

NISICHAWAYASIHK CREE NATION LAWS

ELECTION CODE

1998-E1

- WHEREAS:** The Nisichawayasihk Cree Nation believes that the Creator made the lands and the citizens of the Nisichawayasihk Cree Nation. The Creator gave us laws that define our rights and responsibilities and govern all our relationships so that we may live in harmony with nature and mankind.
- WHEREAS:** The Nisichawayasihk Cree Nation has maintained its freedom, spiritual beliefs, languages, culture and traditions and has exercised powers of self-government from the beginning of time.
- WHEREAS:** The Nisichawayasihk Cree Nation wishes to make laws in writing for the governance of its citizens, the protection of its lands, the use of its resources, and the election of its government.

THEREFORE THIS LAW by and with the advice of the citizens of the Nisichawayasihk Cree Nation, is enacted as follows:

Definitions

- 1 For purposes of this Code only, unless expressly otherwise provided, the following terms shall be defined as follows:
 - "Chief" means the Chief of the Nisichawayasihk Cree Nation elected and in office according to this Code.
 - "Code" means this Election Code including any amendments thereto, or any successor election code adopted by Nisichawayasihk Cree Nation.
 - "Council" means the Chief and Councillors elected in accordance with this Code.
 - "Council Resolution" means a resolution or motion passed by a majority of members of Council.
 - "Electoral Officer" means the person who is appointed by Council to conduct elections pursuant to this Code and where required includes Deputy Electoral Officers.
 - "Elector" means a member who is at least eighteen (18) years of age on the date of an election held in accordance with this Code.
 - "Election" includes a by-election.
 - "Elder" means a member who 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.

"Member" means a person who on the date of an election or by-election held in accordance with this Code, is a member 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 adopted by the Nisichawayasihk Cree Nation.

"Nisichawayasihk Cree Nation" means the Nisichawayasihk Cree Nation which is comprised of Cree peoples and is a band for purposes of the *Indian Act*, R.S.C. 1985, c. I-5 as amended.

"Nisichawayasihk Cree Nation Community Meeting" means a meeting of the electors of the Nisichawayasihk Cree Nation conducted in accordance with this Code.

"Reserve" has the same meaning as in the *Indian Act*, R.S.C. 1985, c. I-5 as amended, but only refers to those reserves set apart for the use and benefit of the Nisichawayasihk Cree Nation.

"Ordinarily resident" means an elector whose usual place of residence is on reserve or on lands immediately adjacent to the reserve.

PART 1: COMPOSITION OF COUNCIL AND TERM OF OFFICE

Composition of Council

2 Subject to section 3, Council shall consist of one (1) Chief and six (6) Councillors.

Term of Office

3(1) Subject to subsections 3 and 5, the Chief and Councillors shall hold office for a four (4) year term.

No Limitation on Terms of Office

3(2) There shall be no limit on the number of times an elector can be elected to the positions of Chief or Councillor.

Early Elections

3(3) Council may call an election at any time prior to the expiry of its term of office.

Assumption of Office

3(4) All candidates elected to Council shall assume office within fourteen (14) days after the election.

Vacancy

3(5) Where the Chief or a Councillor:

- (a) is unable or unwilling to act;
- (b) is convicted of an indictable offence, or a corrupt practice under this Code or any other Act of Parliament or the Legislature of Manitoba;
- (c) dies;
- (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 no longer ordinarily resident on reserve;
- (g) 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"; and
- (h) is removed from the NCN Membership Code.

that person's position shall be declared vacant and a by-election shall be held immediately in accordance with this Code 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.

Procedure for Resigning from Council

3(6) To be effective, a resignation submitted in accordance with clause 3(5)(d) shall:

- (a) where a Councillor resigns, be submitted to the Chief; and
- (b) where the Chief resigns, be submitted to a quorum of Council,

upon which the seat shall become vacant immediately without any further action being necessary by the Chief or quorum of Council, but the other members of Council and members shall be notified about the resignation as soon as is reasonably possible.

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.

Suspension

3(8) If a Chief or a Councillor is charged with an indictable offence, Council may, for the duration of that person's term of office or until such time as the person is found innocent or guilty, whichever is earlier, suspend that person from office without compensation. If the person is found innocent, he or she shall be entitled to reimbursement of any salary from the date of the suspension to the date duties are resumed.

Prohibition on Seeking Office

3(9) A Chief or Councillor convicted of an indictable offence shall not be eligible to be a member of Council for eight (8) years from the date of the conviction or any appeal arising from such conviction, 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 an elector who communicates in Cree and English, as the Electoral Officer for purposes of this Code.

