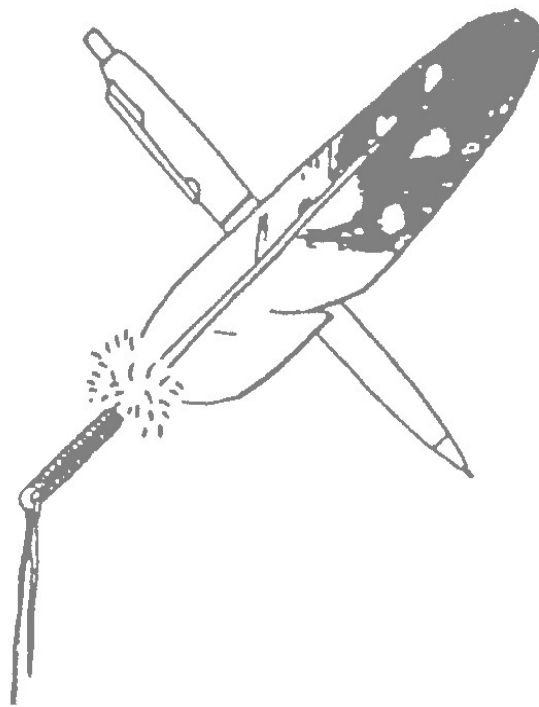


Beardy's and Okemasis' Cree Nation

Election Act



Status of Legislation

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PREAMBLE

We, the Beardsy's and Okemasis' Cree Nation have the inherent right to govern ourselves according to our customs, traditions, and natural laws of the nêhiyawak. We declare these are our truths.

We are a Nation of many Nations. Chief Beardsy (kâmîscowêsit) and Chief Cutnose (saswêpiw) signed an adhesion to Treaty 6 on August 28, 1876, near Fort Carlton thereby entering Treaty with the Crown, exercising all powers of our Sovereignty and Nationhood.

With the teachings of our Elders in our hearts and minds, we will conduct ourselves in a positive manner. We will maintain a good path with future generations always in mind, so they carry on in such a way that our inherent rights remain protected.

Beardsy's and Okemasis' Cree Nation has always had a special relationship with the Crown, a relationship that was recognized in the Royal Proclamation of 1763, Treaty 6, and in the *Constitution Act, 1982*, being Schedule "B" to the Canada Act 1982 (UK), 1982, c 11 (the "Canada Constitution"). Under this special relationship, the Crown has special obligations to all the People of the Beardsy's and Okemasis' Cree Nation for as long as the sun shines, the grass grows and the rivers flow.

This Act does not in any way abrogate or diminish the inherent Aboriginal or Treaty rights of the Beardsy's and Okemasis' Cree Nation and its citizens protected under Section 35 of the Canada Constitution and the fiduciary responsibility of Canada to Beardsy's and Okemasis' Cree Nation and its members.

It is upon this foundation that we, the members of the Beardsy's and Okemasis' Cree Nation, put into place this *Election Act*, which is the basis of our government authority, our jurisdiction, our laws, our future laws and our traditions.

This Act is a framework for the implementation of our inherent Aboriginal and Treaty rights which extend to all our people regardless of their residency.

NOW THEREFORE, by virtue of our rights and freedoms as an autonomous First Nation in a historical relationship with the Crown, we do hereby declare and institute the "Beardsy's and Okemasis' Cree Nation Election Act".

ARTICLE 1
TITLE

- 1.1. The following Act may be cited as “Beardy’s and Okemasis’ Cree Nation Election Act”.

ARTICLE 2
INTERPRETATION

2.1. Vision

- (a) Beardy’s and Okemasis’ Cree Nation is a thriving Nation rooted in cultural values, traditional knowledge, and nêhiyaw pimâtisiwin.

2.2. Mission

- (a) Beardy’s and Okemasis’ Cree Nation is a sovereign and vibrant nation that is dedicated to improving the holistic well-being of our people. Through reviving and returning to traditional values, teachings, and knowledge, we will strengthen the foundation for future generations.

2.3. Purpose

- (a) The purpose of this *Beardy’s and Okemasis’ Cree Nation Election Act* is to establish rules for governing the procedure for electing and removing the Chief and Councillors of Beardy’s and Okemasis’ Cree Nation.

2.4. In this Act:

- (a) “**Act**” means this *Beardy’s and Okemasis’ Cree Nation Election Act*;
- (b) “**Appeal Board**” means the five (5) individuals selected by a majority vote at a Special Election Meeting in accordance with section 9.3;
- (c) “**Appellant**” means an individual who files a Notice of Appeal in accordance with this Act;
- (d) “**Band Member**” means an individual registered as a member of the Beardy’s and Okemasis’ Cree Nation in accordance with the band list established and maintained by Indigenous Service Canada until such time as the *Beardy’s and Okemasis’ Cree Nation Membership Act* is developed and adopted;
- (e) “**BOCN**” means Beardy’s and Okemasis’ Cree Nation;
- (f) “**Campaign Period**” means the period beginning on nomination day and concluding at 6PM on election day;
- (g) “**Candidate**” means any individual who:
- (i) meets the qualifications outlined in Article 4; and

