



NCN Election Code

2013 PROPOSED AMENDMENTS

October 2013

Election Code Amendment Process

Nisichawayasihk Cree Nation is one of the most progressive and well-respected First Nations in Canada. Since we never gave up our rights to govern ourselves in signing our Adhesion to Treaty 5, we have moved away from reliance on *Indian Act* rules to creating our own Election Code in 1998 that best meets our needs and aspirations. We are also moving forward in developing a Constitution that will lay out our rights and obligations as Citizens – the next step in defining our nation as a mature democracy.

The cornerstone of every democracy is a fair election process. Critical decision-making about economic development initiatives like Wuskwatim

and programs like housing will not happen unless NCN Citizens have a stable system of government. Elections provide an important mechanism to ensure Council members are accountable to NCN Citizens.

Fair election processes include:

- 1 Impartial, credible election officials
- 2 Clear rules about who can vote and who can run for office
- 3 Effective appeal mechanisms
- 4 Effective transfer of power from one government to another.

History of Election Code and Referendum Rules

Before 1998, Chief and Council elections were held using *Indian Act* rules* including referendum votes for:

- The 1996 NFA Agreement
- The 1998 TLE Agreement
- The land designation processes for the Personal Care home and ATEC
- The Wuskwatim Project Development Agreement.

(*by agreement between the various parties to these agreements or arrangements)

In 1998, NCN approved its own Election Code and the past four Council elections have been held using those rules. However, we have never developed our own rules for referendums or school board elections but have been following the procedures already set out in the Election Code.

VOTE TO APPROVE PROPOSED AMENDMENTS

Monday, October 28 between 12:00 noon and 8:00 p.m.
Voting locations to be announced.

EARLIER AMENDMENTS TO THE ELECTION CODE

Amendments have occurred twice since the Election Code was established in 1998. Those amendments included...

2002

- Gave the Electoral Officer authority to establish the number and location of the polls

2010

- Allowed those NCN Members living off-reserve to be candidates for Chief or Councillor
- Made the election code consistent with a practice already established by the Electoral Officer of allowing a candidate to provide a statutory declaration related to criminal reference checks
- Required the election appeal committee to make its decisions within 30 days, unless other circumstances prevented this from happening.

Amendments proposed but postponed by NCN Citizens for consideration until before 2014 Council Elections:

- Providing severance pay for defeated council members similar to employees
- Various technical amendments to improve the administration of elections.

RECENT ELECTION CODE EVENTS

Post 2010 election

- Election staff and the independent observer made additional recommendations to amend the Election Code to improve the election processes.

Spring 2012

Several workshops were held about the Wuskwatim investment decision.

- A survey of NCN Citizens attending the meetings indicated support for amalgamating Nisichawayasihk Trust and Taskinigahp Trust to save administrative costs.
- Support was expressed for certain funds to be invested in the Wuskwatim Project.

To accomplish these goals:

- A vote of NCN Citizens is required to amend, amalgamate or change the investments in these two Trusts
- A vote is also required to amend the TLE Trust.

Without its own referendum rules, NCN would need to continue using the *Indian Act* referendum rules or some other rules any time Council wants to request NCN Citizens to vote on an issue. To avoid challenges and disputes about using those referendum rules, Council supports development of our own laws. Since Council believes in our right of self-government, it decided to establish our own laws to give our Electoral Officer clearly defined, fair rules to follow. Also, a dispute arose last year about whether the Electoral Officer had the authority to conduct school board elections.

Recognizing that consistent, stable laws are important for NCN to be able to invest and grow, it was decided to bring forward a complete package of amendments to NCN Citizens to address all these different issues.

PREVIOUS ELECTION CODE CONSULTATION

Several rounds of consultation were held in November 2012 and the spring and summer of 2013 in Nelson House, Thompson and Winnipeg during which several myths, rumours and inaccuracies arose:

- Council members were accused of hiding information about the Wuskwatim investment because they had entered into confidentiality agreements with Manitoba Hydro
- Rumours circulated that the Wuskwatim deal would not provide any benefits to NCN and Council wanted to sell the bond to invest in Wuskwatim which some people called a bad deal
- The proposed amendments were characterized as attempts by Council to pay themselves a severance package and provide the basis for getting rid of the Nisichawayasihk Trust.

Although Council decided **not to include** either the referendum rules or the severance allowance in the final package of Election

Code amendments NCN Citizens voted on, **inaccurate information** continued to be given out and NCN Citizens indicated they believed this information.

THE SEPTEMBER 12 VOTE

The proposed amendments were turned down by a narrow margin of only 6 people, with votes cast in Winnipeg being overwhelmingly negative and affecting the final outcome.

Chief and Council decided to reschedule the vote and spend time before the vote visiting NCN Citizens to explain the importance of the proposed amendments and a proposal for an NCN Constitution. Community Consultants are being hired to go door to door to explain the information to NCN Citizens.

