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ESK'ETEMC

CUSTOM ELECTION CODE

Amended
October 24, 2011
(Name Change)

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ELECTION CODE

1.0 DEFINITIONS

For the purpose of this Election Code:

Administrator	means the person who is currently the senior member of the administration of the Esk'etemc.
Appeal Board	means the Appeal Board appointed under Section 26 of this Election Code.
Arrears	means a debt owed to Esk'etemc upon which no consecutive monthly payments of at least ten percent (10) of the balance have been made during the twelve (12) months prior to the election.
Chief	means the person currently elected as Chief of the Esk'etemc.
Clear Day	means, for the purpose of counting days leading to an Election or to a related activity, a day which does not include the day when the initial activity takes place, nor the day of the function itself.
Corrupt Practice	means fraudulent evasion of any provision of law committed by an individual with the intent of procuring some benefit for himself or herself or some other person.
Corrupt Election Practice	means any act that constitutes the procurement of votes by bribery or intimidation, or any fraudulent evasion of this Election Code to obtain the election of a candidate or prevent the election of a candidate.
Council	means the elected members of the Council and includes the Chief unless otherwise indicated.
Councillor	means a current Councillor of the Esk'etemc.
Criminal Code	means the Criminal Code of Canada.
Currently	means as at the time in question and not necessarily at the time this Election Code comes into force.
Election	means an election held under this Election Code and includes a by-election.
Electoral Officer	means the person appointed pursuant to Section 6.1 of this Election Code and, if the context permits, a Deputy Electoral Officer currently appointed pursuant to section 6.2 of this Election Code.
Eligible Voter	means all those Members who have reached the age of 18 years as of the date of the Election.

Gross Misconduct	means theft or falsification of records, willful destruction of Esk'etemc property, endangering the safety of any Member through incompetence or negligence, or drunk or disorderly conduct at meetings of Council or other public forums.
Indictable Offence	means those offences for which an individual has been charged by way of indictment under the Criminal Code of Canada.
Member	means a person whose name is on the Membership List of the Esk'etemc at the relevant time.
Membership List	means the list maintained by Indian and Northern Affairs Canada under Section 11 of the Indian Act.
Nomination Meeting	means a meeting held pursuant to Section 11 of this Election Code.
Permanent Residence	means the place of ordinary residence of a person, generally that place which is the person's place of habitation or home, to which he or she intends to return. A person may only have one Permanent Residence at a time.
Qualified Individual	means a person who has the knowledge, experience and authority to conduct elections for First Nations.
Reserve	means an Indian Reserve of the Esk'etemc.
Scrutineer	means a person who is appointed by a candidate to observe the Election proceedings.
Sound mind	means being generally able to make an independent decision with regards to voting for a candidate.
Voters List	means the list prepared for an Election by the Electoral Officer in accordance with section 9.1.
Without Just Cause	means having no legitimate reason or having no basis in fact.

*Words importing the singular include the plural and vice versa; and words importing a male person include a female person.

2.0 GOVERNING BODY

- 2.1 Subject to section 2.5, the Council shall consist of eight (8) members: One (1) Chief and seven (7) Councillors.
- 2.2 The quorum for the Council will be a majority of the Council Members. If the number on Council is an even number, the quorum is 1 more than half the members.
- 2.3 The Chief will chair meetings of Council if present. In the absence of the Chief, a member of Council or the Administrator may chair a meeting of Council with the consent of the majority of Councillors present.
- 2.4 In the event that the office of the Chief is vacated during the term, Council may elect from amongst themselves an interim Chief until a By-Election is held.
- 2.5 Notwithstanding section 2.1, the number of Councillors may be changed by a resolution of Council approved by a simple majority of all Members present at a general meeting of Members called for this purpose.
- 2.6 For urgent matters, or when a formal meeting is not possible, decisions on a matter may be made by a consent resolution signed by a majority of Council members.

3.0 BAND COUNCIL MANDATE

The general responsibilities of Council include the following:

- 3.1 To foster progress in the economic development, education, social and recreational life of the Esk'etemc community.
- 3.2 To encourage, promote, and enable Esk'etemc customs and traditions.
- 3.3 To uphold the Aboriginal rights of Esk'etemc including inherent right to self-government.
- 3.4 To develop policies, procedures, laws and bylaws, as required, to adequately govern the Esk'etemc community, and to become familiar with the existing policies, procedures, laws, bylaws and other powers of Council, and to use those for the betterment of the Esk'etemc community.
- 3.5 To cooperate and liaise with the members of the Esk'etemc community, and advocate to all levels of government in matters relating to the interests of the Esk'etemc.
- 3.6 To encourage community participation in governance issues.
- 3.7 To ensure that the needs of Members are met, including but not limited to social and education needs, through committed leadership and the efficient administration of programs and services within Esk'etemc jurisdiction, including the administration of all budgets and financial transactions. Where appropriate, Council's role may be to support, encourage and empower members to address and meet their own needs.
- 3.8 To represent the Esk'etemc community at functions that extend beyond the community, including public speaking, media interviews and other events.

4.0 ELIGIBILITY CRITERIA FOR OFFICE

- 4.1 To hold the position of Chief of Esk’etemc, a person must:
- (a) be a Member of the Esk’etemc;
 - (b) be resident within Esk’etemcuwulc (the Esk’etemc traditional territory) as described in Appendix A or within an 80 km radius as described in Appendix A.1;
 - (c) be at least 18 years of age as of the date of the Election;
 - (d) have been nominated by Members who are Eligible Voters, pursuant to section 8.1;
 - (e) have experience of at least one term (minimum two years) as a Councillor;
 - (f) sign an authorization form allowing Esk’etemc to make any necessary deductions to recover any outstanding debts owed to the Esk’etemc and make public disclosure of debts owed to Esk’etemc;
 - (g) sign the Oath of Office in the form of Appendix B.
 - (h) provide a copy of a current Criminal Record check to the Esk’etemc administrator. The Esk’etemc administrator will provide a copy to the Electoral Officer and report the contents to the membership.
- 4.2 To hold the position of Councillor for Esk’etemc other than Chief, a person must satisfy the requirements set out in section 4.1 to be eligible for Chief, except for the requirement of having experience of at least one term as Councillor.
- 4.3 Notwithstanding section 4.2, a maximum of two Councillor seats will be open to members living outside the Esk’etemc traditional territory.
- 4.4 Unless otherwise brought to his or her attention, the Electoral Officer shall assume that an individual who has signed a Chief/Councillor Qualification Certification meets all the qualifications of being a candidate in accordance with this code.
- 4.5 The Electoral Officer shall disqualify a candidate if it is found that he or she was not eligible to be a candidate in accordance with this code.

