



CUSTOM ELECTION CODE

OF

RAINY RIVER FIRST NATIONS

Preamble

We have been here since time immemorial.

Rainy River First Nations is now an amalgamation of seven historical Rainy River Nations: Hungry Hall (Bishop), Hungry Hall (Paskonkin), Little Forks, Long Sault 1, Long Sault 2, Manitou Rapids 1 and Manitou Rapids 2. Our ancestors come from the shores of the Rainy River: from the mouth of Rainy Lake in the east, to the mouth of Lake of the Woods in the west.

For decades, the Federal Government, in partnership with the Church, has attempted to break down traditional forms of governance through policy and legislation, including the Indian Act, a racist and colonial legal scheme.

We are still here. Our people are of this land. We have the inherent responsibility to make decisions that protect and benefit our people and the land. We continue to exercise our authority and responsibility over our lands, resources and people. We choose to govern ourselves and pick our leaders who will best represent our interests near and far. As an element of our continuing authority, we have adopted the following election code as the manner in which we will regulate the selection of our leadership. This is our law, and living it is fundamental to our survival as a community.

Looking ahead through next generations, we will continue to decide our electoral framework which addresses the conduct of Chief and Council in alignment with our Grandfather and Grandmother teachings.

PART 1 – SHORT TITLE

1. This Code may be cited as “Rainy River First Nations Custom Election Code”.

PART 2 – COMING INTO FORCE

2. This Code shall be approved by way of a community vote whereby every Member of RRFNs who is the full age of eighteen (18) years and whose residence address is known by RRFNs, is provided the opportunity to take part in the voting process. The Code is considered to

be approved by the Members if at least 25 Members participate in the vote, with 50% plus one or more of votes are cast in favour.

- 2.1 This Code comes into force upon the passing of a Ministerial Order proclaiming the removal of the Rainy River First Nations from the *Indian Act* provisions relating to elected officials.

PART 3 - INTERPRETATION

3. In this Code:

"Administration Office" the main administrative offices of Rainy River First Nations, located on Manitou Rapids Reserve no. 11

"appellant" means a person who submits an appeal in accordance with this Code with respect to an election;

"Arbitrator" means an independent and impartial third party who is either a lawyer, retired judge, arbitrator, mediator, respected elder, or a person with similar qualifications and who, upon appointment, agrees to act in appeals under the Code, or in petitions for removal from office or for withdrawal of candidacy;

"by-election" means a special election to fill a position that has become vacant on the Council;

"candidate" means a Nation member who has been nominated pursuant to this Code to stand for election as more particularly described in Parts 8 and 9 of this Code;

"Code" means the Rainy River First Nations Custom Election Code;

"Election Code of Ethics" means guidelines, general rules of behaviour and standards, established in accordance with Part 4 of this Code, that govern the conduct of candidates running for office and of their supporters relating to their participation in the electoral process;

"Community " means the reserve land of Rainy River First Nations;

"Conflict of Interest" includes a situation where a member of Council and/or his or her family stands to gain in a financial, proprietary or other similar manner from a decision of Council, but does not include situations where the interests of the member of Council in question are common interests shared by all members of the First Nation;

"corrupt practices" means direct or indirect bribery, or providing a financial or material incentive to a voter in exchange for a vote;

"Council" means the body composed of those persons elected pursuant to this Code;

“Deputy Electoral Officer” means any person so appointed by the Electoral Officer for the purposes of an election to assist him or her in the conduct of the election;

“election” means a general election or by-election of the Nation held pursuant to the provisions of this Code;

“election report” means the report detailed at section 156 of this Code;

“Electoral Officer” means a person, appointed by a Band Council Resolution in advance of each election, who has the responsibility for conducting the Nomination Day, the pre-election, election and post-election procedures;

“Full Member” means someone who is a Full Member pursuant to the Rainy River First Nations Membership Code;

“general election” means an election held every three years, just prior to the termination of the sitting Council’s term;

“Good Financial Standing” means not being in arrears of payments to, and making regular and on-going payments to, the Nation and its entities;

“mail-in ballot” means a ballot mailed or delivered in accordance with sections 98 to 101 of this Code;

“majority” means 50% plus one;

“Member” means a person registered on the Membership List for Rainy River First Nations, pursuant to the Rainy River First Nations Membership Code;

“Membership Registrar” means the Membership Registrar pursuant to the Rainy River First Nations Membership Code;

“Nation” means the Rainy River First Nations

“Nomination Day” means the last day on which persons may submit nomination papers to the Electoral Officer;

“Non-Probationary”, in relation to a Member, has the same meaning as in the Rainy River First Nations Membership Code;

“oath” means a solemn affirmation;

“ordinarily resident on the Community” refers to the residential status of a voter who is considered to have his/her ordinary residence on the Community. 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,
- (c) the residence of the person's immediate family, or
- (d) a place in proximity to the person's place of employment where the person often eats and sleeps.

A person can be ordinarily resident in only one place at one time, and a person is ordinarily resident in that place until another place of ordinary residence is acquired.

A person may be temporarily absent from a place of ordinary residence for education, medical or temporary employment reasons;

"polling station" means a building, hall or room which is selected as a site at which voting will take place;

"rejected ballots" means those ballots that have been improperly marked and/or defaced by voters (s) and that are not included in the tally of valid ballots cast during the counting of the votes;

"Scrutineer" means a person appointed in writing by a candidate to observe voting procedures and counting procedures under the Code;

"voter" means a person who:

- (a) is a Non-Probationary Member of the Nation pursuant to the provisions of the Rainy River First Nations Membership Code.
- (b) is at least 18 years of age;

"voter declaration form" means a document that sets out, or provides for:

- (a) the name of the voter,
- (b) the date of birth of the voter, and
- (c) the name, address and telephone number of a witness to the signature of the voter;

"voter's list" means the list of Nation members eligible to vote in an

election; **PART 4 – ELECTION CODE OF ETHICS**

4. Our peoples have been taught self-discipline and respect for the land and have passed on our knowledge through the generations. Our peoples are guided by the teachings that have been passed down, and gifts that describe our way of life, especially the Seven Grandfather Teachings.
5. With these understandings, in the process of our leadership selection:
 - (a) Candidates will conduct themselves in a respectful manner;

- (b) Candidates will respect the Electoral Officer and Deputy Electoral Officer(s), and not interfere in any way with the performance of their duties under this Code;
 - (c) Candidates will focus on the issues of our community and political issues, and not on other candidates in the election (avoiding smear campaigns or campaigns of rumour);
 - (d) Candidates will respect the right of voters to support any candidate, free of coercion or intimidation;
 - (e) No candidate will coerce or buy votes or otherwise provide remuneration for electoral support
6. Every person is in breach of the Election Code of Ethics herein who, during or leading up to an election period, directly or indirectly offers or accepts a bribe intended to influence a voter:
- (a) to vote or refrain from voting; or
 - (b) to vote or refrain from voting for a particular candidate.
7. Every person is in breach of the Election Code of Ethics herein who:
- (a) by intimidation or duress
 - (i) compels a person to vote or refrain from voting, or
 - (ii) compels a person to vote or refrain from voting for a particular candidate; or
 - (b) by any pretence or contrivance
 - (i) induces a person to vote or refrain from voting, or
 - (ii) to vote or refrain from voting for a particular candidate in an election.
8. Offering transportation to a voter to get to a polling station is not, in itself, a breach of the Election Code of Ethics.
9. A candidate who breaches the Election Code of Ethics shall have his/her candidacy withdrawn. The provisions regarding proceedings for removal from office apply, with necessary modifications, to determinations of a candidate's breach of the Election Code of Ethics.

PART 5 - THE COUNCIL

Composition, Size, and Term

- 10. The Council shall consist of one (1) Chief, plus five (5) Councillors. The Chief, will be expected to keep physical office hours from 8:30am-4:30pm during the work week and thus, if not living on Community, must have the ability to achieve this as they are a salaried position.
- 11. The Term of office of the Council is 3 years.

Governance

12. Chief and Council shall govern pursuant to the procedures and stipulations set out in the Rainy River First Nations Governance Policy which shall include but is not limited to the inclusion of a Code of Conduct for Chief and Council.

