



Millbrook First Nation Election Code

Draft for Discussion

August 2023

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DRAFT

## MILLBROOK FIRST NATION BAND CUSTOM ELECTION CODE GUIDING PRINCIPLES

The Millbrook First Nation (“MFN”) is a constituent community of the Mi’kmaq Nation, who possess the inherent authority to choose those among us who possess the character, good judgment and good faith to act as elected leaders, as recognized by subsection 2(1) of the Indian Act, R.S.C. 1985, c. I-5, and as was recognized by the same subsection of the Indian Act, R.S.C. 1970, c. I-6;

Our community shares collectively the inherent right to create a process for selecting leaders that is consistent with our unique customs, practices and traditions;

Our community values leaders who are trusted, truthful, respectful and who will work for the good of the community as whole and to support a good community life.

Our community is guided in this process by the principles of fairness to support equitable, transparent, accountable and efficient decision-making structures in the community and gave asset to this Custom Code for the Election of the Chief and Council through consultations and a vote held October 26, 2023;

### **1. Title**

This code shall be called the Millbrook First Nation Band Custom Election Code (“MFNCEC”).

### **2. Coming into Force**

The MFNCEC shall come into force upon the passing of a Ministerial Order proclaiming that the election provisions of the Indian Act, R.S.C. 1985, c. I-5, and its predecessor, the Indian Act, R.S.C. 1970, c. I-6, no longer apply to the Millbrook First Nation Band.

### **3. Interpretation**

In this code:

“Appellant” means an individual who submits an appeal in accordance with this Code with respect to an election or by election.

“Complaints and Appeal Board” or “Committee” means the Committee established under this Code whose duty it is to hear appeals or make recommendations on amendments to this Code.

“Band” or “First Nation” means the Millbrook First Nation Band, also known as the Millbrook First Nation and also further referred to as Millbrook.

“Candidate” means a Band member who has been nominated pursuant to this Code to stand for election for the office of Chief or Councillor.

“Code” means the Millbrook First Nation Band Custom Election Code and the leadership selection system set out herein.

“Corrupt practice” means efforts to influence the outcome of a vote and includes but is not limited to efforts to intimidate or coerce a voter, candidate or election official through direct or indirect bribery, a financial or material incentive, favours, forbearance or promises of such, tampering, alteration or interference with an official ballot or election count.

“Council” means the body composed of those persons selected pursuant to this Code.

“Deputy Electoral Officer” means any person appointed by the Electoral Officer for the purposes of an election to assist him in the conduct of the election process.

“Election day” means the day on which Council, through Band Council Resolution, has set for a general election or by election of the Millbrook First Nation Band.

“Elector declaration form” means a document that sets out, or provides for:

- a) the name of the elector;
- b) the Band membership or registry number of the elector or, if the elector does not have a Band membership number, the date of birth of the elector; and
- c) the name, address and telephone number of a witness to the signature of the elector.

“Election Report” means the post-election report to be prepared by the Electoral Officer as described herein.

“Elector” means a person who: (a) is a member of the Band; and (b) is at least 18 years of age on the day an election or by election is held.

“Electoral Officer” means a person, appointed in advance of each election, who has the responsibility for conducting the Nomination Day, the pre-election, election and post-election procedures.

“Electors list” means the list of Band members eligible to vote in an election.

“Election Report” means the post-election report to be prepared by the Electoral Officer that documents the results of the election.

“Electronic voting” means a secured system-based process of display of electronic ballots, recording of votes of the Members and the number of votes polled in favour or against, in such a manner that the entire voting exercised by way of electronic means gets registered and counted in an electronic registry in a centralised server with adequate cyber security.

“Immediate family” A husband, wife, sister, brother, mother, father, daughter, son, ward, grandmother, grand father, granddaughter, grandson, first uncle, first aunt or first cousin of an Elector; and includes any other relative living in the same dwelling as the voter for a continuous period of at least one year.

“Mail-in ballot” means a ballot mailed or delivered in accordance with this Code.

“Member” means a person registered on the membership list for Millbrook First Nation.

“Membership Clerk” means the Band employee responsible for maintaining the Band’s membership list.

“Nomination Meeting” means the event at which in-person nominations take place and is also the last day on which the Electoral Officer may accept Mail-in nomination forms.

“Oath” means a solemn affirmation.

“Off reserve electors” are members of the Millbrook Band who meet the criteria for casting ballots in an election under this Code and whose main residence is not located on the reserve lands of Millbrook First Nation.

“Polling station” means a building, hall or room which is selected as the site at which voting takes place.

“Rejected ballots” means those ballots that have been improperly marked and/or defaced by elector(s) which are not included in the tally of valid ballots cast during the counting of the votes.

“Reserve” means the reserves of the Millbrook First Nation, and includes the lands at Cole Harbour I.R. #30, Sheet Harbour, I.R. #36, Beaver Lake I.R. #17 and Tufts Cove.

“Scrutineer” means a person appointed in writing by a candidate to observe voting procedures and counting procedures under this Code.

“Tobacco quota” is an allotment of Millbrook First Nation’s tax-free tobacco which is allotted to a Designated Tobacco Vendor, who then sells the tobacco tax-free in a store on the lands of Millbrook First Nation.

“vote buying” is any form of financial, material or promissory inducement or reward by a candidate, agent or supporter to influence a voter to cast their vote or even abstain from doing so in order to enhance the chances of a particular candidate to win an election.

#### **4. Composition of Council**

##### **4.1**

The Council of the Millbrook First Nation shall consist of one (1) Chief and eight (8) Councillors. The minimum number of Chief and Council members who must be present at a duly convened meeting in order to conduct business is five (5).

##### **4.2 Chief**

- a) The Chief shall be that band member who was nominated for that position and was the candidate who received the greatest number of votes from eligible electors and who is declared elected pursuant to section 15 of this code.
- b) The primary duties of the Chief are, but are not limited to:
  - i. *Act as primary spokesperson for Council and the Nation when dealing with the Government of Canada, Provincial Governments and other organizations;*
  - ii. *to consult with membership on a continuing basis to determine their need and seek their direction;*
  - iii. *Be the lead negotiator for Council regarding initiatives of the Federal and Provincial Government;*
  - iv. *Be accountable to the membership and conduct business in an open and transparent manner;*
  - v. *Honour all motions, band council resolutions, policies and procedures passed at duly convened Council Meetings;*
  - vi. *Uphold the laws, policies and procedures of the First Nation;*
  - vii. *Report to Council on activities and Committees with which the Chief might be involved;*
  - viii. *Provide direction and leadership to Council.*
  - ix. *Assign Councillors to Boards, Committees and sub committees on a timely basis;*
  - x. *Support and respect the jurisdiction of the Band Administration;*
  - xi. *Honours and protects the collective interests, aboriginal and Treaty rights of the community;*

