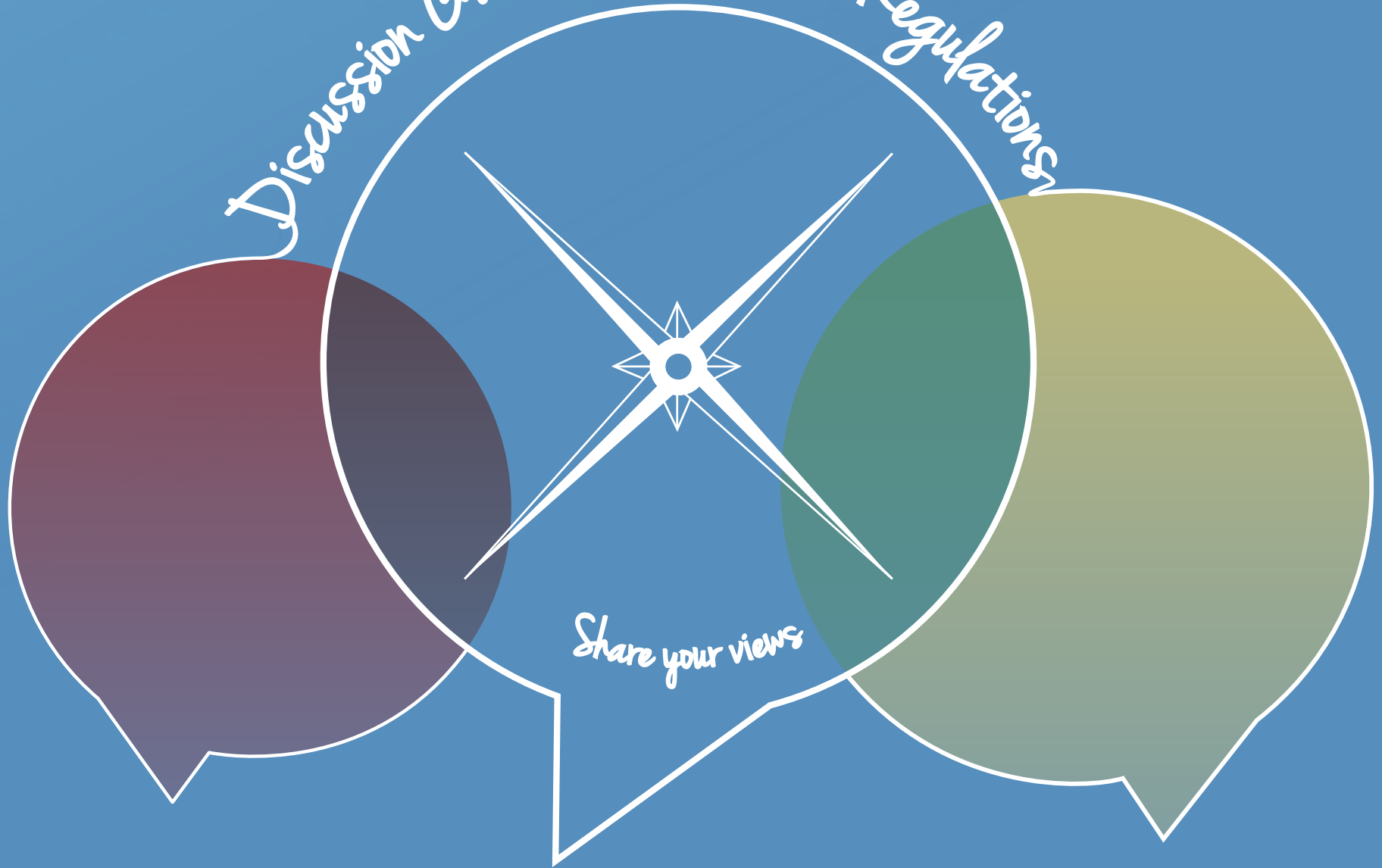


# Discussion Guide on Proposed Regulations



Share your views

***The First Nations Elections Act***



Aboriginal Affairs and  
Northern Development Canada

Affaires autochtones et  
Développement du Nord Canada

Canada 



## Background context

On April 11, 2014, the *First Nations Elections Act* received *Royal Assent* and officially became a federal law. This Act offers a modern election system that First Nations governments can consider and opt into if they so choose by band council resolution.