PART 6 – VACANCY AND REMOVAL OF COUNCIL MEMBERS FROM OFFICE

Vacancy

13. A Chief or Councillor position becomes vacant:
 - (a) by virtue of operation of section 164 of this Code; or
 - (b) if, while in office the Chief or Councillor,
 - (i) resigns in writing from office of his/her own accord,
 - (ii) has been unable to perform the functions of his/her office for more than six (6) months, as confirmed by way of Band Council Resolution, due to illness or other incapacity,
 - (iii) dies,
 - (iv) is removed from office in accordance with sections 14 and 15,
 - (v) is removed from office in accordance with section 82,
 - (vi) is otherwise unable to fulfill the terms of office, as confirmed by way of Band Council Resolution, or
 - (vii) ceases to be a Member.

Removal from Office

14. The Chief or a Councillor may be removed from office if he/she:
 - (a) violates this Code (including the Election Code of Ethics found at Part 4 of this Code), his/her oath of office, the Rainy River First Nations Code of Conduct found in the Rainy River First Nations Governance Policy, the Oath of Office referred to herein, or any other policy governing the conduct of Chief and Council of Rainy River First Nations;
 - (b) fails to attend three (3) consecutive regular meetings of Council without the absence being reasonably excused by a majority of Council votes;
 - (c) accepts or offers a bribe, forges a Council document or otherwise acts dishonestly in his/her role on Council;

- (d) is negligent in failing to ensure the safety and protection of the community's members and property;
- (e) uses his/her office for personal financial gain or for the financial benefit of members of his/her family or friends to the detriment of the Council or the Band as a whole;
- (f) abuses his/her office such that the conduct negatively affects the dignity and integrity of the community or of Council;
- (g) encourages others to commit any of the above acts or omissions; or
- (h) engages in such other conduct as may be determined by Council to be of such a serious nature that the removal is necessary and appropriate.

Procedure

15. Proceedings for removal from office of Chief or Councillor may be initiated by:

- (a) any voter submitting to the Arbitrator a petition (See Appendix "A") on which shall appear:
 - (i) the ground pursuant to section 14 on which removal of a Chief or Councillor is sought,
 - (ii) the evidence in support of the petition,
 - (iii) the signature of the petitioner,
 - (iv) the signatures of at least 25 eligible voters of the Nation in support of the petition, and
 - (v) a non-refundable filing fee of \$50; or
- (b) a majority of Council members passing a Band Council Resolution and submitting a petition to the Arbitrator on which shall appear:
 - (i) the ground pursuant to section 14 on which removal of a Chief or Councillor is sought,
 - (ii) the evidence in support of the resolution, and
 - (iii) the signatures of all Council members who voted for the removal.

16. On receipt of a petition, the Arbitrator shall verify that the petition complies with section 15. If the petition does not comply, the Arbitrator shall so notify the petitioner(s) within ten (10) business days.

17. Where the petition complies with section 15, the Arbitrator shall:

- (a) determine that the grounds put forth in the petition are either frivolous in nature or unsubstantiated, and dismiss the petition; or
 - (b) schedule a review hearing, which shall take place within twenty (20) days from the date on which the petition was submitted to him or her.
- 18. Where the petition has been dismissed under subsection 17(a), the Arbitrator shall so inform the petitioner(s) in writing and provide a rationale in writing.
- 19. Where the Arbitrator schedules a hearing under subsection 17(b), the Arbitrator shall send a written notice of the hearing by registered mail to Council, the petitioner(s) and any Council member who is the subject of the petition for removal.
- 20. The written notice described in section 19 shall set out:
 - (a) the nature of the hearing and all related particulars;
 - (b) the date, time and location of the hearing; and
 - (c) a statement that the petitioner(s) and any member of Council, including any Council member who is the subject of the petition for removal, may, at the hearing, make a presentation to the Arbitrator, which may include the presentation of documents and testimony by witnesses.
- 21. The Arbitrator shall conduct a hearing at the time and place set out in the notice provided under section 20.
- 22. Within five (5) days of the day on which the hearing under section 21 is held, the Arbitrator shall:
 - (a) rule that the petition is allowed to stand, and declare the Council position of the member of Council who is the subject of the petition to be vacant; or
 - (b) rule that the petition is dismissed.
- 23. The Arbitrator shall send, by registered mail, a written notice of the ruling made under section 22 to Council, the petitioner(s) and any Council member who was the subject of the petition for removal.
- 24. The decision of the Arbitrator made under section 22 is final and binding upon all parties and Council.
- 25. If the Council position is declared vacant under subsection 22(a), the Arbitrator may further declare the Chief or Councillor removed from office shall be disqualified from being a candidate in an election for a period of up to six (6) years commencing on the date of the Arbitrator's ruling.

By-election

26. Except as expressly provided otherwise in this Code, the rules and procedures in this Code shall apply to by-elections.
27. Unless otherwise provided in this Code, in the event that an office of Chief or Councillor becomes vacant, a by-election shall be held within 110 days after the date on which the position is declared vacant.
28. No by-election shall be held if there are less than six (6) months remaining in the term of the Council member whose office has become vacant, except where a by-election is necessary to have sufficient Council members to maintain a quorum. Where a by-election is needed for Council to reach quorum, the Electoral Officer may reasonably abridge timelines in this Code, such as those in sections 45, 46, 51, and 52, as reasonably needed to expedite the by-election.
29. No sitting Council member is eligible to be a candidate in a by-election. If a Council member wishes to be a candidate in a by-election, he/she must resign from his/her Council position prior to the Nomination Day for the by-election.
30. The term of a Chief or Councillor elected by way of by-election shall terminate at the end of the term of Council elected by way of general election.

PART 7 - PRE-NOMINATION PROCEDURE

Appointment of an Electoral Officer

31. The Electoral Officer shall be appointed by a Band Council Resolution, and informed of such appointment,
 - (a) in the case of a general election, not less than 130 days before the expiration of Council's term of office; or
 - (b) in the case of a by-election, within five (5) days of the relevant office(s) becoming vacant.
32. The Band Council Resolution for the appointment of the Electoral Officer shall contain the appointee's full name and address, the date of the election, the type of election which is to be conducted (general election or by-election), as well as any special instructions.
33. If an Electoral Officer has not been appointed and accepted such appointment within the time set out in sections 31 and 35, the Manager of Administration shall appoint the Electoral Officer, and inform him or her of such appointment,
 - (a) in the case of a general election, 98 to 100 days before the expiration of the Council's term of office; or
 - (b) in the case of a by-election, thirteen (13) to fifteen (15) days after the relevant office(s) became vacant.

34. If the Council and Manager of Administration fail to appoint an Electoral Officer within the required timeline, any person may apply to the court for an order appointing an Electoral Officer.
35. In the event that the person appointed as Electoral Office is unable or unwilling to accept the appointment, he or she must, within seven (7) days of the appointment, advise Council and the Manager of Administration, and a new person shall be appointed.
36. The Electoral Officer must be a person who:
- (a) is not a Member of the Nation;
 - (b) has no familial or business relationship with a Member;
 - (c) is impartial, having no vested interest in the outcome of the election;
 - (d) is at least eighteen (18) years of age; and
 - (e) has experience in the conduct of elections or has received appropriate training.
37. Council or the Manager of Administration may work with Tribal Organizations to secure funding to cover:
- (a) a fee for the Electoral Officer;
 - (b) fees for the Deputy Electoral Officer(s) and any other staff or contractors;
 - (c) reimbursements for postage, printing, office expenses etc.; and
 - (d) any other reasonable expenses associated with the election.
38. In the event that the Electoral Officer becomes unable to fulfill his/her duties, an existing Deputy Electoral Officer shall be appointed by a Band Council Resolution as Acting Electoral Officer, to undertake the duties of the Electoral Officer.

