



**MONTREAL LAKE CREE NATION
ELECTION ACT, 2016**

Status of Legislation:

Enacted in 2016 following the final reading and ratification votes held in

Saskatoon, September 23, 2016
Prince Albert, September 26, 2016
Montreal Lake Reserve 106, September 27, 2016
Little Red Reserve 106B, September 28, 2016

This Election Act will be used in the 2017 General Election.

PREAMBLE

The history and foundation of our Cree Nation is rooted in our faith and the knowledge of who we are, why we are here and it is therefore essential to declare as follows:

AN ACT RESPECTING THE GOVERNMENT ELECTIONS AND RELATED REGULATIONS OF THE MONTREAL LAKE CREE NATION

We are the First People.

1. The Creator gave us laws that govern all our relationships to live in harmony with nature and mankind.
2. The Laws of the Creator defined our Rights and Responsibilities.
3. The Creator gave us our Spiritual Beliefs, Language, Culture and a place on earth which provided us with clothing, food, shelter and water.
4. We have maintained our freedom, our language and our traditions since creation.
5. We continue to exercise our Rights and fulfill the Responsibilities and obligations given to us by the Creator from the land upon which we were placed.
6. The Creator has given us the Right to govern ourselves and the Right to self-determination.
7. The Rights and Responsibilities given to us by the Creator cannot be altered or taken away by other Nations.

The role of our elected leaders is to understand this declaration and to diligently promote the principles inherent in our history. The Chief and Council are the heirs and successors of our Past, the Protectors of our Rights, our Beliefs and Treaties, the Stewards of our Lands and Resources, the Advocates of our People and our Governing Structures. They are the Keepers of our Culture, Language and Traditions.

Candidates for the Office of Chief and Councillor must have demonstrated the following attributes: integrity, dedication, trust, and fairness in all of their dealings, confidence and competency in Aboriginal affairs, governance, business or management.

IDEOLOGY AND PRINCIPLES

We, the people of the Montreal Lake Cree Nation, assert our sovereignty as a nation.

We, the people of the Montreal Lake Cree Nation, in order that our rights and freedoms, including inherent, aboriginal and treaty rights be fully protected, exercised and preserved; and to ensure access to justice and security of our persons, our land and resources; to maintain our Cree tradition and customs; and to promote harmony and the common good; therefore, do establish:

THE MONTREAL LAKE CREE NATION ELECTION ACT, 2016

SECTION 1- SHORT TITLE

This Act *shall* be cited as the *Montreal Lake Cree Nation Election Act, 2016* and subsequent amendments.

SECTION 2- DEFINITIONS

- 2.1 Advance Poll** means a Poll held prior to Election Day to permit Voters who expect to be absent then to exercise their franchise to vote according to the terms of this Act.
- 2.2 Appeal** means a formal application made by any MLCN member who is qualified to vote to the Appeals Tribunal to investigate the way the Election was conducted or to challenge the qualification of one or more Candidates where they feel there were breaches of this Act.
- 2.3 Appeal Tribunal** means a Tribunal selected by the Chief and Council at least sixty (60) days prior to the expiry of the Council's term of office and consisting of five (5) persons and two (2) alternates all of whom are members of the Montreal Lake Cree Nation. The Appeal Tribunal will make decisions regarding any Election appeals. The alternates *may* be called upon if any of the Tribunal members are unwilling or unable to act by virtue of a conflict of interest [i.e., they are immediate or extended family members of one or more of the parties to the Appeal] or other reason.
- 2.4 Band Council** means those MLCN Members elected pursuant to this Act to sit as Chief and Council each of whom has voice and vote and a quorum of whom are empowered to act on behalf of and for the benefit of the First Nation.
- 2.5 Band Council Resolution or BCR** means a formal expression of the will of the Chief and Council set out in the prescribed form and executed by a quorum of the Council.
- 2.6 By-Election** means a special Election held on a date on which there is no General Election to fill a vacancy occurring before the expiration of the full term for which the incumbent was Elected and held pursuant to the provisions of this Act.
- 2.7 Campaign Materials** means any item, design, sound, symbol or mark that is created or copied in any form for the purposes of campaigning.

2.8 Candidate means any elector who has attained the age of eighteen (18) years as of the date of the Nomination Meeting and who has been duly nominated pursuant to the provisions of this Act to run for the position of Chief or Band Councillor, and excludes anyone who is:

- (i) appointed as an Electoral Officer pursuant to this Act; *or*
- (ii) prohibited by this Act or the MLCN *Executive Act* from running as a Candidate in any Election held pursuant to this Act.

2.9 Chief Electoral Officer means the person empowered and entrusted to conduct and oversee an Election or By-election according to the terms of this Act.

2.10 Corrupt Practice means any act done by a Candidate for Chief or Council, a Band official [i.e., Elected official or Band Employee] or by a Band trustee who unlawfully and/or wrongly uses his/her name or position of authority or trust to procure some benefit or favour for him/herself or for another person and/or abuses his/her name or position to threaten or intimidate other persons.

