



NCN Election Code 2013 PROPOSED AMENDMENTS

August 2013

Election Code Amendment Process

This document outlines the final package of proposed changes to the NCN Election Code that NCN Citizens are being asked to vote on. This final package has been prepared following consultations with NCN Citizens in November 2012, May, June and July 2013 as well as from feedback received via the NCN website. The full text of the current Election Code and information from the Rounds 1 and 2 consultations are available to read or download on the ncncree.com website. While Chief and Council and the technical team have carefully reviewed the material in this newsletter to ensure all proposed amendments to the Election Code are accurate, Chief and Council reserve the right to correct any errors or omissions prior to the vote on September 12th.

VOTE TO APPROVE PROPOSED AMENDMENTS

Thursday, September 12 between 8:00 am and 8:00 pm

Nelson House: United Church

Thompson: Mystery Lake Hotel Boardroom

Winnipeg: NCN Winnipeg Office, 3rd Floor,
Power Building, 428 Portage Avenue

History of Election Code and Proposed Amendments

Before 1998, elections for Chief and Council were held using *Indian Act* regulations. We have conducted the past four Council elections using our own Election Code. The Election Code was amended in 2002 and again in 2010. Following each election, the electoral officer and an independent observer prepared reports about the election and potential amendments to make the administration of our Election Code more efficient.

Referendum Rules

The original proposal included amendments to add Referendum Rules to the Election Code. These proposals were included in the package as during the Wuskwatim investment workshops held in the spring of 2012, NCN Citizens indicated they supported amalgamating our Trusts to save costs. A vote of NCN Citizens is needed to amalgamate or amend the Trusts. The current Election Code does not provide authority for NCN's Electoral Officer to conduct such votes so Election Code amendments were proposed to provide clear authority for our NCN electoral officer.

During Round 1 of the election code workshops, NCN Citizens expressed concerns about including the Referendum Rules in the Election Code. As a result, the referendum rules are not included in the final package of proposed Election Code amendments.

Transition Allowance

As the proposed transition allowance amendments continued to be contentious during the Round 2 workshops, Chief and Council decided not to include the transition allowance in the proposed package of Election Code amendments, even though severance payments were made to all defeated council members after each of the past three elections.

NCN Constitution

During the election code workshops, NCN Citizens made it clear that their priorities included documenting the roles and responsibilities of Chief and Council and a code of conduct for Chief and Council. They also wanted to know their rights as NCN Citizens. Chief and Council are working on

an NCN Constitution to address these and other issues including the role of Chief and Council and NCN Citizens in law-making processes. Chief and Council plan to have the first draft of the Constitution ready for discussion with NCN Citizens early this fall.

Chief and Council and the technical team carefully considered the question or questions that NCN Citizens should be asked to vote on. After much discussion, it was decided that a simple, straightforward question was the best approach as a ballot with 15 or more questions may lead to confusion for NCN Citizens and for the technical team in terms of trying to finalize the amendments. Therefore, the ballot question on September 12, 2013 will be:

Do you agree to the package of proposed amendments to the NCN Election Code?

YES NO





NISICHAWAYASIHK CREE NATION LAWS ELECTION LAW 1998-E1 AMENDMENTS

In addition to the following specific changes: “code” will be changed to “Election Law”; “election” will be changed to “council or board elections”; “elector” will be changed to “voter” and; “Member” will be changed to “NCN Citizen” as required throughout the Election Code.

PREAMBLE

■ **WHEREAS:** The Nisichawayasihk Cree Nation (also known as the *Nisichawayasi Nehethowuk*) live by reference to *Kihche’othasowewin* (the Great Law) which forms the basis of our spiritual and philosophical beliefs, values, principles and goals, and from this Great Law, our people developed customary law principles (also known as traditional laws) to define our rights and responsibilities and to govern our relationships so that we may live in harmony with all creation.

■ **WHEREAS:** The Nisichawayasihk Cree Nation has maintained its freedom, spiritual beliefs, languages, culture and traditions and has exercised its inherent rights of self-government from the beginning of time, which rights have never been relinquished or abandoned.

