

CUSTOMARY ELECTION CODE  
LISTUGUJ MI'GMAQ GOVERNMENT

WORKING DRAFT V6

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DRAFT

Disclaimer: This is a working document and is for discussion purposes. None of the content is final and was drafted to stimulate discussion and comments from community members.

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# LISTUGUJ MI'GMAQ GOVERNMENT COSTOMARY ELECTION CODE

## SECTION I DEFINITIONS AND INTERPRETATION

### 1. DEFINITIONS

In this Election Code, the following definitions apply:

#### 1.1 "CANDIDATE" means a person who:

- (a) Is a Member of the Listuguj Mi'gmaq Government;
- (b) Is of Listuguj Mi'gmaq ancestry;
- (c) Is or will be 18 years old at the date of the Nomination Meeting;
- (d) Has been nominated as a Candidate according to this Election Code;
- (e) Has not been found guilty of an indictable criminal offence pursuant to the *Criminal Code* within five (5) years prior to the date of the Election. Each Candidate must provide the appropriate evidence to the Electoral Officer, between the opening of the Nomination Meeting and at least twenty-four (24) hours before the opening of the advance poll, that he/she has not been found guilty of a criminal offence during the five (5) years prior to the Election. For more certainty, the Candidate who fails to provide such evidence or who has been found guilty of a criminal offence five (5) years prior to the Election shall be declared disqualified or removed from the ballots by the Electoral Officer, and any votes for the said candidate shall be nullified;
- (f) Has not been removed from office pursuant to this Election Code three (3) years prior to the date of the Election;
- (g) Is not the CEO, the Electoral Officer or the Deputy Electoral Officer;

#### 1.2 "CHIEF" means the Chief of Listuguj elected and in office according to this Election Code;

#### 1.3 "CHIEF-COUNCILLOR" means the Councillor who received the most votes during the Election and who may replace the Chief when:

- (a) The Chief is absent for more than two consecutive weeks;
  - (b) The Chief is incapable of fulfilling his/her mandate;
  - (c) The Chief is suspended pursuant to a provision of this Election Code;
  - (d) If the Chief's position becomes vacant (see the definition of Vacancy), the position remains vacant until another Chief is elected according to this Election Code;
- 1.4 **"COUNCIL"** means the Chief and Councillors collectively;
- 1.5 **"COUNCIL MEMBER"** means the Chief, the Chief-Councillor or one of the Councillors who have signed the Oath of Office Declaration pursuant to Section 4 of this code;
- 1.6 **"COUNCILLOR"** means each person elected as such according to this Election Code;
- 1.7 **"CRIMINAL CODE"** means the *Criminal Code*, R.S.C., 1985, c. C-46;
- 1.8 **"CRIMINAL OFFENCE"** includes any *Criminal Code* offence;
- 1.9 **"DECLARATION ENVELOPE"** means an envelope printed by the Electoral Officer with the following information:
- (a) The name and surname of the Elector;
  - (b) The Elector's registered number;
  - (c) The Elector's declaration;
- 1.10 **"DEPUTY ELECTORAL OFFICER"** means a person designated by Order-in-Council to assist the Electoral Officer in implementing the Election Code. His or her mandate will end only after the Oath of Office ceremony has taken place and once all relevant documentation has been submitted to the CEO, or after the completion of the appeal period proceedings (if applicable). For the application of this Election Code, any responsibility recognized to the Electoral Officer pursuant to this Election Code can also be exercised by the Deputy Electoral Officer. The Deputy Electoral Officer shall be remunerated by the LMG after having reached an agreement concerning his/her fees and expenses with the CEO;
- 1.11 **"ELECTION"** means the process in which the nine (9) elected positions are filled through a democratic exercise by the Electors according to this Election Code and includes a by-election;
- 1.12 **"ELECTION CODE"** means this Election Code including any amendments thereto or any successor Election Code adopted by LMG;

- 1.13** “**ELECTOR**” means a Member who:
- (a) Is registered on the LMG Electoral List;
  - (b) Is 18 years of age and over at the date of the Election day;
- 1.14** “**ELECTORAL LIST**” means the list of registered LMG Members who are Electors. For more certainty, the list shall solely consist of the name, surname, middle name and, when requested by the Elector, his/her alias;
- 1.15** “**ELECTORAL OFFICER**” means a person who is designated by Order-in-Council to ensure that the elections proceed according to this Election Code. His/her mandate will end only after the completion of the Oath of Office ceremony and once all relevant documentation has been submitted to the CEO, or after the completion of the appeal period proceedings (if applicable). The Electoral Officer shall be remunerated by the LMG after having reached an agreement concerning his/her fees and expenses with the CEO;
- 1.16** “**CEO**” means the Chief Executive Officer of LMG. This position may also be referred to as Director General, Chief Executive Director or Senior Director and includes the person appointed by Council on an interim basis to act as CEO;
- 1.17** “**GENERAL ASSEMBLY**” means a general meeting of the Members of Listuguj;
- 1.18** “**LISTUGUJ**” means the tract of land as shown on a map annexed to this Election Code.
- 1.19** “**LMG**” means the Listuguj Mi’gmaq Government;
- 1.20** “**MAJORITY VOTE**” means fifty percent plus one (50% +1 vote) of the votes cast for each position;
- 1.21** “**MANAGEMENT COMMITTEE**” Shall consist of the CEO, Director of Natural Resources, Director of Public Security, Director of Health, Director of Social Services, Director of Education, Director of Administration, Director of Finance, Director of Economical Development;
- 1.22** “**MEMBER**” means a person registered on the LMG membership list;
- 1.23** “**MEMBERSHIP CLERK**” means the employee of the LMG responsible for the LMG membership list;
- 1.24** “**NOTICE OF ELECTION**” means a notice prepared pursuant to paragraph 13.1 of this Election Code and signed by the Electoral Officer, announcing:
- (a) That an Election will be held, including the number of positions to be filled;
  - (b) The date of the advance poll;

