

**ARTICLE 1**

**Citation, Interpretations and Applications**

**CITATION**

1. This Act shall be cited as the George Gordon First Nation Election Act.

**INTERPRETATIONS**

2. In this Act:
  - (a) “Appeal Tribunal” means the Appeal Tribunal established pursuant to Section 98 of this Act;
  - (b) “Amendment” means any addition, deletion or alteration resulting from the amendment procedure identified in Section 112 of this Act;
  - (c) “Assembly” means the assembly of Electors of George Gordon First Nation;
  - (d) “By-Election” means an Election other than a General Election;
  - (e) “Candidate” means a person who has been nominated for election to a George Gordon Chief and/or Council position;
  - (f) “Chief” means the Chief of George Gordon First Nation;
  - (g) “Council” means the Council of the George Gordon First Nation and shall consist of the Chief and eight (8) Councillors elected under this Act;
  - (h) “Election” means a General Election or By-Election;
  - (i) “Election Day” means the day on which a vote at Election is called;
  - (j) “Elector” means any registered member of the George Gordon First Nation having attained the age of eighteen (18) years prior to, or on, the date of the election;
  - (k) “Electoral Officer” means a person appointed in accordance with Sections 36 – 41 of this Act;
  - (l) “First Nation” means the George Gordon First Nation;
  - (m) “General Election” means an Election referred to in Section 31 of this Act;
  - (n) “Legal Counsel” means legal Counsel representing the George Gordon First Nation for an Election, appointed in accordance with **Section 11** of this Act;

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- (o) “ Mail-in Ballot” means a ballot mailed or delivered in accordance with Section 69 of this Act;
  - (p) “ Majority” means at least fifty per cent plus one vote of the votes cast;
  - (q) “ Member” means a person registered as a member of the George Gordon First Nation as per the Aboriginal Affairs and Northern Development Canada Registry *or in accordance with George Gordon First Nation membership lists developed under a duly recognized and ratified Membership Code of the George Gordon First Nation.*
  - (r) “ Nomination Day” means the day on which Nominations are held in accordance with Article 7 of this Act, and is thirty (30) calendar days prior to Election Day.
  - (s) “ Polling Clerk” means a person appointed in accordance with Section 44 - 45 of this Act;
  - (t) “ Polling Station means a place established under Section 67 of this Act for voters to cast their ballots;
  - (u) “ Prescribed” means prescribed in this Act;
  - (v) “ Rejected ballot” means a ballot that is rejected during the counting of ballots as it is unmarked, marked for more than the allowed number of candidates, or identifiable;
  - (w) “ Scrutineer” means a person appointed by a candidate to observe voting and the counting of ballots to ensure that the process is conducted properly;
  - (x) “ Spoiled Ballot” means a ballot that is marked in such a way that it does not appropriately reflect the wishes of the voter. A voter who spoils a ballot may obtain a replacement ballot by giving the spoiled ballot to the Polling Clerk. Spoiled ballots are never placed in a ballot box, and are not included in the counting of ballots at close of voting;
  - (y) “ Voter” means a person who has cast a ballot in an election;
  - (z) “ Voters’ List” means the list of Voters that is provided in accordance with Sections 45 - 47 of this Act;
3. The following provisions shall govern the interpretation of this Act:
- (a) words used herein importing the singular only shall include the plural and *vice versa* and words importing the use of any gender shall include all genders;
  - (b) references herein to this Act shall be deemed to include references to this Act as Varied, amended, modified, supplemented or replaced from time to time;
  - (c) all references herein to the Indian Act R.S.C. 1985, c 1-5 or any other legislation shall be deemed to include reference to any such statutes as may be amended,

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re-enacted or replaced from time to time, and, in respect of any defined term derived from such statutes, includes any subsequent definition contained in any statutes enacted in substitution therefore or in modification thereof;

- (d) the Schedules referenced in this Act shall be deemed to be incorporated into and form part of this Act, and;
- (e) all reference herein to days shall mean calendar days unless otherwise specified.

## **ARTICLE 2**

### **Composition, Quorum and Meetings of the George Gordon First Nation Council**

#### **COMPOSITION**

- 4. The Council of the George Gordon First Nation #86 shall consist of the following:
  - (a) One (1) Chief
  - (b) Eight (8) Councillors

#### **QUORUM**

- 5. For the purpose of decision making relating to Elections and other matters, the following rules relating to quorum of Council shall apply:
  - (a) the quorum for any meeting of the Council shall be where there are five (5) members of the Council present thereat or attending by telephone or other communication facility, and
  - (b) in the event of a tie in the votes, the Chief shall cast the deciding vote.

#### **MEETINGS OF THE GEORGE GORDON FIRST NATION COUNCIL**

- 6. The first meeting of the council shall be held not later than one week after its election, on a day, hour and place to be stated in a notice given to each member of the council, and meetings shall thereafter be held on such days and at such times as may be necessary for the business of the council or the affairs of the band.
  - (a) No member of a council may be absent from meetings of the council for three consecutive meetings without being authorized to do so by the chief of the band or Director of Operations, with the consent of the majority of the councillors of the band.

