

May/June 2018

SPECIAL UPDATE

LAWS & GOVERNANCE

Asserting our Sovereignty for the Benefit of our Nation, our Lands and our People

Message from the Chief and Council

Amending Our Laws and Governance with Your Recommendations

We want to thank everyone who took the time to provide us with feedback on the proposed amendments to the NCN Election Law which were posted on our website on March 23, 2018 and reviewed at a General Assembly in Nelson House on April 25, 2018. We have met several times since the General Assembly to consider the changes proposed by NCN Citizens. Several of the recommendations were interesting, but we have determined that as they were proposed so close to the 2018 elections, we need to obtain further input before they are implemented. We have amended the Election Law to include many of the recommendations we received.

We are also very excited to announce that the Finance Law was approved. This is the first law we have completed solely using the procedures in our own Othasowewin. Developing the Nisichawayasi Finance Law and the amendments to the NCN Election Law using the processes in our Othasowewin has proven to be much more efficient and less costly than using the Indian Act and old INAC policies, yet it still allows us to be responsive to the feedback received from NCN Citizens.



Top row (left to right): Councillors Joe Moose, Willie Moore, Patrick Linklater and Ron D. Spence. Bottom row (left to right): Councillor Shirley Linklater, Chief Marcel Moody and Councillor Bonnie M. Linklater

We look forward to your input in relation to the development of Marital Property and Allotment Laws which we will be bringing forward later next month. We are also examining Business Licensing Laws, particularly in relation to our Mystery Lake Lands.

With your assistance we look forward to continuing to assert our sovereignty in positive ways that benefit our Nation.

– Chief and Council, Nisichawayasihk Cree Nation





Overview of Amendments Approved by Chief and Council

Following the General Assembly on April 25, 2018, Chief and Council considered the recommendations, comments and discussions. Based on the recommendations and discussions, Chief and Council have approved the following amendments to the NCN Election Law. All amendments, except two are now in effect and will be followed during the upcoming elections for Chief and Council.

DRUG TESTING

- All candidates must submit tests at the time of the nomination and be willing to undergo random tests for illegal drugs during the election period and if elected, throughout the person's term of office [ss. 13 (1)(e) and (f)].
- A positive test for illegal drugs will result in the person being disqualified as a candidate and if elected, removal from Chief and Council and will become a vacancy [s. 4(5)(f)]
- Illegal drugs are defined as "any prohibition of the possession, use, manufacture, sale and transportation of drugs as defined in the laws of Canada" [s. 2].
- Each candidate must attend the Medicine Lodge to be

tested within 14 days before the nomination meeting and as notified by the Electoral Officer throughout the election. A urine test is used to test for drugs. The results will be available the same day. The Medicine Lodge will provide each person with a signed statement indicating whether the person tests negative or positive for a number of drugs.

CRIMINAL RECORDS

- The proposal to remove hybrid offences given the potential for administrative difficulties has been withdrawn and hybrid offences will remain part of the NCN Election Law for the upcoming elections. If there are problems during the elections, the issue will be reconsidered.

- All NCN Citizens with criminal records will be able to run for office if it is at least 8 years since the conviction for an indictable offence or the jail sentence for an indictable or hybrid offence or any appeal arising from the convictions or sentence with the exception of any NCN Citizen convicted of murder, manslaughter, or sexual assault of any nature [ss. 4 (10) and (11)].

- NCN Citizens convicted of murder, manslaughter or sexual assault of any nature may apply after at least 8 years to the Peacekeepers Tribunal to be established by a Peacekeepers Tribunal Law following further consultation with victims, their families and NCN Citizens convicted of these offences. The factors to be taken into consideration as part of the process of restorative justice will be set out in the Peacekeepers Tribunal Law [ss. 4(12)].

- As there is insufficient time to undertake this work and enact the





new law prior to the posting of the Election Order at the end of June, NCN Citizens convicted of murder, manslaughter and sexual assault of any nature will not be able to run for Chief and Council in the 2018 elections [ss. 23(2)].

FIXED ELECTION DATES AND NO ADVANCE POLLS

- There will be no advance polls during the 2018 Chief and Council and board elections. References to advance polls have been removed from the Election Law [ss. 9(1)(f)].
- A fixed election date system of two days will replace advance polls and current system of Council discretion to choose the election date. Instead, elections for Chief and Council will be held on a Wednesday and Thursday in the third or fourth week of August depending on which week both days fall according to the calendar [ss. 11(3)(a)].
- The Electoral Officer will be able to hold the election in September if there are extenuating circumstances such as forest fires [ss.11(3)(b)].