- (ii) has been nominated to be a Candidate in accordance with Article 11;
- (h) **“Chief”** means that Elector who has been duly elected as Chief pursuant to this Act;
- (i) **“Chief Electoral Officer”** means the individual selected at a Special Election Meeting in accordance with section 9.3;
- (j) **“Conflict of Interest”** means, with respect to an individual, any financial or personal gain or benefit received by the individual or their Immediate Family due to that individual’s official capacity with BOCN;
- (k) **“Constitution”** means the *Beardy’s and Okemasis’ Cree Nation Constitution*;
- (l) **“Council”** means the Chief and Councillors;
- (m) **“Councillor”** means an Elector who has been duly elected as a Councillor pursuant to the Act;
- (n) **“Criminal Code”** means the *Criminal Code*, RSC, 1985, c. C-46 and the *Controlled Drugs and Substances Act*, SC 1996, c 19;
- (o) **“Criminal Record Check”** means a criminal record check, for a particular person, from the police service having jurisdiction over the primary place of residence of said person dated not more than ninety (90) days prior to the nomination day;
- (p) **“Elder’s Advisory Council”** means the Elder’s Advisory Council established by the *Constitution*;
- (q) **“Election”** refers to the election of the Chief or any Councillors in accordance with this Act, and includes by-elections and run-off elections;
- (r) **“Elector”** means a BOCN Band Member who has attained the age of eighteen (18) years on the day of the Election;
- (s) **“Electronic Voting”** means a procedure which allows voters to cast their votes by utilizing a secured internet website or software and **“Electronic Vote”** has a corresponding meaning;
- (t) **“Employee”** means an individual who is employed by BOCN, or a BOCN owned entity on a permanent, part-time, seasonal basis or term appointment or other work for pay arrangement, for which salary, benefits or remuneration are paid by BOCN or such BOCN owned entity;
- (u) **“Executive Act”** means the *Beardy’s and Okemasis’ Cree Nation Executive Act*;
- (v) **“Immediate Family”** means, with respect to an individual:
 - (i) step, biological or adoptive:
 - (A) parents, children, grandparents, grandchildren or siblings; or

- (ii) spouse or common-law spouse; or
 - (iii) legal guardians or caregiver;
- (w) **“Improper Conduct”** means either, directly or indirectly:
 - (i) offering money or other valuable consideration to any person:
 - (A) in exchange for an Elector’s vote; or
 - (B) for the purpose of falsifying or influencing an Election result;
 - (ii) threatening adverse consequences, coercing or intimidating:
 - (A) an Elector for the purpose of influencing their vote; or
 - (B) the Chief Electoral Officer or any other person appointed under this Act to conduct or oversee an Election, for the purposes of influencing an Election result; or
 - (iii) causing or participating in any Election irregularity or fraud, or corrupt or dishonest Election practice;
- (x) **“Members’ Assembly”** means a meeting of the Band Members referred to as a Members’ Assembly in the Constitution;
- (y) **“Membership Clerk”** means the person appointed as the membership clerk of BOCN, or such other person appointed to oversee and maintain the list of Band Members from time to time;
- (z) **“Notice of Appeal”** has the meaning ascribed to it in Section 16.3;
- (aa) **“Polling Station”** means a building, hall or room, which is selected as the site for voting to take place;
- (bb) **“Resolution”** means a written resolution that has been approved by a majority of Council at a duly convened meeting of the Council;
- (cc) **“Scrutineer”** means an agent of any Candidate who will examine or observe the Election procedures in accordance with this Act;
- (dd) **“Special Election Meeting”** means a special meeting of the Electors held in accordance with Article 9.

2.5. Application

- (a) The provisions contained in this Act shall be applied consistently and equitably to all Band Members.

2.6. Interpretation

- (a) Words importing the singular number shall include the plural number and vice versa, and words importing any gender shall include all genders and the neuter.
- (b) Any reference to a statute shall include the statute and any regulations made pursuant thereto, all amendments to the statute or any such regulations in force from time to time and any statute or regulation which supplements or supersedes the statute or any such regulations.
- (c) In the event of a dispute or disagreement arising from the interpretation or the application of any provisions stipulated in this Act, the issue may be referred to the Tribunal for adjudication.

2.7. Publication

- (a) This Act shall be made available on the BOCN website and to all Band Members at the Band Office upon request.

ARTICLE 3 COMPOSITION OF COUNCIL

- 3.1. The Council shall consist of one (1) Chief and eight (8) Councillors, and a quorum of Council shall consist of a majority of the BOCN Council.

ARTICLE 4 ELIGIBILITY

- 4.1. Any Elector, regardless of residency, is entitled to vote in any Election.
- 4.2. The Membership Clerk shall develop and maintain a current membership list in accordance with BOCN laws, and the written instructions, policies and procedures issued or established by Council from time to time and which, at a minimum, shall contain the following information:
 - (a) the surname and given name of each Band Member;
 - (b) the Band Member's date of birth;
 - (c) the Band Member's status number;
 - (d) the Band Member's mailing address (if available); and
 - (e) the Band Member's email address (if available).
- 4.3. Until such time as BOCN enacts its own membership law, the Membership Clerk shall work with the appropriate Indigenous Services Canada representative to compile and maintain the membership list.

