



WHITEFISH LAKE FIRST NATION #128

CUSTOMARY ELECTION

REGULATIONS

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Preamble

WHEREAS the Whitefish Lake First Nation #128 has been granted by the Creator Inherent Rights and has Indigenous and Treaty Rights and authority to govern relations among its Members, and between the Whitefish Lake First Nation #128 and other governments;

AND WHEREAS the Indigenous right of the Whitefish Lake First Nation #128 to self- government was recognized and affirmed in Treaty No. 6 entered into between Her Majesty the Queen and the Whitefish Lake First Nation #128 and confirmed by section 35 of the *Constitution Act*, 1982;

AND WHEREAS the current customs and traditions of the Whitefish Lake First Nation #128 require democratic, fair, and open elections for the First Nation Council which is the governing authority of the Whitefish Lake First Nation #128;

AND WHEREAS in accordance with the September 13, 2007 UN Declaration on the Rights of Indigenous Peoples, Whitefish Lake First Nation #128 Members, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions;

AND WHEREAS the adoption of these Regulations is an exercise of the Indigenous and Treaty right of the Whitefish Lake First Nation #128 to self-government, and nothing in the Regulations shall be construed as to abrogate or derogate from any Indigenous and Treaty rights of the Whitefish Lake First Nation #128.

NOW THEREFORE THE OKIMAW (CHIEF) AND WIYASIWWEWAK (COUNCIL) OF WHITEFISH LAKE FIRST NATION #128, with the consent of the majority of the Electors of Whitefish Lake First Nation #128 pursuant to a vote conducted on _____, hereby implement our inherent right to self-determination as a peoples of these lands to declare our own process to identifying our Okimaw (Chief) and Wiyasiwwewak (Council).

1. Citation

The regulations, rules, and procedures outlined herein shall be cited as the Customary Election Regulations of the Whitefish Lake First Nation #128.

2. Definitions

2.1. Unless otherwise expressly stated in these Regulations:

- 2.1.1. "**Appellant**" means an Elector who voted in the Election they are appealing and who submits a Notice of Appeal pursuant to section [16.2](#) of these Regulations.
- 2.1.2. "**By-election**" means an election held for the office of Chief or Councillor to replace a person who has died, resigned, or been removed from that office.
- 2.1.3. "**Candidate**" means a person who is confirmed by the Electoral Officer as being eligible and properly nominated pursuant to these Regulations.
- 2.1.4. "**Chief**" or "**Okimaw**" means a person elected to the office of Chief pursuant to these Regulations.
- 2.1.5. "**Councillor**" or "**Weyasiw**" means a person elected to the office of Councillor pursuant to these Regulations.
- 2.1.6. "**Corrupt Election Practices**" means:
- a. Attempting or offering money or other valuable consideration in exchange for an Elector's vote, or the falsification of a declaration of a ballot account, vote result or declaration of election result;
 - b. Threatening adverse consequences, coercing or intimidating an Elector or an election official for the purposes of influencing an Elector's vote; or a ballot account; vote result or declaration of election result;
 - c. Forging documents or providing false or misleading information for the purposes of influencing an Elector's vote; or a ballot account, vote result or declaration of Election result.
- 2.1.7. "**Council**" mean those Members elected pursuant to these Regulations holding the office of Chief and Councillors and who are empowered to act as the governing body of the First Nation.
- 2.1.8. "**Council Resolution**" or "**Resolution**" means a Band Council Resolution of the duly elected Chief and Council of the First Nation then in office.
- 2.1.9. "**Whitefish Lake First Nation #128**" or "**First Nation**" means the Whitefish Lake First Nation #128.
- 2.1.10. "**Elder**" means a Member of the First Nation who is recognized as an Elder pursuant to the customs and traditions or the Whitefish Lake First Nation #128
- 2.1.11. "**Election**" means an election held for the office(s) of Chief or Councillor.
- 2.1.12. "**Election Day**" means the date set for conducting an Election or By-election.

- 2.1.13. “**Elector**” means a person whose name is entered on the First Nation’s Membership List and who is the full age of twenty-one (21) years on or before the day on which an Election or By-election is held.
- 2.1.14. “**Electoral Officer**” means the person appointed by the Council to manage the Election on behalf of the First Nation.
- 2.1.15. “**General Election**” means an Election held for all the positions on Council to fill the vacancies caused by the normal passage of time.
- 2.1.16. “**Immediate Family**” means father, mother brother, sister, both sets of grandparents and children.
- 2.1.17. “**Indictable Offence**” means an indictable offence as set out in the *Criminal Code of Canada*, (R.S.C., 1985, c. C-46), as amended hereto, and does not include summary or hybrid offences.
- 2.1.18. “**List of Electors**” means a list of all eligible Electors prepared by the membership clerk and provided to the Electoral Officer, which shall not include any personal information of any Elector, including date of birth, treaty number and personal mailing address.
- 2.1.19. “**Notice of Nomination**” means the notice posted by the Electoral Officer in accordance with section [8.1](#) of these Regulations.
- 2.1.20. “**Member**” means a person whose name appears on the First Nation Membership List.
- 2.1.21. “**Membership List**” means the First Nation Membership List, compiled in accordance with the First Nation Membership Code or laws governing membership of the First Nation at the time of an Election.
- 2.1.22. “**Ordinarily Resident**” means an Elector who resides on the Reserve of the First Nation. A person can only be Ordinarily Resident in one place, at one time, and a person is Ordinarily Resident in that place until another place of ordinary residence is acquired. A person's ordinary residence can be described as:
- (a) the place the person normally eats and sleeps;
 - (b) the place the person receives mail; and
 - (c) the residence of the person's Immediate Family;

a person may also be temporarily absent from a place of ordinary residence for education, medical, temporary employment reasons or employment which requires them to live at a job site or work camp as long as the Member maintains a primary residency on Reserve or within seventy-five (75) kilometres of the Whitefish Lake First

Nation Reserve #128, and can still be considered Ordinarily Resident for the purpose of these Regulations.

- 2.1.23. “**Performance Bond**” has the meaning given in sections [8.11](#) and [8.12](#) hereof.
- 2.1.24. “**Quorum of Council**” mean at least three (3) members of the Council.
- 2.1.25. “**Regulations**” means the Whitefish Lake First Nation #128 Customary Election Regulations.
- 2.1.26. “**Reserve**” means the Whitefish Lake First Nation Reserve #128 and any other future lands designated as Reserve lands of the First Nation.
- 2.1.27. “**Special Meeting**” is a meeting of the Electors held for a special and limited purpose, such as those enumerated in Articles [19](#) and [21](#) hereof.

3. SCHEDULES

The following Schedules form part of these Regulations:

- Schedule "A" – Duties of Electoral Officer
- Schedule "B" – Election Forms

4. COMPOSITION AND TERM OF OFFICE OF COUNCIL

4.1. Composition

The First Nation shall be governed by a Council consisting of one (1) Chief and four (4) Councillors.

4.2. Term of Office

The term of the Office of Chief and each Councillor will be three (3) years commencing on the day following the Election Day on which the Chief and Councillors were elected.

4.3. Assumption of Office

A person elected under these Regulations, unless otherwise disqualified from remaining in office, holds office from the time immediately following the declaration of the Election result to immediately before the declaration of the result of the next General Election for that office.

4.4. Term in By-election

A person elected as a result of a By-election, unless otherwise disqualified from remaining in office, holds office from immediately following the declaration of a By-election result, to immediately before the declaration of the result of the next General Election for that office.

4.5. Oath of Confidentiality

Each elected Candidate for the position of Chief or Councillor shall take an oath of confidentiality at the first meeting of the Council following the Election Day on which they were elected.

4.6. Continuation of Office

For greater certainty, in the event of any appeal of an Election result, an elected Chief or Councillor shall be entitled to remain in office until such time as the appeal has been determined and, thereafter, subject to the appeal decision.