■ **WHEREAS:** In 1998, the Nisichawayasihk Cree Nation decided to document our electoral processes based on our inherent laws, and to make laws in writing for the continued governance of our citizens, the protection of our lands, the use of our resources, and the election of our government.

DEFINITIONS

For purposes of this Election Law only, unless expressly otherwise provided, the following terms shall be defined as follows:

- “Board” means any board of an NCN corporation, unincorporated entity or trust whose governing documents, or in the absence of direction in the governing documents, whose directors or trustees or Chief and Council have determined are to be elected pursuant to this Election Law.
- “Board election” means an election of Board members.
- “Election Law” means this Election Law including any amendments thereto, or any successor election law adopted by NCN.
- “Electoral Officer” means the person who is appointed by council to conduct council and board elections pursuant to this Election Law and where required includes deputy electoral officers.
- “*Kehtiyatis* (Elder)” means an NCN citizen who teaches others about Nisichawayasi culture, spirituality and traditions, assists elected leaders by providing respectful guidance, actively participates in community life and has achieved an honoured status in the Nisichawayasihk Cree Nation as a result of wisdom and knowledge the person displays.

■ “NCN Citizen” means a person who on the date a council or board election is held in accordance with this Election Law, is a citizen of the Nisichawayasihk Cree Nation pursuant to the Nisichawayasihk Cree Nation Membership Code which has been in force and effect since May 24, 1988, including any amendments thereto, or any successor code or citizenship law adopted by NCN.

■ “Nisichawayasihk Cree Nation” or “NCN” means the *Nisichawayasi Nehethowuk*.

■ “NCN Community Meeting” means a meeting of the voters of the Nisichawayasihk Cree Nation conducted in accordance with this Election Law.

■ “Reserve” means those lands set aside as reserves for the use and benefit of the Nisichawayasihk Cree Nation.

■ “*Onuwosonekew* (Voter)” means an NCN Citizen who is at least eighteen (18) years of age on the date of a council or board election is held in accordance with this Election Law.

■ “*Oskatis*” (Youth) means an NCN citizen who is between the ages of eighteen (18) and thirty- (30)-years-of age on the date a council or board election is held in accordance with this Election Law.

PART 1: COMPOSITION OF COUNCIL AND TERM OF OFFICE

Vacancy

3(5) Where the chief or a councillor:

- (a) is unable or unwilling to act;
- (b) is convicted of an indictable offence, a corrupt practice under this Election Law, or is sentenced to a jail term for any offence under or any Act of Parliament or the Legislature of Manitoba;
- (c) *Kanukutuskeet* (passes on);
- (d) subject to subsections (6) and (7), resigns from office in writing;
- (e) is absent from three (3) consecutive regular meetings of council without just cause as determined by majority vote at an NCN community meeting called for this purpose;
- (f) is found by council, the Appeal Committee, or a court of competent jurisdiction to have violated the Oath of Allegiance, Oath of Office or Oath of Confidentiality in the form set out in Schedules "A", "B" and "C";
- (g) is no longer an NCN Citizen; or
- (h) is elected as a member of Parliament, member of the Legislative Assembly, Grand Chief or Vice-Chief of the Assembly of First Nations, Grand Chief or Vice-Chief of the Assembly of Manitoba Chiefs, Grand Chief of the Manitoba Keewatinowi Okimakanak, tribal council representative or a mayor or councillor of a town or city; that person's position shall be declared vacant and a by-election shall be held immediately in accordance with this Election Law unless there are only six (6) months remaining before the expiry of council's term of office, in which case no by-election is required.

Leave of absence.

3(5.5) A chief or councillor who seeks election as a member of Parliament, member of the Legislative Assembly, mayor or councillor of a town or city, Grand Chief of the Assembly of First Nations, Grand Chief of the Assembly of Manitoba Chiefs or Grand Chief of Manitoba Keewatinowi Okimakanak, shall be granted no more than one leave of absence without pay from the position of chief or councillor during that person's term of office, which leave shall be from the date upon official documents required to run for such election are filed up to and including the date of the election.

By-election term of office.

3(7) A person elected in a by-election shall only hold office until the next regular election is held and the new chief and council is sworn into office in accordance with subsection 21 (3).

