

FOR INTERNAL REVIEW ONLY

ONEIDA NATION OF THE THAMES CUSTOM ELECTION CODE AND REGULATIONS

Version April 2023

This draft custom election code is not in any way a final copy. It requires community input, community discussion and community vote before it is finalized. Meetings will be scheduled throughout the upcoming months to have meaningful engagement on this important topic. Dates to be confirmed.

ONEIDA NATION OF THE THAMES

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**ONEIDA NATION OF THE THAMES
CUSTOM ELECTION CODE AND REGULATIONS
FOR THE ELECTION OF
ELECTED CHIEF AND COUNCILLORS**

ARTICLE I

Whereas the members of the Oneida Nation of the Thames have deemed it advisable for the good government of the community to declare that the governing Council, consisting of Elected Chief and Councillors shall be selected by election to be held in accordance with the Oneida Custom Election Regulations.

ARTICLE II

**REGULATIONS GOVERNING THE ONEIDA NATION OF THE THAMES
CUSTOM ELECTIONS**

SECTION 2.1 SHORT TITLE

2.1.1 These regulations may be cited as the *Oneida Nation of the Thames Custom Election Code*.

SECTION 2.2 INTERPRETATIONS

2.2.1 In these regulations,

Advanced Poll means Oneida Nation of the Thames eligible voters may choose to vote ahead of the election day. Notice will be provided through the designated posting areas and will be overseen by the Electoral Officer. The advanced poll may be open for one day up to one week prior to the election day. Ballots will be collected by the Electoral Officer and transported to a secure site until all ballots are counted together. All ballots will be checked against the membership list to avoid the possibility of double-voting.

Acclamation means an overwhelming affirmative vote by cheers, shouts, or applause rather than by ballot. Acclamation requires a larger audience, and not a single person.

By-Election means a custom election which may be held between general elections when a vacancy for the office of Chief and/or Councillor occurs. A by-election is also known as an accelerated election process.

Candidate means an elector who:

- (a) Is at least 18 years of age on the date of the nomination meeting;
- (b) Has been nominated to be a candidate pursuant to the provisions of this Code; and
- (c) Is a registered member of the Oneida Nation of the Thames.

Candidate Night means a date and time scheduled for those who are nominated for the positions of Chief and Councillor to express their platform and introduce themselves to the Community. Candidate's Night will be organized by an independent consultant hired to organize and coordinate this event.

Code means the Oneida Nation of the Thames Custom Election Code and Regulations.

Council and **Oneida Council** means Oneida Nation of the Thames elected Chief and Councillors;

Deputy Electoral Officer means a person or persons appointed by the Electoral Officer to assist during the conduct of the election process pursuant to this Code.

Designating Posting Areas includes the administration office, community centre, health centre, community websites, social media pages and other places deemed, by the Electoral Officer, appropriate for the posting of notices.

Election refers to by-election and general election.

Elections Appeal Tribunal means a committee of five (5) persons, including an Elder, a youth, or member 18 years of age or older, appointed by the Oneida Nation of the Thames Council at least 100 days prior to the election for the purpose of handling all appeals that may be lodged concerning the election. The tribunal shall not consist of employees of the Council or candidates in the election.

Elector means a person who is:

- (a) Registered on the Oneida Nation of the Thames voter's list
- (b) Of the full age of 18 years on election day
- (c) Not disqualified from voting at elections

Persons creating a disturbance during the election process can be removed by the Electoral Officer, as per ss. 2.11.6

Electoral Officer means a person who is a registered member of Oneida Nation of the Thames and is appointed by the Oneida Nation of the Thames elected Chief and Councillors to coordinate, direct, and oversee an election under this Code.

General Election means the regularly scheduled custom election for Oneida Nation of the Thames elected Chief and Councillors held pursuant to this code.

Mail-in ballot means a ballot mailed or delivered in accordance with subsection 2.7.11.

Majority means 50% plus one of votes cast or the highest number of votes for decision making by the Council, committee, or other groups pursuant to this code.

Resident “ordinarily reside on the settlement” refers to the residential status of an elector who is considered to have their main residence on the settlement. A person’s ordinary residence can be described as:

- (a) the place the person normally eats and sleeps;
- (b) the place the person receives mail;
- (c) the residence of the person's immediate family; or
- (d) a place in proximity to the person's place of employment.

A person can only be ordinarily resident in one place at one time, and a person is ordinarily resident in that place until another place of ordinary residence is acquired.

A person may also be temporarily absent from a place of ordinary residence for education, medical, temporary employment reasons or personal circumstances.

Scrutineer means a representative named by a candidate to act in the candidate’s best interest and to observe during the ballot counting procedure.

Spoiled ballot means a ballot that has been marked incorrectly and is not counted by the Electoral Officer. A ballot is considered spoiled for reasons such as being torn, soiled, or marked in any way that would identify the voter.

Voter Declaration Form means a document that sets out, or provides for,

- (a) The name of the elector
- (b) The band number of the elector
- (c) The date of birth of the elector
- (d) The name address & telephone number of a witness to the signature of the elector

SECTION 2.3 GENERAL PROVISIONS

2.3.1 Method of Election

- a) The Chief and the Councillors shall be elected based on a democratic election - voting method, candidates with the highest vote casts will be elected in the position of Chief or Councillor (whichever it may be) upon available position(s) under a general election or by-election.
- b) Elected Chief and Councillors shall be elected by a vote held in accordance with this code.

