

MOHAWKS OF KANESATAKE CUSTOM ELECTORAL CODE



KANESATAKE MOHAWK COUNCIL
CONSEIL MOHAWK DE KANESATAKE
RESOLUTION

Chronological No. Numéro chronologique

File Reference - N° de dossier
040.1516.00069

NOTE: The words "From Council", "Capital Revenue", which ever is the case, must appear in all resolutions requesting expenditures from Band Funds.
NOTA: Les mots "Fonds de la Bande", "Revenu de Capital" quel que soit le cas doivent apparaître sur toutes les résolutions requérant des dépenses des Fonds de la Bande

THE MOHAWK COUNCIL OF KANESATAKE LE CONSEIL MOHAWK DE KANESATAKE		Current Capital Balance Solde de capital	\$ _____
PROVINCE Quebec		Committed - Engagé	\$ _____
PLACE NOM DE L'ENDROIT Kanesatake Mohawk Territory		Current Revenue balance Solde de revenu courant	\$ _____
DATE 10th November AD 19 2015		Committed - Engagé	\$ _____
DAY-JOUR	MONTH - MOIS	YEAR - ANNÉE	

DO HEREBY RESOLVE
DECIDE, PAR LES PRESENTES.

GOVERNANCE-ACCEPTANCE OF RESULTS OF RATIFICATION VOTE
MOHAWKS OF KANESATAKE CUSTOM ELECTORAL CODE

WHEREAS the Mohawk Council of Kanésatake is the legal governing body of the Mohawks of Kanésatake and their territory; and

WHEREAS for many years, the Mohawks of Kanésatake have been selecting their leadership utilizing a draft election code; and

WHEREAS the Mohawk Council of Kanésatake with the assistance of an Election Code Committee undertook an extensive consultation with the community; and

WHEREAS the process included an analysis of the existing draft election code and considerations for relevant additions, deletions and modification and this resulting in a new version of the Mohawks of Kanésatake Custom Election Code; and

WHEREAS the final product was presented to the Mohawks of Kanésatake for review and then for ratification through a secret ballot "Referendum to Ratify The Mohawks of Kanésatake Custom Election Code" and said referendum being conducted on Saturday June 20, 2015; and

/J2

A quorum for this Council
Pour ce Conseil le quorum est:

consists of
fixe à

Council Members
Membres du Conseil

Grand Chief

Chief

Chief

Chief

Chief

FOR DEPARTMENTAL USE ONLY - RÉSERVÉ AU MINISTÈRE

1. Band Fund Code du compte de bande	2. COMPUTER BALANCES A Capital B Revenue - Revenu	3. Expenditure Depenses	4. Authority acknowledged Indian Act 5:0 Art de la Loi sur les Indiens	5. Source of Funds Source des fonds ☐ Capital ☐ Revenue - Revenu
\$ _____	\$ _____	\$ _____		
6. Recommended Recommandable		Approved - Approuvable		
Date	Recommending Officer - Recommandé par	Date	Approving Officer - Approuvé par	

KANESATAKE MOHAWK COUNCIL
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NOTE: The words "From Council" "Capital Revenue", which ever is the case, must appear in all resolutions requesting expenditures from Band Funds.
NOTA: Les mots "Fonds de la Bande" "Revenu de Capital" quel que soit le cas, doivent apparaître sur toutes les résolutions requérant des dépenses des Fonds de la Bande

THE MOHAWK COUNCIL OF KANESATAKE LE CONSEIL MOHAWK DE KANESATAKE		Current Capital Balance Solde de capital	\$ _____
PROVINCE	Québec	Committed - Engagé	\$ _____
PLACE NOM DE L'ENDROIT	Kanesatake Mohawk Territory	Current Revenue balance Solde de revenu courant	\$ _____
DATE	16 th November AD 19 2015 DAY-JOUR MONTH-MOIS YEAR-ANNÉE	Committed - Engagé	\$ _____

DO HEREBY RESOLVE:
DECIDE, PAR LES PRESENTES:

- 2 -

WHEREAS the final results in the ratification vote was:

Total number of Ballots Cast 145; Yea's - 114 to accept the Mohawks of Kanesatake Custom Electoral Code
Nay's 31 - to reject the Mohawks of Kanesatake Custom Election Code.

THEREFORE BE IT RESOLVED that the Mohawk Council of Kanesatake formally accepts the results of the June 20th, 2015 Referendum to Ratify the Mohawks of Kanesatake Custom Election Code; and

BE IT FINALLY RESOLVED that the coming into force date of the Mohawks of Kanesatake Custom Election Code shall be the next full general election of the Mohawks of Kanesatake.