#### **4.3 Councillors**

- a) The Councillors shall be those eight band members, who were nominated for that position and who received the greatest number of votes from eligible voters and who are declared elected pursuant to this Code.
- b) The primary duties of a Councillor are, but are not limited to:
  - i. *act in concert with and to contribute to Council discussions in the best interests of the First Nation as a whole;*
  - ii. *Respect the jurisdiction of the Band Administration;*
  - iii. *uphold the laws, policies and procedures of the First Nation;*

#### **4.4 Chief and Council**

- a) Both Chief and Council are obligated under this Code to demonstrate credible and consistent leadership by:
  - i. *Setting clear standards and policies to be respected by all employees and members of Council;*
  - ii. *Making critical decisions on a timely basis and without the taint of conflict or self-interest;*
  - iii. *Setting a consistent example as role models for the First Nation, both internally and externally;*
  - iv. *Prioritizing the best interest of the First Nation in all external dealings and relationships;*
  - v. *Ensuring that all Band Members are treated in a fair and just manner with regard to Mi'kmaq ethics and Band laws and policies; and*

- vi. *Being honest and forthright in declaring and avoiding conflict, whether real or perceived.*
- vii. *Support and respect the jurisdiction of the Band Administration;*
- viii. *attend all duly convened meetings of Council, assigned Committees, boards and other First Nation entities regularly; and,*
- ix. *prepare and submit regular reports to the Council and the community on assigned programs and initiatives on a timely basis.*

## 5. Eligibility of Candidate

- a) Subject to section 5 (b) and regardless of residency, any Millbrook Band Member who is 19 years old on election day, is eligible to nominate candidates, be nominated to run and vote in a Millbrook First Nation election.
- b) A candidate in a Millbrook election must:
  - i. *be at least 19 years of age on the Election Day;*
  - ii. *be a member of the Band whose name appears on the list of eligible voters;*
  - iii. *have a nominator and seconder for their nomination;*
  - iv. *Within three business days of the nomination meeting, provide a completed candidate nomination package to the Electoral Officer prior to being placed on the list of candidates by the Electoral Officer;*
  - v. *Have provided a current Criminal Records, child abuse and vulnerable sector check within three days of the Nomination Meeting;*
  - vi. *Not have any outstanding criminal charges, and, if convicted previously, must have completed the sentence at least twenty (20) years prior to the date of the Nomination Meeting;*
  - vii. *Not be an Employee of the Band or its entities, a tobacco quota holder or a contractor of the Band where the contract value is in excess of \$25,000.00;*

**Commented [SM1]:** NS Age of Majority Act - legal age is 19 in NS and considering Councillors are signing documents etc to bind the band, having legal capacity to contract was important, so 19 was chosen.

## 6. Term of Office

- a) The Chief and Council of the MFN shall hold office for a Term of three (3) years. The Council in office at the time this Code comes into effect shall remain in office for the remainder of their term pursuant to section 78(1) of the *Indian Act*.

## 7. Appointment of Electoral Officer

- a) An Electoral Officer must be a person who:
  - i. *is at least 19 years of age and not a Member of the MFN;*
  - ii. *has no apparent or perceived conflict of interest that would impact the Officer's conduct of a fair election;*
  - iii. *is impartial, having no vested interest in the outcome of the election;*
  - iv. *is at least nineteen (19) years of age;*
  - v. *has experience in the conduct of elections or has received appropriate training; and*
  - vi. *can demonstrate knowledge of this Election Code.*



- b) The Electoral Officer's appointment is made by a Band Council Resolution and the Electoral Officer is to be informed of such appointment at least 130 calendar days before the expiration of Council's term of office.
- c) The Band Council Resolution for the appointment of the Electoral Officer shall contain the Electoral Officer's full name and address, the date of the election, the process for voting (in person, mail in and/or electronic voting) and any special instructions.
- d) If an Electoral Officer has not been appointed and accepted such appointment within the time set out in section 7(b), the MFN Executive Director shall appoint the Electoral Officer, and inform him or her of such appointment at least 120 days before the expiration of the Council's term of office.
- e) If the person appointed as Electoral Officer is unable or unwilling to accept the appointment, they must advise MFN Council and the Executive Director within seven (7) days of the appointment.
- f) If the Electoral Officer becomes unable to fulfill his/her duties, an existing Deputy Electoral Officer shall be appointed as Acting Electoral Officer, to undertake the duties of the Electoral Officer.
- g) MFN's Executive Director may work with Tribal Organizations to create a Request for Proposals through which applications for the position of Electoral Officer will be received. A Request for Proposals must include the following:
  - i. *Service fees, travel expenses for an Electoral Officer and their staff;*
  - ii. *reimbursements for postage, printing, office expenses etc.; and*
  - iii. *any other reasonable expenses associated with the election.*

**8. Nomination Process & Mail-in Procedure**

- a) The Nomination Meeting shall be held at least 45 days prior to the Election Day.
- b) The Electoral Officer shall post a public Notice of Nomination Meeting in advance of the Nomination Meeting,
- c) At least 35 days before the date on which the Nomination Meeting is to be held, the Electoral Officer shall mail a Notice of Nomination Meeting, a nomination form and a voter declaration form to every eligible voter of MFN who appears on the MFN voter list and for whom the Electoral Officer has been provided their address.
- d) The Notice of Nomination Meeting shall contain the following:
  - i. *The date, time, duration and location of the nomination meeting;*
  - ii. *The date of the election and the location of each polling place;*
  - iii. *A Nomination form;*
  - iv. *A Voter declaration form;*
  - v. *The name and phone number of the Electoral Officer;*
  - vi. *The statement on the methods for casting a ballot; and*

- vii. *A description of how a voter can nominate or second the nomination of a candidate;*
- viii. *vi. The amount of the Nomination Fee that shall be charged to candidates to offset the cost of candidate mailouts;*
- e) The Electoral Officer shall record the names of the voters to whom a notice of the nomination meeting was mailed, the addresses of those voters, and the date on which the notices were mailed.
- f) Subject to Section 5 of this Code, any eligible voter may propose or second the nomination of any qualified person to serve as the Chief or Councillor by:
  - i. *Delivering, mailing or emailing a scanned copy of a written nomination and a completed, signed and witnessed voter declaration form to the Electoral Officer before the time set for the nomination meeting; or*
  - ii. *Orally, at the nomination meeting.*
- g) Attendance at the Nomination meeting is not a condition of a candidate's eligibility to run.

**8.2 The Nomination Meeting**

- a) The nomination meeting shall be held 45 days prior to the Election Day.
- b) The Electoral Officer shall open the location of the nomination meeting, and conduct that meeting, from 6:00 p.m. to 8:00 p.m. AST, during which time eligible nominations will be received with seconds.

**8.3 Maintaining Order and Security**

The Electoral Officer shall conduct the nomination meeting in an orderly and peaceful way and may authorize the removal any person who, in his/her opinion, is under the influence of an intoxicant, or who is being disruptive or interfering with the meeting.

**8.4 Nomination Procedure**

- a) At the start of the nomination meeting, the Electoral Officer shall post all written nominations and seconds that have been received by mail or delivered. Any written nominations received after the nomination meeting has been closed will be declared void.
- b) Where the same person receives two written nominations for the same office, the second nomination shall constitute a seconder of the first nomination.
- c) A person present at a nomination meeting who is eligible to do so may second the nomination of any person nominated in writing;
- d) The Electoral Officer shall record and post the name of the candidate, the nominator and the seconder.

