

JAMES SMITH BAND
#100 & #100A
OF THE CREE NATION
ELECTION ACT
(2017)

SEPTEMBER 26, 2017

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Amendments:

First Reading	November 23, 2016
Second Reading	May 10, 2017
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PREAMBLE

The history and foundation of Indian Nations is rooted in faith and knowledge of who we are and why. It is therefore essential to declare as follows:

- 1) the Creator put us here as First People;
- 2) the Creator gave us laws that govern all our relationships to live in harmony with nature and mankind;
- 3) the laws of the Creator defined our rights and responsibilities;
- 4) the Creator gave us our spiritual beliefs, language, culture, and a place on earth, which provides us with all our needs and aspirations;
- 5) we have maintained our freedom, our language and our traditions since creation;
- 6) we will continue to exercise our rights and fulfill the responsibilities and obligations given us by the Creator from the land on which we were placed;
- 7) the Creator has given us the right to govern ourselves and the right to self-determination; and
- 8) the rights and responsibilities given us by the Creator cannot be altered or taken away by other Nations.

The role of any government elected leader is to understand the above declaration and diligently practice the principles inherent in our history. The Okemow and Headpersons are heirs and successors of our past, rights, beliefs, Treaties and governing structures.

They are also the keepers of our culture, language obligations and trusts. They are elected to protect our Treaties, lands and the people of the James Smith Band.

The people look to and rely on the leaders' ability to resolve issues and problems.

The people, youth and children follow or copy the examples of their leaders. Accordingly, the ideologies, principles, and qualifications of those who are seeking the office of Okemow and Headperson must have demonstrated characteristics which reflects trust, fairness, confidence and competence.

**AN ACT RESPECTING THE JAMES SMITH BAND #100 & #100A
OF THE CREE NATION GOVERNMENT**

ELECTION ACT, RATIFIED 2017

I. SHORT TITLE

1. This Act can be referred to as the James Smith Band Election Act.

II. RULES OF CONSTRUCTION

2. The Preamble shall be read as part of the Act intended to assist in explaining the purpose and intent of the Act.
3. Where an interpretation of this Act is subject to more than one understanding, it shall be interpreted in a fair and generous manner in accordance with the spirit and intent of the membership.
4. Records of meetings and the development and ratification process may be used to facilitate the interpretation of this Act.
5. The expression “shall” means it is imperative or compulsory, and the expression “may” means it is permissive or authorized.
6. Where the word “he” is used to describe a person, it is also intended to include “she” and vice versa.
7. Words expressed in singular include the plural and words in the plural include the singular.

III. INTERPRETATION

8. For the purposes of this Act:
 - a) “**Act**” means the James Smith Band #100 & #100A Election Act, 2017;
 - b) “**Affidavit**” means a sworn statement by a Candidate and is affixed with a signature, the expiry date and stamp of a Justice of the Peace, a Notary Public or duly appointed Commissioner for Oaths;

- c) **“Band”** means the James Smith Band #100 & #100A of the Cree Nation;
- d) **“Band Members”** means any registered band member of the James Smith Band #100 & #100A who has the original last name of one of the eleven (11) families/clans identified as Burns, Constant, Daniels, Marion, McKay, McLean, McLeod, Moostoos, Turner, Twist, and Walker and shall exclude those individuals identified as members of the Chakastapasin Band or Peter Chapman Band;
- e) **“Candidate”** means any Band Member of the James Smith Band, meeting the requirements of this Act, and seeking election for the position of Okemow or Headperson in a Band Election;
- f) **“Council”** means the Okemow and Headpersons of the James Smith Band;
- g) **”Election”** means the General Election or By-Election of the James Smith Band Okemow and Headpersons by means described in this Act;
- h) **“Election Day”** means the date and year in which there is an Election or By-Election for the Okemow and Headpersons of the Band;
- i) **“Employee”** means an individual who receives salaries and benefits from the James Smith Band, affiliated institutions or corporations;
- j) **“Government”** means the Okemow and Headpersons of the James Smith Band #100 & #100A of the Cree Nation;
- k) **“Nomination Day”** means the date and year in which nominations are held for the position of Okemow and/or Headperson of the Band;
- l) **“Okemow”** means the Chief of the James Smith Band #100 & #100A;
- m) **“Spoiled Ballot”** means a marked ballot that has more than the required identifiable marks beside the names of Okemow or Headperson or is defaced in any manner or the Electoral Officer cannot identify where a voter places their mark beside the name of a Candidate for Okemow or Headperson;

- n) **“Voter”** means any Band Member, as defined in this Act, who is eighteen (18) years of age; and
- o) **“Vulnerable Sector (VS) Check”** means an enhanced criminal record check which consists of an individual’s criminal charges, convictions and discharges as well as any record for sexual offences.

IV. **COMPUTATION OF TIME**

- 9. Where the time limit for doing a task expires or falls on a holiday, the time limit extends to the next working day following the holiday, unless otherwise specified in this Act.
- 10. Where the number of days referenced is stated to be “calendar days”, the first day and the last day is not counted.
- 11. Where the number of days referenced is stated to be “working days”, the regular working days in a week are counted, the first day is not counted and the last day is counted.