2.3.2 Composition of Council

The Council shall consist of one (1) Chief and five (5) Councillors. elected Chief and Councillors will not be employed otherwise during their term of office.

2.3.3 Quorum

Quorum will be 50% plus 1 of the Composition of Council.

2.3.3 Tenure of Office

Elected Chief and Councillors shall hold office for 4 years.

2.3.4 Members who live outside the settlement

Any person who is an elector and resides outside the settlement may, register with Oneida Nation of the Thames as a registered voter 45 days prior to a general election in order to ensure the address is up-to-date and registered in the membership database. All electors may request a nomination or ballot package from the Electoral Officer as long as it is feasible to be mailed and returned prior to the Nomination Meeting and/or Election Day. The following must be provided to the Membership Clerk of Oneida Nation of the Thames:

All Given Names and Surnames

Band Number

Mailing Address

Street Address

Telephone Number

Written consent or refusal regarding the release of this information to candidates

2.3.5 Timelines

- a) For the general election:

The Nomination Meeting shall be held the first Saturday in May.

- (i) Candidate's Night shall be held the first Thursday following Nominations.
- (ii) The Advance Poll shall be held following Candidate's Night and before the Election Poll to be determined by the Electoral Officer.
- (iii) The Election Poll shall be held the third Saturday in June.

b) In the event of a death in the community, the timelines may be delayed or cancelled, and will be determined by the Electoral Officer in consultation with the sitting Chief and Council.

c) For a By-election;

The dates shall be established by the Chief and Council.

d) For a new Council following an appeal:

The dates shall be established by the Election Appeal Tribunal.

2.3.6 Secret Ballot

Voting at all elections shall be by secret ballot.

2.3.7 Amendment of Code

The Council reserves the right to amend this Code as follows:

(a) Council must post notice of the intention to amend this code and any proposed amendments in the designated posting areas at least thirty (30) days before it is to be considered at a Special Meeting.

(b) Notice of the proposed amendment must be provided to all electors living outside the settlement with instructions on how to obtain a copy of the amended Code at least thirty (30) days before it is to be considered at a Special Meeting.

(c) Following a community meeting called for the purpose of considering the proposed amendment, Council must post a Notice of the Special Meeting along with this code as it is to be amended in the designated posting areas.

(d) This code as amended, along with a Ballot and Voter Declaration, must be provided to all eligible electors at least thirty (30) days prior to the date set for the Special Meeting vote.

(e) A Special Meeting vote will be held in the community and mail-in ballots received prior to or on the day of the scheduled vote will be accepted. If the majority of the electors who vote in the Special Meeting vote are in favour of the amendment, this code shall be amended as proposed, but if the majority of the electors are opposed to the amendment, this code shall remain as it is written.

SECTION 2.4 PRE-NOMINATION PROCEDURE

- 2.4.1 An Electoral Officer shall be appointed not less than ninety (90) days before the date of the nomination meeting.
- 2.4.2 The Electoral Officer shall be appointed by Band Council Resolution which will contain their full name, the date and time of the nomination meeting, the type of election to be held, general or by-election, as well as any special instructions, including the remuneration of the Electoral Officer and deputy Electoral Officer. If quorum cannot be achieved by consensus, a motion will be put forward for majority vote.
- 2.4.3 The Electoral Officer and the Deputy Electoral Officer are to sign a confidentiality agreement due to the handling of personal information and other sensitive matters that may arise during the election process.
- 2.4.3 At least 79 days before the election, Oneida Nation of the Thames shall contact the Indigenous Services Canada office to obtain the Voters List and to provide the Electoral Officer with a list of all electors and the Electoral Officer shall prepare a voters' list containing the names of all the electors in alphabetical order and the band number of all electors.
- 2.4.4 A voter's list containing the names of electors will be posted at the administration and political offices.
- 2.4.5 The Electoral Officer shall determine who is eligible to be a candidate in accordance with this Code.
- 2.4.6 The voters list may be amended on the grounds that:
- (a) the elector's name has been omitted.
 - (b) the elector's name is incorrectly set out; or,
 - (c) the person listed is not a qualified elector
- 2.4.7 If a voter's name is not on the voters list, the Electoral Officer and the Membership Clerk should be notified as soon as possible, and a declaration form must be completed and signed by the individual(s) to have their name added to the voters list. These forms shall also be made available at the advance poll and the election poll.
- 2.4.8 If the Electoral Officer is satisfied that a list should be corrected, they shall make the necessary correction thereon.
- 2.4.9 The Electoral Officer shall establish an election file and place in this file all documentation associated with the election. The file shall remain open until the expiry of the election appeal provisions established under this code.

2.4.10 The Electoral Officer shall appoint a deputy Electoral Officer.

2.4.11 At least 79 days before the day on which an election is to be held, Council must provide consensus for the Membership Clerk to provide the Electoral Officer with the last known addresses, if any, of all electors who do not reside in the settlement.

2.4.12 At least 30 days before the day on which nominations are to be held, the Electoral Officer shall:

- (a) post a Notice of Nominations in the designated posting areas; and
- (b) mail a Notice of Nominations and a voter declaration form to every elector who does not reside on the settlement for whom an address is available.

2.4.13 The Notice of Nomination shall include:

- (a) the date, time, duration and location where nominations will be held.
- (b) the date, time and location of candidate's night.
- (c) the dates, times, and duration on which an advance poll will be held and the locations of the polling place.
- (d) the dates, times, and duration on which the election will be held and the locations of the polling place.
- (e) the name, phone number, and mailing address of the Electoral Officer.
- (f) the statement that any voter may vote by mail-in ballot.
- (g) a description of the manner in which an elector can nominate a candidate, or second the nomination of a candidate.
- (h) The statement that if the elector wants to receive information from candidates, the elector can agree to have their address released to the candidates.