- 4.4. It is the responsibility of each Elector to inform the Membership Clerk of their name and address for the purposes of enabling the Membership Clerk to maintain the membership list on an ongoing basis.
- 4.5. The Membership Clerk shall provide the membership list to the Chief Electoral Officer as soon as possible following the appointment of the Chief Electoral Officer. The Membership Clerk shall remain available to the Chief Electoral Officer to assist in amending the list of Electors until the Election day.
- 4.6. The Chief Electoral Officer shall use the membership list to create a list of Electors.
- 4.7. The list of Electors shall only contain each Band Member's name and date of birth.
- 4.8. The Chief Electoral Officer shall post the list of Electors for review by Band Members:
- (a) at the nomination meeting; and
 - (b) shall make a copy of the list of Electors available at the Band Office to all Electors upon request.
- 4.9. From the nomination meeting until two (2) days before the Election day, a Band Member who will be over the age of eighteen (18) years on Election day, whose name does not appear on the list of Electors, may present identification and evidence of Band Membership to the Chief Electoral Officer and upon verification of the Membership Clerk that the person is eligible to vote pursuant to this Act, the person shall be added to the membership list and the list of Electors and be allowed to vote.
- 4.10. An individual can only be a Candidate for either the position of Chief or Councillor, but not both.
- 4.11. An individual is eligible to be a Candidate if, on nomination day, they:
- (a) meet the requirements to be an Elector;
 - (b) must present a criminal record check as proof they have not been convicted of an indictable offence in the past ten (10) years, or if he/she has been convicted of an indictable offence, he/she has received a record suspension (formally known as pardon) through the Canadian Legal System.
 - (c) provide, or agree to provide, the Chief Electoral Officer with the results of a urinalysis test:
 - (i) dated within one (1) week of the nomination day; and
 - (ii) obtained from a testing facility approved by Council in accordance with this Act showing, except in accordance with section 4.13, no presence of substances prohibited pursuant to the *Controlled Drugs and Substances Act, S.C. 1996, C.19*. Candidates are responsible for all costs in obtaining the urinalysis;

- (d) if applicable, obtained written approval from BOCN confirming an unpaid leave of absence from their employment or any work-for-pay arrangement with BOCN throughout the Campaign Period. If a Candidate is elected they shall be deemed to have resigned from their employment or work-for-pay arrangement effective the Election day;
- (e) are not a party adverse to BOCN or a BOCN owned entity in any ongoing dispute before a mediator, arbitrator, court or similar dispute resolution tribunal;
- (f) do not owe any money to BOCN; and
- (g) pay a non-refundable fee, payable in cash or money order to BOCN, as follows:
 - (i) if a Candidate for Chief, \$1,000.00; and
 - (ii) if a Candidate for Councillor, \$500.00,

which said fee shall be used to offset the costs incurred in conducting the Election.

- 4.12. A Candidate must continue to satisfy the requirements of section 4.11 up to and including the Election day.
- 4.13. If a Candidate has a valid prescription, issued by a medical doctor in the past three (3) months, the presence of the prescribed substance on the drug test results provided pursuant to subsection 4.11(c) will not result in an individual being ineligible as a Candidate.

ARTICLE 5 IMPROPER CONDUCT

- 5.1. Candidates shall not:
 - (a) engage in any Improper Conduct; or
 - (b) unless all Candidates are invited, campaign within any BOCN administration buildings or schools during the Campaign Period.
- 5.2. Any Elector with evidence that a Candidate has breached section 5.1 may file an appeal with the Appeal Board.
- 5.3. It is an offence to conduct, engage in or contribute to, directly or indirectly, Improper Conduct, whether or not such Improper Conduct materially affected the outcome of an Election, and an individual found by the Appeal Board or the Tribunal to have conducted, engaged in or contributed to such Improper Conduct loses the right to run for candidacy of Chief or Councillor of BOCN for a period of ten (10) years, or is liable to pay an administrative penalty of \$5,000.00 to BOCN.

ARTICLE 6 TERM OF OFFICE

- 6.1. Subject to section 6.4, The term of office of the Council will be three (3) years.

- 6.2. Subject to section 6.4, a Council member elected pursuant to this Act holds office from the time immediately following the declaration of the Election result to immediately before the declaration of the result of the next Election for that office.
- 6.3. For greater certainty, in the event of any appeal of an Election result, the newly elected Chief or Councillor whose Election is the subject of the appeal shall be entitled to remain in office until such time as the appeal has been determined and, thereafter, subject to the appeal decision.
- 6.4. The position of Chief or Councillor shall become vacant:
- (a) on the expiration of the term pursuant to section 6.1; or
 - (b) when the Elector who holds that office:
 - (i) dies, resigns, or becomes ineligible to hold office by virtue of this Act; or
 - (ii) has been removed from office pursuant to Article 19 of this Act.
- 6.5. The term of office filled in a by-election called as a result of filling a vacancy shall be for the remainder of the unexpired term of office for the Council position being filled.

ARTICLE 7 CARETAKER PERIOD

- 7.1. During a Campaign Period for an Election, other than a by-election or run-off election, the incumbent Council shall take a leave of absence if seeking re-election.

ARTICLE 8 NOTICE OF AN ELECTION

- 8.1. Not less than two (2) months in advance of the expiry of the term of office, the Council shall:
- (a) set the date of nomination;
 - (b) set the date of Election;
 - (c) post notice of the date of nomination and date of Election; and
 - (d) advertise the need to fill positions of Chief Electoral Officer, deputy electoral officer, polling clerks, and Appeal Board members.

- 8.2. Not less than two (2) months in advance of the expiry of the term of office, the Council shall post notice of the Special Election Meeting.