V. **PRINCIPLES AND PURPOSES**

- 12. The principles upheld in this Act are as follows:

Jurisdiction over James Smith Band #100 & #100A Elections

- a) to confirm that the Band has the sole jurisdiction over the James Smith Band #100 & #100A Election process;

Inherent Right to Self Government

- b) to confirm that the Band has the right to govern itself as bestowed upon the Band by the Creator;

Self-Determination in the International Community of Nations

- c) to confirm that the Band, as a political unit of the Cree Nations, are distinct peoples with a common history, culture, territory and government, and in the continuing process of self-determination as recognized in the international community of nations;

Affirmation of Band Custom and Traditions

- d) to affirm that the Band continues to organize the Band's form of government with laws which establish institutions of self-government under band custom and traditions;

Treaties

- e) in enacting the James Smith Band #100 & #100A Election Act, the Government of the Band recognizes that the Band entered into the international Treaties affirming the Treaty making and lawmaking powers of a sovereign nation; and

Democratic Process of Lawmaking

- f) the Band affirms an acceptable and democratic process of lawmaking by enacting and ratification of this Act at Band Assemblies.

13. The purposes of this Act are to:

- a) recognize that the oral customs and traditions of the Band respecting Band Elections supercede this Act, and are declared to be still in force and effect, if acceptable to the Band Members;
- b) establish the process and procedures that will determine the manner in which the Band will govern their Band Elections;
- c) be accountable to the Band membership on all matters relating to Band Elections;
- d) determine the form of government the Band will be governed by;
- e) establish institutions of self-government to assist in the process of Band Elections;
- f) confirm the rights of the Band members to due process in respect of their access to Band elections;
- g) establish a system of conducting Band Elections that is consistent with the inherent governing rights of the Band; and
- h) empower the Band with an Election Act to govern Band Elections.

VI. AUTHORITY

14. This Act is made under the authority and jurisdiction of the James Smith Band #100 & #100A of the Cree Nation based on the Band's right to govern itself as bestowed upon the Band by the Creator.

VII. DATE OF COMING INTO FORCE

15. The James Smith Band #100 & #100A Election Act will come into force and effect as of the date of ratification of third reading by the Band Assembly.
(September 26, 2017)

VIII. APPLICATION

16. This Act applies to all General Elections and By-Elections of the Band.

IX. COMPOSITION OF THE GOVERNMENT OF THE JAMES SMITH BAND #100 & #100A

17. The elected Government of the James Smith Band will consist of the Okemow and four (4) Headpersons.

X. TERM OF OFFICE

18. The term of office for the Okemow and Headpersons elected in the 2018 General Band Elections shall be for the period of January 2018 to March 2021.

19. Thereafter, the term of office shall be for a period of three years commencing on the last Friday of March.

XI. GENERAL ELECTIONS

20. The General Band Elections for Okemow and Headpersons shall be held on the last Friday in January 2018.

21. Thereafter the General Band Elections for Okemow and Headpersons shall be held on the last Friday of March.

XII. COMMISSIONER FOR OATHS

22. The Band shall be responsible to ensure there are individuals identified, within the Band, who are Commissioner for Oaths and available prior to and during the election process.

XIII. ELECTORAL OFFICERS

Appointment and Term of Electoral Officers

23. The positions of Electoral Officers shall be appointed, by motion of the Council, forty (40) calendar days prior to Nomination Day in the following manner:
- a) a **“Chief Electoral Officer”** shall be appointed from amongst the Band Membership whose duties are specified in this Act;
 - b) a **“Deputy Electoral Officer”** shall be appointed from amongst the Band Membership whose duties are specified in this Act; and
 - c) an alternate shall be appointed in the event that:
 - i) the appointment is declined; or
 - ii) if either of the Electoral Officers is unable to complete their duties.

Qualifications

24. Electoral Officers shall meet the following qualifications:
- a) be able to read and communicate effectively in writing and verbally;
 - b) have the ability to chair meetings;
 - c) have an understanding of James Smith Election Act and apply this Act strictly and consistently;
 - d) ability to make decisions as it affects the election process;
 - e) must be able to manage the operations of the election process including supervising and providing direction to staff assisting with the election as required;
 - f) have organizational and planning skills;
 - g) be able to remain impartial in delivering the requirements of the election process;

- h) ability to complete all paperwork in a timely fashion; and
- i) shall demonstrate tact and discretion in the handling of, and the ability to preserve the privacy and the confidentiality of personal or sensitive information.

Term

- 25. The term of the appointment for the Electoral Officers shall begin with the date of appointment and ending fifteen (15) calendar days after the Band Election or By-Election for which they were appointed unless an appeal has been launched.

Payment for Services

- 26. The Electoral Officers shall be paid for services rendered for the term of their appointment at the conclusion of the election.
- 27. The rate of pay shall be determined by the Okemow and Headpersons, based on availability of resources, but shall not exceed:
 - a) \$2,000.00 for the Electoral Officer;
 - b) \$1,500.00 for the Deputy Electoral Officer; and
 - c) payment of travel costs associated with the election which must have prior approval from the Director of Operations.
- 28. Any increase to the rate of pay must have prior approval of the membership by motion ratified at a Band Assembly.

Budget

- 29. The Director of Operations, in consultation with the Okemow and Headpersons, shall identify the required resources and ensure the funds are secured and in place for the Band elections in the year an election is to be held.