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- (b) The chief of the band or Director of Operations 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 members of the council.
- (c) The Director of Operations shall notify each member of the council of the day, hour and place of the meeting.

### **Order and Proceedings**

- 7. A majority of the whole council shall constitute a quorum, but where a council consists of nine or more members five members shall constitute a quorum.
- 8. If no quorum is present within 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.
- 9. The chief of the band or, with the consent of the majority of the councillors present at the meeting, the Director of Operations shall be the presiding officer.
  - (a) Upon a quorum being present, the presiding officer shall take the chair and call the meeting to order.
  - (b) A chairman shall be chosen
    - in the absence of the chief, or
    - where the Director of Operations is not chosen the presiding officer pursuant to section 9, from among the members present who shall preside during the meeting or until the arrival of the chief or until the Director of Operations is chosen as the presiding officer.
- 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 and petitions;
  - (d) presentation and consideration of reports of committees;
  - (e) new business;
  - (f) hearing depositions;
  - (g) 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.

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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.
  - (a) The presiding officer or any member may call a member to order while speaking and the debate shall then be suspended and the member shall not speak until the point of order is determined.
  - (b) A member may speak only once on a point of order.
16. 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.
  - (a) All questions before the council shall be decided by a majority vote of the councillors present
  - (b) The presiding officer shall not be entitled to vote but whenever the votes are equal the presiding officer, other than the Director of Operations, shall cast the deciding vote.
17. Every member present when a question is put shall vote thereon unless the council excuses him or unless he is personally interested in the question, in which case he shall not be obliged to vote.
18. A member who refuses to vote shall be deemed to vote in the affirmative.
19. Whenever a division 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.
20. 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.
21. The regular meetings shall be open to members of the band, and no member shall be excluded therefrom except for improper conduct.
  - (a) The presiding officer may expel or exclude from any meeting any person who causes a disturbance at the meeting.
22. 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) Human Resources;
  - (c) Public Works (Roads and Bridges); and

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- (d) Social Assistance
23. The council may appoint special committees on any matters as the interests of the band may require.
24. A majority of the members of a committee shall be a quorum.
25. The chief of the band shall *ex officio* be a 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.
26. 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.
27. 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 or the Director of Operations.
28. Any representative of the Minister present at a council meeting may
- (a) address the council, and explain to and advise the members thereof upon their powers and duties;
  - (b) explain to and advise the members thereof upon any question of procedure; and
  - (c) give such information as may be requested by any member of the council relating to the administration of the affairs of the band.
29. The council may make such rules of procedure as are not inconsistent with these Regulations in respect of matters not specifically provided for thereby, as it may deem necessary.

### **ARTICLE 3**

#### **Term of Office**

30. The term of office of any Council elected pursuant to the provisions of this Act shall be for a period of four (4) years.
31. General Elections for the Council of the George Gordon First Nation #86 shall be held no later than four (4) years following the date of the previous Election.

**ARTICLE 4**

**Eligibility**

32. For the purpose of this Act:
- (a) any Elector shall, regardless of his place of residence, be eligible to vote in any Election or By-Election held pursuant to the provisions of this Act.
33. (a) any Elector may seek nomination as a Candidate in any Election or By-Election for the position of Chief or Council regardless of his place of residence.
- (b) notwithstanding the foregoing:
- (i) no Elector shall hold the position of Chief and Councillor at the same time nor shall any Elector seek nomination for more than one (1) position in any given Election or By-Election; and
  - (ii) Any Elector who has been nominated for more than one position shall, within 24 hours of the close of nominations, submit a letter of withdrawal from one of positions for which he has been nominated to the Chief Electoral Officer.
  - (iii) No Elector shall be entitled to seek nomination as a Candidate in any Election Or By-Election if the Candidate has been convicted of an indictable offence In the five (5) year period preceding the date of the nomination meeting under
    - (A) the Criminal Code
    - (B) the Controlled Drugs and Substances Act; or
    - (C) any succeeding legislation relating to the foregoing.
- (c) Any Elector intending to seek nomination as a Candidate for either Chief or Council will be required to submit a CPIC upon accepting his nomination.
- (d) In order for an Elector to seek nomination as a Candidate in any Election or By-Election, all debts owed to the George Gordon First Nation by said Elector must be in good standing.
- (e) As required under the provisions of the George Gordon Treaty Land Entitlement Trust Agreement any person other than the designated Council position, appointed to the position of Board Member of the George Gordon First Nation Treaty Land Entitlement Board shall, if wishing to seek office for the position of Chief or Councillor, be required to take a leave of absence from their position of Board Member of the George Gordon First Nation Treaty Land Entitlement Board upon his acceptance of a nomination to the position of Chief or Councillor. If elected, the Board Member will be required to resign from his position on the George Gordon Treaty Land Entitlement Board.