ARTICLE 9

RETAINING ELECTORAL ADMINISTRATIVE POSITIONS

- 9.1. Not less than one (1) month prior to the day of the Election, the Council shall conduct a Special Election Meeting.
- 9.2. At the Special Election Meeting, the Council shall provide the Electors with the names, qualifications and a detailed cost breakdown for the services of each applicant for the positions of Chief Electoral Officer, deputy electoral officer, polling clerk and Appeal Board members.
- 9.3. Electors shall select:
- (a) one (1) Chief Electoral Officer;
 - (b) one (1) deputy electoral officer;
 - (c) at least one (1) polling clerk; and
 - (d) four (4) Appeal Board members as follows:
 - (i) two (2) independent individuals; and
 - (ii) two (2) BOCN Band Members
- 9.4. At the Special Election Meeting, each Elector shall vote for one candidate for each position referred to in section 9.3 and the candidates shall be ranked based on the number of Electors who voted for each candidate. The candidate receiving the highest number of votes shall be listed first, followed by the second highest and so forth.
- 9.5. At the Special Election Meeting, the Elder's Advisory Council shall select one (1) Elder to serve on the Appeal Board.
- 9.6. An individual may be selected for the position of Chief Electoral Officer and Appeal Board members pursuant to subsection 9.3(a) and 9.3(d), if:
- (a) they are:
 - (i) at least twenty-one (21) years of age;
 - (ii) neutral;
 - (b) they are not, in their capacity pursuant to section 9.3, a full-time Employee or contractor of BOCN or an entity owned by BOCN, or otherwise engage in a work-for-pay arrangement with BOCN or an entity owned by BOCN; and
 - (c) a Chief Electoral Officer holding certification pursuant to the *First Nations Elections Regulations* is considered an asset.

- 9.7. The Council shall, within two (2) days of the selection referred to in section 9.3, retain the Chief Electoral Officer, deputy electoral officer, polling clerk and Appeal Board members who received the highest number of votes at the Special Election Meeting. If the candidate with the highest number of votes is unable or unwilling to accept the position, the Council shall retain the candidate who received the next highest number of votes, and so on and so forth until each position is filled.
- 9.8. The Council shall, within two (2) days of the selection referred to in section 9.3, retain the Elder Appeal Board member selected by the Elder's Advisory Council.
- 9.9. Not less than four (4) weeks prior to Election day, the Council shall post notice of who was retained as the Chief Electoral Officer, deputy electoral officer, polling clerk and Appeal Board members in accordance with article 20.
- 9.10. The retainers for the Chief Electoral Officer, deputy electoral officer, polling clerks and Appeal Board members shall remain in place until the expiration of the limitation period pursuant to section 16.3, or the conclusion of any appeal, as applicable.
- 9.11. Notwithstanding section 9.10, if a deputy electoral officer, polling clerk or Appeal Board member resigns, the Chief Executive Officer of BOCN shall, appoint a replacement by contacting the candidate with the next highest number of votes received for the position at the Special Election Meeting until such position is filled. Subject to section 9.6 as applicable, if none of the candidates selected at the Special Election Meeting are willing or able to accept the position, the Chief Executive Officer may appoint any person in their sole discretion. Notwithstanding any timeframes in this article 9, the selection of a replacement required pursuant to section 9.10 can occur at any time.
- 9.12. In the event the Chief Electoral Officer is unable to perform any duties, they shall become the responsibility of the deputy electoral officer who otherwise shall act as an assistant to the Chief Electoral Officer.

ARTICLE 10

CHIEF ELECTORAL OFFICER RESPONSIBILITIES

- 10.1. In addition to performing any other duties specified in this Act, the Chief Electoral Officer shall:
 - (a) post notices and distribute all election information pursuant to this Act;
 - (b) prepare and post a list of Electors on nomination day;
 - (c) preside as chairperson at the nomination meeting;
 - (d) arrange for the proper facilities, including audio devices, to carry out the nomination meeting;
 - (e) establish Polling Stations for the Election and ensure polling booths are constructed to ensure the privacy of the Electors is maintained;

- (f) receive all required information and fees from Candidates in accordance with section 4.11;
- (g) arrange for the printing of ballots, ballot boxes and ensure the security of the ballot boxes;
- (h) prepare for electronic voting in accordance with the Act;
- (i) ensure separate ballots are prepared for Chief and for Councillors;
- (j) preside over all matters on the day of the Election;
- (k) maintain order at the polling stations including removing any individual who in any way interferes, disrupts, or attempts to influence the orderly conduct of the Election;
- (l) examine the validity of all ballots cast;
- (m) count the ballots and announce the official Election results;
- (n) post the Election results and distribute information regarding the Election results as required, including total number of eligible Electors, votes cast on and off Reserve, rejected ballots, and total number of votes for each Candidate;
- (o) safeguard the Election results, including the ballots and ballot boxes, for a period of not less than thirty (30) days following the Election;
- (p) in case of a tie for any positions on the Council, make arrangements for a run-off election; and
- (q) ensure that no Candidates or Electors, except for Scrutineers, remain in the vicinity of the Polling Stations after they have voted.

ARTICLE 11 NOMINATION MEETING

- 11.1. A nomination meeting shall be held at least one (1) week prior to the Election.
- 11.2. Within one (1) day of being retained, the Chief Electoral Officer shall give the Band Members notice of the nomination meeting in accordance with article 20.
- 11.3. Each notice of the nomination meeting shall contain:
 - (a) the date, time, duration and the location of the nomination meeting; and
 - (b) the name and telephone number of the Chief Electoral Officer.
- 11.4. At the nomination meeting the Chief Electoral Officer shall:
 - (a) assume their role as chairperson and call the nomination meeting to order;
 - (b) declare the nomination meeting open for the purposes of receiving nominations; and