Most agree that the *Indian Act* election system contains weaknesses that make it paternalistic and outdated. In 2009, the Atlantic Policy Congress of First Nations Chiefs engaged with First Nations people across its region to discuss and obtain ideas on building a better election system than the one under the *Indian Act*. Based on what was heard during their engagement efforts, the Atlantic Policy Congress of First Nations Chiefs recommended to the Minister of Aboriginal Affairs and Northern Development that a modern election system that First Nations can consider as an alternative be developed. Among the many improvements offered by the *First Nations Elections Act* are four year terms of office, a better process for the nomination of candidates and no role for the Minister of Aboriginal Affairs and Northern Development in reviewing and deciding election appeals.

However, before First Nations can opt into, and hold elections under the *First Nations Elections Act*, regulations must be developed that outline the rules and procedures surrounding the more detailed components of an electoral process, such as the development of the voters list, the posting of notices, the nomination of candidates, and voting by mail-in ballot

and in person. The Atlantic Policy Congress of First Nations Chiefs has agreed to assist Aboriginal Affairs and Northern Development Canada in facilitating the development of, and in seeking feedback on, these regulations.

This document outlines proposed content for these election regulations. Much of the suggested content follows recommendations that came out of two workshops held by the Atlantic Policy Congress of First Nations Chiefs in March 2014, attended by electoral officers and First Nations representatives. Those familiar with the *Indian Band Election Regulations* will notice that some of the proposed content is similar. However, careful consideration has been given to addressing the gaps and weaknesses of the *Indian Band Election Regulations*.

It is important for the reader to understand that the *First Nations Elections Act* provides for a different election system than the one under the *Indian Act* over and above what is being suggested in this document, which is specific to the regulations.

**It is therefore recommended that the reader consult the chart at Appendix A, "Comparison Chart: *Indian Act* Election System vs. system under the *First Nations Elections Act*".**

# Proposed Election Procedures Regulations

## 1. TITLE

It is proposed that these regulations be called the *First Nations Elections Regulations*

## 2. DEFINITIONS

The regulations will include important definitions such as:

**Electoral Officer** – an individual appointed by the First Nation Band Council, or if the First Nation Band Council does not have quorum due to positions becoming vacant because of resignation, death or removal from office, the Minister of Aboriginal Affairs and Northern Development will appoint an electoral officer.

**Deputy Electoral Officer** – the person appointed by the electoral officer to assist with the election process.

**Quorum** – a majority of the whole council, but where a council consists of nine or more members, quorum shall be five. As an example, if the band council consists of a chief and five councillors (for a total of six members), quorum is four.

**Electors List** – a list of band members eligible to vote at the election

**Registrar** – the officer at the Department of Aboriginal Affairs and Northern Development Canada who is in charge of maintaining the band membership lists when the First Nation is not maintaining that list (this definition appears in the *Indian Act*).

**Minister** – the Minister of Aboriginal Affairs and Northern Development

**Department** – Aboriginal Affairs and Northern Development Canada

## 3. ELECTORS LIST

At least 65 days before the election, the electoral officer will obtain a list of band members eligible to vote at the upcoming election (this is the electors list) from either the Registrar or the First Nation's Indian Registry/Band Membership Clerk depending on whether the First Nation or the Department controls the membership list. Two lists are provided: one that includes names, dates of birth and band numbers, and another that consists of names only.

The electoral officer will post the electors list, consisting of names only, 60 days before the election in **at least** one place on the reserve (usually the band office). The electoral officer, in consultation with the First Nation government, can identify other locations where the list can be posted, including off reserve.

The electoral officer will add, correct or delete names from the electors list based on documents submitted by electors from the Registrar or the Indian Registry/Band Membership Clerk.

#### 4. OFF-RESERVE ADDRESSES

The electoral officer will obtain a list of addresses for electors who live off reserve from the First Nation's Indian Registry/Band Membership Clerk. It is the responsibility of the off-reserve electors to ensure they have provided their updated contact information to the Indian Registry/Band Membership Clerk.

The electoral officer may only give to candidates the address of electors who have indicated their consent.

#### 5. NOMINATION OF CANDIDATES

In accordance with section 9 of the *First Nations Elections Act*, nominees must be members of the First Nation and at least 18 years of age at the time of their nomination to be candidates for either the chief or a councillor position. Only band members eligible to vote can nominate and second candidates, and no elector is allowed to nominate or second more nominations than there are positions to be elected. This means that if there is one chief position and

four councillor positions, the same person cannot nominate or second more than one candidate for chief and four candidates for councillor positions.

As per subsection 9(2) of the *First Nations Elections Act*, candidates cannot run for both the chief and a councillor position at the same election. If a person is nominated for both positions, he or she can only accept to be candidate for one position.

**There are two proposed ways for candidates to be nominated:** (a) through the traditional nomination meeting which includes mail in nominations; or (b) through an entirely paper based exercise.