Duties of the Electoral Officers

- 30. The Band shall authorize the Electoral Officers to perform and exercise any of the duties, powers and functions that are required to be performed or exercised under this Election Act.
- 31. The Director of Operations and/or the Clerk of the Council shall provide the Electoral Officers with a copy of the Band Election Act and shall review the Act with them to ensure clarity of duties and procedures governing the Band elections.

32. The Electoral Officers shall refuse any attempt, by any person, to influence the making of a decision.
33. The Electoral Officers shall refrain from campaigning for any Candidate.
34. The Electoral Officers shall not divulge any information obtained in conducting the election unless required under this Act or having to give evidence in an appeal.
35. The duties of the Electoral Officer is to govern and conduct Elections for the office of the Okemow and Headperson and shall:
 - a) at his discretion, assign duties to be undertaken by the Deputy Electoral Officer to assist with the Election process;
 - b) have access to and utilize all human, infrastructural and technological resources of the Band he deems necessary to assist him in carrying out his duties;
 - c) post all notices clearly identifying the date, time and location(s), as required, and distribute all election information pursuant to the Act;
 - d) ensure the forms prescribed in this Act are available to the membership;
 - e) accept all Declaration of Intent forms;
 - f) make arrangements necessary for the nominating process set out in this Act and preside as Chairman of the Nomination meeting;
 - g) in co-operation with the Membership Clerk finalize a voters list;
 - h) oversee the arrangements for and supervision of ballots, ballot boxes and polling stations;
 - i) oversee the distribution of the appropriate number of ballots to the polling station based on the number of eligible voters;
 - j) examine and rule on the validity of all ballots cast ensuring the ballot is clearly marked with an "X";

- k) count all the ballots, announce and post the official results regarding the election;
- l) ensure the safeguarding of the Election results by:
 - i) placing in an envelope all ballots and voting documentation;
 - ii) seal and initial all envelopes;
 - iii) envelopes shall be securely stored at the Band Office and safeguarded by the Director of Operations for thirty (30) calendar days following the election;
 - iv) restricting access to the election documentation to the Electoral Officers; and
- m) destroy the election documentation in front of at least two (2) witnesses thirty (30) calendar days following the election if an appeal has not been launched.

36. The Deputy Electoral Officer shall:

- a) assist the Chief Electoral Officer in implementing the process and procedures outlined in this Election Act;
- b) take direction from the Chief Electoral Officer; and
- c) perform the duties of the Chief Electoral Officer if for any reason he is unable to complete his appointment.

XIV. VOTING ELIGIBILITY

37. For the purposes of this Act, persons that are **eligible to vote** in Band Elections shall meet all of the following requirements:

- a) Band Members who have reached the age of eighteen (18) years as of the date of the Band Election; and
- b) any registered band member of the James Smith Band #100 & #100A who has the original last name of one of the eleven (11) families/clans identified as Burns, Constant, Daniels, Marion, McKay, McLean,

McLeod, Moostoos, Turner, Twist, and Walker and shall exclude those individuals identified as members of the Chakastapasin Band or Peter Chapman Band.

38. For the purpose of this Act, persons that are **ineligible to vote** in Band Elections are as follows:
- a) persons on the membership list who have received their Treaty Indian Status from Aboriginal Affairs and Northern Development Canada as a result of Bill C-31, An Act to Amend the Indian Act, Revised statutes of Canada and have not been recognized as Band Members by the James Smith Band.

XV. VOTERS LIST

39. The Membership Clerk shall provide the Chief Electoral Officer with an alphabetical listing of all eligible voters, in accordance with this Act, not less than thirty (30) calendar days before a Band Election, and posted at public locations on the James Smith Band #100 & #100A.
40. The Voters list, for the purposes of posting and providing to Candidates, shall contain only their surname and given name(s).
41. The Master Voters list, for the purposes of Election Day, shall include each voter's surname, given name(s) and treaty number.
42. A Band Member may demonstrate that their name has been omitted from or incorrectly set out in the voters list at which time the voters list will be amended accordingly by the Chief Electoral Officer who shall be required to keep a record of all such changes.
43. The information contained in the Master Voters list shall be kept confidential and may not be used for any purposes other than for verifying the identity of:
- a) a Band member accepting nomination;
 - b) a Band member who is a nominator or seconder; or
 - c) voters arriving at the polling station to cast a ballot.

44. The Chief Electoral Officer shall provide the Voters list to any Candidate that requests one containing the information as outlined in clause 40 above.

XVI. CANDIDATE ELIGIBILITY

45. Any Candidate running for an elected government position of the Band shall meet the following eligibility requirements:
- a) shall be the age of eighteen (18) years as of the date of the Band Election;
 - b) a registered band member of the James Smith Band #100 & #100A who has the original last name of one of the eleven (11) families/clans identified as Burns, Constant, Daniels, Marion, McKay, McLean, McLeod, Moostoos, Turner, Twist, and Walker and shall exclude those individuals identified as members of the Chakastapasin Band or Peter Chapman Band;
 - c) must have a valid driver's license, a copy of which shall be provided to the Chief Electoral Officer when filing the Declaration of Intent
 - d) must file a Declaration of Intent (Appendix A) to run for a position in a Band Election no later than 3:00 p.m. on Nomination Day;
 - e) a Candidate shall provide a Vulnerable Sector Check, with their Declaration of Intent, as proof they have not been convicted of an indictable offence in the past seven (7) years, or if he has been convicted of an indictable offence, he has received a record suspension (formally known as pardon) through the Canadian Legal System;
 - f) a Candidate shall complete and file the Declaration Regarding Criminal Record (Appendix B);
 - g) a Candidate shall complete and file the Waiver of Claim – External Bodies and Process for Appeal (Appendix C) recognizing the authority and jurisdiction of the James Smith Band to deal with appeals and agreeing that there will be no appeal or review with outside agencies;
 - h) must refrain from the use of alcohol;

