

Draft 1 For Community Discussions and Input

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**WIIKWEMKOONG UNCEDED TERRITORY
GIMAAKENG NAAKNIGEWIN
(Election Law)**



Gimaakeng means "Choosing our Leaders"

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DRAFT

WIKWEMKOONG UNCEDED TERRITORY
GIMAAKENG (CHOOSING OUR LEADERS) NAAKNIGEWIN (LAW)

PREAMBLE

WHEREAS, Wiikwemkoong Unceded Territory affirms that the Creator placed all Anishinaabek on Turtle Island, since time immemorial, and that our Gchinshinaabek (ancestors), and we, the Wiikwemkoong Anishinabek, at present day have retained our authority and jurisdiction within our territory;

WHEREAS, Wiikwemkoong Unceded Territory, since time immemorial, traditionally elected its leadership and that we, the Wiikwemkoong Anishinaabek, have the inherent authority to implement our own Gimaakeng Naaknigewin.

WHEREAS, Wiikwemkoong Unceded Territory recognizes that good governance will ensure that the interests of the Wiikwemkoong Anishinaabek are represented by Chief and Council;

NOW, THEREFORE, Wiikwemkoong Unceded Territory Gimaakeng Naaknigewin, an element in continuing authority, the Wiikwemkoong Anishinaabek hereby enact this Naaknigewin as the manner in which we will regulate the selection of our leadership.

The provisions of the Gimaakeng Naaknigewin are as follows:

PART 1: EFFECT AND COMING INTO FORCE, TITLE AND CITATION, AND AUTHORITY

EFFECT AND COMING INTO FORCE

- 1.0 This Gimaakeng Naaknigewin came into effect on *****2019.
- 1.1 The effective date of this Gimaakeng Naaknigewin was declared by Wiikwemkoong Unceded Territory on _____.

TITLE AND CITATION

- 1.2 The title of this Law is the Gimaakeng Law and may be cited as the Wiikwemkoong Unceded Territory Gimaakeng (Choosing our Leaders) Naaknigewin.

AUTHORITY

- 1.3 The Gimaakeng Naaknigewin is issued under the authority of the Wiikwemkoong GChi-Naaknigewin.

PART 2: DEFINITIONS

- 2.0 In this Wiikwemkoong Unceded Territory Gimaakeng Naaknigewin the following terms are defined;

- a. “Acclamation” means in the event of a lack of opposition, the candidate is considered elected.
- b. “Amendment Vote” means a rescheduled election poll held in accordance with this Gimaakeng Naaknigewin.
- c. “Amendment” means to add, amend or repeal a provision or provisions of this Gimaakeng Naaknigewin.
- d. “Appointed Board Member(s)” are Wiikwemkoong Anishinaabe(k) who have been appointed to sit within a Wiikwemkoong Unceded Territory Internal Corporate Board.
- e. “Candidate” means a Wiikwemkoong Anishinabe who is eligible to hold office, and who has been nominated for position of Ogimaa or Councillor, and accepted the nomination as per guidelines within this Gimaakeng Naaknigewin.
- f. “Council” means the collective of the Ogimaa and Councillors elected by the Wiikwemkoong Anishinaabek.
- g. “Councillor” means a registered Wiikwemkoong Anishinaabe elected to be a member of Council.
- h. “Council Resolution” refers to a Band Council Resolution (BCR) which is a written resolution by which Ogimaa and Council authorize or sanction a decision or an action of the Wiikwemkoong Unceded Territory and to be implemented by the person(s) identified by Ogim and Council.
- i. “Deputy Electoral Officer” means a Wiikwemkoong Anishinaabe who is at least eighteen (18) years of age and appointed by the Electoral Officer for the purpose of supporting the Electoral Officer in administering the Wiikwemkoong Unceded Territory Gimaakeng (Choosing Our Leaders) Naaknigewin (Law).
- j. “Election Day” means the day of the vote.
- k. “Election Poll” means the day in which there is a poll when votes are cast and recorded.
- l. “Eligible Voter” means a Registered Wiikwemkoong Anishinabe who is at least eighteen (18) years of age on day of the Wiikwemkoong Election.

