

# KAWACATOOSE FIRST NATION

## ELECTION ACT

March 7, 2005  
Final Version

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# AN ACT RESPECTING THE CUSTOM ELECTIONS FOR THE GOVERNMENT OF THE KAWACATOOSE FIRST NATION

## DECLARATION

The Indian Nations are founded upon the knowledge of who we are, and are guided by our history. It is therefore essential to make the following declaration:

1. The Creator placed us here as the First People;
2. The Creator gave us laws to govern all relationships harmoniously in nature and in mankind;
3. The Creator's laws guide us to define our rights and responsibilities;
4. The Creator gave us spiritual beliefs, languages, culture, and a place on earth to provide us with all of our needs;
5. We have maintained our distinction, our languages and our traditions since creation;
6. We continue to exercise our rights and fulfill the responsibilities and obligations given to us by the Creator in relation to the land upon which we were placed;
7. The Creator has given us the right to self-determination and the right of self-governance;  
and
8. The rights and responsibilities given to us by the Creator cannot be altered or removed by any other Nation.

The role of any leader elected to our government is to understand the above Declaration and diligently practice the principles inherent to our history. The Chief and Council are heir and successors of our past, rights, beliefs, Treaties, and governing structures. They are also the keepers of our culture, languages, and trust obligations.

They are elected to protect our Treaties, our lands, and our people. The future of our people is to a great degree in the hands of our elected leaders.

The people also rely upon our leader's ability to resolve issues and problems on our behalf.

The people, youth, and children follow the example set by their leaders.

Accordingly, the ideologies, principles and qualifications of those who seek the Office of Chief and Council must demonstrate the characteristics that build trust and confidence and reflect competence.

## PART I GENERAL

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### Short Title

1. This Act may be cited as "*Kawacatoose First Nation Election Act*" and is referred to herein as the "Act".

### Effect Of This Act

2. From the date this Act comes into force it shall govern the Elections for the Band Council of the Kawacatoose First Nation.

### Coming Into Force Of This Act

3. This Act comes into force on the 7 day of March, 2005.

### Definitions

4. For the purposes of this Act:
  - a) "Acclamation" means if the number of Candidates nominated does not exceed the number of positions available for election at the end of the Nomination Meeting, the Electoral Officer shall declare such Candidates elected.
  - b) "Act" means the Kawacatoose First Nation Election Act.
  - c) "Appeal Tribunal" means a Board consisting of three (3) Members to be responsible for all aspects of the Appeal Process in regards to Elections.
  - d) "Band" means the Kawacatoose First Nation.
  - e) "Band Council" means the Chief and Headpersons.
  - f) "Band Member" means a person who is a Member of the Band as that term is defined in the Indian Act, R.S.C. 1985, c. 1 - 5.
  - g) "By-Election" means an Election held pursuant to Part 14 of this Act.
  - h) "Candidate" means a Member of the Band who:
    - i) Is eighteen (18) years of age or older on the day on which the Nomination Meeting is held; and
    - ii) Is nominated as a Candidate under Part 3 of this Act.
  - i) "Chief" means that person elected as a member of the Band Council who holds that position on behalf of the Band Membership.

- j) "Deputy Electoral Officer" means a person who is appointed by the Band Council to assist the Electoral Officer in the conduct of the Election or By-Election Process.
- k) "Election" means the process whereby the Chief and Headpersons of the Band are chosen in accordance with this Act.
- l) "Elector" means a Member of the Band who:
  - i) Is eighteen (18) years of age or older on the day on which the Election is held; and
  - ii) Is eligible to vote in an Election under Part 4 of this Act.
- m) "Electoral Officer" means the person appointed by Band Council as the Authorized Administrator responsible for all aspects of the Election or By-Election Process.
- n) "Headperson" means a person who is elected as a leader of the Band and assists, supports, and counsels the Chief in carrying out their duties.
- o) "Justifiable Cause" means:
  - i) A medical emergency;
  - ii) A family emergency; and
  - iii) Portfolio Assignments and Responsibilities approved by the Band Council.
- p) "Nomination Meeting" means a meeting of the Band for the purpose of nominating Candidates for the positions of Chief and Headpersons of the Band under the supervision of the Electoral Officer pursuant to Part 7 of this Act.
- q) "Ordinary Residence" means the place that has always been, or that has been adopted as, a Member's dwelling place, and to which that Member intends to return when away from it. A Member can have only one place of ordinary residence and it cannot be lost until another is gained. Temporary absence from a place of ordinary residence does not cause a loss or change of place of ordinary residence. If a Member usually sleeps in one place and has their meals or is employed in another place, their place of ordinary residence is where they sleep.
- r) "Polling Station" means a location selected for the purpose of voting.
- s) "Quorum" of the Band Council consists of five (5) Council Members.
- t) "Reserve" means any land or lands owned by the Kawacatoose Band including Treaty Land Entitlement and Specific Claims designated lands, and lands that have been set aside by the Crown for the use and benefit of the Kawacatoose Band.
- u) "Scrutineer" means the person designated by a Candidate to observe on their behalf the conduct of the Election or By-Election and the counting of votes.

- v) "Voters List" means the list of the Band Members who are eligible to vote in a Band Election.