5.0 ELIGIBLE VOTER

- 5.1 To be eligible to vote in an Election, a person must be:
- (a) a member of the Esk’etemc; and
 - (b) at least 18 years old as of the date of the Election.

6.0 ELECTORAL OFFICERS

- 6.1 The Council shall, at least ninety (90) Clear Days prior to the end of the term of office of Members of Council, appoint a Qualified Individual as the Electoral Officer. If Council fails to make the appointment, the Administrator shall appoint the Electoral Officer.
- 6.2 The Electoral Officer may appoint one or more Deputy Electoral Officers who may be authorized to carry out some or all of the duties of the Electoral Officer, as prescribed by the Electoral Officer.

6.3 The Electoral Officer appointed under section 6.1 shall submit written acceptance of the appointment to the Council and swear an Oath of Office for Electoral Officers in the form attached as Appendix C.

6.4 The Electoral Officer shall ensure all aspects of the Election are conducted in accordance with the provisions and requirements of this Code and generally accepted election practices.

7.0 COUNCIL VACANCIES

7.1 A Council position becomes vacant when the person who holds that office:

- (a) resigns;
- (b) is convicted of an indictable offence as defined within the Criminal Code of Canada;
- (c) becomes incapacitated to the point where he or she cannot perform the required duties and such incapacity is confirmed by a declaration signed by a medical doctor;
- (d) fails to swear the oath required by section 4.1 (g); or
- (e) dies

7.2 A Council position also becomes vacant when the Appeal Board, pursuant to section 27, upholds an appeal and sets aside the election for that position.

7.3 The Chief or any Councillor may be removed from office if at least two thirds of Councillors vote in favor of a resolution declaring that the person be removed from office on grounds that the person:

- (a) has committed illegal or improper appropriation of Esk'etemic funds as determined by a court of competent jurisdiction;
- (b) has been found guilty of Corrupt Election Practices as determined by a court of competent jurisdiction; or
- (c) missed more than three (3) Council meetings within a 12-month period, without Council approval, as recorded in Council meeting minutes.

7.4 Prior to Council voting on a resolution as described in section 7.3, the member of Council who is the subject of the resolution will be given a copy of the proposed resolution and will be given at least 14 days in which to respond to Council, either in writing or in person.

7.5 In the event of vacancies on Council resulting in the Council no longer being able to maintain a quorum, a by-election shall be held within forty five (45) Clear Days of the date of the vacancies occurring. If a quorum can still be maintained, then Council

may call a by-election. The by-election shall be conducted using the rules set out in this Election Code.

8.0 NOMINATION OF CANDIDATES FOR CHIEF AND/OR COUNCILLOR

- 8.1 Members of the Esk'etemc who are or will be eighteen (18) years of age or older as of the date of the Election may nominate a candidate for Chief or Councillor:
- (a) by delivering or by mailing a Nomination Form in the form of Appendix D.1 to the Electoral Officer before the close of the Nomination Meeting; or
 - (b) orally, at the Nomination Meeting.

9.0 VOTERS LIST

- 9.1 The Electoral Officer shall prepare the Voters List consisting of all Eligible Voters based on information obtained from Indian and Northern Affairs Canada at least 75 Clear Days prior to an Election. The list shall be in alphabetical order and contain the name, Band number, date of birth, and (if available) address of the Eligible Voters of the Esk'etemc. Any Voters List posted in a public place or provided to anyone other than the Electoral Officer or the Administrator or their staff shall consist of names only.

10.0 NOTICE OF NOMINATION MEETING

- 10.1 The Electoral Officer will arrange for a Nomination Meeting to be held at least forty (40) Clear Days prior to an Election and will post Notices of the Nomination Meeting thirty (30) Clear Days prior to the meeting. The Notice of Nomination Meeting shall be prepared in accordance with Appendix E.1. The Electoral Officer must post notices in conspicuous places on the Reserve chosen by the Electoral Officer and send a copy of the notice to all off reserve members via regular mail. The posted and mail-out notices must contain:
- (a) the date, time, place and duration of the Nomination Meeting;
 - (b) a statement that a copy of the Voters List may be obtained from the Electoral Officer or the Administrator;
 - (c) the eligibility requirements for candidates in accordance with section 4;
 - (d) a copy of the Responsibilities of Chief and Councillors;
 - (e) a statement that a copy of this Election Code may be obtained from the Electoral Officer or the Administrator;
 - (f) a statement that any elector may nominate a candidate by a mail-in nomination and that forms for this purpose may be obtained from the Electoral Officer or from the Band Office.
 - (g) the date, time and place of the Election poll.
- 10.2 The Notice of Nomination Meeting sent by mail to off-reserve members must be accompanied by a Nomination Form in the form of Appendix D.1, instructions in the form of Appendix D.2 and a Mail-in Declaration in the form of Appendix D.3.

11.0 NOMINATION MEETING

11.1 After declaring the Nomination Meeting open, the Electoral Officer will accept nominations for at least one and a half (1 ½) hours.

During the Nomination Meeting, the Electoral Officer shall:

- (a) verify the Voters List;
- (b) announce the members of the Appeal Board;
- (c) announce any other relevant administrative issues;
- (d) prior to declaring the nominations open, announce the nominations submitted prior to the meeting;
- (e) declare nominations open.

11.2 Candidates may only be nominated in accordance with section 8.1.

11.3 An individual nominated as a candidate shall remit to the Electoral Officer, no later than the close of the nomination meeting, a duly completed Nomination Form in the form of Appendix D.1, which shall include the signatures of five (5) Eligible Voters supporting the nomination and the signature of the nominee indicating acceptance of the nomination. At the close of the nomination meeting, the Electoral Officer shall reject all nominations whereby the nominee has not submitted the completed Nomination Form.

11.4 Candidates who have accepted their nomination may withdraw their nomination so as to have their name not appear on the ballot by submitting a formal Notice of Withdrawal of Nomination in the form of Appendix G no later than thirty-seven (37) Clear Days prior to the election date. Candidates may also withdraw their nomination up to the close of polls and, in such cases, their names will appear on the ballot, but votes cast in their favor shall not be counted.