2.4.14 The Electoral Officer shall record the names of the electors to whom a notice of nominations was mailed, the addresses of those electors and the date on which the notices were mailed.

2.4.15 A candidate for election as Chief or Councillor may obtain from the Electoral Officer a list of the names of electors and the address of any electors who have consented to have their addresses released to the candidates.

SECTION 2.5 NOMINATION ELIGIBILITY

- 2.5.1 Only electors who are 18 years of age prior or on the Nomination Meeting Day may propose or second the nomination of any person who is eligible to be a candidate for Chief or Councillor.
- 2.5.2 A candidate may be nominated and run for both Chief and Councillor positions but can only accept one position.
- 2.5.3 If a candidate has been nominated for positions of both Chief and Councillor, they must make their intentions know, in writing, to which office they will seek election at the Candidate's Night. Failure to do so will disqualify them from running for either office and their name will not appear on the ballot.
- 2.5.4 A Criminal Reference Check must be provided to the Electoral Officer by the candidate when they accept a nomination. Cost is to be covered by the candidate.
- 2.5.5 Any person convicted of a serious offence including but not limited to murder, rape, a sexual offence, drug trafficking, selling alcohol without a liquor license, DUIs, mischief or assault shall not be eligible to hold office for a period of up to 10 years.
- 2.5.6 Any person who has been convicted of a criminal offence and is confined to a correctional institution at the time of the election may be disqualified to run as a candidate under grounds of a criminal offence and subject to ss.2.5.4.
- 2.5.7 An elector may nominate or second up to a maximum of five (5) Councillors and one (1) chief.
- 2.5.8 If an employee of the Council is nominated and subsequently elected as Chief or as a Councillor, they must be available to hold their position as a full-time working member of Council with oversight of portfolios, effectively participating in decision making activities and providing transparent and regular updates to Council on portfolio work. The employee will be subjected to the terms outlined in the Oneida Nation of the Thames personnel policy; to take a leave of absence while from their employment while serving on Council.

SECTION 2.6 NOMINATIONS

- 2.6.1 Nominations shall be held at least 42 days before the date of the election.
- 2.6.2 An elector may nominate a candidate or second the nomination of a candidate by delivering or mailing a written nomination and a completed, signed and witnessed voter declaration form to the Electoral Officer before the time set for nominations. Mailed nominations that are not received by the Electoral Officer before the time set for nominations are void.
- 2.6.3 At the time and place advertised, the Electoral Officer shall declare nominations open for the purpose of receiving nominations of candidates for the positions advertised.
- 2.6.4 Once nominations have been opened, the Electoral Officer shall read aloud all written nominations and second that have been received by mail or delivered.
- 2.6.5 Where the same person receives two written nominations for the same office, the second nomination shall constitute a second of the first nomination.
- 2.6.6 A person present at nominations who is eligible to do so may second the nomination of any person nominated in writing.
- 2.6.7 The Electoral Officer shall keep nominations open for a minimum of 3 hours, as advertised. The Electoral Officer shall close nominations at the appointed time.
- 2.6.8 The Electoral Officer shall maintain order at all times during nominations and may cause to be removed any person who, in his/her opinion, is disrupting or otherwise interfering with nominations.
- 2.6.9 After nominations have been closed, the Electoral Officer shall:
 - (a) If only one person has been nominated for election of chief, declare that person to be elected.
 - (b) If the number of persons nominated to serve as Councillors is equal to the number to be elected, declare those persons to be elected; and
 - (c) Where more than the required number of persons are nominated for election as chief or Councillors, announce that candidate's night, advance poll and election will be held on the days set out in the notice referred to in subsection 2.4.13.

2.6.10 As soon as it is feasible after the nomination meeting, the Electoral Officer shall notify any nominated candidates who were not present at the meeting that they have been nominated and convey the dates for candidate's night (Section 2.8), and election day.

SECTION 2.7 PRE-ELECTION PROCEDURE

- 2.7.1 If a candidate wishes to withdraw at any time prior to the close of the polls, they must submit to the Electoral Officer a written withdrawal of nomination signed by the candidate in the presence of the Electoral Officer, a justice of the peace, a notary public or a commissioner for oaths, subject to ss. 2.7.2.
- 2.7.2 A candidate who passes away before the close of the polls shall be considered to have withdrawn his or her name.
- 2.7.3 Where the office of Chief and all offices of Councillors are filled by acclamation, the Electoral Officer shall post the names in the designated posting areas including the community website and social media pages, no later than 5 days after the nomination meeting. For whom the Electoral Officer has an address, a mail-out notification of the candidates elected by acclamation will be sent to electors who reside outside the settlement.
- 2.7.4 After the close of the nomination meeting, if the number of persons nominated for the position of Councillor is equal to the number of Councillors to be elected and where there is only one person nominated for the office of Chief, then the acclaimed are to be declared elected. No election will be held; sections ss. 2.7.7. to ss 2.12.8 will no longer apply.
- 2.7.5 Oneida Nation of the Thames Council shall appoint an Election Appeal Tribunal 100 days prior to the election for the purpose of handling any election appeals (refer to Article III- Regulations Governing the Elections Tribunal). The Election Appeal Tribunal will be appointed by the Oneida Nation of the Thames Council at least 100 days prior to the election for the purpose of handling all appeals that may be lodged concerning the election. The tribunal shall not consist of employees of the Council or candidates in the election.
- 2.7.6 Names of the Election Appeal Tribunal members shall be made public immediately after their appointment by posting notices on social media and at all public buildings within the community.
- 2.7.7 Candidates must inform the Electoral Officer three (3) days prior to the election the name of their scrutineer, if any, who will be present at the time of counting the ballots; or

present themselves at the start of the ballot count with a signed authorization from the candidate to act as their scrutineer.

