

Skownan First Nation

Band Custom Election Code

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**PREAMBLE:**

This Election Code supersedes the Indian Act, Section 74. Should any situation arise for the call of an Election or overturning of an Election or By-Election, this Code, namely Skownan First Nation Election Code shall be used and the terms of Office remain intact.

**SECTION 1 TITLE**

1.1 These regulations may be cited as “the Skownan First Nation Custom Election Code”

**SECTION 2 DEFINITIONS**

In these regulations:

- a) “Ballot” means the paper by which a member casts a vote at an election.
- b) “By-election” means an election other than a general election.
- c) “Chief” means the person elected to that office.
- d) “Chief Electoral Officer” means the person appointed to carry out the regulations in an election. That person is authorized to appoint a “Deputy Electoral Officer” to assist.
- e) “Election Committee” means the persons named in section 5.1
- f) “Councillor” means the person elected to that office.
- g) “Elector” means a person who is entitled to vote at an election or by-election of the Skownans First Nation.
- h) “Election” means the choosing of persons by casting ballots to hold the office of Chief or Councillor.
- i) “Election Committee” means the committee set up to oversee and supervise the election.
- j) “Ordinarily Resident” means that a member lives on the Skownan First Nation for a minimum three month period, or that person is away for a reasonable time for education or medical reasons and intends to return.
- k) “Simple majority” means fifty percent of the total number of ballots cast plus one.
- l) “Appeal Committee” means those persons designated to hear an appeal under these regulations.
- m) “Elder” is a person who is 55 years of age or more, ordinarily resident of Skownan First Nation that may be chosen to sit on various committees or serve various functions.
- n) “The Council of Elders” are those which consist of one elder from each family unit, ordinarily resident of Skownan First Nation.
- o) “Double Majority” is 50% plus 1 of all eligible voters, as per the VOTERS’ LIST; whereas “Simple Majority” is 50% plus one of those that participate in a vote.

### **Section 3 CHIEF & COUNCIL**

3.1 The Council of the Skownan First Nation Government shall consist of one (1) Chief and four (4) Councillors.

3.2 The Chief & Council shall fulfill the following roles and responsibilities:

- To represent and protect our First Nation's rights, culture and traditions
- To promote and protect our inherent and Treaty rights;
- To reflect and implement our peoples' goals, priorities and primary interests;
- To foster democratic processes and consensus decision-making;
- To promote unity, harmony, fairness and respect among our people;
- To establish and apply public policies Code for the general benefit of our people;
- To oversee our economy and resources;
- To ensure effective, efficient and accountable government in consultation with our people through the Legislative Assembly;
- To effectively manage the fiscal and financial affairs of the First Nation including full and open accountability to our people;
- To provide for the fair reconciliation of grievances, appeals and disputes;
- To manage inter-governmental relations, negotiations and agreements.
- To ensure that "Conflict of Interest" is avoided.
- And for the purposes of the onset of an Election or By-election, select the Chief Electoral Officer.

### **SECTION 4 ELIGIBILITY**

4.1 An Elector is a person who is:

- (a) a member of the Skownan First Nation, and
- (b) eighteen years of age or more as of the date of the election
- (c) able to produce photo identification upon request, otherwise no ballot will be given.

4.2 A Candidate for Chief or Councillor is a person who is:

- (a) a member of the Skownan First Nation.
- (b) eighteen years of age as of the date of nominations
- (c) resident for a continuous period of six months immediately preceding the date of nominations
- (d) must have a minimum 2 years Leadership or Administrative experience or training
- (e) must be drug and alcohol free
- (f) has not been convicted for an indictable offence, for three years preceding

the date of nominations

- (g) files a police record check clearance within one week after the nomination date, in which failure will result in the nomination being declared void, and
- (h) has posted a fee of \$500.00 for those nominated for candidacy. These fees are non-refundable and will be used to off-set election expense by the Band. A withdrawal of candidacy shall not result in a refund of these fees.

4.3 Any individual registered as a band member of Skownan First Nation for less than two years as of the date of nominations is not eligible as an Elector and may not participate in the election process.

## **SECTION 5 Elections Committee**

- 5.1 A Committee of five to nine electors (odd number) shall be selected at the closing of the poll or prior to the commencement of an election. No more than one person can be chosen per family.
- 5.2 Members who are ordinarily resident or those present at the election shall select the Election Committee.
- 5.3 The role of this committee shall be to “break the tie” in the event of a tie, monitor the election proceedings and hear appeals. See section 17.
- 5.4 The Election Committee shall be paid an honorarium for serving on the Committee.