In relation to elections or appeals, it includes any act or omission that is recognized by law or Band custom to be a Corrupt Practice and includes any act done or promise made by a Candidate that is intended to procure votes [i.e., ‘buying’ votes, securing votes with alcohol, tobacco, gasoline or food, or promises of particular jobs or other benefits, or threats of termination, etc.] or interfere with the democratic process. The following are examples of Corrupt Practice:

- (i) attempting or offering money or other valuable consideration in exchange for an Elector's vote or the falsification of a declaration of a ballot count or declaration of Election result;
- (ii) threatening adverse consequences, coercing or intimidating an Elector or an Election Official for the purposes of influencing an Elector's vote, the ballot count, or declaration of Election result;
- (iii) forging documents or providing false or misleading information for the purposes of influencing an Elector's vote, the ballot count or declaration of Election result; *or*
- (iv) disclosing Confidential Information obtained as a result of their prior employment with the Band, which is calculated to influence at least one Elector to vote or not to vote for any particular Candidate or Candidates.

2.11 Declined Ballot means a ballot paper which the Elector has removed from the Polling Place without delivering it to the Chief Electoral Officer or his/her designate *or* which the Elector returns to the Chief Electoral Officer, declining to vote. If the Elector returns the ballot paper, declining to vote, the Chief Electoral Officer or his/her designate ***shall*** immediately write the word "declined" on the ballot paper and keep it separate until the time for Appeals has passed and all the ballots are destroyed.

2.12 Deputy Electoral Officer means one of three persons who are selected or appointed to assist the Chief Electoral Officer with overseeing the Election or By-election, each in a separate Electoral Sector.

2.13 Elected means a Candidate

- (i) *for Councillor* who is declared or determined by the Chief Electoral Officer as a successful Candidate in an Electoral Sector by virtue of having received a number of votes greater than did other Candidates for the same office such that he/she is the popular choice for one of the Councillor positions available *or* whose Candidacy is neither opposed nor challenged in which case their office is assented to by acclamation. The Elders Advisory Council will recommend the appointment of a Vice Chief from among the Band Council.
- (ii) *for Chief* who is declared or determined by the Chief Electoral Officer as the successful Candidate by virtue of having received a number of votes greater than did other Candidates for the same office such that he/she is the popular choice *or* whose Candidacy is neither opposed nor challenged in which case their office is assented to by acclamation.

2.14 Election or General Election means the leadership selection process whereby a Chief and Council are chosen at regular intervals on or about March 31st every three years in accordance with Band Custom and as prescribed in this Act.

2.15 Election Official includes the Chief Electoral Officer and the Deputy Electoral Officers. Election Officials are able to Vote, if otherwise qualified, but may not otherwise participate in an Election or By-election whether as a Candidate, Nominator or Secunder nor will they campaign for any Candidate. They are required to act faithfully in that capacity without partiality, fear, favour or affection. They shall not disclose any personal information about any of the Candidates that comes to their attention as a result of determining their eligibility to stand for election except as may be required by law. The latter prohibition does not extend to any corrupt practice or election irregularities that come to their attention. They shall declare conflicts of interest if and as they arise. They shall not do or say anything that will compromise their integrity or the integrity of any Election or By-election that they oversee in this capacity.

2.16 Elector means a person duly qualified to vote and:

- (i) who, irrespective of their Ordinary Place of Residence, is registered on the First Nation's Membership List; *and*
- (ii) who has or will have attained the full age of eighteen (18) years on or before the Polling Day; *and*
- (iii) whose name appears on the Voter's List; *and*
- (iv) who is not disqualified from voting in Band Elections or By-elections; *and*
- (v) who is not an Election Official.

2.17 Electoral Sector means one of the following Electoral Sectors:

- (i) Montreal Lake Reserve 106,
- (ii) Little Red Reserve 106B, and
- (iii) Off-Reserve including Urban, Timber Bay and Weyakwin.