- e) Any eligible voter may one only nominate or second:
  - i. *one eligible person for the office of Chief; and*
  - ii. *nominate or second for a total of eight (8) Councillors.*
  
- f) Any nominator must provide the contact information of each of their nominees to the Electoral Officer at the conclusion of the Nomination Meeting.
  
- g) At the end of the nomination meeting:
  - i. *if only one person has been nominated and accepts for election as Chief, the Electoral Officer shall declare that person to be elected by acclamation and provide notice to the community that an election for Chief will not be held;*
  - ii. *if the number of persons nominated and accepts to serve as councillors does not exceed the number to be elected, the Electoral Officer shall declare those persons to be elected by acclamation; and that an election for Council will not be held;*
  - iii. *Where the office of Chief and all offices of Councillor are filled by acclamation, the Electoral Officer shall provide notice that sets out the names of the persons who have been acclaimed and that no election will be held;*
  - iv. *where more than the required number of persons are nominated for election as Chief or Councillors, the Electoral Officer shall provide notice announce that an election will be held specifying the election date.*
  
- h) Any person nominated for both Chief and Councillor may only accept being a candidate for one of the offices of Chief or Councillor in any election.
  
- i) A nominee may decline the nomination by completing a withdrawal form and submitting it to the Electoral Officer within three days of the Nomination Meeting. However, if a nominee wishes to accept the nomination they must declare their acceptance by submitting a declaration of acceptance and a complete Nomination Package to the Electoral Officer within three days of the Nomination Meeting.
  
- j) The Electoral Officer and the Deputy Electoral Officer shall make their best efforts to notify any nominees who were not present at the meeting that they have been nominated and provide nominees with copies of this Code and any Rules or Regulations made for the conduct of MFN elections.
  
- k) On the day following the nomination meeting, the Electoral Officer shall post in at least one conspicuous place in the community a draft list of nominees, their nominators and seconders and the offices for which they are nominated. The Electoral Officer shall also post the draft list of nominees to the Millbrook First Nation website or official social media pages.

#### **8.5 The Nomination Fee**

- a) Any Nominee who wishes to formalize their candidacy in an MFN election must pay a non-refundable fee of \$150.00 which can be paid by cash, cheque or money (order made out to the Millbrook First Nation) and shall be included as part of the Nomination Package that must be returned to the Electoral

Officer by each Nominee before they are added to candidate list, pursuant to section 8.6.

- b) The Electoral Officer shall receive and record a candidate's Nomination Fee and shall forward the fees to the Millbrook First Nation Administration.

#### **8.6 Nomination Package & Final Confirmation of Candidacy**

- a) A person who has received a nomination to run for Chief or Councillor will only be added to the final list of electoral candidates, if they submit to the Electoral Officer a Nomination Package that contains:
  - i. *a declaration of acceptance of nomination;*
  - ii. *a completed Criminal Records, child abuse and vulnerable sector check;*
  - iii. *the Nomination fee;*
  - iv. *a sworn declaration confirming their eligibility as a candidate; and*
  - v. *a confirmation from the MFN finance department that the candidate does not owe a debt to the Band.*
- b) A nominee shall file a completed Nomination Package with the Electoral Officer by mail or in person no later than 3 business days following the nomination meeting.
- c) Any nominee who does not submit their Nomination Package within 3 business days following the Nomination Meeting shall be considered to have rejected their nomination and shall be disqualified from running in an election under this Code and shall not be included on the ballot.
- d) If a nominee does not include a valid criminal record, child abuse or vulnerable sector check as part of the Nomination package required pursuant to this Code, they are disqualified from being a candidate in an election held under this Code and shall not be included on the ballot.
- e) Where wait times for valid criminal record, child abuse or vulnerable sector checks make it impossible for a Nominee to provide this documentation within 3 days of the Nomination Meeting, a Nominee can provide a statutory declaration that it is being sought and setting out their criminal record, if any.
- f) Where a Nominee makes a statutory declaration in accordance with section 8.6 (e) they may run in the election, but if elected they cannot take office until providing this documentation and confirming that they meet the criteria for eligibility in section 5 (b) vi, to the Electoral Officer.
- g) A Nominee who has submitted a statutory declaration under section 8.6 (e) and is declared elected, but who fails to provide a Criminal Record, child abuse and vulnerable sector check to the Electoral Officer within fourteen (14) business days of the Election Day will have their seat declared vacant by the Electoral Officer, in accordance with the provisions of this Code.

- h) If a nominee presents a clear criminal record check as part of their Nomination package but is charged with a criminal offence during the election period, they are disqualified from holding office under this Code.
- i) A nominee who is disqualified from running under this Code or whose seat is declared vacant shall receive written notice of their disqualification from the Electoral Officer.

#### **9. Notice of Election Day**

- a) At least 35 days before the Election date, the Electoral Officer shall post a Notice of Election Day at the MFN administration office, located at 820 Willow St, Truro, Nova Scotia and shall also the post the Notice of Election to the MFN Official social media pages and shall deliver same to off reserve electors through Canada Post.
- b) The Notice of Election shall contain:
  - i. *the date for the notice of election;*
  - ii. *the number and positions for which candidates shall be nominated;*
  - iii. *the names of each candidate for Chief & Council;*
  - iv. *the date of the Election, location and hours of the polling station(s);*
  - v. *the name and contact information of the Electoral Officer; and*
  - vi. *the manner of voting.*

#### **10. Campaign Process & Code of Ethics**

- a) Within 12 days of the posting of the Notice of Election, each candidate may submit a one-page (letter sized) biography or campaign message to the MFN administration. The MFN administration shall compile candidate information in a single campaign booklet that shall be formatted and published by the MFN administration and distributed by the Electoral Officer to every eligible voter for whom the Electoral Officer has an address.
- b) The intent of the of the campaign booklet is to balance the privacy interests of voters while providing a cost effective and sustainable way for candidates to provide information to eligible voters. The distribution of this booklet does not preclude a candidate from providing, at their own expense, their own campaign material to eligible voters, so long as the provisions of such material does not violate this Code.
- c) MFN electoral candidates agree to campaign:
  - i. *without coercion or vote-buying or gift giving;*
  - ii. *respecting the right and freedom of other parties to organize and campaign;*
  - iii. *respecting the rights of voters to obtain information from a variety of sources and to attend political rallies;*
  - iv. *respecting the rights of voters to maintain their privacy and*
  - v. *ethically, focusing on political issues and candidate platforms, instead of conducting smear campaigns or ones of rumour, innuendo and slander;*

- vi. *non-violently, without intimidating opposing party candidates, opposition supporters or the media, and without the use of language inciting their own supporters to violence;*
  - vii. *respecting the freedom of the press to cover the campaign and to express opinions on the campaign;*
  - viii. *respecting the electoral officials and not interfering with the performance of their duties; and*
  - ix. *accepting and complying with the official election results and the final decision of the Election Appeal Committee.*
  - x. *using social media (Facebook, Twitter, Blogs, websites, online forums, etc.), and other mediums in a respectful manner, conducive to constructive debate of issues, treating other candidates with utmost respect in employing such social media.*
- d) Every person is in breach of this Code when they directly or indirectly offer money, goods, employment, forbearance or other valuable consideration to influence a voter to vote or not vote for a particular candidate in an election.
- e) Every person is in breach of this Code when they, by intimidation or duress, or by any pretence or contrivance, compel or induce a voter to vote or not vote for a particular candidate, to vote or not vote for a particular candidate in an election.
- f) Every person is in breach of this Code when they accept or agree to accept money, goods, employment, forbearance or other valuable consideration from another person as in exchange for their promise to vote or not vote for a particular candidate in an election.
- g) Where an elector or a candidate has information that a breach of this Code has occurred, the elector or candidate may file an appeal with the Complaints and Appeals Board, for a determination under this Code.