11.5 The Electoral Officer shall complete the Electoral Officer's Nomination Meeting Report in the form of Appendix H.

12.0 ALL-CANDIDATES MEETING

12.1 Provision shall be made by the Administrator for an all-candidates meeting, to be held at least 14 Clear Days prior to the date of the Election. Attendance of candidates at the all-candidates meeting is not compulsory. The meeting shall be chaired by a third party facilitator, who may or may not be the Electoral Officer.

13.0 ELECTION BY ACCLAMATION

13.1 After the Nomination Meeting is closed, if the number of persons nominated for the position of Chief and other Councillors is less than or equal to the number of seats for Chief and other Councillors, the Electoral Officer shall declare those persons elected. In the event that vacancies remain on Council after the Nomination Meeting, the Electoral Officer shall arrange another Nomination Meeting to fill the vacant position.

14.0 NOTICE OF ELECTION AND PREPARATION OF BALLOTS

14.1 The Electoral Officer shall declare that an Election shall be held if the number of nominations exceeds the number of seats available for Chief and/or other Councillors.

14.2 The Electoral Officer will announce the date, time and place of the poll by posting a Notice of Poll in the form of Appendix K in public places on the Reserve chosen by the Electoral Officer. Such Notice of Poll shall be posted at least thirty-nine (39) Clear Days prior to the Election.

14.3 The Electoral Officer shall post the Voters List and a copy of this Election Code at two (2) conspicuous sites on reserve no less than fifteen (15) Clear Days before the proposed polling day.

14.4 The Electoral Officer shall prepare ballots using the sample provided in Appendix J. There will be separate ballots for the position of Chief and the positions of Councillor. Candidates names are to be listed in alphabetical order. The ballot for Councillor will contain a notation next to the name of each candidate who does not reside within the traditional territory.

14.5 The Electoral Officer shall mail a package to all those Eligible Voters living off reserve for whom addresses are available no later than thirty-five (35) Clear Days prior to the date of the Election. Such package shall include:

- (a) a Notice of Poll in the form of Appendix K;
- (b) a Voter Declaration Accompanying the Mail-In Ballot in the form of Appendix L;
- (c) ballots in the form of Appendix J;
- (d) Instructions For Mail-In Voting in the form of Appendix M;
- (e) an outer postage-paid pre-addressed return envelope; and
- (f) a second inner envelope marked with the words "ballots only".

15.0 PREPARING THE POLL STATION

- 15.1 All polls will be conducted by secret ballot and the polling station will be arranged to ensure voter privacy.
- 15.2 Each candidate is entitled to two (2) scrutineers to be present at any one time at the poll to observe the voting procedures. Each candidate may appoint scrutineers by providing the Electoral Officer with a Notice Appointing Scrutineers in the form of Appendix N. Scrutineers may be appointed at any time up to the close of polls on Election Day.
- 15.3 The poll will take place no sooner than forty (40) Clear Days after the Nomination Meeting.
- 15.4 The Electoral Officer must provide ballot boxes. The ballot boxes must be capable of being sealed to eliminate tampering.
- 15.5 The Electoral Officer shall place polling booths in areas which are easily accessible and where the Eligible Voters can mark their ballots in secrecy without interference. Pencils or pens and instructions for marking the ballots must be provided in each voting booth.

16.0 OPENING THE POLL

- 16.1 Prior to the opening of the poll, the Electoral Officer shall ensure that the ballot boxes are examined by witnesses who are not candidates or scrutineers, to ensure that the boxes are empty.
- 16.2 The boxes will then be sealed for the duration of the poll. The witness shall view the sealing of the ballot boxes and sign a document in the form of Appendix O confirming that.
- 16.3 The polling station will be set up on the Reserve at a location to be determined by the Electoral Officer as well as any other location(s) that may be deemed necessary by the Electoral Officer.
- 16.4 The polling station will be open from 9:00 a.m. to 8:00 p.m.

17.0 PROCEDURES FOR VOTING IN PERSON

- 17.1 The Electoral Officer shall carry out the following procedures when an individual presents him or herself to vote:

- (a) The Electoral Officer will verify that the individual is eligible to vote by verifying that his or her name appears on the Voters List.
- (b) The Electoral Officer may request photo or other identification if he deems it necessary.
- (c) Upon verification, the Electoral Officer shall issue a ballot with his initials on the back to the Eligible Voter. Upon issuance of the ballot to the Eligible Voter, the Electoral Officer will give Voting Instructions for marking the ballot in the form of Appendix F.
- (d) The Electoral Officer shall then strike the name of the Eligible Voter from the Voters List.

17.2 After receiving a ballot, the elector shall:

- (a) immediately proceed to the compartment provided for marking ballots;
- (b) mark the ballot by placing an "X" or a check mark that clearly indicates the elector's choice but does not identify the elector, opposite the name of the candidate or candidates for whom he or she desires to vote;
- (c) fold the ballot in a manner that conceals the names of the candidates and any marks, but exposes the initials on the back; and
- (d) deliver the ballot to the Electoral Officer or Deputy Electoral Officer.

17.3 Persons whose names do not appear on the Voters List will not be entitled to vote unless they can satisfy the Electoral Officer that their name has erroneously been omitted from the Voters List by providing confirmation in writing from the Membership Administrator and they sign a Declaration of Elector's Right to Vote in the form of Appendix Q.

17.4 An Eligible Voter may exchange his or her ballot which has been spoiled due to an error. The Electoral Officer shall keep the spoiled ballot and shall issue a new ballot. The Electoral Officer must write the word "Cancelled" on the spoiled ballot and store it separately.

17.5 When an Eligible Voter who received a ballot refuses to vote, or leaves the polling place without returning his or her ballot, he or she will be deemed to have forfeited his or her right to vote. When this occurs, the Electoral Officer must mark the word "Declined" on the Voters List beside that person's name. If the ballot is returned, the Electoral Officer must mark it "Declined" and deposit it in the ballot box.

18.0 PROCEDURES FOR VOTING BY MAIL

18.1 In the event that the Eligible Voter loses his or her mail-in ballot, he or she may, at the polling station, complete an Elector's Lost Ballot Declaration in the form of Appendix R, which will allow the Electoral Officer to issue a replacement ballot.

- 18.2 The Electoral Officer, upon receipt of mail-in ballot packages, shall deposit them in a locked and sealed ballot box until the day of the Election.
- 18.3 Any Eligible Elector who may be unable to vote on Election Day may obtain a mail-in ballot package under section 20.1
- 18.4 All mail-in ballots must be received by the Electoral Officer before the close of polls on the day of the Election in order to be placed in a ballot box.