Responsibilities, Ethics, and Authority

39. The Electoral Officer is responsible for managing and executing all pre-electoral, electoral and post-electoral processes and procedures included in this Code. The Electoral Officer must:
- (a) uphold and abide by the rules and regulations established in this Code;
 - (b) remain neutral and professional in the conduct of the duties of his/her office, and refrain from providing any preferential treatment or expressing support for or opposition to any candidate;
 - (c) not accept anything of value, including but not limited to money, offers of employment, gifts, or travel, in exchange for preferential treatment or access to a public official or non-public information;

- (d) not discriminate against anyone because of race, religion, sex, age (except as required by this Code), place of residency, or disability;
- (e) use public office facilities to fulfill the terms of his/her office, and not for personal or partisan benefit;
- (f) not pressure or intimidate other officials or personnel to favour a certain candidate;
- (g) avoid Conflicts of Interest, or the appearance of Conflicts of Interest, including by abstaining from decision making where the Electoral Officer has a personal or private interest in the matter at issue; and
- (h) swear an oath of office, as detailed in section 44.

40. The Electoral Officer may make such orders and issue such instructions consistent with the provisions of this Code as he/she may deem necessary for the effective administration of the election and for the maintenance of order and security on Nomination Day and Election Day.

Appointment of Deputies and Interpreters

- 41. The Electoral Officer shall appoint Deputies and interpreters as he/she deems necessary, who shall work under his/her direction.
- 42. A Deputy Electoral Officer shall have such powers as described in this Code as well as those powers of the Electoral Officer as delegated to the Deputy by the Electoral Officer.
- 43. A Deputy Electoral Officer shall not be a member of Council or a candidate in the election or have any Conflicts of Interest in relation to the election.

Oath of Office

- 44. The Electoral Officer and every Deputy Electoral Officer shall swear an oath of office to:
 - (a) uphold and comply with this Code, including the Election Code of Ethics, and with all the laws of the community;
 - (b) fulfill the duties and responsibilities of his/her office under this Code;
 - (c) carry out his/her duties faithfully, honestly, impartially and to the best of his/her abilities;
 - (d) keep confidential, both during and after his/her term of office, any matter or information which, under this Code, community law or policy, is considered confidential; and
 - (e) always act in the best interests of the community in carrying out his/her duties.

Voters List

45. At least ninety (90) days before the day on which an election is to be held, the Electoral Officer shall obtain from the Membership Registrar the names, Nation membership numbers and dates of birth of all Nation Members who will be voters, as defined in this Code, on the date on which the election is to be held.
46. The Membership Registrar shall, no later than ninety (90) days before the date on which the election is to be held, provide the Electoral Officer with the last known addresses, if any, of all voters who do not reside on the Community.
47. Voters are responsible for providing the Membership Registrar with their current addresses.
48. A voter's address shall be used by the Electoral Officer only for the purpose of providing notices, mail-in ballots or other election documents to voters who are entitled to receive them under this Code.
49. The Electoral Officer must not disclose a voter's address for purposes other than those under section 48 without the consent of the voter, and shall ensure that voters' addresses do not appear on the voters list.
50. A candidate may obtain from the Electoral Officer a list of the names and addresses of voters who have consented to have their addresses disclosed to candidates.
51. At least eighty (80) days before the day on which an election is to be held, the Electoral Officer shall prepare a voters list containing the names of all of the voters in alphabetical order, by surname. This voters list shall not include the addresses or phone numbers of the voters.
52. The Electoral Officer shall post the voters list in a public area of the Nations' administration building and in such other visible places on the Community as may be determined by the Electoral Officer, no later than seventy five (75) days prior to the date on which the election is to be held.
53. Upon request by a person, the Electoral Officer shall confirm whether or not the name of the requesting person is on the voters list.
54. The Electoral Officer shall revise the voters list upon presentation of documentary evidence which demonstrates that:
 - (a) the name of a voter has been omitted from the voters list;
 - (b) the name of a voter is incorrectly set out in the voters list; or
 - (c) the name of a person not qualified to vote is included in the voters list.
55. A voter, or a person acting on his/her behalf, may, no later than two (2) days prior to the date on which an election is to be held, demonstrate that the name of the voter has

been omitted from or incorrectly set out in the voters list by presenting in writing to the Electoral Officer evidence from the Membership Registrar or other documentary evidence that the voter:

- (a) is entitled to have his/her name entered on the Membership list;
- (b) will be at least eighteen (18) years of age on the date on which the election is to be held; and
- (c) is qualified to vote in Nation elections.

- 56. A voter or other person may demonstrate that the name of a person not qualified to vote has been included in the voters list by presenting in writing to the Electoral Officer, no later than fifteen (15) days prior to the date on which an election is to be held, evidence that the person does not meet the definition of “voter” under this Code.
- 57. Where the Electoral Officer believes or has information that a person whose name is on the voters list is not a voter, the Electoral Officer shall give written notice to the person in question at least ten (10) days prior to the date on which the election is to be held.
- 58. The notice given under section 57 shall include the reasons for seeking the removal of the name from the voters list and any supporting documents, and shall provide notice that a written reply may be sent to the Electoral Officer, which must be received as soon as it is practical, prior to the date on which the election is to be held, and in any event no later than two (2) days prior to the date on which the election is to be held.
- 59. After consideration of all information and representations relating to amendments of the voters list, the Electoral Officer shall add or delete names from the voters list based on whether persons are voters.
- 60. The decision of the Electoral Officer under section 59 is final and is not subject to appeal.
- 61. A person whose name does not appear on the voters list shall nonetheless be entitled to vote on election day, provided he/she presents documentary proof to the Electoral Officer demonstrating his/her qualifications as a voter to the Electoral Officer’s satisfaction.

PART 8 - THE NOMINATION PROCESS

Notice of Nomination Day

- 62. The Nomination Day shall be at least forty-five (45) days prior to the date of the election.
- 63. The Electoral Officer shall, at least thirty (30) before the Nomination Day, post a Notice of Nomination Day (**See Appendix “B”**), in a visible public area of the Nation administration building and at other visible place(s) on the Community , as may be determined by the Electoral Officer.

64. The Electoral Officer shall, at least thirty (30) days before the Nomination Day, mail a Notice of Nomination Day, a nomination form (**See Appendix “C”**) and a voter declaration form (**See Appendix “D”**) to every voter who does not reside on the Community in respect of whom the Electoral Officer has been provided with, or has been able to obtain, an address.

65. A Notice of Nomination Day shall include:

- (a) the date of the Nomination Day;
- (b) the location and hours at which the Electoral Officer will receive nominations, with the time for receiving nominations to be at least four (4) hours long and with a closing time not earlier than 9:00 p.m. local time;
- (c) a description of the process by which any voter may vote by mail-in ballot;
- (d) the date on which the election will be held and the location of each polling place;
- (e) the name, business address and business phone number of the Electoral Officer;
- (f) a description of the manner in which an voter can nominate a candidate, or second the nomination of a candidate;
- (g) the statement that, if the voter wants to receive information from candidates, the voter shall agree to have his/her address released to the candidates by providing such agreement in writing to the Electoral Officer;
- (h) the place(s) where copies of the Code may be obtained; and
- (i) the place(s) where the voters list shall be posted.

66. The Electoral Officer shall record the names of the voters to whom a Notice of the Nomination Day was mailed, the addresses of those voters, and the date on which the notices were mailed.

Eligibility to Nominate

67. To be entitled to nominate a candidate for an election or second such a nomination, a person, on the date of the Nomination Day, must be:

- (a) an voter whose name is included on the voters list; and
- (b) at least eighteen (18) years of age.

68. Subject to section 67, any voter may propose, or second, the nomination of any qualified person to serve as Chief or Councillor in the following ways:

- (a) orally before the Electoral Officer on Nomination Day, during the time period set out in the Notice of Nomination Day; or

- (b) by delivering or mailing a written nomination and a completed, signed and witnessed voter declaration form to be received by the Electoral Officer no later than the end of the time period specified in the Notice of Nomination.

