



**BINGWI NEYAASHI ANISHINAABEK  
ELECTION LAW**

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*Officially adopted, as amended, on OATif*

## Preamble

Whereas we, the Anishinaabe of Bingwi Neyaashi Anishinaabek, were placed on these lands by Gitchi Manitoo and have occupied our territory from time immemorial;

Whereas our ancestors comprised a distinct rights-holding group and were among the Indigenous nations that maintained their own systems of governance long before the arrival of European and other settlers;

Whereas oppressive Crown policy and legislation imposed strict regulations on our people and displaced our traditional systems of governance;

Whereas our right to autonomy, self-government, and self-determination is enshrined in the United Nations Declaration on the Rights of Indigenous Peoples;

Whereas the 1996 Report of the Royal Commission on Aboriginal Peoples confirmed the inherent right of all aboriginal peoples in Canada to govern themselves, and to do so under structures of their own choosing;

Whereas our inherent right to self-government is guaranteed by Section 35 of Canada's *Constitution Act, 1982*;

And whereas we seek to revitalize our own laws and systems of governance in a way that reflects our cultural practices and spiritual beliefs, including the Seven Grandfather Teachings: Love, Honesty, Wisdom, Respect, Humility, and Bravery.

Now, therefore, Bingwi Neyaashi Anishinaabek, enacts as follows:

# Interpretation

## Title

1 This law shall be known as the Bingwi Neyaashi Anishinaabek Election Law.

## Definitions

2 The following definitions apply in this law:

**Administrative Change** means any amendment to this Law that does not have a material impact on the composition of council, term of office, or Election process. Without reducing the generality of the foregoing, Administrative Changes include: (i) correcting editing, spelling, grammatical, or typographical errors; (ii) amendments intended to improve the operation of the law; (iii) improvements in language as may be required to bring out more clearly the intention of the law; (iv) changes required to reconcile seeming inconsistencies in the law, (v) changes intended to maintain or improve the enforceability of the law; and (vi) changes designed to align with amendments to relevant federal or provincial legislation;

**Advance Poll** means a Poll conducted prior to Election Day, in accordance with Section 29;

**Advance Poll Ballot Box** means the ballot box used to accept Ballots completed in person at an Advance Poll.

**Appeal Board** means the three individuals appointed and governed by Section 40;

**Appeal Package** means the written documents and deposit required to file an appeal, as described in Section 43;

**Appeal Period** means the thirty (30) day period following Election Day;

**Available Position** means a position on Council, either that of chief or councillor, which shall be filled by way of an Election;

**Ballot** means a slip, sheet of paper, or other device used to cast votes in an Election, prepared in accordance with this law, and includes Mail-In Ballots;

**BCR** means a Band Council Resolution;

**BNA** means Bingwi Neyaashi Anishinaabek;

**BNA Elder** means a BNA Member who is commonly recognized by Council as an elder;

**BNA Employee** means an individual who is actively employed by BNA.

**BNA Member** means an individual whose name appears on the BNA Membership List;

**BNA Membership List** means the official list of community members maintained by BNA;

**By-Election** means an Election, called in accordance with Section 50, to fill a vacant position on Council;

**Candidate** means an individual who, in the opinion of the Electoral Officer, has satisfied the requirements necessary to become a Candidate, as outlined in this law;

**Clean CPIC Background Check** means a standard Canadian Police Information Centre (CPIC) background check which shows that the individual has not been convicted of a criminal offence, unless such conviction was in the genuine pursuit, defense, or exercise of a proven or asserted right protected by Section 35 of Canada's Constitution Act, 1982.