- 2.18 Electorate** means the voter turnout or the people who actually voted or who are expected to vote in an Election or in an Electoral Sector.
- 2.19 Enumeration** means an official count of the number of eligible Voters or eligible Candidates for the purpose of making an official Voter's List and Candidate's List for an Election or By-election.
- 2.20 Enumerator** means the person or persons appointed to conduct a review of the Candidate's List (18 years of age on or before Nomination Day) and the Voter's List (18 years of age on or before Polling Day) prepared by INAC (Indigenous and Northern Affairs Canada and its successors) to ensure their currency on each of those days. The Membership Clerk and Chief Electoral Officer will ordinarily perform the duties of Enumerators.
- 2.21 Favoritism** means a display of impartial behaviour toward a person or group. Favoritism can be demonstrated in hiring, honoring, or awarding contracts. Favoritism includes **cronyism** (partiality towards friends and associates) and **nepotism** (partiality towards family members).
- 2.22 Immediate family shall** include the spouse (legal or common-law) of the Tribunal Member, the grandparents, the parents (natural or adoptive), the siblings (natural or step), the offspring (natural or adopted) and grandchildren of the Tribunal Member; or the grandparents, parents, siblings, offspring and grandchildren of the spouse of the Tribunal Member.
- 2.23 Improperly Marked or Defaced Ballot** means one where either
- (i) the Elector has marked the ballot with any mark other than an "x" / ☒ or "✓" / ☑ or ■ or other very clear indication of who they are voting for; *or*
 - (ii) the Elector has attempted to erase or strike out his/her choice on the ballot.
- 2.24 Malfeasance** means any wrongful, illegal or dishonest conduct especially by an Election Official, a Candidate or Elected Official and includes Corrupt Practice. See also misfeasance and non-feasance.
- 2.25 Member** means a person who is registered or who is entitled to be registered within the meaning of the *Indian Act* **and** whose name appears on the Membership List of the Montreal Lake Cree Nation.
- 2.26 Misfeasance** means a failure to act properly [i.e., a failure to conduct or comport oneself according to Band custom or law].
- 2.27 Nominator** means any person who is eighteen (18) years of age at the time of nomination, who is a member of Montreal Lake Cree Nation, whose name is on the Voter's List, and who is eligible to participate in all aspects of the Montreal Lake Cree Nation Election.

2.28 Nonfeasance means a failure to act.

2.29 Ordinarily Resident means the usual place of residence of a person and *shall* be determined by reference to the facts of each case and, without limiting the foregoing, the factors to be considered are:

- (i) the place a person normally sleeps; *and*
- (ii) the place a person receives mail; *and*
- (iii) the residence of his/her immediate family; *or*
- (iv) the place to which a person claims a substantial connection:
 - a. the place a person accesses education or health programs or other Band services; *or*
 - b. the place where a person is employed; *or*
 - c. where a person has left his/her place of residence to pursue a course of study or receive medical treatment or for seasonal employment then that person *shall* be viewed as residing in their ordinary place of residence until he/she completes or abandons his/her course of study, medical treatment or seasonal employment or takes up more permanent residence elsewhere; *or*
 - d. where persons are ‘homeless’, they shall vote in the sector in which they last had a fixed address or if they have been transient since the last election, in their ancestral home.

2.30 Poll means the casting and registering of votes cast on the day set aside for a General Election or By-election [**Polling Day**]. This is to be distinguished from the Advance Poll. All ballots are to be counted following the close of the Poll on Polling Day.

2.31 Polling Booth means a small area with walls on three sides where a person can vote in private.

2.32 Polling Day means the day fixed for taking the Votes of the Electors.

2.33 Polling Clerks means those individuals who are appointed by the Chief Electoral Officer to assist a Deputy Electoral Officer at one of the Polling Stations.

2.34 Polling Place or Polling Station means the building, hall or room which is selected to be the site in which voting is to take place and which is accessible to Voters.

2.35 Rejected Ballot means a ballot that the Chief Electoral Officer deems to have been Improperly Marked or Defaced and, as a consequence, does not count with the total ballots cast for a particular individual. The Chief Electoral Officer *shall* take such a ballot and mark “rejected” across the back and keep it separate until the time for Appeal has passed and all the ballots are destroyed.

2.36 Spoiled Ballot means a ballot that has never been deposited in the ballot box either because

- (i) it has been found by the Chief Electoral Officer, Deputy Electoral Officer or their designate to be soiled or improperly printed; *or*
- (ii) it has been returned to the Chief Electoral Officer or his/her designate by the Elector and exchanged for another ballot paper because the Elector Improperly Marked or otherwise Defaced the first.

In the former case, the Chief Electoral Officer or his/her Deputy will take such a ballot and mark "spoiled" across the back of it. In the latter situation, the Chief Electoral Officer or his/her Deputy will take such a ballot and mark "spoiled" across the back of it, issue a new ballot to the Elector and then make a notation to that effect on the Voter's List pursuant to this Act.

2.37 Vote means a formal expression of an individual's choice for a particular Candidate or Candidates. A secret ballot has come to be the practice to prevent voters from being intimidated and to protect their political privacy.

2.38 Voter means a person who votes or has the right to vote at an Election or By-election.

2.39 Voter's List means an alphabetical list of Band Members eligible to vote, prepared by INAC showing the Band Membership or registry number of each Elector, and his/her date of birth. The Chief Electoral Officer and Membership Clerk *may* revise the Voter's List where

- (i) the name of a qualified Elector has been inadvertently omitted from the list; *or*
- (ii) the name, registry number or date of birth of an Elector is incorrectly set out in the list; *or*
- (iii) the name of a person ineligible to vote is included on the Voter's List.

The Voters List *shall* be divided into three Electoral Sectors according to "ordinary place of residence": Montreal Lake Reserve 106, Little Red Reserve 106B and off-Reserve. Voters who wish to challenge their assignment to a particular Electoral Sector *may* do so by signing a declaration and attaching such proof as the Chief Electoral Officer requires. For privacy reasons, where the Voter's Lists are posted they *shall* contain no other personally identifying information than name.