19.0 VOTING INTEGRITY

- 19.1 No person shall interfere or attempt to interfere with an Eligible Voter marking his or her ballot.
- 19.2 No person shall be permitted to obtain or attempt to obtain, in the polling place, any information as to how a person voted.
- 19.3 The Electoral Officer shall keep the polling station clear of people loitering. Only those people appointed as Scrutineers may be present to observe the Election procedure. The Scrutineers are subject to all restrictions set out in this section.
- 19.4 No candidate is permitted to campaign or advertise on the day of the Election and the Electoral Officer may cause to be removed any poster or other advertising material on the Reserve that favors one or more particular Candidates.

20.0 SPECIAL VOTING PROVISIONS

- 20.1 Eligible Voters with disabilities or who are not able to be in attendance on the day of the Election may request a ballot package prior to Election Day. The ballot package may be obtained from the Electoral Officer or Deputy Electoral Officer.
- 20.2 The Electoral Officer or a Deputy Electoral Officer may assist an Eligible Voter who is unable to mark his or her ballot as a result of a disability.
- 20.3 An Elector requiring translation may request the assistance of a translator provided by the Electoral Officer, or may be assisted by another person of the Elector's choosing.
- 20.4 The Electoral Officer must indicate on the Voters List if an Eligible Voter was assisted and the reasons for doing so.

21.0 CLOSING THE POLLS

- 21.1 At precisely 8:00 p.m., the poll shall be closed. Any Eligible Voter who is inside the polling station at closing time and who has not voted, may do so.

22.0 COUNTING BALLOTS

- 22.1 The counting of the ballots shall be open to all Band Members.
- 22.2 Immediately after the closing of the poll, the Electoral Officer or Deputy Electoral Officer shall, in the presence of all those 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 the Voter Declaration Form or the form is not signed or witnessed;
 - (ii) the name of the voter set out in the Voter Declaration Form is not on the Voters List;
 - (iii) the Voters List shows that the voter has already voted; or
 - (b) in any other case, 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 the ballot box.
- 22.3 Once the mail-in ballots have been inserted into the ballot boxes, then the ballot boxes shall be opened and the Electoral Officer shall commence the ballot counting procedure.
- 22.4 The Electoral Officer or Deputy Electoral Officers shall open the ballot box and examine each ballot and reject those ballots that:
- (a) have not been provided by the Electoral Officer;
 - (b) have been marked with "cancelled" or "declined";
 - (c) contain votes for more than the number of positions available for election; or
 - (d) contain a mark that may identify an Eligible Voter.
- 22.5 Ballots that contain votes for less than the number of positions available for election will be accepted.
- 22.6 The Electoral Officer shall count the ballots and document the results on the Electoral Officer's Report in the form of Appendix S.
- 22.7 The Electoral Officer shall immediately declare the results of the poll and announce the elected candidates. If, after the ballot count, there is a tie for the position of Chief, the Electoral Officer shall initiate a public recount of the votes for the tied candidates for that position. If, after the ballot count, there is a tie for the position of Councillor, which makes it impossible for the Electoral Officer to declare that a sufficient number of candidates have been elected to fill the positions of Councillor, the Electoral Officer shall initiate a public recount for the tied candidates for that position. Then, if

there still remains a tie for either position, the Electoral Officer shall cast the deciding vote.

- 22.8 If a candidate who does not reside within the traditional territory receives enough votes to be elected, and his or her election to Council will not cause the number of Councillors who do not reside within the traditional territory to exceed two, the Electoral Officer shall declare this candidate elected. No candidate who does not reside within the traditional territory shall be declared elected by the Electoral Officer if his or her election will cause the number of Councillors who do not live within the traditional territory to exceed two.
- 22.9 If a candidate is running for both the Chief's and a Councillor position and receives enough votes to be elected for both, the Electoral Officer shall declare him or her elected Chief only.
- 22.10 If a Councillor whose term has not expired is running for Chief and receives enough votes to be declared elected, the Electoral Officer shall declare him or her elected Chief and his or her Councillor position shall be declared vacant. That vacancy shall be filled by the candidate for Councillor with the next greatest number of votes, who shall be declared elected for the balance of the vacated term.
- 22.11 The Electoral Officer shall prepare two (2) copies of the Official Statement of Results of Election in the form of Appendix T and the Electoral Officer's Report in the form of Appendix S and forward one copy of each to the Department of Indian and Northern Affairs and the other to the ESK'ETEMC Band.
- 22.12 The Electoral Officer shall immediately post the Official Statement of Results of Election following the count in the same places as the Notice of Poll was posted pursuant to section 14.2 and shall mail a copy of the statement to all off-reserve Eligible Voters within four (4) Clear Days of the Election.

23.0 DISPOSAL OF ELECTION MATERIALS

- 23.1 The Electoral Officer shall retain all of the ballots and relative documents in a secure location for at least forty-five (45) Clear Days from the completion of the Election. After this time period, if no formal appeal has been filed, the Electoral Officer shall dispose of the ballots in the presence of a witnesses who shall certify that he witnessed the destruction of the ballots by signing a Certificate of Destruction of Ballots in the form of Appendix U. In the event of a formal appeal, all ballots and election documents shall be retained for forty-five (45) Clear Days after the adjudication of the Appeal Board and then disposed of and witnessed as described above.

24.0 TERM OF OFFICE

- 24.1 The term of office for all Council members shall be four (4) years, with Elections carried out every two (2) years.
- 24.2 At least 90 days before the end of the Council's term of office, the Council shall establish the day of the election, which shall not be earlier than 10 days before, nor later than 10 days after the expiration of the current term of office for which the election is intended to replace.
- 24.3 Elected candidates must take an oath at the swearing in ceremony in the form of the Oath for Chief and Councillors in the form of Appendix B. Swearing in of Councillors shall take place not later than seven (7) days after the Election. No elected candidate may serve as a Council member until he has sworn the Oath.

25.0 FIRST ELECTION UNDER THIS CODE

- 25.1 The Chief elected pursuant to the provisions of this Code shall be elected for a four (4) year term.
- 25.2 The three (3) Councillors elected with the greatest number of votes in the first Election held pursuant to this Code shall hold office for a term of four (4) years. The remaining four (4) Councillors so elected shall hold office for a term of two (2) years.
- 25.3 At the expiration of the two (2) year term and at all subsequent General Elections, all terms shall be four (4) years.

