct a Council meeting, there must be a quorum of Council present. In the event that the minimum requirement is not met, voting privileges may be extended to the Chief for the purpose of conducting the meeting. In order to extend the vote, an alternate chair must be appointed.
- 2.3. Any and all motions presented to Council must have quorum to pass.

3.0 ELIGIBILITY

3.1 Eligibility to Vote:

- a) i) a person whose name appears in the Membership Register; or
 - ii) who provides documented proof, to the Electoral Officer, that he is entitled to have his name included in the Membership Register; and
- b) who has attained the age of eighteen years.

3.2 Eligibility to be a Candidate:

Each Candidate for election for the position of Chief or the position of Councillor must:

- a) be a person whose name appears in the Algonquins of Pikwàkanagàn Membership Register;
- b) have attained the age of 18 years on or before the date upon which the nomination meeting is held;
- c) have a nominator and seconder for his nomination;
- d) have accepted his nomination to the Electoral Officer within ten (10) days of the nomination meeting;
- e) have provided a current Canadian Police Information Check to the Electoral Officer within ten (10) days of the nomination meeting (CPIC must be dated no longer than 1 month prior to nomination meeting);
- f) have no convictions of an indictable offence within the three (3) years prior to the calling of the nomination meeting; and
- g) have ordinarily resided within Pikwàkanagàn for at least twelve (12) months immediately prior to his nomination.

Whether a person "ordinarily resides" in Pikwàkanagàn shall be determined by the facts in each case, and without limiting the foregoing, some of the factors that can be considered are:

- i) the person's name appears on the Residency List maintained by the Registrar of Residents;
- ii) the place the person normally eats and sleeps;
- iii) the residence of the person's immediate family;
- iv) the place of employment of the person, and
- v) if the person is absent from Pikwàkanagàn, the reason for being absent.
- vi) Not living at another residence off reserve at the same time
- vii) Provide satisfactory proof to the Electoral Officer that they are residing in Pikwàkanagàn if there is a doubt that the person is not residing in Pikwàkanagàn.
- viii) Shall provide a statutory declaration that they reside in Pikwàkanagàn.

The Electoral Officer will make the final decision on whether the member is residing on or off reserve. If it is determined that the above conditions are not met, the candidate's name will be removed from the ballot or if elected, not be declared as a member of Council.

3.3 Eligibility to Hold Office

- a) A person may hold and continue to hold the office of Councillor or Chief if :
 - i) he has been duly elected pursuant to the provisions of this Code; and
 - ii) after his election, he continues to reside in Pikwàkanagàn for the duration of his term of office; and
 - iii) is not convicted of an indictable offence while in office; and
 - iv) he has not been removed in accordance Section 5 of this Code.

- b) No more than two members of the same family may be elected to Chief and Council at the same time. If this is about to happen by acclamation or after counting the ballots, then the Electoral Officer shall advise those family members and allow for volunteers to withdraw their candidacy. If no one withdraws their candidacy within 24 hours of notification, then the Electoral Officer shall:
 - i) in the case of acclamation, shall randomly select the candidates for Council who will be ineligible to hold office under this section by drawing the name out of a hat; or
 - ii) after an election, shall declare the family member or members running for the position of Council with the lowest number of votes to be ineligible to hold office under this section. In the case of a tied vote, the Electoral Officer shall randomly select the candidate who is ineligible.

4.0 TERM

- 4.1 The term of the duly elected Council shall be for a three (3) year period from the date of election.
- 4.2 An Election for Council shall be held every three (3) years, within thirty (30) days before the end of the term.

5.0 VACANCY

- 5.1 The office of Chief and/or Councillor automatically becomes vacant when the person who holds that office is deemed to be ineligible to hold that office by virtue of this Code, which may include but is not limited to the following:
 - a) is convicted of an indictable offence;
 - b) passes away or resigns from office;
 - c) is declared to be mentally incompetent by a Court of competent jurisdiction or by a medical professional ;
 - d) is absent for more than three (3) consecutive regular meetings without just cause.
 - e) was found guilty, in connection with an election, of corrupt practice;
 - f) engages in, during his term, any wrongful conduct that substantially affects, interrupts or interferes with the performance of his official duties his ability to govern the First Nation, or the reputation of the First Nation.
 - g) moves outside of Piwàkanagàn.
- 5.2 The Council shall remove the person by motion in Council.
- 5.3 A person found guilty of any of the above may, within fifteen (15) days of the finding of guilt, appeal the finding to the Appeal Board established to hear such appeals, on the grounds that:
 - a) the evidence presented could not reasonably support the decision;
 - b) the appellant was denied fundamental justice or fairness in the procedure used by the Council to find the appellant guilty; or,
 - c) there is new and substantial evidence which was unavailable to the appellant at the time of the decision.
- 5.4 The Appeal Board shall, unless extenuating and substantial reasons exist, hear and determine all such appeals within thirty (30) days of the decision. It is within the power of the Appeal Board to:
 - a) quash the decision and re-instate the appellant;
 - b) quash the decision and send the matter back for a new review; or
 - c) deny the appeal.
- 5.5 Members may have an elected official removed by a petition:
 - a) that includes the allegation against the elected official;
 - b) registered with Council before signatures are obtained to give the official the opportunity to respond;
 - c) signatures should be clear, names legible, addresses, Registry Number and the time and place of the signature;
 - d) a time limit of 2 months will be set to collect the signatures of a minimum of 15% of the voting members.
 - e) If the petition meets the above conditions, Council will remove the elected official by motion in Council.
 - f) There will be no appeal process for this process