- i) Candidates must agree to take a drug test and:
 - i) assume sole responsibility for ensuring the drug test results are completed and provided to the Electoral Officer one week prior to Nomination meeting;
 - ii) must pay for the drug test;
 - iii) have test results showing no presence of banned drugs under the Controlled Drugs and Substances Act, S.C. 1996, C.19;
 - iv) must sign the Candidate Agreement and Provision of Drug Test Results Pursuant to the James Smith Band Election Act (Appendix D) to disclose results of drug test to Electoral Officer;
 - v) if candidate disputes drug test, they can take a second test following the same procedure but it must be done prior to all results being submitted to Chief Electoral Officer;
 - vi) all results must be submitted to Chief Electoral Officer one (1) week prior to nomination meeting; and
 - vii) in the event of a drug test showing positive indication of prohibited drugs the Chief Electoral Officer will deem the candidate ineligible to run for office.

46. A Candidate shall be **ineligible** to run for a Band Election if they:

- a) have been convicted for fraud, bribery, breach of trust, or other criminal actions that will impair the integrity of the Band;
- b) are under criminal investigation;
- c) have pending or outstanding criminal charges;
- d) have failed to provide a Vulnerable Sector Check;
- e) have failed to complete and provide the Declaration Regarding Criminal Record;

- f) have failed to complete and provide the Waiver of Claim – External Bodies and Process for Appeals;
- g) do not have a valid driver’s license; or
- h) have not provided a drug test or has a drug test showing positive indication of prohibited drugs.

XVII. CANDIDATE CONDUCT

47. Candidates shall:

- a) campaign without coercion, violence or use of intimidation;
- b) respect the right and freedoms of other Candidates to organize and campaign and to reach out to voters with their message;
- c) respect the rights of Band Members to obtain information from a variety of sources and to attend events or other activities;
- d) refrain from conducting smear campaigns, ones of rumor and innuendo or making false statements in relation to the personal character or conduct of any Candidate;
- e) refrain from offering or promising cash to Band Members;
- f) refrain from defacing and destroying campaign material of other Candidates;
- g) refrain from using facebook or other media to make negative statements about Candidates or the Band election;
- h) not be under the influence of alcohol or drugs during the election process;
and
- i) refrain from requesting and accepting financial contributions from any source external to James Smith Band for the purpose of seeking elected office.

48. Where it has been proven that a candidate has breached any requirement outlined in “Section XVII – Candidate Conduct”, the Chief Electoral Officer shall declare the candidate unable to seek elected office and shall notify the candidate and membership accordingly.

XVIII. BAND EMPLOYEES DECLARING CANDIDACY

49. Employees of the James Smith Band may be nominated as a Candidate for the Band Government.
50. The employee will be required to provide written notice to the Director of Operations of their intent to accept the nomination three (3) working days prior to Nomination Day.
51. The employee will be required to take a leave of absence from the date of Nomination to Election Day or a date thereafter agreed to by the Director of Operations.
52. Where an employee has earned annual leave or other earned leave available at the time the leave commences, the employee may request leave with pay utilizing the earned time. Any leave exceeding earned time shall be without pay. Where an employee does not have any earned leave, the leave of absence shall be without pay
53. In the event the employee is elected, he shall be deemed to have resigned his position and shall be required to provide a written letter of resignation from their position on the next working day following the Election in order to commence his political office.
54. In the event the employee is not elected, he shall return as an employee of the Band on the next working day following the Election or on the date his leave of absence ends.

XIX. NOMINATING PROCESS

55. The Chief Electoral Officer shall set the date for Nomination Day which shall be no less than fourteen (14) calendar days prior to an Election date and shall announce such date publicly, a minimum of thirty (30) calendar days prior to the nomination date.

56. The Chief Electoral Officer shall make all the arrangements necessary for the nominating process set out in this Act, including presiding as chairperson at the nominating meeting.
57. The nominations shall begin at 9:00 a.m. and close at 3:00 p.m.
58. Every Candidate, shall in person, with their nominator and seconder, confirm with the Chief Electoral Officer their intent to be a Candidate by submitting:
 - a) a Declaration of Intent form;
 - b) a Vulnerable Sector Check;
 - c) the Declaration Regarding Criminal Record;
 - d) the Waiver of Claim – External Bodies and Process for Appeals;
 - e) copy of their valid driver’s license; and
 - f) results of drug test provided one week prior to Nomination meeting.
59. If the documentation confirms the eligibility of the Candidate to seek office pursuant to this Act, the Chief Electoral Officer shall post their name on a bulletin board set up for that purpose.
60. **All Candidates must attend the Nomination meeting** and be prepared to speak at the Band Assembly.
61. The Chief Electoral Officer shall declare a Candidate who does not attend nor speak at the nomination meeting according to clause 60 above unable to proceed, and the Candidate’s name shall be struck from the ballot.
62. No Band Member can nominate or second more than one Candidate in the same position.
63. A Nomination Meeting shall be convened at 4:00 p.m. on nomination date.
64. An Elder shall be requested to say a prayer to open the nomination meeting.
65. A motion to close nominations will be entertained by the Chief Electoral Officer.