- m. “Elector” is a person who has the right to vote in an Election.
- n. “Electoral Officer” means a Wiikwemkoong Anishinaabek who is at least eighteen (18) years of age, and who is appointed by the Council for the purposes of administering an Election in accordance with this Gimaakeng Naaknigewin.
- o. “Electors List” means the list of electors eligible to vote in the Wiikwemkoong Election as prepared by the Electoral Officer in accordance with this Election Naaknigewin.
- p. “Eligible Nominee” is a Wiikwemkoong Anishinaabe who is at least eighteen (18) years of age to the date of the Nomination Meeting that has been nominated to place his or her name on the ballot to run for a position of Ogimaa or anyCouncillor
- q. “Gimaakeng Naaknigewin” means Choosing Our Leaders Law
- r. “**Indictable Offence**” means criminal convictions as per the Criminal Code of Canada
- s. “**Membership List**” is a list of Registered Wiikwemkoong Anishinaabek in accordance to Federal legislation which the Federal government administers Indian status, in effect until Wiikwemkoong Unceded Territory administers its own Membership Naaknigewin.
- t. “Nomination Meeting” is a meeting held in accordance with this Gimaakeng Naaknigewin for the purpose of nominating candidates for an Election.
- u. “Nomination Papers” means the documents filed in accordance with this Gimaakeng Naaknigewin which includes the written acceptance of an Eligible Nominee to be a candidate in a Wiikwemkoong Unceded Territory Election.
- v. “Notice of Amendment Vote” means a Notice will be posted for the Wiikwemkoong Anishinabek of an Amendment Vote.
- w. “Notice of Wiikwemkoong Election” means a Notice of an Election will be posted to notify all Wiikwemkoong Anishinabek of the Election Day.
- x. Ogimaa means a registered Wiikwemkoong Anishinaabek elected in accordance with the Wiikwemkoong Gchi-Naaknigewin and this law.

- y. “Representative” means an individual appointed by a candidate to be present and observe the activities at an Election Poll.
- z. “Wiikwemkoong Administration Employee” means any person employed by the Wiikwemkoong Administration Office or any person working under the Personnel Policies and Procedures of the Wiikwemkoong Administration Office.
- aa. “Wiikwemkoong Anishinaabe(k)” means a person who is a registered Wiikwemkoong Anishinaabek of the Wiikwemkoong Unceded Territory and whose name appears on the Wiikwemkoong Anishinaabek List in accordance with the Wiikwemkoong Gchi-Naaknigewin and Wiikwemkoong Unceded Territory Wiikwemkoong Anishinaabek law and, until Wiikwemkoong passes its Wiikwemkoong Anishinaabek Law, it includes members on the Band List as defined under the Indian Act;
- bb. “Wiikwemkoong Unceded Territory” is situated on the east end of (Mnidoo - Mnis) Manitoulin Island Ontario in Georgian Bay of Lake Huron. Our territory includes the main village of Wiikwemkoong and satellite areas known as Pointe Grondine, Rabbit Island, Cape Smith, Wiikwemkoongsing, Kaboni, South Bay, Murray Hill, and Buzwah.

PART 3: APPLICATION AND INTERPRETATION

- 3.0 This law will apply to all Wiikwemkoong Anishinaabek.
- 3.1 The provisions will be governed by and construed in accordance with the laws of the Wiikwemkoong Unceded Territory.
- 3.2 Headings and sub-headings are for convenience only and do not form part of this Law, and in no way define, limit, alter, or enlarge the scope or meaning of any provision.
- 3.3 Unless otherwise clear from the context, whenever the singular is used, it will include the plural, and the use of the plural includes the singular.
- 3.4 Unless otherwise clear from the context, whenever the masculine is used, it will include the feminine, and the use of the feminine includes the masculine.

PART 4: DECLARATION OF INAPPLICABILITY OF INDIAN ACT SECTIONS

- 4.0 Provisions found in the Indian Act, R.S.C 1985, c. I.5, respecting the “Elections of Chiefs and Band Councils”, being sections 74, 75, 76, 77, 78, and 79 inclusive, do not and shall not apply to the Wiikwemkoong Unceded Territory.

PART 5: ELECTION OF COUNCIL

- 5.0 One (1) Chief shall be elected by the highest number of votes cast for the position of Chief.
- 5.1 Councillors receiving the highest number of votes shall be elected to the position of Councillor. There will be twelve (12) positions for Councillors.

PART 6: TERM OF OFFICE

- 6.0 The Council elected at a Wiikwemkoong Election shall serve a Term of Office of four (4) years

PART 7: ELIGIBILITY TO VOTE

- 7.0 Wiikwemkoong Anishinaabek is eligible to vote if:
- i. They are eighteen (18) years of age or older; and
 - ii. Whose name appears on the Wiikwemkoong Unceded Territory Voters List.

