

# AN ACT RESPECTING THE GOVERNMENT ELECTIONS OF THE Key FIRST NATION

## TITLE AND CITATION

This Act may be cited as *The Key First Nation Election Act*®.

## JURISDICTIONAL AUTHORITY

This Act flows from our inherent and Treaty Rights to govern and manage our leadership selection processes. This Act is authorized by the electors of the Key First Nation and reflects the *Treaty Four Proclamation and Convention*®.

## PURPOSE AND APPLICATION

1.1 The purposes of this Act are to:

- 1) provide the governance foundations for the Key First Nation to effectively govern and manage its leadership selection and review processes;
- 2) implement our Inherent and Treaty rights to self-determination;
- 3) assemble and identify the policies, regulations and procedures respecting leadership selection (elections); and to authorize First Nation authorities or officers to make decisions pertaining to Key First Nation electoral procedures;
- 4) provide for accountable electoral processes for leadership selection.

1.2 This Act applies to all the following:

- 5) To all Key First Nation membership
- 6) To the Chief and Council of the Key First Nation;
- 7) To other orders of Canadian government;

## INTERPRETATION

2. For the purpose of this Act,

- a) AFIRST NATION@ means The Key First Nation
- b) AMEMBER@ means an Indian registered as a member of the Key First Nation in accordance with The Key First Nation Membership Code
- c) AELECTION@ refers to the election of Chief and Councillors of the Key First Nation according to the manner prescribed in this Act
- d) AELECTOR@ shall be any member of the Key First Nation meeting the requirements as set out in Section 3 of this Act.
- 8) ACANDIDATE@ means an Eligible Voter of the age of eighteen (18) years or more on or before the date of the Election as herein described, who is nominated to run for, qualifies to run for and does run for the position of Chief or Councillor of the First Nation in the Election of the Chief and Councillors as herein described.
- f) CHIEF@ means the Chief of the Key First Nation.
- 9) ACOUNCIL@ means the Council of the Key First Nation and shall consist of the Chief and Councillors elected under this Act from time to time.
- h) AAPPEAL TRIBUNAL@ means an Appeal Tribunal appointed by the electors in accordance with paragraph 7(e) hereof.
- 1) ADISCIPLINE PROCEDURE@ means a disciplinary process of the Appeal Tribunal pursuant to paragraph 12 hereof.
- 10) AGOVERNANCE COMMITTEE@ means a committee that may be appointed by Council to coordinate the development or amendment of Key laws as so directed by Council.
- k) ACONSTITUTION @ means the Key First Nation Constitution.
- l) AOATH OF OFFICE@ means the Key Oath of Office for the elected Chief and Council of the Key First Nation as attached in Appendix A of this document.
- m) AEXECUTIVE MANAGER/ADMINISTRATOR@ is that employee of the Key First Nation hired by Council to perform the top management functions for the First Nation.

- n) The terms Ahe@ or Ahis@ represents both the masculine and feminine genders.
- 11) AAMENDMENT@ means any addition, deletion or alteration resulting from the amendment procedure identified in paragraph 18 hereof.
- 12) AIMMEDIATE FAMILY@ means parents, children, siblings, grandparents & spouse (including common-law)
- 13) AEMPLOYEE@ means an individual who is employed by the Key First Nation on a permanent, part-time or seasonal basis for which salary and benefits are paid by Key.
- 14) ACREDENTIALS COMMITTEE@ means the Committee chaired by the Electoral Officer and composed of one representative of all major clans (Key, Brass, Papequash, Keshane, O=Soup, Crane) that rules on any questions regarding the eligibility of electors to run for office.
- 15) ARESIDENT@ means any elector that maintains his principal residence or domicile on the Key reserve status lands, as determined by the Credentials Committee.

## **ELIGIBILITY**

### **3. For the purpose of this Act:**

- a) Any member of the Key First Nation who is on the Band membership list or who is entitled to be on the Band list on the day of the election, and who is 18 years of age or older on the day of the election shall, regardless of their place of residence or domicile, be eligible to vote in the election of Chief and/or Councillor of the Key First Nation;
- 16) Any eligible elector, regardless of place of residence, can run for the position of Chief
- c) Only eligible electors who can prove to the Credentials Committee that they have maintained a residence on Key First Nations reserve status lands a minimum of 3 months prior to the nomination date may be a candidate for Councillor positions.