MAIL-IN BALLOTS

- The Electoral Officer can decide to use mail-in ballots

at least 90 days before the last day of the fixed election days by notifying NCN Citizens that they can request a mail-in ballot if they live at least 50 kilometres from an in-person polling location [ss. 14(7)].

- The Electoral Officer will establish the procedures for the mail-in ballots and publicize this at least 60 days before the election [ss. 14(8)].
- The Election Order must indicate the date mail-in ballots must be received to be counted in the election [ss. 11(4)(b)].
- The Election Officer must comply with certain fundamental principles when establishing the mail-in ballot procedures [ss. 14 (9)].

OBSERVING THE COUNTING OF THE BALLOTS

- The polls will be closed at 8:00 p.m. as usual. Following the closing of the polls, the Electoral Officer will arrange for NCN Citizens to observe the counting of the ballots as long as they do not interfere in the counting procedures [ss.18(9)].

PROHIBITED ACTIVITIES

- Any candidate who engages in cyberbullying directly or indirectly by encouraging others to post false,



defamatory or other information designed to promote hatred against a particular candidate will be given 24 hours notice to remove the post or the person will be disqualified as a candidate [ss. 19(8)(d)].

- 19(9) A copy of any order made by the electoral officer ordering removal of a social media post or sign or disqualifying a candidate for refusal to do so shall be posted on NCN Lands, the NCN website and in other locations ordered by the electoral officer.

APPEALS WITHOUT MERIT

- To discourage frivolous appeals, the Appeal Committee, like many other administrative tribunals, will now have the clear authority to dismiss an appeal or complaint that is without merit or beyond the jurisdiction of the Appeal Committee without the necessity of holding a hearing [ss. 21(8)].

DEPUTY CHIEF

- The more modern terminology is Vice-Chief so the title has been amended [ss.22(5)].

Recommendations not Implemented in This Amendment Process

CHIEF AND COUNCIL TO BE ORDINARILY RESIDENT ON NCN LANDS AT NELSON HOUSE

- Chief and Council will be seeking further input from NCN Citizens about whether the Chief, Vice-Chief and a majority of Councillors should be required to live at Nelson House, which is the seat of the NCN Government according to Othasowewin.
- Under the current system, this would mean the Chief, the Vice-Chief and at least 3 of the 5 remaining Council members would have to live at Nelson House to be elected.
- The remaining two members of Council could live at Nelson House or elsewhere and the next highest numbers of votes after the top three at Nelson House would be elected.

COUNCIL COMPOSITION

- Further input will be obtained from NCN Citizens about a recommendation to expand Chief and Council to 9 members as it was before 1998.

EXTERNAL ELECTORAL OFFICER

- Chief and Council is not prepared to accept recommendations based on the old Indian Act model that our own people cannot administer our elections fairly. This would be a step backward that is completely inconsistent with all the steps we have taken to restore and assert our sovereignty.
- As Ms. Yetman's term of office expires in October 2019 and she has indicated that she does not wish to be

reappointed, Chief and Council will post the electoral officer position and appoint an NCN Citizen to be the new electoral officer for a 5 year term.

ELIMINATION OF LAWYERS

- It was recommended that the Electoral Officer and Chief and Council should not have lawyers.
- It was further recommended that the Appeal Committee should not have a qualified external adjudicator (who may be a lawyer or other professional adjudicator).
- These recommendations were part of the same recommendations that we not have an NCN Citizen as our Electoral Officer. While lawyers are an easy target, the reality is that they help to provide advice that ensures there is fairness and transparency in the electoral process and that the will of the people, once their votes have been cast, is upheld.
- This summer marks the 20th anniversary of NCN elections being held under our own Election Law. There have been a few appeals and one court application in 20 years which is a pretty good history.
- The processes which have been in place for those 20 years are working well and are being modified from time to time as we gain more experience in governing ourselves.

DEPUTY CHIEF POSITION

- Further input will be sought from NCN Citizens regarding the recommendations that the Vice-Chief position be elected separately, similar to the Chief.