**Community Meeting** means an in-person or virtual gathering of BNA Members;

**Conflict of Interest** means a situation in which an individual has competing interests that could compromise his or her judgement, decisions, or actions;

**Conflict of Interest Guidelines** means the guidelines around conflicts of interest as adopted and amended by BNA from time to time;

**Corrupt, Fraudulent, Coercive, Collusive, or Obstructive Practices** means one or more of the following:

- (a) **Corrupt Practice** is the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;
- (b) A **Fraudulent Practice** is any act or omission, including misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;
- (c) A **Coercive Practice** is the impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;
- (d) A **Collusive Practice** is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party; and
- (e) An **Obstructive Practice** is (i) deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making of false statements to investigators, in order to materially impede an investigation related to an Election or into allegations of a corrupt, fraudulent, coercive or collusive practice, and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or (ii) acts intended to materially impede access to required information in connection with an investigation related to an Election or into allegations of a corrupt, fraudulent, coercive or collusive practice;

**Council** means the body composed of those persons elected to the positions of chief and councillor pursuant to this Law;

**Deputy Electoral Officer** means a person appointed by the Electoral Officer to assist in the election process;

**Easter Weekend** means the four (4) day period, on the Christian calendar, spanning Good Friday and Easter Monday;

**Election** means the processes outlined in this law for BNA to select members of Council;

**Election Day** means the day, set in accordance with Section 22, on which the Election Day Poll and tabulation of votes is scheduled to be held;

**Election Day Ballot Box** means the ballot box which is used to hold Ballots completed in person at the Election Day Poll.

**Election Day Poll** means the process of in-person voting held on Election Day;

**Election File** means an organized and detailed file containing all documents, notes, and other information relevant to the Election;

**Election Report** means the document prepared by the Electoral Officer in accordance with Section 37;

**Election Results** means the official results of the Election, as determined by the Electoral Officer in accordance with this law;

**Elector** means a BNA Member who is at least 18 years of age on Election Day and is otherwise eligible to vote in an Election under this law;

**Electoral Officer** means a person, appointed in accordance with Section 7, who is responsible for conducting the Election;

**General Election** means the Election held every four (4) years to fill all Council positions;

**In-Person Ballot** means a Ballot that was completed in person at a Poll;

**List of Electors** means a formal list which names the Electors for a specific Election;

**Mail-In Ballot** means a Ballot which may be completed and returned by mail;

**Mail In, Ballot Box** means the ballot box which is used to hold Mail-In Ballots.

**Member of Council** means an individual who holds the position of chief or councillor;

**Nomination Meeting** means the meeting, described in Sections 16-20, at which individuals are nominated to run in the Election and Candidates are determined;

**Nominee** means an individual who has been nominated to run in the Election but has not yet been officially accepted by the Electoral Officer as a Candidate;

**Notice of Election** means the notice which sets out the date, time, and location of the Election Day Poll and any Advance Polls, as described in Section 23;

**Notice of Nomination Meeting** means the notice described in Section 17;

**Oath of Confidentiality** means the oath, as amended from time to time, to be sworn or affirmed by each newly elected Member of Council, which relates to their duties and responsibilities around confidentiality;

**Oath of Office** means the oath, as amended from time to time, to be sworn or affirmed by each newly elected Member of Council, which generally relates to the duties and responsibilities of their elected office;

**Poll** means formal in-person voting, either at an Advance Poll or Election Day Poll, held in accordance with this law;

**Polling Booth** means an area set up at a Polling Station where an Elector marks his or her Ballot and which maintains the privacy of the Elector while they vote;

**Polling Station** means the location where in-person voting takes place;

**Rejected Ballot** means a completed Ballot that was rejected by the Electoral Officer;

**Scrutineer** means an individual appointed by a Candidate, in accordance with Section 27, for the purpose of observing the voting and vote tabulation processes;

**Spoiled Ballot** means a Ballot that is filled out in a manner that is incompatible with the voting system being used, makes the voter's intention unclear, physically deforms the Ballot, makes marks on the Ballot other than those necessary to complete it from which the Voter's identity can be ascertained, is not marked at all, or is otherwise defaced instead of being used to vote;

**Substantive Change** means any change to this law that does not qualify as an Administrative Change;

**Term of Office** means the length of time, as more particularly set out in Section 4, that a Member of Council is meant to hold office, before there is a General Election;

**Voter** means an Elector who has voted in the Election;

**Voting Package** means the package of documents described in Section 25;

**Voting Period** means the time during which a Poll is open for in-person voting.

## **Council**

### **Composition**

3 Council shall be composed of 1 chief and 2 councillors.

### **Term of Office**

4 A Council's Term of Office shall be four (4) years and, more specifically, shall terminate upon a new Council being declared elected in accordance with this law.