5. DATES OF GENERAL ELECTION

Commencing in April, 2024 and thereafter, all General Election Days for the offices of Chief and Councillors shall be held in the second full week of April on a specific date to be stated in a Resolution, with the Election first to be held for the position of Council and then one (1) week thereafter, the Election for Chief from those Candidates duly elected to the position of Council.

6. APPOINTMENT OF ELECTORAL OFFICER AND APPEALS TRIBUNAL

At least fifty (50) days prior to the date selected as the Election Day, the Council shall, by Resolution, set the date of the General Election, Election for the position of Chief, and appoint an Electoral Officer for the purpose of conducting the Election pursuant to these Regulations and, following consultation with the Electoral Officer, set the locations of the Polling Stations.

6.1. Qualifications

The Electoral Officer shall be qualified to perform their duties as a result of taking electoral training or prior experience conducting Elections and shall:

- (a) Be twenty-one (21) years of age or older;
- (b) Not be a Member of Whitefish Lake First Nation #128;
- (c) Have no vested interest in Whitefish Lake First Nation #128 and the outcome of the Election;
- (d) Be a person of good character and reputation and shall, upon the written request of Council, provide references upon request; and
- (e) Be subject to a criminal record check.

6.2. Term of Appointment

The Electoral Officer's appointment will commence on the date specified in the Resolution and continue until six (6) months after the expiry of the Election appeal period.

6.3. Remuneration

Council will determine the remuneration to be paid to the Electoral Officer, which shall be fair and reasonable and, in any event, shall be determined by Chief and Council in their complete and absolute discretion.

6.4. Duties

The general duties and obligations of the Electoral Officer are outlined herein in Schedule "A" and may further be defined by Resolution of the Council.

6.5. Election Appeal Tribunal

At least fifty (50) days prior to the date selected as the Election Day, the Electoral Officer shall appoint an Election Appeal Tribunal for the purpose of conducting the Election pursuant to these Regulations.

6.6. The Election Appeal Tribunal shall consist of five (5) people who fit the following criteria:

- (a) one (1) retired Judge or a practicing lawyer who is not or has not been retained by the First Nation or any Member of the First Nation, other than as Election Appeal Tribunal members, who shall not be a Member or the Immediate Family of any Member;
- (b) one (1) individual who has been an electoral officer for First Nation elections and is not the Electoral Officer of the Nation for the Election;
- (c) one (1) individual who is not a Member of the Nation who is of good character and reputation and is not affiliated with, or employed by, the Nation or any of its corporate entities; and
- (d) two (2) Elders of the Nation.

6.7. The Electoral Officer shall select and appoint a list of three (3) additional potential Election Appeal Tribunal members.

6.8. Upon receipt of a Notice of Appeal in accordance with section [16.2](#),

- (a) any Election Appeal Tribunal member who is Immediate Family of any Appellant or Candidate; or
- (b) who may reasonably appear to have a bias or conflict in connection with the appeal,

shall excuse themselves for the Election Appeal Tribunal and the remaining members of the Election Appeal Tribunal will select additional members as required to attain a three (3) member tribunal from the list of potential members as drawn by the Electoral Officer in accordance with section [6.7](#).

7. List of Electors

7.1. Provision of Membership turning 21 years of age

The First Nation Membership Clerk shall provide the List of Electors to the Electoral Officer at least forty-five (45) days prior to the Election and thereafter the Electoral Officer shall update the List of Electors as required.

7.2. Provision of Off Reserve Memberships' last known address

The First Nation Membership Clerk shall, no later than forty-five (45) days prior to the Election Day, provide the Electoral Officer with the last known addresses, if any, of all Electors who do not reside on the reserve.

7.3. Content of List of Electors for the Electoral Officer

The List of Electors available to the Electoral Officer shall be in alphabetical order and may contain only the following information about persons who are eligible to be Electors:

- (a) The surname, given name and middle initial of the person;
- (b) The person's mailing address or e-mail address (if available);
- (c) The person's treaty number; and
- (d) The Elector's date of birth.

7.4. Electors' Responsibility

Electors will be responsible for providing the First Nation Membership Clerk with current contact addresses for the Elections on an ongoing basis.

7.5. Use of List of Electors

The List of Electors, which for greater certainty shall not include any personal information of any Elector, including date of birth, treaty number and personal mailing address, may only be used by:

- (a) Candidates for the purposes of campaigning for an Election;
- (b) Electors for verifying they are on the List of Electors; and
- (c) The Electoral Officer or other Election officials for the purposes of carrying out their duties under these Regulations.

7.6. Eligibility to Vote

A person is eligible to vote in an Election held pursuant to these Regulations if they are an Elector as defined by these Regulations, as of the Election Day. A Member who is an eligible Elector but whose name does not appear on the List of Electors may complete a statutory declaration pursuant to section [7.8](#).

7.7. Elector eligibility

Every person who attends at a Polling Station for the purpose of voting shall be permitted to vote:

- (a) If the person's name appears on the List of Electors; or
- (b) If the person makes a declaration that they are eligible to vote as an Elector and upon producing adequate evidence of their Band Membership and proper identification.

7.8. Declaration in presence of Electoral Officer

Every declaration shall be made in writing and in the presence of the Electoral Officer or Polling Clerk at the Polling Station, or by mailing in a statutory declaration affirming their eligibility to vote in front of a commissioner for oaths, prior to the Election Day.

7.9. Inability to Vote

With respect to Sections [7.7](#) and [7.8](#) hereof, if a person refuses to make a statement and the person's name is not on the List of Electors, the person may not vote.

7.10. Appropriate Identification

The Electoral Officer, and any other Election official may, when the identity of the Elector is questioned, request photograph identification appropriate for the purposes of verifying an Elector's identity, before allowing that person to vote.

7.11. Revisions to the List of Electors

A Member may apply to the Electoral Officer before the Election Day to have the List of Electors revised if such Member believes that:

- (a) the name of an Elector has been omitted from the List of Electors; or
- (b) the name of an Elector is incorrectly set out or should not be included on the List of Electors.

7.11.1. A Member of the First Nation may, up to and including the Election Day, apply to the Electoral Officer to have their name added to the List of Electors if that Member provides:

- (a) proof of eligibility to vote by making a declaration that they are eligible to vote as an Elector and upon producing adequate evidence of their Band Membership and proper identification. This proof shall include documentation that verifies that the Elector's name is recorded on the Band List, and that the Elector is at least twenty-one (21) years old on the Election Day and not disqualified from voting at Elections; and
- (b) upon receipt and confirmation of the information in the declaration as set out in section [7.8](#) hereof, the Electoral Officer will revise the List of Electors.

8. NOMINATIONS

8.1. Notice of Nomination Meeting for Position of Council

8.1.1. At least forty (40) days prior to the Election Day, the Electoral Officer must post a Notice of Nomination meeting for the General Election in public places on the Whitefish Lake First Nation Reserve #128, on the First Nation's website and at any other locations Council may designate.

8.1.2. The Electoral Officer shall also send by e-mail to each off-reserve Elector for whom the First Nation has an e-mail address the following documentation:

- (a) The Notice of Nomination Meeting;

- (b) A copy of the Mail-in Voter Declaration to Nominate;
- (c) A copy of the Mail-In Nomination Form; and
- (d) A copy of the Request for Mail-in Ballot.

8.1.3. The Electoral Officer shall also maintain a list of the Members to whom they have e-mailed or delivered a copy of the Notice of Nomination Meeting and Notice of Election. They must record the names, addresses and the dates the notice was mailed or delivered, on a Mail-out Control Sheet.

8.2. Content of Notice

The Notice of Nomination for the General Election shall set out the following information:

- (a) The specific time, place, and date for the nomination meeting and its duration;
- (b) The offices for which nominations are to be held;
- (c) The qualifications of Electors eligible to stand as a Candidates as set out in section [8.4](#);
- (d) The procedures by which nomination papers of the Candidates for Councillor are to be filed with the Electoral Officer, including for off-reserve Electors; and
- (e) That a List of Electors and a copy of these Regulations shall be available at the First Nation administration office.

