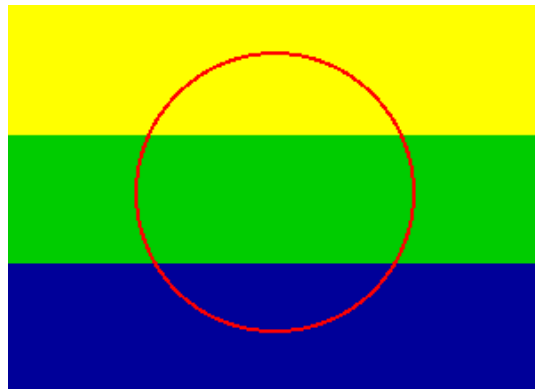


REFERENDUM PROCEDURES

PEGUIS FIRST NATION



Adopted: BCR 09/04/29

PEGUIS FIRST NATION

Referendum Procedures

APPLICATION

- 1 These procedures apply to a community vote by show of hand or a referendum by secret ballot ordered by the Peguis First Nation Council on an initiative proposed by the Council except:
 - (1) Lands and Designations
 - (2) Membership

INTERPETATION

- 2 In these Procedures
 - (1) "Chief" means the Chief of Peguis First Nation;
 - (2) "Council" means the Council of Peguis First Nation;
 - (3) "deputy electoral officer" means a person appointed by an electoral officer for the purposes of a referendum;
 - (4) "voter", in respect of a referendum, means a person whose name is listed in the Band Membership list and who is, or will be, 18 years of age on the date that the referendum is held.
 - (5) "electoral officer" means the person appointed by the Council in charge of elections and referendums.
 - (6) "mail-in ballot" means a ballot delivered or mailed in accordance with section 8.1 of these procedures.
 - (7) "reserve" means the reserves of Peguis First Nation.
 - (8) "voter declaration form" means a document that sets out, or provides for,
 - (i) the name of a voter,
 - (ii) the band membership or registry number of the voter or, if the voter does not have a band membership or registry number, the date of birth of the voter,
 - (iii) a statement that the voter has read and understood the information package regarding the proposed plan, policy designation or surrender and has voted freely and without compulsion, and
 - (iv) the name, address and telephone number of a witness to the signature of the elector.

HOLDING OF A REFERENDUM BY SECRET BALLOT OR SHOW OF HANDS

- 3 The Council may order that a community vote by show of hands or a referendum by secret ballot be held to determine whether an initiative proposed by council should be adopted.
- 4 For purposes of section 2, a majority of the voters who participate in the community vote by show of hands or referendum by secret ballot is sufficient to approve the proposed initiative.

ADDRESSES OF ELECTORS

- 5 At least 49 days before the day on which a referendum by secret ballot is to be held, the Membership clerk shall provide the electoral officer with the last known addresses, if any, of all voters who do not reside on the reserve.

NOTIFICATION OF REFERENDUM BY SHOW OF HANDS VOTE

- 6 At least 30 days before a community vote by show of hands is held, the band membership clerk:
 - (1) shall post the list of names of Voters in at least one conspicuous place on the reserve and give notice that such vote will take place by:
 - (i) mailing or delivering to every voter of the band who does not reside on the reserve a notice that the vote by show of hands will take place, or
 - (ii) posting a notice of the vote on the PFN web site, and public places in Peguis, Selkirk and Winnipeg, MB.
 - (2) In order to make sure that only eligible voters take part in a vote by show of hands, the band membership clerk, prior to the vote taking place, shall:
 - (i) consult the band list to confirm that an individual's name appears on the list.
 - (ii) upon confirming that an individual is an eligible voter, the band membership clerk shall provide the voter with a card bearing distinct marking sufficient to guard against tampering or reproduction

VOTE BY SHOW OF HANDS

- 7 Upon receiving the voter's card from the band membership clerk, the voter may vote yes or no to the question that is the subject of the vote by raising his hand and holding the card so it is clearly visible at the appropriate time in the meeting.
- 8 Upon calling the question of the vote, the band membership clerk or chairperson of the meeting, assisted by the band membership clerk, shall count the number of hands voting in favour and against the initiative, and
- 9 Upon tallying the votes, the chair or band membership clerk shall announce the results of the vote to the assembled.

- 10 As soon as practicable following the vote, the band membership clerk shall prepare a statement of the question and results of the vote and submit it to the council.