A quorum for this Council
Pour ce Conseil le quorum est:

consists of
fixé à

Council Members
Membres du Conseil

Chief
Chief
Chief
Chief

FOR DEPARTMENTAL USE ONLY - RÉSERVÉ AU MINISTÈRE				
Band Fund Code Code du compte de bande	2. COMPUTER BALANCES - SOLDES DE ORDINATEUR A. Capital B. Revenue - Revenu	3. Expenditures Dépenses	4. Authority acknowledged Indian Act 51c Art de la Loi sur les Indiens	5. Source of Funds Source des fonds ☐ Capital ☐ Revenue - Revenu
\$	\$	\$		
6. Recommended - Recommandable		Approved - Approuvable		
Date	Recommending Officer - Recommandé par	Date	Approving Officer - Approuvé par	



MOHAWKS OF KANESATAKE CUSTOM ELECTORAL CODE

- WHEREAS** the Mohawks of Kanesatake constitute one of the First Nations on the continent known as North America; and
- WHEREAS** the Kanesatakehró:non are inherently sovereign having never relinquished their Nation's original sovereignty; and
- WHEREAS** the Kanesatakehró:non have the right to determine and control their own membership, health, social solidarity and to control their own ancestral lands, education, to practice their own religion, culture, traditions, language and as stipulated in the United Nations Declaration on the Rights of Indigenous Peoples adopted by the General Assembly of the United Nations on September 13, 2007, which strongly supports and recognizes the rights of Indigenous Peoples; and
- WHEREAS** the Kanesatakehró:non have the right to govern themselves in accordance with their own freely-chosen system; and
- WHEREAS** in 1991, the Kanesatakehró:non voted to change their traditional governing custom and adopted an electoral system for choosing their Governing body; and
- WHEREAS** the Kanesatakehró:non have consented to the enactment of these rules of procedure for the election of their Council; and
- WHEREAS** all the ancestral territories in this Custom Election Code have been adopted for practical reasons and are without prejudice to the territorial rights and claims of the Kanesatakehró:non; and
- WHEREAS** the definitions and articles mentioned in this document are for the sole use of this Custom Electoral Code; and
- WHEREAS** the following provisions shall have a binding effect as the Custom Electoral Code for conducting elections of the Mohawk Council of Kanesatake (MCK).

TABLE OF CONTENTS

1.0	DEFINITIONS.....	3
2.0	PRINCIPLES OF GOVERNMENT.....	4
3.0	ELIGIBILITY TO VOTE.....	4
4.0	ELIGIBILITY TO NOMINATE A CANDIDATE.....	4
5.0	ELIGIBILITY OF CANDIDATES.....	4
6.0	INELIGIBILITY OF CANDIDATES.....	5
7.0	COMPOSITION OF THE MOHAWK COUNCIL OF KANESATAKE.....	5
8.0	TERM OF OFFICE.....	5
9.0	VACANCY.....	6
10.0	RESIGNATION.....	7
11.0	CODE OF ETHICS FOR CAMPAIGNING.....	7
12.0	ELECTION PROCEDURES.....	8
13.0	APPEAL BOARD.....	13
14.0	APPEAL PROCESS.....	13
15.0	REGULATIONS.....	15
16.0	AMENDMENTS.....	15
17.0	COMING INTO FORCE.....	16
	MAP OF TERRITORY-SEIGNEURIE DU LAC-DES-DEUX-MONTAGNES.....	16