PART 8: ELIGIBILITY OF THE NOMINEE

- 8.0 An Eligible Nominee is eligible to be nominated for the Term of Office if the nominee is or has,
- i. At least eighteen (18) years of age or older at the date of the Nomination Meeting;
 - ii. Registered Wiikwemkoong Anishinaabe of Wiikwemkoong Unceded Territory;
 - iii. Filed for a police criminal reference check within one week after the nomination date, whereas, a failure to provide the criminal reference check will result in the nomination being declared void;
 - iv. Not been convicted for an indictable offence according to Criminal Laws of Canada; and
 - v. Accepted the nomination, filed the Declaration of Nomination (See Form ###), and paid the Candidacy Fee.
 - vi. Allegiance of WUT Community Standards.
 - vii. In good financial standing concerning loans and other financial receivables due to Wiikwemkoong Unceded Territory.

- 8.1 All Wiikwemkoong Employees who may be elected to office shall resign from his or her position of employment or seat within a board prior to taking office and assuming the responsibilities of the elected office.
- 8.2 A nominee can run for only one position of Chief or Councillor in the same election.

PART 9: CANDIDACY FEE

- 9.0 Candidates for Council who wish to run for office and have his or her name appear on the ballot must pay the Candidacy Fee.
- 9.1 Each Candidate for a Councillor position shall deposit a Candidacy Fee of one hundred dollars (\$100.00) with the Electoral Officer at the time a Candidate files his or her Nomination Forms.
- 9.2 Each Candidate for Chief shall deposit a Candidacy Fee of two hundred dollars (\$200.00) with the Electoral Officer at the time a Candidate files his or her Nomination Forms.
- 9.3 All payments of the Candidacy Fee must be in cash or certified cheque made payable to the Wiikwemkoong Unceded Territory.
- 9.6 The Candidacy Fees are non-refundable and will be paid towards Wiikwemkoong Unceded Territory revenues (Government).
- 9.7 A withdrawal of a Candidate of Council shall not result in a refund of the candidacy fee.

PART 10: CRIMINAL REFERENCE CHECK

- 10.0 Each Candidate is required to submit a criminal reference check to the Electoral Officer prior to having his or her-name placed on an Election Ballot. This criminal reference check must be current or made within six (6) months prior to the Election Date and specified to be received by the Electoral Officer.
- 10.1 Costs associated with the criminal reference check will be paid by the Candidate.

PART 11: ACCLAMATION FOR CHIEF AND COUNCILLOR(S)

- 11.0 Three days after the close of the Nomination Meeting, if only one person nominated to serve as Chief or Councillor has remitted his or her Nomination Papers and Candidacy Fee, the Electoral Officer shall declare the nominated person to be duly elected.

PART 12: INSUFFICIENT NOMINATIONS

- 12.0 In the event that there are insufficient nominations for the position of Councillor to fill the vacant positions, the Electoral Officer shall declare that another

Nomination Meeting will be held within the next two (2) weeks from the end date of the previous nomination meeting.

In the event that there are no nominations for the position of Chief the Electoral Officer shall declare that another Nomination Meeting will be held within the next two (2) weeks from the end date of the previous nomination meeting.

- 12.1 The Electoral Officer shall report the lack of nominations in the notice of the second Nomination Meeting. The process for giving notice shall be the same as the process for the initial Nomination Meeting.

PART 13: CANDIDATE WITHDRAWAL

13.0 Any Candidate may withdraw at any time after the filing of his or her Nomination Papers with the Electoral Officer, but not later than forty-eight (48) hours before the time of the opening for the Poll, by filing with the Electoral Officer a written withdrawal of his or her nomination that is signed by the Candidate in the presence of the Electoral Officer, a Justice of the Peace, a notary public or a Commissioner of Taking-In Oaths.

- 13.1 Any votes cast for any Candidate who has withdrawn his or her Nomination Papers shall be null and void.

PART 14: DECLARATION OF ELECTION

14.0 In the event that more persons than the number of positions available have been nominated and have their Nomination Papers and Candidates Fee, the Electoral Officer shall declare that a Poll will be held and shall name the date, time and the place approved by Council where such an Election Poll shall be taken.

PART 15: NOTICE OF ELECTION

15.0 Whenever an Election Poll is to be taken, the Electoral Officer shall, within thirty (30) days prior to the date of the Election Poll, post a Notice of Wiikwemkoong Unceded Territory Election, in the form prescribed by the Council, in the following locations:

- a) All public buildings within Wiikwemkoong Unceded Territory; and,
- b) in any other location that the Electoral Officer deems appropriate.