- (c) thereafter proceed to call for nominations in the following order:
 - (i) Chief; and
 - (ii) Councillor.
- 11.5. The Chief Electoral Officer shall only accept one (1) nominator and only one (1) seconder for each Candidate.
- 11.6. If a Candidate is nominated and seconded, they will be considered nominated.
- 11.7. Following the nomination of a Candidate, the applicable Candidate shall indicate whether or not they accept the nomination.
- 11.8. A Candidate must either:
 - (a) be present to accept their nomination; or
 - (b) have provided a notarized letter of acceptance to their representative who will provide it to the Chief Electoral Officer at the nomination meeting.
- 11.9. Each Candidate or their representative, shall provide the following to the Chief Electoral Officer at the nomination meeting:
 - (a) a written statement from BOCN's Chief Executive Officer that they:
 - (i) are not currently involved in litigation against BOCN or a BOCN owned entity pursuant to subsection 4.11(f);
 - (ii) have not previously been removed from Council pursuant to subsection 4.11(d);
 - (iii) are on leave from employment with BOCN pursuant to subsection 4.11(d), if applicable; and
 - (iv) do not owe monies to BOCN as required pursuant to subsection 4.11(g); and
 - (b) a Criminal Record Check pursuant to subsection 4.11(b);
 - (c) a urinalysis test results pursuant to subsection 4.11(c);
 - (d) a non-refundable fee as required pursuant to subsection 4.11(h).
- 11.10. Each Candidate is entitled to request and shall receive prior to the nomination meeting, a written statement from the Chief Executive Officer referred to in section 11.10, as applicable.
- 11.11. nominations shall cease only after the Chief Electoral Officer is satisfied that sufficient time has elapsed for the nomination of all Candidates: and
 - (a) the time allotted for the duration of the nomination meeting expires; or

- (b) a majority vote of the Electors present is passed confirming that nominations cease.
- 11.12. In the event that only one Candidate is nominated for Chief, that Candidate shall be declared acclaimed on nomination day and such Candidate shall take office on Election day.
- 11.13. In the event that only eight (8) Candidates are nominated for Councillor, those Candidates shall be declared acclaimed on nomination day and such Candidates shall take office on Election day.
- 11.14. If the number of Candidates nominated exceeds the number of positions open for election, the Chief Electoral Officer will announce the date of the Election.
- 11.15. If the number of individuals nominated for Chief or Councillor is less than the number required to be elected, the time for receipt of nominations shall stand adjourned to the next day at the same place and time for the purpose of receiving further nominations for the office.
- 11.16. If the number of individuals nominated for Chief or Councillor remains less than the number required to be elected after the extension pursuant to section 11.16, the time for receipt of nominations may be further adjourned by the Chief Electoral Officer until sufficient further nominations have been received.
- 11.17. Any Candidate who has accepted their nomination and who wishes to withdraw must notify the Chief Electoral Officer in writing at least seventy-two (72) hours before the Election day. Upon receiving such notice, the Chief Electoral Officer shall remove the Candidate from the ballot.
- 11.18. The Chief Electoral Officer shall retain all nomination documents until the appeal period has expired.

ARTICLE 12 ELECTION DAY

- 12.1. The Chief Electoral Officer shall give notice of the Election day:
 - (a) verbally at the nomination meeting; and
 - (b) within one (1) day of being retained in accordance with article 20.
- 12.2. Each notice of the Election day shall contain:
 - (a) the date, time, duration and the location of the Election; and
 - (b) the name and telephone number of the Chief Electoral Officer.
- 12.3. The Chief Electoral Officer shall preside over all matters for the Election.
- 12.4. Polling Stations shall be open continuously on Election day from 9:00 am to 6:00 pm CST.
- 12.5. Subject to section 12.11, all voting shall be by secret ballot only.
- 12.6. At the Polling Station, prior to the opening of the poll, the Chief Electoral Officer will:

- (a) open each ballot box and ask those people present to witness that each ballot box is empty before any votes are cast;
 - (b) properly seal and lock the ballot box and place their signature on the seal in front of the witnesses; and
 - (c) keep the ballot box in view for the duration of the Election day.
- 12.7. Before the opening of the Polling Station, the Chief Electoral Officer shall cause clearly legible printed instructions for casting ballots to be posted within each polling booth and at a conspicuous location within the Polling Station and shall ensure that they remain posted there until the close of the Polling Station.
- 12.8. The polling clerk may, and on request shall, explain to an Elector as concisely as possible the proper method of voting in accordance with the instructions referred to in section 12.7.
- 12.9. When an Elector arrives at the Polling Station to vote, the polling clerk will:
 - (a) check the list of Electors to ensure that the person is an Elector;
 - (b) sign their initials on the back of the ballot so they can be seen when the ballot is folded; and
 - (c) provide the Elector with the ballot.
- 12.10. The polling clerk will mark the list of Electors with an "X" in the comments section beside the name of the Elector receiving the ballot and also draw a line through the Elector's name.
- 12.11. An Elector may request special assistance from the Chief Electoral Officer or a family member if the Elector declares that they:
 - (a) are not able to read;
 - (b) are incapacitated by physical disability; or
 - (c) require assistance for any other reason.
- 12.12. Following a request made pursuant to section 12.11, provided the deputy electoral officer is available to witness the marking of the ballot, a family member or the Chief Electoral Officer shall provide special assistance to the Elector by marking their ballot in secret as directed by the Elector.
- 12.13. Once a ballot has been marked pursuant to section 12.12, the Chief Electoral Officer or family member shall show the Elector and deputy electoral officer the marking on the ballot, fold the ballot so as to expose the polling clerk's initials and shall deposit the ballot into the ballot box.
- 12.14. The Chief Electoral Officer will make an entry on the list of Electors opposite the name of the Elector requiring assistance indicating that the ballot was marked by the Chief Electoral Officer or

a family member at the request of the Elector and the reason for the Elector's request. The deputy electoral officer shall initial the entry.