1.0

DEFINITIONS

FOR THE PURPOSE OF THIS CUSTOM ELECTORAL CODE

- 1.1** Appeal: means an application to the Appeal Board pursuant to Article 14.0 to contest a decision of the Chief Electoral Officer.
- 1.2** Appeal Board: means the body provided for in Article 13.0 of this Custom Electoral Code.
- 1.3** Candidate: means a person nominated for the position of Grand Chief or Chief.
- 1.4** Chief Electoral Officer: means the person appointed by the MCK who must ensure that all provisions set forth in the Custom Electoral Code are complied with.
- 1.5** Election Day: means the date set for a general election pursuant to para. 12.22.
- 1.6** Elector: means a person eligible to vote pursuant to para. 3.1.
- 1.7** Electoral List: means the list which contains the names, in alphabetical order, of all eligible electors.
- 1.8** Immediate Family member: means a spouse, including a de facto (common-law) spouse, a parent, a sibling, a natural or adopted child, a Grand-parent, half-sibling and grandchild.
- 1.9** Kanesatakehrónon: means all Members of the Mohawks of Kanesatake.
- 1.10** Member: means a person whose name appears on the Kanesatake Band List.
- 1.11** Mohawk Council member: means the Grand Chief and Chiefs elected under this Custom Electoral Code.
- 1.12** Participating Majority: means the majority of valid votes cast;
- 1.13** Scrutinizer: means the person designated in writing by a candidate, to observe the election procedures at a polling station.
- 1.14** Vote of Non-Confidence: means the process to determine whether an elected Mohawk Council member can no longer hold office, a process currently being developed by Mohawk Council and which will be approved by the Mohawks of Kanesatake.

2.0 PRINCIPLES OF GOVERNMENT

- 2.1** The Participating Majority of adult Members are the final authority in all matters pertaining to all Kanesatakehró:non and their Territory.
- 2.2** The Members of the Mohawks of Kanesatake elect their Mohawk Council as their governing body in accordance with the procedures outlined in the present Custom Electoral Code.
- 2.3** The Mohawk Council of Kanesatake will exercise its jurisdiction and authority with honesty, impartiality, fairness and openness in the interests of the Mohawks of Kanesatake.
- 2.4** The duly elected Mohawk Council shall be accountable to the people of Kanesatake and therefore shall report where applicable and legally permissible and make the audited financial reports of MCK available for examination.
- 2.5** The Kanesatakehró:non as Members of the Mohawks of Kanesatake have the primary role in assuring there is Good Governance.
- 2.6** The duly elected Mohawk Council shall agree to adhere to the MCK's Code of Ethics, as may be established by MCK, for the Chiefs to encourage healthy relations.

3.0 ELIGIBILITY TO VOTE

- 3.1** To be eligible to vote, a person must be:
 - 3.1.1** A Member of the Mohawks of Kanesatake; and
 - 3.1.2** Not imprisoned in a correctional institution
 - 3.1.3** At least 18 years of age on the date of the said election;

4.0 ELIGIBILITY TO NOMINATE A CANDIDATE

- 4.1** Subject to para. 4.2, only Electors may nominate a candidate.
- 4.2** To be eligible to nominate a candidate, the Elector must be of Kanesatake Mohawk Ancestry and must be eighteen (18) years of age before the end of the nomination period.

5.0 ELIGIBILITY OF CANDIDATES

- 5.1** Any Member of the Mohawks of Kanesatake is eligible to be nominated for the election to the Mohawk Council of Kanesatake provided that he or she:
 - 5.1.1** Has had their place of ordinary residence for not less than three (3) years; prior to the election in question;
 - 5.1.2** Has lived in the area presently known as the postal code of J0N 1E0. (For the purpose of this Custom Electoral Code and without prejudice to any land claims).
 - 5.1.3** Is of Kanesatake Mohawk Ancestry;
 - 5.1.4** Has reached the age of eighteen (18) years on or before the last day of the nomination period.
 - 5.1.5** For the position of Grand Chief, the candidate must have completed one (1) full term as a member of the Mohawk Council.

6.0 INELIGIBILITY OF CANDIDATES

- 6.1** Any Member of the Mohawks of Kanesatake is ineligible to be nominated for the election to the Mohawk Council of Kanesatake who:
- 6.1.1** Has been convicted of a criminal offence for which the Member has not received a pardon or a record suspension in respect of the offence, subject to the exception at para. 6.2;
 - 6.1.2** Has any outstanding financial debts with the MCK or any of its departments;
 - 6.1.3** Has been removed from MCK as a result of a Vote of Non-Confidence following the due process at any time following the ratification of this Custom Electoral Code pursuant to para. 17.1;
 - 6.1.4** Has been previously suspended from Mohawk Council as a result of para. 9.7, unless the candidate has been acquitted of the said charges.
- 6.2** Being convicted of a criminal offence involving the exercise of Aboriginal rights does not make a Member ineligible to be nominated for election to the Mohawk Council of Kanesatake.

7.0 COMPOSITION OF THE MOHAWK COUNCIL OF KANESATAKE

- 7.1** The Mohawk Council of Kanesatake (MCK) shall consist of one (1) Grand Chief and six (6) Chiefs.