SECTION 3 POLLING STATIONS

3.1 For voting purposes, a number of polling stations *shall* be established for the electorate of the Montreal Lake Cree Nation.

3.2 One Polling Station *shall* be established on the Montreal Lake Reserve 106 and another Polling Station *shall* be established on the Little Red Reserve 106B. One or more additional Polling Stations *may* be established to make it easier for off-Reserve members to vote.

Alternatively, off-Reserve members *may* choose to return to either Montreal Lake Reserve 106 or Little Red Reserve 106B but in no case, *shall* a Voter be allowed to exercise their franchise in more than one Polling Station. Advance Polls *may* also be established in any or all of the above locations. If a Voter exercises their franchise in an Advance Poll, he/she *may* not vote again on Polling Day.

SECTION 4 - ELIGIBILITY TO RUN FOR CHIEF OR COUNCILLOR

- 4.1 Any Montreal Lake Cree Nation member *may* be a Candidate for Chief or Councillor provided the person meets all of the following criteria:
- (i) he/she is eighteen (18) years of age or older on or before the Nomination Day; **and**
 - (ii) he/she is a registered Member of MLCN and is prepared to do all that is required to be done to restore and maintain the integrity of our Cree language, culture and traditions; **and**
 - (iii) he/she has been nominated in accordance with this Act; **and**
 - (iv) he/she has **not** been found guilty by the Elders Advisory Council of a Corrupt Practice for a period of either two (2) terms or six (6) years, whichever is less; **and**
 - (v) he/she has **not** been subject to a successful Motion of No Confidence for a period of either two (2) terms or six (6) years, whichever is less; **and**
 - (vi) he/she has **not** been removed from office pursuant to the *Montreal Lake Cree Nation Executive Act* for a period of either two (2) terms or six (6) years, whichever is less; **and**
 - (vii) he/she does **not** owe any money to the Band as evidenced by the Band's most recent financial statement including rent arrears [this prohibition excludes funds advanced for emergency or post-secondary purposes where there is a repayment plan in place]; **and**
 - (viii) he/she does **not** have any Band property [i.e., anything purchased with Band funds or provided to the Band for the use of Band Members] in their possession without due authority to have custody or control of the same; **and**
 - (ix) he/she is **not** otherwise disqualified from running in an Election or By-Election by virtue of having been convicted of an indictable offence under the *Criminal Code of Canada* or the *Controlled Drugs and Substances Act* or a dual offence in which the Crown has elected to proceed by way indictment for a period of at least five (5) years as evidenced by a satisfactory security clearance; **and**
 - (x) he/she is **not** otherwise disqualified from running in an Election or By-election by virtue of having been convicted of a summary conviction offence under the *Criminal Code of Canada* or the *Controlled Drugs and Substances Act* or a dual offence in which the Crown has elected to proceed summarily for a period of at least three (3) years prior to the Election or By-election as evidenced by a satisfactory security clearance; **and**
 - (xi) he/she has no outstanding criminal charges as evidenced by a sworn declaration to that effect; **and**

- (xii) he/she has **not** commenced any unresolved legal action, claim, complaint, suit or demand of any nature or kind against MLCN, its elected officials, any directors, officers, shareholders, senior management, employees, servants and agents, administrators, trustees, successors or assigns or related or subsidiary corporations of the Band; **and**
 - (xiii) he/she has lived a positive life style by community standards [i.e., will be a positive role model] for a period of at least three (3) years; **and**
 - (xiv) he/she must be fluent in Cree (to speak to the membership) **and** in English (to conduct business); **and**
 - (xv) he/she agrees, if Elected, to accept the terms and conditions set out in the *Financial Management Regulations*, the *Election Act*, the *Executive Act* and all other Band by-laws, regulations and procedures; **and**
 - (xvi) he/she agrees to abide by any lawful decision of the Appeal Tribunal; **and**
 - (xvii) he/she has submitted the requisite fee along with a Declaration of Intent and the supporting documentation; **and**
 - (xviii) he/she is not an undischarged bankrupt.
- 4.2 A person **shall not** be a dual Candidate. A Candidate **may** run for one position only, either Chief or Councillor. A Candidate for Councillor must be ordinarily resident in the Electoral Sector he/she wishes to represent.
- 4.3 No person **shall** be a Candidate for Election as Chief or Councillor unless his/her nomination is moved and seconded by persons who are themselves eligible Voters. Candidates for Councillor **shall** be nominated and seconded by persons who are ordinarily resident in the Electoral Sector in which he/she is running.
- (i) Candidates for Chief will be nominated at the first Nomination meeting wherever it is held. The Candidates for Chief will be presented at the following two Nomination Meetings.
 - (ii) Candidates for Councillor will be nominated at the Nomination meeting held in the Electoral Sector where he/she is presenting themselves as a Candidate.
- 4.4 No person **shall** be a Candidate for Election as Chief or Councillor unless he/she has first submitted a Declaration of Intent at least one (1) week in advance of the Nomination Meeting swearing or affirming that he/she meets the criteria set out above; swearing or affirming that he/she agrees to be bound by the custom *Election Act*; swearing or affirming that, if elected, he/she agrees to be bound by the *Financial Management Regulations*, the *Election Act*, the *Executive Act* and all other Band by-laws, regulations and procedures; and attaching the requisite documents and a receipt for fees paid to the Band Office.
- 4.5 The successful Candidate for Chief **shall** represent *all* members of the Montreal Lake Cree Nation. While Councillors are expected to act in the best interests of the First Nation, they are also expected to represent the constituents of their Electoral Sector at the Council table.
- 4.6 Successful Candidates for the Band Council, including the Chief **shall** be responsible for any expenses involved in getting themselves to and from the Band Office or ordinary place of work.