8.3. Date and time of Nomination Meeting

The Electoral Officer shall attend at the time and place set out in the Notice of Nomination and shall receive the nominations of Candidates for the positions advertised from 1:00 p.m. to 8:00 p.m. The nomination meeting shall be held at least thirty (30) days prior to the Election Date.

8.4. Persons Eligible for Nomination

A person may be nominated as a Candidate in any Election under these Regulations if, on the day of the nomination meeting, the person:

- (a) Is a Member of Whitefish Lake First Nation #128 and on the Membership List;
- (b) Is twenty-one (21) years of age or older;
- (c) Has not been convicted of any Indictable Offences in the last ten (10) years, with no pardon or record suspension;

- (d) Has not been delinquent in the twelve (12) months preceding the day of the nomination meeting in the repayment of any indebtedness exceeding Five Thousand (\$5,000.00), including without limitation rent, loans or advances, to the First Nation or any related business corporation or other entity which is owned or controlled, in whole or part, by the Whitefish Lake First Nation #128;
- (e) Must not have been found liable in civil court or pursuant to criminal proceedings in respect of any matter involving theft, fraud or misuse of property belonging to the First Nation or any First Nation corporation; and
- (f) Must complete the Candidate Declaration Form (including all supporting documentation as set out in Section [8.9](#) hereof). All forms must be submitted to the Electoral Officer before the close of the nomination meeting.

For greater certainty, as set out in Article 5, only those elected to the position of Council will be eligible to run for the position of Chief.

8.5. Conduct of Nomination Meeting for Council

The Electoral Officer will conduct the nomination meeting.

- (a) The Electoral Officer shall record the name of the Candidate, the nominator and the seconder in a nomination form, and confirm to those present at the meeting that the proposed Candidate is eligible to be elected to the position of Chief or Councilor of the First Nation.
- (b) An Elector may nominate a Candidate by signing the nomination form and delivering a non-refundable Fifty (\$50.00) Dollars by way of certified cheque, cash or money order made payable to the Whitefish Lake First Nation #128 to the Electoral Officer at the nomination meeting.
- (c) An Elector may second a nomination of a Candidate by signing the nomination form as a seconder and delivering a non-refundable twenty-five (\$25.00) Dollars by way of certified cheque, cash or money order made payable to the Whitefish Lake First Nation #128 to the Electoral Officer at the nomination meeting.
- (d) Notwithstanding the ability for off-reserve Electors to provide a Mail-in Voter Declaration to nominate and a

copy of a Mail-In Nomination Form, and for greater certainty, a person present at a nomination meeting who is eligible to do so may also second the nomination of any person nominated.

- (e) Where the same person receives two nominations for the same office, the second nomination shall constitute a secondment of the first nomination.
- (f) Any Elector may nominate or second no more than the number of eligible persons equivalent to the number of Councilor positions available for the General Election.

8.5.1. The nomination form must be signed by:

- (a) The nominator and seconder; and
- (b) the nominee acknowledging his or her acceptance of the nomination and witnessed by a Commissioner of Oaths, Electoral Officer or Polling Clerk, and must be accompanied by a Performance Bond and all documents required by Section [8.9](#) hereof.

8.6. Candidate Must Sign Nomination Form

The nomination form shall be provided by the Electoral Officer and signed by the Candidate acknowledging his or her acceptance of the nomination within forty-eight (48) hours.

8.7. Complete Nomination Form Required

A nomination form is not valid nor shall it be acted on by the Electoral Officer unless it is complete and is accompanied with the Performance Bond (as set out in section [8.11](#) or [8.12](#)) and Nomination Documents (as hereinafter defined) set out in section [8.9](#) hereof. For greater certainty, for the Election for Chief the Performance Bond set out in section [8.11](#) will not require a nomination form.

8.8. Required Documents for Nomination

The nomination form (or notice in writing expressing an interest for running for the position of Chief, as the case may be) submitted by the Candidate to the Electoral Officer shall be accompanied by:

- (a) A Performance Bond pursuant to sections [8.11](#) or [8.12](#), as applicable;

- (b) A Canadian Police Information Centre (C.P.I.C.) report or letter from the RCMP indicating that there are no convictions of the Candidate for an Indictable Offence within the ten (10) years from the date of nomination and that there are no indictable criminal charges currently outstanding;
- (c) A letter signed by the Chief Administrative Officer of the First Nation, or Chief Executive Officer of the First Nation business entity where applicable, stating that the Nominee has not been delinquent in the twelve (12) months preceding the day of the nomination meeting in the repayment of any indebtedness exceeding Five Thousand (\$5,000.00) Dollars, including without limitation rent, loans or advances, to the First Nation or any related business corporation or other entity which is owned or controlled, in whole or part, by the Whitefish Lake First Nation #128;
- (d) A statutory declaration signed by the Candidate affirming that they have not been found liable in civil court or pursuant to criminal proceedings in respect of any matter involving theft, fraud or misuse of property belonging to the First Nation or any business corporation or other entity which is owned or controlled by the First Nation; and
- (e) A statutory declaration signed by the Candidate affirming that in the event they do not reside on or within seventy-five (75) kilometres of the Whitefish Lake First Nation #128, that they shall, at their own cost and within ninety (90) days of being elected, relocate and be Ordinarily Resident within seventy-five (75) kilometres of the Whitefish Lake First Nation #128,

(collectively defined herein as the “Nomination Documents”).

8.9. Electoral Officer shall Determine Completeness of Nomination

The Electoral Officer shall determine whether the nomination form and Nomination Documents are fully complete and constitute a proper nomination and shall promptly advise the Candidate of any deficiencies.

8.10. Performance Bond (Chief)

Each person elected to the position of Council that expresses an interest in running for the position of Chief by providing notice of such interest to the Electoral Officer within twenty-four (24) hours of the Election for the position of Council must submit a Performance Bond of five hundred (\$500.00) dollars by cash, money order or certified cheque payable to the First Nation within twenty-four (24) hours of expressing such interest. The Performance Bond shall be used solely for the First Nation's Recreation Program, and payment must be submitted at the same time the Candidate files their nomination form and Nomination Documents.

8.11. Performance Bond (Councillor)

Each person nominated for the position of Councillor must submit a Performance Bond of two hundred fifty (\$250.00) dollars by cash, money order or certified cheque payable to the First Nation. The Performance Bond shall be used solely for the First Nation's Recreation Program, and payment must be submitted at the same time the Candidate files their nomination form and Nomination Documents.

8.12. Performance Bond Non-Refundable

The Performance Bond is paid to the general account of the First Nation and, subject to section [8.16](#), is non-refundable.

8.13. Notice to Candidates

- (a) Upon the close of nominations, the Electoral Officer shall promptly notify, in writing, all nominees who have completed all of the requirements set out in these Regulations whether they are eligible to be Candidates.
- (b) For the Election for Chief, the Electoral Officer shall notify in writing all nominees who have expressed an interest, in writing, of running for the position of Chief.

8.14. Electoral Officer to Determine Eligibility

Nominees who are ruled ineligible by the Electoral Officer, or whom the Electoral Officer determines have not filed a completed nomination form and Nomination Documents are not eligible to be Candidates.

8.15. Return of Performance Bond

Nominees who are ruled ineligible to be Candidates by the Electoral Officer shall have their Performance Bond returned.

8.16. Posting of Nominees

- (a) Within forty-eight (48) hours following the close of the nomination meeting for the General Election, the Electoral Officer shall post the names of Candidates nominated in public places on the Reserve and other locations designated by the Electoral Officer, which may also include the Nation's website.
- (b) Within twenty-four (24) hours following the results of the General Election, the Electoral Officer shall post the names of Candidates who have expressed, in writing, of their intention of running for the position of Chief, in public places on the Reserve and other locations designated by the Electoral Officer, which may also include the Nation's website.

8.17. Withdrawal of Nominees

A candidate may withdraw his or her nomination by notifying the Electoral Officer, in writing, within forty-eight (48) hours of the date on which the nomination meeting was held or, in the case of the Election for Chief, forty-eight (48) hours after expressing an interest in writing to run for the position of Chief. The notice shall be signed by the withdrawing Candidate and witnessed by an Elector of the First Nation.