8.0 TERM OF OFFICE

- 8.1** The term of office for a member of the Mohawk Council of Kanesatake expires four (4) years following the last general election, unless para. 8.2 applies.
- 8.2** Where the Mohawk Council of Kanesatake was elected pursuant to an early general election, the term of office is extended to the next Election Day set out in para. 12.22, unless another early election is called.
- 8.3** In exceptional circumstances, Mohawk Council may hold a special public meeting for authorization to continue its mandate for a period not exceeding six (6) additional months.
- 8.4** Every member of the Mohawk Council shall assume office once he or she is declared elected.
- 8.5** The rules set out in this Election Code will apply with the necessary adaptations to a by-election or an early general election.

9.0

VACANCY

- 9.1** The position of Grand Chief or Chief becomes vacant when a person who holds that position:
- 9.1.1** Is convicted of a criminal offence;
 - 9.1.2** Dies or resigns from office;
 - 9.1.3** Is declared to be mentally incompetent by a medical professional;
 - 9.1.4** Is removed from the position by a Vote of Non-Confidence following due process;
 - 9.1.5** Misses a total of three (3) Mohawk Council and/or Public meetings without valid reasons during mandate;
 - 9.1.6** Engages in, during their term, any wrongful conduct that affects, interrupts, or interferes with the performance of their duties.
- 9.2** At the beginning of a new mandate the Grand Chief will appoint a Vice Chief.
- 9.3** Where an interim vacancy occurs for the position of Grand Chief, the vacant position shall be filled by the Vice Chief.
- 9.4** Where a permanent vacancy occurs for the position of the Grand Chief, Council will hold a special public meeting to inform the community Members of the official appointment of the Vice Chief to the position of Grand Chief.
- 9.5** Should a permanent vacancy for Council Chief occur more than one (1) year before the next election, Mohawk Council will decide:
- 9.5.1** Whether to hold a special public meeting for authorization to continue its mandate with the remaining Chiefs; or-
 - 9.5.2** Whether the vacant position will be occupied by calling for a nomination for a by-election within four (4) weeks to fill the vacancy and the by-election will be held within eight (8) weeks of the nomination.
- 9.6** Where a Mohawk Council member's position is vacant for any reason engaged by paragraph 9.1.1, 9.1.5, 9.1.6, that Council member shall have the right to appeal his or her dismissal to the Ethics Commission, as may be established by MCK.
- 9.7** Where an elected official is charged with a criminal offence, that person shall be immediately suspended with or without pay based upon the recommendation of the Ethics Commission, as may be established by MCK.
- 9.8** Sub-paragraph 9.1.1 does not apply where the offence committed arises out of the exercise of an Aboriginal or Treaty Right or rights which have been approved by the Kanesatakehrónon at a general/special meeting regarding the issue.

10.0 RESIGNATION

- 10.1** When a Grand Chief or a Chief chooses to resign, such resignation shall be in writing to the Mohawk Council and shall be recorded at a Council meeting. A public meeting shall be held for an announcement to all Kanesatakehrónon as soon as possible after the resignation is received by Mohawk Council.

11.0 CODE OF ETHICS FOR CAMPAIGNING

- 11.1** All Candidates will campaign:

- 11.1.1** Without intimidation or vote-buying;
- 11.1.2** Respecting the rights of other candidates to organize and campaign;
- 11.1.3** Ethically, focusing on political issues, candidate platforms and will refrain from conducting smear campaigns or ones of gossip and innuendo;
- 11.1.4** Non-violently, without intimidating opposing candidates, opposition supporters or the media, and without the use of language inciting violence;
- 11.1.5** Respecting the freedom of the press to cover the campaign and to express opinions on the campaign;
- 11.1.6** Respecting the electoral officials and not interfering with the performance of their duties; and
- 11.1.7** Respecting and complying with the official election results and the final decision of the Appeal Board.

- 11.2** Every candidate will be in breach of this Code of Ethics for Campaigning who, during an election period, directly or indirectly offers a bribe to influence an Elector to vote or refrain from voting or to vote or refrain from voting for a particular candidate or accepts or agrees to accept a bribe that is offered.

- 11.3** Every candidate will be in breach of this Code of Ethics for Campaigning who, during an election period, by intimidation or duress, compels a person to vote or refrain from voting for a particular candidate or by any pretense or plotting, induces a person to vote or refrain from voting for a particular candidate.

- 11.4** In the event of a breach of this Code of Ethics for Campaigning, the Chief Electoral Officer will have the authority to disqualify the candidate in the said election.