Criminal Records Check

4(2) No elector shall be appointed as an Electoral Officer if that person has been convicted of an indictable offence and the onus shall be on the elector to provide Council with a written criminal records check prior to appointment.

Term of office

4(3) Council shall appoint the Electoral Officer for a term of five (5) years.

Term of Office

4(4) The Electoral Officer shall hold office until expiry of the term of office referred to in subsection (3), but can be removed for just cause by a vote in favour or removal by a majority of Council.

Appointment of Deputy Electoral Officer

5(1) Council may 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 Code.

Power of Deputy to Act in Place of Electoral Officer

5(2) Where the office of Electoral Officer is vacant, or where the Electoral Officer is, by reason of absence, incapacity or any other cause, unable to act, the Deputy Electoral Officer shall act as the Electoral Officer until the vacancy is filled, or during the period that the Electoral Officer is unable to act, and when acting as Electoral Officer under this subsection, a Deputy Electoral Officer is charged with, and shall perform, the duties of, and has all the powers, rights, privileges and authority granted to, or vested in, the Electoral Officer under this Code.

Electoral and Deputy Electoral Officer May Vote

6 The Electoral Officer, and any Deputy Electoral Officers appointed pursuant to subsection 7(1), shall not engage in, or participate in any political activities in favour of or against, any person running for Council, but the Electoral Officer and any Deputy Electoral Officers may vote in any election held under this Code.

Oath of Confidentiality

7 The Electoral Officer, any Deputy Electoral Officers and other officers shall take an Oath of Confidentiality in the form of Schedule "D" prior to assuming any duties under this Code.

Powers and Duties of the Electoral Officer

8(1) The Electoral Officer shall:

- (a) exercise general direction and supervision over the administrative conduct of 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 election;
- (c) enforce fairness, impartiality and compliance with this Code on the part of all election officers;
- (d) issue to instructions to any Deputy Electoral Officers and other officers appointed by Council as may be necessary to ensure the duties in this Code are carried out; and
- (e) perform such other duties as are prescribed by this Code.

Special Powers of Electoral Officer

8(2) In addition to other powers, duties and functions of the Electoral Officer under this Code, the Electoral Officer may:

- (a) where an emergency arises, extend the time or dates for doing anything under this Code;
- (b) increase the number of election officers;
- (c) increase the number of polling stations;
- (d) prescribe forms for the purposes of this Code;
- (e) generally adapt the provisions of this Code to existing circumstances; and
- (f) exercise such other powers as are prescribed by or under this Code;

but the Electoral Officer may not change the dates of the nomination meeting or election 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 an election unless the election cannot proceed as a result of an emergency which affects NCN, such as a flood, forest fire or death of a member or other person.

Reports on Election

- 9** After each election, the Electoral Officer shall make a written report within seven (7) days, to Council on the conduct of the election, and may make recommendations about amendments to this Code or the procedures to be followed during elections and Council shall make this report available to members immediately upon receiving it.

PART 3: ELECTION PROCEDURES

Electors Entitled to Vote

- 10(1)** (a) All electors are entitled to vote in Council elections.

The Electoral Officer may, in her absolute discretion, determine the number and location of regular, advance, and travelling polling locations. At a minimum, there must be at least one regular polling location on reserve.

Council Resolution Commences Election

- 10(2)** Every election shall be commenced by a Council resolution calling an 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) fixing the date, not more than fourteen (14) days and not fewer than seven (7) days from the date of the order for the filing of nomination papers by the candidates;
 - (b) fixing the date of the election no less than seven (7) days and no more than fourteen (14) days from the date of the close of nominations;
 - (c) fixing the date for a nominating meeting to be held, which date shall be no more than three (3) days after the date for filing nomination papers;
 - (d) fixing the date and time of advance polls; and

- (e) fixing the location of the polling places and the hours during which the polls will be open, and post the order in at least five (5) conspicuous places on reserve.

Voters' List

11(1) The Electoral Officer shall cause a voters' list to be prepared, which list shall contain the names of all electors in alphabetical order, which list shall be posted in at least five (5) public places on reserve at least fourteen (14) days prior to the date of the election.

Corrections to Voters' List

11(2) Any elector may apply to the Electoral Officer up to the time the polls close to have the voters' list revised on the basis that the elector's name is missing from the list, the name of the elector is incorrect or that the list contains names of persons who are not qualified electors.

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 members.