6.0 POWERS OF THE CHIEF

- 6.1 The Chief shall be an ex-officio member of all committees and portfolios.
- 6.2 The Chief shall be the Chairperson of all meetings of the duly elected Council and in the absence of the Chief, Council shall select a Chairperson of their choice.
- 6.3 The Chief shall recommend the Councillors to positions on committees or to portfolios of the duly elected Council.
- 6.4 The Chief shall be the political spokesperson for the Algonquins of Pikwākanagān.

7.0 POWERS OF THE GOVERNING BODY

- 7.1 The duly elected Council, may by quorum of Council, make laws in relation to Section 81, 82, 83, 84, 85.1, 86 and 88 of the Indian Act.
- 7.2 Where any law of the Algonquins of Pikwākanagān is contravened, in addition to any other remedy available to Council or any penalty imposed by the laws, a court of competent jurisdiction may make, at any time, an order prohibiting the continuation or repetition of the act which contravenes the law and to any penalty imposed by the law, such contravention may be restrained by court action at the instance of the Council.
- 7.3 The Council may make orders or regulations with respect to elections, and without restricting the generality of the foregoing, may make regulations with respect to:
- a) meetings to nominate candidates;
 - b) the appointment and duties of electoral officers;
 - c) the manner in which voting is to be carried out;
 - d) election appeals;
 - e) the definition of residence for the purpose of determining the eligibility of voters;
 - f) Secrecy of voting;
 - g) The holding of a poll;
 - h) What constitutes a spoiled ballot;
 - i) Vacancies of the office of Chief or Councillor;
 - j) The formation of an Appeal Board.

8.0 ELECTION CALL

- 8.1 At least 65 days prior to the date of an election, the Council shall appoint an Electoral Officer. The Council shall direct that the Electoral Officer be provided with:
- a) a copy of the Membership Register;
 - b) a copy of the current mailing addresses of the members of the Algonquins of Pikwākanagān;
 - c) a copy of this Election Code; and
 - d) a copy of the Election Rules of Notice and Procedures.
- 8.2 A written statement setting out the name of the Electoral Officer and a preliminary voters list shall be posted in the Administration Office of the Algonquins of Pikwākanagān and such other places in Pikwākanagān as deemed necessary by the Electoral Officer. A Notice of Election will be mailed to all members not residing in the community.

9.0 NOMINATION MEETING

- 9.1 The Electoral Officer shall hold a nomination meeting at least 45 days prior to Election Day.
- 9.2 If the number of persons nominated for Council positions do not exceed the number of positions to be filled, the Electoral Officer will declare the nominees elected by acclamation when all criteria is met by the candidates.
- 9.3 Persons must acknowledge acceptance of their nomination either by being present at the nomination meeting or indicating their acceptance in writing. A person who is nominated for office must provide a current Canadian Police Information Check before having his name placed on the election ballot.

10.0 PLATFORM PROCESS

10.1 Immediately preceding the close of the nomination meeting or shortly thereafter, if an election is to be held the Electoral Officer shall invite the nominees to speak to the electors.

11.0 ELECTION

11.1 The polling station shall be open from 10:00 a.m. to 7:00 p.m. local time.

11.2 The polling station shall provide for secrecy of voting.

11.3 Mail in ballots will be mailed to all that have requested mail in ballots.

12.0 APPEAL BOARD

12.1 The Appeal Board shall consist of a group of volunteers, appointed by Council, to sit and hear cases and appeals on all laws and Codes developed by Council.

12.2 These persons shall not participate or be involved in the election process in any manner except voting, including but not limited to not being an Electoral Officer or Deputy Electoral Officer, scrutineer, nor candidate.