12.0 ELECTION PROCEDURES

Pre-Nomination procedures – Appointment of Chief Electoral Officer

- 12.1** At a duly convened Mohawk Council meeting, Council will table the upcoming elections through an appropriate Band Council Resolution.
- 12.2** The Mohawk Council shall prepare a “Call for Tender” to hire a Chief Electoral Officer no later than twelve (12) weeks before Election Day. In the event that there are no bids received, Mohawk Council shall appoint an individual to act as Chief Electoral Officer.
- 12.3** No member of the Mohawk Council, employee of MCK, employee of Kanesatake Health Centre (KHC) or any member of the present Mohawk Council’s immediate family may be appointed Chief Electoral Officer.
- 12.4** The Chief Electoral Officer cannot be a candidate for office.
- 12.5** The membership clerk of the Mohawk Council shall assist the Chief Electoral Officer in carrying out the validation of voter eligibility.
- 12.6** The Chief Electoral Officer has the authority to appoint people to assist them in exercising their functions pursuant to this Custom Electoral Code.
- 12.7** Any power or duty assigned to the Chief Electoral Officer in the present code may be performed by a person appointed by them pursuant to para. 12.6, with the exception of certain paragraphs related to the validation of candidates (paras. 12.6, 12.20 and 12.21), contestation (Article 14.0) and vote counting (paras. 12.42, 12.43, 12.44, 12.46, 12.47 and 12.49).

Preparation of the Electoral List

- 12.8** The Chief Electoral Officer shall prepare the electoral list which will contain, in alphabetical order, the names of all eligible electors.
 - 12.8.1** It is the Elector’s ongoing responsibility to ensure that their latest contact information is provided to the membership clerk.
- 12.9** The list of Electors shall be posted in one or more conspicuous places in the Territory, including the Mohawk Council and its various departments, no less than nine (9) weeks before the date of the election.
- 12.10** An error or irregularity in the preparation or revision of the list of Electors does not by itself invalidate the results of an election. The official list will remain that of the membership clerk.

Nominations – The Nomination Process

- 12.11** The Chief Electoral Officer shall post a notice no less than six (6) weeks before Election Day specifying the period, place and manner in which nominations for positions of the Mohawk Council will be received, including the date by which a nominated candidate may withdraw.
 - 12.11 .1** The nomination period will be for a duration of three (3) working days from 8:00AM until 4:00PM.

- 12.12** A validation period of 48 hours will begin following the close of the nomination period in order to examine the nominations and confirm the provisional list of nominees.
- 12.13** The Elector who is nominating the candidate as well as the candidate being nominated must be present at the time of nomination.
- 12.14** Nomination for the position of Grand Chief or Chief shall be:
- 12.14.1** in writing; and
- 12.14.2** signed by the nominee and by the person who seconds the nomination.
- 12.15** No Elector may nominate more than one (1) candidate for Grand Chief, and no more than one (1) candidate for Chief.
- 12.15.1** An Elector can second more than one (1) candidate for Mohawk Council.
- 12.16** If the Chief Electoral Officer has determined that a candidate who was nominated is ineligible:
- 12.16.1** The Chief Electoral Officer shall refuse the nomination; and
- 12.16.2** The Chief Electoral Officer shall inform the nominated verbally and officially in writing with the reasons for refusal of candidacy
- 12.17** At the expiry of the validation period, the Chief Electoral Officer shall post a provisional list of candidates in one or more conspicuous places in the Territory, including the Mohawk Council and its various departments.
- 12.18** The Chief Electoral Officer shall prepare a final list of candidates and shall post the final list no later than five working days after the closure of the validation period in one or more conspicuous places in the Territory.
- 12.18.1** Once the final list of candidates has been posted, the Appeal Board will be established pursuant to Article 13 of this Custom Electoral Code.
- 12.19** Any candidate who is duly nominated may withdraw their nomination by submitting to the Chief Electoral Officer a written declaration signed by the candidate, provided the withdrawal is submitted prior to the deadline established as per par. 12.12.
- 12.20** If only one eligible candidate for Grand Chief is nominated at the end of the validation period, the Chief Electoral Officer will declare the position to be filled.
- 12.21** Should the number of eligible candidates nominated at the end of the validation period for the position of Chiefs not exceed six (6), the Chief Electoral Officer will declare the positions as being filled.