9. ELECTION BY ACCLAMATION

9.1. Declaration of Elected Candidates by Acclamation

At the end of the nomination meeting, if the number of nominated Candidates for any office is the same or less than the number of available offices, the Electoral Officer will declare elected those nominees who have accepted the nomination and remitted the Performance Bond, nomination form and Nomination Documents (or written notice expressing an interest in running for the position of Chief by a Councillor following the results of the General Election, as the case may be) in accordance with sections [8.9](#) and [8.11](#) or [8.12](#), as the case may be, to be duly elected by acclamation.

- 9.1.1.** If, after making the declaration of acclamation, there are still vacancies on the Council, another nomination meeting will be held, on the same timelines, terms and conditions with Elections as set out in these Regulations.

9.2. Assumption of Office

Persons elected by acclamation assume office the day after the Election Day, on the same terms and conditions as set out in section [4.3](#) hereof.

- 9.3. No Requirement for Election** If a Candidate is elected by acclamation pursuant to section [9.1](#), an Election for their position on Council is not required.

10. ELECTIONS

10.1. Notice of Election Notice and posting

10.1.1. At least twenty-eight (28) days before the General Election, the Electoral Officer must post an election notice in at least three (3) public and conspicuous places on the Whitefish Lake First Nation Reserve #128, on the First Nation's website, and at any other locations Council may designate.

10.1.2. The Electoral Officer shall also send by e-mail to each off-reserve Elector for whom the First Nation has an e-mail address the Notice of Election.

10.1.3. The Electoral Officer shall also maintain a list of the Members to whom they have mailed or delivered a copy of the Notice of Election. They must record the names, addresses and the dates the notice was mailed or delivered, on a Mail-out Control Sheet.

10.1.4. At least seven (7) days before the Election for the position of Chief, the Electoral Officer must post an election notice in at least three (3) public and conspicuous places on the Whitefish Lake First Nation Reserve #128, on the First Nation's website, and at any other locations Council may designate.

10.2. Content of Notice of Election

The Notice of Election shall set out the following information:

- (a) the date of Election Day for the General Election and Election for Chief;
- (b) the names of all Candidates for which the Election is being held;
- (c) the location and date of each respective Polling Station and the hours during which the Polling Stations shall be open at each location for the Poll;
- (d) the location of each Polling Station and the hours during which the Polling Station shall be open at each location on Election Day; and
- (e) that a List of Electors and a copy of these Regulations can be obtained from the Electoral Officer.

10.3. Mail-in Ballot Packages

Pursuant to Section 10.1.1 of this Code, no later than twenty-eight (28) days before the Election for the position of Council, the Electoral Officer shall mail to every Elector who has made a written request for a Mail-in Ballot, accompanied by an identification document, a package consisting of:

- 10.3.1.1.** the Notice of Election;
- 10.3.1.2.** ballot(s) with the Electoral Officer's initials on the back;
- 10.3.1.3.** an outer, postage-paid envelope, pre-addressed with the address of your post office box or address;
- 10.3.1.4.** a second inner envelope marked with the word "ballot", in which the Elector will place his or her completed ballot;
- 10.3.1.5.** A Voter Declaration accompanying Mail-in Ballot;
- 10.3.1.6.** Instructions on how to complete the ballot and return it to the Electoral Officer; and
- 10.3.1.7.** A list of any candidates who were elected by acclamation.

For greater certainty, notwithstanding any other section in these Regulations, the Mail-in packages will only be available for the Election for the position of Council. The Election for the position of Chief will be done only by voting in person at the Polling Station on Reserve.

10.4. Administrative Preparations

The Electoral Officer shall ensure that all necessary preparations are undertaken for the proper conduct of the Election or By-election, including:

- (a) Arranging for Polling Stations;
- (b) Provision of proper Election facilities and voting compartments with sufficient security precautions to protect voter privacy;
- (c) Preparation of ballots and arranging for ballot boxes which can be sealed;
- (d) Preparing voting instructions in writing;
- (e) Appointing and ensuring that Polling Clerks and interpreters are available at each Polling Station; and

- (f) Any other administrative function required pursuant to Schedule "A".

10.5. Voting Instructions to be Posted

Before a Polling Station opens, the Electoral Officer or other person presiding at a Polling Station shall cause printed instructions for the Electors to be posted within each voting compartment and at a conspicuous location within a Polling Station and shall ensure that they remain posted there until the close of a Polling Station.

10.6. Instructions to be in Prescribed Form

The instructions shall be printed clearly in the prescribed form.

10.7. Location and Hours of Polling Stations

A Polling Station will be located on the Whitefish Lake First Nation Reserve #128 on Election Day.

A further Polling Station will be added in a location off-Reserve, as determined by the Electoral Officer in their sole and absolute discretion on Election Day, which location shall be included in the Resolution set out in Article 6 and the Notice of Election hereof.

11. POLLING STATIONS, SCRUTINEERS AND VOTING

11.1. Hours of Polling Stations

Polling Stations are to be open from 8:00 a.m. to 8:00 p.m. on Election Day.

11.2. Entitlement to Vote after Close of Polling Station

Any Elector who is in line to vote at 8:00 p.m. is entitled to vote.

11.3. Decision of Electoral Officer Final

The Electoral Officer's decision on who is in line to vote at 8:00 p.m. is final.

11.4. Appointment of Scrutineers

Each Candidate is permitted to appoint one (1) Scrutineer to attend at a Polling Station to scrutinize the voting procedure and counting of ballots cast at that Polling Station. Scrutineers are not paid by the First Nation.

11.5. Scrutineers to be Submitted in Writing

The name of the Scrutineer appointed by each Candidate for each Polling Station must be submitted in writing to the Electoral Officer two (2) days prior to Election Day. No parties, other than the named Scrutineer, may act on behalf of or represent the Candidate.

11.6. Place of Scrutineers

The Electoral Officer may designate the place or places at a Polling Station where the Candidate's Scrutineer may observe the voting and other Election procedures.

11.7. Acts not Invalidated

When, in these Regulations, anything is required to be done or authorized to be done, then that thing may be done in the presence of the Candidates' Scrutineer, but the non-attendance of a Scrutineer(s) does not invalidate the act.

11.8. Secret Vote

Subject to sections [11.10](#) and [11.12](#), voting in all Elections and By-elections will be by secret ballot.

11.9. Non-disclosure

No person shall be required to disclose whether they have voted or for which particular Candidate they have voted for.

11.10. Incapacitated Elector at Polling Station

The Electoral Officer or a Polling Clerk, at the request of an Elector who is unable to mark their ballot in the usual manner because they are unable to read or are incapacitated by blindness or other physical condition:

- (a) May mark the vote of that Elector on the Elector's ballot in the manner directed by that Elector, and shall immediately deposit the ballot in the ballot box;
- (b) May permit a person chosen by the Elector to accompany the Elector and themselves into a voting compartment for the purpose of marking the Elector's ballot and the ballot when marked shall be delivered by the Elector or the friend to the Electoral Officer to be deposited in the ballot box; and
- (c) Where any Elector has required the assistance, the Electoral Officer shall make a report in the prescribed form.

11.11. Exclusion from Voting Compartment

No Candidate or Candidate's Scrutineer shall be present in the voting compartment at the marking of a ballot.

11.12. Interpreter

If an Elector does not understand the English language, the Electoral Officer may allow or appoint an interpreter to translate any statements, questions, or documents necessary to allow the Elector to vote:

- (a) The interpreter may not be an Elector or Member of the First Nation;
- (b) Before acting as an interpreter, the interpreter shall make a statement in the prescribed form; and
- (c) Where any Elector has required the assistance of an interpreter, the Electoral Officer shall make a report in the prescribed form.

11.13. Votes for Chief

An Elector may vote for only one (1) Candidate for Chief.

11.14. Votes for Councillor

An Elector may vote for a maximum number of Candidates for Council as there are positions available for the Electors.