- 2.7.8 The Electoral Officer shall prepare or cause to be prepared two ballots with one for names of the candidates nominated for chief and one for names of the candidates nominated for Councillor. For each ballot, the names of the candidates will be listed in alphabetical order.
- 2.7.9 Where two or more candidates have the same name, the Electoral Officer shall add to the ballots such additional information as is necessary to distinguish between those candidates.
- 2.7.10 The Electoral Officer shall prepare or cause to be prepared a sufficient number of ballot boxes and ballots for the purpose of the election.
- 2.7.11 At least 35 days before the day on which the election is to be held, the Electoral Officer shall mail, to every elector who does not reside in Oneida Nation of the Thames for whom an address is available, a package consisting of:
- (a) a ballot, initialled on the back by the Electoral Officer.
 - (b) an outer, postage-paid return envelope, pre-addressed to the Electoral Officer.
 - (c) a second, inner envelop marked "Ballot" for insertion of the completed ballot.
 - (d) a voter declaration form.
 - (e) a letter of instruction regarding voting by mail-in ballot.
 - (f) a statement
 - (i) identifying the location of all polling places, and
 - (ii) advising the elector that they may vote in person at a polling place on the day of the advance poll or election in accordance with subsection 2.11.12 in lieu of voting by mail-in ballot.
 - (g) a list of the names of any candidates who were acclaimed.
- 2.7.12 At the request of an elector who resides in Oneida Nation of the Thames, the Electoral Officer shall provide a package referred to in subsection 2.7.11 to that elector.
- 2.7.13 The Electoral Officer shall indicate on the voters list that a ballot has been provided to each elector to whom a mail-in ballot was mailed or otherwise provided and keep a record of the date on which, and the addresses to which, each mail-in ballot was mailed.
- 2.7.14 The Electoral Officer shall, before the poll or advance poll is opened, cause to be delivered to the polling stations, the ballots, ballot box(es), materials for marking the ballots, and sufficient number of declarations as may be required.

2.7.15 All electors who do not vote by mail-in ballot, must cast their ballot in person at the advance or election polls, with the exception of:

- (a) electors who are hospitalized within a 25-mile radius of the community; and
- (b) electors who are bedridden in the community.

In these circumstances, the Electoral Officer has the authority to take ballots to the electors provided that the elector has contacted the Electoral Officer for this purpose. Any voting done under the authority of this section must be completed after the date of the advance poll and before the date of the election poll.

SECTION 2.8 CANDIDATE'S NIGHT

- 2.8.1 Nominees will be notified of the date for Candidate's Night by the Electoral Officer at the same time the candidate is notified of their approved candidacy as per Section 2.5 of the Custom Election Code.
- 2.8.2 Immediately following Candidate's Night or as soon as reasonably possible thereafter, the electoral office shall post the names of those seeking election in one or more conspicuous places in the community.
- 2.8.3 Nominees must be present at Candidate's Night in order to be considered for an elected position.

SECTION 2.9 ADVANCE POLL

- 2.9.1 The decision on having an Advance Poll shall be at the discretion of the Electoral Officer and in response to community request.
- 2.9.2 The Advance Poll shall follow all procedures prescribed for the election day poll save and except for the counting of ballots.
- 2.9.3 All ballots from the advance poll shall be kept in a sealed ballot box in a secure location and shall only be opened and the ballots, therein, counted during the ballot count on election day and up to the Wednesday after the election.

SECTION 2.10 VOTE BY MAIL-IN BALLOT

2.10.1 An elector may vote by mail-in ballot by:

- (a) marking the ballot by placing a cross, check mark or other mark, that clearly indicates the elector's choice but does not identify the elector, opposite the name of the candidate or candidates for whom they desire to vote.
- (b) folding the ballot in a manner that conceals the names of the candidates and any marks but exposes the Electoral Officer's initials on the back.
- (c) placing the ballot in the inner envelope and sealing that envelope.
- (d) completing and signing the voter declaration form in the presence of a witness who is at least 18 years of age.
- (e) placing the inner envelope and the completed voted declaration form in the outer envelope.
- (f) delivering or, subject to subsection 2.10.6, mailing the mail-in ballot to the Electoral Officer before the time at which the polls close on the day of the election.

2.10.2 Where an elector is unable to vote in the manner set out in subsection 2.10.1, the elector may enlist the assistance of the Electoral Officer or deputy Electoral Officer to mark the ballot and complete and sign the voter declaration form in accordance with that subsection.

2.10.3 A witness referred to in paragraph 2.10.1 (d) shall attest to:

- (a) the fact that the person completing and signing the voter declaration form is the person whose name is set out in the form; or
- (b) where the elector enlisted the assistance of another person under subsection 2.10.2, the fact that the elector is the person whose name is set out in the form and that the ballot was marked according to the direction of the elector.

2.10.4 A elector who inadvertently spoils a mail-in ballot may obtain another ballot by returning the spoiled ballot to the Electoral Officer.