Nomination Procedure

- 69. Mailed nominations that are not received by the Electoral Officer before the end of the time period specified in the Notice of Nomination Day are void.
- 70. Where a person receives more than one written nomination for the same office, the additional nomination(s) shall be considered an additional endorsement of the original nomination, and be sufficient to deem a proposal seconded.
- 71. Any eligible voter may nominate or second no more than:
 - (a) one eligible person for the office of Chief; and
 - (b) the number of eligible persons equivalent to the vacancies for the office of Councillor.
- 72. On the day following the Nomination Day, the Electoral Officer shall post in a visible public area of the administration office, and in other visible place(s) on the Community, such places to be determined by the Electoral Officer, a list of nominees, their nominators and seconders and the offices for which the nominees are nominated.
- 73. As soon as is practicable after the close of Nomination Day, the Electoral Officer shall notify any nominees who were not present when their nominations were proposed and seconded, that they have been nominated.
- 74. (1) Once nominations are closed, the Electoral Officer shall, within seven (7) days, contact each person nominated and request him/her to complete and submit the following documents either in person or via email with proof of identification:
 - (a) within five (5) days of contact by the Electoral Officer, a notice of acceptance or rejection of nomination:
 - (i) No person shall accept a candidacy in an election if that person is not eligible to be a candidate in accordance with this Code.
 - (ii) A person nominated as a candidate for both the office of Chief and the office of Councillor must
 - 1. declare in his/her notice of acceptance which office he/she intends to seek, or
 - 2. specify in his/her notice of rejection that he/she is rejecting the nomination for both offices; and

- (b) within five (5) days of contact by the Electoral Officer, if the nominee intends to be a candidate, a sworn declaration confirming his/her eligibility as a candidate, confirming that he/she will abide by the Election Code of Ethics, and setting out his/her legal name and the name or names (including nicknames) the candidate wishes to have on the ballot.

(2) The documents may be submitted by mail, facsimile transmission, email, or in person but must be received by the Electoral Officer before the deadline. Proof of identification is required upon this submission.

(3) The Electoral Officer shall keep the original documentation with all other electoral documentation.

(4) If the Electoral Officer is unable to contact the nominated person within seven (7) days of the Nomination or if the required documents are not received by the Electoral Officer before the deadline specified in subsection 74(1), the nomination is void.

75. Upon expiration of the timeline set out in section 74, the Electoral Officer shall:

- (a) if only one person has accepted, pursuant to section 74, a nomination as Chief, declare that person to be elected;
- (b) if the number of persons who have accepted, pursuant to section 74, nominations as Councillors does not exceed the number to be elected, declare those persons to be elected; and
- (c) where more than the required number of persons have accepted, pursuant to section 74, nominations for election as Chief or Councillors, announce that an election will be held.

PART 9 – CANDIDACY

Eligibility

76. A candidate must:

- (a) have been nominated to be candidate pursuant to this Code;
- (b) be at least eighteen (18) years of age on Nomination Day;
- (c) be a Non-Probationary Full Member pursuant to the RRFNs Membership Code;
- (d) not be disqualified from candidacy by virtue of an Arbitrator's declaration under section 25 of this Code;
- (e) not have any outstanding criminal charges, and, if convicted previously, must have completed the sentence at least five (5) years prior to the date of the Election, unless he/she provides proof of an official pardon;

- (f) be in Good Financial Standing with the Nation. RRFN Finance will provide the Electoral Officer with a current copy of the RRFN Arrears List ;
- (g) have paid the Candidate Fee of \$100.00; and
- (h) According to section 3.4 (c) of the RRFN Governance Policy, a RRFN staff member can not concurrently be a Council Member. Should a staff member be nominated as a candidate and be successful in an election, they must resign as a staff member prior to accepting to take office as a Council Member and prior to taking the Oath of office in order to maintain a clear separation between political and administrative roles.

77. A person may only be a candidate for Chief or Councillor in any election, not both.

78. A Councillor who wishes to be a candidate for the position of Chief in any election must resign his/her seat on Council immediately upon signing the voter declaration form.

Filing of Criminal Record Check Report

79. A candidate must, no later than thirty-eight (38) days before the election date:

- (a) file a Criminal Record Check Report with the Electoral Officer; or
- (b) if not yet in possession of the required Report, confirm in writing or email to the Electoral Officer that a request was submitted to the proper authority in a timely manner.

80. A candidate who confirms a request pursuant to section 79(b) must, no later than fourteen (14) days before the election, file:

- (a) a Criminal Record Check Report from all locations (States, Provinces, and Countries) where the candidate has resided in the past 5 years,
- (b) if due to circumstances beyond the control of the candidate, the Report is not yet available, a statutory declaration setting out their criminal record, if any.

81. A candidate who files a statutory declaration pursuant to section 80(b) must file the Criminal Record Check Report as soon as possible thereafter.

82. A candidate who is declared elected who has failed to provide a Criminal Record Check Report to the Electoral Officer within one (1) month of the date of the election will immediately be removed from Council in accordance with the provisions of this Code.

Candidate Fee

83. A non-refundable Candidate Fee of \$100.00 shall be deposited with the Electoral Officer at the time that a candidate files his or her notice of acceptance of candidacy pursuant to section 74(1)(a), or, if unable to do so at that time, no later than fourteen (14) days before the election date.

84. The deposit shall be in the form of cash, money order, or certified cheque.

85. If the deposit takes the form of a money order or a certified cheque, the instrument shall be

payable to Rainy River First Nations.

86. All funds received as deposits during the election process shall be placed by the Electoral Officer in a special bank account that contains only those funds. The funds shall be held in trust by the Electoral Officer in this account and then paid out according to the provisions of this Code.
87. After the appeal period has expired, in the case where no election appeal has been filed in accordance with this Code, or after all appeals have been decided, the Electoral Officer shall issue a cheque in the amount of the deposit under section 83 to each candidate who has received 15% or more of the total votes cast at the election. The Electoral Officer shall remit any remaining funds to the Nation.

Removal of Candidate

88. A nominee who fails to submit to the Electoral Officer the documents required pursuant to section 74 within the timeline set out in that section, or who submits a notice of rejection within the timeline, shall not be a candidate and the Electoral Officer shall not include his/her name on a ballot.
89. A candidate who fails to comply with the Criminal Record Check Report requirements set out in sections 79-81 will be disqualified from candidacy, and the Electoral Officer shall not include his/her name on the ballot
90. A candidate who fails to comply with the Candidate Fee requirements set out in sections 83-85 will be disqualified from candidacy, and the Electoral Officer shall not include his/her name on the ballot.
91. Pursuant to section 9, a candidate found to be in breach of the Election Code of Ethics shall be removed as a candidate, and the Electoral Officer shall not include his/her name on the ballot.

Withdrawal

92. A candidate may withdraw his/her candidacy at any time up to the closing of polls on election day by submitting a written withdrawal of nomination (**See Appendix "G"**) to the Electoral Officer; however, the candidate's name will appear on the ballot unless the withdrawal is submitted within five (5) days of the Nomination Day. Any candidate who withdraws will forfeit his/her deposit upon withdrawal.
93. A candidate who dies before the close of polls shall be considered to have withdrawn his/her candidacy.

PART 10 - PRE-ELECTION PROCEDURE

Acclamation

94. Where the office of Chief and all offices of Councillor are filled by acclamation:
- (a) the Electoral Officer shall post in a visible public area of the administration building, and in any other visible place(s) on the Community he/she deems appropriate, and mail to every voter who does not reside on the Community, a notice that sets out the names of the persons who have been acclaimed and stating that an election will not be held; and
 - (b) the remainder of the provisions in respect of election conduct and procedure shall not apply.

Ballots

95. The Electoral Officer shall prepare ballot papers setting out:
- (a) the names of the candidates nominated for election as Chief who have met the candidacy requirements, in alphabetical order by surname; and
 - (b) the names of the candidates nominated for election as Councillors who have met the candidacy requirements, in alphabetical order by surname.
96. Where two or more candidates have the same name, the Electoral Officer shall add to the ballots such additional information as is necessary to distinguish between those candidates. The ballot may, at the written request of the candidate, include a candidate's commonly used nickname.

Notice of the Election

97. The Electoral Officer shall, upon expiration of the timeline set out in section 74, post a Notice of Election in a visible public area of the Nations administration building, and in visible place(s) on the Community, as may be determined by the Electoral Officer.
98. The Notice of Election shall include:
- (a) the date of the election;
 - (b) the times at which the polling station(s) will open and close;
 - (c) the location of the polling station(s);
 - (d) the time and location of the counting of the votes; and
 - (e) a statement that the voters list is posted for public viewing, and its location.