- (c) The date of the Election;
- (d) The option for any Elector, who makes such a request, to vote by mail-in ballot;
- (e) The location of the polling station(s);
- (f) The opening and closing times of the polling station(s);
- (g) The location of the counting of the votes; and
- (h) The names, phones numbers and email addresses of the Electoral Officer and the Deputy Electoral Officer;

**1.25** “**ORDER-IN-COUNCIL**” means a resolution or a motion passed by a majority of Council Members present during a duly convened Council meeting;

**1.26** “**SCRUTINEER**” means a person, designated in writing by a Candidate prior to the advance polling, authorized to represent this Candidate during his/her absence during the voting process and the counting of the votes mentioned in this Election Code;

**1.27** “**VACANCY**” means when the Chief, the Chief-Councillor or a Councillor, before the end of his/her term in office:

- (a) Resigns, meaning that he/she informs the Council in writing or orally during a Council meeting of his/her resignation. This resignation shall become official and effective on the date that the Council, in session, acknowledges the said resignation, or is informed in writing of his/her removal from office;
- (b) Misses more than three (3) consecutive regular Council meetings without permission and without justification;
- (c) Deceases;
- (d) Is found guilty of an indictable criminal offence pursuant to the *Criminal Code*. This vacancy will only become effective once all court appeals have been legally exhausted by the offender. However, during this period, the Council may, by Order-in-Council after consultation with the General Assembly, suspend the offender from his/her office. This vacancy shall apply even if the offense occurred before the Election of the offender;
- (e) Whose election is invalidated by the Appeal Board pursuant to SECTION VIII of this Election Code;
- (f) Is removed from office by the Appeal Board according to SECTION IX of this Election Code;

## **SECTION II GENERAL PROVISIONS**

### **2. MAKE UP OF CHIEF AND COUNCIL**

- 2.1** The number of elected officials for the Council has been determined by the Electors to be nine (9). The elected positions for the Council are as follows:
- (a) One (1) Chief;
  - (b) Eight (8) Councillors;
- 2.2** The quorum during a Council meeting is established at five (5) Council Members present at the meeting.
- 2.3** The Chief and Councillors shall be elected in accordance with this Election Code.
- 2.4** Each Council Member, including the Chief, may move or second an Order-in-Council and vote on the Order-in-Council when required to do so. The same applies to the adoption of a law or by-law.

### **3. TERM**

- 3.1** The term of office for the positions of Chief and Councillors shall be of four (4) years commencing on the date of the Oath of Office ceremony.
- 3.2** Each general Election is to be conducted on the first Saturday of June of each Election year.

### **4. OATH OF OFFICE**

- 4.1** The Oath of Office ceremony shall be organized and conducted by the Electoral Officer within ten (10) days following the date of the Election. The Oath of Office ceremony takes place even if the Election is contested pursuant to SECTION VIII of this Election Code.
- 4.2** The presence of all elected Candidates at the Oath of Office ceremony is mandatory. However, in the case where an elected Candidate is unable to attend the Oath of Office Ceremony, he/she is required to sign the Oath of Office declaration before he/she is permitted to take office.
- 4.3** Each elected Candidate shall read aloud the Oath of Office declaration and then sign the declaration in witness. A copy of the declaration is annexed to this Election Code.
- 4.4** During the transitional period, the outgoing Council cannot, under any circumstances, hold a Council meeting, adopt an Order-in-Council or make a Law



or by-law. However, any financial remuneration or any arrears due by LMG to the outgoing Council Member shall be paid in full until the date of the Oath of Office ceremony of the newly elected Council Members.

## **5. BY-ELECTION**

- 5.1** Every time one or more elected positions at the Council becomes vacant, as defined in this Election Code, a by-election shall be called to fill the relevant position(s). If a position becomes vacant during the year preceding the end of mandate, the vacancy is allowed to stand.
- 5.2** Where the number of vacancies exceeds the quorum of five (5) elected positions, the Council is dissolved, and all positions become immediately vacant with no exception. In this specific case, the CEO shall call for a by-election, including the appointment of the Electoral Officer and the Deputy Electoral Officer. During this time where there is no active Council, the Management Committee shall be empowered and authorized to manage the day-to-day operations of the LMG's administration during the election process pursuant to the existing LMG laws, by-laws and internal policies. It is understood that all decisions made by the Management Committee may be reviewed by the Council, once elected. In the case where there is no acting CEO or the CEO refuses or omits to call for a by-election, the Management Committee shall call for such a by-election and appoint the Electoral Officer and Deputy Electoral Officer.
- 5.3** A by-election is held pursuant to an Election as stipulated in this Election Code by making all necessary adjustments. The successful Candidate elected in a by-election shall hold office for the remainder of the original term of office for that position as stipulated in paragraphs 3.1 and 3.2.

## **6. NEW ELECTION**

- 6.1** If a new Election is ordered after an Election appeal pursuant to SECTION VIII of this Election Code, the term of the newly elected Candidate(s) shall commence on the date of the Oath of Office ceremony following such new Election and shall hold for the remainder of the original term of office for the position(s) that was the object of contestation during the Election appeal.