11.15. Manner of Voting

Upon entering the Polling Station, provided they are on the List of Electors, the Electoral Officer or Polling Clerk shall give each Elector a ballot containing their initials on the back. An Elector who has received a ballot from the Electoral Officer or Polling Clerk may not take the ballot out of the Polling Station and anyone doing so forfeits their right to vote at that Election.

11.16. Declining Right to Vote

If an Elector returns a ballot and states that the Elector is declining to vote, the Elector is not entitled to another ballot and the Electoral Officer or Polling Clerk shall deposit the declined ballot in the ballot box.

11.17. Issuing of Ballot

When the Electoral Officer or Polling Clerk issues a ballot to an Elector, it must be folded and initialled by the Electoral Officer or Polling Clerk so that the initials are visible without opening the ballot.

11.18. Marking Elector's List

The Polling Clerk shall place a mark on the List of Electors next to the name of an Elector who has received a ballot. An Elector may only vote once at an Election.

11.19. Depositing Ballot

After marking the ballot in the voting compartment, the Elector shall immediately fold the ballot so as to conceal the names of the Candidates and the marks on the face of the ballot, and to expose the initials of the Electoral Officer who issued the ballot and shall return the ballot to the Electoral Officer or Polling Clerk who shall, without unfolding a ballot or in any way disclosing the marks made by the Elector on the ballot, verify the initials on the ballot and deposit the ballot at once in the ballot box.

11.20. Spoiled Ballot

An Elector who inadvertently has spoiled his or her ballot may return the ballot to the Electoral Officer or the Polling Clerk and receive another ballot. The Electoral Officer shall write the word "spoiled" on the ballot, initial the ballot and place the ballot in an envelope marked "spoiled ballot".

11.21. Elector shall Leave Polling Station

After the Elector's ballots are deposited in the ballot box, the Elector shall forthwith leave the Polling Station.

11.22. Recording of Ballots

The Electoral Officer or Polling Clerk shall record the total number of ballots distributed to Electors at each Polling Station, the number of Electors who voted, and the number of spoiled or unused ballots.

11.23. Refusal of Permission to Vote

The Electoral Officer or a Polling Clerk may refuse to allow a person to vote if, in their sole opinion:

- (a) The person's name is not listed on the List of Electors and they have not made a declaration pursuant to section [7.8](#);

- (b) The person appears to be intoxicated or under the influence of drugs such that they are unable to clearly communicate with the Electoral Officer or Polling Clerk; or
- (c) The person has already be given a ballot and marked off on the List of Electors as receiving a ballot.

11.24. Identification

If requested to do so by the Electoral Officer or the Polling Clerk, each person requesting a ballot shall present identification to the Electoral Officer verifying his or her age and name.

11.25. Persons at Polling Station

Except for the Electoral Officer, Election officials, Candidates' Scrutineers authorized to attend at the Polling Station and the Electors who are for the time being actually engaged in voting, no other person is entitled to be present, nor shall any other person be permitted to be present, in the Polling Station during the time appointed for voting. For greater certainty, the persons prohibited from the Polling Station include Candidates, unless attending for the purposes of casting their own vote, and members of the media.

11.26. Candidates and Scrutineers not to Loiter

Candidates and any persons acting for or on behalf of a Candidate, unless attending for the purposes of casting their own vote or with authorization of the Electoral Officer pursuant to section [11.4](#), shall not remain or loiter in any area that is within one hundred (100) metres of a Polling Station.

11.27. Observation Area Restricted

A Candidate's Scrutineer may not observe the voting procedures from a location that would allow them to see how Electors mark their ballots.

11.28. Scrutineers Must Leave if Requested

A person permitted to be present in the Polling Station shall leave the Polling Station on the reasonable request of the Electoral Officer.

11.29. Removal of Persons from Polling Stations

The Electoral Officer or Polling Clerk shall maintain order in the Polling Station and may cause to be removed from the Polling Station any person who attempts to influence Electors or in any way interferes with or disrupts the orderly conduct of the vote.

11.30. Leaving Polling Station Promptly

Electors shall leave the Polling Station promptly after voting.

12. COUNTING OF VOTES

12.1. Ballot Counting

Upon the close of the Polling Station, the Electoral Officer or Polling Clerk shall, as soon as possible and in the presence of at least one (1) other Elector and any of the Candidates or their Scrutineers who wish to attend, verify the Mail-in Ballots with the following process:

12.1.1. For the General Election the Electoral Officer shall open each envelope one at a time and set aside, unopened, the inner envelopes containing the ballots if:

- (a) A signed and witnessed Voter Declaration accompanying the Mail-in Ballot form is not enclosed;
- (b) The Voter Declaration Accompanying the Mail-in Ballot form does not contain the Elector's name;
- (c) The Voters Declaration accompanying the Mail-in Ballot form does not contain at least one (1) of the following two pieces of personal information related to the Elector:
 - (i) The Elector's band, treaty, registry or status number as set out in the Voters List;
 - (ii) The Elector's date of birth as set out in the Voters List; or
 - (iii) The Voter Declaration accompanying the Mail-in Ballot form has not been signed by a witness;
 - (iv) The name of the Elector is not on the Voters List; or
 - (v) The Voters List shows that the Elector has already voted (in person).

In all other cases, the Electoral Officer will accept the inner envelope and mark opposite the name of the Elector on the Voters List that his or her ballot has been accepted. The Electoral Officer will then open the inner envelope, and without looking at the ballot, verify that their initials appear on the back. If so, the Electoral Officer shall then place the ballot in the box.

If the Electoral Officer determines that a Mail-in Ballot should be rejected, they will not open the ballot envelope. The Electoral Officer shall staple the rejected Mail-in-Ballot to the Voter Declaration accompanying the Mail-in Ballot form, mark on the form the reason why they have rejected it and set them both aside.

The Electoral Officer shall then open each ballot box and count and record the number of votes cast for each Candidate.

For the Election for Chief, the Electoral Officer shall open each ballot box and count and record the number of votes cast for each Candidate conducted at the Polling Station.

12.2. Void Ballots

The Electoral Officer or their designate shall examine the ballots and any ballot:

- (a) Not bearing the initials of the Electoral Officer or Polling Clerk;
- (b) On which more votes are cast than an Elector is entitled to cast;
- (c) On which anything is written or marked by which an Elector can be identified;
- (d) Has been torn, defaced or is otherwise dealt with in a material way by which an Elector can be identified;
- (e) Which is not marked with an "X" or other identifying mark that clearly indicates the Elector's choice of Candidate(s) but does not identify the Elector opposite the name of the Candidate(s), examples of which could be a check mark or a cross; or
- (f) On which no vote is cast by an Elector; is void and cannot be counted.

12.3. Electoral Officer to Mark Ballots

On the back of a ballot the Electoral Officer or their designate shall:

- (a) Endorse "rejected" if the Electoral Officer or their designate rejects it as void;
- (b) Endorse "rejection objected to" if any objection is made to the Electoral Officer or their designates' decision; and
- (c) Initial each endorsement.

12.4. Intention of Voter Governs

Notwithstanding section [12.2\(e\)](#), if a vote, though incorrectly marked on a ballot, clearly indicates for whom the Elector intended to vote, the Electoral Officer or their designate may count that ballot.

12.5. Ballot Count Form

The Electoral Officer or Polling Clerk shall complete and sign a Ballot Count Form which shall contain the following information:

- (a) The location of the Polling Station;
- (b) The date of the Election;
- (c) The number of ballots distributed to Electors;
- (d) The number of Electors who voted;
- (e) The number of ballots marked for each Candidate;
- (f) The number of rejected, spoiled, voided, and unused ballots; and
- (g) The number of ballots not accounted for.

12.6. Packets of Ballots

At the completion of the counting of the ballots, the Electoral Officer shall make up into separate packets:

- (a) The valid ballots;
- (b) The valid ballots objected to, together with the notes of objections made to the ballots found in the ballot box;
- (c) The rejected ballots, including those on which no vote

has been cast by an Elector;

- (d) The spoiled ballots; and
- (e) The unused ballots.