- 12.15. The Chief Electoral Officer and deputy electoral officer, as applicable, shall keep all information related to the vote made in accordance with section 12.11 confidential.
- 12.16. Except for an Elector who requires special assistance, every Elector receiving a ballot will:
- (a) proceed immediately to the polling booth;
 - (b) mark the ballot by placing a cross (X) or another mark sufficient to indicate who is being voted for beside the name of the Candidate they wish to vote for;
 - (c) fold the ballot to conceal the mark and to expose the initials of the Chief Electoral Officer; and
 - (d) immediately give the folded ballot to the Chief Electoral Officer
- 12.17. Upon receiving a marked ballot, the Chief Electoral Officer, without unfolding it will:
- (a) verify their initials; and
 - (b) deposit the ballot into the ballot box.
- 12.18. An Elector at a Polling Station who receives a spoiled or improperly printed ballot, or who accidentally spoils their ballot when marking it, is entitled to receive another ballot from the Chief Electoral Officer only after returning the original ballot. The Chief Electoral Officer shall immediately write the word SPOILED on the returned ballot and place it in a separate location to be retained.
- 12.19. An Elector at the Polling Station who receives a ballot and does not return it to the Chief Electoral Officer will forfeit the right to vote and will be counted as a rejected ballot and the Elector shall be recorded as having participated in the vote. The Chief Electoral Officer will make an entry on the list of Electors as "rejected".
- 12.20. After the Elector's ballot is deposited into the ballot box, the Elector shall forthwith leave the Polling Station.
- 12.21. Notwithstanding section 12.20, each Candidate shall be entitled to have two (2) Scrutineers present at the Polling Station provided they not attempt to influence Electors or in any way interfere with or disrupt the orderly conduct of the Election.
- 12.22. At the time set for the closing of the Polling Station, the Chief Electoral Officer will declare the Polling Station closed and entry will be denied to the Polling Station to any incoming Electors. All Electors present at the Polling Station and in line to vote at the time it closes shall be entitled to cast their ballot.
- 12.23. An Elector that has voted by means of Electronic Voting may obtain a physical ballot and vote at a Polling Station if the Elector provides the Chief Electoral Officer with a written declaration that

it is the Elector's wish to vote at the Polling Station and not by Electronic Vote, such declaration to be signed by the Elector in the presence of the Chief Electoral Officer.

ARTICLE 13 ELECTRONIC VOTING

- 13.1. Council may direct the Chief Electoral Officer to include Electronic Voting as a means of voting in an Election in accordance with this Article 13.
- 13.2. Council may, at the time of the Chief Electoral Officer's appointment, identify a provider of Electronic Voting services to be used to facilitate Electronic Voting in the Election.
- 13.3. The provider of Electronic Voting services identified by the Special Election Meeting in accordance to Article 9.2 must be:
 - (a) reasonably:
 - (i) reliable;
 - (ii) secure; and
 - (iii) usable by Electors;
 - (b) capable of removing or cancelling an Electronic Vote cast by an Elector as may be required for purposes of section 12.23;
 - (c) capable of identifying the Electors that vote by means of Electronic Vote so that the Chief Electoral Officer or deputy electoral officer may place an "X" beside the Elector's name on the list of Electors in accordance with section 14.4, in advance of the counting of votes; and;
 - (d) maintain the integrity of the Election.
- 13.4. If Council directs the Chief Electoral Officer to include Electronic Voting as a means of voting in an Election in accordance with this Article 13, the Chief Electoral Officer shall ensure Electronic Voting takes place on the same day as the Election day.
- 13.5. Notwithstanding any other provision of this Act, the provisions of this Act concerning the conduct of Electronic Voting shall be interpreted with due regard to the inevitability of changing technology and the variable practices of providers of Electronic Voting services. For greater certainty, any irregularity relating to the procedure for the conduct of Electronic Voting shall not be grounds for an appeal of an Election unless the irregularity materially affected the conduct and outcome of the Election.

ARTICLE 14
TABULATION PROCEDURES

- 14.1. The Chief Electoral Officer shall prepare separate Election Results Forms outlining the results of Chief Candidates and Councillor Candidates. The Candidate receiving the highest number of votes shall be listed first, followed by the second highest and so forth.
- 14.2. Electors have the right to attend the counting of the ballots in person or online via video stream.
- 14.3. If applicable, as soon as possible after the close of the Polling Stations, the Chief Electoral Officer shall, in the presence of the Scrutineers and any Electors as may be present, review the list of individuals that voted by means of Electronic Vote against the list of Electors, and reject:
- (a) all Electronic Votes cast by an individual whose name is not on the list of Electors; and
 - (b) all Electronic Votes cast by an Elector that is recorded as having received a physical ballot in accordance with section 12.23; and
- all Electronic Votes not rejected in accordance with this section 14.3 are deemed validated for the purposes of this Act.
- 14.4. If applicable, the Chief Electoral Officer shall:
- (a) place an “X” on the list of Electors opposite the name of the Electors whose Electronic Votes are validated in accordance with section 14.3, such that it is apparent on the list of Electors that those Electors voted by means of Electronic Vote; and
 - (b) record the names of all individuals whose Electronic Votes are rejected in accordance with section 14.3.
- 14.5. Immediately after Electronic Votes are validated in accordance with section 14.3 and such validation is recorded in accordance with section 14.4, or immediately after the closing of the polls, as applicable, the Chief Electoral Officer shall, in the presence of the Scrutineers, and any Electors as may be present shall:
- (a) open the locked or sealed ballot box;
 - (b) examine each ballot contained in the ballot box or boxes;
 - (c) reject any ballots in accordance with section 14.6; and
 - (d) count the number of ballots properly marked and the number of rejected ballots.
- 14.6. The Chief Electoral Officer shall examine the ballots and reject any ballot:
- (a) that does not bear the initials of the Chief Electoral Officer;
 - (b) on which more votes are cast than an Elector is entitled to cast;
 - (c) cast by an Elector who has already had their vote validated pursuant to section 14.4;