## **7. COMPENSATION**

- 7.1** The position of Chief, Chief-Councillor and Councillor is a full-time position. The Chief, the Chief-Councillor and each Councillor is entitled to receive an honorarium during his/her term in office. The said honorarium cannot exceed the salary of the CEO. Furthermore, the Chief, the Chief-councillor and a Councillor is also entitled to all social benefits available to a regular employee of LMG. The said honorarium is set (1) by an Order in Council adopted during the first regular Council meeting held after the Election and cannot be increased during the term of the Council's mandate or (2) by any other relevant LMG's policy in place regarding the remuneration of Chief and Councillors. For more certainty, the honorarium paid to

the Chief, the Chief-councillor and a Councillor during his/her mandate is not deemed to be assimilated to a salary pursuant to the labour law standards in effect in Canada and in the Province of Quebec and the Chief, the Chief-councillor and a Councillor is not and shall not be considered as an employee of LMG.

- 7.2** If the Chief, the Chief-councillor or a Councillor was an employee of LMG or of any other employer at the date of his/her Election, he/she must take a leave of absence without pay for the duration of his/her term, for a maximum of four (4) years. If he/she is elected for a second term, he/she must resign from his/her employment before the date of the Oath of Office ceremony.
- 7.3** The Chief, the Chief-councillor and the Councillors are entitled to get their travel expenses reimbursed pursuant to LMG policies and regulations concerning such reimbursements.
- 7.4** The Chief, the Chief-councillor or a Councillor suspended pursuant to this Election Code continues to be entitled to receive his/her compensation stipulated in paragraphs 7.1 of this Election Code, but he/she shall not be entitled to any reimbursement of travel expense during the time of suspension.

### **SECTION III APPOINTMENT OF THE ELECTORAL PERSONNEL**

#### **8. ORDER-IN-COUNCIL**

- 8.1** Council Members shall proceed with the appointment of the Electoral Officer and the Deputy Electoral Officer by adopting an Order-in-Council to that effect at least ninety (90) days before the date of the Election.
- 8.2** In order to be nominated for the positions of Electoral Officer or Deputy Electoral Officer, a person must:
- (a) Be eighteen (18) years old at the date of the Election;
  - (b) Not have been convicted of an indictable Criminal Offence five (5) years prior to the date of the Election;
  - (c) Not be the Chief, a Councillor or the CEO;

### **SECTION IV NOMINATIONS**

#### **9. NOTICE**

- 9.1** Not later than eighty (80) days prior to the Election, the Electoral Officer shall prepare and send to the Electors residing outside of Listuguj, at their last known address, a Notice of Nomination Meeting. The notice shall be displayed, at least twenty-one (21) days before the date of the Nomination Meeting, in several public

places well visible, published in local media or on LMG's website or social media forums. The notice shall also be distributed to the last known addresses of Electors residing in Listuguj and by regular mail or via email to those Electors residing outside Listuguj.

- 9.2** After the publication of the Notice of Nomination Meeting, the Electoral Officer shall mail a Notice of Nomination Meeting, as well as a nomination form, a mail-in elector declaration to nominate and a request for mail-in ballot form to every Elector who does not reside in Listuguj, in respect of whom the Electoral Officer has been provided with or has been able to obtain an address.
- 9.3** The Electoral Officer shall keep a record of Electors to whom a Notice of the Nomination Meeting was mailed including their names and addresses, as well as the date on which the kit was mailed to them.

## **10. OPENING AND NOMINATIONS**

- 10.1** On the date and time indicated on the Notice of Nomination Meeting, the Electoral Officer shall open the Nomination Meeting.

Before inviting the Electors present at the Nomination Meeting to nominate Candidates, the Electoral Officer shall read aloud the written nominations and secondments that have been received by mail.

Any Elector can nominate or second one Candidate for the position of Chief and/or as many Candidates for the position of Councillor as there are position to be filled during the Election to be called. Each nomination by an Elector must be seconded by another Elector. Where the same person receives two written nominations for the same office, the second nomination shall constitute a secondment for the first nomination.

Mailed nominations must be received by the Electoral Officer at least 24 hours before the opening of the Nomination Meeting, failing which the nomination shall be void. Any nomination received after this time shall be void.

- 10.2** In the context of paragraph 5.1 or paragraph 6.1, the Chief or a Councillor whose position is not part of that specific Election cannot be nominated as a Candidate unless he/she has previously resigned following the conditions mentioned in the definition of "Vacancy" pursuant to this Election Code.
- 10.3** The nomination period shall remain officially open for at least two (2) hours. Once there are no more nominations proposed by the Electors and that all positions for the Election have at least one Candidate nominated, a motion to close the nomination period shall be proposed by an Elector and seconded by another Elector and be approved by a Majority Vote of the Electors present at the Nomination Meeting.

**10.4** If there is no Candidate for the position of Chief and/or less candidates than the number of positions of councillors to be filled during the election to be called, the Electoral Officer must immediately reopen the nomination period in order to fill the position(s).

## **11. CLOSING**

**11.1** Before closing the Nomination Meeting, the Electoral Officer shall ask the Electors present if there are any questions related to this Election Code that have yet to be resolved. However, no amendment to this Election Code can be proposed during the Nomination Meeting. Once all questions have been resolved, the Electoral Officer shall close the Nomination Meeting.