## **SECTION 6 TERM OF OFFICE**

- 6.1 Subject to sections 7 and 8, the Chief and Council shall hold office for **four (4) years**.
- 6.2 The start date for the term is the following day after the previous term expires.
- 6.3 There shall be a formal meeting of the Administrative staff and the new Chief and Council within three (3) days to five days (5) of the election for the purpose of getting a thorough briefing on matters affecting the Skownan First Nation.

## **SECTION 7 (A) SUSPENSION and/or REMOVAL From Office**

7A.1 A Chief or Councillor may be suspended or removed from office for any of the following reasons:

a) Upon the calling of a suspension or removal meeting by membership; except that:

\$ The suspension or removal meeting (with three business days notice) must be accompanied by a petition signed by 75% of the ordinarily resident electorate, and each signature witnessed by a non- band member Commissioner of Oaths.

§ In order to have a suspension or removal meeting and decision to remove or suspend a Chief or Councillor, at least 75% of on-reserve members must be present at the meeting and 75% of all eligible on-reserve voters must be in favor.

§

- b) Upon being charged with an indictable offence -suspension only.
- c) Upon conviction of an indictable offense.
- d) Upon being found to have participated in acts of bribery or malfeasance.

#### **SECTION 7 (B) OTHER CONDITIONS and REGULATIONS:**

- 7B.1 The Chief or a Councillor when suspended, shall be remunerated with one-half (½) the rate of pay upon being charged with an indictable offence mentioned in section 7.1. The person shall remain suspended until the Chief or councillor has been acquitted by a court or so decided by the ordinarily resident electorate, at which time the Chief or Councillor shall be reinstated with back pay or removed from office.
- 7B.2 Where the Chief has been suspended, the remaining members of the Council together with the Council of Elders shall appoint by majority, one remaining member of the Council to act as Chief until the Chief is reinstated or officially removed.
- 7B.3 Where a Councillor has been suspended, the remaining members of the Council shall carry out the business, until the matter is dealt with.
- 7B.4 Where a Chief or Councillor is removed from office, it shall result in an ineligibility to run for office for one complete term.

#### **SECTION 8 ELECTION PROCEDURES**

**Notwithstanding any procedure or regulation hereto, the Skownan First Nation through its Officers shall notify all members on or off-reserve of the onset of an election, including the Nomination meeting, three (3) weeks for the election, and two (2) weeks for the nomination meeting, in advance of any proceeding by way of posting of notices, including centers in which most off- reserve members reside. This process shall include notification by way of familial representation, whereby family members who represent their family must make an effort to notify those off reserve.**

- 8.1 **SECURITY TO BE ASSURED** – Resolution # 20, wherein zero tolerance of persons disrupting a meeting etc., applies for Elections, including the Nomination Meeting, Debate Sessions and the Election itself. The RCMP or Local Security Force will be summoned to attend to any disruption that occurs and remove the person(s) from the premises.

## **SECTION 9 NOMINATION MEETING**

- 9.1 The Chief Electoral Officer shall set a meeting of the electors of The Skownan First Nation to be held three (3) weeks prior to the date set for an election, for the purpose of nominating candidates for the office of Chief and for Councillors.
- 9.2 The call for nominations shall be made in form of written notices to be posted in public places most frequented by the members of Skownan First Nation, including the Band Office and the medical building, two (2) weeks prior to the date of the meeting. These notices shall also be available for those off reserve as per statement above.
- 9.3 The Chief Electoral Officer shall verify that these notices were posted in the manner prescribed.
- 9.4 An elector may nominate or second only one (1) candidate for Chief and only two (2) candidates for Councillor.
- 9.5 An elector who nominates a candidate shall state their description of the candidate's ability and experience at the time of nomination, to show how the nominee is qualified for the office of Chief or for Councillor.
- 9.6 A nominee for the office of Chief or for Councillor shall have, in addition to a nominator and seconder, the endorsement of four additional band members.
- 9.7 Subject to the provisions of paragraphs 4.1 and 4.2 of these Regulations, a candidate may run for the office of Chief or Councillor but not both.
- 9.8 The nomination meeting will be kept open for three hours, between the hours of 1:00 P.M. and 4:00 P.M..
- 9.9 A person so nominated as Chief or Councillor must be present at the nomination meeting for his/her nomination to stand. Only in emergency cases where attendance is impossible, a proxy letter or confirmation with the Chief Electoral Officer is acceptable.
- 9.10 Any person nominated for office may withdraw their candidacy upon a public declaration of such, at the nomination meeting or by filing a withdrawal letter within seventy-two (72) hours after the nomination meeting.
- 9.11 Where only one person is nominated for Chief, the Chief Electoral Officer shall declare that person to be elected Chief by acclamation.
- 9.12 Where only four persons are nominated for Councillor, the Chief Electoral Officer shall declare them to be elected Councillors by acclamation.
- 9.13 Immediately after nominations, all candidates must address the membership, as to their "platform" or reason for running. The candidate must attend to a question and answer period. Only those unable to attend in Section 9.7 will be excused.