### **Quorum**

5 A quorum of Council shall consist of two (2).

### **Informed**

- 6 Each Member of Council shall make reasonable efforts to ensure that all Members of Council are informed regarding Council business.

## **Electoral Officer**

### **Appointment**

- 7 The Electoral Officer shall be appointed by Council, not less than one hundred and twenty (120) days before Election Day.-Such appointment shall be made by BCR containing at least:
  - (a) The name of the Electoral Officer;
  - (b) The date and time of the Nomination Meeting;
  - (c) The date of Election Day;
  - (d) Whether-the Electoral Officer is being appointed for a General Election or a By-Election; and
  - (e) Any specific instructions for the Electoral Officer.

### **Eligibility**

- 8 -The Electoral -officer must be-at least eighteen (18) years of age on the date of their appointment and cannot be a BNA Member or BNA Employee.

### **Participation in Election**

- 9 The Electoral Officer is prohibited from participating or serving in any other capacity related to the Election.

### **Conflict of Interest**

- 10 An individual shall not accept an appointment as Electoral Officer if he or she would be in a Conflict of Interest. Once ap-pointed, there shall be a positive duty on the Electoral Officer to continually monitor for conflicts throughout the Election process and, where a Conflict of Interest develops the Electoral Officer shall delegate authority to the Deputy Electoral Officer to the extent necessary to alleviate the Conflict of Interest.

### **List of Electors**

- 11 Upon his or her appointment, Council shall provide the Electoral Officer with the final List of Electors. Candidates shall be able to view the List of Electors upon written request to the Electoral Officer.

### **Election File**

- 12 The Electoral Officer shall establish and maintain an Election File, which shall be held in trust for BNA throughout the Election process. Once the results of the Election are finalized, including the resolution of any appeals, the Election File shall be closed and provided to the newly elected Council.



### **Management of Funds**

- 13 The Electoral Officer shall be solely responsible for the security and repayment of all funds received during the Election process. Once the results of the Election and appeals are finalized, the Electoral Officer shall provide the remaining funds to BNA who may use the funds to off-set the costs of the annual BNA Christmas party.

### **Deputy Electoral Officer**

- 14 The Electoral Officer may appoint a Deputy Electoral Officer to assist with the Election. Any Deputy Electoral Officer must be approved by Council and satisfy the same eligibility requirements as an Electoral Officer.

### **Contract for Services**

- 15 The Electoral Officer, and Deputy Electoral Officer, shall sign a written contract of services in a form approved by Council from time to time.

## **Nomination Meeting**

### **Scheduling**

- 16 The Nomination Meeting shall be held approximately sixty-five (65) to seventy (70) days before Election Day.

### **Notice of Nomination Meeting**

- 17 The Electoral Officer shall develop a Notice of Nomination Meeting which contains the date, time, and location of the Nomination Meeting, list of Available Positions, and a copy of this law. At least fifteen (15) days before the Nomination Meeting, the Electoral Officer shall have the Notice of Nomination Meeting:
- (a) Mailed to every Elector at their last known mailing address; (b) Posted in the BNA administrative office;
  - (c) Posted on the BNA website; and
  - (d) Otherwise placed or distributed as the Electoral Officer deems appropriate.

### **Nomination Meeting Procedure**

- 18 On the day of the Nomination Meeting, the Electoral Officer shall abide by the following procedures:
- (a) At the time and place advertised, the Electoral Officer shall declare the Nomination Meeting open and begin receiving nominations of potential Candidates for the Available Positions.
  - (b) Nominations shall be open for at least two (2) hours.