12.3 Council shall name 3 persons from the Appeal Board that will hear any appeal on the election, at least 40 days before the date of the vote.

13.0 ELECTION APPEALS

13.1 Within forty-five (45) days after an election, any candidate in the election or any voter who gave or tendered his vote at the election, who has reasonable grounds for believing that a person nominated to be a candidate in the election was ineligible to be a candidate, or a person or persons who voted in the election was ineligible to vote, and that vote, or votes, could have made a difference in the election results, may lodge an appeal by registered mail to the Appeal Board with particulars thereof duly verified by affidavit.

13.2 The appellant must also submit a petition signed by ten (10) of the voters who voted in the election supporting the need for an appeal.

13.3 Within forty-five (45) days after the election results have been posted, any candidate or voter who has reasonable grounds to believe that

- a) there was corrupt practice in connection with the election; or
- b) there was a contravention of this Code;

that might have affected the results of the election may appeal in writing to the Appeal Board as defined.

13.4 Where the Appeal Board finds that a candidate for the position of Chief has not been elected to office in accordance with this Code that candidate shall vacate the office to which he was elected upon receipt of written notification, and a new election will be called to fill the vacant Chief position.

13.5 Where the Appeal Board finds that a candidate for the position of Councillor has not been elected to office in accordance with this Code, that candidate whose election violated these procedures shall vacate the office to which he was elected upon written notification and the Electoral Officer shall appoint the next candidate with the most votes on the election results.

14.0 BY-ELECTIONS

14.1 The duly elected Council may require a by-election to be held when necessary and the rules applying to the regular elections shall apply to by-elections except that the by-election must occur within sixty (60) days after Council's decision to hold a by-election has been made.

- a) Chief Position Vacancy
 - i) if the Chief's position becomes vacant, a by-election will be called; except
 - ii) if the Chief's position becomes vacant within one (1) year prior to the date of the next scheduled General Election, the Council shall elect, from amongst its own numbers, an Acting Chief for the remainder of the current term and that person shall be empowered as Chief.

- b) Councillor Position Vacancy
 - i) if a Councillor position is vacated within one (1) year immediately following the election, the candidate who, in the election, received the highest number of votes after the required number of Councillors has been declared elected will be offered the vacated position. If the candidate refuses this offer, a by-election may be called.
 - ii) if a Councillor position becomes vacant within the second year, Council will decide whether to call a by-election.
 - iii) if a Councillor position becomes vacant within one (1) year prior to the date of the next scheduled General Election, that Councillor position will remain vacant for the remainder of the term.
 - iv) If quorum cannot be reached because of Councillor positions vacancies, then a by-election must be held.

15. AMENDMENTS TO THIS CODE

- 15.1 Any proposed administrative changes to this Code must be presented to the Standing Committee of Council on Lands, Estates & Membership who will make a recommendation to Council to make a change to the Code. Upon receipt of a recommended change, Council shall mail the proposed changes to all Members of the Algonquins of Pikwākanagān and give them at least thirty (30) days to reply to the proposed changes
- 15.2 Any member who wants to challenge those changes must do so in writing, to the Council within the thirty (30) day period.
- 15.3 If a challenge is received, then to take effect, a meeting of the voters will be held and a vote must be taken where a majority of those present who vote by show of hands, agree to the proposed changes. Notice of this meeting must:
 - a) be posted in the Administration Office and at other prominent places in Pikwākanagān; and
 - b) Be mailed out to all members over 18 years of age, at least two weeks prior to the meeting.
- 15.4 If no challenge is received, then to take effect, the Council may approve the proposed changes after the end of the thirty (30) day period.
- 15.5 If the Standing Committee recommends significant change to the Election Code, then a Referendum, as described below, must be held to decide if the changes are to be made.
- 15.6 This Code may be amended by a referendum in which 50% plus one (1) of the total numbers of voters who have voted is in favour of the amendment. However, notice shall always include a minimum of 40 days advance notice by written posting in a prominent place at the Administration Office and all referendum procedures to be relied upon on at any such referendum must be fixed and made publicly available 30 days before any such referendum.
- 15.7 In any referendum on an Election matter, the vote shall be carried out in a manner consistent with this Subsection. Every voter shall be entitled to a vote. The Council shall make Rules of Notice and Procedures for Referendum by BCR.
- 15.8 Where a protest was registered prior to this Code coming into effect, and was not resolved at the time the Code came into effect, that protest shall be resolved in accordance with the provisions of the Election Code in effect at the time the protest was registered.
- 15.9 The Council may approve, by motion in Council, any procedures (including the Oath of Office and Election Rules of Notice and Procedures for meetings of Council, forms, and other administrative rules for the better administration of this Code.