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:

- (a) is an elector;
- (b) is able to communicate in the English or Cree languages;
- (c) is ordinarily resident on reserve on the lands immediately adjacent to the reserve as determined by the factors in ss.12(2) prior to the date of the nominating meeting referred to in ss.12(5); and
- (d) at the time nomination papers are filed provides the Electoral Officer with a written criminal records check confirming the person has never been convicted of an indictable offence,

but a person shall not run for the positions of Chief and Councillor during the same election.

Factors Applied to Determine Ordinarily Resident

12(2) For purposes of this Code, in determining whether an elector is ordinarily resident on reserve, or on lands immediately adjacent to the reserve, without limiting the generality of the foregoing, the Electoral Officer shall consider:

- (a) where the person normally eats and sleeps;
- (b) where the person receives personal mail;
- (c) where the person's immediate family lives;

- (d) where the person is employed, or if self-employed, where the person conducts his or her business; and
- (e) if the person is living off reserve for reasons related to health or education.

Nomination Papers

12(3) Any twenty-five (25) or more electors ordinarily resident on reserve or the lands immediately adjacent to the reserve, 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(4) 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.

Nomination Meeting

12(5) The Electoral Officer shall attend the nomination meeting and announce orally and in written form the names of the persons who have been nominated, whether they qualify and whether they are prepared to allow their names to be placed on the ballot.

Candidates to be Present

12(6) Subject to subsection (7), all electors 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(7) An elector'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(8) Any elector 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 electors and that candidate's name shall not be placed on the ballot.

Acclamation

12(9) Where only one (1) candidate is nominated for Chief or only six (6) candidates are nominated for the position of Councillor, or after any withdrawals of candidates pursuant to subsection (6) and (8) only one (1) candidate for Chief, or only six (6) candidates for the position of Councillor, remain nominated, the Electoral Officer shall immediately declare the Chief or the Councillor candidates elected, as the case may be.

PART 5: POLLING PLACES**Establishment of Polling Places**

13(1) The Electoral Officer shall make arrangements for polling places which are easily accessible for voting during the advance poll and on election day.

Voting Arrangements for Secret Ballot

13(2) Every polling place other than the travelling poll, be arranged in a well lit area so that each voter is screened from observation and can without interference or interruption mark ballots.

NCN Constables to be Present

13(3) The Electoral Officer shall arrange for NCN constables to be present at the polling location during the election.

Travelling Poll for Elders, Infirm or Disabled

13(4) The Electoral Officer may make arrangements for travelling polls on reserve for elders, and any electors who are ill or disabled, if the Electoral Officer decides such a poll is required.

Facilities in Travelling Polls

13(4) Every travelling poll established under subsection (4) shall allow each voter to mark ballots without interference or interruption, and to the extent possible, without observation by other people.

Change of Polling Locations

13(6) Where it is impossible to hold a poll in a place designated as a polling place, the Electoral Officer may establish another polling place as close as possible to the original polling place and in that event shall:

- (a) notify the electors and the candidates of the change in polling place and the reasons for the change;
- (b) post, at the original polling location or as close as possible to it, a notice which clearly sets out where the poll has been moved;
- (c) if time permits broadcast the change in location over local radio or television or by other means as the Electoral Officer considers appropriate.

Preparation of 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, with the names of the candidates running for each position listed in alphabetical order in English and Cree syllabics and by placing a photograph of each candidate appearing on the ballot beside his or her name.

Withdrawal of Candidates

14(2) Where a candidate withdraws after the ballots have been printed, the Electoral Officer shall reprint the ballots unless it would not be possible to reprint the ballots in time for the election, in which case, the Electoral Officer shall strike the person's name from the ballot and have notices posted at the polling place clearly indicating that the candidate withdrew from the election.

Ballot Boxes, etc

15(1) The Electoral Officer shall arrange for sufficient ballots, ballot boxes and interpreters for the election.

Directions for Voters

15(2) The Electoral Officer shall provide each returning officer with the ballot boxes and at the same time deliver a sufficient number of printed directions for the guidance of voters for use during the election.

Posting of Directions

15(3) The returning officer shall cause the printed directions for the guidance of voters to be posted in visible locations at the polling place and they shall remain in place while the polls are open.

Opening Polling Location

16(1) The Electoral Officer, the Deputy Electoral Officer, returning officers and other officers shall arrive at the polling location at least thirty (30) minutes before the hour fixed for the opening of the polls.

Handling of Ballot Box When Poll Opens

16(2) The Electoral Officer shall cause each ballot box to be shown to those persons present so that they may see that it is empty and then it shall be locked or sealed until the polls close.