- {c} An Elector may either propose or second the nomination of a potential Candidate, but not both. The Electoral Officer shall record the name of the potential Candidate, the nominator, and the seconder.
- {d} The Electoral Officer shall determine, in accordance with this law, the Nominees who qualify to be Candidates.
- {e} If, at the close of the Nomination Meeting, there is only one Candidate for chief, the Electoral Officer shall declare that Candidate to be elected by acclamation, effective at the close of the Election Day Poll.
- {f} If there are only one or two Candidates for councillor at the close of the Nomination Meeting, the Electoral Officer shall declare those Candidates to be elected by acclamation, effective at the close of the Election Day Poll.
- {g} If the number of Candidates for chief or the number of Candidates for councillor exceed the respective number of Available Positions for each, the Electoral Officer shall announce the Election Day, scheduled in accordance with Section 22, and the list of Candidates running for each Available Position.
- {h} If there is an insufficient number of Candidates to fill the Available Positions, the Electoral Officer shall announce and hold another Nomination Meeting as soon as feasible with respect to the remaining Available Positions.
- {i} The Electoral Officer is responsible for maintaining order throughout the Nomination Meeting and may remove any individual who, in the Electoral Officer's opinion, is disrupting or otherwise interfering with the meeting.

### **Candidate Nomination and Eligibility**

- 19 The Electoral Officer shall accept as a Candidate every individual who:

- {a} Is an Elector;
- {b} Has been a BNA Member for at least 1 year, as of the date of the Nomination Meeting;
- {c} Has been nominated and had their nomination seconded according to the requirements set out in this law;
- {d} Is physically present at the Nomination Meeting;
- {e} Is running for the position of chief or councillor, but not both;
- {f} Has provided the Electoral Officer with the required non-refundable deposit as set out in Section 20; and
- {g} Has provided the Electoral Officer with a Clean CPIC Background Check dated during the sixty (60) days immediately prior to the Nomination Meeting.

### **Non-Refundable Deposit**

20 By the close of the Nomination Meeting, each Candidate must have provided the Electoral Officer with a non-refundable cash deposit of \$200 if running for the position of chief, or \$100 if running for the position of councillor. The Electoral Officer shall provide the Candidate with a receipt.

#### **Withdrawal**

21 Any Candidate may withdraw their name from the Election by delivering to the Electoral Officer, prior to the printing of the Mail-In Ballots, a letter stating that they wish to withdraw, signed by the Candidate in the presence of:

- (a) The Electoral Officer;
- (b) A Justice of the Peace;
- (c) A Notary Public; or
- (d) A Commissioner for taking Oaths.

## **Pre-Election Procedure**

#### **Election Day Scheduling**

22 Election Day shall typically be the last Saturday in the month of April ending the fourth year of a Council's Term of Office. If Election Day coincides with Easter Weekend or, in the opinion of the Electoral Officer, the last Saturday in April happens to otherwise be ill-suited, the Election Day shall be the second to last Saturday in April.

#### **Notice of Election**

23 Within 48 hours of the Nomination Meeting the Electoral Officer shall post a Notice of Election, setting out the date, time, and location of the Election Day Poll and any Advance Polls. The Notice of Election shall be posted in the BNA administrative office, on BNA's website, and any other location that, in the opinion of the Electoral Officer, would support the Election process.

#### **Preparation of Ballots**

24 The Electoral Officer shall ensure that an adequate number of Ballots are prepared which list, in alphabetical order, the Candidates for chief and Candidates for councillor.

#### **Voting Package**

25 At least sixty (60) days before Election Day, the Electoral Officer shall mail to each Elector, a Voting Package consisting of:

- (a) A paper Ballot;
- (b) A postage paid return envelope pre-addressed to the Electoral Officer;
- (c) A second envelope marked "ballot";

- {d) A voter declaration form;
- {e) Instructions regarding voting by Mail-In Ballot;
- {f) The location of the Polling Station{s);
- {g) A description of the voting options; and
- {h) A list of any Candidates who were elected by acclamation.