#### **11. Campaign practice and Election signage**

- a) No election or campaign signage shall be permitted in the Millbrook Power Centre or on the premises of any commercial enterprises of the Millbrook First Nation.
- b) Pursuant to section 94 of Nova Scotia's *Motor Vehicle Act*, R.S., c. 293, s. 1. no election or campaign signs shall be permitted to be posted on any highway or traffic sign or signal or guardrails on the lands of the Millbrook First Nation.
- c) It is an offence under this Code for any person to:
  - i. *Erect campaign signs within 50 meters of a polling station(s) on election day.*
  - ii. *Do anything which obstructs or influences voters within 50 meters of a polling station.*
  - iii. *Beginning at 12:01 a.m. AST on election day, transmit or cause to be transmitted an advertising message promoting or opposing the election of a candidate. This includes but is not limited to:*

- a) *naming the candidate;*
  - b) *showing a photograph, cartoon or drawing of the candidate;*
  - c) *identifying the candidate, including by image or by a logo; or*
  - d) *providing a link to a web or social media page or account page that does any of the above*
- iv. *Attempt to influence voters or tell them to vote or not vote for a candidate or by wearing or display of any object indicating a political statement or message that could be construed as promoting or opposing the election of a candidate.*
  - v. *Poll or direct questions or to otherwise attempt to obtain information as to whether a particular voter has voted, how a voter is about to vote or has voted.*
  - vi. *Take part in demonstrations or processions related to the election within 500 meters of a polling station on election day*
  - vii. *Film or take photos of the Electoral Officer, their Deputy or other electoral staff, voters inside or outside the polling station or photograph voting papers or ballots.*
  - viii. *By intimidation or duress, attempt to influence another person to vote or refrain from voting or to vote or refrain from voting for a particular candidate.*
  - ix. *Offer money, goods, employment, forbearance or other valuable consideration in an attempt to influence an elector to vote or refrain from voting or to vote or refrain from voting for a particular candidate.*
  - x. *Intentionally vote more than once in respect of any given position of Chief or Councillor; or*
  - xi. *Accept or agree to accept money, goods, employment, forbearance or other valuable consideration to vote or refrain from voting or to vote or refrain from voting for a particular candidate.*

## **12. Pre-Election Procedure**

### **12.1 Voting Ballots**

- a) The Electoral Officer shall prepare a ballot setting out, if applicable:
  - i. *the names of the candidates nominated for election as Chief, in alphabetical order by surname; and*
  - ii. *the names of the candidates nominated for election as councillor(s), in alphabetical order by surname. Where a candidate requests, it is acceptable for the Electoral Officer to also include a nickname of a candidate along side their legal name.*

### **12.2 Mail-in Ballots**

- a) At least 35 days prior to the date on which the election is to be held, the Electoral Officer shall mail to every eligible voter for which a current address is on file, a mail-in ballot package consisting of:
  - i. *a ballot initialled on the back by the Electoral Officer;*
  - ii. *an inner postage-paid return envelope, pre-addressed to the Electoral Officer;*
  - iii. *a second inner envelope marked "ballot" for insertion of the completed ballot;*

- iv. *a voter declaration form which shall set out: the name of the voter; the membership number and date of birth of the voter; and the name, address and*
  - v. *telephone number of the witness to the signature of the voter;*
  - vi. *the Notice of Election set out in Section 9 and*
  - vii. *a letter of instruction regarding voting by mail-in ballot that includes; a statement advising voters that they may vote in person at any polling station on the day of the election if they return their mail-in ballot to the Electoral Officer at the polling station, or swear a written declaration before the Electoral Officer that they have lost the mail-in ballot.*
- b) A voter, who has not received a mail-in ballot package may, request a mail-in ballot package from the Electoral Officer, no later than 14 days prior to election day.
- c) Upon receipt of a request for a mail-in ballot package, the Electoral Officer shall mail or deliver a mail-in ballot package to the voter who so requests. For greater certainty, no voter may request a ballot on another voter's behalf.
- d) The Electoral Officer shall indicate on the voters list that a ballot has been provided to each voter 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 or otherwise provided.
- e) A voter shall vote by mail-in ballot by:
- i. *placing an "X" or other mark that clearly indicates the voter's choice of candidate but does not identify the voter opposite the name of the candidate or candidates for whom he desires to vote;*
  - ii. *folding the ballot in a manner that conceals the names of the candidates or any marks, but exposes the electoral officer's initials on the back;*
  - iii. *placing the ballot in the inner envelope and sealing the envelope;*
  - iv. *completing and signing the voter declaration form in the presence of a witness who is at least 18 years of age;*
  - v. *placing the inner envelope and the completed, signed and witnessed voter declaration form in the postage-paid envelope; and*
  - vi. *by delivering, mailing or otherwise ensuring receipt by the Electoral Officer of the envelope before the close of polls on the day of the election.*
- f) Where a voter is unable to vote in the manner set out in Section 12.2 (e) the voter may enlist the assistance of another person to mark the ballot and complete and sign the voter declaration form. The person enlisted by the voter may also assist the voter to deliver the mail-in ballot to the Electoral Officer.
- g) A person referred to in Part 12.2 (f) shall sign a statement to attest to the fact that:
- i. *the person completing and signing the voter declaration form is the person whose name is set out in the form; or*
  - ii. *the voter is the person whose name is set out in the form and that the ballot was marked according to the directions of the voter.*



h) Mail-in ballots that are not received by the Electoral Officer before 8:00 P.M. AST on the day of the election shall not be counted. The ballots will be kept on file for the purpose of any pending appeals for a period of 90 days, after which they shall be destroyed by the Electoral Officer.

i) It is a breach of this Code for any person to:

- i. Attempt to interfere with or influence any voter in marking his or her ballot.*
- ii. Vote or attempt to vote knowing that they are not entitled to vote;*
- iii. Attempt to influence another person to vote knowing that the other person is not entitled to do so; or*
- iv. Knowingly use a forged ballot.*