### Clarification

5. In this Act the singular shall include the plural and either masculine or feminine terms shall include both.

## PART 2 BAND COUNCIL

### Chief And Headpersons

6. The Band Council shall consist of one (1) Chief and eight (8) Headpersons as follows:
- a) The Candidate for Chief who receives the largest number of votes shall be elected as the Chief; and
  - b) The first eight (8) Candidates for Headperson who receive the largest number of votes shall be elected as Headpersons; and
  - c) The Candidate elected as Chief shall select one (1) of the elected Headpersons who shall thereafter and for their term of office be the designated representative on Council for all of the Members of the Band who reside off reserve.

### Term Of Office

7. The Chief and Headpersons elected shall begin to hold office commencing forty-eight (48) hours immediately following the Election and lasting for up to four (4) years.

### Holding Two Positions Not Allowed

8. No person on Band Council may hold two (2) elected positions simultaneously.

### Residence

9. A successfully elected Candidate for the position of Chief or Headperson who is not ordinarily resident on the reserve must, within sixty (60) days following the day of the Election:
- a) Establish their Ordinary Residence on the Kawacatoose First Nation Reserve; and
  - b) Maintain their Ordinary Residence on the Reserve during their entire Term of Office;
- or they will cease to hold their Elected office.

## PART 3 NOMINATION ELIGIBILITY

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### Band Membership

10. A person nominated for the position of Chief or Headperson must be a Band Member on the day of the Nomination Meeting.

### Age

11. A person nominated for the position of Chief or Headperson must be eighteen (18) years of age or older on the day of the Nomination Meeting.

### Criminal Offence/Record

12. A person shall be ineligible to seek office if he/she has been convicted of an indictable offense on a date less than five (5) years preceding the date of the Nomination Meeting.
13. All Candidates nominated for the position of Chief or Headperson must sign a Candidate's Acceptance Form either in Form F or Form G. In particular, all Candidates must attest to the fact that they have not been convicted of an indictable offence.

### Candidacy

14. Only Electors who meet the requirements of a "Candidate" as set out in this Act may be nominated as a Candidate.
15. Candidates may run for the position of Chief or the position of Headperson, but not both.

### Nominating/Seconding

16. Only qualified Electors may nominate or second the nomination of a Candidate by:
  - a) Delivering or by mailing a written Nomination Form in Form D and a Voter's Declaration Form in Form E to the Electoral Officer before the time set for the Nomination Meeting; or
  - b) Orally, at the Nomination Meeting.
17. An Elector is entitled to nominate only one (1) Candidate and second the nomination of only one (1) Candidate, but not the same Candidate.

### Attendance At Nomination Meeting

18. An eligible Candidate nominated either orally or in writing must be present at the Nomination Meeting.
19. All nominated Candidates must appear before the Electoral Officer prior to the close of the Nomination Meeting to accept or decline their nomination.

## Notice Of Withdrawal Of Candidacy

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20. A Candidate who has been nominated may withdraw their Candidacy at any time prior to the close of the polls by submitting to the Electoral Officer a Notice of Withdrawal of Candidacy in Form H, signed by the Candidate in the presence of the Electoral Officer, a Justice of the Peace, a Notary Public or a Commissioner of Oaths.
21. If a Candidate withdraws their Candidacy after the ballots for voting have been mailed to the off reserve Band Members, their name shall remain on the ballot.
22. At the counting of ballots, all votes cast for a Candidate who has withdrawn their candidacy shall not be counted.

## PART 4 ELECTORS

### Band Membership

23. An Elector must be a Band Member on the day of the Election.

### Age

24. An Elector must be eighteen (18) years of age or older on the day of the Election.

### Residence

25. An Elector is not required to have a residence on the Reserve.

### Rights Of Electors

26. It is a right of each eligible Elector to nominate or second a nomination at the Nomination Meeting and to vote at an Election or By-Election for the position of Chief and Headperson of the Band.

### Revision Of Voters List

27. Any Elector may apply to the Electoral Officer to have the Voters List revised if:
  - a) The name of the Elector is incorrectly set out;
  - b) The name of an Elector does not appear; or
  - c) The name of a person not eligible to vote is included.
28. The Electoral Officer shall make the necessary corrections to the Voters List upon presentation of documentary proof supporting the application for revision to the Voters List as set out in Section 27.
29. The Voters List shall contain only the names of eligible Electors.

## PART 5 ELECTORAL OFFICER/DEPUTY ELECTORAL OFFICER

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### Electoral Officer & Deputy Electoral Officer

30. At least seventy-nine (79) days in advance of the Election, the Band Council shall appoint by Resolution one (1) Electoral Officer who shall sign an Oath in Form A.
31. At least seventy-nine (79) days in advance of the Election, the Band Council shall appoint by Resolution one (1) Deputy Electoral Office who shall sign an Oath in Form B.
32. At least seventy-nine (79) days in advance of the Election, the Band Council must provide the Electoral Officer with a Band List of eligible Electors.
33. At least seventy-nine (79) days in advance of the Election, the Band Council must provide the Electoral Officer with all last known addresses of the Electors not residing on the Reserve.

### Participation In Elections

34. The person appointed as Electoral Officer shall be ineligible to run, nominate or vote in an Election or By-Election that they preside over. However, in the event of a tie vote for a position, the Electoral Officer shall cast the deciding vote.

### Deputy Electoral Officer To Assist

35. The Deputy Electoral Officer is responsible for assisting the Electoral Officer throughout the Election or By-Election proceedings and shall take direction from the Electoral Officer.

### Deputy To Replace Electoral Officer

36. If the Electoral Officer becomes unable or unwilling to carry out their duties under this Act, then the Deputy Electoral Officer shall replace the Electoral Officer, and the Deputy Electoral Officer shall be responsible to carry out the duties of the Electoral Officer with the same authority and responsibility.