**ARTICLE 5**

**APPOINTMENT OF ELECTORAL AND DEPUTY ELECTORAL OFFICERS**

34. The Council shall by January 15<sup>th</sup> of an Election year, tender out a proposal for the retaining of the services of an Electoral Officer.
35. The Council shall, no later than thirty (30) days prior to the nomination meeting, select and appoint, by resolution, the Electoral and Deputy Electoral Officers and Legal Counsel representing the George Gordon First Nation for the Election, The Council Resolution appointing the Electoral Officer and the Deputy Electoral Officer shall set out the following:
- (a) the full names of the Electoral and Deputy Electoral Officers so appointed;
  - (b) the date, time and location for the purpose of conducting:
    - (i) the nomination meeting, which shall be held no fewer than thirty (30) days prior to conducting the Reserve Poll for the Election or By-Election;
    - (ii) the Advance Polls, when deemed necessary
    - (iii) the Reserve Poll;
  - (c) a description of the type of Election to be undertaken, namely, either an Election or By-Election; and
  - (d) the remuneration to be paid to the Electoral Officer and Deputy Electoral Officer for the performance of their duties under this Act.
36. Any Electoral or Deputy Electoral Officer appointed by the Council pursuant to the provisions of Article 5 shall be ineligible to occupy the position of Candidate or Appointed Observer/Scrutineer during any Election or By-Election for which he has been appointed.
37. The following persons shall be ineligible for appointment to the position of Electoral Officer or Deputy Electoral Officer:
- (a) any person occupying an elected position on the Council at the time of appointment of the Electoral and Deputy Electoral Officers;
  - (b) any person occupying an employment or contractual position with the George Gordon First Nation or any of its operating entities at the time of appointment of the Electoral and Deputy Electoral Officers; or



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- (c) any person occupying the position of Board Member of the George Gordon Treaty Land Entitlement Board at the time of appointment of the Electoral and Deputy Electoral Officers.
38. Each Electoral Officer and Deputy Electoral Officer appointed by the Council pursuant to Section 37 shall be required to complete and swear in the form prescribed in Schedule 'A' an Oath of Office within seven (7) days following his appointment.
39. The term of office of the Electoral Officer and Deputy Electoral Officer shall run from the date of their appointment to the latter of 60 days following:
- (a) expiration of the Election or By-Election; or
  - (b) the conclusion of any appeal proceedings filed with the Election Appeal Tribunal Pursuant to the provisions of this Act.

### **ARTICLE 6**

#### **DUTIES OF ELECTORAL OFFICERS AND DEPUTY ELECTORAL OFFICERS**

##### **DUTIES AND POWERS OF THE ELECTORAL OFFICERS**

40. The Electoral Officer shall:
- (a) ensure that the provisions of this Act are followed;
  - (b) be empowered to draw on the resources of the George Gordon First Nation and its institutions to execute his duties;
  - (c) post all notices and distribute all election information pursuant to this Act;
  - (d) establish and publicly post a list of Electors no later than thirty (30) days prior to Election Day;
  - (e) conduct a meeting of the Election Officials prior to Election Day;
  - (f) preside as Chairperson of the Election proceedings;
  - (g) ensure all Election facilities are in order;
  - (h) oversee the arrangements for and supervision of ballots, ballot boxes and Polling Clerks and Polling Stations;

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- (i) deliver a copy of the appropriate Voters' List to each Polling Clerk;
  - (j) oversee the initialing and distribution of the appropriate number of ballots to each Polling Clerk;
  - (k) examine and rule on the validity of all ballots cast;
  - (l) oversee the counting of ballots;
  - (m) announce the results of each ballot count;
  - (n) in the presence of George Gordon First Nation Band members, undertake the safeguarding of the Election results, including:
    - (i) placing in separate envelopes:
      1. all Rejected ballots and Spoiled ballots
      2. all cast ballots
      3. all unused ballots;
      4. each Polling Clerk's copy of the Voters' List; and
      5. a statement of the Election results;
    - (ii) sealing and initialing all envelopes;
    - (iii) sealing all documents identified in section 42, subsection (n)(i) are Safeguarded for sixty (60) days following the Election; and
  - (o) perform any other duties as may be required to administer and implement this Act.
  - (p) Upon declaring a successful Candidate for each First Nation Council position open for Election, the Chief Electoral Officer shall:
    - (i) ensure that all ballots are to be kept for a period of 60 days after Election Day; and
    - (ii) in the event there are no appeals of the Election, ensure that all ballots are destroyed once the 60-day period has expired.
  - (q) prepare an official record of the voting results and provide copies of this record to the George Gordon First Nation membership through public posting, Indigenous and Northern Affairs Canada, the FSIN and the Treaty Four Chiefs' Forum within twenty-four (24) hours.
41. The Electoral Officer may delegate any or all of his duties, including the initially of ballots, to the Deputy Electoral Officer.

### **POLLING CLERKS**

42. No later than one (1) calendar week prior to Nomination Day, the Chief Electoral Officer shall appoint, in writing, a sufficient number of Polling Clerks to accommodate the number of Voters at the George Gordon Polling Stations. Polling Clerks may be

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members of the George Gordon First Nation.