## **SECTION 10 ELECTIONS**

- 10.1 Elections shall be held on a day prior to the commencement of the next term with the new

Chief & Council taking office officially on the day the new terms is scheduled to start.

10.2 The Chief Electoral Officer shall give three (3) weeks' notice prior to the date of the election, of the place, date and time of the election in the same manner as provided for in sections 9.2, 9.3 and 9.4.

10.3 Persons unable to attend in person to cast ballots on election day, may attend to one (1) ADVANCE POLL, which will be held on-reserve a week prior to the election day.

10.4 The advance poll shall follow all rules as set out in this code, as it were a regular election process and marking those who participate as having voted.

10.5 All Advance Poll ballots and records shall be safe-kept by the Chief Electoral Officer and shall be cross-checked with the regular poll, prior to placing in the ballot box.

10.6 Voting shall be conducted by secret ballot in a form or forms prescribed by the Chief Electoral Officer

10.7 Upon receiving the ballot(s) from the Chief Electoral Officer, the elector shall proceed directly to the place provided for marking ballots and shall mark his/her ballot by placing an X or other mark that clearly indicates the elector's choice, in the space provided on the ballot opposite the name of the candidate

10.8 Advance Polls shall only be open for three (3) hours and the regular polls shall be open from 9:00 am to 8:00 pm.

10.9 On the day of the election the Chief Electoral Officer shall, immediately before opening the poll, show the ballot box to the persons present in the polling place so that they may see that it is empty. In the absence of persons in the polling station, the Chief Electoral Officer shall verify in writing that the Ballot box was empty prior to sealing. The ballot box will then be kept sealed until the counting of the ballots after the close of the poll.

10.10 Where an elector is unable to vote in the usual manner for reasons of physical disability or any other reason, any person at the choosing by the elector shall assist the elector to mark the ballot(s) as directed by the elector. This will be done in the presence of the Chief Electoral Officer.

10.11 Limited to a four (4) kilometer radius of the poll, and where a member is unable to go to or enter the polling place owing to a physical disability, the person should request a ballot from the Chief Electoral Officer, who in turn will send a deputy and one scrutineer to have the ballot cast from the person.

10.12 Prior to the opening and counting of the ballots, the Chief Electoral Officer shall publicly review Section 18 of these regulations, regarding the Election committee and their function or purpose.

10.13 The counting of the ballots will commence immediately upon the close of the polls. The



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

10.14 There will be persons designated to publically keep track of the results of each ballot. The candidates receiving the most votes will be declared elected. The results will then be announced to the public immediately and then posted the next working day in the Band Office and medical building.

10.15 Where there is a tie vote, the Chief Electoral Officer shall summon the Election Committee and instruct them to break the tie by secret ballot. The counting of the ballots shall be done in the same manner as the regular count.

10.16 The Chief Electoral Officer shall not count any ballot, which is not marked as prescribed.

10.17 The Chief Electoral Officer shall decide on any question arising out of any objection taken to a ballot by an agent or candidate.

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

10.19 The election can only be delayed in the event of catastrophes, emergency, or other acts of God, and may be delayed by a maximum of one week.

## **SECTION 11 LIMITATIONS ON THE CHIEF AND COUNCIL DURING ELECTION PERIOD**

11.1 Except in emergencies, when an election has been called, the incumbent Chief and Councillors shall only expend the required financial resources to maintain the current operation of the band office, more specifically the regular bills accompanied by an invoice and salaries.

11.2 Limitations as outlined above apply to the period leading up to the actual date of the election.

## **SECTION 12 VACANCY**

12.1 The Office of Chief or Councillor becomes vacant when the Chief or Councillor

- (i) dies or resigns
- (ii) is removed pursuant to Section 7 of these Regulations,

12.2 If the Chief's position is vacant, it shall be filled by the individual with the next most votes in the most recent election (the runner-up). If the runner-up is unable for any reason to assume the position of Chief, then:

12.3 the on-reserve membership will decide as to who of the Councillors shall be an Acting Chief within seven days. The Council of Elders shall settle any disputes that may occur. If neither Councillor wants to be an acting Chief, the position remains vacant until a by-

election or General Election is called.