### **12.3 Electronic Voting**

a) If directed by the Band Council Resolution in section 7(c) an eligible voter may cast a ballot by electronic voting.

b) Where a BCR pursuant to section 7(c) allows for electronic voting in an election, an eligible voter may provide copies of government issued photo i.d. and request an electronic voting code from the Electoral Officer.

c) Upon receipt of a request for an electronic voting Code, the Electoral Officer shall deliver a code to an eligible voter who makes the request.

d) To cast an internet-based vote, an eligible voter will:

- i. access the website address provided;*
- ii. confirm their name, date of birth, and band registry number;*
- iii. be provided the opportunity to update their personal contact information;*
- iv. confirm their desire to vote by internet;*
- v. confirm their eligibility to vote using internet-based voting;*
- vi. declare their intent to vote;*
- vii. confirm intent to vote by entering their PIN (Personal Identification Number), Date of Birth and Registration (Status) number;*
- viii. open the link to their electronic ballot sent by email and cast their vote; and*
- ix. confirm their vote.*

e) Immediately after an internet vote is completed the voters list will be automatically updated with the exact time, and date that the vote was cast and recorded for the eligible voter.

f) Immediately after an internet vote is completed an email will be automatically generated that confirms the vote of the eligible voter was received and recorded to:

- i. the Eligible Voter; and*
- ii. the Electoral Officer.*

g) Upon receipt of the email notification the Electoral Officer will:

- i. confirm that the voter is an eligible voter and will record the vote;*
  - ii. confirm that no other Mail-in Voting Package, or in-person vote was received for the same voter; and*
  - iii. record the date when the vote was received.*
- h) Where the Electoral Officer is notified of an incomplete or failed internet based - voter registration or vote, the Electoral Officer will contact the voter immediately with alternative voting solutions, including Mail-in Ballot or voting in person, where time makes such options feasible.
  - i) Electronic voting will be available for the one week period prior to election day. At the opening of the poll on election day, the internet voting platform will no longer be accessible by voters.
  - j) Immediately upon the closing of the in-person polls the electronic voting contractor will have automatically emailed to the Electoral Officer a link to the electronic voting results and make the information accessible on the electronic voting platform to the Electoral Officer.

#### **12.4 Election Supplies and Equipment**

- a) The Electoral Officer shall, before the polling station is open, supply the polling station with:
  - i. sufficient ballot boxes;*
  - ii. a sufficient number of ballots;*
  - iii. a sufficient number of voting compartments enabling voters to mark their ballots free from observation;*
  - iv. instruments for marking the ballots;*
  - v. a sufficient number of voting instructions as may be required;*
  - vi. all other equipment necessary to establish and equip the polling stations; and*
  - vii. the final voters list.*

#### **12.5 Polling Station**

- a) The Electoral Officer will establish at least one polling station on lands of Millbrook I.R. # 27, near Truro, Nova Scotia.
- b) Where directed by MFN administration, the Electoral Officer may exercise their discretion and establish additional polls at Sheet Harbour I.R.#36, Cole Harbour I.R. #30, Beaver Lake I.R. #17 or any other location, subject to community demand and the availability of sufficient resources to manage the polls.
- c) The Electoral Officer shall provide a voting compartment in the polling station where electors can mark their ballots free from observation and the Electoral Officer may appoint security to maintain order in the polling station.

### **13 Election Day**

#### **13.1 Vote Scrutinizer**

- a) Subject to section 13.1(c) and 14.1(a), a candidate may employ one or more scrutineers to monitor voting and the counting of votes on Election Day.

- b) The candidate shall provide a written and signed letter of authorization naming and authorizing the scrutineer(s) to act on behalf of a candidate to the Electoral Officer at least 24 hours before the opening of the polling station.
- c) While the polls are open, each candidate is entitled to one scrutineer in the polling station at any one time.
- d) A scrutineer is not permitted to use a mobile phone, or other device that is equipped with Wi-Fi or cellular access to the internet or a Bluetooth connection to another device while in the polling station.
- e) Food for scrutineers must be arranged in advance and provided by the candidate.
- f) Scrutineers will be provided phone number to which emergency calls and communications intended for them can be directed while they are working during election day.
- g) If a scrutineer is found to be in violation of 13.1 (d), the Electoral Officer or the Electoral Deputy may ask them to leave the polling station.

### **13.2 Polling Hours**

The polling station shall be open from 8 a.m. until 8 p.m. AST local time on Election Day.

### **13.3 Verification of the Ballot Box**

Immediately before the opening of the polls, the Electoral Officer or the Deputy Electoral Officer shall:

- a) open the ballot box and invite those present in the polling station to witness that the ballot box is empty. The Electoral Officer will then complete a written statement to this effect and have it witnessed by someone present in the polling station;
- b) Lock and properly seal the ballot box in a manner preventing it from being opened without breaking the seal; and
- c) Place the ballot box in public view inside the polling station for the reception of the ballots.

### **13.4 Secrecy and Security**

- a) Voting shall be by secret ballot.
- b) Except as outlined in sections 12.2(f) and (g) or 13.6, no voter may vote by proxy or authorize another person to vote on his or her behalf.
- c) The Electoral Officer must manage the polling station in an orderly and peaceful way and may remove any person who, in their opinion, is under the influence of an intoxicant, or who is being disruptive or interfering with the orderly conduct

of the poll or is suspected of engaging in any activity prohibited under Section 11(c).

### 13.5 Voting Procedure

- a) On arriving at the polling station, a voter shall provide a photo identification or letter from confirming their membership in the Millbrook First Nation to the Electoral Officer or their Deputy.
- b) If voter's identity is confirmed and their name appears on the voters list, the Electoral Officer shall, determine whether the voter has voted before placing their initials on the ballot(s) and giving the ballot to the voter.
- c) If a voter is determined to have voted at another polling location or through electronic voting, they shall not be permitted to vote at second location.
- d) The Electoral Officer or their Deputy shall mark opposite the name of every person receiving a ballot in the appropriate column on the voter's list.
- e) Any voter to whom a mail-in ballot was provided may vote in person at a polling station if:
  - i. *the voter returns the mail-in ballot to the Electoral Officer or their Deputy; or*
  - ii. *where the voter has lost the mail-in ballot, the voter provides the Electoral Officer or their Deputy with a written affirmation of the lost ballot, which affirmation shall be signed by the voter in the presence of the Electoral Officer or their Deputy.*
  - iii. *a voter who had previously mailed in a completed ballot, may appear in person at the polling station and request their mail-in ballot be voided and issued a new ballot.*
- f) The Electoral Officer or their Deputy, shall then notify the other polls of the names of voters who have cast ballots in-person at their respective polling stations.
- g) When requested to do so, the Electoral Officer or their Deputy shall explain the method of voting to the voter.
- h) After receiving a ballot, a voter shall:
  - i. *Place any mobile phone, camera, or other device that is equipped with the ability to capture or transmit images or otherwise equipped with Wi-Fi or cellular access to the internet or a Bluetooth connection to another device in a compartment for safekeeping as designated by the Electoral Officer or their Deputy;*
  - ii. *then immediately proceed to the polling booth and mark the ballot by placing an "X" or other mark that clearly indicates the voter's choice of candidates for whom they desire to vote;*
  - iii. *fold the ballot in a manner that conceals the names of the candidates and any marks, but exposes the initials on the back; and*
  - iv. *deliver the ballot to the Electoral Officer or their Deputy.*
- i) On receipt of a completed ballot, the Electoral Officer or their Deputy shall, without unfolding the ballot, verify the initials placed on it and allow the voter to

place the ballot in the ballot box, in the presence of the voter and any other persons entitled to be present at the polling station.