15.1 The Notice of Election may also be posted in media prior to the date of the Election with the first notice being published as soon as possible following the close of the Nomination Meeting and, in any event, at least five (5) business days prior to the date of the Wiikwemkoong Election.

15.2 The Notice of Election shall contain, at a minimum, the following information:

- a) the date, time and location of the Election Poll;

- b) instructions as to how to view a copy of the Electors List;
- c) the name and contact information for the Electoral Officer; and
- d) the list of the Candidates for each Council position.

PART 16: VOTING METHODS

VOTING BY MAIL

- 16.0 At least thirty (30) days before Wiikwemkoong Election Day, the Electoral Officer will mail, to every Elector who has provided an updated mailing address to Wiikwemkoong Administration a package consisting of:
- a) a ballot, initialed on the back by the Electoral Officer;
 - b) an outer, postage-paid return envelope, pre-addressed to the Electoral Officer,
 - c) a second, inner envelope marked "Ballot" for insertion of the completed ballot;
 - d) a voter declaration form;
 - e) a letter of instruction regarding voting by mail-in ballot;
 - f) a statement,
 - i. identifying the location of all polling stations; and
 - ii. advising the Elector that he she may vote in person at a polling place on the Election Day instead of voting by mail-in ballot; and,
 - g) a list of the names of any Candidates who were acclaimed.
- 16.1 If an Elector who resides on-reserve requests a mail in ballot, the Electoral Officer will provide a package referred to in section 16.0 to that Elector. The Electoral Officer shall amend the Electors' List to record that the Elector was provided a mail in ballot.
- 16.2 The Electoral Officer will indicate on the Electors List that a ballot has been provided to each Elector to whom a mail-in ballot was mailed or otherwise provided, and keep a record of the date on which, and the address to which, each mail-in ballot was mailed.
- 16.3 An Elector may vote by mail-in ballot by:

- a) marking the ballot by placing a cross, check mark or other mark, that clearly indicates the Electors' choice but does not identify the Elector, opposite the name of the Candidate;
 - b) folding the ballot in a manner that conceals the names of the Candidates and any marks but exposes the Electoral Officer's initial on the back of the ballot;
 - c) placing the ballot in the inner envelope and sealing that envelope;
 - d) completing and signing the voter declaration form in the presence of a witness who is at least eighteen (18) years of age or older;
 - e) placing the inner envelope and the completed voter declaration form in the outer envelope; and
 - f) delivering or mailing the mail-in ballot to the Electoral Officer before the time at which the polls close on Election Day.
- 16.4 Where the Elector is unable to vote in the manner set out above, the Elector may enlist the assistance of another person to mark the ballot and complete and sign the voter declaration form in accordance with paragraph 16.3.
- 16.5 A witness referred to in sub-paragraph 16.3(d) will attest to:
- a) the fact that the person completing and signing the voter declaration form is the person whose name is set out in the form; or,
 - b) where the Elector enlisted the assistance of another person under section 16.5, the fact that the Elector is the person whose name is set out in the form and that the ballot was marked according to the directions of the Elector.
- 16.6 An Elector who inadvertently spoils a mail-in ballot may obtain another ballot by returning the spoiled ballot to the Electoral Officer.
- 16.7 An Elector who loses a mail-in ballot may obtain another ballot by delivering to the Electoral Officer a written affirmation that the Elector has lost the mail-in ballot, signed by the Elector in the presence of the Electoral Officer, a Justice of the Peace, a notary public or a Commissioner of Oaths.
- 16.8 Mail-in ballots that are not received by the Electoral Officer before the time at which the polls close on Election Day are void.
- 16.9 An Elector to whom a mail-in ballot was mailed or provided under section 16.1, is not entitled to vote in person at a polling station.
- 16.10 The Electoral Officer must provide a mail in ballot to each person on the Electors' List for each Elector who does not reside on-reserve, unless the Elector has contacted the Electoral Officer and confirmed that he or she will be voting on-reserve on Election Day. In this case, the Elector will not be provided a mail in ballot. Any off-reserve Elector wishing to change his or her voting opportunity must contact the Electoral Officer within (7) days before the Election Day of his or her intention to vote at the polling station in person. The Electoral Officer shall

amend the Electors' List to record that the Elector was not provided a mail in ballot.