NOTIFICATION OF REFERENDUM BY SECRET BALLOT

- 11 At least 30 days before the day that the first referendum by secret ballot is conducted, the electoral officer or deputy electoral officer, shall
- (1) post a notice of the referendum and a list of the names of Voters in at least one conspicuous place on the reserve; and
 - (2) mail or deliver to every voter of the band who does not reside on the reserve and for whom an address has been provided
 - (i) a notice of the referendum by secret ballot,
 - (ii) a mail-in ballot, initialled on the back by the electoral officer or band membership clerk,
 - (iii) an outer, postage-paid return envelope, pre-addressed to the electoral officer or band membership clerk,
 - (iv) a second, inner envelope marked "ballot" for insertion of the completed ballot,
 - (v) a voter declaration form,
 - (vi) a letter of instruction regarding voting by mail-in ballot, and
 - (vii) an information package regarding the plan, policy, or code that is the subject of the referendum.
- 12 A notice of a referendum shall state
- (1) the question to be submitted to the voters;
 - (2) the date on which the referendum will be held;
 - (3) the location of each polling station and the hours that it will be open for voting;
 - (4) that voters may vote either in person at a polling station in accordance with section 18 or by mail-in ballot;
 - (5) the name and telephone number of the electoral officer and Band Membership clerk and
 - (6) the date, time and location of the information meeting.
- 13 At the request of a voter who resides on the reserve, the electoral officer or Band Membership clerk shall provide the voter with the material referred to in subsection 11(2).
- 14 The electoral officer or Band membership clerk shall indicate on the voters list that a ballot has been provided to each voter to whom a mail-in ballot was mailed, delivered or otherwise provided, and keep a record of the date on which, and the addresses to which, each mail-in ballot was mailed or delivered.

- 15 A voter to whom a mail-in ballot was mailed, delivered or provided under section 11(2) is not entitled to vote in person at a polling station other than in accordance with subsection 33.

INFORMATION MEETING

- 16 Before the day on which a referendum by secret ballot or vote by show of hands is to be held, the Council shall convene an information meeting on reserve and, should it deem it necessary, additional meetings off reserve, to provide voters with information regarding the proposed initiative that is the subject of the referendum.
- 17 At least ten days before the referendum by secret ballot or vote by show of hands is held, the Council shall cause to be posted on the PFN web site and other locations at Peguis, Selkirk and Winnipeg, information regarding the matter that is the subject of the vote

PREPARATION FOR REFERENDUM BY SECRET BALLOT

- 18 Where a referendum by secret ballot is ordered by Council the electoral officer shall
- (1) prepare sufficient ballots, initialled on the back by the electoral officer, stating the question to be submitted to the electors;
 - (2) procure a sufficient number of ballot boxes; and
 - (3) before the poll is open cause to be delivered to the deputy electoral officer the ballot papers and a sufficient number of lead pencils for marking the ballot papers; and
 - (4) make sure that the ballot boxes are secure against tampering at all times

REFERENDUM BY SECRET BALLOT BY MAIL-IN BALLOT

- 19 Where a referendum by secret ballot is ordered, a voter may vote by mail-in ballot by:
- (1) marking the ballot by placing a cross, check mark or other mark, clearly indicating the voter's response to the question stated on the ballot;
 - (2) folding the ballot in a manner that conceals the question and any marks, but exposes the initials on the back;
 - (3) placing the ballot in the inner envelope and sealing that envelope;
 - (4) completing and signing the voter declaration form in the presence of a witness who is at least 18 years of age;
 - (5) placing the inner envelope and the completed, signed and witnessed voter declaration form in the outer envelope; and
 - (6) delivering or, subject to subsection 24, mailing the outer envelope to the electoral officer before the time at which the polls close on the day of the referendum.

- 20 Where a voter is unable to vote in the manner set out in subsection 19, the voter may enlist the assistance of another person to mark the ballot and complete and sign the voter declaration form in accordance with subsection 19.
- 21 A witness referred to in paragraph 19(4) shall attest to:
- (1) the fact that the person completing and signing the voter declaration form is the person whose name is set out in the form; or
 - (2) where the voter enlisted the assistance of another person under subsection 20, the fact that the voter is the person whose name is set out in the form and that the ballot was marked according to the directions of the voter.
- 22 A voter who inadvertently spoils a mail-in ballot may obtain another ballot by returning the spoiled ballot to the electoral officer.
- 23 A voter who loses a mail-in ballot may obtain another ballot by delivering to the electoral officer a written affirmation that the voter has lost the mail-in ballot, signed by the voter in the presence of the electoral officer, a justice of the peace, a notary public or a commissioner for oaths.
- 24 Mail-in ballots that are not received by the electoral officer before the time at which the polls close on the day of the referendum are void and shall not be counted as a vote cast.