- j) Except as provided in 13.6 (a) it is an offence under this Code for a person, other than the voter or a minor child of a voter, to be present with a voter in the location where they are marking their ballot.
- k) Once the voter has cast their ballot, they are to leave the polling station and its premises immediately. No candidate or any other person is permitted to loiter or congregate at the polling station or its premises by on election day, either during the voting itself or the counting of ballots.
- l) A person may deliver a completed mail-in ballot package on election day on behalf of another elector must complete and sign a Declaration of Person Delivering a Mail-in Ballot Package for each mail-in ballot package delivered.

### **13.6 Voting Anomalies**

- a) At the request of any voter who is unable to vote in the manner set out in Section 13.5, electoral staff may assist that voter by marking their ballot in the manner directed by the voter.
- b) The voter may request a witness to the voting process as outlined in section 13.6 (a)
- c) A voter who has marked their ballot in such a manner that it cannot be used shall immediately be given one opportunity to return the ballot to the Electoral Officer or their Deputy, and to obtain another ballot. In such cases, the Electoral Officer or their Deputy shall write the word "spoiled" on the returned ballot paper and preserve it.
- d) Any person who has received a ballot and who leaves the polling station without depositing their ballot in the ballot box, or, refuses to vote after receiving a ballot, forfeits their right to vote in the election, and the Electoral Officer or their Deputy shall make an entry in the voters list in the column for remarks opposite the name of such person to show that such person received a ballot and declined to vote or failed to return the ballot.

### **13.7 Closing of the Polling Station**

- a) The Electoral Officer or their Deputy shall ensure that the doors to the polling station are closed at 8:00 pm AST on Election Day.
- b) At 8:00 p.m. AST on Election Day, the Electoral Officer shall take note of which voters remain inside the polling station or who are in line to vote outside. Any voter who is inside the polling station or in line to vote outside the polling station at 8:00 p.m. AST is entitled to complete their vote.
- c) Any voter who arrives at the polling station after the close of the polls or who joins any line to vote after the Electoral Officer or their Deputy has noted the line at the polling station at its close, is not eligible to vote.
- d) Once voting is complete and the polls are closed, the Electoral Officer or their Deputy shall ensure the doors to the polling station are locked to outside entry.

## **14 Counting of the Votes**

#### 14.1 Opening Mail-In Ballots

- a) The Opening and counting of ballots shall be conducted in the in the presence of two scrutineers per candidate.
- b) Upon the closing of the polling station at 8:00 p.m. and securing the doors, the Electoral Officer shall open each envelope containing a mail-in ballot that was received before the close of the polls and without unfolding the ballot place it on the table.
- c) The folded mail-in ballot shall be rejected if;
  - i. *it was not accompanied by a voter declaration form, or the voter declaration form is not signed or witnessed;*
  - ii. *the voter declaration form does not contain a date of birth or a band number that matches the information contained for that voter on the voters list;*
  - iii. *the name of the voter set out in the voter declaration form is not on the voters list; or*
  - iv. *the voters list shows that the voter has already voted.*
- d) In any other case, the mail-in ballot shall be deemed admissible. A mark shall be placed on the voters list opposite the name of the elector set out in the voter declaration form, and the folded mail-in ballot shall be placed in the ballot box.

#### 14.2 Counting the Ballots

- a) The Electoral Officer or their Deputy shall supply all persons present and who so request with a tally sheet to keep their own tally of the votes.
- b) Immediately after the mail-in ballots have been deposited in the ballot box the Electoral Officer or their Deputy shall open the ballot box and examine each ballot in the presence of any scrutineers.
- c) The Electoral Officer or their Deputy shall call out the names of the candidates for whom the votes were cast on all valid ballots.
- d) Either the Electoral Office or their Deputy, not calling out the names of candidates, shall mark a tally sheet in accordance with the names being called out for the purpose of arriving at the total number of votes cast for each candidate.
- e) The Electoral Officer shall include the report of the electronic based voting at the close of the polls in the count of the votes, if electronic voting was permitted in the election.

#### 14.3 Rejected Ballots

- a) a. In examining the ballots, the Electoral Officer or their Deputy must reject any ballots that:
  - i. *do not contain the initials of the Electoral Officer or their Deputy;*
  - ii. *do not give a clear indication of the voter's intention;*
  - iii. *contain more votes than there are candidates to be elected; or*
  - iv. *contain a mark by which the voter can be identified.*
- b) The Electoral Officer or their Deputy shall attach a note to each ballot rejected which outlines the reason for rejection.
- c) Subject to review on recount or on an election appeal, the Electoral Officer or their Deputy shall take a note of any objections made by any candidate agent or scrutineer to any of the ballots found in the ballot box and decide any questions arising out of the objection.

- d) The Electoral Officer or their Deputy shall number objections to ballots raised and place a corresponding number on the back of the ballot paper with the word “allowed” or “disallowed”, as the case may be, with their initials.
- e) The final decision on the acceptance or rejection of any given ballot lies with the Electoral Officer.

#### **14.4 Other Polling Stations**

In such cases where the ballots are counted at a polling station other than the principal polling station managed by the Electoral Officer, the Deputy Electoral Officer for that polling station shall immediately notify the Electoral Officer of the results of the vote of that polling station.

#### **14.5 Automatic Recount and Tie votes**

- a) If, after the counting of all ballots, only five (5) votes separate candidates for the position of Chief or for the last Councillor position, the Electoral Officer shall establish a time for the conduct of a recount and publicly announce this time in the presence of all those present in the polling station.
- b) If, after the counting of all ballots, it is not possible to determine the successful candidate(s) for either a Chief or Councillor position due to an equal number of votes being cast, the Electoral Officer shall establish a time for the conduct of a recount and publicly announce this time in the presence of all those present in the polling station.
- c) A recount must take place within 48 hours of the announcement by the Electoral Officer, in the presence of the candidates and their agents who wish to attend.
- d) At the time established for the recount, the Electoral Officer shall conduct a recount of the valid ballots.
- e) If the recount fails to determine a successful candidate, the Electoral Officer shall place the names of the candidates having the same number of votes on a paper and place each in a receptacle. Without looking, he/she shall draw as many papers as there are positions available. The candidate(s) whose name(s) appear on the pieces of paper the Electoral Officer has drawn from the receptacle shall constitute the successful candidate(s).