43. It is the responsibility of a Polling Clerk to:
- (a) ensure that the required number of ballots is received for his Polling Station;
  - (b) initial each ballot prior to distributing it to a Voter;
  - (c) distribute one initialed ballot to each Voter;
  - (d) make the appropriate mark, as determined by the Electoral Officer, beside the name of the Voter on the Voters' List after distributing a ballot to a Voter;
  - (e) ensure that the number of Voters is accurate;
  - (f) complete and deliver to the Chief Electoral Officer a statement indicating for His Polling Station:
    - (i) the number of eligible Voters;
    - (ii) the number of unused ballots; and
    - (iii) the number of ballots cast; and
  - (g) follow the directions and decisions of the Electoral Officer in all matters.

### **SCRUTINEERS**

44. Each Candidate may appoint one (1) Scrutineer to:
- (a) observe the Election and voting process to ensure procedural fairness; and
  - (b) observe and ensure a proper count of the ballots.

### **VOTERS LIST**

45. Any person whose name does not appear on the Voters List may apply to the Electoral Officer to have his name added by completing in the form attached as Schedule 'D', an Application to Have Name Appear on Voters List. Upon receipt of the Application, the Electoral Officer shall review the Application and if satisfied that the applicant meets the definition of an Elector as provided for in Section 2 (j) hereof, shall add the applicant's name to the Voters List. For the purpose of verification of identification, the Electoral Office shall require:
- (a) a copy of the applicant's Status Card and one other piece of identification containing a photograph

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- (b) a signed affidavit from the applicant stating that he is a George Gordon First Nation member; and
  - (c) a signed affidavit from a George Gordon First Nation Voter stating that the applicant is a George Gordon Band Member.
- 46. Any Elector may apply by means of an affidavit to have the Voters List revised on the grounds that the name of an Elector is incorrectly set out therein or the name of a person not qualified to vote is included therein. Upon review and examination, the Electoral Officer shall, if satisfied that the Voters List should be corrected, make the necessary corrections therein.
- 47. The onus shall be on each individual Elector to ensure that his name is properly registered on the Voters List. All applications to amend the Voters List as provided for in Sections 45 - 46 hereof shall be permitted to be filed with the Electoral Officer.

### **ARTICLE 7**

#### **Nominations**

- 48. At least thirty (30) days prior to the day on which the nomination meeting is to be held, the Chief Electoral Officer shall:
  - (a) mail a notice of the nomination meeting and a voter declaration form to every Elector who does not live on reserve;
  - (b) post a notice of the nomination meeting and a list of the names of electors in at least one public place on reserve.
- 49. Notice of the nomination meeting shall include:
  - (a) the date, time, location and duration of the nomination meeting;
  - (b) the date on which the election will be held and the location of the polling place;
  - (c) the name and telephone number of the electoral officer
  - (d) the statement that any voter may vote by mail-in ballot; and
  - (e) directions for nominating or seconding the nomination of a candidate in person or by mail.
- 50. The Electoral Officer shall act as Chair of the nomination meeting.
- 51. At the time and place specified in the Notice of Nomination Meeting, the Electoral Officer shall declare the meeting open for the purpose of receiving nominations. Any Elector may move or second the nomination of any person qualified under the provisions of the Act to seek nomination for the position of Chief or Councillor.
- 52. Prior to the close of nominations, the Electoral Officer shall require each Candidate seeking nomination for the position of Chief or Councillor to complete and swear

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in the form attached as Schedule 'E' an affidavit verifying that the Candidate meets the eligibility criteria established pursuant to this Act for the position which they are seeking. Failure by any Candidate to comply with the provisions of this section shall result in the removal by the Electoral Officer of the Candidate's name from the list of Candidates.

53. In order to be eligible for nomination, a Candidate shall:
- (a) pay the prescribed deposit to the Electoral Officer as provided pursuant to the provisions of Section 60 hereof;
  - (b) complete the affidavit attesting to his eligibility as required pursuant to the provisions of Section 32 - 33, hereof; and
  - (c) submit a Criminal Records Check (CPIC) as part of his Affidavit of Candidate in Schedule 'E'.
54. Any Candidate who has been properly nominated pursuant to the provision of the Act may withdraw from the Election or By-Election within ten (10) days after nomination. Votes cast for this Candidate will not be tallied.
55. Any Candidate withdrawing their nomination as provided in Section 54 may do so by completing and filing with the Electoral Officer a Notice of Withdrawal in the form prescribed in Schedule 'F'.
56. No Elector may nominate or second a nomination for more positions than are open for election in any Election or By-Election.
57. Subject to the eligibility requirements as outlined in this Act, a Candidate shall be eligible for nomination to only one of the following positions:
- (a) Chief; or
  - (b) Councillor
- In the event that a Candidate is nominated to both positions, it is the duty of the Electoral Officer to notify the Candidate in writing within twenty-four (24) hours of the close of nominations. The Candidate shall then withdraw his nomination from one of the two positions, pursuant to Section 33 (b) (ii) herein;
58. In the event the number of eligible Candidates for a position does not exceed the number of vacancies available for such position, the Electoral Officer shall, following closing of the nomination meeting, declare the Candidate or Candidates duly elected pursuant to the provisions of this section by acclamation.
59. If the number of eligible Candidates for each position open for election exceeds the requisite number for each position, the Electoral Officer shall declare that an Election or By-Election will be held for the purpose of taking votes for the positions available.