##### 5a) Nomination Meeting and Nominations through the Mail

The electoral officer will post a notice of nomination meeting and a polling notice at least 25 days before the nomination meeting in at least one place on reserve. The electoral officer will also send this notice, mail-in nomination forms and an application for mail-in ballot to the off-reserve electors whose addresses appear on the list that was provided by the First Nation (see section 4 of this document). The electoral officer may also send the notice and forms by e-mail if these addresses are known, and post them on the First Nation's or the Tribal Council's website or on social media such as Facebook and Twitter.

Electors may nominate candidates through the mail by sending a mail-in nomination form and a signed and witnessed voter declaration to the electoral officer who must receive these completed forms prior to the start of the nomination meeting.

Nominations may also be made orally in person at the nomination meeting, which will be held at least 35 days before the election. (This shortens the time period between the nomination meeting and the election by 7 days—under the *Indian Act*, the nomination meeting is held 42 days before the election).

All persons nominated either by mail or at the nomination meeting must submit a signed declaration accepting to be a candidate **by 6 p.m. on the third day following the nomination meeting**. If the First Nation has chosen to charge a candidacy fee, this fee must also be submitted by **6 p.m. on the third day following the nomination meeting**. See section 6 of this document for additional information concerning the fee.

If the signed declaration and the fee are not given to the electoral officer by **6 p.m. on the third day following the nomination meeting**, the person nominated will not be a candidate.

#### 5b) Entirely Paper Based Nomination

The paper based nomination process proposed below is similar to the process for the nomination of candidates at municipal, provincial and federal elections. The electoral officer will post a notice of nomination of candidates and a polling notice at least 60 days before the election in at least one place on reserve. The electoral officer will also send this notice, and an application for mail-in ballot, to the off-reserve electors whose address appears on the list that was provided by the First Nation (see section 4 of this document). The electoral officer may also send the notice and forms by

e-mail if these addresses are known, and post them on the First Nation's or the Tribal Council's website or on social media such as Facebook and Twitter.

The period for the nomination of candidates will extend from 60 days before the election until 6 p.m., local time, 35 days before the election. During this period, members wishing to be candidates must submit to the electoral officer:

- ▶ written nomination forms and witnessed declarations of identity forms from two eligible electors;
- ▶ the candidate's declaration accepting to be a candidate; and
- ▶ the candidate fee (if applicable)

No candidacies will be accepted **after 6 p.m. on the 35<sup>th</sup> day before the election**.

## 6. CANDIDATE FEE

Section 11 of the *First Nations Elections Act* provides a First Nation with the option of instituting a candidacy fee of no more than \$250. To do so, the First Nation Band Council must pass a band council resolution no later than at the time the electoral officer is appointed. The band council resolution must indicate the fee applicable to each position and need not be the same for the chief and councillor position, as long as the fee for each individual position is not higher than \$250.

Candidacy fees must be provided to the electoral officer by cash, certified cheque, money order or other electronic transfer. The electoral officer will hold the fees in a trust account until after the election. The fee will be returned to all candidates who received a number of votes that is more than five percent of the total ballots cast at the election. For those candidates who did not receive this number of votes, the electoral officer will give the money to the First Nation.

## 7. WITHDRAWAL OF CANDIDATES

A candidate who has accepted their nomination may subsequently withdraw up to the close of the polls on the day of the election. Most common reasons for a withdrawal include medical or personal. The candidate's name remains on the ballot regardless of when he or she withdraws. A candidate who withdraws forfeits the candidate fee.

## 8. ACCLAIMED CANDIDATES

If, by 6 p.m. on the third day following the nomination meeting (when a nomination meeting is held), or at 6 p.m. on the 35<sup>th</sup> day before the election (if the nomination process is entirely paper based), the number of confirmed candidates is less than or equal to the number of positions available for election, these candidates will be elected by acclamation. If the number of persons elected by acclamation is not enough for the band council to hold quorum, another nomination meeting will be held, or if the nomination process is entirely paper based, the deadline for receiving candidacies will be extended by at

least 5 days. During this extended period, nominations can only be made for the positions that are vacant following the acclamation. When this happens, the election date will be pushed back as well.

## 9. BALLOTS

As soon as possible following the close of the nomination process deadline, the electoral officer will print ballots for chief and ballots for councillor. Names of candidates will appear on the ballots in alphabetical order by surname.

## 10. POLLING NOTICE

No later than the 30<sup>th</sup> day before the election, the electoral officer will post a polling notice on the reserve and may post the notice on a website. The polling notice will contain all the election information, including the electoral officer's contact information, and remind electors that if they wish to vote by mail-in ballot, they must make a written request to the electoral officer (by email, fax or mail).