- 17) All candidates for office must possess, at a minimum, a valid driver=s license.
- 18) Any candidate shall have completed, at a minimum, Grade 10 as recognized by Saskatchewan Learning or a comparable institution in any other province.
- 19) Notwithstanding the foregoing;
  - i) No eligible elector shall hold the position of Chief and Councillor at the same time, nor shall an eligible elector run for more than one position in a given election or hold more than one position on Council following an election;
  - ii) An eligible elector shall not be a candidate in the election of a Chief and Councillor if he has been convicted, within five (5) years preceding the date of the election, of an indictable offence under the Criminal Code of Canada, or of a dual offence on which the Crown has elected to proceed by way of indictment (excluding the simple, first-time offence of driving while impaired); or of an offence under the *Controlled Drugs and Substances Act* the *Narcotic Control Act* or the *Food & Drug Act* of Canada, involving the importation, trafficking or possession for the purpose of trafficking of a prohibited or controlled substance covered by any of the above Acts;
  - iii) An eligible elector shall not be eligible to run for or be elected to the positions of either Chief or Councillor in an Election or any by-election hereunder if the Eligible Elector holds any elected office or position with any hamlet, municipality, settlement, village, or town established or existing under The Municipalities Act of the Province of Saskatchewan.
  - iv) An eligible elector who is a full or part-time employee of the Band, or who has a contract with the Band, and who is nominated for the position of Chief or Councillor, must take a leave of absence without pay from his position or contract for the duration of the electoral process. If he is elected and he decides to serve on Council, he must resign his position or give up his contract.
- 20) All candidates seeking office shall be bondable and must provide a Canadian Police Information Center document that states his freedom from convictions along with other required documents at the nomination meeting.

- 21) All elected leaders must maintain residency on Key First Nation lands during their term of office.

## **TERM OF OFFICE**

4. Subject to Section 6 below, the term of office for the positions of Chief and Councillor of the Key First Nation shall be three (3) years.

## **COMPOSITION OF THE COUNCIL**

5. a) The Council of the Key First Nation shall consist of the Chief and 5 Councillors; with each Councillor fulfilling assigned duties on a full-time basis as so designated by the Chief.
- 22) A quorum of the council shall consist of 4 members.

## **ELECTION PROCEDURES**

5. Procedures governing elections shall be as follows:
  - 23) Elections shall be held on the 1<sup>st</sup> Saturday in September, commencing in 2004, and likewise every third year following thereafter;
  - b) On the first Saturday in June (at least 90 days prior to election day) in the year of an election, the Council shall, at an open meeting called by Council for that purpose, appoint one Chief Electoral Officer and also appoint two (2) Deputy Electoral Officers. The Chief Electoral Officer and Deputy Electoral Officer(s), must consent to their appointments and, having consented to their appointments, may not be a candidate for the office of Chief or Councillor, or vote, in the coming election. The Chief Electoral Officer shall be an independent person who is not a member of the Key First Nation. All electoral officers shall be retained through a contract with the Key First Nation.

At this meeting, an Appeals Tribunal of three persons will be appointed from a list of names provided by the Treaty 4 Governance Institute.

At this meeting, the Council shall ratify the membership of the Credentials Committee by formal resolution.

- 24) Any of the duties of the Chief Electoral Officer as hereinafter provided may from time to time be assigned at the discretion of the Chief Electoral Officer to a Deputy Electoral Officer;
- d) The Chief Electoral Officer shall:
  - i) Post all notices and distribute all election information pursuant to this Act.
  - ii) Establish and publicly post a list of eligible voters by the first Saturday in July (60 days prior to election day) prior to the election.
    - iii) By the First Saturday in July (60 days prior to the election day) post notices at the Key First Nation office, and once in daily newspapers published in Regina, Saskatoon, Edmonton and Vancouver and such other places as the Chief Electoral Officer decides are necessary, to notify the eligible electors of the date and location of the nomination meeting and the date and location of the advance polls and election.
    - iv) By the First Saturday in July meet with the Credentials Committee to identify the voters eligible to run for office of Councillor, based on the 3-month residency requirement.
- 25) Arrange the facilities to conduct a nomination meeting and the election.
  - vi) Be present or in his absence have at least one of his deputies present at the polling station at all times during election day.
  - vii) Make all arrangements for professionally numerically pre-printed ballots and ballot boxes. Further, all ballots shall contain directions as to the maximum number of votes per Council that a voter may make.
  - viii) Ensuring all ballot boxes is initially empty, prior to the ballot boxes being sealed, in the presence of two (2) witnesses.
  - ix) Preside over all electoral activities on the day of the election and the day(s) of the advance polls. This includes the