### **Supplies**

**26** The Electoral Officer shall ensure that all equipment and supplies necessary to conduct the Election are secured and in place.

### **Scrutineers**

**27** Each Candidate is entitled to appoint one {1) Scrutineer by providing the Electoral Officer with that individual's name, in writing, at least five (5) days before the relevant Poll. A Scrutineer's role is limited to observing the voting and vote tabulation processes.

## **Voting**

### **Mail-in Ballots**

**28** Electors shall have the option of voting by Mail-in Ballot.

- {a) Electors may vote by Mail-in Ballot by completing and returning the necessary documents in their Voting Package in accordance with the included instructions;
- {b) The Electoral Officer shall pick up all Mail-in Ballots from the post office, at 9:00 a.m. on Election Day and place all Mail-in Ballots into an empty ballot box, labeled "Mail-In Ballot Box" and seal it. Candidates and Scrutineers shall be allowed to witness the picking up of the Mail-in Ballots and their placement into the Mail-in Ballot Box.
- {c) The sealed Mail-in Ballot Box shall then be brought directly to the Election Day Poll.
- {d) Mail-In Ballots that arrive after 9:00 a.m. on Election Day will not be counted in the Election.
- {e) Where an Elector votes by Mail-in Ballot and in person at a Poll, that individual's In-Person Ballot shall supersede his or her Mail-in Ballot.

### **Advance Polls**

**29** Advance Polls may be ordered as part of the instructions given to the Electoral Officer upon his or her appointment.

- {a) An Advance Poll need not be held at the same location as the Election Day Poll and offers a means of providing expanded access to in-person voting.
- {b) Where an Advance Poll is held, it will generally take place within a week of Election Day.

- (c) An Advance Poll shall follow the same procedures as an Election Day Poll, except that the votes cast in an Advance Poll shall remain sealed in a clearly labelled Advance Poll Ballot Box until the Election Day Poll has closed and votes are being tabulated.
- (d) An Elector who votes at the Advance Poll may not vote again at the Election Day **Poll**.

### **Election Day Poll**

**30** Electors shall have the option of voting in person on Election Day.

- (a) The Electoral Officer shall ensure that the Polling Station is fully prepared and ready for voting in time for the opening of the Poll.
- (b) Immediately before the commencement of the Poll, the Electoral Officer shall open the Election Day Ballot Box and have a witness verify that it is empty. The Electoral Officer shall then lock the Election Day Ballot Box to prevent it from being opened and shall place it in full view for the reception of completed Ballots. The Election Day Ballot Box shall remain locked while the Poll is open.
- (c) The Poll shall be open for in-person voting from 10:00 a.m. until 8:00 p.m. ET.
- (d) Scrutineers may observe the voting process while the Poll is open and the tabulation of votes thereafter.
- (e) The Electoral Officer shall maintain order during the Poll. The Electoral Officer has the authority and discretion to remove any person who is being disruptive, including a Candidate or Scrutineer.
- (f) An individual who attends at the Poll to vote must provide a piece of government issued photo identification which allows the Electoral Officer to verify that individual's identity.
- (g) The Electoral Officer shall verify that each prospective Voter's name appears on the List of Electors, and that her or she has not voted at an Advance Poll.
- (h) Each confirmed Elector, who has not voted at an Advance Poll, shall be provided with a Ballot.
- (i) After receiving their Ballot, each Elector shall:
  - i. Proceed directly to the place provided for marking Ballots;
  - ii. Mark his or her Ballot by placing an "X", or other such mark that clearly indicates the Elector's choice, in the space provided on each Ballot opposite the Candidate's name; and
  - iii. Deposit the Ballot in the Election Day Ballot Box, in the presence of the Electoral Officer or Deputy Electoral Officer.
- (j) Except as provided for in subsection 30(k), immediately below, the Elector shall be the only person in the Polling Booth while a Ballot is being marked.