- (d) on which no vote has been cast; or
 - (e) that, in the Chief Electoral Officer's opinion:
 - (i) do not give a clear indication of the voter's preference; or
 - (ii) include markings that can identify an Elector.
- 14.7. On the back of each ballot the Chief Electoral Officer shall:
- (a) endorse "valid" if the ballot is valid; or
 - (b) endorse "rejected" if the Chief Electoral Officer rejects it; and
 - (c) shall initial each endorsement.
- 14.8. For the purposes of confirming the duly elected members of the Council:
- (a) for the Chief position, the Candidate with the highest number of votes shall be declared the Chief; and
 - (b) for the Councillor positions, the eight (8) Candidates with the highest number of votes shall be declared the Councillors.
- 14.9. As soon as possible after the date of the Election, but in any event, within twenty-four (24) hours after the close of the polls, the Chief Electoral Officer shall post the results of the Election for the position of Chief and Councillor:
- (a) on the BOCN website and official BOCN social media accounts; and
 - (b) by any other means the Chief Electoral Officer deems necessary.
- 14.10. The Chief Electoral Officer shall provide the Election Results Form to:
- (a) Indigenous Services Canada; and
 - (b) Band Administration.
- 14.11. The Chief Electoral Officer shall retain the ballots and nomination materials for thirty (30) days, whereupon:
- (a) If no appeal is filed pursuant to this Act, they will be destroyed; or
 - (b) if an appeal has been filed pursuant to this Act, the Chief Electoral Officer shall deliver the ballots and nomination materials to the Appeal Board.

ARTICLE 15
RUN-OFF ELECTIONS

- 15.1. In the event of a tie between two (2) or more Candidates whose results would otherwise entitle them to be the Chief or a Councillor, the Chief Electoral Officer shall:
- (a) conduct a recount; and
 - (b) if a tie results after the recount, set a date on which a run-off election will occur pursuant to this Article 15.
- 15.2. Only those Candidates who are tied in accordance with section 15.1 are eligible to be Candidates in the run-off election.
- 15.3. Run-off Elections shall be held no more than seven (7) days after the date of the Election.
- 15.4. Notwithstanding section 15.3, a run-off election may be delayed in the event of an Election appeal which may affect the result which gave rise to the equality of votes. In such cases, the run-off election, if still necessary after the determination of the Election appeal, shall be held within seven (7) days of the determination of the appeal.
- 15.5. If a run-off election is required, the Chief Electoral Officer shall give at least four (4) days' notice of the run-off election in accordance with article 20.
- 15.6. A run-off election shall be conducted in accordance with Article 12; however, any section relating to timing shall not apply to the conduct of a run-off election and all matters with respect to scheduling shall be within the discretion of the Chief Electoral Officer.

ARTICLE 16
APPEALS

- 16.1. The Appeal Board shall consist of five (5) individuals appointed in accordance with Article 9.
- 16.2. A member of the Appeal Board shall recuse themselves from the appeal and hearing process under this Article 16 if participating in it would place the member in a Conflict of Interest. The remaining members of the Appeal Board shall continue the appeal and hearing process.
- 16.3. Any Elector may appeal the results of the election by submitting a written notice (a **"Notice of Appeal"**) to any member of the Appeal Board within thirty (30) days from the Election day or declaration of run-off election results, as applicable.
- 16.4. Grounds for an appeal are restricted to:
- (a) an error was made in the interpretation or application of this Act by the Chief Electoral Officer in a manner that materially affected the outcome of the Election; or
 - (b) any person conducted or engaged in Improper Conduct that materially affected the outcome of the Election; or

- (c) a Candidate:
 - (i) was ineligible for nominations;
 - (ii) was under the influence of drugs or alcohol at the Polling Station during polling hours; or
 - (iii) was soliciting votes at the Polling Station during voting hours.
- 16.5. Every Notice of Appeal shall set out:
 - (a) the name, telephone number and address or email address of the Appellant to which any notice or communications relating to the appeal may be delivered;
 - (b) the grounds upon which the appeal is being made including references to the relevant sections of this Act;
 - (c) any supporting documentation to be relied on; and
 - (d) a description of the relief requested.
- 16.6. Within five (5) days of receiving the Notice of Appeal, the Appeal Board shall determine whether to:
 - (a) reject and return any Notice of Appeal that does not comply with section 16.5; or
 - (b) provide the Notice of Appeal to the Chief Electoral Officer and to each Candidate who is the subject of the appeal.
- 16.7. Any Candidate may, within seven (7) days of receipt of the Notice of Appeal from the Appeal Board, provide a written response to the appeal in an affidavit, sworn before a Notary Public or duly appointed Commissioner of Oaths, along with any supporting documentation substantiating the response (the “**Response Material**”).
- 16.8. The Notice of Appeal and Response Material shall constitute and form the record of the appeal (the “**Appeal Record**”).
- 16.9. The Appeal Record shall be provided to the Appellant, the Chief Electoral Officer and the Candidate who is the subject of the appeal within fourteen (14) days of the Notice of Appeal being filed.
- 16.10. An appeal hearing shall be held within seven (7) days of the Appeal Record being circulated pursuant to section 16.9.
- 16.11. An appeal hearing will take the form of a formal meeting chaired by the Appeal Board. The Appeal Board shall consider all information submitted by the parties and shall hear evidence from:
 - (a) the Appellant;
 - (b) the Chief Electoral Officer;

- (c) the Candidate who is the subject of the appeal; and
- (d) from any other person or source it believes may provide information relevant to the appeal.