26.0 APPEAL BOARD

- 26.1 For the purpose of resolving election appeals, the Council shall send a notice to Members, at least ninety (90) Clear Days prior to the day of the Election, which recommends not less than three (3) persons to be appointed to the Appeal Board for a one (1) year term commencing on the day of the Election. These appointments must then be made by a resolution approved by a majority of the Members who have reached the age of 18 years and who are present at a meeting held for this purpose.
- 26.2 The members of the Appeal Board appointed pursuant to Clause 26.1 shall submit written acceptance of their appointment to the Council and swear the Oath of Office in the form of Appendix P.

27.0 APPEAL PROCEDURE

- 27.1 Within thirty (30) Clear Days after the day of the Election, any Eligible Voter may appeal the results of the election on the grounds that:
- (a) there was Corrupt Practice in connection with the Election; or
 - (b) there was a violation of this Election Code that might have affected the outcome of the Election; or
 - (c) a person nominated to be a candidate in the Election was ineligible to be a candidate.
- 27.2 All appeals shall be in writing and forwarded by registered mail to the Appeal Board, c/o Esk'etemc, PO Box 4479, Williams Lake, BC, V2G 2V5, together with a deposit of \$100.00, in the form of cash, certified cheque, or money order. An Eligible Voter may file an appeal by hand delivering the appeal and deposit to the Appeal Board at the ESK'ETEMC administration office. Upon reception of the appeal documents, the Administrator shall issue a receipt for the appeal as proof of filing. The appeal document must contain all particulars and information supporting the appeal. It is the exclusive responsibility of the Eligible Voter filing an appeal to provide the relevant evidence. The grounds for Appeal should be stated clearly and precisely and include references to any relevant section(s) of this Election Code.
- 27.3 The Appeal Board shall, within seven (7) Clear Days of the receipt of an appeal, forward a copy, together with all supporting documents to:
- (a) the Electoral Officer,
 - (b) each candidate in the election, and
 - (c) the Council.
- 27.4 The Electoral Officer or candidates may, within fourteen (14) Clear Days of receipt of the appeal, forward to the Appeal Board a written response, together with any supporting documents.
- 27.5 The Appeal Board shall take such steps as it feels are necessary to secure all pertinent facts relating to the Appeal, including obtaining affidavits setting out relevant facts.
- 27.6 Within sixty (60) Clear Days of receipt of an appeal the Appeal Board shall render a decision on the validity of the appeal and the action to be taken as a result which may include:
- (a) calling a further Election for all or some of the positions;
 - (b) a decision that no action be taken; and / or
 - (c) or recommendations for amendment(s) to this Election Code to apply to future Elections.
- The Appeal Board shall report the decision and recommendations to the appellant, the Electoral Officer, all candidates and the Council. The decision of the Appeal Board is final.

- 27.7 If the decision of the Appeal Board requires that another election be held, such election shall respect the provisions of this code.
- 27.8 If the appeal is upheld, the deposit of \$100 will be immediately refunded to the appellant. If the appeal is denied, the deposit is forfeited and is to be used to off-set the costs of the election.
- 28.0 AMENDMENTS TO ELECTION CODE**
- 28.1 Any amendment(s) to this Election Code shall be made pursuant to this section.
- 28.2 All proposals for amendment to this Election Code must first be approved by a resolution of the Council.
- 28.3 An amendment relating to sections 2, 3, 6, 11, 12, 15, 16, 17, 18, 20, 21, 22, 29 of this Code will come into force on the date set out in the resolution of Council. The resolution must have the unanimous support of Council to be adopted.
- 28.4 For Amendments to any sections not listed in Clause 28.3, and for Amendments to sections listed in Clause 28.3 which fail to receive the unanimous support of Council, Council shall mail notice of the proposed amendment(s) to all Eligible Voters setting out the proposed changes and advising the Members of their right to file a written objection to the amendment(s). Any written objections must be received by Council no later than thirty (30) days from the date Council mailed the notice.
- 28.5 If no written objections are received from Eligible Voters under Clause 28.4, Council may, by resolution, adopt the proposed amendment(s).
- 28.6 If there is any written objection from an Eligible Voter under Clause 28.4, Council shall arrange for a referendum to poll all Eligible Voters before proceeding with the proposed amendments. The decision of the referendum will be binding on Council.
- 28.7 Any amendments approved more than three (3) months prior to an Election shall be effective for the next Election. Any amendments approved less than three (3) months prior to an Election shall not come into force until the conclusion of that Election process.