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The date for the conducting of On-reserve polls for the Election or By-Election shall be set out in the Council resolution as provided for in Section 35(b) hereof.

60. Each Candidate seeking nomination shall be required to file with the Electoral Officer at the time of his nomination the following:
  - (a) For the position of Chief - a deposit in the amount of five hundred (\$ 500.00) dollars
  - (b) For the position of Councillor- a deposit in the amount of one hundred (\$ 250.00) dollars.
61. This non-refundable fee shall be in the form of cash, money order, electronic funds transfer or certified cheque and shall be paid to the Electoral Officer.
62. The nomination meeting shall be open between the hours of 10:00 A.M. to 2:00 P.M. on the date specified in the Notice of Nomination Meeting. Thereafter, the Electoral Officer shall call for a motion to declare the nominations closed. However, in the event that there are no candidates nominated to a position or insufficient candidates nominated for Council to make a quorum, the Electoral Officer is empowered to call for an extension of the nomination period.
63. Immediately following the close of nominations, a Candidates' forum shall be held at which time all the Candidates seeking election shall be given the opportunity to address the Band Members present at the Candidates' forum. The Nominators shall be given the opportunity to provide a two (2) minute address to the Band Members present with respect to their Candidates. In turn, each Candidate for Councillor will be allowed five (5) minutes to address the Band Members present at the Candidates' forum, and each Candidate for Chief will be allowed then (10 ) minutes to address the Band Members present at the Candidates' forum. The order of speeches shall be determined by the drawing of names of Candidates for each position, beginning with the Candidates for Chief and proceeding to the Candidates for Council.
64. Immediately following the closing of the nominations, the Electoral Officer shall prepare in the form prescribed in Schedule 'G' an Electoral Officer Nomination Meeting Report outlining the positions open for election along with the names, addresses and Status numbers of each Candidate nominated and their supporting Nominators.
65. Not less than thirty (30) days prior to the Election or By-Election date, the Electoral Officer shall prepare and post a Notice setting out the date, time and location for the conducting of the Reserve Polls for the Election or By-election. The Notice shall be posted:
  - (a) in one (1) or more conspicuous places located on and off the Reserve as determined by the Electoral Officer; and
  - (b) in not less than two (2) issues of a newspaper whose circulation encompasses locations off the Reserve; and
  - (c) on the George Gordon web site

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### **Election Date**

66. The Election Date shall be thirty (30) days following the nomination date.

## **ARTICLE 9**

### **Voting Procedures**

67. For the purpose of conducting an Election or By-Election, there shall be established Polling Stations to be held on the George Gordon First Nation (herein referred to as the 'Reserve Poll' ).
68. The Chief Electoral Officer shall prepare ballots setting out the names of candidates nominated for Chief in alphabetical order and the names of candidates nominated for councillors in alphabetical order.
69. At least twenty-one (21) calendar days prior to Election Day, the Chief Electoral Officer shall mail to every elector who does not reside on the Reserve, a package consisting of:
- (a) a ballot, initialed on the back by the Electoral Officer;
  - (b) an outer postage-paid return envelope pre-addressed to the Chief Electoral Officer;
  - (c) a second inner envelope marked "ballot" for insertion of the completed ballot;
  - (d) a letter of instruction regarding voting by mail-in ballot;
  - (e) a statement identifying the location of the polling place;
  - (f) a statement advising the voter that he may vote in person at the polling place on the day of election *in lieu* of voting by mail-in ballot.
  - (g) a statement advising the voter that ballots must be either mailed-in or delivered in person, and that no ballots delivered by a third party will be accepted under any circumstance;
  - (h) a list of the names of any candidates who were acclaimed; and
  - (i) a Voter Declaration form.
70. A voter who inadvertently spoils a mail-in ballot may obtain another ballot by returning the spoiled ballot to the Chief Electoral Officer.
71. A voter who loses a mail-in ballot may obtain another ballot by delivering to the Chief Electoral Officer a written notice that the voter has lost the mail-in ballot. This notice must be signed by the voter in the presence of the Chief Electoral Officer, a Justice of the Peace, a notary public or a Commissioner of Oaths.
72. A voter to whom a mail-in ballot has been sent may obtain a ballot and vote in person

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at a polling place when:

- (a) the voter returns his mail-in ballot; or
  - (b) the voter provides written notice of a lost ballot as outlined in Section 47 above.
73. Mail-in ballots that are not received by the Chief Electoral Officer before the time at which the polls close on Election Day are void.
74. Any voter shall be entitled to vote at Reserve Polls.
75. The Electoral Officer and Deputy Electoral Officer shall ensure that a compartment is provided at each Polling Station where a voter can make his ballot free from observation.
76. All voting with respect to an Election or By-Election shall be conducted by secret ballot.
77. Elections and By-Elections may be conducted using electronic voting, which may include counting machines, optical scanning vote tabulating units, voting recorders and other similar devices, the regulations and procedures pertaining to which are outlined in Schedule 'O' hereof, provided the resources are available. Otherwise, two printed ballots will be used.
78. The Chief Electoral Officer shall provide notice that Aboriginal Affairs and Northern Development Canada (AANDC) has found that electronic counters may lead to errors in tabulating the final vote count. In the event that the final vote count is called into question, a manual count will be performed.
79. The Reserve Polls shall be open from the hours of 10:00 A.M. to 8:00 P.M. Any voter who is in the Polling Station at the time that it is declared closed by the Electoral Officer shall be entitled to cast his vote.
80. Each Candidate shall be entitled to select one (1) Appointed Observer/Scrutineer for each Polling Station for the purposed of observing the conducting of the Election or By-Election. Each Candidate shall be required to complete and submit to the Electoral Officer prior to the opening of the Polling Stations, the form prescribed in Schedule 'I' containing the name of the Candidate's Appointed Observer/Scrutineer.
81. A Candidate or his supporters shall not be permitted to:
- (a) loiter inside the polling station, or on the exterior grounds of the polling station, including the parking lot, during polling hours;
  - (b) influence electors to vote, or refrain from voting or vote or refrain from voting for a particular candidate.
  - (c) post on the interior or exterior surface of the polling place any campaign literature.
82. The Electoral Officer or Deputy Electoral Officer shall, when requested to do so, explain the method of voting to a voter.
83. Any Voter who, for medical or physical reasons, requires assistance in voting may request that their ballot or ballots be marked by the Electoral Officer, Deputy Electoral Officer or person of the Voter's choice in the manner directed by the Voter and in the presence of



at least one (1) witness chosen by the Voter. The Electoral Officer or Deputy Electoral Officer shall note on the Voters List opposite the name of such Voter, the name of the person selected by the Voter to mark completing of the ballot or ballots together with the name of the witness, and the fact that the ballot or ballots were marked by the Electoral Officer, Deputy Electoral Officer or person of the Voter's choice in the presence of the Voter and the reasons thereof.

## **ARTICLE 10**

### **Election Tabulation**

84. Immediately following the close of the Reserve Poll, the Chief Electoral Officer shall, in the presence of George Gordon First Nation Band Members, open each envelope containing a mail-in ballot that was received either in the mail or hand-delivered by the Voter before the close of the polls. Without unfolding the ballot the Chief Electoral Officer will:
- (a) reject the ballot if:
    - (i) it was not accompanied by a voter declaration form, or the voter declaration form is not signed or witnessed;
    - (ii) the name of the voter set out in the voter declaration form is not on the voters list; or
    - (iii) the voters list shows the voter has already voted.
85. With the exception of ballots rejected under section 84, the Chief Electoral Officer will place a mark on the voters list opposite the name of the elector set out in the voter declaration form and deposit the ballot in a ballot box.
86. Immediately after the mail-in ballots have been deposited in a ballot box, as per section 85 above, the Chief Electoral Officer shall, in the presence of George Gordon Band Members, open the ballot box(es) and count the ballots.
87. The Electoral Officer shall decide any questions arising from any objections made by a Candidate or his Appointed Observer/Scrutineer regarding the rejection of any ballot, The Electoral Officer shall document and number the objections and place a corresponding number on the back of the ballot with the word 'ALLOWED" or "DISALLOWED' as the case may be, along with his initials.
88. Any decision of the Electoral Officer regarding the rejection of a ballot under Section 87 may be subject to review by the Election Appeal Tribunal established pursuant to the provisions of Article 11 hereof.
89. The Electoral Officer shall, following the counting of the votes, complete in the form attached as Schedule 'K' the Electoral Officer's Tabulation Report and preserve all rejected ballots and documentation pertaining to any objection made pursuant to

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Section 87 until the conclusion of any appeals initiated under the provisions of the Act.

90. Immediately after completion of the counting of the votes, the Electoral Officer shall publicly declare to be elected the Candidate or Candidates receiving the highest number of votes for the positions of Chief or Councillor.
91. In the event a tie vote occurs between a greater number of Candidates than there are positions to be filled by such Candidates the Electoral Officer shall immediately order a recount of all ballots cast for and in respect of any position which cannot be declared for a single Candidate because of the tie vote.
92. In the event a tie voter continues to result following the conducting of a recount undertaken pursuant to Section 91, then the Electoral Officer shall place the names of the Candidates who are tied into a container designated for that purpose, and draw one name from the container. The name that has been drawn will be considered to be the winning Candidate for the position.
93. Within twenty-four (24) hours following completion of the Election or By-Election, the Electoral Officer shall prepare an Electoral Officer's Report showing:
  - (a) the total number of votes cast for each Candidate;
  - (b) the number of ballots cast, counted, rejected and spoiled; and
  - (c) the names and addresses of the Candidates duly declared elected.
94. Upon completion, the Electoral Officer shall forward a copy of the Electoral Officer's Report to each of the following:
  - (a) the George Gordon Administration Office, to the attention of the Director of Operations or any person holding an equivalent position with the George Gordon First Nation; and
  - (b) the Regional Office of Aboriginal Affairs and Northern Development Canada.
95. The Electoral Officer shall deposit all ballots cast for and in respect of the Election or By-Election into a sealed envelope which shall be kept in his position or control for the latter of sixty (60) days following:
  - (a) the completion of the Election or By-Election; or
  - (b) the conclusion of any appeal proceedings filed with the Electoral Appeal Tribunal under the provisions of this Act.