## 11. MAIL-IN BALLOT VOTING

Electors wishing to vote by mail-in ballot must send a written request for a mail-in ballot to the electoral officer by mail, e-mail or fax, along with a copy of an identification document (for example, an Indian Status Card, a drivers licence, a health card, etc.). On the 30<sup>th</sup> day before the election, the electoral officer must send a mail-in ballot package to all the electors who have made a request by this time. As soon as possible after receiving additional

written requests for mail-in ballots, and being satisfied as to the identity of the elector, the electoral officer will send a mail-in ballot package to that elector **until the 10<sup>th</sup> day before the election**. After that time, the elector can only vote in person on election day or at the advance poll, if applicable.

The mail-in ballot package consists of a self-addressed postage paid envelope (Canadian stamps only), another envelope for the ballot, a voter declaration form that must be completed and signed by both the elector and a witness to the signature of the elector. Mail-in ballots must be received by the electoral officer no later than the close of the polling stations on election day. Instead of mailing the completed mail-in ballot package, electors can give it to the electoral officer at the advance poll or at the election day polling station.

Electors who make a mistake on their mail-in ballot can receive another one if they return the spoiled mail-in ballot to the electoral officer. Electors who lose their mail-in ballot can only vote in person at the election day polling station or at the advance poll, if they present a written affirmation duly verified by affidavit. They cannot receive another mail-in ballot.

## 12. ADVANCE POLLS

A band council may choose to instruct the electoral officer to hold one or more advance polls in identified locations that can be either on or off reserve. This decision must be made no later than at the time the electoral officer is

appointed. Advance polls can only be held between the 10<sup>th</sup> and 5<sup>th</sup> day before the election. The proceedings at advance polls will be the same as proceedings on polling day, except that the ballot boxes will be sealed at the close of the poll and the electoral officer shall ensure safekeeping of the boxes. These boxes will be opened and the ballots counted at the same time as the ballots cast on election day.

## 13. ELECTION DAY

The electoral officer must hold at least one polling station on-reserve. Polling stations will be open from 9 a.m. to 8 p.m.

Each candidate may have up to two scrutineers in the polling station to observe the proceedings.

Electors whose names are on the electors list and who have not voted at the advance poll will be provided with a ballot.

The electoral officer or the deputy may mark the ballot for an elector who requires assistance in the presence of another witness chosen by the elector.

Electors who spoil their ballot by accident may receive one additional ballot only. A person who leaves the polling station with his or her ballot will not be allowed to vote.

Every elector who is inside the polling station at 8 p.m. will be allowed to vote, even if that means that voting must be extended past closing time.



#### 14. COUNTING OF THE VOTES

The polling notice referenced in section 10 of this document will indicate when the ballots will be counted. This allows for First Nations which prefer to start the counting process the day following the election. If the counting process is to take place the day following the poll, the electoral officer must ensure the safekeeping of the ballot boxes in the same or similar manner as for the advance poll ballot boxes.

At the time set for the counting of the votes, the electoral officer will open all the mail-in ballots received, verify the voter declaration forms to ensure they are properly completed, and deposit the ballots in the ballot box.

After all the mail-in ballots have been put in the ballot box, the electoral officer will open all the ballot boxes (including those from the advance polls if applicable) and count the ballots. The electoral officer will reject ballots that have more votes than there are candidates to be elected, or that have marks on them by which the elector could be identified.

After counting all the votes, if the vote difference between a winning candidate and the first runner up is greater than five, the electoral officer will make a declaration of elected candidates. If the vote difference between a winning candidate and any other candidate is five or less, the electoral officer must hold a recount immediately, or within 24 hours. If the recount is not to be held immediately, then the electoral officer will place the ballots in sealed envelopes and ensure their safekeeping. At the time established for the recount, only the ballots cast for those winning candidates and the runner up candidates who are within five votes will be counted.

If a tie is confirmed after a recount, the electoral officer will break the tie in a random fashion, such as by pulling names from a hat, as per section 24 of the *First Nations Elections Act*, which states:

***“If it is not possible to award a position...because there are two or more candidates with the same number of votes, the electoral officer must conduct a draw to break the tie.”***

Within 24 hours of the counting of the votes, the electoral officer will post a statement on the reserve indicating the number of votes cast for each candidate. The electoral officer may also post this notice on the First Nation's or the Tribal Council's website or on social media such as Facebook and Twitter. The electoral officer must also send a copy of this statement to the First Nation and the Department.

#### 15. ELECTIONS APPEALS

As per sections 30 through 35 of the *First Nations Elections Act*, appeals are launched by way of application to a provincial court of the province in which the reserve is located, or to the Federal Court.