- {k) Where an Elector is unable to vote in the manner prescribed, the Electoral Officer may assist such Elector mark his or her Ballot but shall only do so in the presence of a witness chosen by the Elector receiving assistance. In each such case, the Electoral Officer shall make a note of which Elector received assistance and the name of the witness who observed the process.
- {l) An Elector who declines to vote, intentionally spoils their Ballot, or receives a Ballot but refuses to place it in the ballot box shall forfeit their right to vote in the Election. In such a case, the Electoral Officer shall record that the Elector declined to vote and the Spoiled Ballot shall be preserved in the Election File.
- {m) Where an Elector unintentionally spoils their Ballot, the Electoral Officer has the discretion to allow that Elector to exchange the Spoiled Ballot for a new one. Where a Spoiled Ballot has been returned under this section the Electoral Officer shall mark it as unintentionally spoiled and ensure it is preserved in the Election File.
- {n) The Electoral Officer shall make a note of any irregularity which occurs during the Poll and include this information in the Election File.
- {o) Every Elector who is in line to vote at 8:00 p.m. shall be entitled to vote before the Poll is closed.

## Tabulation of Results

### Examination of In-Person Ballots

31 Immediately following the close of the Election Day Poll, the Electoral Officer shall, in the presence of such Candidates and Scrutineers in attendance, open the Election Day Ballot Box, and any Advance Poll Ballot Box, examine the In-Person Ballots, and reject any Ballots that, in the opinion of the Electoral Officer:

- {a) Are not initialed by the Electoral Officer;
- {b) Do not give clear indication of the Elector's preference;
- {c) Contain the selection of more Candidates than there are vacancies for the position;  
or
- {d) Make it possible to identify the Elector who completed the Ballot, from markings on the Ballot itself.

### Examination of Mail-in Ballots

32 Once the In-Person Ballots have been examined in accordance with Section 31, the Electoral Officer shall, in the presence of such Candidates and Scrutineers in attendance, open the Mail-in Ballot Box, examine the Mail-In Ballots, and reject any Mail-in Ballots that, in the opinion of the Electoral Officer:

- {a) Are not initialed by the Electoral Officer;
- {b) Are not witnessed;

- (c) Do not give clear indication of the Elector's preference;
- (d) Contain the selection of more Candidates than there are vacancies for the position;
- (e) Make it possible to identify the Elector who completed the Ballot, from markings on the Ballot itself; or
- (f) Have been completed by an Elector who has also voted in person at a Poll.

#### **Objections and Rejected Ballots**

**33** The Electoral Officer shall make note of objections raised regarding any Ballots and how the objection was resolved..Such objections shall be numbered, and a corresponding number written on the back of the relevant Ballot with an indication of whether the Ballot was rejected or not. Information related to objections, and all Rejected Ballots, shall be preserved in the Election File.

#### **Tabulation of Votes**

**34** Following the examination of Ballots, described above, the Electoral Officer shall tabulate the votes.

#### **Election Results**

**35** Once tabulation is complete, the Electoral Officer shall publicly announce the Election Results and declare the successful Candidates as elected.

#### **In the event of a Tie**

**36** In the event of a tie vote for chief or for the successful councillor position receiving the fewest votes, the following shall take place:

- (a) A recount shall be promptly conducted by the Electoral Officer, in the presence of such Candidates and Scrutineers in attendance;
- (b) If the recount does not result in a tie, the results of the recount shall be final;
- (c) If the recount results in a tie, the tie may be broken in one of two ways:
  - i. Option 1: The Candidates that are tied shall take part in a runoff Election to determine a winner. Subject to Option 2 immediately below, the runoff Election shall take place as promptly as possible and follow the Election provisions of this law; or
  - ii. Option 2: The Candidates that are tied and the Electoral Officer may unanimously agree on an alternative method of breaking the tie. If the Candidates who are tied and the Electoral Officer are unable to unanimously agree on an alternative method of breaking the tie within 48 hours of the close of the Election Day Poll, the Electoral Officer shall proceed with a runoff Election in accordance with Option 1 immediately above.