Timeline for 2018 Chief and Council Elections

TIMELINE	SUBSECTION	2018 – 2022
Notice of Mail-In Ballots	14(7) The electoral officer may, at least ninety (90) days before a council election decide that mail-in ballots shall be used by notifying NCN Citizens that if they are not ordinarily resident within fifty (50) kilometers of a location where in-person voting will take place, they may contact the electoral officer and register to vote by mail-in ballot. For greater certainty, mail-in ballots shall not be utilized for board elections unless permitted by the board's governing documents.	May 24, 2018
Council Resolution	11(2) Subject to subsection (3), every council or board election shall be commenced by a council resolution calling the council or board election, which council resolution shall be provided to the electoral officer forthwith.	June 25, 2018
Publicize Mail-In Ballot Procedures	14(8) Upon deciding that mail-in ballots will be used, the electoral officer shall establish the procedures which will apply to the mail-in ballots and shall publicize the procedures at least sixty (60) days prior to the final in-person voting day in a council election.	June 25, 2018
Election Order	11 (3) – Council elections shall be held on the fourth Wednesday and Thursday in August every four (4) years unless; (a) Only one of the days falls within the fourth week, in which case the election shall be held on the third Wednesday and Thursday in August of that year 11(4) – Upon receipt of a council resolution under subsection (2), the electoral officer shall immediately issue an order: (b) Establishing the fixed election dates in accordance with subsection 11(3) and ensuring those dates are no more than forty-five (45) days after the date of the nomination meeting; (f) post the order in at least five (5) conspicuous places on NCN Lands, in at least one location in Thompson, Winnipeg and other locations in Manitoba where significant numbers of voters reside, as determined in the sole discretion of the electoral officer, and on NCN's website	June 26, 2018
Polling Places	14 (1) Establishment of Polling Places (a) make arrangements for polling places which are easily accessible for voting during the council and board elections; and (b) Establish in-person polling stations in locations in Manitoba if there are at least fifty (50) voters ordinarily resident in that location. Election Locations NCN (5 polling Stations – includes travelling poll) Leaf Rapids Thompson Winnipeg Mail-In Ballots (July 23 – August 21, 2018) Date & Time August 22 & 23, 2018 – 9:00 am – 8:00 pm	
Nomination Papers (Filing of Nomination Papers)	11(4) Upon receipt of a council resolution under subsection (2), the electoral officer shall immediately issue an order:	June 26, 2018
Workshop for Potential Candidates	Two evening workshop will be held in Nelson House from 6:00 –9:00 pm. This workshop will assist potential candidates understand the processes followed and their obligations so that they can ensure that their campaign workers understand the process.	June 27 & 28, 2018
Nomination Papers Submission Deadline (Close of Nomination)	11(4) (a) fixing the date for the filing of nomination papers at least fourteen (14) days from the date of the order;	July 11, 2018
Nomination Meeting	11(4)(c) fixing the date for a nominating meeting to be held, which date shall be no more than five (5) days after the date for filing nomination papers;	July 16, 2018