discretion to appoint up to three (3) people to assist in the identification and eligibility of Key electors

x) Examine and rule on the validity of all ballots cast, provided no ballot with an identifiable AX@ mark beside a candidate's name, shall be invalid solely because the mark was partially outside the box provided in the ballot. In cases where a voter has marked more than one Chief's candidate, or more than 5 Councillor candidates, the vote shall not be counted.

xi) Identify and keep separate those ballots which are disqualified for the following reasons:

- a ballot which has a mark other than an AX@ shall be invalid;
- a ballot which was officially A canceled@ by the electoral officer;
- a ballot on which the voter has written his/her name or initials;
- a ballot which has more votes (marks) than the number of open positions;
- a blank ballot which has no markings (X=s) whatsoever;
- a ballot that is defaced or has identifiable erasure marks

xii) Count the ballots, announce and post the official election results;

e) All advance polling will be done by secret ballot, the contents of which must not be opened or counted until the close of voting on Election Day. In the event of off-reserve polling stations being established herein, all voting at such stations shall be conducted in accordance with the rules applicable to Election Day voting.

Vancouver advance poll Tuesday prior to Election Day

Edmonton advance poll Thursday prior to Election Day

f) A nomination meeting shall be held the third Saturday in August. The Chief Electoral Officer shall circulate in a manner which will be reasonably certain to reach the Key First Nation electorate, a notice of the nomination meeting and such notice shall contain the time, date and location of the nomination meeting;

g) Conduct of the nomination meeting shall be as follows:

i) The Chief Electoral Officer shall preside as Chairperson;

- ii) All nominations shall be moved and seconded by eligible electors at the nomination meeting. Nominations shall be accompanied by a certified cheque, money order or cash deposit (payable to the Key Election Fund) on the following basis: \$1000.00 for a nominated candidate running for the position of Chief; \$500.00 for a nominated candidate running for the position of Councillor. All such deposits shall not be refunded to nominated candidates, even if they withdraw from the election process.

A CIPIC document, a copy of his valid driver's license and educational credentials in the form of transcripts or certificates shall be presented to the Chief Electoral Officer at the time of acceptance of nomination.

- iii) All nominations for the position of Chief and Councillor shall be made at the nomination meeting between 10 A.M. and 2:00 P.M. on the day of the nomination meeting, at which time nominations shall cease and the nomination meeting shall end as soon as practicable thereafter;
- iv) All nominators must give a Two (2) minute speech to speak of their candidate. Each candidate must address the assembly to a maximum of 10 minutes at the nomination meeting. Candidates shall be expected to present their plans and may respond to questions from the members in attendance.
- v) To be eligible for candidacy, a candidate shall be in attendance at the nomination meeting and the candidate's forum.

- h) Any candidate wishing to withdraw as a candidate for office shall notify the Chief Electoral Officer in writing within forty-eight (48) hours of their nomination.
  - i) Notice of the particulars of the nominations shall be posted by the Chief
  - ii) Electoral Officer within seventy-two (72) hours of the close of the nomination meeting;
- 26) Procedures on the day of the election shall be as follows:
- i) The Ballots, the Polling Station and all Facilities required

shall be the responsibility of the Chief Electoral Officer including the supervision of the Polling Station(s).