## **12. CONFIRMATION**

**12.1** Once the nomination period is closed pursuant to paragraph 10.3 of this Election Code, each person nominated as a Candidate shall confirm his/her acceptance by:

- (a) paying a fee of four hundred dollars (\$400), payable in cash only to the Electoral Officer, or obtaining the signature of fifty (50) Electors supporting his/her nomination for the position of Chief (the "list of support");
- (b) paying a fee of two hundred dollars (\$200), payable in cash only to the Electoral Officer, or obtaining the signature of twenty-five (25) Electors supporting his/her nomination for the position of Councillor (the "list of support").

Payments and/or Lists of Support must be submitted no later than five (5) days following the date of the nomination meeting by 5 p.m. AST. Any person nominated who will not have paid the fee or submitted the list of support on time is deemed to have refused his/her nomination.

A person nominated for the position of Chief and for the position of Councillor can only accept one nomination.

**12.2** At the end of the period provided in paragraph 12.1, if only one Candidate has been nominated for the position of Chief, the Electoral Officer shall declare that Candidate to be elected by acclamation. Similarly, if the number of Candidates nominated for the position of Councillors does not exceed the numbers to be elected, declare those Candidates to be elected by acclamation.

**12.3** Where more than the required number of Candidates are nominated for each position to be filled, the Electoral Officer shall declare that an Election will be held.

### **13. NOTICE OF ELECTION AND LIST OF CANDIDATES**

- 13.1** Where an Election is to be held pursuant to paragraph 12.3 of this Election Code, the Electoral Officer shall, within seven (7) days following the end of the period mentioned in paragraph 12.1, prepare a Notice of Election and a list of the Candidates for each position to be filled, post the Notice and list in several public places well visible and publish both in local media or on LMG's website or social media forums. The Electoral Officer shall distribute by mail the said notice and list to the last known addresses of Electors.

## **SECTION V PRE-ELECTION**

### **14. ELECTORAL LIST**

- 14.1** Upon nomination and as soon as materially possible, the Electoral Officer shall establish the Electoral List based on an updated LMG membership list obtained from the Membership Clerk.
- 14.2** The Electoral Officer shall post the Electoral List in several public places well visible and allow access to the Electoral List to any Elector.
- 14.3** Any Elector can make a request, in writing to the Electoral Officer, to have the Electoral List revised for the following reasons:
- (a) The name of an Elector has been omitted,
  - (b) The name of an Elector has been incorrectly spelled, or
  - (c) The name of the person who is not an Elector is on the Electoral List.
- 14.4** Only the Membership Clerk, at the request of the Electoral Officer, is entitled to make corrections on the Electoral List. Accordingly, any request by an Elector to have the Electoral List modified shall be done in writing to the Electoral Officer.
- 14.5** Every time the Electoral list is revised, the Electoral Officer shall post its latest version.
- 14.6** Only those Electors registered on the Electoral List shall be entitled to vote at the Election.

### **15. PREPARATION OF BALLOTS**

- 15.1** The Electoral Officer shall prepare the ballots on time for the advance poll and for the mail-in ballots. The ballots should have the legal name and nickname if relevant of each Candidate for each position to be filled, listed in alphabetical order.

**15.2** If two (2) or more Candidates for the same position have the same name, the Electoral Officer shall find a way to clearly distinguish the Candidates.

**15.3** An Elector who wishes to receive a mail-in ballot must make a written request to that effect to the Electoral Officer at least ten (10) days before the Election day.

## **16. MAIL-IN BALLOT KIT**

**16.1** At least twenty (20) days before the Election Day, the Electoral Officer shall mail to each Elector who made such a request pursuant to paragraph 15.3 of this Election Code a mail-in ballot kit consisting of the following:

- (a) One ballot, initialed by the Electoral Officer, for each position to be filled;
- (b) A return envelope that is pre-addressed to the Electoral Officer;
- (c) One envelope marked "ballot" for insertion of each ballot sent to the Elector;
- (d) An Elector declaration envelope;
- (e) Written instructions regarding mail-in voting;
- (f) The Notice of Election and the list of Candidates as stipulated in paragraph 13.1;

**16.2** The Electoral Officer shall indicate on the Electoral List, next to the name of every Elector who requested a mail-in ballot pursuant to paragraph 15.3, the date on which and the address to which the mail-in kit was mailed or delivered.

**16.3** An Elector may vote by mail-in ballot by:

- (a) Marking the ballot with an "X" or a check "✓" mark;
- (b) Folding the ballot in a manner that conceals the Candidates' names and any marks on the ballot without hiding the initials of the Electoral Officer in the back;
- (c) Inserting the ballot in the envelope marked "ballot" and sealing the envelope;
- (d) Completing and signing the Elector declaration envelope;
- (e) Placing the "ballot" envelope in the Elector declaration envelope;
- (f) Place the sealed declaration envelop in the return envelope;
- (g) Delivering or mailing the return envelope to the Electoral Officer before the date and time at which the polls close.

- 16.4** A mail-in ballot is void if the mail-in kit is not received by the Electoral Officer before the date and time at which the voting polls close.
- 16.5** The Electoral Officer shall ensure the safekeeping of the mail-in ballots until they are opened pursuant to paragraph 23.3.
- 16.6** The Electoral Officer shall, whenever he/she receives a mail-in kit, open the return envelope, verify the identity of the Elector, cross his/her name from the Election List and insert the envelope marked “ballot” into the ballot box.