- 12.3 If a Councillor position is vacant, it shall be filled by the individual receiving the next most number of votes in the most recent election, except where section 12;4 applies.
- 12.4 A Council position shall remain vacant if the balance of term is less than eight months.
- 12.5 Any vacancy(ies) that occur on Chief and Council shall be filled by way a call of a by- election within thirty days; if balance of term is more than eight (8) months.

### **SECTION 13 BY-ELECTION**

- 13.1 Where the office of Chief or Councillor becomes vacant more than eight (8) months before a term expires, a by-election shall be held for that office.
- 13.2 A notice of the by-election shall be done within two weeks of the vacancy.
- 13.3 A suspension or an unsettled issue, will not be cause to call a by-election.
- 13.3 The conduct of a by-election shall follow the same procedures as those set out in these Regulations.

### **SECTION 14 PROCEDURE FOR AMENDING THIS ELECTION CODE**

- 14.1 Any elector or group of electors of the Skownan First Nation may submit and speak on proposed amendments on this Code during a regular band meeting.
- 14.2 The membership shall than review the amendment proposal to decide whether or not to act on it.
- 14.3 The decision to amend any section of this Code shall be made by resolution or motion. The carrying out of the motion or resolution shall be decided by a simple majority of those electors present.
- 14.4 The resolution or motion shall then undergo the process developed for referenda.
- 14.5 In order to pass the amending of this Code shall require a Double Majority, as stipulated under the referendum process. The second call (if necessary) only requires a simple majority.
- 14.6 Any amendment(s), including the conduct of election, eligibility requirements, etc. are to be in effect immediately and have no bearing on the previous election or by-election.

### **SECTION 15 AGENTS**

- 15.1 Each candidate for office of Chief or Councillor has a right to appoint only one (1) elector

of his/her choice as agent to represent his interests at the polls on election day and during the counting of the ballots.

15.2 A candidate for office will identify his/her designated agent on election day to the Chief Electoral Officer on a form prescribed by the Chief Electoral Officer.

15.3 Each agent must swear an oath of confidentiality in a form prescribed by the Chief Electoral Officer.

15.4 Agents are expected to voice concern or raise issue, immediately during the proceeding, prior to the person being provided with the ballot; or prior to any other procedure.

15.5 The Chief Electoral Officer is responsible for instructing the agents, as concerns raised after-the-fact shall have no meaning.

## **SECTION 16 CHIEF ELECTORAL OFFICER**

16.1 The Chief and Council shall appoint the Chief Electoral Officer.

16.2 The Chief and Council or Administration shall provide the Chief Electoral Officer with the necessary resources to conduct the election.

16.3 The Chief Electoral Officer shall:

- (a) Exercise general direction and supervision over the administrative conduct of the election;
- (b) Issue to other persons connected with the conduct of the election such instructions as he or she may deem necessary to ensure that these regulations are carried out accordingly;
- (c) Appoint the Deputy Electoral Officer(s), if Chief and Council have not designated them, or if additional Officers required.
- (d) Administer Oath Of Office for successful candidates and perform such other duties as are prescribed by these regulations;

16.4 The Chief Electoral Officer shall, after an election, in a form prescribed, provide a report that will be available to the scrutiny of all electors of the Skownan First Nation.

16.5 All decisions of the Chief Electoral Officer shall be final.

## **SECTION 17 VOTERS LIST**

17.1 The Chief Electoral Officer shall cause the preparation and certification as correct a list of all members of the Skownan First Nation who are eligible to vote in Skownan First Nation election.

- 17.2 The voter's list shall be posted on the day of the call for nominations and elections in places provided for in Section 10.2. A copy of the voters' list shall be made available to anyone that may request a copy of it.

#### **SECTION 18 MAILING LIST**

- 18.1 A mailing list shall be prepared and maintained by the Administration, containing the most current last known address of each person eligible to vote at an election or on matters requiring a referendum.
- 18.2 A copy of the mailing list shall be posted at the Band Office, and the original kept on file.