66. Candidates or nominators shall not be under the influence of alcohol or drugs at the time of nominations.
67. The Band Member who has nominated a Candidate shall have a maximum of three (3) minutes for his nomination speech.
68. A Candidate for the position of Headperson shall have a maximum of ten (10) minutes for his speech.
69. A Candidate for the position of Okemow shall have a maximum of fifteen (15) minutes for his speech.
70. Candidate speeches shall highlight the issues facing the Band and recommend solutions to deal with them.
71. The order of the speeches shall be determined by the order of nomination. The Headperson Candidates will speak first and the Okemow Candidates will speak last.
72. The Chief Electoral Officer shall advise the membership at the Nomination meeting on election procedures.
73. The Chief Electoral Officer shall close the Nomination meeting when he considers all business has been dealt with.
74. An Elder shall be requested to say the closing prayer at the conclusion of the nomination meeting.
75. Any Candidate wishing to withdraw from running for Office of Okemow or Headperson shall do so a minimum of seven (7) calendar days prior to Election Date.

XX. ELECTION DAY PROCEDURES

76. The Chief Electoral Officer shall preside over the Election Day procedures.
77. An Elder shall be requested to say the opening prayer prior to the voting being opened. In the event that an Elder is not present, the Chief Electoral Officer may say the opening prayer or have everyone present say their own private prayer.

78. The Electoral Officers and those persons authorized by the Chief Electoral Officer to assist with the Band election shall:
- a) meet the day before Election Day, at a time determined by the Chief Electoral Officer, to set up for voting and review election day procedures; and
 - b) be at the election site no later than 8:30 a.m. to ensure everything is in order for the voting process.
79. Candidates shall advise the Chief Electoral Officer, in writing, the name of his scrutineer who:
- a) shall monitor and observe the voting process;
 - b) shall not interfere with or cause disruption during the voting;
 - c) shall not campaign during the voting;
 - d) shall observe the counting of ballots; and
 - e) can question the Chief Electoral Officer on a ruling he has made pertaining to a ballot validity but must respect that the final decision rests with the Chief Electoral Officer.
80. Voting shall take place from 9:00 a.m. to 6:00 p.m. on Election Day.
81. Wireless devices (i.e. cellular phones) shall not be allowed in the voting area.

Equipment

82. The Electoral Officers shall, before the voting begins:
- a) have sufficient ballot boxes clearly identifying which shall contain ballots for Okemow and which shall contain ballots for Headperson;
 - b) a sufficient number of ballots;
 - c) a sufficient number of voting compartments;
 - d) instruments for marking;

- e) the Voters list; and
- f) any other equipment deemed necessary.

Ballots

- 83. The ballots shall have the names of Candidates in alphabetical order by surname of the Candidate.
- 84. There shall be a separate ballot for the positions of Okemow and Headperson.
- 85. The Chief Electoral Officer or Deputy Electoral Officer shall ensure ballots are in good order and have no markings on them.

Ballot Boxes

- 86. Ballot boxes shall be sturdy and have a secure lock with key.
- 87. The ballot boxes shall clearly indicate which container is for the Okemow and which container is for the Headperson.
- 88. The Electoral Officers shall, immediately before the commencement of voting, open the ballot boxes and call upon the scrutineers or two voters present to witness and verify that the boxes are empty by signing the Inspection of Ballot Box form (Appendix E).
- 89. The Electoral Officers shall then lock the ballot boxes and place them in public view for the deposit of ballots.

Voting Area/Compartments

- 90. No loitering shall be allowed in the voting area. Only the Electoral Officers, persons assisting the Chief Electoral Officer, and scrutineers are allowed in the voting area.
- 91. There shall be no campaigning or campaign material in the voting area.
- 92. The Electoral Officers will provide compartments situated in a place where the voters can mark their ballot free from observation.
- 93. Only one person shall be in a voting compartment at any one time except where a voter has requested assistance of a family member from the Electoral Officers.

Voting

94. The Polling Clerk shall verify the voter's name is on the Master Voters List and shall highlight the name of every voter receiving a ballot.
95. The polling clerk shall initial the back of each ballot before providing to the voter.
96. The Electoral Officers shall, when requested, explain the mode of voting to the voter. There shall be a sample placed in the voting compartment indicating how acceptable ballots are to be marked.
97. Each Voter is entitled to receive one ballot.
98. Each voter receiving a ballot shall proceed to the voting compartment, mark their ballot by placing an "X" opposite the name of the Candidate and shall deposit the ballots in the ballot boxes.
99. Where a person is unable to read or is incapacitated by blindness or other physical cause, a family member authorized by the Chief Electoral Officer, may assist the voter by marking his ballot in the manner directed by the voter and place the ballot in the ballot box.
100. Where a voter has spoiled a ballot he shall, upon returning it to the Chief Electoral Officer, be entitled to obtain another ballot. The Chief Electoral Officer shall mark the ballot "cancelled" and record on the voters list. The cancelled ballot shall be placed in a sealed envelope.
101. Every voter who is inside the polling station at the time of the closing of the poll shall be entitled to vote before the poll is closed.