16.12. If, after considering the appeal, the Appeal Board determines it is more likely than not that:

- (a) an error was made in the interpretation or application of this Act by the Chief Electoral Officer in a manner that materially affected the outcome of the Election;
- (b) any person conducted or engaged in Improper Conduct in a manner that materially affected the outcome of the Election; or
- (c) a Candidate
 - (i) was ineligible for nomination;
 - (ii) was under the influence of drugs or alcohol at the Polling Station during polling hours; or
 - (iii) was soliciting votes at the Polling Station during voting hours,

the Appeal Board shall order a new Election to be held for the position that was the subject of the appeal.

16.13. Where, in the Appeal Board's opinion, none of the circumstances in section 16.4 are present, they shall dismiss the appeal.

16.14. The Appeal Board shall issue written reasons for their decision not less than thirty (30) days after the conclusion of the appeal hearing.

16.15. The Appeal Board's decision shall be final and binding and there shall be no right of appeal of this decision.

16.16. As soon as possible after the Appeal Board issues a decision, but in any event, within twenty-four (24) hours, the Chief Executive Officer shall post the written reasons provided pursuant to section 16.14:

- (a) on the BOCN website and official BOCN social media accounts; and
- (b) by any other means the Chief Electoral Officer deems necessary.

16.17. The parties to the appeal shall bear their own costs in connection with an appeal.

16.18. Subject to the Appeal Board's ability to order costs, any fees and associated costs of the Appeal Board shall be the responsibility of BOCN.

16.19. The BOCN administration shall provide administrative support to the Appeal Board.

ARTICLE 17
ASSUMPTION OF OFFICE

- 17.1. The newly elected Chief and Council shall take office at 11:59 p.m. on the day the Election results are declared.

ARTICLE 18
BY-ELECTION

- 18.1. In the event a position of Chief or Councillor becomes vacant more than twelve (12) months before the end of the Council's term, the Council shall within fourteen (14) days of the effective date of the vacancy, set a date for a by-election to fill the vacant position.
- 18.2. A Chief or Councillor who has resigned cannot run in the by-election held to fill their vacated position.
- 18.3. Subject to section 18.4, a by-election shall be conducted in accordance with Article 12.
- 18.4. The Council may, by Resolution, dispense with any provision respecting time and, in the place and stead of such provisions, establish shorter timeframes within which notices must be posted by the Chief Electoral Officer.

ARTICLE 19
DISCONTINUATION OF AUTHORITY

- 19.1. A Chief or Councillor may only be removed from office during their term in accordance with the provisions in the Executive Act.

ARTICLE 20
NOTICE

- 20.1. Any notice required to be given to Band Members in this Act shall be given:
- (a) by posting such notice:
 - (i) on the BOCN website and official BOCN social media accounts; and
 - (ii) at the Band Office; and
 - (b) by any other method as the individual responsible for providing notice deems appropriate in the circumstances.

ARTICLE 21
AMENDMENTS AND COMING INTO FORCE

- 21.1. Amendments
- (a) This Act may be amended in accordance with the amending provisions contained in the Constitution.

21.2. Errors and Mistakes

(a) This Act may be amended or modified from time to time without the approval of the Band Members to:

(i) correct any typographical or clerical errors or mistakes.

21.3. Notice of Amendment

(a) Notice will be given for all amendments made pursuant to section 21.2 at the annual Informational Band Meeting.

21.4. Effective Date

(a) This Act shall come into force on the day that the Act is approved by the Band Members pursuant to the Constitution.

**APPENDIX A
OATH OF OFFICE**

I, _____ do solemnly swear and affirm that I will support and defend the laws, values and policies of the Beardsy's and Okemasis' Cree Nation ("**BOCN**"); that I will bare true faith and allegiance to the same and that:

1. I will faithfully, honestly and consistently perform the duties of my office to the best of my judgment and ability, remembering that my primary duty is to serve the BOCN;
2. I will honour and respect the spiritual and cultural traditions of BOCN;
3. I shall abstain from abusing alcohol or using any controlled drugs and substances during my elected term unless disclosed and prescribed by a medical professional. I will not make decisions on behalf of BOCN while under the influence of any drugs or alcohol;
4. I will promote and uphold the integrity and dignity of BOCN and its programs and employees;
5. I will not allow my private interest to influence my conduct in public matters of BOCN. I will promptly disclose any "Conflict of Interest", I have in a matter; and I will not participate in the discussion of the matter and will not vote in respect of the matter;
6. I will honor, respect and support the Elders of the BOCN;
7. I will show respect for the authority of the government (Chief and Council) and other governance structures of BOCN;
8. I will discharge my duties and responsibilities in a manner becoming my position;
9. I will be prompt, courteous and temperate in the performance of my duties;
10. I will maintain respect for my colleagues, the managers and employees of BOCN;
11. I will continually work toward self-improvement and professional development;
12. I will not publicly criticize the laws or policies of BOCN. If I feel that changes would be advisable, I will provide constructive criticism or suggestion through the proper channels of law making or amending processes of BOCN;
13. I will use information obtained on the job for the intended purpose only. I will not give out official, classified or confidential information unless the release of such information has been authorized by the Council;
14. I will be accountable to the Band Members including reporting to the electorate on a regular basis;
15. I am qualified to hold the position I was elected to in accordance with the provisions for candidate eligibility under the Beardsy's and Okemasis' Cree Nation Election Act; and

16. I have not, by myself or any other person, knowingly contravened the *Election Act* or any other BOCN law while campaigning for office; and

I do further affirm that I take this Oath of Office freely, without any mental reservation or purpose of evasion. By the Grace of our Creator I do swear.

Name of Elected Official

Witness/Elder

Date

Date