Prohibition on seeking Office

3(9) An NCN Citizen who is convicted of an indictable offence or is sentenced to serve a jail term any time after the election order has been issued, shall not be eligible to be a member of council for eight (8) years from the date of the conviction for an indictable offence or the conclusion of the period of incarceration a court orders is to be served for any offence, including an indictable offence, or any appeal arising from such conviction or jail sentence, whichever is later.

PART 2: ELECTORAL OFFICER

Appointment.

4(1) Subject to subsection (2), at least forty-five (45) days prior to the expiry of its term of office, council shall appoint a voter who communicates in *Nehethowiwini* and English, as the electoral officer for purposes of this Election Law.

Criminal records check.

4(2) No voter shall be appointed as an electoral officer if that person has been convicted of an indictable offence or has been sentenced to a jail term and the onus shall be on the voter to provide council with a written criminal records check prior to appointment.

Appointment of deputy electoral officer.

5(1) The electoral officer shall appoint deputy electoral officers, returning officers and such other officers and employees as are necessary to enable the electoral officer to carry out the duties assigned under this Election Law and to the extent possible shall appoint a deputy electoral officer for each polling location.

Powers and duties of the electoral officer.

8(1) The electoral officer shall:

- (a) exercise general direction and supervision over the administrative conduct of council and board elections;

- (b) ensure the voters list is prepared and posted in at least five (5) public locations on reserve at least fourteen (14) days prior to the date of the council or board election;
- (c) enforce fairness, impartiality and compliance with this Election Law on the part of all election officers;
- (d) delegate responsibility to any deputy electoral officers and other officers appointed by council as may be necessary to ensure the duties in this Election Law are carried out;
- (e) either before or after the nomination meeting, use media, information meeting or other means, to provide NCN Citizens with information about the electoral, including the provisions of this Election Law, nomination procedures, qualification of candidates, voting information and council or board election results;
- (f) determine the number and location of regular, advance and travelling polling locations, but there must be at least one regular polling location on reserve and if polling locations are to be changed in a subsequent election from the preceding election, at least six (6) months notice of the proposed change shall be given by the electoral officer to NCN Citizens who shall have the right to file an appeal with the electoral officer within fourteen (14) days of the notice being posted and the electoral officer shall refer the matter to the appeal committee within seven (7) days of receipt of the appeal;

- (g) appoint scrutineers in a council or board election if at least one scrutineer has not been appointed for each polls;
- (h) establish the procedures for mail-in ballots if a decision is made to use such ballots
- (i) perform such other duties as are prescribed by this Election Law.

Special powers of electoral officer.

- 8(2)** In addition to other powers, duties and functions of the electoral officer under this Election Law, the electoral officer may:
- (a) where an emergency arises, extend the time or dates for doing anything under this Election Law;
 - (b) increase the number of election officers;
 - (c) increase the number of polling stations;
 - (d) prescribe forms for the purposes of this Election Law;
 - (e) generally adapt the provisions of this Election Law to existing circumstances;
 - (f) use electronic balloting procedures; and
 - (g) exercise such other powers as are prescribed by or under this

Election Law; but the electoral officer may not change the dates of the nomination meeting, council or board election fixed by council resolution, or extend the hour for the opening or closing of an ordinary or advance poll or for accepting a nomination paper on the day fixed for the close of nominations in a council or board election unless the council or board election cannot proceed as a result of an emergency which affects NCN, such as a flood, forest fire or a similar type of emergency or other extenuating circumstances.

Reports on election.

9 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 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.

PART 3: ELECTION PROCEDURES**Who is entitled to vote.**

10(1) All voters are entitled to vote in council and board elections subject to the board's governing documents.

Council resolution commences election.

10(2) 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.

Election order.

10(3) Upon receipt of a resolution under subsection (2), the electoral officer shall immediately issue an order:

- (a) in the case of a council election:
 - (i) fixing the date for the filing of nomination papers by candidates, which date shall be, not more than fourteen (14) days and not fewer than seven (7) days from the date of the order;
 - (ii) fixing the date of the election no less than twenty-one (21) days and no more than twenty-eight days from the date of the close of nominations;
 - (iii) 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;
 - (iv) fixing the date of the advance poll as required by clause (b) (i), no less than fourteen (14) days after the nominating meeting is held;
 - (v) fixing the date and time of advance polls;
 - (vi) fixing the location of the polling places and the hours during which the polls will be open, and

- (vii) post the order in at least five (5) conspicuous places on reserve, 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, as well as on NCN's website.