## PART 6 PRE-NOMINATION PROCEDURES

### Notice Of Nomination Meeting

37. At least thirty (30) days prior to the date of the Nomination Meeting, the Electoral Officer shall:
  - a) Post a Notice of the Nomination Meeting in Form C in at least one conspicuous place on the Reserve; and
  - b) Mail a Notice of the Nomination Meeting in Form C and a Voter's Declaration in Form E, a copy of the Kawacatoose First Nation Election Act and a Nomination Form in Form D to the last known address of every Elector of the Band who does not reside on the Reserve.

### Contents Of Notice Of Nomination Meeting

38. The Notice of the Nomination Meeting shall contain the following:
- a) The date, time, duration, and location of the Nomination Meeting;
  - b) The positions open for Election.

## PART 7 THE NOMINATION MEETING

### Date of Nomination Meeting

39. The Nomination Meeting shall be held not less than forty-two (42) days prior to the day of the Election.

### Location of Nomination Meeting

40. The Electoral Officer shall arrange for a suitable location on the Reserve to hold the Nomination Meeting.

### Chairperson of Nomination Meeting

41. The Electoral Officer shall be the Chairperson of the Nomination Meeting.

### Supervision of Nomination Meeting

42. The Electoral Officer shall supervise the Nomination Meeting and maintain order at all times during the Nomination Meeting and may cause to be removed any person who, in the Electoral Officer's opinion, is disrupting or otherwise interfering with the proceedings at the Nomination Meeting.

### Opening of Nomination Meeting

43. At the time and place specified in the Notice pursuant to Section 38, the Electoral Officer shall declare the Nomination Meeting open for the purpose of receiving nominations of Candidates for the positions available for Election.

### Time For Nominations

44. The Nomination Meeting shall remain open for three (3) hours.

### The Nomination Meeting Procedure

45. The Nomination Meeting shall proceed in this order:
- a) Nominations for the position of Chief and Headpersons shall be called;
  - b) Any eligible Elector may nominate or second the nomination of an eligible person to serve as a Candidate for the position of Chief or Headperson;

- c) The Electoral Officer shall record the name of the proposed Candidate, the Nominator and the Secunder and confirm to those present at the meeting that the proposed Candidate is eligible to be elected for the position of Chief or Headperson;
- d) Three (3) hours after the opening of the Nomination Meeting, the Electoral Officer shall declare the meeting closed; and
- e) The Electoral Officer shall read out before all present any written Nominations sent prior to the meeting.

### Candidates' Forum

46. Immediately following the Nomination Meeting, the Electoral Officer shall hold a Candidate's and Nominator's Forum in which Candidates and Nominators shall address the meeting as follows:
- a) Beginning first with the last Candidate nominated for the position of Headperson and subsequently all other Candidates nominated for the position of Headperson in reverse order in which they were nominated, followed by the last Candidate nominated for the position of Chief and subsequently all other Candidates nominated for the position of Chief in reverse order in which they were nominated;
  - b) All Nominators must introduce their Candidate and shall be given a maximum of two (2) minutes to speak. Each Candidate must also address the meeting and shall be given a maximum of ten (10) minutes to speak; and
  - c) In the event that a Candidate refuses to speak, they will be required to withdraw their Nomination and Candidacy.

### Acceptance of Candidate For Chief/Headperson

47. All Candidates for the position of Chief must sign an Acceptance of Candidate for Chief in Form F before their names may be added to the Ballot.
48. All Candidates for the position of Headperson must sign an Acceptance of Candidate for Headperson in Form G before their names may be added to the Ballot.
49. Form F and Form G shall contain a statement signed by the Candidate that they:
- a) Agree to run for office;
  - b) Attest that they are a Band Member of the Kawacatoose First Nation;
  - c) Agree, if elected, to immediately resign any employment position or contractual arrangement which may place them in a conflict of interest situation;
  - d) Attest that they are at least eighteen (18) years of age on the day the Nomination Meeting is held;
  - e) Attest that they are not in arrears of payment of debt to the Kawacatoose First Nation or to a Company in which the Kawacatoose First Nation has an interest;
  - f) Attest that they have not been convicted of an indictable offence within the past five (5) years; and
  - g) Agree, if elected, to serve their office truly and faithfully.

### Candidates Elected By Acclamation

50. The Electoral Officer shall, if the number of Candidates nominated does not exceed the number of positions available for election at the end of the Nomination Meeting, declare such Candidates elected by acclamation.

### Date of Election

51. If the number of Candidates exceeds the number of positions open for the Election, the Electoral Officer shall announce the date of the Election, which shall be held not less than forty-two (42) days after the Nomination Meeting.

## PART 8 PRE-ELECTION PROCEDURES

### Notice of Election

52. At least thirty-five (35) days before the day on which the Election is to be held, the Electoral Officer shall:
- a) Post a Notice of Election in Form I in at least one (1) conspicuous place on the Reserve; and
  - b) Mail a Notice of the Election in Form I, a Voter Declaration Form in Form E, a ballot for Chief in Form J and a ballot for Headperson in Form K to every Elector of the Band who does not reside on the Reserve. The ballots must be mailed back and received by the Electoral Officer no later than the close of the polling station on the day the Election is held.

### Contents Of Notice Of Election

53. The Notice of Election shall contain the following:
- a) The date, time, duration and location of the Election;
  - b) A list of all Candidates for the position of Chief and Headperson.