Mail-in Ballots

99. The Electoral Officer shall, at least thirty-five (35) days prior to the date on which the election is to be held, mail to every voter who is not ordinarily resident on the Community, and to every voter whose request to vote by mail-in ballot has been received, a mail-in ballot package consisting of:
- (a) a ballot initialed on the back by the Electoral Officer;
 - (b) an inner postage-paid return envelope, pre-addressed to the Electoral Officer;
 - (c) a second inner envelope marked "ballot" for insertion of the completed ballot;
 - (d) a voter declaration form;
 - (e) the Notice of Election set out in section 98; and
 - (f) a letter of instruction regarding voting by mail-in ballot which shall include:
 - (i) a statement advising voters as to how they may vote in person, as detailed in section 126, and
 - (ii) a list of the names of any candidates who were acclaimed.
100. A voter who is ordinarily resident on the Community and who is unable to vote in person on election day may, at least five (5) days prior to the date on which the election is to be held, request a mail-in ballot package from the Electoral Officer.
101. A voter not residing on the Community who has not received a mail-in ballot package may, no later than ten (10) days prior to the date on which the election is to be held, request a mail-in ballot package from the Electoral Officer.
102. Upon receipt of a request for a mail-in ballot package under sections 100 or 101, the Electoral Officer shall mail or deliver a mail-in ballot package described in section 99 to the voter who so requests.
103. The Electoral Officer shall indicate on the voters list that a ballot has been provided to each voter to whom a mail-in ballot package was mailed or otherwise provided and keep a record of the date on which, and the address to which, each mail-in ballot was mailed or otherwise provided.
104. A Voter shall vote by mail-in ballot by:
- (a) placing an "X" or other mark that clearly indicates the voter's choice of candidate but does not identify the voter's name on the ballot opposite the name of the candidate(s) for whom he/she desires to vote;

- (b) folding the ballot in a manner that conceals the names of the candidates or any marks, but exposes the Electoral Officer's initials on the back;
 - (c) placing the ballot in the inner envelope and sealing the envelope;
 - (d) completing and signing the voter declaration form in the presence of a witness who is at least eighteen (18) years of age;
 - (e) placing the inner envelope and the completed, signed and witnessed voter declaration form in the postage-paid envelope; and
 - (f) delivering or mailing to, or otherwise ensuring receipt by, the Electoral Officer of the envelope before the close of polls on the day of the election.
105. Where a voter is unable to vote in the manner set out in section 104, the voter may enlist the assistance of another person to mark the ballot and complete and sign the voter declaration form in accordance with that section. The person enlisted by the voter may also assist the voter to deliver the mail-in ballot to the Electoral Officer.
106. A person referred to in section 105 shall sign a statement to attest to the fact that:
- (a) the person completing and signing the voter declaration form is the person whose name is set out in the form; or
 - (b) the voter is the person whose name is set out in the form and that the ballot was marked according to the directions of the voter.
107. Mail-in ballots that are not received by the Electoral Officer before the close of polls on the day of the election shall not be counted.

Equipment for the Election

108. The Electoral Officer shall, before a polling station is open, supply the polling station with:
- (a) a sufficient number of ballot boxes;
 - (b) a sufficient number of ballots;
 - (c) a sufficient number of voting compartments enabling voters to mark their ballots free from observation;
 - (d) a sufficient number of instruments for marking the ballots;
 - (e) a sufficient number of voting instructions as may be required;
 - (f) all other equipment necessary to establish and equip the polling stations; and

(g) the final voters list.

Polling Stations

- 109. The Electoral Officer will establish at least one polling station on the Community.
- 110. The Electoral Officer shall provide a voting compartment in the polling station where voters can mark their ballots free from observation.
- 111. The Electoral Officer may appoint security to maintain order in the polling station.

PART II - ELECTION DAY

Managing Officers

- 112. The Electoral Officer shall manage the principal polling station. Where there is more than one polling station, each additional polling station shall be managed by a Deputy Electoral Officer.
- 113. For purposes of this Part, “managing Officer” refers to the Electoral Officer or the Deputy Electoral Officer, as the case may be, managing a given polling station.

Scrutineers

- 114. Each candidate shall be entitled to one Scrutineer in any given polling station at any one time.
- 115. A letter of authorization, signed by the candidate, must be provided to the managing Officer at or before the opening of the polling station, in which the candidate names the person authorized to act as his/her Scrutineer.

Polling Hours

- 116. The polling station(s) shall be open from 9 a.m. until 8 p.m. local time on the day of the election.

Verification of the Ballot Box

- 117. The managing Officer shall, immediately before the commencement of the poll:
 - (a) open the ballot box and call such persons as may be present to witness that it is empty and complete a written statement to that effect, verified by a witness;
 - (b) lock and properly seal the ballot box in a manner preventing it from being opened without breaking the seal; and

(c) place the ballot box in public view for the reception of the ballots.

Secrecy and Security

118. Voting shall be by secret ballot.

119. No voter may vote by proxy or authorize another person to vote on his/her behalf.

120. For the sake of clarity, nothing in section 119 shall be construed so as to prevent a voter from receiving assistance in voting pursuant to the processes set out in sections 105 or 131.

121. The managing Officer shall maintain order at all times in 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 poll.

122. No person or candidate shall, on the day the election is held, at or near the premises of the polling station:

- (a) distribute any election-related printed materials except such materials as may be distributed by a managing Officer for the purpose of conducting the election;
- (b) attempt to interfere with or influence any voter in marking his/her ballot; or
- (c) attempt to obtain information as to how a voter is about to vote or has voted.

Voting Procedure

123. Each person, on arriving at the polling station, shall give his/her name to the managing Officer.

124. If the person's name is set out in the voters list, the managing Officer shall place his/her own initials on the ballot and give the ballot to the voter.

125. The managing Officer shall cause to be placed in the proper column of the voters list a mark opposite the name of every person receiving a ballot.

126. A voter to whom a mail-in ballot was mailed or provided pursuant to this Code may obtain a ballot and vote in person at a polling place if:

- (a) the voter returns the mail-in ballot to the managing Officer; or
- (b) where the voter has lost the mail-in ballot, the provides the managing Officer with a written affirmation that the voter has lost the mail-in ballot, which affirmation shall be signed by the voter in the presence of the managing Officer, a justice of the peace, a notary public or a commissioner for oaths.

127. The managing Officer shall, when requested to do so, explain the method of voting to the voter.
128. After receiving a ballot, an elector shall:
- (a) immediately proceed to the compartment provided for marking ballots;
 - (b) mark the ballot by placing an "X" or other mark that clearly indicates the voter's choice of candidate but does not identify the voter's name on the ballot opposite the name of the candidate(s) for whom he/she desires to vote;
 - (c) fold the ballot in a manner that conceals the names of the candidates and any marks, but exposes the managing Officer's initials on the back; and
 - (d) deliver the ballot to the managing Officer.
129. On receipt of a completed ballot, the managing Officer shall, without unfolding the ballot, verify the initials placed on it and deposit it in the ballot box in the presence of the voter and any other persons entitled to be present at the polling station.
130. While a voter is in the compartment for the purpose of marking his/her ballot, no other person shall be allowed in the same compartment or be in any position from which he/she can see the manner in which the voter marks his/her ballot, except as provided in section 131.

Voting Assistance

131. At the request of any voter who is unable to vote in the manner set out in section 128, the managing Officer shall assist that voter by marking his/her ballot in the manner directed by the voter in the presence of another voter, selected by the voter as a witness, and shall place the ballot in the ballot box.
132. The managing Officer shall note on the voters list opposite the name of a voter requiring assistance, as set out in section 131, the fact that the ballot was marked by him/her at the request of the voter and the reasons therefore.

Cancelled and Declined Ballots

133. A voter who has inadvertently dealt with his/her ballot paper in such a manner that it cannot be conveniently used shall, on one occasion only, upon returning it to the managing Officer, be entitled to obtain another ballot paper. The managing Officer shall write the word "cancelled" upon the spoiled ballot paper and preserve it.
134. A person forfeits his/her right to vote at the election if he/she:
- (a) has received a ballot and leaves the polling place without delivering the ballot to the managing Officer in the required manner; or
 - (b) after receiving a ballot, returns the ballot indicating he/she refuses or declines to vote.