Placement of Ballot Box During Election

16(3) All ballot boxes shall be kept on a table or otherwise be raised above the floor so that they are in full view of all present at the polling location throughout the election.

Treatment of Travelling Poll Ballot Box

16(4) The returning officer responsible for the travelling poll established pursuant to subsection 14(4) shall comply with subsection (2).

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 election day, when they shall be opened and counted separately from the ballots case on election day.

PART 6: POLLING PROCEDURES**Provision of Ballots to Electors**

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 or Deputy Electoral Officer is satisfied that the person is an elector entitled to vote or has obtained from the person, an oath or affirmation in the prescribed form, that the person is an elector.

Recording Poll Book

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

Voter Assistance

17(3) When requested, the Electoral Officer or the Deputy Electoral Officer shall explain the voting procedures to an elector or arrange for an interpreter who has taken an oath or affirmation in the prescribed form to assist the elector.

Disabled Voters

17(4) The Electoral Officer or the Deputy Electoral Officer may upon request mark the ballot of an elector 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 or the Deputy Electoral Officer shall mark in the poll book opposite the elector's name, that assistance was provided and the reason it was provided.

Additional Ballots

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

Elector Leaving Polling Place Without Voting

17(7) If an elector 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 elector and no further ballot shall be provided to that person.

Electors Can Vote If Inside Poll Before Closing Time

17(8) Every elector 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 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.

Camera

17(10) Following the closing of the polls, the Electoral Officer may authorize the procedures in subsections 19(1) and (5) to be recorded by camera or other video recording device as long as voter secrecy is maintained and all recordings are provided to the Electoral Officer immediately following the vote and only the Electoral Officer shall have access to the recording unless the election proceedings are the subject of an appeal in which case certified copies of the recording shall be made available to the Appeal Committee and any candidate upon request.

Spoiled Ballots

18(1) Immediately after the closing of the poll, the Electoral Officer shall, in the presence of those present at the polling location, place all spoiled ballot papers in an envelope and mark it "Spoiled Ballots", seal it, and the spoiled ballots shall not be counted in the 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 or Deputy Electoral Officer shall sign the poll book to verify its accuracy, along with those candidates or scrutineers who also wish to sign.

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 Electoral Officer.

Ballots to be Rejected in Count

18(4) In counting the ballots for each candidate, 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;
- (c) has a mark or writing on it which identifies the voter;
- (d) indicates a vote for a candidate who has withdrawn; or
- (e) 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 signed by the Electoral Officer, 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 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 NCN constable, 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.

Scrutineers

18(7) Each candidate may appoint an elector 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.

Prohibition on Signs and Campaigning

18(8) Any candidate who:

- (a) posts signs inside the polling station or within one hundred and fifty (150) feet of the polling station;
- (b) canvasses within the same area identified in clause (a);
- (c) authorizes media announcements or advertisements within the twenty-four (24) hours prior to the opening of the polls,

shall be disqualified as a candidate, and subject to subsection 21, any votes cast for this candidate shall not be counted by the Electoral Officer.

PART 7: APPEAL PROCEDURES**Appeal Committee**

19(1) Within fourteen (14) days of the coming into force of this Code, Council shall appoint an Appeal Committee for purposes of this Code:

Composition of Appeal Committee

19(2) The Appeal Committee shall be composed of:

- a) two (2) elders, one (1) of whom shall have served on Council previously;
- b) one (1) elector who served as an Electoral Officer or a Deputy Electoral Officer in previous elections under this Code or the Indian Act;
- c) one (1) elector who is between the ages of eighteen (18) and twenty-five (25) years of age;
- d) one (1) member who is a magistrate or Commissioner of Oaths; and
- e) one (1) elector who is ordinarily resident on reserve or on lands immediately adjacent to reserve.

New Appointment

19(3) The members of the Appeal Committee shall remain in office until new members are appointed by a new Council no earlier than sixty (60) days after the Council is sworn into office, but the Appeal Committee shall complete all matters before it, prior to the new appointments taking effect.

Terms of Appeal Committee Members

19(4) The members referred to in clauses 2(a), (b) and (c) shall be appointed for a term of four (4) years and the members referred to in clauses 2(d) and (e) shall be a term of five (5) years.

Election Final and Binding

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

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 Code or any other Act of Parliament or the Legislature of Manitoba;
- (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;
- (e) is no longer ordinarily resident on reserve;
- (f) is removed from the NCN Membership Code,

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.