- (b) in the case of a board election:

- (i) fix the date for the election
- (ii) fix the location of a polling place on reserve only and the hours during which the polls will be open
- (iii) post the election order on reserve and on the NCN website

Voters' list.

11(1) The electoral officer shall cause a voters' list to be prepared, which list shall contain the names of all voters in alphabetical order, which list shall be posted in at least five (5) public places on reserve and in the same locations the electoral order is posted, at least fourteen (14) days prior to the date of the council or board election.

Corrections to voters' list.

11(2) Any voter may apply to the electoral officer up to the time the polls close to have the voters' 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.

Electoral officer may revise list.

11(3) If the electoral officer is satisfied that the voters' list is in error, the electoral officer shall correct the list immediately and the decision of the electoral officer to revise or not to revise the voter's list is final and binding on all NCN citizens.

PART 4: NOMINATION PROCEDURES

Candidate qualifications.

12(1) A person is qualified and eligible to be nominated for, and elected to, the positions of chief or councillor if the person: is an NCN Citizen; is able to communicate in the English or *Nehethowiwini* languages; at the time nominations papers are filed provides the electoral officer with a written criminal records check that has been issued no more than three (3) months prior to the date of the nomination meeting, confirming the person has not been convicted of an indictable offence, within the eight (8) years prior to the date the election order is posted or the documentation permitted in accordance with subsections 12 (1.1) and 12 (1.4) and the person is not currently serving a jail sentence or has been sentenced to serve a jail sentence for an offence, but a person shall not run for the positions of chief and councillor during the same election.

Nomination papers.

12(6) Any twenty-five (25) or more voters may nominate a candidate by signing and filing with the electoral officer, at any time after the date of the order calling the election and before 1:00 in the afternoon of the day fixed for the close of nominations, a nomination paper in a form prescribed by the electoral officer.

Requirements for validity.

12(7) A nomination paper is not valid and shall not be acted upon by the electoral officer unless it is accompanied by:

- (a) a non-refundable fee of fifty dollars (\$50.00), which fee shall be placed by the electoral officer in a separate election account to be used to help fund election costs;

- (b) written consent that the person nominated will run for the office nominated;
- (c) directions about how that person's name is to appear on the ballot; and
- (d) a two-inch by two-inch black and white photograph of the candidate for use in the preparation of the ballot.

Candidates to be present.

12(9) Subject to subsection (7), all voters nominated shall attend the nomination meeting to confirm that they wish to stand for office and to outline their reasons for seeking office, or the electoral officer shall declare the nomination to be null and void, unless in the sole discretion of the electoral officer it is determined there are special circumstances which prevent a nominee from complying with this subsection

Permitted absences.

12(10) A voter's candidacy will not be declared null and void if that person is unable to attend the nomination meeting due to personal illness or a critical illness or death of an immediate family member and as long as the electoral officer or deputy electoral officer is notified prior to the nomination meeting.

Withdrawal.

12(11) Any voter nominated may withdraw at the nominating meeting or at least seven (7) days before election day, by filing a written notice to that effect signed by the candidate and witnessed by two voters and that candidate's name shall not be placed on the ballot.

PART 5: POLLING PLACES

Establishment of polling places.

13(1) The electoral officer shall make arrangements for polling places, on-and off-reserve, which are easily accessible for voting during the council or board elections.

Security to be present at each polling location.

13(3) The electoral officer shall arrange for NCN constables or other security to be present at each polling location during the council or board elections.

Travelling poll for elders, infirm or disabled.

13(4) The electoral officer may make arrangements for travelling polls for elders, and any voters who are ill or disabled, if the electoral officer decides such a poll is required.

Mail-in ballots.

13 (7) The electoral officer may, at least one hundred and twenty (120) days before a council election decide that mail-in ballots shall be used in addition to voting in person for by notifying the electoral officer in writing, which notice shall direct the electoral officer to send ballots to all eligible NCN citizens who live at least one hundred kilometers from a polling station

or only to those who request a mail-in ballot.