## 16. DISPOSITION OF THE BALLOTS AND OTHER ELECTION MATERIAL

The electoral officer must deposit ballots in sealed envelopes and hold them in safekeeping, along with other election materials, for 120 days following the election. If no election appeal has been launched within the 30 day appeal period, the electoral officer will destroy the ballots and the election materials.

## 17. BY-ELECTIONS

By-elections will be conducted in the same manner as general elections. Council chooses to hold a by-election when there is a vacancy caused by a resignation, death or removal from office, as long as the vacancies do not affect the band council's ability to form a quorum. A by-election **must** be held if the number of vacancies makes it impossible for the band council to form a quorum. Officials elected at by-elections hold office for the remainder of the term only. As per section 25 of the *First Nations Elections Act*, no by-election is held if the term of office expires in less than three months.



## KEY DIFFERENCES WITH THE *INDIAN BAND ELECTION REGULATIONS*

Item	<i>Indian Band Election Regulations</i> (Indian Act)	Proposed Regulations
Electoral Officers	The electoral officer is appointed by the First Nation council with the approval of the Minister.	The electoral officer is appointed by the First Nation council and the Minister's approval is no longer required. The Minister is able to appoint an electoral officer only when the band council is unable to do so.
Election period	79 days	65 days
Nomination of candidates	Can be made by mail or orally at a nomination meeting.	<p>Two approaches are proposed:</p> <p>a) through the traditional nomination meeting which includes mail in nominations; or</p> <p>(b) through an entirely paper based exercise.</p> <p>A First Nation may choose to impose a fee of up to \$250 on each candidate to be refunded if the candidate receives more than 5 per cent of the total votes cast.</p>

Item	<b>Indian Band Election Regulations</b> (Indian Act)	Proposed Regulations
Candidate Acceptance	Persons nominated automatically become candidates and their names are placed on the ballot unless they withdraw in writing.	Persons nominated must submit a written declaration and acceptance of nomination, and if applicable, the candidate fee, or their name will not appear on the ballot.
Mail-in Ballots	<p>The electoral officer sends a mail-in ballot to all off-reserve electors whose addresses appear on the list provided by the First Nation.</p> <p>The electoral officer will also respond to specific requests for a mail-in ballot and can do so up to polling day.</p>	Electors wishing to vote by mail-in ballot must provide a written request to the electoral officer along with a photocopy of an identification document. The electoral officer will send mail-in ballot packages to all those electors whose request is received on or before the 10 <sup>th</sup> day before the election. After this time, no mail-in ballots will be given out and the elector will have to vote in person at either an advance poll or at the polling station on election day.
Advance Polls	No provision	The First Nation Council can instruct the electoral officer to hold advance polls between the 10 <sup>th</sup> and 5 <sup>th</sup> days before the election on and off reserve.
Recount	No provision	If the margin of votes between a winning candidate and one or more runner-ups is five or less, the electoral officer must recount the ballots for these candidates.

Item	<b><i>Indian Band Election Regulations</i></b> <i>(Indian Act)</i>	Proposed Regulations
Voting Results	The electoral officer will post a copy of the voting results on the reserve and sends it by mail to all the off-reserve electors for whom he or she has an address.	The electoral officer will post a copy of the voting results on the reserve and may also post it on a website and on social media.
Disposition of Ballots	The electoral officer returns ballot and other election material to the Department.	The electoral officer must keep the ballots and other election material until at least 120 days following the election.



# Proposed Regulations on Recall

The *First Nations Elections Act* states that the Governor in Council may make regulations respecting “the removal from office of a chief or councillor of a participating First Nation by means of a petition...” This is often called “recall”. The following describes a recall process for discussion purposes that could be considered for the making of such a regulation.

Under the proposed recall process, the decision to remove an elected official is made collectively by the electors who sign the petition. Although the recall officer oversees the

process and certifies a petition as being valid, he or she does not make a final decision as to the validity of the grounds on which the recall initiative is launched. Again, each elector makes his or her own assessment of the reasons when they choose to sign the petition or not.