12.7. Sealing Ballot Boxes

Each packet of ballots shall be sealed and each packet must be marked on the outside with:

- (a) A short description of the contents of the packet;
- (b) The date of the Election; and
- (c) The name of the Electoral Officer.

12.8. Destruction of Ballot and Ballot Count Forms

The Electoral Officer shall personally retain custody or arrange custody of the sealed ballot boxes. Six (6) months following the expiry of the Election Appeal period, the Electoral Officer will destroy the ballots and the Ballot Count Form, unless otherwise ordered by a Court not to do so.

13. DECLARATION OF OUTCOME

13.1. Declaration of Chief and Councillors

The Electoral Officer shall, within two (2) hours of completing the count of the ballots, declare:

- (a) For the Election for the position of Council, the Candidates for Councillor receiving the greatest number of votes to be elected, for the election of Council; and
- (b) For the Election for the position of Chief, the Candidate for Chief receiving the greatest number of votes to be elected for the election of Chief.

13.2. Posting of Election Results

As soon as possible after the closing of the Polling Station(s), the Electoral Officer must post a notice in the administration building and website of the First Nation setting forth the names of those Candidates elected and the office to which they are elected.

14. RE-COUNT OF VOTE

14.1. Re-count

Immediately after the declaration of the outcome of the initial ballot count for either the General Election or the Election for Chief, the Electoral Officer shall declare a re-count of the vote for the respective Election, if there are five (5) or fewer votes separating the successful and unsuccessful Candidates for either the position of Chief or Councillor.

14.2. Notification and Commencement of Recount

Before the re-count, the Electoral Officer shall:

- (a) Notify any Candidates who may be affected by the recount;
and
- (b) Notify those officers that the Electoral Officer considers necessary to assist in the recount.

14.3. Conduct of Recount

The Electoral Officer shall, immediately upon a request being properly made pursuant to section [14.1](#), conduct a re-count of the vote in the same manner as prescribed in Article [12](#) and declare the outcome pursuant to Article [13](#).

15. TIE VOTE PROCEDURES

15.1. Automatic Recount

Notwithstanding the provisions of Article [14](#) hereof, in the event of a tie vote for Chief or the last position of Councillor, the Electoral Officer shall conduct an automatic recount of the votes.

15.2. Procedure in the Event Recount does not Declare Outcome

If the recount fails to determine a successful Candidate for either Chief or Councillor, the Electoral Officer will put the names of the Candidates that are tied in a hat and the name that is pulled will be declared the winner.

16. ELECTION APPEALS

16.1. Appeal Period and Grounds for Appeal of an Election

Within seven (7) days after the Election Day, or the date on which a Candidate is acclaimed pursuant to Article [9](#) hereof, any Elector who voted in the Election may appeal the results of an Acclamation, an Election or By-election on the following grounds:

- (a) An error was made in the interpretation or application of these Regulations that materially and directly affected the conduct and outcome of the Election or By-election;
- (b) A Candidate was ineligible for nomination and such ineligibility materially affected the results of the Election or By-Election;
- (c) An Elector or Candidate promoted or aided Corrupt Election Practices which included, but is not limited to, bribery, threats, and intimidation of Candidates, Electors, the Electoral Officer, or Polling Clerk or an Elector or Candidate consented to and benefited from such practices;
- (d) Persons who voted were not eligible to vote to an extent that the results of the Election or By-election were materially affected;
- (e) Improper actions by the Electoral Officer or Polling Clerk that materially affected the conduct and outcome of the Election or By-election; or
- (f) Other circumstances, events, or actions which improperly, directly, and materially affected the results of the Election or By-election.

16.2. Notice of Appeal

A Notice of Appeal in writing and signed by the Appellant shall be forwarded to the Election Appeal Tribunal appointed pursuant to section [6.5](#) hereof at the Band Office or address provided, outlining the grounds for the Appeal and with a filing fee in the form of cash deposit or certified cheque made payable to the First Nation, in the amount of five hundred (\$500.00) dollars, which filing fee shall be used solely for the First Nation's Recreation Program.

16.3. Contents of Notice of Appeal

The Notice of Appeal shall state:

- (a) The Election results appealed from and the name of the affected Candidate or Candidates;
- (b) The grounds upon which the appeal is made including reference to the relevant sections of these Regulations;
- (c) The material facts on which the Appellant relies;
- (d) The names of any witnesses the Appellant intends to call or a statement that the Appellant does not intend to call any witnesses; and,
- (e) A list of documents or records the Appellant intends to rely on or a statement that the Appellant does not intend to rely on any documents or records.

16.4. Election Appeal Tribunal must be Available

The members of the Election Appeal Tribunal must make themselves available to accept Notices of Appeal within the seven (7) day period after the Election Day, by being personally available by providing an physical address, or mailing address where Notice of Appeal can be hand delivered or mailed.

16.5. Evidence Confined to that Disclosed in Notice of Appeal

A person who files a Notice of Appeal may not introduce any witness or use any document that has not been disclosed in the Notice of Appeal.

16.6. Filing Deadline

The Notice of Appeal must be received, in the prescribed Form, with the filing fee describe in section [16.2](#) by the Election Appeal Tribunal within seven (7) days after the Election Day.

16.7. Notice of Appeal to be Posted

The Notice of Appeal shall be forwarded by the Election Appeal Tribunal to all Candidates, posted in the administration office of the First Nation at Whitefish Lake First Nation Reserve #128 and in other public places and locations selected by the Election Appeal Tribunal.

16.8. Rejection of Notice of Appeal

The Election Appeal Tribunal shall reject and return any Notice of Appeal and related documents that:

- (a) Are not received within seven (7) days of the Acclamation, Election or By-election, as the case may be.
- (b) Are not received with the required filing fee; or
- (c) Do not contain all the information required by section [16.3](#).

16.9. Election Appeal Record

The Electoral Officer shall further prepare an Election Record and deliver it to the Election Appeal Tribunal. The Election Record shall consist of the following:

- (a) A copy of these Regulations;
- (b) A copy of the Band Council Resolution appointing the Electoral Officer;
- (c) A copy of the final polling day list;
- (d) All ballots;
- (e) Copies of any statutory declarations of Electors sworn in connection with the Election or By-election, as the case may be;
- (f) A copy of the Notice of Nomination Meeting;
- (g) Copies of all filed nomination papers;
- (h) A copy of the Notice of Appeal or Appeals, as the case may be; and
- (i) Any other relevant information in the possession of the Electoral Officer.

16.10. Election Appeal Tribunal

Within seven (7) days of receipt of the Notice of Appeal, Election Appeal Tribunal shall determine:

- (a) That the allegations and evidence filed with the Notice of Appeal are so lacking in merit as to constitute an abuse of the appeal process if the appeal was allowed to proceed, and dismiss the appeal; or
- (b) That the allegations and evidence filed with the Notice of Appeal, if proven, may lead to a reasonable conclusion that a violation of these Regulations has taken place which may have affected the result of the Election and set the time, place and date for the appeal to be heard. The date for the hearing shall not be more than thirty (30) days from the date the Notice of Appeal was filed.

16.11. Notice of Hearing to be Posted

If an appeal hearing is required, a notice of the hearing date shall be posted publicly in the administration office of the First Nation at Whitefish Lake First Nation Reserve #128 and delivered to the Appellant, Electoral Officer and other Candidates by registered mail.

16.12. Appeal Procedures

The Election Appeal Tribunal shall be responsible for establishing procedures in accordance with the rules of natural justice and administrative fairness as are necessary for the fair conduct of the hearing of the Election Appeal.

16.13. Submissions and Cross-examination

The Appellant, or other Electors, or their representatives, shall be entitled to make verbal or written submissions to the Election Appeal Tribunal and be subject to cross-examination by the parties or the Election Appeal Tribunal.