A new vote will be held on Monday, October 28th.

NCN CONSTITUTION

During consultations on the Election Code and Referendum Rules, you told us:

- ✓ You wanted to see the roles and responsibilities of Council spelled out
- ✓ You want a Code of Conduct for Council members
- ✓ You raised a number of questions about the investment in Wuskwatim and wanted more information about why trust amendments might be needed
- ✓ You were split about whether Council members should receive a severance package.

As a result, Council decided these issues (except for the severance allowance) will be included in an NCN Constitution. The first draft of the NCN Constitution will be presented to you for discussion this fall. The decision-making mechanisms, including direct citizen participation on issues of importance to the Nation, would be included in the Constitution not the Election Code.



More information about the proposed 2013

Election Code amendments is available on the

ncncree.com website including copies of the

existing election code and the proposed 2013

amended Election Code. Or, information can be

picked up at the NCN Government Office.

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What Election Code Amendments Are Being Proposed ?

NCN Citizens can find a copy of the tracked changes to the Election Code on the NCN website. To help NCN Citizens better understand the changes, we have sorted them by categories and described them below. There are ten categories of proposed amendments.

1 Nehetho Words/Removal *Indian Act* terminology

It is proposed that:

- Certain words used in the *Indian Act*, which were included in the NCN Election Code in 1998 be replaced, for example “elector” to “voter” and “member” to “NCN Citizen”
- Cree words would be added for Elder, Voter, Youth, and passing on
- “Election Code” would be changed to “Election Law”.

Eventually, NCN hopes to approve all of its laws in English and Nehetho similar to federal and provincial laws being passed in English and French. For now, only certain Nehetho words are included in the amendments.

2 Board Elections

It is proposed that the NCN Election Code apply to board elections such as the school board and any other boards that want to hold elections to choose their directors, subject to approved by-laws.

3 Criminal Records

It is proposed that NCN Citizens who have a criminal record be allowed to run for office eight (8) years after the date of their conviction or jail sentence. It would then be up to NCN Citizens to decide if they will vote for a person with a criminal record. Current Election Code wording may be subject to a human rights challenge if our Citizens with criminal records are never given a chance to prove they have changed. This proposal attempts to balance the rights of the convicted person while recognizing there is a victim behind every crime committed.

It is proposed that since NCN Citizens were sometimes submitting old criminal record checks, all criminal record checks must be current or NCN’s Electoral Officer will not accept them.

4 Council Vacancies

It is proposed that if a member of Council is convicted of a crime, is sentenced to jail, is no longer an NCN Citizen or is elected to another political office, that person’s seat on Council will become vacant and a by-election will be held. Council members would have the right to one leave of absence to seek another political office. If they do not get elected for that office, they would be able to continue serving on Council until the end of the term.

5 Electoral Officer Technical Amendments

It is proposed that various technical amendments be made to assist the Electoral Officer in conducting fair elections, such as:

- Providing information about the electoral process through various forms of communication

- Requiring each ballot to be initialed
- Appointing election workers to undertake certain tasks so the Electoral Officer does not have to personally do each task
- Deciding locations of polling stations, but allowing citizens to appeal if there are concerns about the locations established
- Defining procedures for using mail-in ballots
- Extending certain dates for taking required actions related to the elections
- Adding procedures for advance poll books, spoiled ballots and ballot counting
- Appointing scrutineers by the Electoral Officer
- Prohibiting certain types of activities by candidates and their supporters during the election
- Posting the final report on the election on NCN’s website.

6 Mail In Ballots

It is proposed that NCN’s Electoral Officer be able to decide whether or not to use mail-in ballots during an election. If mail-in ballots are used, certain defined procedures would have to be followed to ensure a secret ballot vote.

7 Appeals

It is proposed that rules for appointing the Appeal Committee be revised since meeting the current criteria makes it difficult for Council to find qualified people. The new provisions would require one Elder, one youth, two other NCN Citizens and an experienced Manitoba adjudicator. Anyone closely related to a candidate subject of an appeal would be in a conflict of interest and would not be able to sit on the Appeal Committee during that appeal.

8 Deputy Chief

It is proposed that NCN’s practice of appointing a Deputy Chief be added to the Election Code. It would be clarified that the Deputy Chief has full authority of the Chief if the Chief is unable or unwilling to act or is unavailable.

9 Corrupt Election Practice

It is proposed that the Election Code be clarified to define and make known as a corrupt election practice activities including purchasing drugs, alcohol or gifts for voters, whether directly or indirectly, intended to influence the outcome of voting intentions.

10 Swearing In Ceremonies

It is proposed that Nisichawayasi Nehethowuk ceremonies be included as part of the swearing-in ceremonies for Chief and Council.

Council urges all NCN Citizens to vote to approve the Election Code amendments on Monday, October 28.