- ii) Except for advance polling, if any, voting shall take place on the election day from 9:00 A.M. to 6:00 P.M. by secret ballot at the polling station provided and all ballots prior to the close of polling shall be placed in a locked ballot box;
- iii) The procedures for voting (casting of ballots) shall be as follows:
  - Persons presenting themselves for the purpose of voting should be prepared to present identification to verify their eligibility as an elector;
  - Persons presenting themselves for the purpose of voting shall, upon being confirmed as an eligible voter by the electoral officer, be given two (2) ballots, each of a different color, one for the election of Chief and one for the election of Councillors;
  - The electoral officer, or a deputy, shall initial each ballot upon giving it to the elector and thereafter shall mark the elector=s name on the voters list as having voted (eg. a line through the elector=s name);
  - Each elector shall then proceed to the voting booth for the purpose of marking the ballot by placing an AX@ in the box provided beside the name of the candidate of choice. The elector shall then deposit the ballots in the ballot box provided.
  - While an elector is casting his/her ballot, no other person shall be allowed in the voting booth unless as so provided in item 6 k (iv) below.
  - An elector who has inadvertently damaged or otherwise voided a ballot shall immediately return it to the electoral officer or a deputy, who shall write the word Acancelled@ upon the ballot paper (s) and preserve same; and may issue another ballot to the elector if, in the opinion of the electoral officer, it is warranted.
  - Any elector who has received a ballot and who either refuses to vote or leaves the polling place without

delivering the same to the electoral officer or a deputy in the manner provided, shall forfeit his/her right to vote. In such cases the electoral officer or the deputy shall make an entry on the voters list noting that the person=s vote was forfeited.

- Any person who is an elector but whose name does not appear on the voters list, may present two pieces (one which contains a picture) of identification and evidence to be verified by the electoral officer or a deputy who, if satisfied that the person is eligible, shall add the person=s name to the voters list and issue ballot papers to the person.
- iv) The Chief Electoral Officer shall have the discretion to make special accommodations, where required, to enable the disabled or the illiterate to cast their ballot; including the use of translators or interpreters if necessary.
- v) Following the closure of the Polling Station, the Chief Electoral Officer shall, in the presence of the Deputy Electoral Officer(s) present, examine and tabulate the ballots. Candidates may have one representative (scrutineer) present to observe the counting of ballots. In the case of a designated scrutineer, the candidate shall in writing advise the Chief Electoral Officer of the name of his one representative at least three working days prior to the Election Day.
- vi) In the case of a tie vote for Chief or the last available Councillor position, the Chief Electoral Office shall conduct an immediate recount. If the tie remains, the electoral officer will put the names in the ballot box. He will than draw out one and that ballot will determine the successful candidate.
- vi) For the position of Chief, the candidate having the most votes shall be declared elected.
- vii) The Chief Electoral Officer shall prepare a list of all of the candidates for the 5 Councillor positions in the election, ranked by order of the number of votes received, with the highest ranking candidate being the one who received the most votes for Councillor in the election. The vacancies for Councillor under this Act shall then be filled by the highest-ranking candidates on the list and each such candidate shall

be declared elected as a Councillor;

- viii) The Ballots shall be kept by the Chief Electoral Officer in a secured place at the discretion of the Chief Electoral Officer for a period of Sixty (60) days following the date of the election, whereupon they shall be destroyed unless there is an appeal of the election result. In the event of an appeal the ballots shall not be destroyed until Sixty (60) days following the final decision of the Appeal Tribunal.
- ix) The Chief Electoral Officer shall ensure that there is no loitering in the vicinity of the Polling Station or ballot-counting room, and is hereby empowered to control or evict loiterers if deemed necessary. Such control or eviction may, at the discretion of the Chief Electoral Officer, involve the enlistment of security personnel or the RCMP. Loitering includes actions by candidates or representatives of candidates within the area of the polling station which is intended to influence or interrupt voters= activities such as intimidation or, prior to casting their ballot at the polling station, accosting voters or inviting voters to a candidate=s hospitality room.
- x) The Chief Electoral Officer shall complete an official record of the voting results and distribute same to the membership and to Indian and Northern Affairs Canada, Saskatchewan Aboriginal Affairs, the FSIN, the Yorkton Tribal Council, and the Treaty Four Executive Council.