Voters List	<p>9(1)(b) ensure the voters list is prepared and posted in at least five (5) public locations on NCN Lands at least fourteen (14) days prior to the date of the council or board election;</p> <p>12(1) The electoral officer shall cause a voters' list to be prepared, which list shall contain the names of all voters in alphabetical order, any relevant available contact information, date of birth and NCN registration number, which list without identifying personal information other than name shall be posted at least fourteen (14) days prior to the date voting starts in the same locations the election order in subsection 11 (4) is posted but the electoral officer shall provide confirmed candidates with the voters' list containing all contact and related information in accordance with policies established by the electoral officer to balance the privacy interests of NCN Citizens while encouraging participation in NCN's democratic elections.</p> <p>Corrections to Voters' List</p> <p>12 (2) Any voter may apply to the electoral officer up to the time the polls close to have the voter's list revised on the basis that the voter's name is missing from the list, the name of the voter is incorrect or that the list contains names of persons who are not qualified voters.</p>	<p>August 8, 2018</p>
Mail-In Ballots	<p>11(4)(d) confirming the dates for the receipt of mail-in ballots if they will be used during the election</p> <p>Mail-In Ballots Ends – 1 day before Election Day (paper ballots) to avoid duplicate voting.</p>	<p>July 23, 2018</p> <p>August 21, 2018</p>
Election Day (2 days)	<p>11(3) Council elections shall be held on the fourth Wednesday and Thursday in August every four (4) years unless</p> <p>(a) only one of the days falls within the fourth week, in which case the election shall be held on the third Wednesday and Thursday in August of that year;</p>	<p>August 22 – 23, 2018</p>
Application for a Recount	<p>21(1) Within seven (7) days after the election any candidate may request a recount by submitting such request to the electoral officer, in which case the electoral officer shall give all candidates and voters three (3) days' notice that a recount has been requested, following which the electoral officer shall immediately convene a meeting of the candidates and the deputy electoral officer to recount the ballots</p>	<p>August 30, 2018</p>
Corrupt Practise Appeal	<p>21(5) Within seven (7) days after the election any candidate or voter who voted may file an appeal with the Appeal Committee if that person has reasonable grounds to believe there was:</p> <p>a) a violation of this Election Law which may affect the results of the election; or</p> <p>b) a corrupt practice occurred in connection with the election, which may affect the results of the election, including any attempt to influence voter intentions through the purchase of, or contribution to the purchase of, alcohol, drugs or other gifts for voters, excluding candidate promotional items used during the election.</p>	<p>August 30, 2018</p>
Notice of Recount	<p>20 (1) – EO shall give all candidates and voters a 3 day notice</p>	<p>September 1, 2018</p>
Elected Council Assume Office	<p>4(4) All candidates elected to council shall assume office within fourteen (14) days after the election.</p>	<p>September 6, 2018</p>
Inauguration Ceremony	<p>22(1) The electoral officer shall hold a public swearing in ceremony where the chief designate and each councillor shall swear or affirm an Oath of Allegiance, an Oath of Office and an Oath of Confidentiality in the form set out in Schedules "A," "B" and "C."</p>	<p>September 6, 2018</p>
Electoral Officer Written Report	<p>10 After each council or board election, the electoral officer shall make a written report within fourteen (14) days, to council on the conduct of the council or board election, and may make recommendations about amendments to this Election Law or the procedures to be followed during council or board elections, and council shall make this report available to NCN citizens within thirty (30) days of receiving it by posting a notice on the NCN website and at the NCN government office advising where the report can be obtained.</p>	<p>September 6, 2018</p>
Decision by Appeal Committee	<p>21(10) The Appeal Committee shall make a decision within thirty (30) days of receipt of an appeal unless there are extenuating circumstances that make it impossible to do so, but an application to court for a stay of proceedings shall not be considered extenuating circumstances, unless a court orders the Appeal Committee to suspend its hearing of the appeal until such time as the court has rendered a decision.</p>	<p>September 29, 2018</p>
Report on Election	<p>10 Council shall make this report available to NCN citizens within thirty (30) days of receiving it by posting a notice on the NCN website and at the NCN government office advising where the report can be obtained.</p>	<p>October 5, 2018</p>
New Council Orientation & Strategic Planning		<p>October 2 – 4, 2018</p>

Notice of Mail-in Ballots:

NCN Citizens take notice that in accordance with subsections 14(7) to 14(8) mail in ballots will be available for any eligible voter who lives more than 50 kilometers from the in person polling locations in Nelson House, Leaf Rapids, Thompson or Winnipeg. Any voter who qualifies for a mail in ballot and wishes to vote by mail must register with the Electoral Officer to request a mail in ballot which will then be mailed out after the ballots are printed following the nomination meeting on July 16, 2018. Registration can take place any time after July 23, 2018, once the election order is posted.

All mail in ballots must be received no later than August 21, 2018, to be counted in the Chief & Council election.

Signed this 24th day of May at Nelson House in the Province of Manitoba



Joyce Yetman
NCN Electoral Officer

Notices from Electoral Officer Regarding Election

18 years of age and older who lives at least 50 km away from Winnipeg, Thompson, Leaf Rapids or Nelson House.

- Candidates wishing to be nominated in the 2018 elections should obtain a Name Criminal Record check from the NCN RCMP detachment as soon as possible as we are within the election window of three months prior to the date of the nomination meeting.
 - Any person with a criminal record for murder, manslaughter, or sexual assault of any nature will not be allowed to run during the 2018 election.
 - Candidates must all provide a drug test to be qualified
- and sign a written acknowledgement that they will submit to random drug tests during the election and if elected, during their term of office and if they test positive they will be disqualified from running or if elected, their seat will become vacant.
 - Two evening sessions will be held on June 27 and 28, 2018 from 6:00 – 9:00 p.m. for all NCN Citizens interested in running for office in Nelson House to assist potential candidates understand the processes followed and their obligations so that they can ensure that their campaign workers also understand the process. It is hoped that this will help to avoid appeals.

Finance Law

- No changes were proposed to the Finance Law developed by the committee of NCN Finance staff and advisors which was posted on the NCN website on March 26, 2018.
- It was adopted by Chief and Council on May 8, 2018
- The new Nisichawayasi Finance Law will replace the old Indian Act Financial Administration Bylaw and will come into effect on June 7, 2018.

YOUR COMMENTS ARE IMPORTANT TO US

Please let us know your thoughts, concerns and feedback on these and future plans. We hope to maintain a government that will listen to you and act only in your best interest.

Nisichawayasihk Cree Nation

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