29.0 LIABILITY

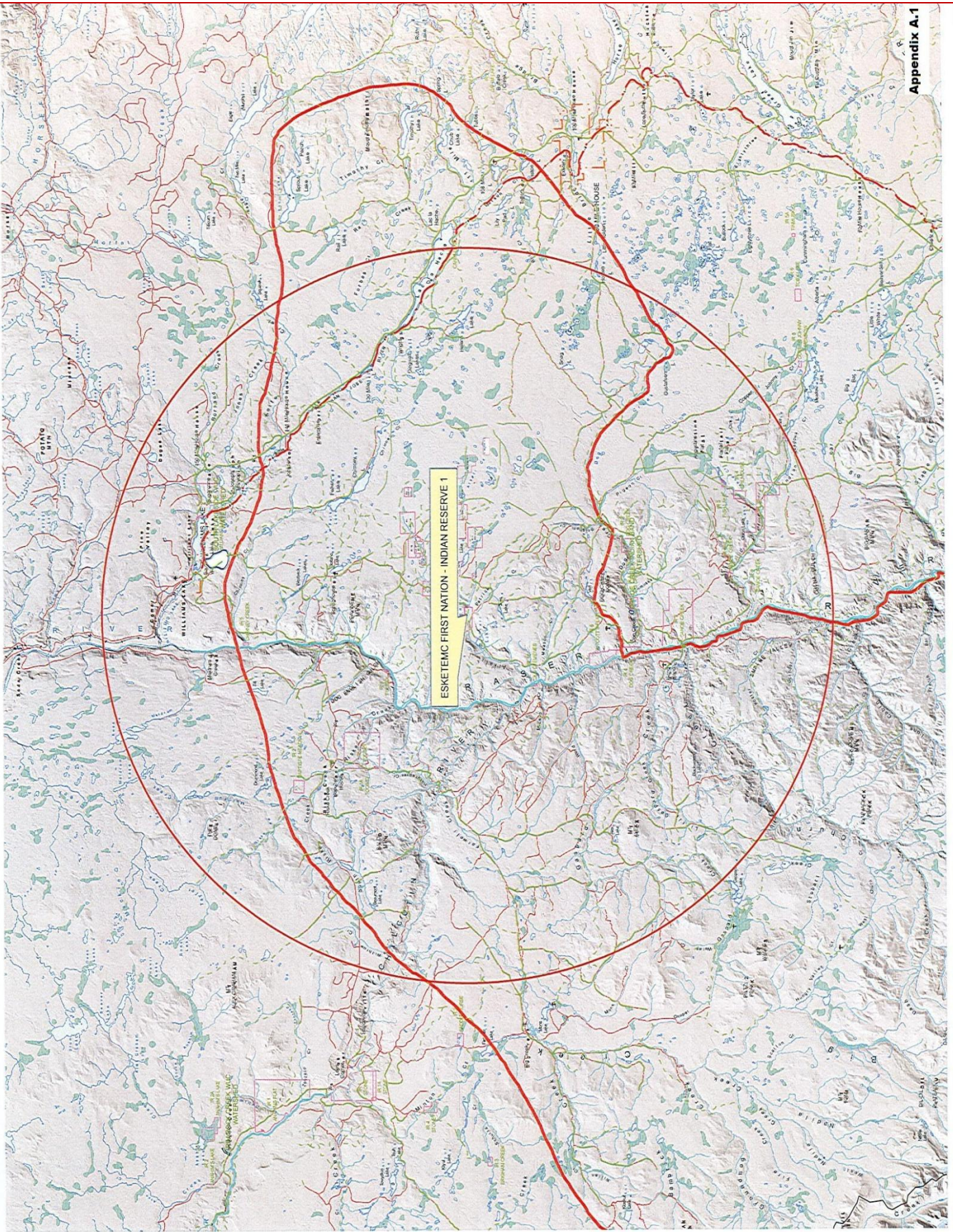
29.1 The ESK'ETEMC, its Members and its employees and officers (including the Administrator, the Electoral Officer and Deputy Electoral Officers) shall not be liable for any claims, losses or damages resulting from the inadvertent deletion or addition of an individual's name to the Voters List or any inadvertent breach of this Election Code.

30.0 SEVERABILITY

30.1 If any part of this Election Code is declared to be invalid or unenforceable by any court, such invalidity or unenforceability shall not affect the validity or enforceability of any other part of this Election Code.

31.0 COMING INTO FORCE

31.1 This Election Code shall come into force on the date that the Minister of Indian Affairs and Northern Development makes an order declaring that section 74(1) of the Indian Act does not apply to ESK'ETEMC.





OATH OF OFFICE

I, _____, hereby declare that I have been elected as a Councillor of the Esk'etemc Band Council and do declare that:

1. I am an ESK'ETEMC member with Secwepemc Blood Ancestry;
2. I will uphold the Aboriginal rights of ESK'ETEMC including ESK'ETEMC inherent right to self-government;
3. I will faithfully perform the duties of my office with dignity and respect for others and strive to earn the respect of others;
4. I will not allow my business or personal affairs to influence my decision-making and I will always consider the best interests of the community when making decisions;
5. I will develop policies, procedures, laws and bylaws, as required, to adequately govern the ESK'ETEMC community, and to become familiar with the existing polices, procedures, laws, bylaws and other powers of Council, and to use those for the betterment of the ESK'ETEMC community;
6. I will not bring the Esketemc community into contempt or disrepute by my conduct or behavior;
7. I will strive not to miss three or more consecutive Band Council meetings without cause;
8. I will promote unity amongst our Band and other Bands. As an elected Band Council member I will fully support unity throughout our Secwepemc Nation; and
9. I will strive to achieve a level one literacy in the Secwepemc language, to the best of my ability, and ideally strive to become fluent.

Sworn at the community of)
 Esketemc First Nation BC)
 on (date))
)
)
)
)

An Esk'etemc Elder)

_____, Councillor
 (Print name)

Esk'etemc



Electoral Officer Oath of Office

I, _____, accept the office of Electoral Officer for the Esk'etemc election scheduled for _____.

In the capacity of Electoral Officer, I will:

- do my utmost to serve the members of the Esk'etemc with impartiality, integrity and honesty;
- respect and maintain the confidentiality of members and their personal information obtained through this Office; and
- adhere to and uphold the provisions of the Esk'etemc Election Code.

I solemnly swear that I will carry out my responsibilities honestly, conscientiously and to the best of my abilities.

Electoral Officer

Witness

Date: _____

Esk'etemc



Nomination Form and Qualification Certification

The nomination requires the names and signatures of 5 eligible nominators (must be members of the Esk'etemc, at least 18 years of age as of the date of the election) and the signature of the nominee (the person being nominated). All the names and signatures do not have to be on the same form, but the form signed by the nominee must include the names of all the 5 nominators.

Nominees:

We hereby nominate _____ for the position of Chief / Councillor (circle one) in the upcoming election for the Esk'etemc Council.

We declare that we are members of the Esk'etemc and are at least 18 years of age (or will be by Election Day).

1. _____
Print name
_____ signature
_____ Band Number or Date of Birth
_____ phone # (in case we have to call)
2. _____
Print name
_____ signature
_____ Band Number or Date of Birth
_____ phone # (in case we have to call)
3. _____
Print name
_____ signature
_____ Band Number or Date of Birth
_____ phone # (in case we have to call)
4. _____
Print name
_____ signature
_____ Band Number or Date of Birth
_____ phone # (in case we have to call)
5. _____
Print name
_____ signature
_____ Band Number or Date of Birth
_____ phone # (in case we have to call)

Esk'etemc
Band Council Election

(Date)



Dear Elector,

You are listed as a member of the Esk'etemc, living off-reserve.

With this note there is a notice of the nomination meeting _____(date)_____ for the election for Council on _____(date) _____.

You are eligible to nominate a candidate for Chief and for Councillor. You can nominate someone by filling out the attached “Mail-in Nomination Form”.

Nominations require 5 nominators, and the person being nominated has to accept the nomination, so your nomination is part of that process.

Don't forget to sign it and get someone else (any other adult) to witness it and sign it as well.

After the nomination meeting, I will send you a notice of the election and ballots so you can vote by mail if you like.

If you have any questions, please give me a call.

Electoral Officer
(add contact numbers – phone, e-mail and address)

Notice of Nomination Meeting



The Nomination Meeting for the up-coming election of Council of the Esk’etemc will be held at the _____ on _____ (date) _____, from __pm to __ pm (1½ hrs) to nominate candidates for the positions of Chief and “X” Councillors.

