

ACADIA FIRST NATION

BY-LAWS- EFFECTIVE DATE DECEMBER 6, 2004

APPENDIX (A) = BAND ELECTIONS REGULATIONS

APPENDIX (B) = BAND PROCEDURAL REGULATIONS

1. **RESERVE LANDS:**

Acadia First Nation is comprised of five reserves. These include: Yarmouth Reserve, Ponhook Reserve, Medway Reserve, Wildcat Reserve, and Gold River Reserve.

2. **HEAD OFFICE:**

(a) The head office of the Acadia First Nation shall be located on the

Yarmouth Reserve.

10526 Hwy # 3

Yarmouth, Nova Scotia

B5A 4A8

(b) The sub-offices of the Acadia First Nation shall be located at Milton, Queens County, Nova Scotia, and Micmac Friendship Center, Gottingen Street, Halifax, Nova Scotia or such other offices as the Chief and Council of the Acadia First Nation may determine from time to time.

The Chief of the Acadia First Nation will decide at his / her discretion the mailing address for the Band, based on his/her residency.

3. **AIMS & OBJECTIVES:**

The aims and objectives of the By-laws are to provide for good government of the Acadia First Nation and to promote the social / economic development of the members.

4. **MEMBERSHIP:**

(a) Membership shall be those registered Indians who are included on the Membership List of the Acadia First Nation and any individuals who are entitled to be registered on the Acadia First Nation.

(b) Family members of Band members who are or who become deceased are expected to

notify the Band. The Department of Indian Affairs may remove a Band member from the membership roll based on a death certificate or other similar document.

5. ELECTOR:

Band Members eighteen years of age or over shall be the electors of the Band.

6. GOVERNMENT:

- (a) The Council of the Band shall consist of one Chief and six Councillors.
- (b) The Chief shall appoint a head Councillor who has received the most votes at the election to be Deputy Chief to act as Chief in the absence of or other indisposition of the Chief.

7. ELECTIONS:

Band Council elections shall be conducted, according to the regulations contained in Appendix "A" to this by-law.

8. PROCEDURES:

Band Council meetings shall be conducted according to the regulations contained in Appendix "B" to this by-law.

9. FINANCE & ADMINISTRATION:

- (a) Band Council shall prepare or have prepared a job description for the retention of a Band Manager.
- (b) The Band Manager under the direction and guidance of the Council shall prepare a personnel policy, taking into account national and provincial and local labour standards for adoption by the Council.
- (c) All Band Staff job vacancies shall be filled through open competitions.

- (d) All dismissals shall be subject to review by the Band Council.
- (e) The authorized signing officers for the Band shall be one Council member and the Band Manager.

10. MEETINGS:

- (a) There shall be one "Annual General Meeting" of the Band Members held each year.
- (b) A special general meeting of the Band can be summoned by the Council of the Band or in writing by 25% of the electors of the Band.
- (c) 25% of the electors of the Band upon notification in writing shall constitute a quorum for a general meeting of the Band.
- (d) Thirty days notice must be given for general meetings and seven days for a special meeting.
- (e) Votes at general and special meetings can be by secret ballot or by show of hands.
- (f) Minutes of all meetings shall be kept and copies of such minutes shall be supplied to Band Members in attendance at such meetings and when requested.
- (g) The chairperson shall be selected by a majority of the quorum present at a general or special meeting of the Band to conduct the meeting.
- (h) The chairperson shall have no vote other than to cast a tie-breaking vote.
- (i) The chairperson so selected shall call the meeting to order and present an agenda for ratification.
- (j) Meetings shall be conducted according to Parliamentary Procedure and / or good Indian common sense.
- (k) No elector shall have a vote in general meetings, special meetings or Band Council meetings who stands to personally gain financially or otherwise from the question.
- (l) Agenda items shall include but not be limited to the following:
 - (1) Reading, correcting and adoption of minutes of prior general or special meeting;
 - (2) Resolutions to be considered;

- (3) Elections;
 - (4) Council's Report;
 - (5) Financial Reports;
 - (6) Council's Report;
 - (7) Budgets;
 - (8) Committee's Reports.
- (m) Any person may be expelled or excluded from a general or special meeting of the Band by the presiding officer for causing a disturbance or for improper conduct.

11. AMENDMENTS TO BY-LAWS:

- (a) Amendments to the by-laws shall be recommended and voted on at the general or special meeting, provided that prior notice has been given to the Electors of the amendments to be considered and voted on;
- (b) 51% of the electors present at the general or special meeting must approve any amendments to the By-laws;
- (c) At the general or special meeting 51% of the electors present may amend the regulations contained in appendices "A" & "B".