Voting

- 12.22** Election Day shall be on the second Saturday of June, as set by the Mohawk Council, unless an early general election is held pursuant to sub-para. 8.2, or a by-election is held.
- 12.23** One (1) Ballot shall be prepared in a prescribed form containing the names of the candidates for the position of Grand Chief and listed in alphabetical order of their commonly-used name.

- 12.24** One (1) Ballot shall be prepared in a prescribed form containing the names of the candidates for the position of Chiefs and listed in alphabetical order of their commonly-used name.
- 12.25** Each Elector should provide at least one piece of identification containing a photo of the Elector or must otherwise have their identity confirmed by at least two other Members present in person with the Elector on Election Day.
- 12.26** Each Elector shall:
- 12.26.1** Select the name of the candidate whom the Elector selects to be Grand Chief; and
- 12.26.2** Select the names of no more than six (6) candidates whom the Elector chooses to serve as Chief(s).
- 12.27** Voting shall be in secret at the polling station where an Elector shall mark his or her ballot free from observation and shall deposit the ballot in the appropriate ballot box.

Assistance in voting

- 12.28** Notwithstanding para. 12.27, where an Elector is unable to vote because he or she is unable to read or is incapacitated by blindness or any other physical disability:
- 12.28.1** He or she may be accompanied by a friend or relative, or be assisted by the electoral staff to mark the ballot in the manner directed by the Elector and to deposit the ballot in the appropriate ballot box;
- 12.28.2** Provided that no person shall assist more than one Elector, other than electoral staff.

Advance Polls and Polling stations

- 12.29** There shall be at least one fixed polling station located within the area commonly known as the Community Gym.
- 12.30** Mobile polling service will be made available for seniors, persons with a physical disability or any person without means of transportation to the polling station who reside within the postal code area of JON 1E0 and who provide sufficient notice to the Chief Electoral Officer.
- 12.31** The advance polling station will be held one (1) week prior to the Election Day and shall be open no less than twelve (12) hours.
- 12.32** The day of the election the mobile polling station and polling station shall be open no less than twelve (12) hours.
- 12.33** The entrance and facility of the polling station shall, wherever possible, be accessible to Electors who are physically disabled.
- 12.34** Each candidate is entitled to be represented by a scrutiner at the polling station designated by the candidate.
- 12.35** The premises of a polling station shall be kept clear of all campaign materials.

Mail-in ballots

- 12.36** An Elector who is eligible to vote at an election may apply to vote by mail-in ballot.
- 12.37** An Elector wanting to vote by mail-in ballot shall follow the procedures set forth by the Chief Electoral Officer whereby a copy of two (2) pieces of identification – one (1) containing a photo and one (1) confirming the Elector's address – shall be provided to and validated by the Chief Electoral Officer in order for a mail-in ballot to be posted.
- 12.38** The request for a mail-in ballot shall be received by the Chief Electoral Officer no later than the last Friday in the month of May.
- 12.39** Only mail-in ballots received by the Chief Electoral Officer no later than the closing of the voting on Election Day shall be counted.

Counting

- 12.40** Immediately after the closing of the polling stations the Chief Electoral Officer shall proceed with the counting of the votes.
- 12.41** In the event of the death of a candidate or withdrawal of a candidate's nomination, all Electors will be notified of such at the time of voting. The name of the candidate will still appear on the ballot however the name will be blacked out and any votes casted for the candidate during the election will not be counted.
- 12.42** During the examining of the ballots, the Chief Electoral Officer shall reject those:
- 12.42.1** That were not supplied by him or her;
 - 12.42.2** That are not marked for any candidate;
 - 12.42.3** On which votes have been given for more than one (1) candidate for Grand Chief;
 - 12.42.4** On which votes have been given for more than six (6) candidates for the position of Chief(s);
 - 12.42.5** That are marked as to render it uncertain for which candidate the Elector has voted; or
 - 12.42.6** Upon which there is any writing or mark other than those required by para. 12.26.
- 12.43** No-one is entitled to be present for the counting of the vote except the Chief Electoral Officer, the election staff, the candidates and/or a scrutiner designated by a candidate. No-one who leaves during the counting of the vote may return without the Chief Electoral Officer's permission.
- 12.44** After examining all the ballots, the Chief Electoral Officer shall draw up a statement of votes for each polling station and for the mail-in ballots indicating:
- 12.44.1** The number of ballots provided;
 - 12.44.2** The number of ballots cast in favor of each candidate;
 - 12.44.3** The number of ballots rejected in the counting of votes;
 - 12.44.4** The number of spoiled ballots and including those not placed in the ballot box;
 - 12.44.5** The number of unused ballots.