135. In the case of a person refusing/declining to vote, the managing Officer shall mark upon the face of the person's returned ballot the word "declined", and shall preserve all ballots so marked.

136. The managing Officer shall make an entry in the voters list, in the column for remarks opposite the name of a person who forfeits his/her right to vote pursuant to section 134, specifying that the person received a ballot and declined to vote, or received a ballot and failed to return it.

Closing of the Polling Station

137. Every voter who is inside the polling station at the time fixed for closing the poll shall be entitled to vote before the poll is closed.

PART 12 - COUNTING OF THE VOTES

Managing Officer

138. For the purposes of this Part, "managing Officer" has the same meaning as it does in Part 11.

Opening Mail-in Ballots

139. At the time for the counting of the votes, as published in the Notice of Election, the managing Officer shall, in the presence of any candidates or their agents who are present, open each envelope containing a mail-in ballot that was received before the close of the polls and, without unfolding the ballot,

- (a) reject the ballot if:
 - (i) it was not accompanied by a voter declaration form, or the voter declaration form is not signed or witnessed,
 - (ii) the voter declaration form does not contain a date of birth that matches the information contained for that voter on the voters list,
 - (iii) the name of the voter set out in the voter declaration form is not on the voters list, and/or
 - (iv) the voters list shows that the voter has already voted; or
- (b) in any other case, the managing Officer shall place a mark on the voters list opposite the name of the voter set out in the voter declaration form, and deposit the ballot in a ballot box.

Counting the Ballots

140. The managing Officer shall supply other Deputy Electoral Officers and all persons present, who so request, with a tally sheet to keep their own tally of the votes.
141. Immediately after the mail-in ballots have been deposited in the ballot box under section 139, the managing Officer shall, in the presence of any candidates or their agents who are present, open all ballot boxes and examine each ballot.
142. The managing Officer shall call out the names of the candidates for whom the votes were cast on all valid ballots.
143. A Deputy Electoral Officer shall mark a tally sheet in accordance with the names being called out under section 142 for the purpose of arriving at the total number of votes cast for each candidate.

Ballots not Counted

144. In examining the ballots, the managing Officer must reject any ballots that:
 - (a) do not contain the initials of a managing Officer;
 - (b) do not give a clear indication of the voter's intention;
 - (c) contain more votes than the number of candidates to be elected; and/or
 - (d) contain a mark by which the voter can be identified.
145. The managing Officer shall attach a note to each rejected ballot which outlines the reason for rejection.
146. Subject to review on recount or on an election appeal, the managing Officer shall take a note of any objections made by any candidate or his/her agent to any of the ballots found in the ballot box and decide any questions arising out of the objection.
147. The managing Officer shall number objections to ballots raised pursuant to section 146 and place a corresponding number on the back of the ballot paper with the word "allowed" or "disallowed", as the case may be, with his/her initials.

Other Polling Stations

148. Immediately upon completion of the counting of the ballots pursuant to sections 139 through 147, the managing Officer at a polling station other than that considered to be the principal polling station managed by the Electoral Officer, shall transmit the results to the Electoral Officer.

Awarding of Position

149. The position of Chief is awarded to the candidate for the position who received the highest number of votes.

150. The positions of Councillor are awarded to the candidates for the position who received, respectively, the first, second, third, fourth, and fifth highest number of votes.

Tie

151. If it is not possible to determine the successful candidate(s) for either a Chief or Councillor position due to an equal number of votes being cast (a tie vote), the Electoral Officer shall establish a time for the conduct of a recount and publicly announce this time in the presence of all those present in the polling station.
152. A recount conducted pursuant to section 151 must take place within twenty-four (24) hours of the announcement by the Electoral Officer in the presence of the candidates and their agents who wish to attend.
153. At the time established pursuant to section 152, the Electoral Officer shall conduct a recount of the valid ballots.
154. If the recount fails to determine the successful candidates(s), the Electoral Officer shall place each of the names of the candidates having the same number of votes on a separate piece of paper and place each of the pieces in a receptacle. Without looking, he/she shall draw as many pieces of paper as positions are available. The candidate(s), whose name(s) appear on the pieces of paper that the Electoral Officer has drawn from the receptacle, shall be declared the successful candidate(s).

PART 13 - POST-ELECTION PROCEDURES

Announcement

155. After completing the counting of the votes and establishing the candidates who have the highest number of votes (and/or after completing the process set out in section 154), the Electoral Officer shall declare the names of the candidate(s) who are elected.
156. Following the declaration of elected candidates made pursuant to section 155, the Electoral Officer shall complete and sign an election report which shall contain:
- (a) the names of all candidates;
 - (b) the number of ballots cast for each; and
 - (c) the number of rejected ballots.
157. Within four (4) days after completion of the counting of the votes, the Electoral Officer shall:
- (a) sign and post, in a visible place in a public area of the Nations administration office, and in visible places on the Community as determined by the Electoral

Officer, the election report;

(b) mail a copy of the election report to every voter of the Nations who does not reside on the Community; and

(c) deliver a copy of the election report to the Manager of Administration.

Retention of Ballots and Other Election Material

158. The Electoral Officer shall deposit all ballot papers in sealed envelopes, including those rejected, spoiled and unused, and shall retain these ballots and all materials in connection with the election.

159. All ballots and materials retained in accordance with section 158 shall be retained for fifty-six (56) days from the date on which the election was held or until a decision on an appeal is rendered, whichever date is later, after which time the Electoral Officer shall, unless directed otherwise by the Council, destroy them in the presence of two (2) witnesses who shall make a declaration that they witnessed the destruction of those papers.

Chief and Councillor Oath of Office

160. A candidate who has been elected Chief or Councillor shall, within seven (7) days of the Electoral Officer's declaration under section 155 and the preparation of the election report, swear an oath of office before either the Electoral Officer, a justice of the peace, notary public or duly appointed commissioner for taking oaths, swearing to:

(a) uphold and comply with this Code (including the Election Code of Ethics contained herein), the Rainy River First Nations Code of Conduct, and all laws of the community;

(b) fulfill the duties and responsibilities of his/her office under this Code, the Rainy River First Nations Code of Conduct, and all laws of the community;

(c) carry out his/her duties faithfully, honestly, impartially and to the best of his/her abilities;

(d) keep confidential, both during and after his/her term of office, any matter or information which, under this Code, the laws of the community or Rainy River First Nations policy, is considered confidential; and

(e) act always in the best interests of the community in carrying out his/her duties.

161. Where a candidate elected as Chief or Councillor cannot, due to illness or other valid reason, swear the oath of office within the time prescribed in section 160, he/she or an elector acting on his/her behalf may file a petition (See Appendix "E") with the Electoral Officer for an extension of the time to swear the oath of office.

162. The Electoral Officer receiving a petition under section 161 shall determine whether

the circumstances justify an extension, and shall provide the candidate making the request with written notice of the decision, and where applicable, of the extension period.

163. No person elected as Chief or Councillor shall be permitted to assume office until he/she has sworn the oath of office required under section 160 and filed proof of same with the Electoral Officer.

164. Subject to sections 161 and 162, if a person elected as Chief or Councillor fails to file the sworn oath of office with the Electoral Officer within the specified time period, the Electoral Officer shall declare the office vacant.

165. The Electoral Officer shall give notice in writing to the elected candidate whose office is declared vacant under section 164 and to the elected Chief and Council.

166. Unless the vacancy occurring under section 165 results in a situation where the Nation's Council can no longer form a quorum, the position shall remain vacant until a by-election is called by Council and another candidate is elected.

PART 14 - APPEAL MECHANISM

Timing

167. A candidate or a voter may, within thirty (30) days from the date on which the election was held, submit an appeal to Council, who must provide it to the Arbitrator upon his/her appointment pursuant to Part 15 of this Code.