12. ADDRESSES OF BAND MEMBERS:

The Band will use best efforts to maintain an up-to-date address book showing the names and current mailing addresses of the Band Members. Any Band member may inspect the address book to determine whether the address for themselves and their dependents is correct.

13. HONORARIUM AND TRAVEL :

Chief and Councillor honorarium shall be approved at a Band Council meeting.

14. PENALTIES :

Any person who knowingly and willfully commits a violation against the provisions of these By-laws shall be prosecuted accordingly if appropriate under the Criminal Code of Canada.

APPENDIX "A"

ACADIA FIRST NATION BY-LAWS

REGULATIONS GOVERNING BAND ELECTIONS

1. These regulations may be cited as the Acadia First Nation Election Regulations.

INTERPRETATION

2. In these Regulations

"Electoral Officer" means a person appointed by the Band Council for this purpose of an Election, other than a Band Member.

"Deputy Electoral Officer" means any persons appointed by the Electoral Officer for the purpose of an Election, other than a Band Member.

"Election" means a Band Election held pursuant to the provisions of these regulations.

"Elector" means a person who:

- (a) is a registered member of the Acadia First Nation;
- (b) is entitled to be a registered member of the Acadia First Nation; pursuant to Appendix B; Section 4 (a), under membership. (Physical proof must be provided, i.e. letter from Department of Indian and Northern Affairs.)
- (c) is not disqualified from voting at Band Elections.

"Acadia First Nation means a body of Indians; their land includes Ponhook Reserve, Wildcat Reserve, Yarmouth Reserve, Gold River Reserve, Medway Reserve and any other lands that they may acquire.

REGULATIONS AND DEFINITIONS :

3. Acadia First Nation Council shall consist of one (1) Chief and eight (8) Councillors.
4. Elections: Elections shall be held every five (5) years, succeeding the June 16, 1990

elections, within 30 days of that date.

5. Term of Office: The term of office for the Chief and Councillors shall be for five (5) years.
6. Vacancy: The office of Chief or Councillors becomes vacant when:
 - (a) A person who holds office:
 - (1) is convicted of an indictable offence;
 - (2) dies or resigns his office;
 - (3) is, or becomes, ineligible to hold office by virtue of these regulations;
 - (4) has been absent from meetings of the Council for two consecutive meetings without being authorized to do so by the Chief ; or
 - (5) was guilty in connection with an election of corrupt practice, accepting a bribe or dishonesty.
 - (b) By a majority (51%) vote of Electors in a referendum the members judge that the Chief or Councillor is no longer fit to hold office. The referendum shall be authorized at a special or general meeting by a majority of the members present, (vote of non-confidence).
7. By-Election: By-Elections may be held to fill any vacancy if more than one vacancy, or more than one year before regular election that occurs pursuant to Section 6 of these regulations within 60 days.
8. Eligibility of Electors: Must be an Acadia First Nation member and Eighteen (18) years of age or over.
9. Eligibility for Office:
 - (a) Shall be an Acadia First Nation Member; pursuant to Appendix B; Section 4 (a) under membership;
 - (b) For the office of Chief, shall be of the age of twenty-five (25) years or over;
 - (c) For Councillor, shall be of the age of twenty-one (21) years of age or over;
 - (d) No Acadia First Nation member shall be entitled to be nominated for both positions of Acadia First Nation Chief and Councillor in any one election, but

shall be entitled to be nominated for either Chief or Councillor in any one election.

10. (a) A person convicted of an indictable offence after the adoption of these regulations by the Band shall not be eligible for elected Band Office for a period of not less than three (3) years.
- (b) Any Band employee running for elected Band office shall take an unpaid leave of absence from his or her employment from the date of nomination until the date of the election. If elected, the employee shall be deemed to have resigned his or her employment with the Band.
11. A person removed from office pursuant to Section 6 of these regulations shall not be eligible for elected Band Office for a period of not less than three (3) years.
12. (a) Appeal board: The Appeal Board shall consist of Three (3) Band Members and a non-Band member as Presiding Officers.
- (b) The Band Member(s) appointed to the Appeal Board cannot hold Band elected office or be paid administrative employees of the Band.
- (c) The Appeal Board is to be appointed by the Members at a General or Special Band Meeting.
- (d) A decision must be handed down by the Appeal Board no later than ninety (90) days from receipt of the Appeal.
- (e) The decision of the Appeal Board is final and is to be reported to Chief and Council and to the complainant(s).
13. Amendments - See Section 11 (a) (b) of these By-Laws.
14. GENERAL BAND MEETING
 - (1) When a nomination meeting is to be held, the Electoral Officer shall by mail, notify the electors of the time and place of the meeting.
 - (2) At the time and place specified in the notice, the Electoral Officer shall declare the meeting open for the purpose of receiving nominations and any person who is an elector may propose or second the nomination of any duly qualified person to serve as a Chief or Councillor.
 - (3) A person so nominated may give a brief introduction not exceeding five minutes.
 - (4) The meeting shall remain open for nominations until such time as a motion is

moved, seconded and passed by the majority of the members present to cease nominations. If the number of persons nominated to serve as Chief or Councillors does not exceed the requisite number, the Electoral Officer shall declare the Chief or Councillors so nominated to be duly elected.