### **15 Post-Election Procedures**

#### **15.1 Election Results Announcement**

- a) After completing the counting of the votes and establishing the successful candidates, the Electoral Officer shall declare to be elected the candidates or candidates having the highest number of votes.
- b) Following the declaration of elected candidates the Electoral Officer shall complete and sign an election report which shall contain:
  - i. *the names of all candidates;*
  - ii. *the number of ballots cast for each candidate; and*
  - iii. *the number of rejected ballots for Chief and for Councillors;*
- c) Within 4 days after completion of the counting of the votes, the Electoral Officer shall:

- i. *sign and post, the election report in at least one conspicuous place on the reserve;*
- ii. *include a copy of the election report in the Band Newsletter to be mailed out to every elector of the band; and*
- iii. *forward a copy of the election report to the Executive Director and INAC.*

#### **15.2 Retention and Destruction of Ballots**

- a) The Electoral Officer shall deposit all ballot papers in sealed envelopes, including those rejected, spoiled and unused, and shall retain these ballots and all materials in connection with the election.
- b) All ballots and election materials shall be retained for up to 90 days from the date on which the election was held, or until a decision on an appeal is rendered, whichever date is later, after which time the Chief and Council shall direct the Electoral Officer to destroy them in the presence of a witness who shall make a declaration that they witnessed the destruction of those papers.

#### **15.3 Chief and Councillor Oath of Office**

- a) A candidate who has been declared elected Chief or Councillor shall swear the following oath of office before either the Electoral Officer, an elder, Justice of the Peace, Notary Public or duly appointed commissioner for taking oaths within 15 to 30 days of their election:

*I PROMISE to treat our community members as one family. A family that is united and bound by our unique and special relationship to each other as Mi'kmaq;*

*I PROMISE that I will put the interests of our community first by working within Council and Staff to the best of my skills and abilities;*

*I PROMISE that I will uphold with integrity and respect, the vision of our community to improve the overall quality of life and wellbeing of all our members;*

*I PROMISE to remind the Council of the need for our community to come together as one and to undertake our responsibilities as leadership with respect, love and dignity.*

*I PROMISE to hold in confidence sensitive and private information regarding persons and band affairs to the extent that it does not conflict with my roles and responsibilities as leadership of the Millbrook First Nation.*

- b) No person elected as Chief or Councillor shall be permitted to assume office and attend Council meetings until they have sworn their oath of office.
- c) Where a candidate elected as Chief or Councillor cannot, due to illness or other valid reason, swear the oath of office within the time prescribed in section 15.3 (a), they may write to the Electoral Officer for an extension of the time to swear the oath of office.
- d) The Electoral Officer receiving a request under section 15.3 (c) shall determine whether the circumstances justify an extension and shall provide the candidate making the request with written notice of the decision, and where applicable, of the extension period.
- e) Subject to sections 15.3(a) and 15.3(c), if a person elected as Chief or Councillor fails to file the sworn oath of office with the Electoral Officer within the specified time period, the Electoral Officer shall declare the office vacant. The Electoral Officer shall give notice in writing to the elected candidate whose office is declared vacant under and to the elected Chief and Council.



## 16. Vacancy & Removal from Office

- a) A Chief or Councillor position becomes vacant:
- i. By virtue of operation of section 5 (b) vii;
  - ii. By virtue of operation of section 8.6 (e), (f) or (g);
  - iii. By virtue of the operation of 15.3 (e) of this Code; or
  - iv. When a Chief or Councillor is removed as per section 16 of this Code;
  - v. if, while in office the Chief or Councillor,
    - (a) resigns in writing from office of their own accord;
    - (b) has been unable to perform the functions of his/her office for more than six (6) months, as confirmed by way of Band Council Resolution, due to illness or other incapacity;
    - (c) dies;
  - vi. is removed from office in accordance with sections 16 (b); or
  - vii. is otherwise unable to fulfill the terms of office, as confirmed by way of Band Council Resolution.
- b) The Chief or a Councillor may be removed from office if they:
- i. *Are subject to a finding by the Complaints and Appeals Board that they are guilty of violating this Code, acting contrary to their oath of office or the Millbrook Chief and Council Code of Ethics;*
  - ii. *Fail to attend 3 consecutive duly convened meetings of Council without the absence being reasonably excused by a majority of Council;*
  - iii. *Are convicted of a criminal offence after their election to office;*
  - iv. *accept or offer a bribe, forges a Council document or otherwise acts dishonestly in their role;*
  - v. *uses their office for personal financial or other gain or for the financial benefit or other gain of members of his or her family or friends to the detriment of the Council or the Band as a whole;*
  - vi. *abuses his or her office such that the conduct negatively affects the dignity and integrity of the First Nation or of Council;*
  - vii. *encourages others to commit any of the above acts or omissions; or*
  - viii. *Fails to follow or enforce policies adopted by Council or the First Nation members.*

### 16.1 Proceedings for Removal

- a) A Chief or a Councillor removal from office may be initiated by any elector submitting to the Complaints and Appeals Board a petition that contains:
- i. *the grounds on which removal of a Chief or Councillor is sought;*
  - ii. *the information that supports the allegations;*
  - iii. *the signature of the petitioner;*
  - iv. *the signatures of 50 electors of the Band in support of the petition; and*
  - v. *a non-refundable filing fee of \$100.*

- b) Where a member of Council has information that grounds for removal exist, the member shall bring this to the attention of the entire Council immediately;
- c) Upon being informed that a breach of the Code occurred, the Chief, or in his absence, the acting Chief, shall call immediately, a meeting of the Council at which this matter will be put on the agenda.
- d) record of the meeting shall be made by the Council secretary;
- e) A member of Council who has information that a breach of this code has occurred but fails to act to protect the interests of band members is in breach of this code and may also face discipline through this process.

## 16.2

On receipt of a petition, the Complaints and Appeal Board shall investigate such complaint in accordance with Section 18.

## 17 Chief or Council Vacancy

If the office of Chief or Councillor becomes vacant, Council may exercise their discretion to continue their term without a by election to fill the vacant seat. If Council decides to fill the vacant seat, it shall be filled by the candidate who received the next highest number of votes in the most recent election.

## 18 Election Complaint and Appeals

- a) Within 30 calendar days from the election day, a candidate or an elector may submit a written complaint with respect to the conduct of an election, to the Complaints and Appeal Board (CAB).
- b) At any time, a voter of the Band may submit to the CAB a written complaint with respect to the conduct of a Chief or Councillor, provided the complaint meets the criteria as set out in Section 16.1.

### 18.1 Appointment of Complaints and Appeal Board

- a) The Complaints and Appeal Board (CAB) shall be selected from a list of potential board members who have sought appointment to the Board and have been vetted by the Executive Director of the Millbrook First Nation Band.
- b) The CAB will be comprised of 3 persons who:
  - i. *Possess a formal legal education and understand the principles of fairness and natural justice; or*
  - ii. *Through their work have demonstrated a capacity for investigation and*
  - iii. *Do not possess a formal legal education but through their work and life experience are reputed for their good character, sound judgement, discretion and are considered trustworthy; and*
  - iv. *Are appointed by the Executive Director of the Millbrook First Nation Band.*

- c) For greater certainty, members of the CAB need not be members of the Millbrook First Nation Band.