Grounds for Appeals

168. An appeal submitted pursuant to section 167 must sufficiently outline one or more of the following:

- (a) that a person declared elected was not qualified to be a candidate;
- (b) that there was a violation of this Code that might have affected the result of the election; or
- (c) that there was corrupt or fraudulent practice that may have affected the result of the election.

Submission

169. An appeal (See Appendix "F") submitted must:

- (a) be in writing and set out in an affidavit sworn before a notary public or duly appointed commissioner for taking oaths the facts substantiating the grounds for the appeal accompanied by any supporting documentation; and

- (b) be accompanied by a deposit in the amount of \$50, which amount shall be refunded if the Arbitrator decides in favour of the appellant under section 173.

Procedure

170. Upon receipt of an election appeal, the Arbitrator shall:

- (a) in the case where the appeal is submitted in accordance with section 169, forward a copy together with supporting documents by registered mail to the Electoral Officer and to each candidate at the election; or
- (b) in the case where the appeal is not submitted in accordance with section 169, inform the appellant(s) in writing that the appeal will not receive further consideration.

171. Any candidate or the Electoral Officer may, within fourteen (14) days of the receipt of the appeal(s), forward to the Arbitrator by registered mail a written response to the appeal allegations, together with any supporting documentation

Investigation

172. The Arbitrator may, if the material that has been filed is not adequate for deciding the validity of the election appeal, conduct such further investigation into the matter as he/she deems necessary.

Decision

173. No later than forty-five (45) days after the appeal is received by the Arbitrator, and after his/her review of all of the evidence and information that he/she has received and/or that he/she has gathered by way of investigation, the Arbitrator shall rule:

- (a) that the appeal is dismissed because the evidence presented and information gathered was not sufficiently substantive to determine that:
 - (i) a person declared elected was not qualified to be a candidate,
 - (ii) a violation of this Code took place that might have affected the result of the election, or
 - (iii) there was a corrupt or fraudulent practice in relation to the election that might have affected its results; or
- (b) that the appeal is upheld and the election of one or more Council member is set aside because all evidence and information gathered allows for the reasonable conclusion that:
 - (i) a person declared elected was not qualified to be a candidate,

- (ii) a violation of this Code took place that might have affected the result of the election, or
- (iii) there was a corrupt or fraudulent practice in relation to the election that might have affected its results.

174. The decision of the Arbitrator made pursuant to section 173 shall be:

- (a) provided in written notice delivered or mailed to all Nation members; and
- (b) posted in at least one visible place in a public area of the Nations administration office and in any other visible locations on the Community as determined by the Electoral Officer.

175. The decision of the Arbitrator is final and not subject to appeal.

PART 15 – ARBITRATOR

Appointment of Arbitrator

176. An Arbitrator must have no personal, financial or family interest in the outcome of the dispute or issue in question.
177. Where an Arbitrator is required under this Code, Council will appoint an Arbitrator within five (5) days of being requested, or of becoming aware, of the need for an Arbitrator.
178. If Council fails to appoint an Arbitrator in accordance with section 177, the Manager of Administration will appoint an Arbitrator within four (4) days of being requested by any person.
179. If Council and the Manager of Administration fail to appoint an Arbitrator in accordance with sections 177 and 178, any person may apply to a court and the court may order the appointment of an Arbitrator.
180. An Arbitrator appointed or ordered to be appointed under this Part shall be paid an amount agreed upon by the Arbitrator or, failing agreement, the Arbitrator shall not be paid an amount exceeding \$600 per day plus reasonable expenses, or such other amount set by the court.

Functions of Arbitrator

181. The Arbitrator shall assess and determine, in accordance with the provisions of this Code:
- (a) all election appeals;

- (b) all petitions for the removal of a Council member from office; and
- (c) all petitions for the withdrawal of candidacy of a candidate alleged to have breached of the Election Code of Ethics.

PART 16 – ELECTRONIC BALLOTING REGULATIONS

182. Chief and Council may make regulations for the purposes of this Code prescribing and governing a process to allow for secure electronic balloting.
183. Any regulations made pursuant to section 182 may include modifications to Parts 3, 7, 8, 10, 11, and 12 of this Code, as necessary to implement an electronic balloting regime in accordance with the spirit and intent of this Code.

PART 17 – AMENDMENTS

184. The process for development and passage of amendments to this Code may be initiated by:
- (a) a petition presented to Council (**See Appendix “H”**), signed by at least **25 eligible voters** and setting out the specific area in this Code proposed for amendment; or
 - (b) a Band Council Resolution.
185. Upon receipt of an amendment proposal in accordance with section 184(a), Council shall prepare a notice that sets out:
- (a) a summary of the proposed amendments to this Code;
 - (b) a statement that the full copy of the proposed amendments can be obtained at the Nations administration office, which statement Council will ensure is true; and
 - (c) a description of the amendment process.
186. The notice provided for in section 185 shall be:
- (a) published in the community’s newsletter that is delivered or mailed to Nation voters, or by separate notice delivered or mailed to voters of the Nation;
 - (b) posted in at least one visible place in a public area of the Nations Administration building, and in other visible places on the Community deemed appropriate by the Council.
187. Voters may, within fourteen (14) days of publication of the notice required under section 185, provide comments concerning the proposed amendments in writing to Council.

188. Following receipt of comments concerning the proposed amendments, the Council shall review the comments and make such changes to the proposed amendments as it deems necessary in order to arrive at a final amendment proposal.
189. Council shall forward notice of the final proposed amendments to all Members, in writing, at least thirty (30) days in advance of a special general meeting scheduled by Council for the purposes of voting on the amendments. The notice shall contain the text of any proposed amendment and an explanation as to why the amendment(s) are being proposed.
190. Council shall schedule at least one (1) meeting per calendar year to consider and vote on any amendments to the Code. Quorum at such a meeting is 25 eligible voters.
191. Should quorum be met, the proposed amendments will be deemed approved with 75 % or more of votes cast in favour and Council shall amend the Code accordingly.
192. Any amendment passed one hundred (100) days or more prior to an election shall be incorporated into the Code and shall govern the election. Any amendment passed less than one hundred (100) days prior to an election shall not take effect until after the election.

APPENDIX A

RAINY RIVER FIRST NATIONS

PETITION FOR REMOVAL FROM OFFICE (section 15 (a))

I, _____ (Name of Voter), am making the petition to remove
_____ (Name of Chief or Councillor) from their office of Chief or Councillor of
RRFNs.

Current Mailing Address: _____
Phone Number: _____

Please indicate the ground listed in section 14 on which removal is sought (a-h):

Please indicate what supporting evidence you are including to support your petition:

REQUIREMENTS:

☐

- 1) On the following pages, please insert the missing information and gather the names and signatures of at least 25 eligible voters of RRFNs who are in support of this petition.

☐

- 2) A non-refundable filing fee of \$50.

Please send 'Removal of Chief of
Councillor Petition' documentation
to the **Arbitrator**
c/o
Box 450
Emo, Ontario
P0W 1E0

I, _____, believe all answers herein to be true and accurate to the
best of my knowledge.

Signature: _____ Date: _____

By signing below, you are indicating your support of the Petition for Removal from Office started by _____ (Name of Voter bringing petition) on _____ (date that Voter bringing the petition signed the petition form).

	Name	Signature	Date
1			
2			
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By signing below, you are indicating your support of the Petition for Removal from Office started by _____ (Name of Voter bringing petition) on _____ (date that Voter bringing the petition signed the petition form).

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APPENDIX B

RAINY RIVER FIRST NATIONS

NOTICE OF NOMINATION DAY (section 63-65)

Date of Nomination Day: _____

Location: _____

Hours Electoral Officer will receive nominations (period will be at least 4 hours long, and end before 9pm): _____

Election Date: _____

Location of Polling Station: _____

Mail-in Ballot options: _____

Name of Electoral Officer: _____

Phone #: _____

Address: _____

To nominate or second a candidate, a voter must be at least 18 years old and be on the voters list. An individual may nominate or second a candidate a) orally before the Electoral Officer on Nomination Day, during the period set out above, or b) by delivering or mailing a written nomination and signed voter declaration form to the Electoral Officer, before the end of the period set out above. Mailed nominations that are not received by the Electoral Officer before the end of the time period specified above are void.