Counting of Ballots

102. The Chief Electoral Officer, once the polling is closed, shall count the ballots beginning with the position of Headperson.
103. The Chief Electoral Officer shall verbally inform the Band Assembly on the results of every ballot cast and the result shall be posted in writing on a bulletin board.
104. The Electoral Officers, in the presence of the scrutineers, shall rule on the validity of all ballots.

105. Once all of the cast ballots for each position have been counted, the Chief Electoral Officer shall post the number of eligible voters, unused ballots, ballots cast, cancelled ballots and spoiled ballots.
106. Once the Ballots have been counted, the official results shall be announced to the Band Assembly.
107. For the Office of Okemow, the Candidate having the most votes shall be declared the winner.
108. The Chief Electoral Officer shall, for the position of Headperson, prepare a list of Candidates by order of the number of votes received with the highest ranking Candidate being the one who received the most votes for Headperson in the election. The positions of Headperson shall be filled by the four (4) highest ranking Candidates on the list and each such Candidate shall be declared elected as Headperson.
109. If there is a tie vote for the position of Okemow or the fourth (4th) vacancy of Headperson, the Chief Electoral Officer shall cast the deciding ballots.

Closing Remarks and Prayer

110. Once the official results have been announced to the Band Assembly, the Chief Electoral Officer shall use his discretion to allow each Candidate closing remarks and present the newly elected Okemow and Headpersons to the Band Assembly.
111. An Elder shall be requested to say the closing prayer. In the event that an Elder is not present, the Chief Electoral Officer may say the closing prayer or have everyone present say their own private prayer.

Results of Election

112. The Chief Electoral Officer shall post the results of the Band Election and distribute Election results as may be required including sending notices to appropriate authorities on the next working day following the elections.

Security of Ballots

113. The Chief Electoral Officer shall seal all election documentation in an envelope(s) which shall be securely stored at the Band Office. Access to these materials shall thereafter be limited to the Electoral Officers.. The envelope(s) shall only be removed in the event of an Appeal or when the time has come to destroy the contents.

XXI. RECOUNT

114. Any Candidate has a right to request a recount only in circumstances where the number of votes between the:
- a) Candidate and the elected Okemow is less than five (5) percent; or
 - b) Candidate and fourth Headperson elected is less than five (5) percent.
115. The request for a recount must be in writing and delivered to the Chief Electoral Officer within twenty-four (24) hours after the completion of the counting of the ballots.
116. The Chief Electoral Officer shall set a date and time for the recount to be held within three (3) days.
117. All Candidates, for the position being recounted, shall be notified on the date and time the recount will be held.

XXII. APPEAL PROCEDURES

118. Any Candidate shall have fourteen (14) calendar days from the date of Election to appeal the results of the Election.
119. Grounds for an appeal are restricted to:
- a) Election practices which contravene this Act; or
 - b) activity which may have affected the outcome of the Election; or
 - c) illegal or criminal activity on the part of a Candidate which discredits the integrity of the James Smith Band #100 & #100A.
120. An Appeal must be in writing containing details of the grounds upon which the appeal is made duly verified by affidavit and delivered to the Chief Electoral Officer. (Appendix F)
121. An Appeal Tribunal shall be established consisting of three (3) individuals who shall be appointed by the membership at the nomination meeting.

122. The Chief Electoral Officer shall deliver the written appeal to the Appeal Tribunal.
123. The Appeal Tribunal shall:
 - a) rule on whether to allow or disallow an Appeal Hearing within five (5) working days of receipt of written notice of appeal; and
 - b) where there is sufficient evidence to warrant an appeal, set an appeal hearing within ten (10) calendar days of their decision.
124. The Appeal Hearing shall be a closed session.
125. The Appeal Tribunal, at their sole discretion, may meet individually or with a combination of the following:
 - a) Chief Electoral Officer and Deputy Electoral Officer;
 - b) appellant;
 - c) witnesses; and/or
 - d) the candidate whose Election is being contested.
126. The Appeal Tribunal, prior to making their decision, may order verification of statements made by the Appellant, witnesses, the Candidate and/or Electoral Officers.
127. A decision of the Appeal Tribunal to uphold or overturn the election shall be made within five (5) working days and shall represent a final binding decision of all parties involved regarding the Election. The Appeal Tribunal shall communicate their decision, in writing, to the Band membership.
128. If the decision of the Appeal Tribunal is to overturn the election results of a designated government position, a By-Election for the position involved shall be conducted in accordance with this Act.
129. Any appeal regarding an Election shall remain within the boundaries of the James Smith Band #100 & #100A and if taken outside the reserve boundaries, the Appeal Tribunal shall, in writing, rule the appeal null and void.

XXIII. OATH OF OFFICE CEREMONY

130. The Oath of Office ceremony for the newly elected Okemow and Headpersons, whose position has not been appealed, shall be scheduled anytime after the appeal deadline has been completed.
131. The Oath of Office ceremony for a position under appeal shall be conducted after the appeal process has been completed and a decision on the appeal communicated to the Band membership.
132. An Oath of Office Ceremony shall be held with the involvement of Elders.
133. Notification shall be provided to the Band membership on the location, date and time of conducting the Oath of Office for the newly elected Okemow and Headpersons.
134. The Oath of Office to be administered is included as Appendix G of this Act.