### Location of Polling Station

54. The Electoral Officer shall arrange for a suitable location on the Reserve for the polling station.

### Ballots

55. The Electoral Officer shall prepare ballots in Form J and place on the ballots the full and complete names of the Candidates nominated for Chief listed in alphabetical order.
56. The Electoral Officer shall prepare ballots in Form K and place on the ballots the full and complete names of Candidates nominated for Headpersons listed in alphabetical order.

57. The Ballots for Chief and Headpersons shall include middle names or initials or the name by which the Candidate is known for the purpose of identifying Candidates with the same family name.

#### **Supply of Ballots And Ballot Box**

58. The Electoral Officer shall provide sufficient ballot boxes, a sufficient number of ballots for the purpose of the Election, writing instruments for marking votes, a sufficient number of Directions For Voting Guides in Form N, and all other equipment necessary to operate the polling station.

#### **Polling Booths**

59. The Electoral Officer shall arrange for voting compartments at the polling station location and the voting compartments shall be such that the privacy of the Elector is maintained while their vote is cast.

## **PART 9 ELECTION PROCEDURES**

#### **Hours of Voting**

60. The polling station shall be open at 9:00 a.m. and close at 8:00 p.m. on the day of the Election.

#### **Supervision of Election**

61. The Electoral Officer is responsible for the supervision of the ballots, the polling station and all facilities required for the Election.
62. The Electoral Officer shall maintain order at all times at the polling station and may cause to be removed any person who in any way interferes, disrupts or attempts to influence the orderly conduct of the Election and the Electoral Officer may appoint a peace officer to maintain order at such polling station.

#### **Locking of Ballot Box**

63. The Electoral Officer shall, immediately before the commencement of the opening of the polls, open the ballot box and call such persons as may be present to witness that it is empty. The Electoral Officer shall then lock the box to prevent it from being opened and shall place it in plain view for the reception of the ballots and the box shall not be moved or unlocked during the time the polling station is open.

#### **Rights of Candidates**

64. All Candidates shall have the right to attend the polling station and the counting of the ballots in person or have one (1) Scrutineer attend on their behalf.

65. If a Candidate appoints a Scrutineer, the Candidate shall inform the Electoral Officer in Form L of their intent and the name of the Scrutineer and the Scrutineer shall sign the Scrutineer's Declaration in Form M prior to the opening of the polling station.

### Method of Voting

66. Where a person attends at a polling place for the purpose of voting, the Electoral Officer or Deputy Electoral Officer shall, if the person's name is set out in the Voters List, provide that person with a ballot and the Electoral Officer or Deputy Electoral Officer shall mark their initials on the back of the ballot.
67. The Electoral Officer or the Deputy Electoral Officer shall mark on the Voters List that the Elector has received a ballot.
68. The Electoral Officer shall post at the polling station the Directions for Voting Guides in Form N, and if requested to do so, shall explain the mode of voting to an Elector.
69. Upon receiving ballots, an Elector:
- a) Shall proceed to the polling booth provided for marking ballots and mark their ballots by placing an (X) or other mark beside the name of the Candidate for whom they choose to vote;
  - b) Shall fold the ballots so as to conceal their vote but expose the initials of the Electoral Officer written on the back; and
  - c) Shall remit the folded ballots to the Electoral Officer or their designate who will, without unfolding the ballot, verify their initials and deposit it into the ballot box in the presence of the Voter and all other persons entitled to be present in the polling station.
70. While an Elector is in the polling booth, no person, except for the Electoral Officer pursuant to Sections 71 and 75, may be allowed in the same compartment or be in any position from which he/she can see the manner of the said Elector marking their ballot.
71. The Electoral Officer or the Deputy Electoral Officer, on request by an Elector who is unable to vote in the usual manner, shall assist the Elector by marking his/her ballot in the manner directed by the Elector in the presence of a witness chosen by the Elector.
72. The Electoral Officer or Deputy Electoral Officer shall indicate, beside the name of the said Elector on the Voters List, the fact that the Elector was provided with assistance at the request of the Elector and the reason therefore.
73. An Elector who by mistake ruins their ballot so that the ballot cannot be used shall, once only, upon returning it to the Electoral Officer, be entitled to obtain another ballot, and the Electoral Officer shall write the word "cancelled" upon the ruined ballot and keep it separate from the other ballots.
74. An Elector who has received a ballot and who leaves the polling station without delivering the ballot to the Electoral Officer, or if, after receiving the ballot, refuses to vote, shall forfeit their right to vote at the Election.

75. The Electoral Officer shall record beside the name of the Elector to indicate that the Elector received their ballot but declined to vote, and if the Elector returns the ballot, the Electoral Officer shall mark upon the face of the ballot the word "declined" and it shall be kept separate from the other ballots.
76. An Elector whose name does not appear on the Voters List may vote in an Election upon presentation of documentary proof to the Electoral Officer attesting that such person is eligible to vote and their name shall be added to the Voters List.
77. Every Elector who is at the polling station and in line at the time fixed for closing the poll shall be entitled to vote before the poll is closed.

### Secrecy Of Voting

78. Every person in attendance at the polling station shall assist in maintaining the secrecy of voting. No person shall interfere with an Elector while they are marking their ballot subject to Section 70.