REFERENDUM BY SECRET BALLOT VOTING AT POLLING STATIONS

- 25 Where a referendum by secret ballot is ordered, the electoral officer shall establish at least one polling station on the reserve at Peguis.
- 26 In addition, the electoral officer shall establish additional polling stations as follows:
- (1) in Winnipeg, the vote held two days prior to the poll at Peguis, and,
 - (2) in Selkirk, the vote being held one day prior to the poll being held in Peguis.
- 27 The electoral officer or the deputy electoral officer shall provide a compartment at each polling place where the voter can mark his ballot paper free from observation.
- 28 The electoral officer or the deputy electoral officer shall, immediately before the opening of the poll, open the ballot box and call upon such persons who may be present to witness that it is empty and shall then lock and properly seal the box and place it in view for the reception of the ballots.
- 29 Polling stations shall be kept open from 9:00 a.m., local time, until 8:00 p.m., local time, on the day of the referendum.
- 30 A voter who is inside a polling station at the time that the polling station is to close is entitled to vote.

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- 31 Subject to subsection 29, where a person attends at a polling station for the purpose of voting, the electoral officer or deputy electoral officer shall, if the person's name is set out in the voters list, provide the person with a ballot.
- 32 The electoral officer or the deputy electoral officer shall place on the list of voters a mark opposite the name of every voter receiving a ballot paper.
- 33 A voter to whom a mail-in ballot was mailed, delivered or provided under subsection 11(2) may obtain a ballot and vote in person at a polling station
- (1) if the voter returns the mail-in ballot to the electoral officer or deputy electoral officer; or
 - (2) where the voter has lost the mail-in ballot, the voter provides the electoral officer or deputy electoral officer with a written affirmation that the voter has lost the mail-in ballot, signed by the voter in the presence of the electoral officer, deputy electoral officer, a justice of the peace, a notary public or a commissioner for oaths.
- 34 The electoral officer or the deputy electoral officer shall explain the mode of voting to a voter when requested to do so by such voter on the application of a voter who is:
- (1) not able to read, or
 - (2) incapacitated by blindness or other physical cause, the electoral officer or the deputy electoral officer shall assist that voter by marking his ballot paper in the manner directed by the elector and shall place such ballot paper in the ballot box.
- 35 The electoral officer or the deputy electoral officer shall make an entry in the list of electors opposite the name of the voter that the ballot paper was marked by him at the request of the voter and the reasons therefore.
- 36 Except as provided in subsection 34, every voter receiving a ballot paper shall
- (1) proceed immediately to the compartment provided for marking the ballot paper;
 - (2) mark the ballot by placing a cross, check mark or other mark, clearly indicating the voter's response to the question stated on the ballot;
 - (3) fold the ballot in a manner that conceals the question and any marks, but exposes the initials on the back;
 - (4) forthwith deliver it to the electoral officer or the deputy electoral officer for deposit in the ballot box.
- 37 A voter who receives a soiled or improperly printed ballot paper, or inadvertently spoils his ballot paper in marking it shall, upon returning the ballot paper to the electoral officer or the deputy electoral officer, be entitled to another ballot paper.
- 38 A voter who has received a ballot paper and
- (1) leaves the compartment for marking ballot papers without delivering the same to the electoral officer or the deputy electoral officer in the manner provided, or
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- (2) refuses to vote, shall forfeit his right to vote on the referendum and the electoral officer or the deputy electoral officer shall make an entry on the list of electors opposite the name of the elector that the elector did not return the ballot paper or refused to vote as the case may be.
- 39 The electoral officer or the deputy electoral officer shall allow only one voter in the compartment for marking ballot papers at anyone time.
- 40 No person shall interfere or attempt to interfere with a voter when marking his ballot paper or obtain or attempt to obtain at the polling place information as to how an voter is about to vote or has voted.
- 41 The electoral officer and deputy electoral officer shall maintain peace and good order during the voting.
- 42 Whenever the electoral officer or the deputy electoral officer does not understand the language spoken by a voter, he or she shall enlist the aid of an interpreter to communicate with respect to all matters required to enable that voter to vote.