- 16.11 The Electors voting by mail-in ballots must return their marked ballots to the Electoral Officer in the manner described in the voting package they receive in the mail and as set out above.
- 16.12 On receiving a returned mail-in ballot, the Electoral Officer shall deposit the ballot in a sealed ballot box for the mail-in ballots and count the mail in ballots when the other ballots are counted on Election Day.

PART 17: THE POLL

- 17.0 All Polls shall be held within Wiikwemkoong Unceded Territory at locations prescribed by Electoral Officer.
- 17.1 Candidates are not to campaign after 12:00 am on the Election Day.
- 17.2 Voting at all Wiikwemkoong Election Polls shall be by secret ballot.
- 17.3 The Poll Station shall be kept open from 9:00 a.m. until 6:00 p.m. of the same day, but where it appears to the Electoral Officer that it would be inconvenient to the Electors to have the poll closed at 6:00 p.m., the Electoral Officer may order that it be kept open until not later than 8:00 p.m. of the same day.

PART 18: VOTING AT THE POLLING STATION

- 18.0 Where an Elector presents himself or herself for the purpose of voting, the Electoral Officer or Deputy Electoral Officer shall, if satisfied that the name of such person is entered on the Electors List, provide the Elector with a ballot paper containing his or her initials on which to register a vote.
- 18.1 Any Elector who has received a ballot paper and who leaves the polling station without delivering the ballot paper to the Electoral Officer or Deputy Electoral Officer, in the manner prescribed, or is after receiving the ballot paper refuses to vote, shall forfeit his or her right to vote at the Wiikwemkoong Elections. The Electoral Officer or Deputy Electoral Officer shall make an entry in the Electors List in the column for remarks opposite the name of such Elector to show that he or she received the ballot paper and declined to vote.

PART 19: CLOSE OF POLL AND COUNTING OF VOTES

- 19.0 Immediately after the close of the Election Poll, the Electoral Officer or Deputy Electoral Officer will, in the presence of any Candidates or their Representatives who are present, open each envelope containing a mail-in ballot that was received before the close of polls by the Electoral Officer and, without unfolding the ballot,
- a) reject the ballot if,

- i. it was not accompanied by a voter declaration form, or the voter declaration form is not signed or witnessed;
 - ii. the name of the Elector set out in the voter declaration form is not on the Electors List. The Wiikwemkoong Unceded Territory Membership List will be used to determine an Eligible Elector.
 - iii. the Electors List shows that the Elector has already voted; or,
 - b) in any other case, place a mark on the Electors List opposite the name of the Elector set out in the voter declaration form, and deposit the ballot in the ballot box together with those ballots cast on the Wiikwemkoong Election Day.
- 19.1 Where it appears that two or more Candidates have equal number of votes and the tie must be broken in order to fill the elected office, the ballot count will be validated.
- 19.2 If, after the validation, it still appears that two or more Candidates have equal number of votes and the tie must be broken in order to fill the elected office, the following process will apply:
- a) Electoral Officer shall place the name of each of the Candidates who are tied for an elected position in a container on separate pieces of paper;
 - b) A person from the audience who is not a person whose name is in the container or not a Candidates Representative shall reach into the container and remove one paper from the container without reading the names on the pieces of paper;
 - c) The Electoral Officer shall then read out the name of the Candidate on the piece of paper selected by the audience member thus breaking the tie.
- 19.3 A Candidate may authorize a Representative during the counting of the ballots. The Representative must present, upon request, to the Electoral Officer

PART 20: DISPOSITION OF BALLOT PAPERS

- 20.0 The Electoral Officer shall deposit all ballot papers in a sealed envelope, initial over the seal of the envelope and shall retain the sealed envelope in his or her possession for four (4) weeks.
- 20.1 At the expiration of the four (4) weeks referred to in section 20.0, the Electoral Officer shall destroy the ballot papers in the presence of two witnesses who shall make a written declaration that they witnessed the destruction of the ballot papers. At the same time the ballot papers are destroyed, the criminal reference checks submitted with the Nomination Papers, which were not returned to Candidates, shall also be destroyed.

20.2 Care will be taken by the Electoral Officer to ensure that all criminal reference checks are destroyed in a manner that does not allow the forms to be reconstructed or read by anyone.

PART 21: OATH OF OFFICE

21.0 Each person elected to Council must swear to an Oath of Office prior to assuming the Roles and Responsibilities of Council. This will take place during a swearing in ceremony within four (4) weeks immediately following the Election Day.

