



**SAMAHQUAM INDIAN BAND ELECTIONS AND REFERENDUM ACT**

**1 PURPOSE**

This Act establishes the rules and procedures for conducting Samahquam Indian Band elections, and referenda.

**2 EFFECTIVE DATE**

This Act is effective July 20, 2002 (amended Feb. 28, 2004).

**3 DEFINITIONS**

- a. **Band:** means the Samahquam Indian Band, as defined by the Indian Act and the Samahquam Nation Constitution Act.
- b. **Band Council:** means the duly constituted Indian Band Council of Samahquam Indian Band; currently a chief and three councillors.
- c. **Band Council Resolution:** is the formal decision making instrument of the Samahquam Band Council.
- d. **Band List:** the list, kept by Indian and Northern Affairs Canada of members of the Samahquam Indian Band.
- e. **Nation Resolution:** the formal law-making instrument of Samahquam Nation.
- f. **Band Resolution:** the formal decision making instrument of the Samahquam Indian Band.
- g. **Candidate:** means a Samahquam member, who has accepted nomination, and who meets the eligibility criteria for election to band council.
- h. **Deputy/Deputies:** means a person/persons appointed by the Electoral Officer to assist him in the election process.
- i. **Election:** means a band election or by-election held according to the provisions of this Act.
- j. **Voter/Elector:** means a person who is eligible for band membership and who has achieved the full age of 18 years on the day of election and who is not disqualified from participating in elections.
- k. **Electoral Officer:** means the person, other than a band member, appointed by Band Council Resolution to be responsible for conducting the elections.
- l. **Polling Station:** means the site established by the electoral officer for voting.
- m. **Referendum:** means a process, under this Code, for obtaining mandates for the Samahquam Nation Government or its delegate(s), from the electors.

- n. Majority for chief election: the successful candidate for chief must receive a clear majority of 50% plus one of valid votes cast.
- o. Majority for councillor election: The successful candidates for councillor positions will be those who receive the highest number of valid votes cast.
- p. Majority for referenda: a referendum question must receive a clear majority of 50% plus one of valid votes cast.
- q. Majority for resolutions: resolutions must receive a clear majority of 50% plus one of valid votes cast.
- r. Proxy for resolutions: proxy votes shall not be valid for deciding resolutions.
- s. Voter's List: means the list prepared by the electoral officer showing all persons eligible to participate in the elections.
- t. Sergeant at Arms: person named by Samahquam Nation to be responsible for maintaining good order and conduct at elections.
- u. Scrutineer: person named by a candidate to observe voting procedures.
- v. General Assemblies: are the general meetings of the Samahquam Nation and the Samahquam Band, generally two nation assemblies and two band assemblies will be scheduled each year.
- w. Balloting: elections for chief and councillor positions will be by secret ballot vote.
- x. Proxy: signed authority for a Samahquam elector, to vote on behalf of another Samahquam elector, who is unable to vote.

#### **4 GENERAL PROVISIONS**

- a. Elections will generally be scheduled according to timing of the quarterly Nation and Band general assemblies.
- b. Nominations for chief will be held as the first order of business, followed by general assembly agenda. Balloting will take place immediately following nominations, and will proceed while the general assembly agenda continues. Upon the election of chief, the nominations will be held for councillors. Balloting will take place immediately following nominations, and will proceed while the general assembly agenda continues.
- c. The chief will be elected for a four-year term.
- d. The councillor with the most votes will also serve a four-year term.
- e. The other two councillors elected will serve two-year terms.
- f. The band office will maintain current addresses and phone numbers of all eligible voters.
- g. Chief and Council shall ensure that all eligible voters, if possible, shall receive a copy of this Act.
- h. After July 20, 2002 Notice of Elections and/or Notice of Referendum will be, in writing, hand delivered to residents at home, and by mail to all others at least 30 days before elections.
- i. Nation Resolution approved by a majority of fifty percent, plus one may extend chief and councillors term(s) of office.
- j. Samahquam Oversight Committee shall be responsible for ensuring that all provisions of this Act are adhered to.