For greater certainty, mail-in ballots shall not be utilized for board elections unless permitted by the board's governing documents.

Electoral officer to decide procedures.

13(8) Upon being notified that mail-in ballots are to 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 election.

Fundamental principles.

13(9) The procedures established by the electoral officer for the use of mail-in ballots must:

- (a) ensure the secrecy of the voting process is not impaired;
- (b) prevent NCN citizens from voting more than once during the same election,
- (c) ensure that only mail-in ballots received by the date and time set for them to be received by the electoral officer are counted at the same time as ballots cast by voting in person; and

(d) ensure that all mail-in ballots cast are preserved in the same manner and for the same length of time as regular ballots, and then shall be disposed of with all other ballots cast.

Preparation of election ballots.

14(1) Following the nomination meeting held in accordance with subsection 13(5), the electoral officer shall prepare separate ballots for the positions of chief and councillors, or board positions with the names of the candidates running for each position listed in alphabetical order in English, *Tunehethouwasteek* (Cree syllabics), _____ (Roman orthography)

and by placing a photograph of each candidate appearing on the ballot beside his or her name, but if there is a discrepancy between the picture, syllabics or roman orthography, the picture of the candidate shall prevail.

Sealing the advance poll ballot box at closing.

16(5) At the close of an advance poll, the electoral officer shall take possession of the ballot boxes used and shall keep them, without the seals broken, in a safe location until the final day of the election or referendum day, when they shall be opened and counted separately from the ballots cast on the final day of the election or referendum.

PART 6: POLLING PROCEDURES

Provision of ballots to voters.

17(1) Each person requesting a ballot for the purpose of voting shall be given one if the electoral officer, deputy electoral officer or the returning officer is satisfied that the person's name is on the voters' list, or if it does not appear on the voters' list, the electoral officer, deputy electoral officer or returning officer is satisfied that the person is a voter entitled to vote or has obtained from the person, an oath or affirmation in the prescribed form, that the person is a voter.

Recording poll book.

17(2) Upon establishing that a person is a voter, the electoral officer, the deputy electoral officer or the returning officer shall initial the back of the ballot, mark off the voter's name in the poll book or add the voter's name to the poll book, and give the ballot to the voter to vote.

Voter assistance.

17(3) When requested, the electoral officer, the deputy electoral officer or a returning officer shall explain the voting procedures to a voter or arrange for an interpreter who has taken an oath or affirmation in the prescribed form to assist the voter.

Disabled voters.

17(4) The electoral officer, the deputy electoral officer or a returning officer may upon request mark the ballot of a voter who is blind, unable to read or otherwise unable to vote without assistance, as long as the mark on the ballot occurs in the presence of the candidates' scrutineers, who shall observe the proceedings, but make no attempt to interfere or interrupt.

Special records.

17(5) Where assistance is provided pursuant to subsection (4), the electoral officer, the deputy electoral officer or the returning officer shall mark in the poll book opposite the voter's name, that assistance was provided and the reason it was provided.

Additional ballots.

17(6) Where a voter spoils a ballot so that it cannot be used, another ballot shall be provided to the voter and the spoiled ballot shall be marked "Spoiled" and be retained in a separate envelope for that purpose.

Voters leaving polling place without voting.

17(7) If a voter receives a ballot and then leaves the polling place without voting or returning the ballot to the electoral officer, deputy electoral officer or returning officer, the details shall be recorded in the poll book opposite the name of that voter and no further ballot shall be provided to that person.

Voters can vote if inside poll before closing time.

17(8) Every voter who is inside the polling location before the poll is closed pursuant to subsection (9) shall be entitled to vote notwithstanding that the vote occurs after the time fixed for closing the poll.

Closing polls.

17(9) At the time established for closing the polls, the electoral officer, deputy electoral officer or returning officer shall cause the entrance to the polling place to be closed and no other person shall be allowed to enter the polling location to vote after that time.

Spoiled ballots.

18(1) During a council or board election the electoral officer, deputy electoral officer or returning officer shall initial each spoiled ballot, in the presence of those present at the advance or regular polling location, and then place such spoiled ballot papers in an envelope marked "Spoiled Ballots", and immediately after the closing of the poll, seal it, and the spoiled ballots shall not be counted in the council or board election.