## **17. WITHDRAWAL OF A CANDIDATE**

- 17.1** Any Candidate can withdraw, at any time from his/her nomination until the closing of the poll, by providing to the Electoral Officer a written withdrawal to this effect, signed in the presence of the Electoral Officer, a Justice of the Peace, a Public Notary or a Commissioner of Oaths, at the Candidate’s discretion.
- 17.2** Once the withdrawal is official, the Electoral Officer shall remove the name of the Candidate from the ballots. If the ballots are already printed and cannot be reissued in time for the advance polling, the withdrawal of the Candidate shall not be made public and any votes cast for the withdrawn candidate shall not be counted.

## **18. ADVANCE POLLING**

- 18.1** Advance polling shall take place fourteen (14) days prior to the Election date in Listuguj. The voting procedure during the advance poll shall be the same described during the Election day pursuant to SECTION VI of this Election Code by making the appropriate adjustments if necessary.
- 18.2** Any Elector can vote during the advance poll;
- 18.3** The advance polling station(s) shall be opened with no interruption from 9:00 am until 6:00 pm AST.
- 18.4** The ballots cast during the advance poll shall remain in a concealed ballot box until the counting of the votes on Election Day. The ballot box used for the advance polling shall be kept under lock and key in a secret location by the Electoral Officer.

## **19. CONDUCT OF CANDIDATES DURING THE CAMPAIGN**

- 19.1** Each Candidate and his/her supporters are encouraged to conduct their campaign in a civil, responsible and respectful fashion in a manner consistent with the provisions of this Election Code.
- 19.2** Each Candidate must abstain, at all times, from offering to an Elector any alcohol, drug/narcotic, money, gift, promise for employment or contract with LMG or its subsidiary, or any other similar benefit in exchange for a vote in his/her favour.



## **SECTION VI ELECTION DAY**

### **20. POLLING HOURS AND VOTING PROCEDURES**

- 20.1** The polling station(s) shall be opened with no interruption from 9:00 am until 9:00 pm AST.
- 20.2** The Electoral Officer shall, before the opening of the polls, bring to the Deputy Electoral Officer the ballots and the necessary accessories in the marking of the ballots.
- 20.3** The Electoral Officer shall, at the polling station, supply a polling booth where the Electors can mark their ballots sheltered from any disruption. At the discretion of the Electoral Officer, a police officer can be present to guard and to maintain the order at the polling station.
- 20.4** Each Candidate is entitled to a maximum of two (2) Scrutineers present at the polling station from the opening until the closing. A Scrutineer or any Elector present at the polling station cannot interfere during the voting procedures, display any electoral material in support of a Candidate or influence in any way the vote of an Elector. The Electoral Officer may ask for the expulsion of any person who is not respecting the orderly conduct at the polling station.
- 20.5** The Electoral Officer shall, immediately before the commencement of the poll, open the ballot box and ask the Electors and Scrutineers present at the polling station to verify and demonstrate that it is empty. He/she shall then seal the ballot box appropriately in such way that it cannot be opened without breaking the seal and shall place it well in view for the receiving of ballots. The seal must not be broken, and the ballot box must not be opened throughout the duration of the poll.
- 20.6** The ballot box must be constructed of metal, wood, or other non-transparent material. The box must have a lock and key.
- 20.7** From the opening of the polling station, no Candidate shall be permitted to have any type of campaign display within fifty (50) meters of the said polling station or at any community public buildings.
- 20.8** Any Elector who presents himself/herself to vote at the polling stations must bring a government issued photo identification (Indian Status Card, driver's license, health card, etc.) for the purpose of proving his/her identity. If the Elector is unable to provide such an identification, the Electoral Officer may also identify the Elector by verifying his/her LMG member number, date of birth and address.
- 20.9** For each Elector, the Electoral Officer must verify that the Elector's name is registered on the Electoral List. The Elector will be handed a ballot on which the Electoral Officer's initials are properly indicated, so that the Elector may cast his/her vote.



- 20.10** The Electoral Officer shall record the name of each Elector who receives a ballot and casts a vote on the Electoral List. Furthermore, the Electoral Officer shall verify, by cross-reference, that each Elector present to vote has not already cast his/her vote during the advance poll or in the mail-in vote.
- 20.11** An Elector who fails or refuses to properly identify himself/herself when required, as specified in paragraph 20.8 of this Election Code, shall not receive a ballot to vote until he/she complies with the directive.
- 20.12** The Electoral Officer or an Electoral Officer shall, when requested by an Elector, explain the election procedures.
- 20.13** When an Elector receives a ballot, he/she shall immediately proceed to the polling booth in order to mark his/her ballot to the name of the Candidate(s) for whom he/she wants to vote for. He/she shall then fold the ballot in a manner that conceals the name of the Candidates and the marks that appear on the ballot, except to see the initials of both the Electoral Officer and of the Deputy Electoral Officer before leaving the polling booth. Before the person inserts the ballot in the ballot box, the Electoral Officer shall verify and approve that their initials appear on the ballot.
- 20.14** When an Elector is in the polling booth to mark his/her ballot, no one should, except in the case outlined in paragraph 20.15, be admitted in the same polling booth nor should anyone be in a position which would allow him/her to see how the Elector marks his/her ballot.
- 20.15** At the request of any Elector who is incapable of voting by the method provided in paragraph 20.13, the Elector may request to be accompanied by the Electoral Officer or the Deputy Electoral Officer in the polling booth and assisted by same in marking his/her ballot, as he/she instructs.
- 20.16** In such a case, the Electoral Officer or an Electoral Officer shall prepare a written report mentioning:
- (a) The name of the Elector who made the request as provided in paragraph 20.15, and
  - (b) The reason(s) why such an action was permitted.
- 20.17** Upon request, any Elector has the right to nullify and return his/her ballot and receive another ballot for the purpose of voting. The Electoral Officer shall note the reason for cancellation. The Electoral Officer shall then write the word “null” on the ballot and keep it in a sealed envelope, as stipulated in paragraph 27.1.
- 20.18** An Elector whose name does not appear on the Electoral List can be authorized to vote if the Electoral Officer is convinced without a doubt that the Elector’s name has been omitted from the Electoral List.