5. **ELECTORAL OFFICER**

- a. The electoral officer will be appointed by Band Council Resolution, at least thirty days in advance of elections.
- b. The electoral officer will ensure that a voter's list is prepared.
- c. The voter's list will be posted at all general assemblies.
- d. The electoral officer will maintain a file of all documentation related to the elections.
- e. The electoral officer may appoint a deputy or deputies to assist.
- f. The electoral officer may appoint an interpreter, if necessary.
- g. The electoral officer will determine voter eligibility and candidate's eligibility according to the provisions of this code.
- h. The electoral officer shall ensure that the band office gives notice of elections, to all eligible voters.
- i. The electoral officer will explain nominating, balloting and counting procedures.
- j. The electoral officer will prepare ballots.
- k. The electoral officer will establish a poll or polls and ensure voters' privacy while casting their ballots.

6. **NOMINATIONS**

- a. Only eligible voters present may nominate or second a nomination.
- b. Only voters who meet the eligibility criteria in this Code may be nominated.
- c. A voter cannot nominate himself, or second his own nomination.
- d. A voter cannot both nominate and second the same nomination.
- e. A candidate must be present at the nomination.
- f. Nominated candidates must accept or decline their nominations.
- g. All candidates who accept nomination must post a \$150.00 cash deposit.
- h. The electoral officer will hold the cash deposits from candidates in trust until the final election outcome, including appeals.
- i. Unsuccessful candidates will forfeit their cash deposits and such funds will be used to offset election costs.
- j. Deposits received from successful candidates will be returned to them.
- k. A candidate may withdraw by advising the electoral officer, at any time before balloting commences.
- l. A candidate, who withdraws after posting his \$150.00 deposit, shall forfeit his deposit.
- m. As appointees to the Samahquam Nation Government, the two hereditary chiefs, the Hereditary Secretary, the elder representative, the youth representative and the SNG coordinator to be eligible to stand for elective office, must first resign their appointments to SNG.

- n. Re-appointment of failed candidates, to SNG is not automatic, and must be by Nation resolution.
- o. Runner(s) up may be asked to fill vacancy (ies) when they occur.

7. **CHAIR**

The electoral officer will convene the elections meeting(s), and act as chair.

8. **SERGEANT AT ARMS**

The electoral officer will ensure that the Sergeant at Arms maintains order.

9. **ELECTION BY ACCLAMATION**

- a. If the number of vacancies equals the number of nominees for any elective position, the nominee(s) shall be elected by acclamation.
- b. The chief and councillors, so elected, will determine which councillor serves a four-year term, and which two councillors serve two-year terms.

10. **ADVANCE POLL**

No provision is made, at this time, for Advance Polls.

11. **PROXY FOR ELECTIONS AND REFERENDA**

- a. A voter, who is unable to attend, may authorize another eligible voter, to cast his ballot on his behalf.
- b. Proxy must be by the form attached as Appendix (i).
- c. To encourage participation in Samahquam affairs, a proxy holder may hold only one proxy vote.

12. **BALLOTING**

- a. During balloting, the electoral officer, or deputy must be in attendance at all times.
- b. The electoral officer must, before voting commences, show that the ballot box or boxes are empty.
- c. The electoral officer will seal the ballot box to prevent it from being opened.
- d. The ballot box will be placed in view of voters and may not be removed, or tampered with in any way.
- e. The polling will commence at the time prescribed by the electoral officer, and will close at the specified time, or when all ballots are cast, at the discretion of the electoral officer.
- f. The electoral officer will determine voters' eligibility.

- g. Upon confirmation of eligibility to vote, the electoral officer will give the required ballot(s) to the voter.
- h. Each candidate may appoint one scrutineer per polling station, to observe voting and the counting of ballots on his behalf.
- i. The electoral officer must initial the back of each ballot he gives to each voter, showing that the ballot is valid, and the voter is eligible.
- j. Each voter will proceed to the polling station and mark his ballot(s) with an X or other mark indicating his choice.
- k. The electoral officer will record the proxy votes.
- l. A voter who makes an error in marking his ballot may request a duplicate. The electoral officer will clearly mark CANCELLED on the replaced ballot and keep it for the record.
- m. A voter who receives a ballot and exits the voting area, without delivering his ballot to the electoral officer, or who refuses to vote shall be recorded by the electoral officer as DECLINED.
- n. A person who identifies himself as eligible to vote, but is not on the voter's list, may vote, if the electoral officer is satisfied that the person is eligible according to this code. The electoral officer will make note of this and include it in his Election Report.