The election will be held at the _____ on _____, from 9:00am to 8:00pm.

* **Any Band member 18 years old or older** may nominate candidates by filling out the **Nomination Form**.

* **A complete nomination requires 5 nominators and the acceptance of the nominee**, but the nominations and acceptance can be submitted on separate forms.

* You can either deliver or mail-in nomination forms to the electoral officer **before** the nomination meeting **or** you may nominate candidates and complete the forms at the nomination meeting.

* Any voter may vote by mail-in ballot.

* A copies of the Election Code and Voters’ List are available at the Band Office

Note: All candidates must:

- a) be members of the Esk’etemc and at least 18 years old;
- b) declare any debts owed to the Band and allow the Band to recover those debts;
- c) provide a copy of a current Criminal Record Check; and
- d) have experience of at least one term (minimum two years) as a Councillor.

Candidates for Chief must also live within Esk’etemcuwulc (Esk’etemc traditional territory).

Up to two (2) Councillors may reside outside Esk’etemcuwulc (Esk’etemc traditional Territory).

If you have any questions, please call me:

Name, address and phone number of Electoral Officer



NOMINATION MEETING

The Nomination Meeting for Chief and 7
Councillors

will be held

Date?

7- 8:30 pm

at the

School Gym

How to Vote



1. **On the Ballot for Chief**, put an “X” in the box beside the name of the person you are voting for.

Just vote for 1 person.

2. **On the Ballot for Councillors**, you can vote for up to ____ people.

You can vote for fewer people if you want, but not more than ____

Some of the candidates may have the word “ OFF ” beside their name. These candidates live outside the Esketemc traditional territory. There cannot be more than 2 Councillors who live outside the traditional territory on Council at the same time.

Put an “X” in the box beside the name of the person(s) you are voting for.

3. **If you make a mistake, give your ballot back to the Electoral Officer and get another one.**

4. If you are voting in person, fold the ballot and put it in the ballot box.

5. **If you are voting by mail**, put the ballot in the envelope marked “**BALLOTS ONLY**” and mail it back to the Electoral Officer **with your signed and witnessed declaration** in the stamped and addressed envelope.

Esk'etemc



Candidate's Withdrawal Form

I, _____, have been nominated for the
position of _____ for the upcoming Esk'etemc Election.

I withdraw my name as a candidate for this position.

signature

SWORN BEFORE ME at _____ }

_____ B.C. }

_____ day of _____ 2 _____ }

Electoral Officer or Deputy E.O. or
Commissioner for Taking Affidavits,
or the Electoral Officer or a Notary This
Public, or a Justice of the Peace

Esk'etemc Electoral Officer's Nomination Meeting Report



The Nomination Meeting was held to receive nominations for the Council election for the positions of:

(The band council is composed of one (1) chief and seven (7) councillors

1. a) The notice of nomination meeting was posted on _____ (date) at the following locations:

b) It was mailed to _____ (number) of off-reserve members during the period from _____ (date mail-outs started) to _____ (date last mail-out was sent).

2. The nomination meeting was held on _____ (date) at _____ (location) from _____ (time meeting started) to _____ (time meeting ended).

3. **Nominations (list Chief and Councillor nominations separately)**

- | | |
|----------|---------|
| 1. _____ | a _____ |
| _____ | b _____ |
| | c _____ |
| | d _____ |
| | e _____ |
| 2. _____ | a _____ |
| _____ | b _____ |
| | c _____ |
| | d _____ |
| | e _____ |

Appendix H

3. _____ a _____
_____ b _____
_____ c _____
_____ d _____
_____ e _____
4. _____ a _____
_____ b _____
_____ c _____
_____ d _____
_____ e _____
5. _____ a _____
_____ b _____
_____ c _____
_____ d _____
_____ e _____



I declare that a poll will be held for the positions of:

_____ (list the positions to be elected (eg. Chief and 3 Councillors))

on _____ (date) _____ at _____ location _____.

As Electoral Officer, I declare that all information contained in this report of the nomination meeting is true to the best of my knowledge. I have carefully and diligently performed all the duties required of me by the Esk'etemc Election Code.

Electoral Officer



SAMPLE

BAND

ELECTION

The Election for Chief
and
7 Councillors

will be held

Monday Nov. __th
from 9 am to 8 pm

at the

School Gym

Anyone not able to vote on election day can pick up a ballot package at the Band Office.

Questions? Call me (*name and contact #'s of Electoral Officer*)



SAMPLE

(Chief and Councillor ballots may be separate)

Esk’etemc Election 20__

BALLOT for CHIEF *Vote for ONE ONLY*

<i>List alphabetically</i>	

BALLOT for COUNCILLORS

Vote for NO MORE THAN 3

*(Note: “OFF” means that candidate lives outside the
Esk’etemc Traditional Territory)*

Grant, Mary		Nealy, Fred OFF	
James, Sue		Smith, Bill	
Jones, Bob OFF		Smith, Cathy	
Jones, Dave		Wright, Tom Jr.	



SAMPLE

Polling Notice

There will be an ELECTION for the Esk'etemo
to elect
a Chief and 3 Councillors

Wednesday **November XXth** 2____, 9:00 a.m. to 8:00 p.m.
at the School Gym, Alkali Lake

Any Band member who is at least 18 years old may vote.

Ballots will be mailed to all off-reserve members we have addresses for. Anyone living on reserve who may not be able to vote on election day can pickup a mail-in ballot package at the Band Office.

The votes will be counted at the School Gym, at 8 pm, right after the poll closes

The results will be declared immediately following the count and the results will be mailed to all off-reserve members we have addresses for.

_____, Electoral Officer

If you have any questions, please call me: (250) _____

or you may contact _____ at the Band Office (440-5611)

Instructions For Mail-In Voting

Dear Elector:

An election for Chief and **7** Councillors of the **Esk'etemc** is currently underway.

As a member of the Esk'etemc who is at least 18 years old, you are entitled to vote. To assist you in casting a vote, please find enclosed a mail-in voting package consisting of:

- a ballot for the position of chief and councillors
- an outer, postage-paid pre-addressed return envelope
- a second inner envelope marked with the words "Ballots Only"
- a *Voter Declaration Accompanying the Mail-in Ballot*

Carefully follow the steps below to ensure that your ballot is valid and will not be rejected.