PART 22: VACANCY OF OFFICE

22.0 Ogimaa or Councillor position may become vacant if, while in office:

- a) the Ogimaa or Councillor is convicted of an indictable offense under the Criminal Code of Canada or the Criminal Laws of any other country;
- b) the Ogimaa or Councillor is convicted of an offense involving fraud or dishonesty under the Criminal Code of Canada.
- c) the Ogimaa or Councillor submits a resignation from office in writing on his or her own accord;
- d) the Ogimaa or Councillor has been unable to perform the functions of his or her office for more than six consecutive months due to illness or other incapacity;
- e) the Ogimaa or Councillor dies.
- f) If removed from office as per Part 23

22.1 In the event where there is a vacant seat, the next Candidate receiving the highest number of votes at the previous election will have the option to fill the Chief or Councillor position. The Candidate shall hold office for the remainder of the term associated with the Chief or Councillor position being filled.

22.2 If the Candidate does not accept the position, it will be offered to the Candidate having the next highest number of votes at the last election. The position will be offered to each successive Candidate for Chief or Councillor until the position is filled or until every Candidate for Chief or Councillor has been offered the position.

22.3 If no one accepts the position, or if all Candidates for Chief or Councillor have declined the position a custom election will prevail.

PART 23: SUSPENSION OR REMOVAL OF A COUNCIL MEMBER FROM OFFICE “NEW SECTION”

- 23.0 The person holding the Chief or Councillor position may be suspended, and or removed from office and may be prevented from running for office for two (2) terms if he or she:
- a) violates this Law, the Oath of Office and or the Code of Ethics;
 - b) fails to attend three (3) consecutive regular meetings of council without reason or six (6) months of illness or other incapacity ;
 - c) has been convicted of an indictable offence since his or her Election;
 - d) Has participated in acts of bribery or malfeasance and or accepts or offers a bribe, forges a Council document
 - e) is negligent in failing to ensure the safety and protection of the Wiikwemkoong Anishinaabek or its' Residents and Wiikwemkoong Unceded Territory assets and property;
 - f) abuses his or her “power” to office in a way that his or her conduct negatively affects the dignity and integrity of the community or of Council;
 - g) encourages others to commit any of the above acts or omissions; or
 - h) engages in such other conduct as may be determined by Council to be of such a serious nature that the removal is necessary and appropriate.

PART 24: REMUNERATION

24.0 Remuneration for Chief and Council members will be governed by a Remuneration Policy until Wiikwemkoong Unceded Territory enacts its own Law on Remuneration for Chief and Council.

24.1 The Wiikwemkoong Anishinaabek shall establish the remuneration to be paid to the Chief and Council through law enactment. Any change to the remuneration to be paid to Chief and Council shall not increase or decrease the remuneration previously paid to a Chief and Council.

24.2 Amount of increase should be made in consensus with all Council members based on contribution agreements with the Federal Government. (This should reference the Finance Policy for the fees to be paid per meeting, \$125.00 per meeting).

PART 25: REMOVAL OF OFFICE PROCEDURE “NEW SECTION”

25.0 Proceedings to declare a Removal of Office Meeting shall be initiated by:

- a) An Elector submitting to the Wiikwemkoong Review Officer of the Justice Council Law Appeal Panel (or other alternative disputes resolution/appeals panels) a written complaint and or a petition that the Chief or Councillor has contravened the following;
 - i. Wiikwemkoong Gchi-Naaknigewin and or any Wiikwemkoong laws, regulations, policies and procedures; and or
 - ii. the grounds pursuant to Section 23.0.

In this case, the Elector must also provide the following:

- iii. the evidence in support of the complaint,
 - iv. a non-refundable filing fee of \$50.00
- b) a majority of Council members passing a Council Resolution and submitting a petition to the Appeals Panel on which shall appear:
 - a. the ground pursuant to section 23.0 on which removal of a Chief and Councillor is sought;
 - b. the evidence in support of the Council Resolution; and
 - c. the signatures of all council members who voted for the removal.

25.1 On receipt of a petition, the Review Officer shall verify that the petition complies with section 23.0. If the petition does not comply, the Review Officer shall so notify the person submitting the petition.

25.2 In a case where the petition complies with section 23.0, the Review Officer shall:

- i. determine that the grounds put forth in the petition are either frivolous in nature or unsubstantiated, and dismiss the petition; or
- ii. schedule an oral review hearing, which shall take place within twenty (20) days from the date on which the petition was submitted to the Wiikwemkoong Justice Appeal Panel.