**20.19** At the request by an Elector residing in Listuguj who is incapable of voting in person at the polling station, either during the advance polling or on the Election day, the Electoral Officer may, in the presence of a witness who must be an Elector authorized by the incapable Elector, go to the residence of such an Elector so he/she may cast his/her vote on the appropriate ballot. The Electoral Officer shall place the ballot into an envelope in front of the witness and then seal the envelope. The envelope shall be placed into the ballot box by the Electoral Officer immediately after returning to the polling station in presence of the same witness.

**20.20** In such a case, the Electoral Officer shall prepare a written report mentioning:

- (a) The name and address of the Elector who made the request as provided in paragraph 20.19;
- (b) The name of the witness authorized by the Elector mentioned above; and
- (c) The reason(s) why such an action was permitted.

**20.21** Any Elector who is inside the polling station at the closing of the poll, shall be entitled to vote.

## **21. SECRECY OF THE VOTE**

**21.1** Any person present at the polling station and at the counting of the ballots shall respect the secrecy of the vote.

**21.2** With the exceptions of paragraphs 20.15 and 20.19 of this Election Code, no one shall intervene near an Elector when he/she marks his/her ballot, nor attempt to obtain information on the manner in which an Elector has voted while in the polling station.

**21.3** The Electoral Officer must order and give instructions that he/she deems necessary to enforce the secrecy of the vote.

**21.4** The implementation of the secrecy of the vote at the polling stations shall be determined by the Electoral Officer.

**21.5** The Electoral Officer may ask for the expulsion of any person who is not respecting the secrecy of the vote at the polling station.

## **22. VOTE BY PROXY**

**22.1** No Elector may vote by proxy or authorize another person to vote on his/her behalf with the exception provided in paragraph 20.15 of this Election Code.

## **SECTION VII COUNTING OF THE VOTES**

### **23. PROCEDURE OF COUNTING THE VOTES**

- 23.1** Immediately after the closing of the polling station on Election day, the Electoral Officer shall, in the presence of those persons in attendance, seal and secure the ballot boxes. The Electoral Officer shall ensure that the ballot boxes always remain secured until the counting of the votes.
- 23.2** The counting of the vote of the mail-in ballots, advance polling and of the Election day ballots shall begin the following day at 9:00 am AST.
- 23.3** The Electoral Officer shall examine each ballot, and reject any ballot that:
- (a) Has no mark;
  - (b) Has more votes marked than the number of Candidates required to be elected. However, a ballot shall be accepted with less votes than the number of Candidates required;
  - (c) Has a mark other than an “X”, a check “√” mark or any other marks clearly indicating the Elector’s vote;
  - (d) Does not have the initials of the Electoral Officer and the Deputy Electoral Officer.
- 23.4** After completing the counting of the votes and establishing the successful Candidates, the Electoral Officer shall publicly declare to be elected for the positions of Chief and Councillors, the Candidates having the highest number of votes.

### **24. EVEN NUMBER OF VOTES**

- 24.1** If two (2) or more candidates have an even number of votes that would have them both declared elected for the same position, the Electoral Officer shall write down the name of each Candidate with the even number of votes on a piece of paper and insert them in a receptacle. The Electoral Officer shall then pull one piece of paper from the receptacle and declare the Candidate whose name appears on the selected piece of paper elected for the position.

### **25. RECOUNT**

- 25.1** After the counting of the vote but before the Electoral Officer announces the results, if there is ten (10) and less votes between an elected Candidate and another Candidate, the latter may request the Electoral Officer to proceed with the recounting of the votes for the position he/she was a Candidate. In such a case, the Electoral Officer must proceed with the recount.

**25.2** After the recounting of the votes is completed, the Electoral Officer shall announce the final results of the election.

## **26. ELECTION STATEMENT**

**26.1** As soon as materially possible after the announcement of the election results, the Electoral Officer shall issue a statement indicating the total number of votes for each Candidate, the number of rejected ballots and the names of the Candidates declared duly elected.

**26.2** The statement must be signed by the Electoral Officer, posted at the Listuguj First Nation Administration Building and other public buildings in Listuguj and published on LMG's website or social media forums within three (3) hours of its issuance. An official copy of the statement shall also be submitted to the CEO.

## **27. RETENTION AND DESTRUCTION OF BALLOTS**

**27.1** The Electoral Officer shall keep the ballots in sealed envelopes under lock and key at a secure location for fifteen (15) days following the publication of the election statement or, in the event of an appeal pursuant to Section VIII, until the final resolution of the appeal is issued. The Electoral Officer shall thereafter destroy the ballots in the presence of two (2) witnesses who declare in writing being witnesses to the destruction of the ballots.