## **APPEALS**

7. The following procedures shall govern an appeal of the Election results:

- a) Any candidate may appeal an election within 30 days following the day of the election by delivering an appeal in writing setting forth the grounds of appeal to the Chief Electoral Officer together with a petition signed by 25 electors. A non-refundable fee of \$500.00, by certified cheque or money order, must accompany the appeal documents. The fee will be used to help offset the cost of the appeal.
- b) An appeal is restricted to the following grounds:

- i) Election practices which contravene this Act;
  - ii) Illegal, fraudulent or criminal activity which may reasonably have affected the outcome of the election including, but not necessarily limited to, the following:
    - buying votes (offering an elector money for their vote),
    - intimidation,
    - promising special privileges, jobs or benefits for certain electors.
  - iii) Where it has been determined that a corporate (business) donation, in cash or in kind, has been given to a candidate for the purposes of influencing the election results.
- c) Upon receipt of the written appeal and petition aforesaid, the Chief Electoral Officer or Deputy Electoral Officer shall forthwith deliver the petition to the Executive Manager/Administrator of the Key First Nation, and copies of the written appeal to the Council and any individual whose election to Council is affected thereby.
- 27) Within Forty-five (45) days following the day of the election, the Key Appeal Tribunal (as provided for in the Key Constitution) shall review and decide upon all appeals made in respect of a given election.
- e) No member shall serve on the Appeal Tribunal who is an immediate family member of any of the appellant(s) or individual(s) whose election to Council is called into question on an Appeal before that Tribunal.
- 28) The Appeal Tribunal shall review the written appeal to determine if there are sufficient grounds for an appeal. If the Appeal Tribunal determines that the appeal is baseless, the Tribunal may decide that no hearing is required. In such an event, the Appeal Tribunal shall provide a written statement of its decision outlining that the appeal is groundless and the results of the election shall stand.

- 29) If the Appeal Tribunal determines that there may be substance to the grounds for the appeal, it shall hold a hearing into the Appeal. Notice of the Appeal hearing shall be provided by the Appeal Tribunal to the Appellant(s) and the individual(s) whose election to Council is called into question on the Appeal before that Tribunal. The Appeal Tribunal shall, at their discretion, have access to technical, translation and administrative assistance and advisory services. The costs for such services shall be borne by the Key First Nation.
- h) At the Appeal Hearing, the Appellant(s) and the individual(s) whose election to Council is called into question will be given the opportunity to present evidence and argument in support of their respective positions. The individual(s), against whom the Appeal is brought, shall be afforded a reasonable opportunity to know and respond to the allegations made against the election result under appeal.
- 2) Subject to the foregoing, the Appeal Tribunal for a given appeal may establish its own rules of evidence and procedure. Nothing herein shall require the evidence produced or procedure adopted to conform to rules of evidence or procedure which may be adopted in any other appeal or by any other Appeal Tribunal, tribunal or court whatsoever;
- 30) Upon conclusion of the appeal hearing for purpose of receiving evidence and argument, the Appeal Tribunal shall endeavor to reach a decision on the Appeal as soon as practical and in its decision shall:
- i) determine whether the appellant(s) has proven the grounds for appeal set out in the Notice of Appeal on a balance of probabilities;
  - ii) determine whether the grounds as proven may reasonably have affected the outcome of the election appealed from;
  - iii) order a new election for the position(s) on Council contested by the Appeal, where satisfied that grounds for appeal have been proven and such grounds may reasonably have affected the outcome of the election relative to such Council position(s);
  - iv) uphold the election, where the grounds of appeal have not

been proven, or if proven, could not reasonably have affected the outcome of the election;

- 31) The decision of the majority of the Appeal Tribunal is final and may be made with or without reasons being given for its conclusions. No other tribunal or court may hold a hearing or render a decision on the appeal unless as so mandated by this Act or the Constitution of the Key First Nation (see item Ap@ below);
  - l) The appeal hearing shall be conducted as soon as practical after not less than one week=s advance notice has been given of the time and place of the hearing to their appellant(s) and those individual(s) whose election is the subject of the appeal. The hearing shall, unless all parties thereto otherwise agree, be held at a location on the Key Reserve;
- 32) The decision once made shall be forthwith provided by the Appeal Tribunal to the Executive Manager/Administrator who shall in turn provide copies of the decision to the appellant(s), the individual(s) whose election is the subject of the appeal, the Council and the Chief Electoral Officer;
  - n) Upon being notified of the decision, Council shall take all steps necessary to enforce the decision and to put the terms thereof into effect. The Council shall ensure that full public notification is given to the membership about the decision of the Tribunal;
- 33) Unless and until the Appeal Tribunal has decided that a new election must be called, any individual whose election is the subject of the appeal shall assume his position on Council in the normal and ordinary course. In the event a new election is ordered, then from that point the position on Council affected thereby shall be deemed vacant pending the outcome of the new election;
  - p) In the event that the Key First Nation Appeal Tribunal has not resolved the appeal or issue at hand, an appeal may be referred to the Asecond-level@ appeal process of the Treaty Four Governance system consisting of an appeal tribunal as so constructed by the Treaty Four Council of Chiefs and as so mandated by the Key First Nation.