- 4.7 Candidates for Chief must pay a fee of \$500.00 by certified cheque, bank draft, money order or cash to the Band Manager at the time he or she submits his/her Declaration of Intent. An official receipt shall be issued for the money from the Band Office and delivered to the Chief Electoral Officer.
- 4.8 Candidates for Councillor must pay a fee of \$300.00 by certified cheque, bank draft, money order or cash to the Band Manager at the time he or she submits his/her Declaration of Intent. An official receipt shall be issued for the money from the Band Office and delivered to the Chief Electoral Officer.
- 4.9 The money will be refunded if the Candidate is disqualified from running; otherwise, the money will be used to offset the costs of the Election or By-election.

SECTION 5 - ELIGIBILITY TO PARTICIPATE IN ELECTIONS AS A NOMINATOR, SECONDER OR VOTER

- 5.1 Any Montreal Lake Cree Nation member *may* nominate one Candidate or second the nomination of another and Vote in an Election providing that:
- (i) he/she is over 18 years of age on Nomination Day or Polling Day as the case *may* be;
 - (ii) his/her name is on the Voter's List and the Band Membership List;
 - (iii) he/she is not disqualified from voting in Band General Elections or By-elections; and
 - (iv) he/she is a competent adult, capable of marking his/her own ballot or giving clear directions to the Deputy Electoral Officer or Interpreter who assists him/her to exercise his/her franchise.

For the purposes of this Act, the Band Member's ordinary place of residence *shall* determine which Electoral Sector he/she votes in:

- (i) Montreal Lake Reserve 106;
 - (ii) Little Red Reserve 106B;
 - (iii) Off-Reserve including Urban, Timber Bay and Weyakwin.
- 5.2 All eligible electors can vote for the Chief irrespective of their ordinary place of residence. Eligible Electors can only vote for the Councillor Candidates running in the Electoral Sector in which the Elector is ordinarily resident.
- 5.3 Electors *may* cast their vote only once in one Polling Station. Electors are not required to vote at a Polling Station in their Electoral Sector. Every Polling Station will have ballots for all three Electoral Sectors as well as Voter's List for each Electoral Sector.

SECTION 6 - TERMS OF OFFICE

- 6.1 The Chief and Council *shall* hold office for a term of not more than three (3) years commencing on or about April 1st and ending March 31st three years later [the traditional Election date] or from the day of a duly called By-election until the next General Election.

- 6.2 If March 31st falls on a Saturday, Sunday or holiday, the term *shall* end the day prior to March 31st that is not a Saturday, Sunday or holiday.

SECTION 7 - GENERAL ELECTIONS

- 7.1 The Chief and Council *shall* call for a General Election sixty (60) days before the Election or By-election.
- 7.2 On the same day that they call for a General Election, the Chief and Council *shall* name the Chief Electoral Officer, three (3) Deputy Electoral Officers and the Appeals Tribunal; set a date by which Declarations of Intent need to be returned to the Chief Electoral Officer (at least one (1) week prior to the first Nomination Meeting, set the date for the Nomination Meetings [the last of which *shall* be at least one (1) week prior to the Poll], set the date for the Poll and the Swearing in Ceremony. The date of the first Nomination Meeting *shall* be the last date on which Band business *may* ordinarily be transacted. However, in the event of an unforeseen catastrophe or *force majeure*, the Chief and Council *may* be expected to respond as the elected representatives of the Band.
- 7.4 The Election Officials *shall* be fluent in both Cree and English.
- 7.5 Should the Chief Electoral Officer be unable to fulfill his/her duties and responsibilities then one of the Deputy Electoral Officers *shall* assume those duties. If one of the Deputy Electoral Officers is unable to fulfil his/her duties, the Chief Electoral Office *shall* appoint an alternate from the same Electoral Sector as was the person he/she is replacing.