- (5) The Electoral Officer shall not close the electoral portion of the meeting until such business as he / she considers may properly be brought before it has been disposed of.
- (6) In the event of more than the required number of persons being nominated for Chief and Councillors, the Electoral Officer shall declare that a poll will be held.

15. MANNER IN WHICH VOTING SHALL BE CARRIED OUT

- (1) The Electoral Officer shall prepare a voters' list containing the names, in alphabetical order, of all electors.
- (2) The Electoral Officer shall post at the offices of the Acadia First Nation copies of the List of Electors, 30 days prior to the election date.
- (3) Any elector may apply to have the voters' list revised on the ground that the name of an elector is incorrectly set out therein, that the name of a member has been incorrectly deleted therefrom or that the name of a person not qualified to vote is included therein.
- (4) If the Electoral Officer is satisfied that a list should be corrected, he / she shall make the necessary correction therein.
- (5) Ballot papers shall be prepared in the prescribed form containing the names of the candidates for Chief and for Councillors, which names shall be listed on the ballot papers in alphabetical order.
- (6) Any candidate who has been nominated may withdraw his / her nomination up to ten (10) days following nomination.
- (7) The Electoral Officer shall procure, or cause to be procured, as many ballot boxes as are required for the election.
- (8) The Electoral Officer shall, before the poll is open, cause to be delivered to the electors' ballot papers.
- (9) The Electoral Officer, or his deputy, shall provide a safe and secure storage place for the ballot boxes until election day.
- (10) The Electoral Officer, or his deputy, shall open an advanced poll (15) days prior to election day, for electors to vote, who otherwise cannot vote due to absence from the Province, on the day of elections. This vote shall be conducted as per regulations (11),

(12) & (13).

- (11) The poll shall be opened from 10:00 A.M. to 6:00 P.M. for electors to vote, or as determined geographically, or otherwise, by the Electoral Officer.
- (12) Voting at all Elections shall be by secret ballot.
- (13) The Electoral Officer, or his deputy, shall immediately before the commencement of the poll, open the ballot box and call such persons as may be present to witness that it is empty. He shall then lock, and properly seal, the box to prevent it from being opened without breaking the seal and shall place it in view for the reception of the ballots, and the seal not be broken nor the box unlocked during the time appointed for taking the poll.

16. THE POLL

- (1) Where a person is eligible to vote, the Electoral Officer, or his deputy, shall provide him with a ballot paper on which to register his vote.
 - (2) The Electoral Officer, or his deputy, shall cause to be placed in the proper column of the voters' list a number opposite the name of every voter receiving a ballot paper.
 - (3) The Electoral Officer, or his deputy, may and when requested to do so, shall explain and assist the mode of voting to a voter.
 - (4) A voter who has inadvertently dealt with his ballot paper in such a manner that it cannot be conveniently used shall, upon returning it to the Electoral Officer or his deputy, be entitled to obtain another ballot paper and the Electoral Officer or his deputy shall thereupon write the word, "Cancelled" upon the spoiled ballot paper and preserve it.
 - (5) An elector whose name does not appear on the voters' list may vote at an election if the Electoral Officer, or his deputy, is satisfied that such person is qualified to vote.
 - (6) Every elector who is inside the polling place at the time fixed for closing the poll shall be entitled to vote before the poll is closed.
17. Immediately after the close of the poll the Electoral Officer or his deputy shall, in the presence of any of the candidates or their agents as may be present, open the ballot box and:

