



Rainy River First Nations Manitou Rapids

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Executive Summary of the RRFNs Draft Election Code

The preamble

- references RRFNs' perseverance through decades of federal government and Church attempts to break down traditional forms of governance
- references RRFNs' "inherent responsibility to make decisions that protect and benefit our people and the land."

A Code of Ethics that all officeholders, candidates, and their supporters must adhere to

- premised on traditional teachings and focused on ensuring respect of each elector's right to vote free of coercion or undue influence.
- Breach of the Code of Ethics by a candidate can result in his/her candidacy being withdrawn, and breach of the Code of Ethics by an office-holder can result in him/her being removed from office

Council

- Made up of 1 Chief and 5 Councillors
- Term of office is 3 years
 - This is longer than the *Indian Act* term, permitting more governance time outside of election periods
- Every office holder must swear an **oath of office** to:
 - uphold and comply with, and fulfill the duties and responsibilities of office under the Election Code, the RRFNs Code of Conduct, and all laws of the community;
 - The contents of the Code of Conduct are not set forth in the Election Code; rather, the free-standing Code of Conduct currently being developed is incorporated into the Election Code by reference to it
 - carry out his/her duties faithfully, honestly, impartially and to the best of his/her abilities;
 - keep confidential, both during and after his/her term of office, any matter or information which, under the Election Code, the laws of the community or Rainy River First Nations policy, is considered confidential; and
 - act always in the best interests of the community in carrying out his/her duties.

Eligibility Criteria

- To vote:
 - Be a Non-Probationary Member, whether Full or Conditional, pursuant to the RRFNs Membership Code
 - Be at least 18 years of age *on the day of the election*
- To be a candidate for office
 - Be a Non-Probationary *Full* Member pursuant to the RRFNs Membership Code
 - Be at least 18 years of age *on Nomination Day*

- Be nominated – via a proposal and seconding – by Non-Probationary Members who are at least 18 years of age *on Nomination Day*
 - Not have outstanding criminal charges and not have served any part of a criminal sentence within the five years prior to the date of the election
 - Be making any required regular and ongoing payments to the Band and its entities, and not be in arrears on any such payments
 - Not be an undischarged bankrupt or to have gone bankrupt in the previous five years
 - Have paid a Candidate Fee of \$100
 - This fee is reimbursed to any candidate who has received 15% or more of the total votes cast at the election, upon the latter of (1) expiration of the election appeal period, and (2) determination of all appeals submitted within the appeal period
 - Remaining funds shall be remitted to Council at the same time
 - Have filed a notice of acceptance of nomination and required documentation, including a sworn declaration confirming eligibility and confirming the individual will abide by the Code of Ethics
 - Have confirmed basic literacy skills, or have confirmed that participation on council will further the cultural goals of council
- To be appointed Electoral Officer:
 - Not be a Member of the Band;
 - Have no familial or business relationship with a Member;
 - Be impartial, having no vested interest in the outcome of the election;
 - Be at least twenty-one (21) years of age; and
 - Have experience in the conduct of elections or have received appropriate training.
 - To be appointed an Arbitrator:
 - Be an independent and impartial third party with no personal, financial or family interest in the outcome of the dispute in question
 - Be a lawyer, retired judge, arbitrator, mediator, respected elder, or a person with similar qualifications

Removal of Chief or Councillor from Office

- Grounds for removal include the following:
 - violating the Election Code (including the Code of Ethics), the oath of office, or the Rainy River First Nations Code of Conduct
 - failing three times in a row to attend a regular meeting of Council without reasonable excuse accepted by the majority of Council;
 - accepting or offering a bribe, forging a Council document or otherwise acting dishonestly in his/her role; and
 - negligently failing to ensure the safety and protection of the community's Members and property.
- Process for removal
 - Can be started by petition of at least 40 eligible electors or by BCR
 - Grounds and evidence are presented to a neutral and independent Arbitrator, who will hold a hearing
 - The Arbitrator, within 5 days of holding the hearing, makes a decision that is final and binding

Vacancy of Office of Chief or Councillor

- An office becomes vacant if the person holding office:
 - office fails to swear an oath of office, and file proof of this, within the timeline set out in the Code
 - ceases to be a Member
 - resigns in writing
 - has been unable to perform the functions of office for more than six (6) months, as confirmed by way of Band Council resolution
 - dies
 - is removed from office

Removal as Candidate

- Grounds for removal:
 - Failure to submit required documentation and pay required Candidate Fee within timelines set out in the Code
 - Breaching the Code of Ethics
- Process for removal where based on breach of Code of Ethics:
 - Same as that for process for removal from Office

Voting Methods

- Voting is done by secret ballot, regardless of the method
- Methods currently provided for in the Code:
 - Voting in person at a polling station on Election Day
 - Voting by mail-in ballot
 - In advance of Election Day, mail-in ballot packages will be mailed to electors who are not ordinarily resident on reserve, or to electors who are ordinarily resident on reserve and who request a mail-in ballot package
 - NB: It is the responsibility of electors to ensure Council has up-to-date information on their mailing addresses (as Council provides this information to the Electoral Officer)
- Method contemplated, but not provided for, in the Code:
 - Electronic balloting:
 - The Code does not currently permit electronic balloting, but it does authorize Chief and Council to make regulations, including regulations that would modify some of the Code, for the purposes of enabling electronic balloting

Appeal

- Any candidate or elector may submit an appeal within thirty (30) days from the date on which the election was held
- The following are the possible grounds for an appeal:
 - A person declared elected was not qualified to be a candidate;
 - There was a violation of the Election Code that might have affected the result of the election; or
 - There was a corrupt or fraudulent practice that may have affected the result of the election
- The appeal is provided to an Arbitrator, who may receive evidence and conduct an investigation, and who must render a written decision within fort-five (45) days of receiving the appeal
- The Arbitrator's decision is final (though this cannot prevent someone from asking the Federal Court to judicially review it to determine whether it was reasonable)