## **ASSUMPTION OF OFFICE**

6. Upon conclusion of the elections:
  - a) The newly elected Chief and Councillors shall take an oath of office immediately on the day following the election; or as soon as possible thereafter;
  - b) The newly elected Chief and Councillors shall assume their respective offices immediately upon taking the oath of office. The former Chief and/or Councillors may, at the discretion of the new Chief and Council, remain in an advisory capacity for a period of days after election day with their usual remuneration; otherwise their positions on council, if not re-elected, terminate at the end of the election day.
- 34) For further clarity, in the event of an Appeal hereunder, the newly elected Chief and Band Councillors shall continue to hold office, in their respective positions, until either the Appeal Tribunal denies the appeal, or until the Appeal Tribunal allows the appeal and overturns the result of the election under appeals, or until the completion of a new and subsequent election, if the same is so ordered by the Appeal Tribunal.

## **BY-ELECTIONS**

9.
  - a) When, for any reason, a position on Council, whether for Chief or Councillor, becomes vacant, the remaining Council shall as soon as possible, designate a date for a by-election, which by-election shall be held not less than sixty (60) days following the event which resulted in the vacancy. All matters concerning eligibility and procedures that apply to an election shall also apply to a by-election.
- 35) If a vacancy occurs within six (6) months of the next general Band election, and such vacancy does not prevent the ability of Council to function, then no by-election shall be required.

## STANDARD OF CONDUCT FOR THE CHIEF AND COUNCILLORS

10. a) The elected Chief and Councillors, as trustees of the sacred obligations granted by the Creator and as elected representatives of all members of the Key First Nation are expected to uphold and abide by both the AKEY CONSTITUTION@ and the >OATH OF OFFICE=.
- 36) The elected Chief and Council shall refrain from drug and alcohol abuse, which leads to unacceptable behavior that violates the integrity of the office of the elected government, during their term of office.
- 37) Elected officials shall not hold a position of permanent, seasonal or part-time employment with the Key First Nation.

## REMOVAL FROM OFFICE

11. Once duly elected by members of the Key First Nation, the Chief and Councillors are accountable to all members of the Key First Nation and as such they may be removed from office if they:
  - a) Consistently ignore or abuse the >OATH OF OFFICE= or legislative enactments of the Key First Nation;
  - b) Are absent from Three (3) consecutive Key First Nation assemblies or duly convened council meetings without cause.
- 38) a) Are convicted under the Criminal Code of Canada of an indictable offence or a dual offence in accordance with paragraph 3, C, (ii) herein.
- 38) Are convicted of an offence under the *Controlled Drugs and Substances Act*, the *Narcotic Control Act* or the *Food and Drug Act of Canada* involving the importing, exporting, trafficking or possession for the purpose of trafficking of a substance covered by any of the aforementioned Acts from time to time.
- 39) Do not abide by the AStandard of Conduct@ (item 10 above).

## DISCIPLINE PROCEDURES

12. a) Any Member of the Key First Nation, 18 years of age or older, either individually or as part of a group of such members, may submit a complaint in writing concerning one or more alleged violations of Section 11 by one or more members of Council. Such complaint must include and be accompanied by the following before any action as hereinafter described is taken thereon:
- 1) the specific ground(s) under section 11 that the complaint is based upon;
  - 1) sufficient particulars to be able to identify the factual circumstances of the alleged violation(s);
  - 1) a petition signed by not less than 25 electors in support of the complaint being proceeded with.
- b) The written complaint aforesaid shall be submitted to the Executive Manager / Administrator of the Key First Nation who shall thereupon forthwith notify the Treaty 4 Appeal Tribunal of the complaint and its contents;
- 40) No member shall serve on the Appeal Tribunal who is an immediate family member of any of the complainants or Council members who are the subject of the complaint;
- d) The Appeal Tribunal shall hold a discipline hearing into the complaint in which the complainants and all Council members who are the subject of the complaint are provided notice of and given an opportunity to present evidence and argument in support of their complaint or defense thereto as the case may be. The individual(s), against whom the complaint is brought, shall be afforded a reasonable opportunity to know and respond to the allegations made against him or them as the case may be;
- e) Subject to the foregoing, the Appeal Tribunal for a given hearing may establish its own rules of evidence and procedure. The Appeal Tribunal shall, at their discretion, have access to technical, translation and administrative assistance and advisory services. The costs for such services shall be borne by Key First Nation.