SECTION 8 - TERMS OF REFERENCE FOR ELECTION OFFICIALS & OTHERS

Duties for those involved with Elections and By-elections *shall* include, but not be limited to, the following:

- 8.1 The Enumerators *shall* be responsible for preparing and posting at least forty-five (45) days in advance of a General Election or By-election, the initial Voter's Lists and assisting the Deputy Electoral Officers at the polling places on Election Day.
- (i) The Enumerators *shall* prepare three (3) separate Voter's Lists, one for each Electoral Sector based on Ordinary Place of Residence.
 - (ii) Either Enumerator *may* arrange for an eligible Voter whose ordinary place of residence entitles them to be placed on a different Voter's List for the purpose of selecting Candidates for vacant Councillor positions to swear a Voter's Change of Address Form if the Voter provides proof of their current residence [house and street number or GPS as opposed to a mail box] and/or grounds for voting elsewhere.
- 8.2 The Chief Electoral Officer *shall* be responsible for:

- (i) ensuring that the policies and procedures outlined in this Act are followed in the subsequent Election or By-election;
- (ii) posting copies of the *Election Act*, the Notice of Election, the Notices of Nomination Meetings and the Voters' List;
- (iii) receiving the Declarations of Intent and determining whether each Candidate is duly qualified to run in the General Election or By-election;
- (iv) presiding as chairperson at any pre-Election or By-election proceedings including the Nomination meeting;
- (v) ensuring that the polling facilities [Polling Places, Polling Booths, etc.] are in order;
- (vi) ensuring that the Polls are open from 9:00 am to 6:00 pm;
- (vii) ensuring that all arrangements for ballots, ballot boxes, polling booths, and meeting places (Nomination Meeting, town hall meetings, Candidates debates, etc.) and polling facilities including necessary supplies (packing tape, pencils, felt pens, coloured pens, rulers, flip charts, tally sheets, etc.) are in place;
- (viii) reviewing the Voter's Lists with the Candidates for Chief;
- (ix) providing training to Deputy Electoral Officers and Polling Clerks as required;
- (x) delivering copies of the three (3) Voter's Lists to each Deputy Electoral Officer and Polling Clerk and explaining how names are to be crossed off using the Voter's proof of identity to distinguish between persons with similar names when each person presents themselves at the Polling Place to exercise their franchise;
- (xi) ensuring that copies of the declarations with respect to the ballot boxes are delivered to each polling station;
- (xii) overseeing the counting, initialing and distribution of ballots;
- (xiii) examining and ruling on the validity of all ballots cast and having exclusive authority to deem a ballot spoiled and reject it from the count of properly cast ballots;
- (xiv) marking declined, spoiled or rejected ballots as set out in the *Election Act*;
- (xv) marking marginal notes on the Voter's List where a new ballot is issued because the Elector spoiled the first or where the Voter leaves without depositing his/her ballot(s) in the ballot boxes ("declined" ballot);
- (xvi) following the General Election or By-election, overseeing the counting of the ballots in full view of anyone who wishes to be present for the count and/or recount and to announce the results when the counting is done;
- (xvii) conducting any recount required by the *Election Act*;
- (xviii) declaring the results of the Election or By-election.
- (xix) after the ballots have been counted and the official results announced and in the presence and full view of all persons entitled to be present:
 - (a) placing in separate envelopes provided for this purpose, all spoiled and rejected ballots, all properly cast ballots, all unused ballots and each of the Polling Officer's copies of the Voter's List;
 - (b) sealing all envelopes and initialing each one;
 - (c) placing all Election-related/By-election-related documents in a container provided for that purpose and sealing the container and delivering the same to the Band Office or Band's solicitor for their safe keeping for a period of sixty (60) days after the time for appeal has passed or any appeals have been concluded;
 - (d) ensuring that ballots are destroyed when it is appropriate to do so;

- (e) appointing such Election officials and staff as are required for the proper and orderly conduct of an Election or By-election;
- (f) working with the Elders Advisory Council and Band Office to make final arrangements for the Swearing in Ceremony(ies) (printing an agenda, printing the Oaths of Office, ensuring a chairperson is in place, and arranging for security if necessary) which shall be held as soon as practicable following the Election / By-election;
- (g) performing such other duties as *may* be required to implement this Act including, but not limited to, calling for a By-election where there is a tie vote pursuant to the Act;
- (xx) posting the results of the General Election or By-election;
- (xxi) filing an Election report with INAC;
- (xxii) advising PAGC and FSIN of the results of the General Election or By-election; and
- (xxiii) such other duties as *may* be necessary or incidental to the above.

8.3 The Chief Electoral Officer *shall* have the power to delegate to his/her Deputies and/or the Polling Clerks certain of his/her duties including, but not limited to, initialing and/ or counting properly cast ballots. The Deputy Electoral Officers *shall* be prepared to assist the Chief Electoral Officer in all aspects of the above where their help is requested by the Chief Electoral Officer.