## PART 10 PROCEDURES AFTER POLLING STATION CLOSED

### Counting Of Ballots

79. Immediately after the close of the polls, the Electoral Officer or the Deputy Electoral Officer shall, in the presence of any Candidates or their Scrutineers as may be present, open each Mail-in ballot envelope that was received before the close of the polls, remove the Mail-in ballot from the enclosed envelope marked "Ballot" without unfolding it; and
- a) Reject the Mail-in ballot if:
    - i) The name of the Elector set out in the Voter Declaration Form is not on the Voters List;
    - ii) The Voters List shows that the Elector has already voted at the polling station;
    - iii) The initials of the Electoral Officer are not on the back of the ballot; or
    - iv) A Voter Declaration Form is not enclosed, or the Voter Declaration Form is not signed or witnessed;
  - b) In any other case, place a mark on the Voters List opposite the name of the Elector set out in the Voter Declaration Form, and deposit the Mail-in ballot in the ballot box.
  - c) A Mail-in Ballot may be hand delivered at the Polling Station.
80. Immediately after the Mail-in ballots have been deposited in the ballot box under Section 79(b), the Electoral Officer shall, in the presence of any Candidates or Scrutineers as may be present, open all ballot boxes and:

- a) Reject all ballots papers that:
    - i) Have not been supplied by the Electoral Officer or the Deputy Electoral Officer;
    - ii) Do not give a clear indication of the Elector's intention;
    - iii) By which votes have been given for more Candidates than are to be elected; or
    - iv) On which anything appears by which the voter can be identified.
  - b) Call out the names of those Candidates for which votes have been given on all ballots not rejected.
81. The Electoral Officer shall review and decide on any objection to a ballot by a Candidate or their Scrutineer.
82. The Electoral Officer shall number such objections and write the word "allowed" or "disallowed", as the case may be, with their initials.
83. The Deputy Electoral Officer shall count the votes given for each Candidate as called out by the Electoral Officer.
84. In the event a tie occurs in the number of votes for one or more candidates, the Electoral Officer shall:
- a) Break the tie and select one successful Candidate for each position as follows;
    - i) Place the name of each Candidate involved in the tie on separate piece of paper;
    - ii) Each piece of paper shall be identical in size, shape and weight;
    - iii) Fold each piece of paper in the same manner and place them into a container, such as a hat, that can not be seen through; and
    - iv) In the presence of the Candidates and/or the Scrutineers, without looking, select one (1) paper inscribed with the name of a Candidate.
  - b) Read aloud the name of the Candidate inscribed on the paper and declare that Candidate to be the one elected.

### Statement Of Results

85. Immediately after the completion of the counting of the votes, the Electoral Officer shall publicly declare to be elected the Candidate or Candidates having the highest number of votes.
86. The Electoral Officer shall then prepare in Form O, an Electoral Officer's Statement of Results showing:
- a) The number of ballots cast, counted, rejected and spoiled and the number of Electors; and
  - b) The names of Candidates duly declared elected.

The Statement must be signed by the Electoral Officer, and may also be signed by any Candidate or their Scrutineer who is present.

## Notice Of Election Results

87. Within forty-eight (48) hours following the completion of the Election, the Electoral Officer shall provide the Election results in the Electoral Officer's Statement of Results in Form O:
- a) By mail to the Department of Indian and Northern Affairs Canada;
  - b) By mail to the Kawacatoose First Nation Band Members living off reserve; and
  - c) By posting the Elections results in two public locations on Reserve.

## Administer Oath Of Office

88. The Electoral Officer shall supervise the taking of an Oath of Office by the newly elected persons to the Band Council within forty-eight (48) hours of the Election.

## Disposal Of Ballots

89. The Electoral Officer shall retain the ballots in a locked, fire proof facility for sixty (60) days following the Election, at which time they shall be destroyed, unless there has been an Appeal of the result of the Election. If there is an Appeal, the ballots shall not be disposed of until all Appeal proceedings are final.

## PART 11 APPEALS

90. The following procedures shall govern the conduct of an Election or By-Election Appeal.
91. Any Candidate or Elector may appeal the result of the Election or By-Election within forty-five (45) days from the date of the Election by delivering to the Election Appeal Tribunal the following:
- a) A Notice of the Appeal, in affidavit form, witnessed by a Justice of the Peace, Notary Public or a Commissioner of Oaths, outlining the appellant's name, address, telephone number, setting forth the grounds of the appeal including all material facts and documents for which the appellant relies upon;
  - b) A Petition of Support for the Appeal signed by a minimum of fifty (50) Electors of the Kawacatoose First Nation;
  - c) Electors signing the petition shall each submit a non-refundable contribution of twenty (\$20) dollars towards the cost of the appeal;
  - d) The non-refundable contributions, in an amount that is a total of twenty (\$20) dollars multiplied by the number of Electors who have signed the petition or a minimum of \$1,000.00 (one thousand) dollars, shall be submitted in the form of cash, money order, or certified cheque payable to the Kawacatoose First Nation to be used to offset Appeal costs.
92. The results of an Election or By-Election may be appealed only upon:
- a) A violation of this Act that can be demonstrated to have affected the result of the Election or By-Election; or

- b) Illegal, fraudulent, or criminal activities carried out during the Election Process that may have affected the outcome of the Election or By-Election.

### Hearing of Appeals

93. There shall be an Appeal Hearing conducted at a formal meeting of the Treaty Four Governance Election Tribunal, to allow relevant persons to be questioned and to make submissions as well as for relevant facts to be investigated. A notice of the date, time and location of the Appeal Hearing shall be posted in at least one conspicuous place on the Reserve and mailed to all Candidates not less than fourteen (14) days prior to the Hearing.