Counting names in the poll book.

18(2) After closing the poll the names of the persons who voted at each poll shall be counted and recorded in the poll book, and the electoral officer, deputy electoral officer or returning officer shall sign the poll book to verify its accuracy, along with those candidates or scrutineers who also wish to sign and if the poll book was used to record the people who voted in an advance poll, the poll book shall be retained by the electoral officer, or deputy electoral officer or returning officer who will be present on the day of the election so that they can take all reasonable steps to ensure that a person does not cast more than one ballot in the election. For greater certainty, the poll books from advance polls shall not be sealed in the ballot box but shall be used during the vote as permitted by this section and then shall be used on the day of the vote during the count of the advance poll ballots.

Count number of ballots in ballot box.

18(3) Prior to tallying the votes for each candidate, the ballots in the ballot box shall be counted and if the number is more than the number recorded in the poll book, any ballots which do not have the initials of a electoral officer, a deputy returning officer or a returning officer on the back shall be discarded, by placing the ballot in an envelope marked "Discarded Ballots", which envelope shall be sealed at the close of the polls and signed by the electoral officer or a deputy returning officer.

Ballots to be rejected in count.

18(4) In counting the ballots, the electoral officer, a deputy electoral officer and returning officers shall reject a ballot that:

- (a) was not supplied by them;
- (b) has marks beside more than one (1) candidate in the case of chief and more than six (6) candidates in the case of councillors in an election;
- (c) has a mark or writing on it which identifies the voter;
- (d) indicates a vote for a candidate who was disallowed, has withdrawn from an election or who passed on during the election; or prevents voter intention from being determined.

Announcing results.

18(5) After the number of votes cast for each candidate has been determined, recorded in the poll book, and copies sent to the electoral officer, the electoral officer shall tally the totals received from each poll, enter the results into his or her master poll book, and certify those were the results received, the electoral officer shall announce the results to the public and post a signed statement indicating the results of the election.

Disposal of ballots.

18(6) The electoral officer shall place all unused, spoiled, discarded and rejected ballots received from each polling location in a sealed envelope and shall retain that envelope for thirty (30) days after which arrangements

shall be made for the ballots to be destroyed in the presence of a deputy electoral officer, at least one returning officer, and one police or security officer, unless there has been a request for a recount or an appeal has been filed, in which case the ballots shall not be disposed of until the conclusion of any appeal proceedings or upon the expiry of the time for filing an appeal, whichever is later.

Election Scrutineers.

18(7) Each candidate in an election may appoint a voter as his or her scrutineer for each poll, which scrutineer shall be entitled to be present at the polling station to observe proceedings throughout the election and counting of the ballots but the electoral officer shall take the necessary steps to ensure there are scrutineers appointed in accordance with clause 8 (1) (g) if scrutineers have not been appointed by candidates.

Prohibition on certain activities during elections

18(8) Any person who is a candidate in a council or board election and who:

- (a) posts signs inside the polling station or within one hundred and fifty (150) feet of the polling station or wears any campaign materials within this area;
- (b) on voting day in an election canvasses within the same area identified in clause (a);
- (c) paints signs on the walls of buildings, including houses; whether by engaging in such activities himself or herself or by directly or indirectly encouraging others to engage in such activities, shall be disqualified as a candidate by the electoral officer, and any votes cast for this candidate shall not be counted by the electoral officer, except in the case of clause (c), the electoral officer shall first give the candidate notice that the signs painted on the buildings must be removed within twenty-four hours of notice being given, and if the sign painted on the building is not removed, the candidate shall be disqualified.

PART 7: APPEAL PROCEDURES

Appeal Committee.

19(1) By May 15th of the last year of its term, Council shall appoint an Appeal Committee for purposes of this Election Law, which Appeal Committee shall remain in office until a new Appeal Committee is appointed.

Composition of Appeal Committee.

19(2) Five (5) persons, including one (1) Elder one (1) youth, and an experienced Manitoba adjudicator all of whom are prepared to carry out the responsibilities of this Part in a fair and impartial manner shall be appointed by council to serve as the Appeal Committee and at the same time, council shall also name five (5) persons as alternates whom the electoral officer may appoint if a quorum cannot be retained.