- f) Upon conclusion of the discipline hearing for purpose of receiving evidence and argument, the Appeal Tribunal shall endeavor to reach a decision on the complaint as soon as practical and its decision shall;
  - i) determine whether the complaint has been proven on a balance of probabilities;
  - ii) where the complaint is found to be proven, decide whether the subject of the complaint should be:
    - a) dismissed from office and a by-election called to fill the vacancy; or
    - 2) allowed to continue in office with or without conditions attached;
  - iii) where the complaint is found not to be proven, dismiss the complaint.
- g) The decision of the majority of the Appeal Tribunal is final and may be made with or without reasons being given for its conclusions. No other tribunal or court may hold a hearing or render a decision on the complaint, nor is the Appeal Tribunal's decision subject to any further appeal to any other tribunal or court.
- h) The hearing into the complaint shall be conducted after not less than two weeks advance notice has been given of the time and place of the hearing to the complainant(s) and those members of Council who are the subject of the complaint. The hearing shall, unless all parties thereto otherwise agree, be held at a location on the Key First Nation Reserve.
- i) The decision once made shall be forthwith provided by the Appeal Tribunal to the Executive Manager who shall in turn forthwith provide copies of the decision to all complainants, the Council and any individuals who are the subject of the complaint.
- j) Upon being notified of the decision, Council shall take all steps necessary to enforce the decision and put the terms thereof into effect.
- k) The Council shall ensure that the findings of the Appeal Tribunal are provided to the membership.

## **RESIGNATION**

12. No resignation of a Chief or Councillor is effective or binding unless and until;
  - a) the resignation is made in written form and signed by the individual who intends to resign;
  - b) the resignation contains a date from which it is intended to take effect;
  - 2) the resignation will be deemed as Accepted@ when the written resignation, addressed to the Key Electorate, is delivered to the Executive Manager/Administrator who shall date stamp the document to verify the date of its delivery.
  - d) in the event of the resignation by the Chief and all the Councillors, arrangements will be made immediately by the Executive Manager/Administrator for a new election and all provisions for elections shall be followed. In this event, the Executive Manager/Administrator shall have caretaker authority over the affairs of the Key First Nation which means strict observance of existing policies, approved budgets, and not making any new financial or personnel commitments on behalf of the Key First Nation. The Executive Manager shall fulfill his caretaker functions in consultation with Key program managers.

## **REMOVAL FROM COUNCIL**

12. Except as provided for in this Act, no Chief or Councillor may be removed from office before the expiration of his term.

## **DISCONTINUATION OF AUTHORITY**

12. The following procedures shall govern discontinuation of authority:
  - a) On the day of the nomination meeting, Chief and Councillors are required to relinquish their signing and decision-making authority. During the period from this day to election day, the Executive Manager/Administrator shall have a caretaker authority over the general affairs of the Key First Nation but shall have no authority to

enact new policies, make new financial commitments or abridge existing laws or policies of the Key First Nation pending election of the new Council. The Executive Manager shall fulfill these caretaker functions in consultation with the Key management team.

- b) During this period prior to the election, an incumbent who wishes to seek re-election is prohibited from using any of the Key First Nation=s financial resources, personnel, property or services towards his campaign and would include the use of Band vehicles, phones, cellular phones, photocopiers, fax machines, or the assistance of Key First Nation employees or contractors.
- c) During the period from the nomination day to Election Day the routine salaries of Chief and Council shall not be paid.

## **AMENDMENTS**

- 12. Amendments to this Act shall be made only through the following process and at a duly convened assembly of voters called specifically for the purpose of amending this Act;

Step 1: Recommendations for amendments shall be made in writing by the Chief and Councillor or members of the Key First Nation and submitted to the Executive Manager / Administrator of the Key First Nation.

Step 2: The Executive Manager shall acknowledge receipt of the recommendation(s) and will arrange to table the proposed changes before Council or, if so delegated by Council, before a Key Committee.