### Election Appeal Tribunal's Actions After An Appeal Has Been Lodged

94. Where an Appeal is lodged pursuant to Part 11 of this Act, the Election Appeal Tribunal shall, within five (5) days of receipt of the Appeal, forward a copy and all supporting documents to the Electoral Officer and to each Candidate at the Election.

### Answering To An Appeal

95. A Candidate may, within seven (7) days of the receipt of the copy of the Appeal, forward to the Election Appeal Tribunal by registered mail or by hand delivery to a Tribunal Member, a written answer to the particulars set out in the Appeal together with supporting documents relating thereto duly verified by Affidavit.

### The Record

96. All particulars and documents filed in accordance with the provisions of this Section shall constitute and form the record.

## PART 12 THE ELECTION APPEAL TRIBUNAL

### The Election Appeal Tribunal

97. The Election Appeal Tribunal shall consist of three (3) Members from Treaty Four Governance, none of whom are Band Members or involved with the launching of the Appeal.

### Appointment Of Election Appeal Tribunal Members

98. At least one-hundred (100) days prior to the day on which the Election is to be held:
- a) The Band Council shall appoint three (3) individuals to the Election Appeal Tribunal from Treaty Four Governance;
  - b) The Band Council shall set the remuneration to be paid to the Members of the Election Appeal Tribunal; and
  - c) The Election Appeal Tribunal shall hold office until the expiry of the Term of Office of the Chief and Council to be elected at the upcoming Election.

### Oath Of Office

99. Five (5) days following the appointment of the Election Appeal Tribunal, the Band Council shall administer an Oath of Office to all Members of the Tribunal.

### Responsibilities Of The Tribunal With Respect To Appeals

100. The Tribunal may, if the material that has been filed is not adequate for deciding the validity of the Appeal made, conduct such further investigation into the matter as deemed necessary, in such manner as is deemed expedient. The Tribunal shall confidentially investigate any Appeal and render a decision to the Electorate within thirty (30) days from the date of the Appeal hearing.

### Ineligibility Of Election Appeal Tribunal Members

101. Any person occupying any employment or contractual position with the Kawacatoose First Nation or any of its operating entities shall be ineligible for appointment to the Tribunal.

### Result Of Appeal

102. Where it is determined that:
- a) There was an illegal, fraudulent or criminal activity during the Election Process that may have affected the outcome of the Election or By-Election; or
  - b) There was a violation of this Act that may have affected the result of the Election;

The Tribunal may set aside the Election of Chief or Headpersons and order a by-Election for the positions declared vacant. The decision shall be rendered by consensus of the Tribunal and the ruling of the Tribunal is final.

### Senior Staff Will Act When Quorum Impossible

103. In the situation where the Tribunal sets aside a number of the Elections of Chief or Headpersons and orders a By-Election for those positions declared vacant and by so doing makes it impossible to achieve a quorum of the Chief and Council, for the interim period that those positions are vacant, the senior staff members in the employment of the Band in the following order:

- a) the Director of Operations for the Band; and
- b) the Senior Managers of each of the programs administered by the Band;

shall act in the capacity of the Chief and/or Council positions that are vacant so that a quorum can be reached and subject to By-Election, shall act with the limited authority required to administer the existing Band programs.

## PART 13 VACANCIES AND REMOVAL FROM OFFICE

### Vacancy On Band Council

104. A position on the Band Council shall be considered vacant when the person who holds that position:
- a) Dies;
  - b) Resigns;
  - c) Is convicted of an indictable offense during their term of office;
  - d) Has been absent from two (2) consecutive Meetings of the Band Council without Justifiable Cause;
  - e) Through sickness or injury or otherwise defined by a certified medical physician, becomes incompetent or unable to complete their duties;
  - f) Accepts other employment or a contractual position;
  - g) Ceases to reside on the Kawacatoose First Nation Reserve; and
  - h) Knowingly signs a Candidate's Acceptance Form that contains false representations.
105. A Band Council member's resignation shall be effective and binding when:
- a) The resignation is made in written form and signed by the individual who intends to resign and witnessed by an Elector;
  - b) The resignation contains a date for the resignation to take effect; and
  - c) The resignation is accepted by a Motion or Resolution of the Band Council.
106. The Band Council shall have the delegated authority by virtue of ratification of this Act to declare a Council position to be vacant and remove a Band Council member from office for any of the reasons listed in Section 104.
107. In the event that the position of Chief becomes vacant for any reason, the remaining Council members shall select one (1) member of the Council to act as the Acting-Chief, with all of the powers of the Chief and for the period until a By-Election is held or until the next regular Election is held.

## PART 14 BY-ELECTIONS

### Requirement Of By-Election

108. A By-Election shall be called when a Band Council position becomes vacant and, as a result, it is not longer possible for the Band Council to maintain a quorum. If the number of Councillors falls below five (5) Members, a By-Election shall be called and set by the remaining number of Band Council Members as soon as is practical.

### Appointment Of Electoral Officers

109. The existing Band Council shall appoint an Electoral Officer and a Deputy Electoral Officer. The Electoral Officer shall give Notice of a Nomination Meeting to be held to elect a person to fill the vacancy on the Band Council.

### Conduct Of The Nomination Meeting For The By-Election

110. At least thirty (30) days prior to the Nomination Meeting, the Band shall provide the Electoral Officer with a Voters List and last known addresses of the Electors.
111. The rules and procedures as set out in this Act for a General Band Election shall apply to voting at the By-Election.