8.4 Polling Clerks *shall* be appointed by the Chief Electoral Officer or his/her designate and *shall* have the following duties:

- (i) to ensure that the required number of ballots are received by their Polling Station;
- (ii) to assist with locking the ballot boxes and with sealing them at the close of the Poll;
- (iii) to ensure each ballot is initialed *prior* to giving it to a Voter;
- (iv) to distribute ballots to each verified Voter after crossing the name of the Voter off the appropriate Voters' List;
- (v) where there are two or more Voters with similar names to check the identity of the Voter with reference to government issued ID (passport, Treaty Card, birth certificate, driver's licence, health care card, marriage certificate) to ensure the correct name is crossed off;
- (vi) to complete and deliver to the Chief Electoral Officer a statement indicating the number of eligible voters, the number of unused ballots, and the number of ballots cast at their Polling Station for the Chief and for Councillors of each Electoral Sector;
- (vii) to assist the Chief Electoral Officer, if so delegated, by initialing ballots and counting properly cast ballots but to defer to the Chief Electoral Officer's absolute discretion any questionable ballots.

Polling Clerks are *not* disqualified from exercising their own franchise. However, Polling Clerks must not share a house with any of the Candidates nor have campaigned for or against any Candidate in the Election or By-election. Polling Clerks are not considered "Election Officials" for the purposes of this Act.

- 8.5 Each Candidate *may* select up to three (3) Agents / Scrutineers and up to three (3) Alternate Agents / Alternate Scrutineers, all of whom must be approved by the Chief Electoral Officer or his/her designate after each agrees to quietly observe the Election or By-election for infractions of the *MLCN Election Act* and to examine ballot papers during the count / re-count for any irregularities.
- (i) Agents/Scrutineers must agree not to do or say anything while in the Advance Poll or regular Poll that would demonstrate partiality, fear, favour or affection for any of the Candidates. Only one Agent/Scrutineer per Candidate *shall* be present in their official capacity at a time in a Polling Station. One or all *may* attend during the Count or Re-count of Ballots.
 - (ii) The duties of the Agents/Scrutineers *shall* be to observe the voting procedure to ensure procedural fairness and to witness the actual counting of ballots.
- 8.6 The Chief Electoral Officer *shall* appoint sufficient Elder/Interpreters so that there is always one present at each Polling Station. Elder/Interpreters *may*, in the presence of the Chief or Deputy Electoral Officer, render assistance to Voters who suffer from a physical infirmity or are unable to read but who do not lack the capacity to exercise their franchise as evidenced by their ability to give clear directions with respect to the same. The Elder/Interpreter *shall*, in the presence of the Chief or Deputy Electoral Officer, follow the instructions of the Elector with respect to marking the ballot and *shall* be prepared to attest to the fact that he or she did follow these instructions. The Elder/Interpreter is not disqualified from exercising his/her own franchise. The Elder/Interpreter must not share a house with any of the Candidates nor have campaigned for or against any Candidate in the Election or By-election. Elder/Interpreters are not considered “Election officials” for the purposes of this Act.
- 8.7 The Chief Electoral Officer *shall* arrange for security personnel [i.e., RCMP] whose duties *shall* include removing any person who in anyway interferes with, disrupts or attempts to influence the orderly conduct of the Nomination Meeting, the Advance Polls or Poll, including persons who appear to be under the influence of drugs or alcohol.
- 8.8 In the event of a tie vote for the final Council position or for the position of Chief, an immediate recount *shall* take place and, should a tie continue to exist, then a run-off By-election *shall* be called for the tied position.
- 8.9 The Appeals Tribunal *shall* review any appeals and conduct any appeal hearings in accordance with this Act.

SECTION 9 - COMPOSITION OF THE BAND COUNCIL

- 9.1 The Band Council of the Montreal Lake Cree Nation *shall* consist of the Chief and seven (7) elected Council members: with four (4) Councillors elected from the Montreal Lake Reserve 106, two (2) Councillors elected from the Little Red Reserve 106B, and one (1) off-Reserve Councillor to represent urban members and those living in Weyakwin and Timber Bay and other off-Reserve (urban or rural) points.
- 9.2 All eligible Electors *shall* be entitled to select one Candidate for the position of Chief and the Chief *shall* represent the ‘best interests’ of the Band and *all* of its members irrespective of their Ordinary Place of Residence.
- 9.3 The Councillors *shall* be selected by eligible Electors who are ordinarily resident in the Electoral Sector in which the Councillor Candidate is running. Each eligible Elector *shall* be entitled to select not more persons than there are openings in their Electoral Sector. Each eligible Elector *shall* only be entitled to select Councillors for the Electoral Sector in which the Elector is Ordinarily Resident.
- 9.4 Candidates for Councillor positions *shall* only be entitled to run for office in the Electoral Sector in which they are Ordinarily Resident.

SECTION 10 - COMMENCEMENT OF OFFICE

- 10.1 The newly elected and properly declared Council members *shall* assume office immediately upon completing the necessary paperwork [i.e., Oath of Office].
- 10.2 There *may* be a formal meeting between one Council and the next in the weeks immediately following the general Election for the purpose of providing a complete briefing by the former leaders on all matters affecting the affairs of the Montreal Lake Cree Nation or their affiliates including any outstanding legal actions, claims, complaints, suits or demands of any nature or kind against MLCN where the Band may have some liability or is the Plaintiff.
- 10.3 The former Chief and/or any Councillors *may*, at the request of the new council, act as advisors to the new Chief and Council and receive up to two (2) weeks’ compensation for the same.