25.3 In a case where the petition has been dismissed under subsection 25.0 (a), the Review Officer shall so inform the petitioner who submitted the appeal in writing and provide a rationale for a decision that has been made.

- 25.4 In a case where the Review Officer schedules a hearing under subsection 25.0 (b), the Appeal Panel shall send a written notice of the hearing by registered mail to Council, the petitioner(s) and the Council member who is the subject of the petition for removal.
- 25.5 The written notice described in section 25.0 shall set out:
- i. the nature of the hearing and all related particulars;
 - ii. the date, time and location of the hearing; and
 - iii. a statement that the petitioner(s), any member of Council or the Council member who is the subject of the petition for removal may, at the hearing, make a presentation to the Appeal Panel, which may include the presentation of documents and testimony by witnesses.
- 25.6 The Appeal Panel shall also conduct an oral hearing at the time and place set out in the notice provided under section 25.4.
- 25.7 Within five (5) days of the day on which the oral hearing under section 25.6 is held, the Appeal Panel shall rule:
- a) that the petition shall be allowed to stand, and declare the Council position of the member of Council who is the subject of the petition to be vacant; or
 - b) that the petition is dismissed.
- 25.8 The Appeal Panel shall send, by registered mail, a written notice of the ruling made under section 25.0 (b) to Council, and to the Council member who is the subject of the petition for removal.
- 25.9 The decision of the Appeal Panel made under section 25.0 a) and b) is final and binding upon all parties.
- 25.10 If the Council position is declared vacant under subsection 25.0, the Chief or Councillor removed from office shall be disqualified from being a Candidate for eight (8) years commencing on the date of the Appeal Panel's ruling.

PART 26: POSTPONEMENT OF NOMINATION MEETING, ELECTION OR NOTICE OF THE AMENDMENT VOTE

- 26.0 If a death of a prominent citizen or an emergency situation or severe weather is declared from the date of the posting of the Notice of Nomination Meeting to the date of the Election Poll, it shall be within the discretion of the Electoral Officer to postpone the Nomination Meeting or the Election Poll to the next day or to another date deemed to be appropriate by the Electoral Officer.

- 26.1 Emergency response planning due to unforeseeable events that disrupts operations within the community within one (1) week of an Amendment Vote or on the date of the Amendment Vote, the Council may reschedule the Amendment Vote to the next following day or to another date deemed appropriate by the Council.
- 26.2 Where the Council postpones an Amendment Vote for any of the reasons permitted in accordance with this Election Naaknigewin. Council shall ensure that sufficient notice is provided for the rescheduled Amendment Vote.
- 26.3 Where a Nomination Meeting, an Election Poll or an Amendment Vote is postponed, the dates for the upcoming events will be postponed to ensure that all deadlines and dates established in this Law are met.

PART 27 - ELECTIONS APPEALS

27.0 ELECTIONS APPEAL PANEL

- 27.1 At least 100 days prior to a Wiikwemkoong Election the Council shall establish an Appeal Panel to hear appeals under this Election Naaknigewin if the Justice Council Law Appeal Panel is not yet established.
- 27.2 The Appeal Panel shall consist of three (3) Wiikwemkoong Anishinaabek **(CONFLICT OF INTEREST IF APPEALS FROM WUT Anishinaabek)** selected by the Electoral Officer who each:
 - a) have training or experience in arbitrations, adjudications or dispute resolution in First Nation communities;
 - b) agree to act fairly and impartially in deciding every appeal and maintain the strictest confidence in considering and deciding appeals.
- 27.3 The Appeal Panel is appointed until each appeal in one Election has been heard and decided.
- 27.4 The rate of remuneration for the Appeal Panel members shall be set at a rate established by Chief and Council. The Appeal Panel members will only be paid for hearing appeals.
- 27.5 All three (3) Appeal Panel members are required to hear each appeal and to make a decision on that appeal.

APPEAL PROCESS FOR ELECTION DAY

- 27.6 Within seven (7) days after an Election, any Candidate of the Election or any Elector may lodge an appeal to the Electoral Officer if he or she has reasonable grounds for believing that:
 - a) there was corrupt practise in connection with the Election or