### Disposal Of Ballots

112. The Electoral Officer shall retain the ballots according to Part 10 of this Act.

### Term Of Office

113. The Term of Office for those elected at a By-Election shall be for the remaining term of the position that the newly elected member is filling.

## 15 - PART AMENDMENTS

114. Amendments to this Act may be made after one (1) year from the date of ratification.

#### Step 1

Recommendations for Amendments shall be made in writing to the Band Council and supported by at least one-hundred (100) members.

#### Step 2

The Band Council shall arrange for the proposed Amendments to be presented and discussed at a duly convened Membership Assembly. A Membership Assembly shall be held not less than thirty (30) days after the Notice of the Assembly is distributed. A Notice of the time and place of the meeting and a copy of the proposed Amendments shall be displayed in two (2) public areas of the Kawacatoose First Nation.

#### Step 3

Amendments made to this Act shall have Motions properly Moved and Seconded from the floor of the duly convened Membership Meeting.

#### Step 4

Once the proposed Amendments have been properly Moved and Seconded at a duly convened Membership Meeting, they will be submitted to the Kawacatoose Electorate for ratification. The proposed Amendments will be made to the Act if a majority of the votes cast by the Kawacatoose Electorate at a referendum were in favour of the Amendments being made.

#### Step 5

The Chief and Council shall ensure that there is public notice regarding Amendments made to the Act.

FORM A  
[Par. 5]

OATH OF ELECTION OFFICIAL  
Electoral Officer

I, \_\_\_\_\_ the Electoral Officer at the Kawacatoose First Nation  
General Band Election to be held on the \_\_\_\_\_ day of \_\_\_\_\_,  
20\_\_\_\_, declare that:

I will not attempt unlawfully to ascertain the Candidate for whom any person has voted or the  
manner of a person's vote, and will not in any way aid in the unlawful discovery of the same.

I will strictly observe secrecy respecting any and all knowledge that may come into my possession  
regarding the Candidate for whom any person has voted or the manner in which a voter has marked  
his or her ballot.

I will faithfully and impartially, to the best of my knowledge and ability, execute the office of  
Electoral Officer, and I have not received and will not accept any payment or reward, or promise of  
payment or reward, for the exercise of any partiality or corrupt practice.

SWORN before me at the City of )  
\_\_\_\_\_, in the Province of )  
Saskatchewan, this \_\_\_\_\_ day )  
of \_\_\_\_\_, A.D. 20\_\_\_\_. )  
)  
)  
)

\_\_\_\_\_ )  
\* )

\_\_\_\_\_  
JUSTICE OF THE PEACE OR  
NOTARY PUBLIC OR  
A COMMISSIONER FOR OATHS

FORM B  
[Part 5]

OATH OF ELECTION OFFICIAL  
Deputy Electoral Officer

I, \_\_\_\_\_, the Deputy Electoral Officer at the Kawacatoose First Nation  
General Band Election to be held on this day of \_\_\_\_\_ declare that:

I will not attempt unlawfully to ascertain the Candidate for whom any person has voted or the  
manner of a person's vote, and will not in any way aid in the unlawful discovery of the same.

I will strictly observe secrecy respecting any and all knowledge that may come into my possession  
regarding the Candidate for whom any person has voted or the manner in which a voter has marked  
his or her ballot.

I will faithfully and impartially, to the best of my knowledge and ability, execute the office of Deputy  
Electoral Officer, and I have not received and will not accept any payment or reward, or promise of  
payment or reward, for the exercise of any partially or corrupt practice.

SWORN before me at the City of \_\_\_\_\_ )  
\_\_\_\_\_, in the Province of \_\_\_\_\_ )  
Saskatchewan, this \_\_\_\_\_ day )  
of \_\_\_\_\_, A.D. 20\_\_\_\_. )  
)  
)  
)  
)

\_\_\_\_\_ )  
\*)

\_\_\_\_\_  
JUSTICE OF THE PEACE OR  
NOTARY PUBLIC OR  
A COMMISSIONER FOR OATHS

FORM C  
[Part 6]

NOTICE OF ALL FOR NOMINATIONS

Nominations of Candidates for the positions of one (1) Chief and eight (8) Headpersons for the Kawacatoose First Nation will be received by the undersigned at a Nomination Meeting to be held on the \_\_\_\_\_ day of 20\_\_\_\_ at \_\_\_\_\_ a.m./p.m.

The Nomination Meeting will take place at \_\_\_\_\_ and will be open for five (5) hours, the first three (3) hours will be to accept nominations and the final two (2) hours will be for a Candidates' Forum for speeches by all Candidates. All Band Members eligible to vote may nominate a Candidate at this time.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

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

FORM D  
[Part 6]

NOMINATION FORM

We, \_\_\_\_\_ and \_\_\_\_\_, persons eligible to nominate a Candidate in the Kawacatoose First Nation General Band Election, hereby nominate \_\_\_\_\_ as a Candidate for the office of Chief OR Headperson for the Election to be held on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Each of us hereby declares that to the best of our knowledge and information, we believe the above named Candidate is eligible to be nominated, elected and to hold the office indicated.