2.10.5 An elector who loses a mail-in ballot may obtain another ballot by delivering to the Electoral Officer a written affirmation that the elector has lost the mail-in ballot, signed by the elector in the presence of the Electoral Officer, a justice of the peace, a notary public or a commissioner for oaths.

2.10.6 Mail-in ballots will be counted on the Wednesday after the close of the day of the election. Mail-in ballots that are not received by that date are void.

2.10.7 An elector to whom a mail-in ballot was mailed or provided under subsection 2.7.11 or 2.7.12 is not entitled to vote in person at a polling place other than in accordance with subsection 2.11.12. Alternatively, an elector who received a mail-in ballot may vote in-person if they return their mail-in ballot or provide a written affirmation signed by the elector in the presence of the Electoral Officer, deputy Electoral Officer, a justice of the peace, a notary public or a commissioner for oaths stating that they lost their ballot under Section 2.10.5.

SECTION 2.11 ELECTION POLL

2.11.1 The Electoral Officer shall establish at least one polling place on the settlement and the poll shall be kept open from 9:00 a.m. until 8:00 p.m.

2.1.1.2 The Electoral Officer may establish a polling place outside the settlement at a location that is easy for members to access.

2.1.1.3 All employees of Oneida Nation of the Thames will be provided with two (2) hours time off with pay on the day of the election in order to vote.

2.11.4 The Electoral Officer shall attend the times and location as set out in the notice under subsection 2.4.12. The Electoral Officer shall only be allowed to vote in the election in the event of a tie.

2.11.5 The Electoral Officer shall immediately, before the commencement of the poll, open the ballot box and call such persons as may be present to witness that it is empty. They shall then lock the box to prevent it from being opened and shall place it in view for the reception of the ballot. The box shall not be unlocked until the time appointed for counting the votes.

2.11.6 The Electoral Officer and deputy Electoral Officer shall maintain order at all times in the polling station and may cause to be removed any person who in any way interferes, disrupts or attempts to influence the orderly conduct of the poll. The Electoral Officer may appoint a constable to maintain order at such polling place. Persons creating a disturbance during the election process can be removed by the Electoral Officer as per ss. 2.11.6.

2.11.7 A candidate shall be entitled to have one scrutineer at the counting of the ballots.

2.11.8 A private compartment shall be set up at each polling place where the electors can mark their ballot, free from observation.

- 2.11.9 Persons presenting themselves for the purpose of voting shall, upon being confirmed by the Electoral Officer or their deputy as an elector, be given a ballot upon which to register their vote.
- 2.11.10 A person whose name does not appear on the voter's list may vote at an election, if the Electoral Officer or their deputy is satisfied that such person is a qualified elector provided that the elector signs a "Voter's Declaration" attached as Appendix "III".
- 2.11.11 A person who has refused to sign a Voter's Declaration when requested to do so under subsection 2.11.8, shall not receive a ballot or be permitted to vote.
- 2.11.12 The Electoral Officer or deputy Electoral Officer shall place a mark opposite the name of every voter receiving a paper ballot.
- 2.11.13 The Electoral Officer or deputy Electoral Officer shall initial each ballot upon giving it to the elector.
- 2.11.14 An elector to whom a mail-in ballot was mailed or provided under subsection 2.7.11 or 2.7.12 may obtain a ballot and vote in person at a polling place if:
- (a) The elector returns the mail-in ballot to the Electoral Officer or deputy Electoral Officers; or
 - (b) Where the elector has lost the mail-in ballot, the elector provides the Electoral Officer or deputy Electoral Officer with a written affirmation that the elector has lost the mail-in ballot, signed by the elector in the presence of the Electoral Officer, deputy Electoral Officer, a justice of the peace, a notary public or a commissioner for oaths.
- 2.11.15 The Electoral Officer or deputy Electoral Officer, when required, shall explain the mode of voting to a voter.
- 2.11.16 Each person receiving a paper ballot shall proceed to the compartment provided for marking ballots and shall mark the ballot paper by clearly identifying their vote choice opposite the name of the candidate or candidates for whom they desire to vote; they shall then fold the ballot so as to conceal the names of the candidates and the marks on the face of the ballot but so as to expose the initials of the Electoral Officer or deputy Electoral Officer and on leaving the compartment shall forthwith deliver the same to the Electoral Officer or deputy Electoral Officer, who and at once deposit it in the ballot box in the presence of the voter and of all other persons entitled to be present in the polling place.
- 2.11.17 While any elector is in the compartment for the purpose of marking the ballot, no other person, except as provided for in subsection 2.11.16, shall be allowed in the same

compartment or be in any position from which he can see the manner in which an elector marks their ballot.

2.11.18 The Electoral Officer or the Deputy Electoral Officer, on the request of any elector who is unable to read or is incapacitated by blindness or other physical cause from voting in the matter prescribed by subsection 2.11.14, shall assist such voter and mark the elector's ballot in the presence of one scrutineer chosen by the elector to act as a witness, and place such ballot in the ballot box.

2.11.19 The Electoral Officer or the Deputy Electoral Officer shall write in the voter's list opposite the name of such elector, referred to in subsection 2.11.16, in the column for remarks, the fact that the ballot was marked by them at the request of the voter and the reasons, therefore.

2.11.20 Every elector who is inside the polling place, except the Electoral Officer, at the time fixed for closing the poll shall be entitled to vote before the poll is closed.