- 12.45** The candidates elected shall be:
- 12.45.1** The candidate who received the highest number of votes for the position of Grand Chief; and
 - 12.45.2** The six (6) candidates who received the highest number of votes for the position of Chief.
- 12.46** Based on the content of the statement of votes, a candidate may apply to the Chief Electoral Officer for a recount immediately if the difference is 2.5% of all votes cast, or less:
- 12.46.1** between the number of votes cast for the candidate for Grand Chief with the most votes and the number cast for any other candidate for Grand Chief; or
 - 12.46.2** between the lowest number of votes cast for one (1) of the six (6) candidates for the position of Chief who are declared elected and the number cast for any other candidate for the same position.
- 12.47** In the event of a tie, the Chief Electoral Officer shall conduct a recount immediately.
- 12.48** In the event that, notwithstanding a recount pursuant to para. 12.47, the result is still a tie, the Appeal Board will vote to break the tie.
- 12.49** The Chief Electoral Officer shall declare the candidates who are elected as soon as completing the validation of the casted votes.
- 12.50** The list of Chiefs declared elected shall be posted by the Chief Electoral Officer in one or more conspicuous places in the Territory, including the Mohawk Council and its various departments the Monday following the election.

Security of Ballots

- 12.51** All election papers shall be placed in sealed envelopes and retained under security for six (6) months by the Chief Electoral Officer, or in the case of an Appeal, sixty (60) days following the decision of an Appeal rendered pursuant to para. 14.16, whichever is later, unless court proceedings are filed that require the conservation of such evidence.
- 12.52** After the expiry of the relevant term or a final decision is rendered in the court proceedings, all Election papers shall be destroyed in the presence of one or more persons appointed by the Chief Electoral Officer who shall sign a testimonial that they personally witnessed the destruction.

13.0 APPEAL BOARD

13.1 The Appeal Board shall be composed of three (3) members as follows:

13.1.1 Be of Kanesatake Mohawk Ancestry, an eligible Elector and demonstrated a sincere interest in participating on this board.

13.2 A special public meeting will be held in order to select an Appeal Board. In order to avoid conflicts of interest, members will be selected only once the candidates have been confirmed and prior to the election. The Chief Electoral officer shall:

13.2.1 Select three (3) members of the Appeal Board in accordance with para. 13.1.1; and

13.2.2 Draw a list of two (2) additional members as alternates for the Appeal Board.

13.3 The term of office of the Appeal Board shall be from its appointment as per para. 13.2 until the last Appeal decision of the Appeal Board is posted pursuant to para. 14.17, unless no contestations are filed within thirty (30) days following the Election Day in which case the Appeal Board's term will end within a reasonable time after this period.

13.3.1 Upon receipt of an election appeal, an Appeal Board member who may be reasonably perceived to have a bias or conflict in connection with the appeal, shall excuse themselves from the board.

13.4 Each member of the Appeal Board shall take an oath of confidentiality.

13.5 The Appeal Board shall supervise and administer, in accordance with the provisions of this Custom Electoral Code, all election Appeals.

13.6 All Appeal Board members will abstain from voting during an election and will only vote in order to break a tie.

14.0 APPEAL PROCESS

14.1 In this Article:

14.1.1 "plaintiff" means the person who files a contestation with the Chief Electoral Officer;

14.1.2 "appellant" means a person who files an Appeal with the Appeal Board; and

14.1.3 "candidate" means the person whose candidacy or election to office is at issue in a contestation or an Appeal, as the case may be.

14.2 The contestation of a candidate's eligibility to run for office shall be made to the Chief Electoral Officer by an Elector within 48 hours of the posting of the provisional list of candidates. Any contestations of a candidate's eligibility after this time will not be accepted, unless the grounds for ineligibility being alleged did not exist until after this period.

14.3 Any Elector who contests the election process shall do so within thirty (30) days from the date on which the election was held and shall submit the contestation to the Chief Electoral Officer.