Application For A Recount

20(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 electors 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 returning officer to recount the ballots.

Factors to Consider

20(2) During the recount the Electoral Officer shall:

- (a) carefully examine all ballots used in the election and decide whether ballots were properly considered spoiled, discarded or rejected, and if not, include such ballots in the count of votes for each candidate; and
- (b) following the recount either:
- (c) declare the candidates with the most votes elected, or
- (d) if there is a tie between the candidates with the most votes, declare the candidates tied and request Council to call a by-election for the candidates who are tied, in accordance with section 11.

Appeal of Electoral Officer's Decision

20(3) Any candidate who requested a recount pursuant to subsection (1) may appeal the decision of the Electoral Officer to the Appeal Committee within seven (7) days of the decision.

Recount by Appeal Committee

20(4) Upon receipt of an appeal, the Appeal Committee shall within seven (7) days convene a panel of at least three (3) members to conduct a recount in accordance with subsection (4).

Corrupt Practice Appeal

20(5) Within seven (7) days after the election any candidate or elector 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 Code 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.

Other Appeals

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

Notice of Appeal

20(7) An appeal filed under subsections (5) or (6) shall outline the grounds of appeal and the facts upon which the appeal is based, supported by a statutory declaration of the person filing the appeal.

Investigation

20(8) Upon receipt of an appeal under subsections (5) or (6) the Appeal Committee shall investigate the matter as it considers necessary, but shall provide an opportunity for any candidate or appellant to make oral or written representations.

Dismissal of Appeal

20(9) Where the Appeal Committee finds the grounds of appeal are not established or do not affect the outcome of the election, it shall dismiss the appeal.

Upholding Subsection (5) Appeals

20(10) For appeals filed under subsection (5), if the Appeal Committee finds the grounds of appeal have been established and that the outcome of the election has been affected, it shall immediately notify the Electoral Officer and Council, and Council shall within twenty-one (21) days call:

- (a) a new election if the outcome of the entire election was affected; or
- (b) a by-election for only those seats affected where the outcome of only part of the election was affected,

in accordance with this Code.

Upholding Subsection (6) Appeals

20(11) For appeals filed under subsection (6), the Appeal Committee may uphold the decision, or where it finds the grounds of appeal have been established, it may substitute its decision for that originally made.

Final Decision

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

Judicial Review

20(13) A decision of the Appeal Committee may be reviewed by a Court of competent jurisdiction solely by reason that the Appeal Committee failed to observe a principle of natural justice or otherwise acted beyond or refused to exercise its jurisdiction under this Code.

PART 8: INAUGURATION CEREMONIES**Council Ceremony**

21(1) The newly elected Council 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".

Consequences of Failure to Comply

21(2) The Electoral Officer shall declare the position of a Chief or Councillor who fails to comply with subsection (1) vacant, following the swearing in of the rest of Council, a by-election shall be called immediately by Council.

Traditional Swearing in

21(3) The swearing in ceremony for the Chief and individual Councillors shall include traditional Cree ceremonies and activities.

Assumption of Office

21(4) A person whose election is contested shall be sworn in and assume office until any appeal is decided after which any other candidates will be sworn in if necessary.

PART 9: AMENDING PROCEDURES**Amendment Possible**

22(1) This Code may be amended in accordance with this section.

Amendment Proposals

22(2) An elector may propose amendments to this Code by presenting such proposals to the Electoral Officer who shall review the proposals and submit them to Council with recommendations.

Meeting for Amendments

22(3) Following the review in subsection (2) Council shall hold an NCN community meeting to consider and vote on any proposed amendments to the Code.

Notice

22(4) Notice for the meeting under subsection (3) shall:

- (a) specify the time, place and purpose of the meeting;

- (b) be publicized at least seven (7) days before the meeting by posting notices in conspicuous places on reserve and by publicizing on local radio and television, if possible; and
- (c) Indicate where the proposed amendments and other relevant documents can be obtained prior to the meeting.

Vote to Amend by Secret Ballot

22(5) If requested by at least ten (10) electors, the vote to amend shall be by secret ballot vote.

Approval Required to Amend

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

Effective Date of Amendments

22(7) Amendments approved in accordance with this section shall take effect seven (7) days from the date of approval at the NCN community meeting, except for a change in the composition of Council, which amendment shall not take effect until the next regular election following the decision made at the NCN community meeting.

Effective Date of Code

22(8) This Code shall come into effect for the election of Chief and Council in 1998 and the reference to eight (8) years in subsection 3(9) shall mean any convictions from 1990 onward.