## **Election Report**

**37** Following the announcement of the Election Results the Electoral Officer shall complete and sign an Election Report, in triplicate, which contains:

- (a) A list of Candidates;
- (b) The number of Ballots cast;
- (c) The number of votes for each Candidate;
- (d) The number of Spoiled Ballots; and
- (e) The number of Rejected Ballots.

## **Distribution & Access**

**38** The Electoral Officer shall ensure that the relevant federal department and the newly elected Council each receive an original copy of the Election Report, with the third original to be placed in the Election File. The Electoral Officer shall post the Election Report in the BNA administrative office, on BNA's website, and such other conspicuous place as the Electoral Officer deems appropriate.

## **Swearing-in Ceremony**

**39** A swearing-in ceremony, honouring the newly elected Council, shall be held within ten (10) days of Election Day. At the swearing-in ceremony, each newly elected member of Council shall, as applicable, complete the Oath of Office, Oath of Confidentiality, and acknowledgements of the Conflict-of-Interest Guidelines and Code of Ethics.

# **Appeals**

## **Appeal Board**

**40** An Appeal Board shall be appointed by Council at least one hundred and twenty (120) days before Election Day.

- (a) The Appeal Board shall be composed of:
  - i. **A BNA Elder;**
  - ii. A licensed lawyer in good standing with the Law Society of Ontario; and
  - iii. An individual with Indigenous ancestry who is at least twenty-five (25) years of age, is not a BNA Member, is of good character and reputation, and who does not have an interest in the outcome of the Election;
- (b) No member of the Appeal Board shall be a member of Council, become a Candidate or Scrutineer in the Election, or otherwise be in a Conflict of Interest.
- (c) The composition of the Appeal Board shall remain confidential to protect the integrity of the Appeal Board and the Election process.



- (d) The Appeal Board shall determine all appeals, in accordance with this law.
- (e) The members of the Appeal Board shall hold office until the results of all appeals have been finalized.

#### **Appeal Period**

**41** An appeal, complete with all necessary documentation, must be filed within thirty (30) days of Election Day.

#### **Grounds for Appeal**

**42** Any Voter may file an appeal of the Election if they have evidence supporting at least one of the following grounds for appeal:

- (a) An individual elected was not qualified to be a Candidate;
- (b) There was a violation of this Law that might have affected the outcome of the Election; or
- (c) There was a Corrupt, Fraudulent, Coercive, Collusive, or Obstructive Practice in relation to the Election which might have affected the outcome.

#### **Filing an Appeal**

**43** To file an appeal, a Voter has 30 days from Election Day to submit to the BNA office, c/o the Appeal Board, an Appeal Package consisting of:

- (a) A written statement setting out, in full detail, the grounds for their appeal;
- (b) A commissioned affidavit affirming or swearing the accuracy and truthfulness of the alleged grounds of the appeal;
- (c) Supporting documentation, or other evidence, in support of the appeal; and
- (d) A cash deposit of \$250.

#### **Deposit**

**44** If the appeal is upheld, the cash deposit shall be returned to the Voter who filed the appeal. If the appeal is denied, the cash deposit shall become the property of BNA.

#### **Review of Appeal**

**45** Where a complete Appeal Package is received by the Appeal Board within the Appeal Period:

- (a) The Appeal Board shall forward a copy of each Appeal Package received to the Electoral Officer and each Candidate within seven (7) days of the end of the Appeal Period. The Appeal Packages shall be sent by registered mail or such other means as allows the Appeal Board to confirm delivery.
- (b) The Electoral Officer and Candidates shall have seven (7) days following delivery of the Appeal Packages, to provide the Appeal Board with a written reply to the alleged grounds for appeal.

- (c) The Appeal Board may conduct or authorize such further investigation into the alleged grounds for appeal as it deems appropriate and necessary, with such investigation being conducted on an urgent basis.