Note:

- 1) A copy of the Rainy River First Nations Custom Election Code can be found at the Nations Administration Office or on the website.
- 2) A copy of the Voters list is posted at the Nations Administration Office.
- 3) At least 30 days before the Nomination Day, this notice shall be posted in the Nations Administration Office and mailed to every voter who does not reside on the Community and for whom the Electoral Officer has been provided an address, along with a nomination form and an voter declaration form.

=====

Please return the bottom portion of this sheet to the Electoral Officer at the following address:

Name of Voter _____

Please answer yes or no to the follow questions:

☐

Do you want to receive information from candidates?

☐

Do you agree to release your address to the candidates?

APPENDIX C

RAINY RIVER FIRST NATIONS

NOMINATION FORM (section 64)

Name of Nominator: _____

Are you over 18 years of age? Y/N (circle)

Are you a Full Non-Probationary Member of Rainy River First Nations? Y/N (circle)

Name of Individual you are Nominating or Seconding (circle) as Candidate for Chief:

1. _____ nominating/seconding

Name of Individual(s) you are Nominating or Seconding (circle) as Candidate for Councillor:

1. _____ nominating/seconding
2. _____ nominating/seconding
3. _____ nominating/seconding
4. _____ nominating/seconding
5. _____ nominating/seconding

Note:

- 1) Any eligible voter may nominate OR second one (1) person for Chief and up to five (5) persons for Councillor.
- 2) To nominate or second an individual, a person must be at least 18 years of age and on the voters list.
- 3) You may nominate or second an individual to be a candidate either a) orally before the Electoral Officer on Nomination Day or b) by delivering or mailing a written nomination form and signed voter declaration form to the Electoral Office.
- 4) A copy of the Rainy River First Nations Election Code can be found at the Nations Administration Office or on the website.
- 5) A copy of the voters list is posted at the Nations Administration Office.
- 6) At least 30 days before the Nomination Day, a copy of this Nomination form, along with the voter declaration and the Notice of Nomination Day, shall be mailed to every voter who does not reside on the Community and for whom the Electoral Officer has been provided an address.

APPENDIX D

RAINY RIVER FIRST NATIONS

VOTER DECLARATION FORM (section 64, 74(1), 78)

Legal Name of the Voter: _____

Address of the Voter: _____

Date of Birth of the Voter: _____

Name of Witness: _____

Date of Birth of Witness: _____

Address of the Witness: _____

I _____ (Name of Voter) declare that I **accept/reject** (circle) my nomination for the position of **Chief/Councillor** (circle).

In accepting (if applicable):

I declare that I am a Full Non-Probationary Member of Rainy River First Nations, pursuant to the RRFNs Membership Code, and am an eligible candidate;

I declare that I have reviewed and will abide by the RRFNs Custom Election Code: Part 4 Election Code of Ethics (section 4-9);

I **confirm** I am including with this declaration a non-refundable Candidate Fee of \$100.00 or will provide it to the Electoral Officer no later than fourteen (14) days before the election date;

I **confirm** that I wish to have my name (including nickname) listed on the ballot as follows:

I hereby **swear and affirm** the above information to be true.

Voter Signature: _____ Date: _____

Witness Signature: _____ Date: _____

Note:

- 1) A copy of the RRFN Election Code & Membership Code can be found at the Nations Administration Office.
- 2) A copy of the Voters list is posted at the Nations Administrative Office.
- 3) At least 30 days before the Nomination Day, this voter declaration form shall be mailed to every voter who does not reside on the Community and for whom the Electoral Officer has been provided an address for, along with a nomination and notice of nomination forms.
- 4) Once nominations are closed, the Electoral Officer shall, within seven (7) days contact each person nominated and request him/her to complete this form. Within five (5) days of contact by the Electoral officer, if the nominee intends to be a candidate must submit this form.
- 5) This document may be submitted by mail, fax, or in person to the Electoral Officer before the deadline.
- 6) If the Electoral Officer is unable to contact the nominated person within seven (7) days, or if the required documents are not received before the deadline, the nomination is void.

APPENDIX E

RAINY RIVER FIRST NATIONS

PETITION FOR EXTENSION OF TIME TO SWEAR OATH OF OFFICE (section 161)

I, _____ (Name of Elected Chief or Councillor), am making the petition to the Electoral Officer for an extension of time to swear my oath of office.

Or

I, _____ (Name of Voter Acting on behalf of Elected Chief or Councillor), am making the petition on behalf of _____ (Name of Elected Chief or Councillor) to the Electoral Officer for an extension of time to swear the oath of office.

Current Mailing Address: _____
Phone Number: _____

Reason for the Request:

Please explain what circumstances (illness, other valid reason) justify an extension in the time permitted for swearing the oath of office.

Note:

If a person elected as Chief or Councillor fails to file the sworn oath of office with the Electoral Officer within the specified time period, the Electoral Officer shall declare the office vacant.

APPENDIX F

RAINY RIVER FIRST NATIONS

WRITTEN APPEAL SUBMISSIONS (section 169)

I, _____ (Name of Candidate or Voter), of
_____ (place of residence) MAKE OATH AND SAY:

1. I am submitting this appeal to Council, within thirty (30) days of the election in question.
2. I am a Rainy River First Nations voter, and/or was a candidate in the election.
3. I understand this appeal will be provided to the Arbitrator upon his/her appointment.
4. My current mailing address is: _____
5. My phone number is: _____
6. I am bringing this appeal on the basis of the following ground(s) listed in section 168:

☐ (a) a person declared elected was not qualified to be a candidate;

☐ (b) there was a violation of this Code that might have affected the result of the election; and/
or

☐ (c) there was corrupt or fraudulent practice that may have affected the result of the election.

7. The following facts form the basis of my appeal

8. I am including the follow evidence to support my appeal:

9. I am enclosing a filing fee in the amount of \$50* with this appeal submission.

10. I make this affidavit to support my appeal and for no improper purpose.

SWORN BEFORE ME at the _____)
_____ in the Province of _____)
Ontario, this day of, 20__

Signature of Candidate or Elector

Commissioner of Oaths

*This amount will be refunded if the Arbitrator decides in favour of the appellant.

Please send "Written Appeal Submissions" to the **Arbitrator**
c/o
Box 450
Emo, Ontario
P0W 1E0

APPENDIX G

RAINY RIVER FIRST NATIONS

WITHDRAWAL OF NOMINATION FORM (section 92)

I, _____ (Name of Candidate), am withdrawing my candidacy.

By withdrawing, I understand that I am forfeiting my deposit.

Please send 'Withdrawal of
Nomination Form' to the
Arbitrator
c/o
Box 450
Emo, Ontario
P0W 1E0

Signature: _____ Date: _____

Note:

1. A candidate may withdraw at any time up to the closing of polls on Election Day by submitting this written Withdrawal of Nomination Form to the Electoral Officer.
2. The candidate's name will appear on the ballot unless the withdrawal is submitted within five (5) days of the Nomination Day.

APPENDIX H

RAINY RIVER FIRST NATIONS

PETITION TO AMEND THE ELECTION CODE (section 184 (a))

I, _____ (Name of Voter), am making the petition to amend the RRFNs Election Code.

Current Mailing Address: _____

Phone Number: _____

Please set out the specific area(s) in the Code proposed for amendment and reason for proposal (attach an extra sheet if necessary):

REQUIREMENTS:

☐

- 1) On the following page, please provide the names and signatures of at least 25 Eligible Voters of RRFNs who are in support of this petition.

Please send 'Petition to Amend the Election Code' documentation to the **Chief and Council**
c/o
Box 450
Emo, Ontario
P0W 1E0

I, _____, believe all answers herein to be true and accurate to the best of my knowledge.

Signature: _____

Date: _____

By signing below, you are indicating your support of the Petition to Amend the Election Code started by _____ (Name of Voter bringing petition) on _____ (date that Voter bringing the petition signed the petition form).

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By signing below, you are indicating your support of the Petition to Amend the Election Code started by _____ (Name of Voter bringing petition) on _____ (date that Voter bringing the petition signed the petition form).

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