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Signature of Nominator & Treaty #

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Signature of Seconder & Treaty #

\_\_\_\_\_  
Witness

FORM E  
[Part 6]

VOTER'S DECLARATION

I, \_\_\_\_\_, declare that:

1. I am a Band Member of the Kawacatoose First Nation, Registry #: \_\_\_\_\_.

2. My date of birth is: \_\_\_\_\_.

3. My mailing address is:

4. The information that I have given is true in all respects.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

Elector: \_\_\_\_\_

Witness: \_\_\_\_\_

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

FORM F  
[Part 7]

**NOMINATION FOR CHIEF**  
Candidate's Acceptance

I, \_\_\_\_\_, a Candidate nominated for the position of Chief on the Kawacatoose First Nation Band Council, declare that:

1. I agree to run for office.
2. I am a Band Member of the Kawacatoose First Nation.
3. If elected, I agree to immediately resign or discontinue any conflict of interest situation I may have including employment or contractual arrangements.
4. I am or will be on the day of the Nomination Meeting, the age of eighteen (18) years or older.
5. I am not in arrears of payment of debt to the Kawacatoose First Nation or a Company that the Kawacatoose First Nation has an interest in.
6. I have not been convicted of an indictable offence within the past five (5) years.
7. If elected, I shall truly and faithfully serve my office.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

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

\_\_\_\_\_  
Candidate

**FORM G**  
[Part 7]

**NOMINATION FOR HEADPERSON**  
Candidate's Acceptance

I, \_\_\_\_\_, a Candidate nominated for the position of Headperson on the Kawacatoose First Nation Band Council, declare that:

1. I agree to run for office.
2. I am a Band Member of the Kawacatoose First Nation.
3. If elected, I agree to immediately resign or discontinue any conflict of interest situation I may have including employment or contractual arrangements.
4. I am or will be on the day of the Nomination Meeting, the age of eighteen (18) years or older.
5. I am not in arrears of payment of debt to the Kawacatoose First Nation or a Company that the Kawacatoose First Nation has an interest in.
6. I have not been convicted of an indictable offence in the past five (5) years.
7. If elected, I shall truly and faithfully serve my office.

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

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

\_\_\_\_\_  
Candidate

FORM H  
[Part 3]

WITHDRAWAL OF NOMINATION

I, \_\_\_\_\_ hereby withdraw my nomination for the position of  
\_\_\_\_\_ on the Kawacatoose First Nation Band Council.

This decision is made of my own free will and conscience.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Electoral Officer OR Justice  
Of the Peace OR Notary  
Public OR Commissioner of Oaths

\_\_\_\_\_  
Candidate

FORM I  
[Part 8]

NOTICE OF ELECTION

An Election for the Band Council of the Kawacatoose First Nation will be held on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_. Polling will be available to all Band Members of the Kawacatoose First Nation who are or will be the full age of eighteen (18) years or older. The polling station shall open at 9:00 in the morning and shall close promptly at 8:00 in the evening on the day of the Election. I will count the votes at \_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, immediately after the close of the poll and declare the result of the Election.

Candidates for Chief are:  
(list the Candidates as they will appear on the ballot)

Candidates for Headpersons are:  
(list the Candidates as they will appear on the ballot)

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

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





FORM L  
[Part 9]

CANDIDATES' APPOINTED SCRUTINEER

I authorize \_\_\_\_\_ of \_\_\_\_\_ to act as my Scrutineer in being present at the polling station during polling and the counting of the votes.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Signature of Candidate

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Signature of Electoral Officer

\_\_\_\_\_  
Witness

FORM M  
[Part 9]

SCRUTINEER'S DECLARATION

I, \_\_\_\_\_, declare that I will not, at the Election of the Kawacatoose First Nation Band Council on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, attempt unlawfully to ascertain the Candidate for whom any person has voted and will not in any way aid in the unlawful discovery of that information. I will strictly observe secrecy respecting any and all knowledge that may come into my possession of the Candidate for whom any person has voted.

Dated this \_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

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

\_\_\_\_\_  
Appointed Scrutineer

FORM N  
[Part 9]

DIRECTIONS FOR GUIDANCE OF VOTERS

1. Read the instructions carefully for voting printed in the upper portion of the ballot.
2. Make only those marks on the ballot you are instructed to make and no other.
3. In marking the ballot, use the pencil provided in the voting compartment.
4. After you have marked the ballot, fold it so as to show only the initials of the Electoral Officer on the back of it.
5. Hand the ballot to the Electoral Officer after you have folded it.
6. Do not let any person see how you have marked your ballot.
7. You may watch the Electoral Officer deposit your ballot in the ballot box or deposit it yourself without unfolding it, and then you must leave the polling place at once.
8. If you accidentally spoil the ballot, return it to the Electoral Officer and ask him/her for another ballot, which will be given to you if the Electoral Officer is satisfied the first one was spoiled by accident.
9. You must not take the ballot out of the polling place.

FORM O  
[Part 10]

ELECTORAL OFFICER'S STATEMENT OF RESULTS

For the position of Band Council of the Kawacatoose First Nation Election held on the day of \_\_\_\_\_, 20\_\_\_\_\_.

Name of Candidate  
(List names of all Candidates  
as they appear on the ballot)

Number of Votes  
(List total votes cast for  
each Candidate)

BALLOTS

NUMBER

- Counted (not objected to)
- Counted (objected to)
- Rejected because of no marks
- Rejected because
  - No Electoral Officer initials
  - Marked for more than one Candidate
  - Marked to identify voter
  - Marked with other than pencil or pen
  - Other
- Spoiled
- Declined
  - Sub Total
- Unused ballots
  - Total Ballots accounted for
  - Total Ballots supplied

The number of voters who have voted as indicated in the poll book is \_\_\_\_\_  
I certify that the above statements are correct.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

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

Witnessed by: (any Candidate or Scrutineer present at the counting may sign)

\_\_\_\_\_  
\_\_\_\_\_