13. **MAIL OR FAX POLL**

No provision is made for voting at this time, by mail or fax.

14. **COUNTING THE VOTES**

- a. The electoral officer will declare the poll(s) closed.
- b. The electoral officer will open the ballot box in the presence of scrutineers.
- c. The electoral officer will reject any ballots that are not initialled by him.
- d. The electoral officer will reject any ballots that, in his opinion, do not give a clear indication of the voter's preference.
- e. The electoral officer will reject any ballots that have more votes than there are vacancies for that position.
- f. The electoral officer will reject any ballots where the voter can be identified.
- g. The electoral officer (and deputy or deputies) will count the votes cast for each candidate.
- h. The electoral officer will sign a statement summarizing the outcome of balloting.
- i. The electoral officer shall announce the names of the elected candidate(s).
- j. The electoral officer will post his statement showing the balloting outcome.
- k. The electoral officer will provide a signed Election Report showing:

- i. a list of all candidates;
- ii. the number of eligible voters;
- iii. the number of ballots cast;
- iv. the number of votes for each candidate;
- v. the number of cancelled ballots;
- vi. the number of declined ballots;
- vii. the number of spoiled ballots;
- viii. the number of rejected ballots; and
- ix. the number of unused ballots.

15. **OFFICIAL NOTIFICATION: INAC and SNG**

The electoral officer will provide an original copy of his Election Report to the Regional Director General, Indian and Northern Affairs Canada and to the Coordinator, Samahquam Nation Government on behalf of the Samahquam Government.

16. **TIE VOTES**

- a. The electoral officer cannot break a tie vote.
- b. Ties must be determined by an election run-off.

17. **LACK OF CLEAR MAJORITY FOR CHIEF**

In the absence of a clear majority, a run-off election shall take place between the two candidates with the highest number of votes.

18. **ELECTIONS APPEAL BOARD**

- a. An Elections Appeal Board, made up of three non-band members, will be established by Band Council Resolution at the same meeting as the Electoral Officer is appointed.
- b. The Elections Appeal Board will supervise and administer all election appeals according to the provisions of this code and the Samahquam Nation Constitution Act.
- c. The Elections Appeal Board will hold office until all appeals have been determined.

19. **APPEAL PROCEDURES**

- a. Any elector or candidate may appeal the election.
- b. An appeal must be in writing, containing details, verified by affidavit and received within fourteen days of the election, by the Elections Appeal Board, c/o Samahquam Band Office.
- c. The Elections Appeal Board shall, within 21 days of the election, deliver a copy of all appeals received, together with supporting documents, to each candidate in the election and to the Electoral Officer.

- d. The Electoral Officer or any candidate may, within 14 days of the receipt of appeal, provide written response to the appeal allegations, together with supporting documentation.
- e. The Elections Appeal Board may conduct or authorize such further investigations, as it deems appropriate or necessary.
- f. The Elections Appeal Board may deny the appeal on grounds the evidence revealed no contravention of this Act, or on grounds that such infraction had no affect on the election result.
- g. The Elections Appeal Board may uphold the appeal, and call for a new election, according to the provisions of this Act.
- h. The Elections Appeal Board may instruct the Electoral Officer in order to prevent further appeals.

**20. VACANCIES**

A vacancy on Band Council may be declared by Nation Resolution or Band Resolution or Band Council Resolution when:

- i. a chief or councillor misses three regular council meetings in a Fiscal Year without authorization from a majority of council. Authority is band council resolution;
- ii. a chief or councillor is convicted of an indictable offence and has been sentenced for such offence. Authority is band council resolution;
- iii. a chief or councillor resigns his/her office. Authority is band council resolution;
- iv. a chief or councillor dies. Authority is band council resolution;
- v. a chief or councillor has his/her position vacated by Samahquam Nation resolution, following review. Authority is band resolution.