- (a) examine the ballot papers and reject all ballot papers:
 - (1) that have not been supplied by him / her,
 - (2) by which votes have been given for more candidates than are to be elected, or
 - (3) upon which anything appears by which the voters can be identified, but no word, letter or marks written or made or omitted to be written or made by the Electoral officer or his deputy on a ballot paper shall avoid it or warrant its rejection.
 - (b) declare a ballot paper on which votes are given for more candidates for an office than are to be elected, to be void as regards all the candidates for such office; but such ballot paper shall be good as regard the votes for any other offices in respect of which the voter has not voted for more candidates than are to be elected.
 - (c) subject to review on recount, or on an election appeal, take a note of any objection made by any candidate or his agent to any ballot paper arising out of the objection.
 - (d) number such objection and place a corresponding number on the back of ballot paper with the word, "Allowed" or "Disallowed", as the case may be, with his initials.
 - (e) count the votes given for each candidate from the ballot papers not rejected and make a written statement of the number of votes given to each candidate and the number of ballot papers rejected and not counted by him, which statement shall be then signed by him and such other persons authorized to be present, as may desire to sign the statement.
18. Immediately after the completion of the counting of votes the Electoral Officer shall publicly declare to be elected, the candidate or candidates having the highest number of votes and he shall also post in some conspicuous place a statement signed by him showing the number of votes cast for each candidate.
19. Where it appears that two or more candidates have an equal number of votes, the Electoral Officer shall give a casting vote for one or more of such candidates, but the Electoral Officer shall not otherwise be entitled to vote.
20. (a) The Electoral Officer shall prepare a statement showing the total number of votes cast for each candidate, the number of rejected ballots and the names of the candidates duly declared elected.
- (b) One copy of such statement shall be forwarded to the Band Manager, one copy to

the Regional Office of the Department of Indian Affairs and one copy for the Electoral Officer's records.

- (c) The statement shall be signed by the Electoral Officer and such of the candidates, or their agents, as are present and desire to sign it.

21. DISPOSITION OF BALLOT PAPER

The Electoral Officer shall deposit all ballot papers in sealed envelopes with the Band Manager, who shall retain them in his / her possession for eight weeks and, unless otherwise directed, shall then destroy the lot papers in the presence of two witnesses who shall make a declaration that they witnessed the destruction of the papers.

22. ELECTION APPEALS

- (a) Within 30 days after an Election, any candidate at the Election or any elector who gave or tendered his vote at the Election who has reasonable grounds for believing that :
 - (1) there was a corrupt practice in the connection with the Election,
 - (2) there was a violation of these Regulations that might have affected the result of the Election, or
 - (3) a person nominated to be a candidate in the Election was ineligible to be a candidate may lodge an appeal by forwarding, by registered mail, to the Appeal Board c/o the Band Head Office, particulars thereof duly verified by affidavit.
 - (b) Where an appeal is received by the Appeal Board pursuant to subsection (1), the Appeal Board shall within 7 days of the receipt of the appeal, forward a copy of the appeal together with all supporting documents by registered mail to the Electoral Officer and to each candidate in the election against whom allegations have been made.
 - (c) Any candidate may, within 14 days of the receipt of the copy of the appeal, forward to the Appeal Board by registered mail or by hand, a written answer to the particulars set out in the appeal together with any supporting documents relating thereto duly verified by affidavit.
 - (d) All particulars and documents filed in accordance with the provisions of this section shall constitute and form the record.
23. (a) The Appeal Board may, if the material that has been filed is not adequate for deciding the validity of the Election complained of, conduct such further investigation into the matter as it deems necessary.

- (b) Such investigation may be held by the Appeal Board or by any person designated by the Appeal Board for the purpose.
- (c) Where the Appeal Board designates a person to hold such an investigation that person shall submit a detailed report of the investigation to the Appeal Board for its consideration.

24. Where it appears that:

- (a) there was a corrupt practice in connection with an Election,
- (b) there was a violation of these Regulations that might have affected the result of an election, or
- (c) a person nominated to be a candidate in an election was ineligible to be a candidate,

the Appeal Board shall set aside the Election of the effected candidate.

25. SECURITY OF VOTING

- (a) Every person in attendance at a polling place or at the counting of the votes shall maintain and aid in maintaining the secrecy of the voting.
- (b) No person shall interfere or attempt to interfere with a voter when marking his / her ballot paper or obtain, or attempt to obtain at the polling place, information as to how a voter is about to vote or has voted.

26. Any person who knowingly violates any provisions of these Regulations is barred from holding Band Elective Office or participating in Band Elections for a period of no less than three (3) years.

APPENDIX "B"
ACADIA FIRST NATION
PROCEDURE REGULATIONS

1. These Regulations may be cited as the "Acadia First Nation Procedure Regulations."

INTERPRETATION

2. In these Regulations

"Council" means the council of the Band elected pursuant to the Band's Election Regulations. (Appendix "A")

"Band Manager" means the administrative employee of the Band Council.

"Secretary" means the person appointed to the Band Council to record the minutes of the council meeting.