### **ARTICLE 11**

## **Appeals**

96. Appeals will be submitted to the Treaty Four Appeals Tribunal. In the event that the Treaty Four Appeals Tribunal disbands, ceases to function or declines to rule on a George Gordon First Nation appeal, the following process will apply.
97. Prior to the nomination meeting or the conducting of any Election or By-Election the Council shall be resolution:
- (a) appoint for the purpose of the upcoming Election or By-Election, an Election Appeal Tribunal consisting of three (3) individuals as appointed from outside the George Gordon First Nation #86 Band Membership; and
  - (b) set the remuneration to be paid to the members of the Election Appeal Tribunal with respect to the performance of their duties under the provisions of this Act.
98. All persons selected as members of the Election Appeal Tribunal shall be required to consent to their appointment and swear an Oath of Office within five (5) days following their appointment. Following their appointment, the members of the Election Appeal Tribunal shall select from among themselves a person to act as Chair of the Election Appeal Tribunal.
99. All members of the Election Appeal Tribunal shall hold office from the date of their appointment until all appeals have been finalized.
100. Any person occupying an employment or contractual position with the George Gordon First Nation #86 or any of its operating entities at the time of appointment of the Election Appeal Tribunal shall be ineligible for appointment as a Member of the Election Appeal Tribunal.
102. The following procedures shall govern the conducting of election appeals:
- (a) Any elector may appeal an Election or By-Election within fourteen (14) days following the date of the Election or By-Election by delivering to the Chair of the Election Appeal Tribunal the following:
    - (i) a notice of appeal outlining the appellant's name, address, telephone number and setting forth the grounds of appeal including all material facts and documents upon which the appellant intends to rely;
    - (ii) a petition of support for the appeal with references to the notice of appeal included on each page of the petition signed by fifty (50) or more Electors; and
    - (iii) an appeal fee in the amount of one hundred ( \$ 100.00) dollars. The appeal fee shall be in the form of cash, money order or

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certified cheque and shall be made payable to the George Gordon First Nation.

- (b) Appeals shall be restricted to the following grounds:
  - (i) election practices which contravene this Act; or
  - (ii) illegal, fraudulent or criminal activity which may have affected the Outcome of the Election or By-Election appealed.
- (c) The Chair of the Election Appeal Tribunal shall confirm receipt of the appeal with the appellant and shall forthwith provide a copy of the appeal together with all supporting documents to any Candidate(s) whose election to the Council is a matter of dispute in the appeal;
- (d) Upon receipt of the appeal documents, the Chair of the Election Appeal Tribunal shall convene a meeting of the Election Appeal Tribunal to review the appeal documents to determine whether there is sufficient basis to warrant the conducting of an appeal hearing. The Election Appeal Tribunal shall endeavour to rule on whether to allow or disallow the appeal within fourteen (14 ) days following receipt of the appeal and supporting documents by the Chair.
- (e) If there is sufficient basis to warrant an appeal hearing the Election Appeal Tribunal shall set a hearing date with respect to the appeal. The hearing shall be conducted within thirty (30) days following the date of the Election or By-Election. Parties to the appeal may be represented alone or by legal counsel, the cost of which shall be borne exclusively by the parties.
- (f) If the Election Appeal Tribunal determines that there is not sufficient basis to warrant the conducting of an appeal hearing, the Election Appeal Tribunal shall confirm their decision in writing with the appellant and the Candidate whose position is under Appeal, within the time period specified in subsection 102 (d).
- (g) The Chair of the Election Appeal Tribunal shall determine the time and place for the hearing of the appeal and shall give fourteen (14) days notice thereof to the appellant, Electoral Officer, Deputy Electoral Officer and any Candidate(s) whose election to the Council is a matter of dispute in the appeal.
- (h) Appeal hearings conducted by the Election Appeal Tribunal shall be open to the appellant and his legal counsel; the Candidate whose election is under Appeal, and the Appeal Tribunal.
- (i) The Electoral Officer and Deputy Electoral Officer are required to attend all appeal hearings conducted by the Election Appeal Tribunal to provide information relating to the procedures followed with respect to the Election or By-Election under appeal.