2.11.21 No ballots will be removed from the polling station during the time the poll is open.

2.11.22 An elector who has inadvertently dealt with a ballot in such a manner that it cannot be conveniently used shall, upon returning it to the Electoral Officer or deputy Electoral Officer, be entitled to obtain another ballot and the Electoral Officer or the deputy Electoral Officer shall there upon write the word, "Cancelled" upon the spoiled ballot and preserve it.

2.11.23 Any person who has received a ballot and who leaves the polling place without delivering the same to the Electoral Officer or deputy Electoral Officer, in the manner provided, or if, after receiving the same, refuses to vote, shall forfeit his right to vote at the election. The Electoral Officer or the deputy Electoral Officer shall make an entry in the voter's list in the column for remarks opposite the name of such person to show that such person received the ballot and declined to vote. If the ballot is returned to the Electoral Officer or the deputy Electoral Officer, "Declined" shall be written on the face of the ballot and all ballots so marked shall be preserved.

2.11.24 In the event that the ballot box is stolen or damaged, the Electoral Officer is authorized to call another election as soon as reasonably possible.

SECTION 2.12 COUNTING OF BALLOTS

2.12.1 As soon as is practicable after the close of polls, the Electoral Officer or deputy Electoral Officer shall, in the presence of any candidates or their scrutineers who are present, open each envelope containing a mail-in ballot that was received before the close of the polls and, without unfolding the ballot,

(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 elector set out in the voter declaration form is not on the voters list, or
- (iii) the voters list shows that the elector has already voted; or

(b) in any other case, 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 the ballot box.

2.12.2 Immediately after the mail-in ballots have been deposited under section 2.12.1, the Electoral Officer or the deputy Electoral Officer shall, in the presence of scrutineers as may be present, open the ballot box and:

(a) Examine the ballots and reject all ballots,

- (i) that have not been initialled by the Electoral Officer or the deputy Electoral Officer;
- (ii) on which votes have been cast for more candidates than are to be elected;

But no word, letter, or marks written or made by the Electoral Officer or deputy Electoral Officer shall void the ballot or warrant its rejection.

(b) Provide all rejected ballots to scrutineers present for review;

(c) Take note of any objection made by a scrutineer to any ballot reviewed by the scrutineer and decide any questions arising out of the objection, subject to review on recount or on appeal;

(d) Number such objections and place a corresponding number on the back of the ballot with the word "Allowed" or "Disallowed" as the case may be, with their initials;

(e) Count the votes given for each candidate from the ballots not rejected and make a written statement of the number of votes given to each candidate and the number of ballots rejected and not counted. The statement shall be then signed by the Electoral Officer or deputy Electoral Officer and such other persons authorized to be present as may desire to sign the statement.

- 2.12.3 In the event of a tie vote, a recount may be held between the tie vote candidates and the Electoral Officer. This recount shall be final. If the tie remains after the recount, the tie will be broken through the tossing of a coin.
- 2.12.4 Immediately after the completion of the counting of the votes the Electoral Officer shall announce the names of the candidates that received the highest number of votes and publicly declare these candidates to be elected.
- 2.12.5 Following the election the Electoral Officer shall complete and sign an election report which shall contain:
- (a) a list of all the candidates for each position
 - (b) the number of ballots cast
 - (c) the number of votes for each candidate
 - (d) the number of spoiled ballots
 - (e) the number of rejected ballots
- 2.12.6 Within four (4) days after completion of the counting of the votes, the Electoral Officer shall post a copy of the election report in the designated posting areas and shall forward a copy to:
- (a) the Chief and Council;
 - (b) the Chief Executive Officer
 - (c) community members living outside the settlement and
 - (d) Indigenous Services Canada
- 2.12.7 The Electoral Officer shall retain the ballots for sixty (60) days after an election or until the resolution of an election appeal, whichever is longer, after which time they shall be destroyed by the Electoral Officer in the presence of two (2) witnesses.

SECTION 2.13 APPEALS PROCEDURE

- 2.13.1 An election may be appealed within thirty (30) days of the announcement of the successful candidate by:
- (a) any candidate in the election
 - (b) any elector who voted in the election
 - (c) any person who has been denied the right to participate in the election.
- 2.13.2 The grounds for appeal are:
- (a) corrupt practices in connection with the election
 - (b) a violation of this Code that might have affected the outcome of the election.

- 2.13.3 The individual appealing must put their appeal, with reasons, in writing and submit it to the Chairperson of the Elections Tribunal.
- 2.13.4 The Elections Appeal Tribunal shall, within, seven (7) days of the appeal submission, send a copy of the appeal and any supporting documentation to all candidates in the election and to the Electoral Officer.
- 2.13.5 Any candidate or the Electoral Officer may within fifteen (15) days of receipt of the appeal forward to the tribunal a written response to the appeal allegations, together with any supporting documentation.
- 2.13.6 The Elections Tribunal may conduct or authorize such further investigation as it deems appropriate or necessary.
- 2.13.7 The Elections Tribunal shall hold a hearing with electors who filed the appeal and the candidates whose election results are being appealed.
- 2.13.8 Any candidate including the Electoral Officer may file a response to the appeal to the Election Appeal Tribunal within the appropriate time frame shall be given an opportunity to participate in the hearing.
- 2.13.9 The procedures for the hearing shall be determined by the Tribunal.
- 2.13.10 After review of the evidence that the Election Tribunal has received the request to appeal and in consultation with Oneida Nation of the Thames legal counsel, the Elections Tribunal shall:
- (a) Deny the appeal on the grounds that the evidence presented did not reveal an infraction of this Code, or on the grounds that an infraction of this Code was revealed but the infraction did not affect the results of the election.
 - (b) Uphold the appeal and call for a new election for the positions affected. This new election shall take place as soon as possible. If necessary, the Elections Tribunal shall give instructions to the Electoral Officer on how the problems identified in the appeal can be corrected. The Electoral Officer appointment will follow the process outlined in Section 2.4, subsection 2.4.1.
 - (c) Notify the candidates under appeal within fifteen (15) days from the date that all evidence is gathered, legal counsel have reviewed the evidence and all documentation, including recommendations, is provided to the Election Appeals Tribunal for their decision.
- 2.13.11 During the appeal process, the newly elected Chief and Council shall take office, including those whose election is under appeal, until such time as the Election Tribunal may decide otherwise.