MEETING OF THE COUNCIL

3. (1) The first meeting of the council shall be held no later than two weeks (14 days) after it assumes office; on a day, hour and place to be stated in a written notice given to each member of the council by the Chief or Band Manager and meetings shall thereafter be held on such days and at such times as may be necessary to conduct the business of the Band or Band Council.
- (2) There shall however be no less than one meeting held each quarter.
- (3) No member of a council may be absent from meetings of the council for two consecutive meetings without being authorized to do so by the Chief or Deputy Chief.
- (4) The Chief or the Deputy Chief may at any time summon a special meeting of the council and shall summon a special meeting when requested to do so by a majority of the council.
- (5) The Band Manager shall notify each member of the council of the day, hour and place of the meeting.

ORDER AND PROCEEDINGS

- (6) A majority of the council shall constitute a quorum.
- (7) If no quorum is present within one (1) hour after the time appointed for the meeting, the secretary shall call the roll and take the names of the members then present and the council shall stand adjourned until the next meeting.
- (8) The Chief of the Band or during his / her absence the Deputy Chief shall be the presiding officer.
- (9) Upon a quorum being present, the presiding officer shall take the chair and call the meeting to order.
- (10) The presiding officer shall maintain order and decide all questions of procedure.
- (11) The order of business at each regular meeting shall be as follows :
 - (a) Reading (correction, if any) and adoption of the minutes of the previous meeting;
 - (b) unfinished business;
 - (c) presentation and reading of correspondence;
 - (d) presentation and consideration of reports of Councillors committees;
 - (e) new business;
 - (f) hearing depositions;
 - (g) any other business as deemed necessary by majority of Band Council members present;
 - (h) adjournment.

12. Each resolution shall be presented or read by the mover, and when duly moved and seconded and placed before the meeting by the presiding officer, shall be open for consideration.
13. After a resolution has been placed before the meeting by the presiding officer it shall be deemed to be in the possession of the council, but it may be withdrawn by consent of the majority of the council members present.
14. When any member desires to speak, he shall address his remarks to the presiding officer and confine himself to the question then before the meeting.
15. In the event of more than one member desiring to speak at one time, the presiding officer shall determine who is entitled to speak.
16. The presiding officer or any member may call a member to order while speaking and the debate shall than be suspended and the member shall not speak until the point of order is determined.
17. Any member may appeal the decision of the presiding officer to the council and all appeals shall be decided by a majority vote and without debate.
18. All questions before the council shall be decided by a majority vote of the Band Council.
19. Every member present when a question is put forth shall vote thereon unless the council excuses him or unless he is personally interested in the question, in which case the Conflict of Interest Guidelines shall apply and he shall not be obliged to vote.
20. Subject to the operation of the Conflict of Interest Guidelines, a council member who refuses to vote shall be deemed to vote in the affirmative.
21. Whenever a decision of the council is taken for any purpose, each member present and voting shall announce his vote upon the question openly and individually to the council and when so requested by any member, the secretary shall record the same.
22. Any member may require the question or resolution under discussion to be read for his information at any period of the debate, but not so as to interrupt a member who is speaking.
23. (1) Band Council meetings shall be open to members of the Band Council only. To

protect the Band Council and Band members confidentiality, other persons, including other Band members, shall not be entitled to be present except with the prior approval of the presiding officer.

- (2) The presiding officer may expel or exclude from any meeting any person who causes a disturbance at the meeting.
24. The council may at the first meeting thereof appoint in lieu of the committee of the whole council the following standing committees:
- (a) Finance
 - (b) Roads and Bridges
 - (c) Welfare
 - (d) Housing
 - (e) Recreation
 - (f) Social / Economic Committee
- or as determined by the Band Council.
25. The council may appoint special committees on any matters as the interests of the Band may require.
26. A majority of the members of a committee shall be a quorum.
27. The Chief of the Band shall be an ex officio member of all committees and be entitled to vote at all meetings thereof, and other members of the council may attend meetings of a committee and may with the consent of the committee take part in the discussion but shall not be entitled to vote.
28. The general duties of standing and special committees are:
- (a) to report to the council from time to time as often as the interests of the Band may require all matters connected with the duties imposed on them respectively and to recommend such action by the council in relation thereto as they may deem necessary and expedient; and
 - (b) to consider and report upon all matters referred to them by the council or by the Chief of the Band.
29. Special meetings of committees shall be called at the request of the chairman or a majority of the committee or, in the absence of the chairman, on request of the Chief of the Band.
30. The council may make such rules of procedure as are not inconsistent with Regulations in

respect of matters not specifically provided for thereby, as it may deem necessary.

31. A member of the Band Council who knowingly violates any provisions of these Regulations is subject to suspension from council and loss of honorarium for a period not to exceed 90 days.

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