1. **For chief:**

Mark an "**X**" in the box immediately to the right of the name of the candidate of your choice. You must choose only one candidate.

2. **For councillor:**

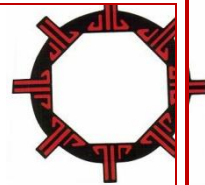
Mark an "**X**" in the box immediately to the right of the names of the candidates of your choice. You may vote for up to **7** councillors. (You may vote for fewer than 7, but not more than 7).

3. Place the ballots back into the envelope marked "Ballots Only", and seal the envelope.

4. Complete the *Voter Declaration Accompanying the Mail-in Ballot* form. **Both you and a witness, who is at least 18 years of age, must sign it.**

5. Put the signed *Voter Declaration Accompanying the Mail-in Ballot* and the "Ballot Only" envelope in the larger envelope with my address and the stamp on it.

6. Mail the return envelope as soon as possible. I have to receive it by 8 p.m. on election day. Note that ballots received after the close of the poll on ___(date) ___ will not be counted. You may also hand deliver it to me (the Electoral Officer.) or to ___(name)_____ (Deputy Electoral Officer) at the Band Justice Office



If you are mailing the ballots, they must be received by 5pm on _____(date, day before the election)_____.

In order for your ballot to be counted, it must be accompanied by a completed voter declaration form, signed by you and a witness.

Although you have received this mail-in voting package, you may choose to vote on election day in person at the **School Gym**. If you do that, your mail-in ballot will not be counted.

If you have any questions, please call me at ___(phone #)_____

Print name - Electoral Officer

Address: _____

e-mail: _____



Appointment of Scrutineers

I, _____, being a candidate in the up-coming Esk'etemc election, appoint the following person(s) to act as my scrutineers during the election (as laid out in section 15.2 of the Esk'etemc First Nation Election Code).

1. _____

2. _____

3. _____

4. _____

We understand that:

- no more than 2 of these scrutineers may be present at the polling station at any one time, and
- scrutineers may only observe the proceedings – they may not talk to voters in the polling station or interfere in any way with the election process or election officials.

signature of candidate

date



Witness Declaration at the Opening of the Poll

For the **Esk'etemc Election**

I _____ hereby declare that on the
day

(Print Name)

of _____, 20 ____ , at _____ a.m.,

I witnessed that the ballot boxes were empty before they were properly sealed and locked. I am confident that the boxes cannot be opened without the seals being broken.

Signature of Witness

Signature of Electoral Officer or
Deputy Electoral Officer



Esk'etemc

Appeal Board Oath of Office

I, _____, accept the position of Appeal Board member for the Esk'etemc election scheduled for _____.

In the capacity of Appeal Board member, I will:

- do my utmost to serve the members of the Esk'etemc with impartiality, integrity and honesty, without favouritism or bias for or against any candidate;
- respect and maintain the confidentiality of members and their personal information obtained through this position; and
- adhere to and uphold the provisions of the Esk'etemc Election Code.

I solemnly swear that I will carry out my responsibilities honestly, conscientiously and to the best of my abilities.

Electoral Officer

Witness

Date: _____

Esk'etemc

Electoral Officer's Report



Date of Election: _____

Purpose of Election: to elect _____

The Nomination Meeting was held on _____

Total number of mail-in ballot packages sent to off-reserve electors: _____

Total number of mail-in ballot packages sent/given to electors on the reserve: _____

The poll was held on _____ at _____

Mail-in Ballots

		For Chief	For Councillor
A)	Total number of mail-in ballot packages sent (includes second or third packages sent to the same elector)		
B)	Total number of mail-in packages returned as undeliverable		
C)	Total number of mail-in ballots returned by the elector who voted in person at the polling station		
D)	Total number of mail-in ballots rejected before being placed in the ballot box (during the opening of the envelopes)		
E)	Total number of mail-in ballots deposited in the ballot box		

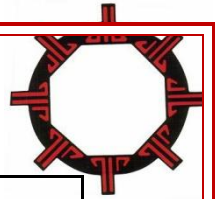


16. Ballot Reconciliation

		For Chief	For Councillor
A)	Number of valid ballots cast		
B)	Number of ballots cast and rejected		
C)	Number of ballots spoiled (never placed in the ballot box)		
D)	Number of unused ballots		
E)	Total number of ballots		
F)	Total number of ballots printed <i>(Should equal totals at 1 above)</i>	350	350

Name of Candidate for Chief	Mailing Address	Total Votes Received

Number of rejected ballots for chief: _____



Candidate for Councillor	Mailing Address	Total Votes

Number of rejected ballots for councillor: _____

The following candidates have been publicly declared elected:

(a) **To the Office of Chief:** Name:

(b) **To the Office of Councillor:**

Name:

Name:

Name:

Name:

Name:

Name:

Name:

The term of office commenced on _____



Electoral Officer Declaration

I, _____ , appointed to the position of Electoral Officer for the **Esket'etmc**, declare that the polling place was kept open between the hours of 9:00 a.m. and 8:00 p.m. (local time), and that I have correctly counted the votes cast for each candidate and have performed all other duties required of me by the *Esketemc Election Code*. I further declare that a copy of the *Statement of the Votes* will be posted at each place where the *Polling Notice* was posted and will be mailed to the last known address of off-reserve electors.

Signature of Electoral Officer

date

Address of Electoral Officer:



Esk'etemc

Election Results

_____, 20__

Council Election:

For Chief:

votes received

- | | |
|----------|-------|
| 1. _____ | _____ |
| 2. _____ | _____ |
| 3. _____ | _____ |
| 4. _____ | _____ |

Spoiled ballots for Chief: _____

_____ was declared Elected Chief.

For Councillor:

- | | |
|----------|-----------|
| 1. _____ | 2. _____ |
| 3. _____ | 4. _____ |
| 5. _____ | 6. _____ |
| 7. _____ | 8. _____ |
| 9. _____ | 10. _____ |

Spoiled ballots for Councillor: _____

The following were declared Elected Councillors :

_____	_____
_____	_____
_____	_____
_____	_____

Electoral Officer

date



Esk'etemc

Certification of Destruction of Ballots

We confirm that on _____ (*date*) _____ (being at least 45 days after the election, or at least 45 days after an appeal ruling) we were present and witnessed the destruction of all the ballots of the Esk'etemc election of _____ (*date*) _____.

Print name of witness

Signature of witness

Print name of witness

Signature of witness

Print name of witness

Signature of witness