- 14.4** A contestation or an Appeal submitted pursuant to paragraphs 14.2, 14.3 or 14.11 must:
- 14.4.1** sufficiently outline that there was a violation of this Custom Electoral Code in the election process that may have affected the nominations or the result of the election; and
 - 14.4.1** be in writing and set out in an affidavit sworn before a public notary or a duly appointed Commissioner of Oaths to substantiate the grounds for the contestation or Appeal accompanied by any supporting documentation.
- 14.5** Upon receipt of a contestation, the Chief Electoral Officer will provide copies of all documents concerning the contestation in writing to the person whose candidacy or election is being contested. No anonymous contestations shall be accepted.
- 14.6** In the case where the contestation or Appeal is not submitted in accordance with paragraphs 14.2, 14.3, 14.4 and 14.5, the Chief Electoral Officer or the Appeal Board, as the case may be, will inform the plaintiff or appellant in writing that the contestation or Appeal will not receive further consideration.
- 14.7** Upon being provided with the materials constituting the contestation, the candidate has the right to provide the Chief Electoral Officer with a response in writing to the allegations against them. The Chief Electoral Officer shall provide a copy of that response to the plaintiff.
- 14.7.1** In the case of a contestation as to a candidate's eligibility immediately following the posting of the provisional list of candidates, any written response shall be provided by the candidate to the Chief Electoral Officer by 4pm on the fourth (4th) working day following the posting of the provisional list.
 - 14.7.2** For all other contestations, the Chief Electoral Officer will indicate the delay by which a candidate may respond upon transmission of the contestation to the candidate.
- 14.8** Based on a review of all materials made available to the Chief Electoral Officer with respect to the contestation:
- 14.8.1** where the Chief Electoral Officer finds that there has been a violation of the Custom Electoral Code that affected the result of the election, the Chief Electoral Officer shall set aside the affected election result and declare as elected that otherwise unelected candidate for the contested position who has the highest number of votes;
 - 14.8.2** where the Chief Electoral Officer finds that there has been no violation of the Custom Electoral Code that affected the result of the election, the Chief Electoral Officer shall refuse the contestation.
- 14.9** The Chief Electoral Officer shall render their decision in writing within seven (7) working days of receiving the response or, where no response is provided to the Chief Electoral Officer, two (2) working days upon the expiry of the delay for such a response.
- 14.10** The Chief Electoral officer shall provide reasons for their decision.

- 14.11** Should the plaintiff or the elected candidate disagree with the decision of the Chief Electoral Officer made pursuant to paragraph 14.8, that party may submit an Appeal to the Appeal Board within five (5) working days of the decision.
- 14.12** In addition to those powers expressly granted to the Appeal Board in this Custom Electoral Code, it has the same powers with respect to an Appeal as the Chief Electoral Officer has with respect to a contestation in paragraphs 14.5 to 14.9.
- 14.13** For greater certainty, upon being provided with the materials constituting the Appeal, the respondent before the Appeal Board has the right to provide the Appeal Board with a response in writing to the Appeal within a delay communicated to the respondent by the Appeal Board upon transmission of the Appeal. The Appeal Board shall provide a copy of that response to the appellant.
- 14.14** The Appeal Board also has the power to seek further information if the material provided by the parties is not adequate to decide the Appeal.
- 14.15** The Appeal Board may meet to deliberate in order to reach a decision.
- 14.16** The Appeal Board shall render its decision in writing no later than 30 days after receiving the Appeal and shall provide reasons.
- 14.17** The decision of the Appeal Board made pursuant to para. 14.16 shall be posted in at least one or more conspicuous places in the Territory. The decision of the Appeal Board is final.

15.0 REGULATIONS

- 15.1** The Mohawk Council may adopt regulations that are not contrary with this Custom Electoral Code, with respect to the procedure for:
- 15.1.1** Appointment of the Chief Electoral Officer and election staff;
 - 15.1.2** Preparation of the Electoral list;
 - 15.1.3** Voting at a polling station or by mail-in ballot.
- 15.2** No regulation adopted pursuant to this Custom Electoral Code shall apply to an election or by-election unless the regulation(s) has been publically ratified more than twelve (12) weeks before Election Day.

16.0 AMENDMENTS

- 16.1** This Custom Electoral Code may be amended at any time following the due process of consultation and once the amendments have been ratified by the Participating Majority of the electorate in a vote by secret ballot.
- 16.2** The rules set out in this Custom Electoral Code will apply with the necessary adaptations to the ratification vote provided for in para. 16.1.
- 16.3** No amendment to this Custom Electoral Code shall apply to an election or by-election unless it was ratified more than twelve (12) weeks before Election Day.

17.0 COMING INTO FORCE

17.1

This Custom Electoral Code shall apply to the elections following its ratification by the Participating Majority of the electorate.

Map of Territory -Seigneurie du Lac-des-Deux-Montagnes