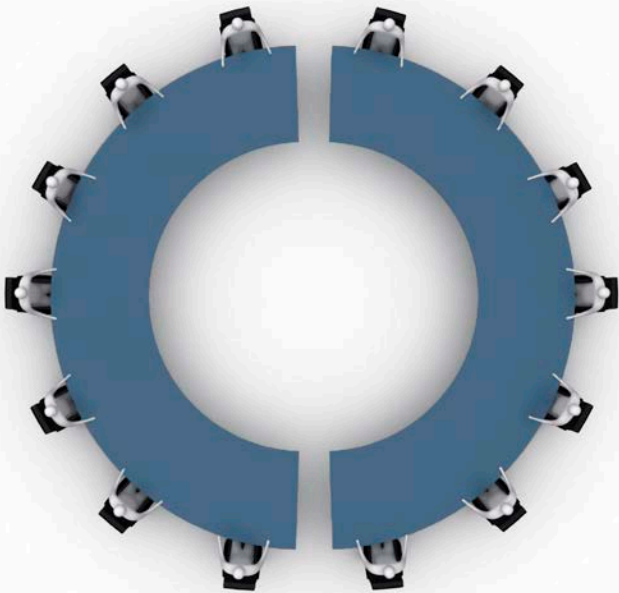
The recall process proposed below is a two step process. The first involves an eligible elector of the First Nation making an application for a recall petition, which essentially is a request to the recall officer to launch a petition. Once this request is granted, the second step involves collecting the required number of signatures and submitting the petition to the recall officer for certification.

## 1. TITLE

It is proposed that these regulations be called *Regulations for the Recall of a Member of a First Nation Band Council*

## 2. TIME PERIOD

It is proposed that the period to apply for a recall petition be thirty (30) days, commencing on the day after the band council has served for two years and ending thirty days thereafter. For example, if a band council elected under the *First Nations Elections Act* took office on April 1<sup>st</sup>, 2015, the period to apply for a recall petition would be from April 1<sup>st</sup> 2017 to April 30, 2017.



### 3. ROLE OF THE RECALL OFFICER

A recall officer, appointed by the band council by band council resolution at least 30 days in advance of the start of the 30 day recall period, will be responsible for overseeing the recall process. His or her duties include approving an application for a recall petition, managing the recall process and certifying a recall petition, which would thereby remove an elected official from office.

### 4. APPLICATION FOR A RECALL PETITION

Any current band member who was eligible to vote at the last election may send an application for a recall petition to the recall officer during the 30 day time period at section 2 above. More than one application for a recall petition can be made during this time frame, but each application and petition can only seek to recall one member of the band council. In other words, one application and petition cannot seek to recall the entire band council. If this were to be the intended goal, then a separate application and petition would need to be made for each member of the council.

An application for a recall petition consists of:

- ▶ the name of the elected official that the petition will attempt to remove,
- ▶ the name, band number and address of the applicant band member,
- ▶ a statement of no more than 200 words setting out why, in the opinion of the applicant, the official should be removed from office.

In the written explanation of 200 words or less, one or more of the following reasons for the recall must be cited:

- ▶ Failure to make decisions in the best interests of the First Nation.
- ▶ Conduct unbecoming of an elected leader.
- ▶ Failure to protect the health, safety and wellbeing of First Nation members and/or the physical environment.
- ▶ Acting when in conflict of interest or in breach of the First Nation's values and ethics.
- ▶ Conviction for criminal offence that did not result in a removal from office under the Act because it was not indictable and did not result in a term of imprisonment of more than 30 consecutive days.
- ▶ Frequent absenteeism and inability to perform duties over a period of time.

When the application for a recall petition is received by the recall officer, he or she has five days to determine if all the requirements for making an application have been met (i.e., verifying that the applicant is eligible, that the application was submitted within the 30 day timeframe and that it contains an explanation that links back to one or more of the six reasons).



If the application is approved, the recall officer informs the First Nation and the band council member in writing that a petition will be issued for his or her recall. The recall officer will also provide a copy of the recall application.

Five days after notifying the band council member that a recall petition will be issued, the recall officer will inform the elector making the application that a petition can be circulated for signatures. This five day period is built in to provide time to the elected official to prepare and share a response to the recall application if he or she so chooses.

## 5. OBTAINING SIGNATURES

The applicant is responsible for obtaining the signatures of current band members who were eligible to vote at the last election. He or she can enlist the assistance of other band members. The petition will be several pages in length, where each page must contain the name of the band council member and the same explanation of no more than 200 words that appeared on the original application for the recall petition.

In addition to signing the petition, an elector must also print his or her name and current address and phone number. If any information is missing, the signature will not be counted. The applicant is responsible for ensuring that signatures are authentic and each signature is accompanied by the necessary information. The recall officer does not verify the authenticity of the signatures on the petition.

To be valid, **the petition must contain a number of elector signatures which is at least 60 percent of the number of electors who cast a vote at the last election**. For example,

if 500 electors, out a total electorate of 650, voted at the last election, the petition will have to contain the signatures of at least 300 electors.

## 6. TIME TO OBTAIN SIGNATURES

When the applicant is notified by the recall officer that a recall petition has been issued, he or she can begin obtaining signatures. The time he or she has to obtain the signatures and submit the petition back to the electoral officer is as follows:

- (A) If the number of signatures required is less than 200, maximum 15 days.
- (B) If the number of signatures required is between 200 and 500, maximum 25 days.
- (C) If the number of signature required is greater than 500, maximum 45 days.