Step 3: Council, or the designated Committee may, by a decision of the majority of its members, adopt the recommended amendment(s), or revise it in whole or in part. The Committee may, in the course of its review, propose their own amendments as well as deal with those provided by the Chief and Council or members of the Key First Nation.

Step 4: On behalf of the designated Committee, Council may arrange for the proposed amendments as developed or revised by the Committee to proceed to a duly convened membership assembly for review and ratification; alternately, if the Committee has decided that the proposed

amendment(s) is unworkable or inappropriate, then the Committee through the Executive Manager shall, in writing, inform those making the original recommendation of the reasons for not proceeding with the proposed amendment(s). A membership assembly shall be called on not less than 20 days notice of the time and place of the meeting, and the proposed amendments to be voted upon may be given by displaying same at two public areas on the Key reserve.

Step 5: Amendments may be made to this Act by a properly moved and seconded motion from the floor of the duly convened amendment meeting.

Step 6: Amendments to be effective must be read before the assembly and thereafter ratified by a majority (50% plus 1) of those electors personally present at the membership assembly meeting duly convened by the Chief and Council for the purpose of amending this Act. For purposes of this vote, a show of hands is an acceptable voting method.

Step 7: The Chief and Council shall ensure that there is public notice regarding approved amendments to this Act.

## **RATIFICATION OF THIS ACT**

12. Following a majority vote by electors in support of this Act at a duly convened electors' meeting, the *Key First Nation Election Act* shall be formally ratified. Thereafter the Chief and Council shall officially proclaim this Act and distribute copies both internally and to other orders of government.

## ***OATH OF OFFICE***

### ***Key FIRST NATION***

## **OATH OF OFFICE**

I, \_\_\_\_\_,

do solemnly swear and affirm that I will support and defend the laws, values and policies of the Key First Nation; that I will bear true faith and allegiance to same; and that:

- I will faithfully, honestly and consistently perform the duties of my office to the best of my judgement and ability, remembering that my primary duty is to serve the Key First Nation;
- I will promote and uphold the integrity and dignity of the Key First Nation and its programs and employees;
- I will not allow any private interest to influence my conduct in public matters of the Key First Nation. I will promptly disclose any Aconflict of interest@, direct or indirect financial interest I have in a matter; and I will not participate in the discussion of the matter and will not vote in respect of the matter;
- I will honour, respect and support the AElders@ of the Key First Nation;
- I will show respect for the authority of the government (Key Chief & Council) and other governance structures of the Key First Nation;
- I will discharge my duties and responsibilities in a manner becoming my position;
- I will be prompt, courteous and temperate in the performance of my duties;
- I will maintain respect for my colleagues, the managers and employees of the Key First Nation;
- I will demonstrate and practice honesty, fairness, respect, justice and objectivity in my involvement in the governance affairs of the Key First Nation;
- I will continually work toward self-improvement and professional development.

- I will not publicly criticize the laws or the policies of the Key First Nation. If I feel that changes would be advisable, I will provide constructive criticism or suggestion through the proper channels of law making or amending processes of the First Nation.
- I will use information obtained on the job for the intended purpose only. I will give out official, classified or confidential information only when the release of such information has been authorized by the Key First Nation.
- I will be accountable to the Key First Nation membership including reporting to the electorate on a regular basis;
- I am qualified to hold the position of \_\_\_\_\_ in accordance with the provisions for candidate eligibility under the Key First Nation Election Act;
- I have not, by myself or any other person, knowingly contravened the Key First Nation Election Act in relation to my election to office;
- I shall refrain from alcohol and toxic substance abuse during my term of office.

I do further affirm that I take this *Oath of Office* freely, without any mental reservation or purpose of evasion. By the Grace of our Creator I do swear!

\_\_\_\_\_  
Name of Elected Officer

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

\_\_\_\_\_  
Executive Director

\_\_\_\_\_  
Date

**THE Key FIRST NATION ELECTION ACT**

**PROCLAIMED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, A.D.  
2001**

*Key First Nation Council*

\_\_\_\_\_

Chief

Councillor

\_\_\_\_\_

\_\_\_\_\_

**Key**

**FIRST NATION**

**ELECTION ACT**

**Draft  
For Discussion Purposes**

January 2004