Not Eligible to serve on Appeal Committee.

19 (3.1) The electoral officer, deputy electoral officers, returning officers, election staff, members of chief and council, candidates, persons who have been convicted of an indictable offence or have been sentenced to serve a jail term within the past eight (8) years, persons employed by NCN, and immediate family or business partners of candidates shall not serve on the Appeal Committee. For purposes of this Part, immediate family shall consist of spouses, common-law partners, siblings, parents, children, grandparents, grandchildren, great-grandparents, aunts, uncles or first cousins. If an appeal is filed, and a Committee member must be recused from hearing an appeal, an alternate Appeal Committee member shall be appointed by the electoral officer within seven (7) days of the date the person recused himself or herself.

Recusal.

19(3.2) Committee members shall recuse themselves at any time if an issue arises that would result in a conflict of interest or a perception of bias if the person continued to serve on the Appeal Committee and if a quorum can not be retained due to the recusal of appeal committee members, the electoral officer shall appoint replacement members from the list of alternates within five (5) days of being notified that a quorum can not be retained.

Terms of Appeal Committee members.

19(4) The Appeal Committee shall hold office until all appeals and any litigation arising from the appeals has been concluded.

Election final and binding.

19(5) The appointments of council to the Appeal Committee shall be final and binding on all voters.

Vacancies.

19(6) Where a member of the Appeal Committee:

- (a) is unable or unwilling to act;
- (b) is convicted of an indictable offence, or a corrupt practice under this Election Law or any other Act of Parliament or the Legislature of Manitoba or is sentenced to serve a jail term;
- (c) dies or resigns in writing, which resignation shall take effect as soon as it is submitted to a quorum of council;
- (d) is absent from three (3) consecutive regular meetings of the Appeal Committee without just cause as determined by an NCN community meeting called for this purpose; or
- (e) is no longer an NCN citizen.

that person's position shall be declared vacant and council in accordance with the composition requirements in subsection (2) shall make a new appointment within fourteen (14) days of the position becoming vacant.

Recount by Appeal Committee.

20(4) Upon receipt of an appeal, the Appeal Committee shall meet within seven (7) days to conduct a recount in accordance with subsection (4).

Corrupt practice appeal.

20(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:

- a) a violation of this Law which may affect the results of the election; or
- b) a corrupt practice in connection with the election, which may affect the results of the election, including any attempt to influence voting intentions through the purchase of, or contribution to the purchase of, alcohol, drugs or other gifts for voters.

Other Appeals.

20(6) Within seven (7) days of any decision under this Law, which adversely affects the rights of any candidate or voter, that person may file an appeal with the Appeal Committee.

Final decision.

20(12) A decision of the Appeal Committee pursuant to subsections (9), (10) and (11) shall be final and binding on all voters.

Judicial review costs.

20(14) NCN shall bear all reasonable costs incurred by the Appeal Committee and all election staff in respect of a judicial review pursuant to subsection 20(13), but all other parties to such judicial review shall bear all of their own direct and indirect costs, unless the court expressly orders NCN to pay a portion of the costs of any other party.

PART 8: INAUGURATION CEREMONIES**Traditional swearing in.**

21(3) The swearing in ceremony for the chief and individual councillors shall include traditional *NisichawayasiNehethowuk* ceremonies and activities.

Deputy Chief.

21 (5) The councillor who receives the most votes in the election shall be appointed deputy chief at the first regular council meeting following the

traditional swearing in, and shall have the full powers of the chief in the absence of the chief or if the chief becomes incapacitated or is unable or unwilling to perform the duties of chief until a by-election is held if required by this Election Law, unless the councillor who receives the most votes declines the position, in which case council shall appoint a deputy chief from among those persons elected as councillors.

PART 9: AMENDING PROCEDURES (FORMERLY PART 9) CHANGES PART NUMBER AND LOCATION IN DOCUMENT AND CLAUSE NUMBERS CHANGED THROUGHOUT. SHOWN SIDE BY SIDE FOR COMPARISON.

Amendment proposals.

22(2) Any voter or member of council may propose amendments to this Election Law by presenting such proposals to the electoral officer or council who shall review the proposals.