16.14. Powers of Election Appeal Tribunal

The Election Appeal Tribunal has the following powers:

- (a) To determine if an appeal hearing is required;
- (b) To determine the time, place and date of the appeal hearing;

- (c) To determine whether the appeal hearing is open to Band Members and who may or may not attend the appeal hearing;
- (d) To determine questions or law arising in the course of the appeal hearing;
- (e) To rule on any objections made during the course of the appeal hearing;
- (f) To order production of documents which are material and relevant to the appeal;
- (g) To determine the procedure to be followed having regard for fairness and the principles of natural justice; and
- (h) To determine the manner in which evidence is to be admitted and the Election Appeal Tribunal is not bound by rules of evidence and, within the limits prescribed by section [16.6](#), has the power to determine admissibility, relevance and the weight of any evidence.

16.15. Limits on Election Appeal Tribunal Power

The Election Appeal Tribunal does not have the power:

- (a) To subpoena any witness or compel any person to give evidence at an appeal hearing except the Electoral Officer; or
- (b) To order any relief not specifically permitted by these Regulations.

16.16. Non-Application of Arbitration Acts

These Regulations sets out all the powers of the Election Appeal Tribunal and neither the *Arbitration Act of Alberta* nor the *Commercial Arbitration Act of Canada* or any other like legislation applies to the Election Appeal Tribunal or to appeal hearings under these Regulations.

16.17. Decision of Election Appeal Tribunal

Within five (5) days of concluding the appeal hearings, the Election Appeal Tribunal shall promptly make one of the following decisions:

- (a) To deny the appeal on the basis that evidence presented did

not fully and properly establish the necessary grounds for an appeal;

- (b) To uphold the grounds for an appeal but allow the results of the Election to stand, as the infraction did not directly and materially affect the result of the Election; or
- (c) To allow the appeal and call for a new Election for all or some offices or call for the tie vote procedures in accordance with section [15.2](#) to be carried out.

16.18. Written Reasons to be Provided

The Election Appeal Tribunal shall provide written reasons for its decision.

16.19. Notification of Interested Parties

The interested parties shall be immediately notified in writing by the Election Appeal Tribunal of their decision and the decision shall be posted in the administration office of the First Nation at Whitefish Lake First Nation Reserve #128 and in other public places and locations selected by the Election Appeal Tribunal.

16.20. Costs

If the appeal is upheld pursuant to sections [16.17\(b\)](#) or [16.17\(c\)](#), the cash deposit shall be returned to the Appellant. If the appeal is denied, the cash deposit is forfeited and paid into the First Nation General Account. The Appellant and interveners shall be responsible for their own costs.

16.21. Costs - Appeal Amounting to Abuse of Process

Notwithstanding section [16.20](#), if the Election Appeal Tribunal determines that an appeal was so lacking in merit as to constitute an abuse of the appeal process he may order the Appellant to pay all or a portion of the costs of the appeal hearing, including the fees and disbursements of the Election Appeal Tribunal, or the costs of the affected Candidates or both.

16.22. Election Appeal Tribunal's Costs

The cost of the Election Appeal Tribunal including fees and disbursements and associated hearing costs, shall be paid by the First Nation. These do not include any costs of the Appellant or interveners.

16.23. No Review

No decision, order directive, declaration, ruling or proceeding before the Election Appeal Tribunal shall be questioned or reviewed in any court by application for judicial review or otherwise, and no order shall be made or process entered or proceedings taken in any court, whether by way of injunction, declaratory judgment, prohibition, quo warranto, or otherwise to question, review, prohibit or restrain the decision of proceedings before the Election Appeal Tribunal.

16.24. Limited Review Permissible

Notwithstanding section [16.23](#), a decision, order, directive, declaration, ruling or proceeding of the Election Appeal Tribunal may be questioned or reviewed by way of an application for judicial review in the Federal Court of Canada on the basis that the Election Appeal Tribunal erred in law or failed to observe a principal of natural justice.

16.25. Appeal Upheld

If the appeal is upheld and a new Election or By-election is called, the Election Appeal Tribunal shall set the date for the Election and they may direct the current Electoral Officer or direct that a new Electoral Officer to conduct a new Election or By-election in accordance with these Regulations.

16.26. Reinstatement of Chief and Council

In the event the Election Appeal Tribunal directs that a new Election shall be held for all of the positions, then the Chief and Council elected in the previous Election whose terms were to end shall continue in office until the next Election Day, which shall be no longer than two (2) months after the Election Appeal Tribunal decision.

17. RESIGNATIONS

17.1. Notice of Resignation

The Chief or a Councillor may resign from office by submitting a written notice of resignation to the Council.

17.2. Content of Notice of Resignation

The notice of resignation must state the effective date of the resignation, which must not be more than thirty (30) days from the date the notice is delivered to Council.

18. RESIDENCY REQUIREMENTS FOR CHIEF AND COUNCILLORS

18.1. Ordinarily Resident

Throughout the duration of their term of office, the Chief and all Councillors must be Ordinarily Resident either on Reserve #128 or within seventy-five (75) kilometres of Whitefish Lake First Nation Reserve #128.

19. REMOVAL OR SUSPENSION FROM OFFICE

19.1. Grounds for Removal or Suspension

The removal or suspension of a Chief or Councillor from office may be sought on the following grounds:

- (a) They are absent for three (3) consecutive Council or community meetings of which they had been given verbal and/or written notice and for which no valid reason for their absence is provided in writing to the Council;
- (b) They engage in disorderly or irresponsible conduct that is alcohol or drug related at Council meetings, community meetings, or in other public forums or functions which interferes with the conduct of business or brings the reputation of the First Nation or the Council into disrepute;
- (c) They engage in violent or threatening behaviour towards staff or contractors of the First Nation, or First Nation business entities, which includes any corporation to which the First Nation is an owner, either in whole or in part;
- (d) They have been convicted of an Indictable Offence under the *Criminal Code* while in office;
- (e) They have been engaged in Corrupt Election Practices, the evidence of which was discovered after the appeal period;
- (f) Contrary to section [17.1](#), they fail to ordinarily reside on the Reserve or within seventy-five (75) kilometres of Reserve #128 for the duration of their term of office;
- (g) If a Chief or a Councillor has been charged with an Indictable Offence under the *Criminal Code* during their term of office, they may be temporarily suspended without

pay until the outcome of their trial, subject to a Quorum of a Resolution of Council. Upon conviction this section would apply. However, if the Chief or Councillor is not convicted, the First Nation will pay him or her any monies which they may have otherwise been entitled to during the suspension period; or

- (h) They have improperly misused or misappropriated First Nation funds or converted First Nation property to their own use. For the purposes of this section First Nation funds and property includes the funds or property of business corporations or entities which are owned or controlled, in whole or in part, by the First Nation.

19.2. Commencing Removal Process

Subject always to the provisions of Section [19.8](#) hereof, proceedings to remove a Chief or Councillor from office shall be started by any Elector submitting to the Council a petition which shall state;

- (a) The Name of the Chief and/or Councillor(s);
- (b) The grounds pursuant to section [19.1](#) for seeking the removal of a named Chief or Councillor(s);
- (c) The evidence in support of the petition;
- (d) The petition shall include for each petitioner;
 - (i) The printed surname and printed given names or initials of the petitioner;
 - (ii) The signature of the petitioner;
 - (iii) The mailing address, street address, or land description at which the petitioner resides; and
 - (iv) The date on which the petitioner signed the petition;
- (e) Each signature on the petition must be witnessed by an adult person who has signed opposite the signature of the petitioner; and
- (f) The petition must have attached to it a signed statement of a person stating that they are the representative of the petitioners and that inquires about the petition may be directed to them.

- 19.3.** The petition requires the signatures of at least fifty percent plus one (50% +1) of all eligible Electors of the First Nation to be in support of the petition.
- 19.4.** On receipt of a petition, the Council shall verify that the petition complies with section [19.2](#). If the petition does not comply, the Council shall notify the petitioner(s).
- 19.5.** If the petition does comply with section [19.2](#) and meets the requirement of section [19.3](#), the Council shall convene a Special Meeting within fourteen (14) days of receiving the petition to consider and vote on the removal of the Chief or Councillor from office.