### **18.2 Jurisdiction of the Complaints and Appeal Board**

- a) With the assistance of the Band's Solicitor, the CAB has full authority and power to investigate
  - i. *all election appeals;*
  - ii. *a decision of the electoral officer; or*
  - iii. *alleged breaches of the Millbrook Chief and Council Code of Conduct.*

### **18.3 Grounds for Appeals**

- a) An appeal submitted must sufficiently outline one or more of the following:
  - i. *that the person declared elected was not qualified to be a candidate;*
  - ii. *that there was a violation of this Code in the conduct of the election that might have affected the result of the election;*
  - iii. *that there was corrupt or fraudulent practice that may have affected the election and/or;*
  - iv. *that a Chief or Councillor has violated the Millbrook Chief and Council Code of Conduct.*
- b) An appeal submitted to the CAB must:
  - i. *be in written form and provide details that the appellant feels meets one or more of the grounds for the appeal*
  - ii. *must be accompanied by any supporting documentation; and*
  - iii. *be accompanied by a deposit in the amount of \$100, which shall be refunded to the Appellant if the CAB finds the complaint is not frivolous or vexatious.*
  - iv. *Be forwarded to the attention of the Band Solicitor at:*

Election Appeals  
c/o Band Solicitor  
Millbrook First Nation  
P.O. Box 634  
Truro, Nova Scotia  
B2N 5E5

### **18.4 Procedure**

- a) Upon receipt of an election appeal, the Band Solicitor shall vet the written submission to ensure that all appropriate documentation accompanies the appeal.
- b) Where the Appeal is not submitted in accordance with the requirements of section 18.3, the Band Solicitor will inform the appellant(s) in writing that the appeal will not receive further consideration unless the appeal can be brought in accordance with the provisions of section 18.3.

- c) Where the appeal is submitted in accordance with section 18.3, the Band Solicitor shall forward the documentation to the members of the CAB.
- d) Upon referral of an election appeal, from the Band Solicitor, the CAB shall review the allegations and will either:
  - i. *forward a copy of the allegations and supporting documents by registered mail to the Electoral Officer and to each candidate of the election and any other person the CAB deems necessary; or*
  - ii. *dismiss the appeal and inform the appellant(s) in writing that the appeal will not receive further consideration.*
- e) A candidate or the Electoral Officer or any other person given notice as part of an appeal process has 14 calendar days from the day they received such notice to address the allegations contained in an appeal by providing a written response and any supporting documentation to the CAB.

### **18.5 In-Person Hearing**

- a) Where the CAB finds that that the material provided in the written response is not sufficient to decide the validity of the election appeal, it may conduct such further investigation into the matter as they deem necessary.
- b) The CAB has the discretion to determine whether an in-person hearing should be called in respect of the appeal and may empanel such hearing and receive sworn testimony of witnesses, making rules for such proceedings as necessary.
- c) If funds are needed to support an investigation, the Millbrook First Nation Band shall provide such funds are reasonably necessary to allow the investigation to be completed, subject to the receipt of a budget and outline of anticipated expenses from the CAB.

### **18.6 Decision**

- a) No later than 90 days after the receipt of a complaint and its evidence, the CAB may make a written ruling that on a balance of probabilities:
  - i. *a violation of this Code has taken place that might have affected the result of the election;*
  - ii. *the person declared elected was not qualified to be a candidate;*
  - iii. *there was a corrupt or fraudulent practice in relation to the election that might have affected its result and uphold the appeal by setting aside the election of one of more members of Council;*
  - iv. *that no such violation of this Code has occurred and that the complaint is dismissed;*
  - v. *that a violation of the Millbrook First Nation Chief and Council Code of Conduct has occurred and/or;*
  - vi. *any other finding that the CAB deems necessary.*
- b) Notice of Decision
  - i. *Where the CAB makes a finding to set aside an election of a candidate, the CAB shall notify the Council, who may choose to either continue the current term of office with the remaining members of Council, or fill the vacant seat*

*for the remainder of the Council term with the candidate in the election that obtained the next highest number of votes.*

- ii. In the case of an appeal which results in a set aside of the entire Council, a new general election shall be called, which shall begin a new three-year term of office.*
- iii. The findings of the CAB shall be published in the community's newsletter, which is mailed to band members, or in a separate written notice delivered or mailed to all band members; and posted in at least one conspicuous place on the reserve.*

c) Conflict Procedure & CAB

- i. Where a CAB member is an immediate family member of any appellant or candidate, or may be reasonably apprehended to have a bias or conflict in connection with the appeal, that CAB member shall be deemed ineligible to hear the appeal.*
- ii. In the event on ineligibility as outlined in section 18.6 (c) (i), the Executive Director of the Millbrook First Nation Band will select additional members as required to attain three (3) from the list of potential members retained by the Executive Director.*

d) Remuneration and Expenses

*CAB members are entitled to reimbursement of expenses reasonably incurred in carrying out their functions under this Code.*

## **19 AMENDMENTS AND RATIFICATION**

- a) In the six-month period after election day, the Millbrook First Nation shall invite comment from candidates, voters and the Electoral Officer on any issues arising from the conduct of the elections under this Code and will consider whether amendments to the Code are warranted.
- b) Comments outlining any recommendations for amendments to the Code shall be reported to Council and likewise shall be released contemporaneously to the members of the Millbrook First Nation.
- c) Amendments to this Code may be initiated by:
  - i. a petition presented to Millbrook First Nation Council, signed by at least 25% of all eligible voters and setting out the specific area in this Code proposed for amendment; or*
  - ii. A Band Council Resolution of the Millbrook First Nation Chief and Council.*
- d) Upon receipt of a petition or the generation of a Band Council Resolution proposing an amendment to this Code, the Council shall prepare a public notice to be published in the Millbrook First Nation newsletter, its social media platforms and for distribution via mail, which provides:
  - i. a summary of the proposed amendments to this Code;*

*ii. a draft of the wording of the proposed amendments; and*

*iii. a description of the amendment process.*

- e) Voters may provide comments concerning the proposed amendments as directed by the Millbrook First Nation Consultation team.
- f) Following receipt of comments concerning the proposed amendments, the Millbrook First Nation Consultation team shall review the comments and work with the Band Solicitor to make such changes to the proposed amendments as necessary in order to arrive at a final amendment proposal.
- g) The Band Solicitor shall submit the final amendment proposal contemporaneously to the Council and the Millbrook First Nation community and shall work with the Electoral Officer to determine a timeline for a Referendum to be held on the proposed amendments.
- h) For greater certainty, a proposed amendment to this Code can only be voted once the first 365 days of the Council term in which it was raised has passed.
- i) Where a simple majority of voting members vote in favour of the proposed amendments, Council shall amend the Code accordingly.
- j) Any amendment passed 100 days or more prior to an election shall be incorporated into the Code and shall govern the next election. Any amendment passed less than 100 days prior to the next election shall not take effect until after the election.