## 7. CERTIFYING THE PETITION

Upon receipt of a completed recall petition within the time period specified, the recall officer will have 14 days to verify that it contains the required number of signatures and that everyone who signed the petition is a current band member of the First Nation and was an eligible elector at the last election. (The recall officer will not need to verify that the signatures are authentic). If the recall officer determines that the petition is valid, the position held by the elected official named in the petition is declared vacant. The recall officer will notify the affected elected official by registered mail and will also notify the band council and the Department.



The recall officer will also post a notice on the reserve indicating the vacancy and may also post it on the First Nation's or the Tribal Council's website or on social media such as Facebook and Twitter. There is no process for the removed official to appeal the petition. He or she can only seek a judicial review in court.

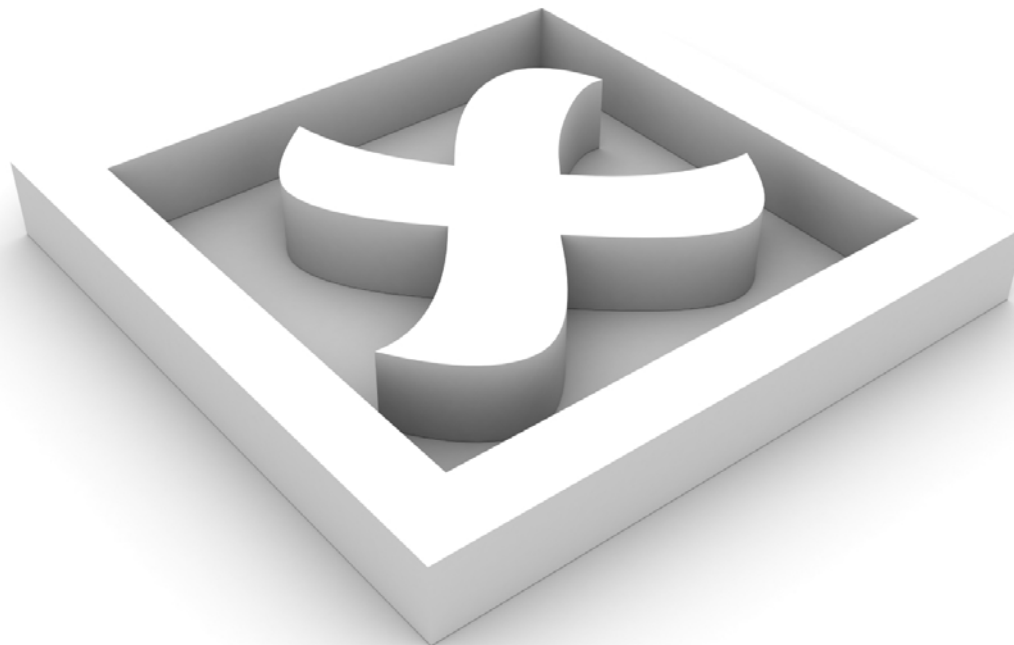
## 8. BY-ELECTION

In accordance with section 25 of the *First Nations Elections Act*, council may direct that a by-election be held to fill the vacant position created by a valid recall petition as long as the vacancy or vacancies do not affect the band council's ability to form a quorum. A by-election **must** be held if the

number of vacancies makes it impossible for the band council to form a quorum. Officials elected at the by-election hold office for the remainder of the term only.

## 9. OFFENCES

Section 36 of the *First Nations Elections Act* makes it an offence to provide money, goods, employment of other valuable consideration to another person for the purposes of obtaining their signature on a recall petition; and it is also an offence to accept money, goods, employment or other valuable consideration in exchange for signing a recall petition.



## 10. TIMELINE SUMMARY

Depending on the number of signatures required on a recall petition, the recall process will extend to a maximum of 99 days.

<b><u>Day 1 to 30</u></b> (30 days)	Period during which an application for a recall petition can be made to the recall officer.
<b><u>Day 31 to 35</u></b> (5 days)	Period of time for the recall officer to verify the application and notify the elected official named in the application.
<b><u>Day 36 to 40</u></b> (5 days)	Period of time the elected official can prepare and distribute a response prior to signatures being collected.