**27.2** The official Election List used during the Election shall be submitted to the CEO.

## **SECTION VIII APPEAL**

### **28. GROUNDS FOR APPEAL**

**28.1** An Elector, including a Candidate, may appeal the result of the election if he/she has reasonable grounds to believe:

- (a) There were fraud or corruption practices (excluding paragraphs 18.1 and 18.2 of this Election Code) during the Election that undermined or tainted the election process to the extent that the Election should be declared null and void; or
- (b) An infringement of one or more provisions of this Election Code occurred and, as a result, changed the outcome of the vote for at least one (1) or more positions to be filled; or
- (c) The Electoral Officer made an error in the counting of the votes for at least one (1) or more positions to be filled or refused or omitted to proceed with the recount of the votes pursuant to paragraph SECTION VII25.1;

- (d) A Candidate for a specific position was ineligible, even if he/she was not elected;

## **29. TIME LIMIT**

- 29.1** The time limit to appeal the result of the Election is fifteen (15) days, starting on the day after the Election Day.

## **30. NOTICE OF APPEAL**

- 30.1** A request to appeal the result of an election must be made in writing, addressed to the Appeal Board and signed by the appellant. The notice of appeal must clearly state the grounds for appeal mentioned in paragraph 28.1 of this Election Code, and provide as much information as can be provided. Any physical evidence or written statements in support of the appeal must be attached to the said notice.
- 30.2** The notice of appeal must be submitted to the Appeal Board within fifteen (15) days of the publication of the election statement.

No appeals may be brought before the issuance of the election statement.

- 30.3** Within forty-eight (48) hours after reception of the notice of appeal, the Appeal Board shall determine whether the appeal is receivable.

## **31. APPEAL NOT RECEIVABLE**

- 31.1** If the appeal is not receivable, the Appeal Board shall inform in writing the Elector who signed the notice of their decision. A copy of the response along with the notice of appeal shall be posted in public places in Listuguj and published on LMG's website or social media forums.

## **32. APPEAL RECEIVABLE**

- 32.1** If the appeal is receivable, the appeal shall proceed as outlined in paragraph 33.2 of this Election Code.

## **33. APPEAL BOARD**

- 33.1** The Appeal Board shall be established as soon as possible prior to the Nomination Meeting. It shall be comprised of three (3) LMG Members and an assessor/advisor, as follows:
  - (a) One Member appointed by Order-in-Council at the same time as the appointment of the Electoral Officer and the Deputy Electoral Officer;
  - (b) One Member appointed jointly by the Electoral Officer and the Deputy Electoral Officer upon nomination;
  - (c) One Member appointed by the two Members identified above;

- (d) One lawyer, who has not previously been retained as legal counsel by LMG, acting as an assessor or advisor to the Appeal Board, appointed by the three Members identified above.
- 33.2** The Appeal Board shall investigate and assess grounds of appeal raised by the appellant, hear the parties involved and any witnesses it may deem necessary to resolve the appeal. The Appeal Board shall render a decision and provide written reasons in support of its decision within fourteen (14) days of the submission of the appeal. Rules of natural justice and procedural fairness shall apply.
- 33.3** The members of the Appeal Board shall be remunerated by the LMG after having reached an agreement concerning their fees and expenses with the CEO.
- 33.4** After having considered the appeal, the facts and the evidence presented by the parties involved, the Appeal Board shall decide, in writing:
- (a) To dismiss the appeal and confirm the Election;
  - (b) To provide the accurate results of the vote after a recount, if the issue was the counting of the votes;
  - (c) To confirm the appeal and order a new election for one (1) or more positions, depending on the appeal;
- 33.5** The decision of the Appeal Board is final and conclusive for all purposes.
- 33.6** The written decision shall be transmitted to the parties involved in the appeal and to the CEO. Copies of the decision shall be made available to any Elector at the LMG administration office.
- 33.7** The mandate of the Appeal Board shall be terminated on the day the written decision is transmitted pursuant to paragraph 33.6 of this Election Code.

## **SECTION IX REMOVAL**

### **34. GROUNDS FOR REMOVAL**

- 34.1** The Chief or a Councillor may be removed from office during his/her term if he/she:
- (a) violates a provision of the “Code of Conduct”, a copy of which is annexed to this Election Code;
  - (b) refuses or neglects to sign the Oath of Office declaration pursuant to Article 4 of this Election Code;
  - (c) refuses to take a leave of absence or resign from his/her employment pursuant to paragraph 7.2 of this Election Code;

(d) violates paragraphs 19.1 or 19.2 of this Election Code;

## **35. PROCESS**

**35.1** Any attempt to proceed with the removal of the Chief or a Councillor from office shall be initiated by:

- (a) a petition submitted by an Elector who voted at the Election by which the Chief or the Councillor named in the petition was elected, requesting that a General Assembly be held in order to appoint an Appeal Board for the purpose removing the Chief or the Councillor named in the petition; or
- (b) an Order-in-Council requesting that a General Assembly be held in order to appoint an Appeal Board for the purpose of removing the Chief or the Councillor named in the Order-in-Council;

**35.2** If an Elector or the Council petitions for the removal of more than one Council Member, he/she must submit one petition for each position and the Council must move an Order-in-Council for each petition.

## **36. PETITION**

**36.1** The petition stipulated in paragraph 35.1(a) must include the following:

- (a) The grounds on which the removal of the Chief or a Councillor is requested, including all evidence in support of such a request;
- (b) The signing, by at least 25% + 1 of the Electors who voted at the Election by which the Chief or the Councillor was elected, including their name written in block letters, their membership number, their signature and the date;
- (c) An affidavit signed by the Elector who introduced the petition declaring that the petition is accurate;
- (d) Any other information in support of the removal;

**36.2** Once completed, the petition shall be transmitted by the Elector who introduced the petition to the CEO who shall then call a General Assembly within seven (7) days of receiving the petition for the purpose of appointing an Appeal Board.