2.13.12 The decisions of the Election Appeal Tribunal will be final. However, the appellant may apply for a judicial review to the Federal Court.

SECTION 2.14 VACANCY OF OFFICE

2.14.1 The office of Chief or Councillor automatically becomes vacant if the Chief or Councillor:

- (a) passes away.
- (b) submits a written resignation to Council.
- (c) is convicted of an indictable offence during their tenure.
- (d) is declared mentally incompetent in accordance with the laws of Ontario

2.14.2 The Council may determine that the office of Chief or a Councillor is vacant if:

- (a) the Chief or Councillor is absent from three (3) consecutive meetings of the Council without authorization from Council or without notification to the Council Assistant and such authorization may not be unreasonably withheld.
- (b) the Chief or Councillor is convicted of a serious offense.
- (c) the Chief or Councillor is in breach of the Oath of Office.

2.14.3 The electors may determine that the office(s) of Chief and/or Council are vacant if the electors declare that in their majority opinion the person(s) holding office is/are unfit to continue in office for reasons such as misconduct, corrupt practices, accepting bribes, dishonesty, or malfeasance, provided that:

- (a) A list of voters names will be provided by the Membership Clerk upon request of a voting member that has put in writing they are petitioning the existing elected Chief and Council.
- (b) a petition, identifying such complaints and requesting a special community meeting signed by 50% +1 of the voters of that election is presented to Council; the petition must bear the electors printed name, signature, contact information and registry number.
- (c) 51% of those present at the special community meeting vote in favour of determining the office(s) vacant.

2.14.4 If the office of Chief becomes vacant at any time during the term, a by-election is to be called; should the current term be less than 3 months from the expiry date of the term, and the quorum is maintained, the current Council will remain until the next regular election. Council shall appoint an acting Chief in the interim until a by-election is held depending on the timeframe.

- 2.14.5 If the office of Councillor becomes vacant at any time during the term, a by-election is to be called; should the current term be less 3 months from the expiry date of the term, and the quorum is maintained, the current Council will remain until the next regular election.
Council
- 2.14.6 If there are no eligible or willing candidates appointed under subsection 2.14.5, the Council must call a by-election for the vacant Councillor position.
- 2.14.7 Should a vacancy occur less than 6 months prior to the next general election and the quorum is maintained, to consider daily business as-is until the next general election (cost saving, time etc.). However, if quorum cannot be met, a by-election known as an accelerated election process will be held - see below ss. 2.15.3. In the event quorum cannot be met for the appointment of the Electoral Office, a motion will be put forward for majority vote

SECTION 2.15 SPECIAL PROVISIONS

2.15.1 Resignation

If the Chief and/or a Councillor resigns they cannot hold office for the remainder of that term.

2.15.2 Disqualification to Run for Office

A person will not be considered an eligible candidate for election for a period of one election term if:

- (a) They are removed from office by virtue of subsection 2.14.1 (c) or by virtue of subsection 2.14.2.
- (b) The Election Tribunal does not uphold their election of a finding under subsection 2.13.2 (a).

2.15.3 By-Election

Where a by-election is required to be held under this Code, an accelerated process shall be held in accordance with Sections 2.6 to 2.12 subject to the following changes:

- (a) Subsections 2.4.11, 2.6.1, and 2.6.2 do not apply.
- (b) The lists referred to subsection 4.3 and addresses referred to in subsection 2.4.11 shall be provided to the Electoral Officer at least thirty (30) days before the day of the election.
- (c) At least seven (7) days before the day on which a nomination meeting is to be held the Electoral Officer shall
 - (i) post a notice of nominations and of the manner in which nominations can be made, and a list of names of the electors, in the designated posting area; and

- (ii) give notice of nominations, and of the manner in which nominations may be made, by publishing an advertisement in the local newspaper with the largest circulation.
- (d) An elector can nominate a candidate, or second the nomination of a candidate,
 - (i) by communicating the nomination or second to the Electoral Officer at any time before the commencement of the nomination meeting
- (e) Nominations shall be held at least 23 days before the date of the election.
- (f) Where a candidate withdraws their name less than 22 (twenty-two) days before the day on which the election is to be held, that candidate's name shall remain on the ballot.
- (g) The Electoral Officer shall mail by priority post the package referred to in subsection 2.7.11 at least 21 (twenty-one) days before the day on which the elections is to be held.
- (h) The outer envelope referred to in paragraph 7.11(b) shall be postage-paid for delivery by priority post, and
- (i) The letter of instruction referred to in paragraph 7.11(e) shall advise the elector of the shorter time periods applicable and instruct the elector accordingly.

2.15.4 The newly elected Council shall take the Oath of Office within five (5) days of the election, notwithstanding an appeal.