Vote to amend by secret ballot.

22(5) Traditional voting methods shall be used to amend the Election Law, unless there is a request by at least twenty (20) voters to hold a secret ballot vote.

Approval required to amend.

22(6) No proposed amendment shall be effective unless approved by a majority of voters present at the NCN community meeting referred to in subsection 22(3) where at least one hundred (100) voters are in attendance.

PART 10: EFFECTIVE DATES MOVES EFFECTIVE DATES UNDER SEPARATE PART 12. CHANGES CLAUSE NUMBERS.

Effective date of Election Law.

23(1) This Election Law came into effect for the election of chief and council in 1998.

Effective date of amendments. 2002 Amendments.

Section 10(b) was amended to provide the electoral officer with the discretion to establish the number and location of polls and came into force for the 2002 Council elections.

2010 Amendments.

Sections 12 and 20 – Were amended and came into force for the 2010 election, more particularly:

- Section 12(1)(c) – Ordinary residents requirement for candidates was deleted;
- Section 12(1)(d) – Was then renumbered to 12(1)(c);
- Section 12(1.1) – Codified the electoral officer’s practice of accepting a statutory declaration in certain circumstances related to criminal record checks;

- Section 12(1.2) – Candidates election will be null and void if the statutory declaration is inaccurate;
- Section 12(1.3) – The electoral officer will hold a by-election or declare a candidate elected depending upon the circumstances;
- Section 12(1.4) – Outlines the consequences of making a false statutory declaration;
- Section 12(2) – Factors to determine ordinary residents were deleted;
- Section 20(10) – Requires the appeal committee to make its decision within 30 days unless there are extenuating circumstances.

2013 Amendments

In 2013 Sections _____ were amended and are to come into force effective September 1, 2013, more particularly _____.

SCHEDULES

SCHEDULE "A" OATH OF ALLEGIANCE

I _____ before the **Creator** and Citizens of the Nisichawayasihk Cree Nation, do swear or solemnly affirm that I will be faithful and bear true allegiance to the laws of the Nisichawayasihk Cree Nation and Canada. I acknowledge that failure to do so could result in my removal from office.

Witness: _____

Chief/Councillor _____

Date: _____

SCHEDULE "B" OATH OF OFFICE

I _____ before the **Creator** and Citizens of the Nisichawayasihk Cree Nation, do swear or solemnly affirm that I duly, faithfully and to the best of my knowledge and ability perform and fulfill the duties and requirements of the office of (Chief or Councillor) for the Nisichawayasihk Cree Nation, to which I have been elected, and so long as I shall continue to hold that office, without fear or favour. I acknowledge that failure to do so may result in my removal from office.

Witness: _____

Chief/Councillor _____

Date: _____

SCHEDULE "C" OATH OF CONFIDENTIALITY

I _____ before the **Creator** and citizens of the Nisichawayasihk Cree Nation, do swear or solemnly affirm that I will maintain, and aid in maintaining, the privacy of Citizens of the Nisichawayasihk Cree Nation and shall keep confidential any information disclosed to me by such citizens unless I am required by law to disclose same. I acknowledge that failure to do so may result in my removal from office.

Witness: _____

Chief/Councillor _____

Date: _____

SCHEDULE "D" OATH OF ELECTION OFFICIALS

I _____ swear or solemnly affirm that:

I am legally qualified to act as electoral officer, deputy electoral officer or other officer;

I will act faithfully in my appointed capacity and perform all the duties required under the Election Law of the Nisichawayasihk Cree Nation, without partiality, fear, or favour or affection;

I will maintain and aid in maintaining the secrecy of voting pursuant to this Election Law.

SWORN before me at Nelson House, _____)

in the Province of Manitoba _____)

this _____ day of _____, 20____. _____)

_____)

A Commissioner for Oaths in and for the Province of Manitoba.

My Commission expires _____

Note: Only clauses with changes are shown.

NCN Election Code 2013 Proposed
AMENDMENTS

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 law. Or, information can be picked up at the NCN Government Office.



Nisichawayasihk Cree Nation

General Delivery

Nelson House, Manitoba R0B 1A0

Phone: (204) 484-2332 Fax: (204) 484-2392

www.ncncree.com