XXIV. BY-ELECTIONS

135. When a position(s) for Okemow or Headperson becomes vacant for any reason, a by-election shall be called by the Okemow and/or Headperson, as the case may be, within fourteen (14) calendar days.
136. There shall be no by-election called if there are fewer than six (6) months remaining in the term of that elected office.
137. The term of office of the position filled in a By-election is for the unexpired portion of the term of office remaining.
138. Election notices, procedures, and eligibility shall be exactly the same as for regular Elections.

XXV. AMENDMENTS

139. Amendments may be made to this Act from time to time by resolution read and passed by a majority of those present at three (3) Band Assemblies.
140. Amendments to this Act cannot be made during the Election process and any amendments must be accepted by the membership no later than six months prior to an election.

DECLARATION OF INTENT FOR BAND COUNCIL

I, _____,
print first name, middle name, last name

also known as _____
if applicable, include alias

_____, am a member of the
date of birth

JAMES SMITH BAND, # _____, do hereby declare that I intend
Ten Digit Status Number

to seek election for the position of _____ of the JAMES SMITH
indicate Okemow or Headperson

BAND scheduled on _____, 200____.
month/day

Signed this _____ day of _____, 200____.

Candidate Signature

FOR THE PURPOSE OF FILING THIS DECLARATION. THE NOMINATOR AND
SECONDED MUST SIGN THIS DECLARATION.

Signature of Person Nominating

Print Name of Nominator

Signature of Person Seconding this Nomination

Print Name of Seconder

JAMES SMITH BAND
DECLARATION REGARDING CRIMINAL RECORD

I, _____, Treaty Number _____ of the
James Smith Band:

PLEASE CHECK THE APPROPRIATE STATEMENT(S) AS IT APPLIES TO YOU:

_____	I HEREBY DECLARE that I <i>have never been charged</i> in any legal proceeding with any offence, criminal or otherwise.
_____	I HEREBY DECLARE that <i>no charges are pending</i> against me.
_____	I HEREBY DECLARE that I was <i>charged</i> but I <i>have never been convicted</i> of an offence.
_____	I HEREBY ADMIT that I <i>have a criminal record</i> and/or that I <i>have been convicted</i> of certain offences, whether criminal or otherwise.
_____	I HEREBY DECLARE that I <i>did</i> have a criminal record, but that I <i>have since been pardoned</i> .
Please provide full details on a separate sheet including the charges, sentence, if any, and date of conviction, if applicable.	

AND FOR GREATER CLARITY, I DECLARE that I *have never* been charged with

PLEASE CIRCLE YES OR NO FOR EACH OF THE FOLLOWING:

- | | | |
|------------|-----------|---|
| YES | NO | an assault of any kind [including, but not limited to, sexual assault, aggravated sexual assault, uttering threats, threatening a third party, or causing bodily harm]; |
| YES | NO | any sexual offence [including but not limited to sexual interference, sexual exploitation, or sexual touching]; |
| YES | NO | an offence of intending to corrupt morals [including, but not limited to, making, possessing or distributing child pornography, corrupting children, or procuring sexual activity]; or |
| YES | NO | disorderly conduct [including, but not limited to, indecent acts, exposure, public nudity, causing a disturbance, or vagrancy]. |
| YES | NO | common nuisance [including, but not limited to, spreading false news]. |
| YES | NO | any drug or alcohol-related offence [including offences under the <i>Criminal Code, the Controlled Drugs and Substances Act, or the Traffic Safety Act or any other Provincial Legislation similar to any of the foregoing</i>] |

If any of the above questions are answered in the affirmative, please provide *full* details on a separate sheet.

I HEREBY AUTHORIZE the Chief Electoral Officer to undertake such investigation with the RCMP or City Police as the Chief Electoral Officer deems necessary to confirm that the information provided herein is complete and true in every respect and waive any right to privacy that I may have with respect to the disclosure of the same by the RCMP or City Police provided, of course, that the information is not to be used for any purpose other than determining my suitability to run as a candidate in the James Smith Band Election.

Signature of Candidate

DECLARED BEFORE ME at the City/Town/Village
of _____, in the Province
of Saskatchewan, this _____ day of _____,
20_____.

A Commissioner for Oaths in and
for the Province of Saskatchewan

My Commission expires: _____

or Being a Solicitor

WAIVER OF CLAIM - EXTERNAL BODIES AND PROCESS FOR APPEAL

In seeking election for a position with the JAMES SMITH BAND, I agree and accept the following conditions, terms and processes:

I, _____, Treaty Number _____ agree that the *JAMES SMITH BAND ELECTION ACT* is made under the authority and jurisdiction of the James Smith Band #100 & #100A of the Cree Nation based on the Band’s right to govern itself as bestowed upon the Band by the Creator.

I agree that if I proceed to an appeal, I must submit the dispute in writing under the above Act within fourteen (14) calendar days from the date of election. The issues for dispute shall be clearly set out in writing indicating the procedures that I say were not followed in the process duly verified by affidavit.

I agree that the jurisdiction of the Appeals Tribunal will be to determine whether to allow or disallow an appeal to proceed to a hearing. Where appropriate, the Appeal Tribunal shall decide whether to uphold or overturn the election.