#### **SECTION 19 APPEAL PROCEDURES**

- 19.1 Any candidate, or any elector who voted in the current election may within thirty (30) days of the poll, appeal the election if he/she has grounds for believing that there was an error or violation of these Regulations during the election process that might have affected the outcome of the election.
- 19.2 To appeal an election, a notice in writing, containing details of the alleged infractions, shall be sent by registered mail to:

Skownan First Nation  
Elections Committee  
Box 106  
Skownan, Manitoba  
R0L 1Y0

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

- 19.3 Upon receipt of any appeals the Skownan First Nation Elections Committee will proceed as follows:
- a) Within seven days from the conclusion of the prescribed thirty-day period for the submission of appeals, the Committee will forward copies of all appeals together with supporting documentation to all candidates for office as well as to the Electoral Officer.
  - b) Candidates and Electoral Officials may within seven (7) days of receipt of the appeal(s), forward to the Committee by registered mail a written response to the appeal allegations, together with any supporting documentation.
  - c) The Committee may then conduct or authorize such further investigation into the allegations, as it deems appropriate and necessary.

d) The Elections Committee shall render a decision within two weeks, after the thirty (30) day appeal period.

19.4 Upon review of all evidence submitted, the Committee shall act in one of the following ways:

a) Deny the appeal(s) on the grounds that the evidence provided did not reveal an infraction of the Regulations, or on the grounds that an infraction of these Regulations was revealed but the infraction did not affect the outcome of the election.

b) Grant the appeal(s), and if the election is overturned, call for a new election as soon as possible for the position(s) affected, to be conducted pursuant to the provisions of these Regulations. The Committee shall, if necessary, give instructions to the Electoral Officer on how the infractions identified can be corrected.

### **Section 20 Oath to be administered**

The following Oath of Office shall be administered to the people assembled immediately after the results are announced:

OATH OF OFFICE

Skownan FIRST NATION

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

1. I will carry out my duties in the best interest of Skownan First Nation and serve the members to the best of my ability.
2. I will conduct the business at hand in a professional manner at all times, keeping in mind that what I say and do is a reflection on the Band.
3. I will keep all members informed of the affairs of the band and advise them of the plans, including disclosure of all finances, and transactions by having regular Band meetings.
4. I will review the policy manuals, by-Codes and other documents concerning Skownan First Nation, until I understand fully their content and lead by example in honoring and respecting their purpose and anticipated result.
5. I shall always respect the decision of the majority arising from duly convened meetings....

So help me God.

\_\_\_\_\_

\_\_\_\_\_

### **SECTION 21 Records Kept**

**All records, including the results, dates of by-elections, signing and dating of Oath of Office etc. shall be kept at the Administration Building.**

**SECTION 22 EFFECTIVE DATE**

23.1 These regulations come into force the day they are approved by the simple majority of electors as per the referendum process of the Skownan First Nation.

**Section 23 Official Adoption**

This Custom Election Code is hereby adopted this \_\_\_\_\_ day of \_\_\_\_\_ 2010,

As ratified by the members of Skownan First Nation.

Signatures of Duly Elected Chief & Council:

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\_\_\_\_\_  
Chief

\_\_\_\_\_  
Councillor

\_\_\_\_\_  
Councillor

\_\_\_\_\_  
Councillor

\_\_\_\_\_  
Councillor

\_\_\_\_\_

\_\_\_\_\_  
Date

Notes to Chief Electoral Officer:

1. Make sure the facility at which Nominations and the Election Poll will be conducted is conducive to the task at hand.
2. Ensure that a compartment is available for voting purposes, which ensures secrecy.
3. Have pencils for marking ballots.
4. Initial the back of every ballot, which is given to voters. Check for this mark at all times.
5. Felt Markers and Flip Chart Paper should also be available at time of ballot count, so a public display of the count could be made.
6. When selecting the Elections Committee, continue to ask for input from the membership as to its' make-up. There must be an odd number – in order for a tie to be broken, should it occur. Five to Nine should work for Skownan First Nation. Remember only one from each family grouping.
7. Should you experience a delay at the beginning of a Nomination Meeting, or opening of polls, be sure to add this time at the end of the session to prevent a technicality. Otherwise, close the session at the designated time.
8. Cause the appointment any security officer(s), you deem necessary, for security or for tasks which may require additional help. Officers(s) appointed must uphold and enforce Skownan First Nation Codes, as they pertain to disruptive behavior and safety issues.
9. Each elector should leave the premises or area after casting ballot. Usually five minutes is sufficient.
10. No campaigning or posters should be in the polling area.
11. Make a report of the entire proceeding noting times, and places, and how certain items were addressed, and of course the results.
12. Note any areas which were problematic, so that the membership may address by means of amendments to the Regulations for future elections.
13. Above all, be very familiar with these regulations!!!