COUNTING OF VOTES

- 43 As soon as is practicable after the close of the polls, the electoral officer shall, in the presence of the deputy electoral officer and any members of the council of the band 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,
- (1) set aside the ballot if
 - (i) it was not accompanied by a voter declaration form, or the voter declaration form is not signed or witnessed,
 - (ii) the name of the voter set out in the voter declaration form is not on the voters list, or
 - (iii) the voters list shows that the voter has already voted; or
 - (2) place a mark on the voters list opposite the name of the voter set out in the voter declaration form and deposit the ballot in a ballot box.
- 44 As soon as is practicable after the mail-in ballots have been deposited under section 43(2), the electoral officer shall, in the presence of the deputy electoral officer and any members of the council who are present, open all ballot boxes and
- (1) examine the ballot papers;
 - (2) set aside any ballot that does not have the initials of the electoral officer or deputy electoral officer on the back;
 - (3) reject all ballot papers
 - (i) that have been marked incorrectly, or
 - (ii) upon which anything appears by which a voter can be identified;

- (4) count the votes given in favour of and against the question submitted in the referendum; and
 - (5) prepare a statement in writing of the number of votes so given and of the number of ballot papers rejected.
- 45 The statement referred to in paragraph 44(5) shall be:
- (1) signed by the electoral officer and by the chief or a member of the council of the band; and
 - (2) as soon as practicable, filed in the First Nation administration office.
- 46 A ballot set aside under paragraph 43 or 44 is void and shall not be counted as a vote cast.
- 47 As soon as is practicable after the results of the voting are known, the electoral officer shall:
- (1) prepare a statement in triplicate, signed by the electoral officer and by the chief or other member of Council, that indicates
 - (i) the number of electors who were entitled to vote,
 - (ii) the number of electors who voted,
 - (iii) the number of votes cast in favour of and against the question submitted in the referendum, and
 - (iv) the number of rejected ballots; and
 - (2) immediately convene a meeting at Peguis of the voters where the electoral officer shall announce the results of the referendum, and
 - (3) as soon as practicable deliver a copy of the statement to
 - (i) the Chief or other member of Council at the next duly convened meeting of Council; and
 - (ii) cause a copy of the statement to be posted on a public notice board at the administration office and other public places on the reserve and on the Peguis First Nation web site.
- 48 The electoral officer shall deposit the ballots used in the voting in a sealed envelope and retain them.
- 49 If no review has been requested within 20 days after the referendum, the electoral officer shall destroy the ballots used in the voting.

REVIEW PROCEDURE

- 50 A voter may, in the manner set out in subsection 51, request a review of the community vote by show of hands or referendum by secret ballot by an arbiter appointed for the purpose by the Council, where the voter believes that
- (1) there was a contravention of these Procedures that may affect the results of the vote by show of hands or referendum by secret ballot; or

(2) there was corrupt practice in connection with the vote by show of hands or referendum by secret ballot.

51 A request for a review of a vote by show of hands or referendum shall be made by forwarding the request to the Council and the electoral officer by registered mail addressed to the Chief and the electoral officer, within seven days after the day of the referendum, accompanied by a declaration, containing the grounds for requesting the review and any other relevant information, signed in the presence of a witness who is at least 18 years of age.

52 Within 10 days after the receipt of a request under section 51, the electoral officer shall forward to the Chief and Council members, by registered mail addressed to the Chief and the administration office, a declaration responding to the grounds stated in the request, signed in the presence of a witness who is at least 18 years of age.

53 The electoral officer shall post a notice on the reserve and other public places including the Peguis web site that a review has been requested.

54 Where the material referred to in section 51 or any other information in the possession of the Chief and/or electoral officer is sufficient to call into question the validity of the vote by show of hands or referendum by secret ballot, the Chief and/or electoral officer shall post a notice disallowing the vote.

55 Where a community vote or referendum has been disallowed under section 54, the electoral officer shall conduct a community vote or referendum in accordance with this policy.

AMENDMENTS

56 This policy may be amended as needed by a motion made by a voter or a member of Council at a public meeting called for the purpose and where the motion is supported by a majority of voters present.

57 A notice of a motion to amend this policy must be posted at the administration office and other public places at Peguis and on the Peguis web site at least 20 business days prior to the meeting called for this purpose.