I AGREE THAT THE DECISION OF THE APPEAL TRIBUNAL IS FINAL AND BINDING.

I further agree that there will be no appeal or review to the Courts or otherwise on any ground whatsoever. I agree that it will be an offence against the authority and jurisdiction of the JAMES SMITH BAND and its right to self-government for a Candidate to seek a resolution for any problem encountered in the election process through any process outside of the processes established under the *JAMES SMITH BAND ELECTION ACT*.

DECLARED BEFORE ME at the _____)
_____ of _____,)
in the Province of Saskatchewan,)
this ___ day of _____,)
201___.) _____
Signature of Candidate

A Commissioner for Oaths in and for the
Province of Saskatchewan. Being a
Solicitor - or - My commission expires _____

**CANDIDATE AGREEMENT AND PROVISION OF DRUG TESTING RESULTS
PURSUANT TO THE JAMES SMITH BAND ELECTION ACT**

I _____, Treaty Number _____, of the James Smith Band hereby submit, upon a requirement of the James Smith Band Election Act, the results of my drug test.

I understand that only the Electoral Officers, so appointed by the James Smith Band, shall have access to information furnished or obtained in connection with the test; and that they will maintain and protect the confidentiality of such information to the greatest extent possible.

I understand that this information is to be used solely for the purposes of determining my eligibility to run for Okemow or Headperson of the James Smith Band.

If further clarification on the drug test results is required by the Chief Electoral Officer, I agree to provide all necessary consent in an expedient manner in order to meet nomination requirements. I acknowledge that my actions in not providing required consent for further examination of the drug test results may result in my disqualification to run for office of Okemow or Headperson.

I hereby agree and acknowledge that my drug test results shall be sealed in an envelope and securely maintained with the election documentation for a period of thirty (30) calendar days after the date of election. My drug testing information shall be destroyed with the election documentation unless I provide prior notification to the Chief Electoral Officer of my intent to maintain this personal information.

Signature of Candidate

Date

Signature of Chief Electoral Officer

Date

INSPECTION OF BALLOT BOX FOR OKEMOW PRIOR TO VOTING

DATE: _____

I have witnessed the inspection of the ballot box designated for the Chief and confirm that it is empty.

Further, I have witnessed the locking of the ballot box.

Print Witness Name & Treaty#

Witness Signature

Print Witness Name & Treaty#

Witness Signature

Electoral Officer Signature

**INSPECTION OF BALLOT BOX
FOR HEADPERSON
PRIOR TO VOTING**

DATE: _____

I have witnessed the inspection of the ballot box designated for the Headperson and confirm that it is empty.

Further, I have witnessed the locking of the ballot box.

Print Witness Name & Treaty#

Witness Signature

Print Witness Name & Treaty#

Witness Signature

Electoral Officer Signature

APPEAL FORM

I, _____, Treaty Number _____, having been a Candidate in the _____, 20____ elections do hereby submit an appeal of the elections.

The grounds for my appeal are the following:

DECLARED BEFORE ME at the)
_____ of _____,)
in the Province of Saskatchewan,)
this ___ day of _____,)
201___.)

Signature of Candidate

A Commissioner for Oaths in and for the
Province of Saskatchewan. Being a
Solicitor - or - My commission expires _____

OKEMOW AND HEADPERSON OATH OF OFFICE**Date:** _____, 20__

In the presence of our Creator, His Great Spirit, I, _____, of the James Smith Cree Nation, before the Elders and the Band Members of the James Smith Cree Nation, do solemnly take this oath and affirm my commitment to the following principles:

1. The Creator put us here as First People
2. The Creator gave us laws that govern all our relationships to live in harmony with nature and mankind.
3. The laws of the Creator defined our rights and responsibilities.
4. The Creator gave us spiritual beliefs, language, culture and a place on earth that provides us with all our needs.
5. We have maintained our freedom, our languages and our traditional values since creation.
6. We continue to exercise our rights and fulfill the responsibilities and obligations given us by the Creator from the land upon which we were placed.
7. The Creator has given us the right to govern ourselves, and the right to self-determination.
8. The rights and responsibilities given to us by the Creator cannot be altered or taken away by other nations.
9. The Okemow and Headpersons are elected to protect our treaties, lands and the people. The future of the peoples is to a great degree in the hands of the elected leaders. The people look to and rely on the leaders' ability to address First Nations issues and resolve problems. The people, youth and children follow or copy the example of their leaders and the Okemow and Headpersons hears and listens to the advice of the Elders.
10. The role of any government elected leader, is to understand the above declaration and diligently practice the principles inherent in our history. The Okemow and Headpersons are heirs and successors of our past, rights, beliefs, treaties and governing structures. They are also the keepers of our culture, language, customs and traditions.

During my term of office, I solemnly swear to uphold these principles to the best of my abilities, with the guidance of the Creator, Elders and Band members of the James Smith Cree Nation.

Further, I will truly and faithfully, and to the best of my skills and knowledge, execute and perform the duties that devolve upon me as Okemow/Headperson of the James Smith Band. I understand and agree that my actions as a member of the James Smith Band Council are governed by the legislation passed by the membership

.

Dated this _____ day of _____, 20____.

**Signed by: _____
Okemow/Headperson (insert name)**

**Witnessed by: _____
Elder (insert name)**