- b) there was a violation of this Election Naaknigewin that might have affected the result of the Election.
- 27.7 Upon receipt of an appeal, the Electoral Officer shall forward a Notice to Executive Assistant to Council and the appeal will be forwarded the Review Officer or designate who will then forward the appeal to the Election Appeal Panel.
- 27.8 Should a Candidate or an Elector or Electors submit an Appeal or petition an Appeal, the appeal is to be dealt with by the Justice Council Appeal Panel or an Appeal Panel designated to deal with appeals. Council is to designate the Appeal Panel should the Justice Council Appeal Panel is not yet established.
- 27.9 The Election Appeal must include the following information:
- a) be in writing as set out in an affidavit sworn or affirmed before a Commissioner for Taking of Oaths
 - b) the affidavit sworn or affirmed must set out the facts substantiating the grounds for the Appeal, accompanied by any supporting documentation,
 - c) be accompanied by a non-refundable fee payable to Wiikwemkoong Unceded Territory in the amount of \$50.00
- 27.10 The Election Appeal Panel is to provide the Candidate or the Elector(s) a written decision of the appeal. The written decision is to identify the reasonable grounds for accepting or rejecting the appeal.
- 27.11 The Electoral Officer written and final decision is to be filed and kept on record for two (2) terms.
- 27.12 The Election Appeal Panel's decision on the Appeal is final and binding.

PART 28: AMENDMENTS

- 28.0 Amendments to the Gimaakeng Naaknigewin must be accordance with the process outlined below:
- a) a petition presented to Council, signed by at least 125 Eligible Voters and setting out the specific area in this law proposed for amendment; or
 - b) a Council Resolution;
- 28.1 Upon receipt of an Amendment Proposal in accordance with section 28.0, Council shall prepare a notice that sets out:
- a) a summary of the proposed amendments to this Law;

- b) a statement that the full copy of the proposed amendments can be obtained at the Wiikwemkoong Administration Office; and
 - c) a description of the amendment process.
- 28.2 The notice provided for in section 28.1 shall be:
- a) published in the community's newsletter, delivered or mailed to the Wiikwemkoong Anishinaabek, or by separate notice delivered or mailed to all Electors; and
 - b) posted in at all public buildings on Wiikwemkoong Unceded Territory.
- 28.3 Electors may, within fourteen (14) days of publication of the notice outlined in section 28.0, provide comments concerning the proposed amendments in writing to Council.
- 28.4 Following receipt of comments concerning the proposed amendments, the Council shall review the comments and make such changes to the proposed amendments as they deem necessary in order to arrive at a final amendment proposal.
- 28.5 The Council shall submit the final amendment proposal to a community ratification to be conducted in the same manner as this Law was ratified by the membership.
- 28.6 The final amendment vote is to be passed by law as per Wiikwemkoong Gchi-Naaknigewin.
- 28.7 At least three (3) months' Notice of Amendment of any vote on any amendment to this Election Naaknigewin must be provided to the Electors in the manner set out below.
- 28.8 The Notice of Amendment Vote shall, at a minimum, contain the following information:
- a) the date, time and location of the vote to amend or repeal a provision or provisions of this Election Naaknigewin; and
 - b) either the list of Electors to vote on the proposed amendment or instructions on how view a list of Electors; and,
 - c) either a copy of the proposed amendment(s) or a summary of the proposed amendment(s) along with instructions as to how a complete copy of the proposed amendment(s) can be obtained or viewed.
- 28.9 The notice of Amendment Vote shall be posted as follows:

- a) in all public buildings on Wiikwemkoong Unceded Territory;
- b) on the Wiikwemkoong Unceded Territory website;
- c) bulk mail out; and,
- d) any other location that the Council deems appropriate.

28.10 The Electors shall vote on any amendment to this Election Naaknigewin in the manner that the Electors vote in elections under this Law.

28.11 Should the majority of the votes be in favour of the proposed amendments being brought to the Law, Council shall amend the Law accordingly.

28.12 Elections held under the amended shall take place no sooner than 100 days from the community Election ratification vote.

PART 29: STAND UP VOTING “NEW SECTION – TO BE RESEARCHED

NOTES:

50% plus 1 of votes cast on the Elections Day

Draft 1 For Community Discussions and Input
1st Reading approved by Band Council Motion #332-2019 on Sept. 23,2019

Revision Dates

2004/2005- Draft Created

April 5, 2017- Worked on 1st draft of Election Law by Governance Unit

August 2017- Revised by Governance Unit

November 24, 2017- Revised by Governance Unit

January 30, 2018- Reviewed and Revised by Governance Committee & Working Group

February 26, 2018- Revised by Governance Committee & Working Group

April 25, 2018- Revised by Governance Committee & Working Group

September 4, 2019- Revised by Governance Committee

September 11, 2019- Revised by Governance Committee

September 23, 2019- 1st Reading, Reviewed and Revised by Ogimaa & Council

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