If the number of signatures required is:

Less than 200	Between 200 and 500	More than 500
<b><u>Day 41 to 55</u></b> (15 days)	<b><u>Day 41 to 65</u></b> (25 days)	<b><u>Day 41 to 85</u></b> (45 days)
Collection of signatures		
<b><u>Day 56 to 69</u></b> (14 days)	<b><u>Day 66 to 79</u></b> (14 days)	<b><u>Day 86 to 99</u></b> (14 days)
Period of time for the electoral officer to certify the petition		

## Appendix A

### FIRST NATIONS ELECTIONS – COMPARISON CHART:

#### INDIAN ACT ELECTION SYSTEM VS. SYSTEM UNDER THE FIRST NATIONS ELECTIONS ACT

	<i>Indian Act</i>	<i>First Nations Elections Act</i>
<b>Term of office</b>	2 years	4 years
<b>Common election day for groups of First Nations</b>	No provision	Six or more First Nations can coordinate their terms of office and hold their elections on a common day.
<b>Composition of Council</b>	<p>One chief and one councillor for every 100 members of the First Nation (minimum of two and maximum of 12 councillors).</p> <p>The Minister can authorize a First Nation to deviate from the number of councillors that would otherwise be mandated by this rule.</p>	<p>One chief and one councillor for every 100 members of the First Nation (minimum of two and maximum of 12 councillors).</p> <p>The council can decide by resolution to reduce the number of councillor positions.</p>



	<i>Indian Act</i>	<i>First Nations Elections Act</i>
<b>Qualifications to nominate, and be, a candidate for Chief</b>	None	Nominees must be a member of the First Nation and be at least 18 years of age on the day of the nomination meeting.
<b>Qualifications to nominate, and be, a candidate for Councillor</b>	A nominee must be a member of the First Nation and be at least 18 years of age on the day of the nomination meeting.	A nominee must be a member of the First Nation and be at least 18 years of age on the day of the nomination meeting.
<b>Rules and procedures for the nomination of candidates</b>	None	<p>A person can be a candidate for only one position for the same election.</p> <p>A person cannot nominate more candidates than there are positions to be filled at the election.</p> <p>A First Nation may choose to impose a fee of up to \$250 on each candidate to be refunded if the candidate receives more than 5 per cent of the total votes cast.</p>
<b>Qualifications to vote</b>	To be eligible to vote, a person must be a member of the First Nation and be at least 18 years of age on election day.	To be eligible to vote, a person must be a member of the First Nation and be at least 18 years of age on election day.

	<i>Indian Act</i>	<i>First Nations Elections Act</i>
<b>Offences and Penalties</b>	None	<p>Prohibits questionable activities surrounding the electoral process such as offering and accepting bribes, purchasing and selling mail-in ballots, obstructing the electoral process and breaching the secrecy of the vote.</p> <p>Persons who breach these prohibitions are guilty of an offence that is punishable by fines and up to five years in prison.</p> <p>Elected officials convicted of any of these offences are removed from office and candidates convicted of certain offences are not eligible to run again for five years.</p> <p>The offence and penalty provisions are very similar to those found in the <i>Canada Elections Act</i>.</p>
<b>Removal from Office</b>	<p>A person ceases to hold office when they die, resign or are convicted of an indictable offence.</p> <p>or</p> <p>When the Minister removes them for having committed corrupt practices in connection with an election or for having missed three consecutive meetings of the council without authorization.</p>	<p>A person ceases to hold office when they die, resign or are convicted of an indictable offence – however, the conviction must be accompanied by a prison sentence greater than 30 consecutive days for the person to lose their position.</p> <p>No ministerial powers to remove elected officials.</p> <p>Regulations may be made for the removal of elected officials by means of a petition signed by a percentage of a First Nation's electors (recall).</p>

	<i>Indian Act</i>	<i>First Nations Elections Act</i>
<b>Appeals</b>	Directed to the Minister who may conduct an investigation and report findings to the Governor in Council. The Governor in Council may set aside the election on the report of the Minister.	Directed to provincial or federal courts, which can, after hearing the particulars, set aside an election.
<b>Opting In</b>	Opting in is at the discretion of the Minister of Aboriginal Affairs and Northern Development should he or she “deem it advisable for the good government of the band”.	A First Nation council can request to come under the <i>First Nations Elections Act</i> by adopting a band council resolution;  or  The Minister may bring the First Nation under the <i>First Nations Elections Act</i> if a protracted leadership dispute in a First Nation has significantly compromised the governance of that First Nation; or if the Governor in Council has set aside an election of the First Nation under section 79 of the Indian Act because there was corrupt practice in connection with an election.
<b>Opting Out</b>	No provisions  (removal from the Indian Act election system is guided by the Department’s Conversion to Community Election System Policy)	The First Nation must develop a community election code which must be approved by the majority of votes cast at a secret ballot vote in which at least 50 per cent of all the electors of the First Nation participate.