**21. BY-ELECTIONS**

- a. By-elections to fill vacancies on band council shall be called by the appropriate authority identified in Article 20 VACANCIES.
- b. Positions filled in by-elections, will be for the unexpired term(s) of office.
- c. Vacancies created under article 20. (i.)(ii)(iii) or (iv) may be filled by band council in consultation with the Electoral Officer appointing the next runner(s) up in the immediately previous election to fill the vacancy.
- d. A vacancy filled by band council resolution, in c. (above), is subject to review by Samahquam Nation in general assembly, which will consider recommendation(s) of chief and council.

22. **OATH OF OFFICE**

Each newly elected and re-elected chief and councillor shall take the prescribed Samahquam Indian Band Council Oath of Office (Appendix I, Samahquam Nation Constitution Act.)

23. **CONDUCT**

- a. Council members must ensure that their conduct is above reproach.
- b. As conduct is a sensitive matter, perceived misconduct may be referred to the Nation, in general assembly.
- c. The Samahquam Nation, in general assembly, will decide each issue upon review of the relevant information.
- d. All relevant processes of the Samahquam Nation Constitution Act, including Appendices, must be exhausted before referral to the Nation.

24. **REVIEW**

- a. Samahquam Oversight Committee (SOC) will develop Terms of Reference, for consideration of Samahquam Nation, to establish a process for fair, objective review of all Samahquam Nation delegates;
- b. SOC will ensure community input into the review process;
- c. Findings, along with recommendations will be tabled by SOC to Samahquam Nation, in general assembly;
- d. A review may result in:
  - i. Vacating the council position(s), and calling for by-election(s);
  - ii. Disciplinary, remedial, or other appropriate action;
  - iii. Finding that there is no cause for any follow-up action.
  - iv. Review may find that band council and/or individuals are distinguishing themselves in their position(s).

25. **AMENDMENTS**

- a. This Act is evolutionary, and will change over time when jurisdictions are clarified, and Samahquam Nation Constitution Act is further refined, and therefore may be amended by Nation Resolution.
- b. Draft amending resolutions may be tabled at general assembly.
- c. The SAMAHQUAM INDIAN BAND ELECTIONS AND REFERENDUM ACT (Appendix H of the SAMAHQUAM NATION CONSTITUTION ACT) is functional, and therefore amendments may be introduced, and decided in the same general assembly.



**26. FISCAL YEAR**

Fiscal year for Samahquam band operations will correspond to Canada's, April 1 to March 31.

**27. TERM OF OFFICE**

- a. In consideration of fiscal year audit, reporting and budgeting requirements, the term of office for band council, under this Act shall commence Aug. 1, 2002.

**28. TRANSITION**

- a. A 30-day transition period will commence on the commencement date of the term of office.
- b. During the transition, the outgoing members of council provide briefing(s), and will attend all council meetings.
- c. During the transition, the outgoing members of council are eligible for honoraria, at the prescribed rate.
- d. During the transition, the duly constituted band council will retain authority, and the outgoing members of council will not vote.
- e. Transition shall apply to full Samahquam Indian Band council elections.

\*\*\*\*\*APPENDIX (i): Samahquam Election Act\*\*\*\*\*

PROXY VOTING MUST USE THIS FORM. IT MUST BE COMPLETE TO VERIFY VOTER'S ELIGIBILITY.

Date: \_\_\_\_\_

To: The Electoral Officer, Samahquam Indian Band

From: \_\_\_\_\_

Date of Birth \_\_\_\_\_ Samahquam Band # \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

I hereby authorize Samahquam band elector \_\_\_\_\_

(Samahquam band #) \_\_\_\_\_

To vote on my behalf only at the election(s) or referendum, scheduled for

(Date) \_\_\_\_\_ (Place) \_\_\_\_\_

(Signature) \_\_\_\_\_ (Witness) \_\_\_\_\_

PROXY APPROVED by Electoral Officer: \_\_\_\_\_

PROXY NOT APPROVED by Electoral Officer: \_\_\_\_\_

(Reason(s) for not approving) \_\_\_\_\_)