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- (j) During the appeal process, the Election Appeal Tribunal shall have access to technical, translation, administrative assistance and advisory services, including advice of legal counsel. The costs for such services shall be borne by the George Gordon First Nation.
- (k) Without restricting the generality of the foregoing, the Election Appeal Tribunal shall determine their own procedure and all questions relating to the conduct of the appeal, and all issues in question shall be settled by a majority decision of the Election Appeal Tribunal. Further, at the Appeal hearing, the appellant(s) and the Candidate(s) whose election to the Council have been called into question shall be given the opportunity to present evidence and argument in support of their respective positions.
- (l) Upon conclusion of the appeal hearing, the Election 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) have proven the grounds for appeal set out in the notice of appeal;
  - (ii) determine whether the evidence as presented may reasonably have affected the outcome of the Election or By-Election appealed;
  - (iii) order, in the case the position under appeal is that of the Chief's position, a By-Election where the Election Appeal Tribunal is satisfied that the grounds for appeal have been proven and such grounds may reasonably have affected the outcome of the Election or By-Election appealed, or uphold the Election or By-Election where the grounds of appeal have not been proven, or, if proven, could not reasonably have affected the outcome of the Election or By-Election appealed; or
  - (iv) order, in the case the position under appeal is that of a Councillor, that the individual receiving the next highest number of votes in the Election or By-Election under appeal be awarded the Councillor position where the Election Appeal Tribunal is satisfied that the grounds of appeal have been proven and that such grounds may reasonably have affected the outcome of the Election or By-Election appealed, or uphold the Election or By-Election where the grounds of appeal have not been proven, or, if proven, could not have reasonably affected the outcome of the Election or By-Election appealed;
- (m) The decision of the Election Appeal Tribunal as provided for in subsection 104 (l) shall be confirmed in writing and provided to the appellant(s) together with all the Candidate(s) whose election is the subject of appeal within fifteen (15) days following conclusion of the hearing. The decision shall also be provided to the Council of the George Gordon First Nation #86.
- (n) Upon being notified of the decision, the Council shall enforce the decision and put the terms thereof into effect.

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- (o) Any Candidate(s) whose election is the subject of the appeal shall assume his position on the Council in the normal and ordinary course. In the event a By-Election is ordered, then only from that point onward shall the position on the Council affected thereby be deemed vacant; and
- (p) all decisions of the Election Appeal Tribunal shall be final and binding.

### **ARTICLE 12**

#### **Assumption of Office**

- 103. Within twenty-four (24) hours following completion of the Election or By-Election, all Candidates elected to the Council shall be sworn into office by completing the Oath of Office.
- 104. In the event a Candidate elected to the Council fails to complete the Oath of Office within the time allotted in Section 103 above, the election of the Candidate shall be null and void and the position to which that Candidate was elected shall be deemed vacant.
- 105. Any Candidate who is successful in obtaining election to the position of Chief of Councillor shall assume his office immediately upon swearing his Oath of Office.

### **ARTICLE 13**

#### **Vacancies and Removal from Office**

- 106. Following assuming office by the Council pursuant to Section 80 above, the office Of Chief or Councillor shall be deemed to be vacant only when:
  - (a) the person occupying such office:
    - (i) dies
    - (ii) resigns and such resignation is provided in written form and signed by the individual and includes within it a date from which it is intended to take effect, and the resignation is accepted by resolution of the Council;

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- (iii) ceases to be a Band Member of the George Gordon Indian Reserve #86
- (iv) has, after receiving proper notice, failed to attend three (3) regular meetings of the Council without just cause.
- (v) is convicted during their term of office of an indictable offence under:
  - (a) the Criminal Code unless such conviction relates to the exercise of a Treaty Right;
  - (b) the Controlled Drugs and Substances Act; or
  - (c) any succeeding legislation relating to the foregoing; or
- (b) the Election or By-Election in which such person was elected is set aside by the Election Appeal Tribunal under the provisions of this Act.

### **ARTICLE 14**

#### **By-Elections**

107. When for any reason a position on the Council becomes vacant pursuant to the provisions of Section 81 hereof, the remaining members of the Council shall, as soon as possible, designate a date for a By-Election which shall be held within ninety (90) days following the event which resulted in the vacancy. Unless otherwise stipulated herein, all provisions respecting eligibility and procedures with respect to the conducting of Elections shall apply equally to any By-Elections undertaken pursuant to this Act.
108. Provided that there remains at all time a quorum of the Council in office, no By-Election need be convened by the Council for any vacancy which occurs on the Council within a period of eighteen (18) months prior to the scheduled conducting of an Election.

### **ARTICLE 15**

#### **Discontinuation of Authority**

109. Unless declared re-elected by the Chief Electoral Officer, the Chief and Council shall be required to relinquish their signing and decision making authority upon the swearing of the Oath of Office by the successful Candidates;

**ARTICLE 16**

**Amendments**

110. This Act may be amended, from time to time, in accordance with the Legislative procedures outlined in the George Gordon First Nation Constitution;

**ARTICLE 17**

**Coming into Force**

111. This Act shall come into force upon fulfillment of the requirements for Amendment as set out in the George Gordon First Nation Constitution.
112. Upon enactment, this Act shall replace in its entirety any existing George Gordon First Nation Election Act.
113. Council shall be charged with the responsibility of enforcing the terms of this Act upon its coming into force.