19.6. Resolution of Special Meeting for Removal

Where a duly convened Special Meeting is held:

- (a) The Chief or Councillor who is the subject of the petition for removal may make representations to the Electors, which may include the presentation of documents and testimony by witnesses;
 - (b) The Electors shall vote by secret ballot on whether to remove a Chief or Councillors from office; and
 - (c) If a majority of the Electors in attendance at the Special Meeting vote to remove the Chief or Councillor, the affected member of Council shall be deemed to have been removed from office and ceases to be entitled to all rights and privileges associated with that office.
- 19.7.** A Special Meeting convened to consider the removal of a Chief or Council shall have at least sixty (60%) of the total number of Electors who voted in the previous Election vote and approve the removal.
- 19.8.** A Chief or Councillor who:
- (a) contrary to section [18.1](#), fails to ordinarily reside on Reserve #128 or within seventy-five (75) kilometres of Reserve #128 for the duration of their term of office; or,
 - (b) contrary to [section 8.9\(g\)](#), fails to move to within seventy five (75) kilometres of the Whitefish Lake First Nation Reserve #128 within ninety (90) days of the Election, and upon receiving thirty (30) days' notice in writing by Council to provide proof of having relocated and

maintained their ordinary residence within seventy five (75) kilometres of the Whitefish Lake First Nation Reserve #128, fails to do so; or

- (c) is convicted of an Indictable Offence while in office,

may be removed by Resolution of the Quorum of Council without the requirement for a Petition or Special Meeting.

20. BY-ELECTIONS

20.1. Date of By-Election

In the event a member of Council dies, resigns, or is removed from office and there is more than twelve (12) months remaining in their term of office, the Council shall, within two (2) weeks of the effective date of the death, resignation or removal, set the date for the By-Election to fill the vacant office and appoint an Electoral Officer to conduct the By-Election.

20.2. Rules and Procedures for By-election

The rules and procedures for conducting a By-election will be the same as those used for conducting an Election.

20.3. No Requirement for By-election

In the event a member of Council dies, resigns, or is removed from office within twelve (12) months of the termination of their term in office, the office shall be filled at the next Election.

20.4. Ineligible Candidate - Resigning Candidate

The person who has resigned from office pursuant to Article [17](#) and prompted the holding of a By-election is not eligible to be a Candidate in that By-election.

20.5. Ineligible Candidate - Removed

The person whose removal from office by Council pursuant to Article [19](#) has prompted the holding of a By-election is not eligible to be a Candidate in that By-election or for any office in the next General Election.

20.6. Ineligible Candidate - Councillor

A current sitting Councillor in office at the time a By-election is called for the position of Chief is not eligible to be a Candidate in that By-election unless they first resign from their position on Council.

21. AMENDMENTS TO THE REGULATIONS

21.1. Amendments in Accordance with this Section

These Regulations may be amended in accordance with this Article.

21.2. Approval by Council

Amendments to these Regulations shall be first drafted by Council and approved by Council Resolution.

21.3. Notice to Electors of Proposed Amendments

21.3.1. The Council shall post a Notice of a Special Meeting of the Electors of the First Nation at least fourteen (14) days prior to the date of the Special Meeting in the administration office of the First Nation at Whitefish Lake First Nation Reserve #128 and other locations designated by the Council.

21.3.2. The Council shall also send by e-mail to each off-reserve Elector for whom the First Nation has an e-mail address the Notice of Proposed Amendments.

21.3.3. The Electoral Officer shall also maintain a list of the Members to whom they have mailed or delivered a copy of the Notice of Proposed Amendments. They must record the names, addresses and the dates the notice was mailed or delivered, on a Mail-out Control Sheet.

21.4. Content of Notice

The notice shall state that the purpose of the meeting is to consider and vote upon amendments to these Regulations. It shall also state the time, place and date of the Special Meeting, and a Request for Mail-in Form for off-reserve Electors.

21.5. Copy of Proposed Amendments with Notice

A copy of the proposed amendments to these Regulations shall be attached to the Notice.

21.6. Approval of Amendments by Electors at Special Meeting

Upon the approval of the majority of a quorum of Electors present and voting by secret ballot at such a duly constituted Special Meeting of Electors, the amendments shall be adopted effective as of the date of the Special Meeting. For greater certainty, this shall also include any Mail-in Ballots received by off-reserve Electors received on or before the commencement of the Special Meeting by Council.

21.7. Quorum at Special Meeting

A duly constituted Special Meeting of Electors to consider and vote by secret ballot upon amendments to these Regulations shall consist of at least fifty (50%) percent plus one (1) of the total number of Electors who voted in the previous Election.

21.8. Affidavit

Following the Special Meeting, the Chief, a Councillor, or chairman of the meeting shall swear an Affidavit stating:

- (a) proper notice of the meeting was given;
- (b) the meeting was held;
- (c) the total number of votes cast for and against the amendment; and
- (d) that to the best of their knowledge, the vote was properly conducted.

22. ADMINISTRATIVE PROCEDURES

22.1. The Chief and Council by Resolution from time to time may approve administrative procedures necessary to implement these Regulations.

23. SEVERANCE

23.1. If a section, sub-section, or portion of these Regulations is deleted or found to be inoperable by a Court, it shall be severed from these Regulations and the remaining sections shall remain in full force and effect

THESE CUSTOMARY ELECTION REGULATIONS, with the consent of the majority of the Electors of the _____ Nation, are hereby enacted at a duly convened meeting of the Council of the _____ Nation this __ day of ____, 20__.

Signed by the following members of Council:

Chief Lorne S. Houle

Councillor Herb Jackson

Councillor Louise Hunter

Councillor James Jackson Jr.

SCHEDULE “A”
DUTIES OF THE ELECTORAL OFFICER

The Electoral Officer will be responsible:

1. In cooperation with the Band Membership Clerk, the Electoral Officer shall prepare a List of Electors.
2. For establishing an Election file for each Election containing copies of all correspondence, memorandums, and other information relevant to the conduct of each Election or By-Election, as the case may be.
3. For undertaking any activities or responsibilities necessary to conduct the nomination meeting in the manner prescribed in these Regulations.
4. For supervising and ensure all Elections and By-Elections, as the case may be, are conducted in accordance with the Whitefish Lake First Nation #128 Customary Election Regulations, as outlined herein, and do all other things necessary to ensure the proper conduct of an Election or By-Election, as the case may be.
5. For, at least seven (7) days prior to an Election Day, appointing such Polling Clerks, Deputy Electoral Officer(s) and interpreters as he or she deem necessary for the proper conduct of the Election or By-Election, as the case may be. Polling Clerks or Deputy Electoral Officer(s) must not be Electors, or staff members of the First Nation.
6. For arranging for appropriate voting compartments constructed in such a manner as to ensure the secrecy and privacy of Electors marking their ballots.
7. For carrying out any other duties assigned by the Council from time to time relating to the conduct of an Election or By-Election, as the case may be.

**SCHEDULE “B”
ELECTION FORMS**

- FORM 01 BCR setting the Election Day, appointing the Electoral Officer and location of the Polling Stations**
- FORM 02 Notice of Election Day**
- FORM 03 Notice of Nomination Day**
- FORM 04 Nomination Form and Candidate’s Acceptance**
- FORM 05 Statement of Elector Eligibility**
- FORM 06 Statutory Declaration – Not liable for Theft, Fraud or Misuse of Band Property**
- FORM 07 Statutory Declaration – Relocation if not Ordinarily Resident on or within Seventy Five Kilometres of Whitefish Lake First Nation Reserve #128**
- FORM 08 Voting Instructions**
- FORM 9 Statement of Interpreter**
- FORM 10 Statement of Assistance to Incapacitated Elector**
- FORM 11 Record of Electoral Officer**
- FORM 12 Ballot Account and Vote Result**
- FORM 13 Declaration of Election Result**
- FORM 14 Notice of Appeal**