ARTICLE III - REGULATIONS GOVERNING THE ELECTIONS TRIBUNAL

SECTION 3.1 SHORT TITLE

- 3.1.1 These regulations may be cited as the *Oneida Nation of the Thames Elected Tribunal Regulations*.

SECTION 3.2 INTERPRETATIONS

- 3.2.1 In these Regulations,
Council means Oneida Nation of the Thames Chief and Council.

Elder means an individual who is at least 65 years of age, who is a respected member of the community.

Elections Appeal Tribunal means a committee of five (5) persons, including an elder, a youth, or member 18 years of age or older, appointed by the outgoing Oneida Nation of the Thames Council for the purpose of handling all appeals that may be lodged concerning the election. The tribunal shall not consist of employees of the Council or candidates in the election.

Youth means an individual who is between the ages of 14 and 25 and is actively participating in, and learning about, Oneida Nation of the Thames culture and ceremonies.

SECTION 3.3 APPOINTMENT & TENURE

- 3.3.1 Council shall appoint five (5) individuals as tribunal members. Three (3) alternates will also be named by the Council in the event that tribunal members are faced with a conflict of interest and cannot act.
- 3.3.2 An Elections Tribunal shall be appointed two (2) weeks prior to the election and shall remain in office for a period of sixty (60) days after the election or until an appeal, if any, is disposed of, which ever is later.
- 3.3.3 In the event of a by-election, the tribunal appointed for the previous general election will be reinstated two (2) weeks prior to the by-election and shall remain in office for a period of thirty (30) days after the election or until an appeal, if any, is disposed of, which ever is later.

SECTION 3.4 ORDER AND PROCEEDINGS

- 3.4.1 Once the Election Appeal Tribunal has been appointed, they will select a chairperson from within their membership.
- 3.4.2 Any three (3) members of the Election Tribunal constitutes a quorum of the appeal.
- 3.4.3 The Election Tribunal shall supervise and administer all election appeals in accordance with this code.
- 3.4.4 Members of the Election Tribunal are to be unbiased.
- 3.4.5 Members of the Election Tribunal are to declare conflict of interest when a member of the Board or their immediate family have a personal interest in a matter put before the Elections Tribunal as per the Conflict-of-Interest regulations in Article V of this Code.
- 3.4.6 This code of Ethics, by which the election tribunal will operate, includes the following:
 - (a) To give fair consideration to the complaint and responses received.
 - (b) To treat all complaints with respect and an open mind.
 - (c) To show courtesy in any investigations undertaken.
 - (d) To avoid personal attack.
 - (e) All decisions shall be made based on facts and not rumours.
 - (f) The truth will be the most important consideration.
- 3.4.7 Election Appeal Tribunal members are to sign a confidentiality agreement.
- 3.4.8 The decisions of the Elections Tribunal shall be final.

APPENDIX I - OATH OF OFFICE

AS ONE OF THE NATIONS PLACED ON THIS EARTH BY OUR CREATOR, WE THE ONEIDA NATION OF THE THAMES PEOPLE HAVE BEEN GRANTED THE RIGHT AND THE RESPONSIBILITY TO LIVE IN HARMONY WITH THE LAND AND ONE ANOTHER.

AS ELECTED REPRESENTATIVES OF THE ONEIDA NATION OF THE THAMES PEOPLE, IT IS OUR DUTY AND OBLIGATION TO ENSURE THAT PRESENT AND FUTURE NEEDS AND ASPIRATIONS OF THE ONEIDA NATION OF THE THAMES COMMUNITY ARE RECOGNIZED, PURSUED AND FULFILLED.

ONEIDA NATION OF THE THAMES COUNCIL Oath and Declaration of Elected Office

I, _____ do solemnly promise and declare that I will truly, faithfully, and impartially, to the best of my knowledge and ability, execute the office of Chief/Councillor I have been elected in this Community, Oneida Nation of the Thames.

I promise:

Not to abuse alcohol and/or drugs during my term.

To serve and represent the Oneida People and the Oneida Nation of the Thames to the best of my ability in all honesty and forthrightness.

To respect my fellow Councillors and to meet with them with an open mind in deliberations to positively impact my community.

To be dedicated and committed to the Oneida People by serving on Committees and performing community work through the Portfolio system.

To ensure that I do not receive personal gain or take advantage of information acquired.

That if I do not know our Oneida Language and Culture, I am willing and agree to try to learn our Oneida Language and Culture.

To do all of this with pride, compassion, conviction and without prejudice.

Declared and sworn before me at the Oneida Nation of the Thames settlement this day of _____ day of _____, 20__.

Chief

Councillor

Councillor

Councillor

Councillor

Councillor

Councillor

Councillor

Councillor

Councillor

Councillor

Councillor

Councillor

APPENDIX II - VOTER'S DECLARATION

I, _____,
(Please print full name)

DO SOLEMNLY DECLARE THAT:

1. I am a member of the Oneida Nation of the Thames.
2. My Band Number is _____.
3. I am presently eighteen (18) years of age or older. My date of birth is _____.
4. I live at

_____	_____	_____
Street #	Street Name	Unit #
_____	_____	_____
Town/City	Province/State	Postal/Zip Code

Signed this _____ day of _____, 20____ at _____.

In the presence of _____)

_____)

_____)

_____)

(Witness Signature)

_____)

_____)

_____)

(Print Witness Name)

(Declarant's Signature)

Witness must be an elector and must not be a member of the Declarant's immediate family.