**36.3** Upon reception of the petition, the CEO shall inform the Council and provide the Council Members with a copy of the petition and all documents attached.

**36.4** The CEO, the Council or the General Assembly is not qualified to decide if the petition is receivable or not. This issue shall only be decided by the Appeal Board.



## **37. ORDER-IN-COUNCIL**

**37.1** The Order-in-Council stipulated in paragraph 35.1(b) of this Election Code must include the following:

- (a) The ground(s) under paragraph 34.1 of this Election Code on which the removal of the Chief or a Councillor is requested, including all evidence in support of such a request;
- (b) The signature of a majority of the quorum;
- (c) Any other information in support of the removal;

**37.2** The Executive Assistant of LMG or any other employee of LMG appointed by the Council shall be responsible to post the notice and organize the General Assembly within seven (7) days following the adoption of the Order-in-Council.

## **38. APPEAL BOARD**

**38.1** The General Assembly shall appoint an Appeal Board composed of three (3) persons among a list of six (6) names previously selected by an Order-in-Council adopted at the same time as the appointment of the Electoral Officer and the Deputy Electoral Officer. When selecting the six (6) persons, the Council shall make sure that each of them possess the appropriate qualifications required to render a decision pertaining to the removal of an elected Council Member.

**38.2** Once the three (3) persons are duly appointed by a Majority Vote of the Electors present at the General Assembly, the General Assembly shall be adjourned until the CEO is able to reach the three (3) appointees in order to get confirmation that they will accept the mandate. If all of them accept the mandate, the General Assembly shall be closed. If one or more appointees declines their nomination, the Electors present shall appoint by Majority Vote other persons to replace those who declined the mandate and repeat the process until the CEO can confirm that the Board of Appeal is established.

**38.3** The Appeal Board shall investigate and verify the claim of the Elector who introduced the petition pursuant to paragraph 35.1(a) or of the Council pursuant to paragraph 35.1(b) of this Election Code, hear the parties involved in the claim and deal with the appeal within a reasonable time. Rules of natural justice and procedural fairness shall apply.

**38.4** For the purpose of confirming that the names on the petition were Electors who voted at the last Election and that the percentage of Electors who signed the petition meets the requirement stipulated in the paragraph 36.1(b) of this Election Code, the CEO shall release to the Appeal Board the Electoral List that was transmitted to him/her pursuant to paragraph 27.2.



- 38.5** The members of the Appeal Board shall be remunerated by LMG after having reached an agreement concerning their fees and expenses with the CEO.
- 38.6** After having considered the claim, the facts and the evidence presented by the parties involved, the Appeal Board shall decide, in writing:
- (a) To dismiss the claim against the Chief or the Councillor named in the petition or the Order-in-Council, including if the petition or the Order-in-Council did not meet the requirements stipulated in paragraphs 36.1 or 37.1 of this Election Code;
  - (b) To order the removal of the Chief or the Councillor named in the petition or the Order-in-Council and to declare his/her position to be vacant;
- 38.7** The decision of the Appeal Board is final.
- 38.8** The written decision shall be transmitted to the parties involved in the appeal, to the Council and to the CEO. Copies of the decision shall be made available for any Elector at the LMG administration office.
- 38.9** The mandate of the Appeal Board shall be terminated on the day the written decision is transmitted to the parties.

## **SECTION X REVIEW AND AMENDMENTS**

### **39. GENERAL ASSEMBLY**

- 39.1** At least one year prior to the next general election, the Council may call a special general assembly of Members (the Assembly) for the purpose of reviewing this Election Code.
- 39.2** The Council must also call for the Assembly upon reception of a petition signed by a minimum of 25% +1 Electors requesting a review or amendments of this Election Code;
- 39.3** A designated employee of LMG appointed by the Council shall be responsible to post the notice and organize the Assembly;
- 39.4** As soon as possible and at least fifteen (15) days before the date of the Assembly, a public notice announcing the Assembly shall be posted in several public places and sent to each residence in Listuguj. The notice shall include the date, time and location of the Assembly and the name and coordinates of the person appointed to organize the Assembly.
- 39.5** The Assembly shall begin at the time indicated on the notice and shall be opened by the Council or by the CEO.

## **40. REVIEW AND AMENDMENT PROCESS**

- 40.1** The Chief and Council or the CEO opens the Assembly and shall have the agenda approved by the Electors present at the meeting.
- 40.2** At this point, the person appointed to chair the Assembly shall ask if the Council or the Electors have any amendment to propose to this Election Code.
- 40.3** Any Elector or any person duly mandated by the Council may propose any amendment to this Election Code during the Assembly.
- 40.4** The person chairing the Assembly shall make sure that each proposed amendment is done in writing.
- 40.5** Each proposed amendment must be approved, by at least 150 Electors present in person at the Assembly or attending through an on-line vote.
- 40.6** At the end of the Assembly, the person chairing the Assembly shall propose its closing.
- 40.7** Following receipt of proposed amendments as approved pursuant to paragraph 39.5, the Council shall review the proposed amendments and make such changes as it may deem necessary in order to arrive at a final amendment language.
- 40.8** No amendments shall come into force unless approved by a Majority of Votes cast at a referendum.
- 40.9** Within fifteen (15) days after the referendum results being announced, the ED shall publish the amended version of this Election Code, including all amendments approved by community vote. The amended Election Code shall be made available to any Elector at his/her request as of the date of its publication.
- 40.10** No amendment to this Election Code shall come in effect within 180 days preceding the subsequent General Election date, pursuant to paragraph 3.2 of this Election Code.