#### **Decision**

- 46 Once the Appeal Board has completed their review of the Appeal Package, responding material, and the results of any further investigation that has taken place, they shall provide a written decision to the Electoral Officer. The Appeal Board may, where appropriate, provide the Electoral Officer with instructions on how the issues identified in the Appeal might be corrected in the future.

## **Vacant Council Position**

#### **Automatic Vacancy**

- 47 The office of chief or councillor shall automatically become vacant if the person holding such office:
  - (a) Dies, resigns, or is unwilling to continue to hold their office;
  - (b) Is convicted of a criminal offence and has been sentenced for that offence, unless such conviction is in the genuine pursuit, defense, or exercise of a proven or asserted right protected by section 35 of Canada's Constitution Act, 1982;
  - (c) Is found, by a court of competent jurisdiction, to have committed misfeasance in public office or other abuse of office;
  - (d) Is determined by a court of competent jurisdiction to be mentally incompetent to hold office; or
  - (e) Ceases to be a BNA Member

#### **Potential Vacancy**

- 48 The office of the chief or a councillor may become vacant if the person holding such office:
  - (a) Fails to attend three (3) consecutive regular Council meetings without authorization from a quorum of Council, or accepts or offers bribes, forges documents or otherwise acts dishonestly in carrying out the duties of office; and
  - (b) A motion is presented at a duly convened regular Council meeting which calls for the position in question to become vacant; and
  - (c) A BCR declaring the position vacant, is signed by a quorum of Council.

#### **Running in Next Election**

- 49 Where a Council position is declared vacant, the individual removed from that office will be disqualified from running as a Candidate in the next Election.

### **filling a Vacancy on Council**

50 A vacant position on Council shall be filled as follows:

- (a) If the vacancy occurs in the first four (4) months of a Council's Term of Office, the Candidate in the immediately preceding Election who received the highest number of votes for the vacant position without being elected shall have the opportunity to fill the vacant position for the remainder of the Term of Office.
- (b) If the vacancy occurs after the first four (4) months of a Council's Term of Office and there is more than twelve (12) months remaining in the Council's Term of Office, then there shall be a By-Election held, in accordance with the Election procedures in this law, to fill the vacancy.
- (c) If the vacancy occurs during the final twelve (12) months of a Council's Term of Office, the position shall remain vacant until the next General Election.

### **Council Eligibility (By-Election)**

51 No Member of Council is eligible to be a Candidate in a By-Election.

### **Term of Office (By-Election)**

52 The winner of a By-Election shall serve the remainder of their predecessor's four (4) year Term of Office.

## **Amendments**

### **Administrative Changes**

53 Council shall have authority to approve by BCR:

- (a) Administrative Changes to this law; and
- (b) Amendments to the Oath of Office, Code of Ethics, Oath of Confidentiality, Conflict of Interest Guidelines, Electoral Officer Contract, and other related documents.

### **Substantive Changes**

54 Substantive Changes to this law must be proposed by Council, following a period of community consultation, and approved by a majority of votes cast at a Community Meeting which satisfies the following requirements:

- (a) Not less than thirty (30) days before the date of the Community Meeting, a meeting notice is:
  - i. Mailed to each Elector, and
  - ii. Posted at the BNA administrative office, and on the BNA website.
- (b) The meeting notice under subsection (a) contains:
  - i. The date, time, and location of the Community Meeting;

- ii. A statement of the purpose of the meeting;
  - iii. A summary of the proposed amendments to the law; and
  - iv. A description of the amendment process;
- (c) The proposed changes are reviewed in their entirety and debated at the Community Meeting prior to any vote; and
- (d) Electors unable to attend the Community Meeting in person are given the opportunity to actively participate in the meeting and vote on the proposed amendments.

**BNA Member Suggestions**

55 BNA Members may suggest amendments to this law by providing them in writing to Council for consideration.

**Coming Into Force**

56 Amendments to this law shall apply to subsequent Elections, except where an amendment is made within six (6) months of an Election in which case the amendments shall not come into force until after that Election.