SECTION 11 - OATH OF OFFICE

- 11.1 Upon being elected and prior to performing any official duties, the Chief and Council *shall* be required to take an Oath of Office administered by the Elders Advisory Council.

11.2 The Oaths of Office *may* be signed following the declaration of the Election results but *shall* be repeated before those persons who gather for the Swearing in Ceremony at a community gathering convened for that purpose.

SECTION 12 - REGULATIONS GOVERNING THE NOMINATION MEETING

12.1 Notices of the Election and Nomination Meetings *shall* be posted in *at least* four (4) or more conspicuous places [i.e., Band/program offices, the MLCN website, community or public notice boards] in each electoral sector where they will be seen by eligible Voters. The Notice about the Nomination Meetings *shall* be posted not less than fourteen (14) days before the date of each Nomination Meeting.

12.2 The Nomination Meeting Notices *shall* specify the time, date and place where each Nomination Meeting will be held. One Nomination Meeting *shall* be held on Montreal Lake Reserve 106; another on Little Red Reserve 106B and a third at a place to be determined by the Chief Electoral Officer for the off-Reserve Candidates.

12.3 The Chief Electoral Officer or his/her Deputies *shall* chair the Nomination Meetings.

12.4 The Nomination Meetings *shall* be conducted as follows:

- (i) The Chief Electoral Officer or his/her Deputy *shall* attend at the time and place set out in the Notice of Nomination and *shall* declare the meeting open for the purpose of receiving the nomination of Candidates for the positions advertised.
- (ii) Nominations must be made and seconded in person within the time set aside for that purpose at the Nomination Meeting. Candidates should be present to confirm that they are willing to allow their name to stand for a particular position. In exceptional and unforeseen circumstances, the Nominator and Secunder may explain the Candidate's absence and affirm his/her acceptance. The Candidates for Chief will be presented first. The Candidates for Councillor for the particular Electoral Sector *shall* follow.
- (iii) Thereafter the Chief Electoral Officer or his/her Deputy *shall* declare that the Nomination Meeting has been closed for the purpose of receiving nominations. No further nominations will be allowed and this decision will not be subject to appeal by any person.
- (iv) The Chief Electoral Officer and his/her delegates *shall* maintain order at all times during the Nomination Meeting and *may* cause to be removed any person who, in their opinion, is disturbing, disrupting or otherwise interfering with the meeting.
- (v) The Chief Electoral Officer or his/her designate *shall* record the names of the Candidate, the Nominator and the Secunder or substitute Nominator and/or substitute Secunder and *shall* confirm to the meeting that the proposed Candidate is eligible to be elected to the position of Chief or Councillor of the First Nation and that the Nominator and Secunder, or their substitutes, are eligible Electors.
- (vi) No Elector *shall* nominate or second the nomination of more than one person.

- (vii) Each Candidate and/or his/her Nominator **shall** have an opportunity to address those assembled provided that no Candidate for Chief will have more than 15 minutes and his/her Nominator will have no more than 5 minutes of total speaking time and each Candidate for Councillor will have no more than 7 minutes and his/her Nominator will have no more than 3 minutes of total speaking time. Speaking order **shall** be determined by the Candidates (draw or alphabetical order).
 - (viii) If the Candidates agree to attend one or more Candidate's forums, the date, time and place **shall** be determined. The Candidates will also determine if it/they will take the form of a debate, a town hall meeting, a question and answer period or speeches.
- 12.5 At the start of each Nomination Meeting, the Chief Electoral Officer **shall** announce that the nomination of Candidates is open to only those Electors who submitted Declarations of Intent and who are qualified to run pursuant to this Act.
- 12.6 All nominations **shall** be moved and seconded by Eligible Electors and all the qualified Candidates who submitted Declarations of Intent **shall** be given an opportunity to formally accept or decline their nomination by signing an "Acceptance of Candidacy" in the prescribed form in the presence of the Electoral Officers.
- 12.7 During the Nomination Meeting, an Eligible Elector can either move a nomination for one Candidate or second a nomination for another but not both. Once an elector has moved or seconded a nomination, he/she cannot move or second a nomination for another Candidate.
- 12.8 When all of the pre-qualified Candidates have been presented to those assembled and each has had an opportunity to affirm or decline their Nomination, the Chief Electoral Officer shall call for a "Nominations Cease" motion. It **shall** be carried upon a show of hands indicating a majority of electors are in favour.
- 12.9 Candidates for Chief will be nominated at the first Nomination Meeting irrespective of which Electoral Sector that meeting is held in. Thereafter, they shall be presented as the Candidates for Chief at the other two Nomination Meetings.
- 12.10 Candidates, Nominators, and Seconders must not be under the influence of alcohol or illicit drugs at the Nomination Meeting.
- 12.11 The Nomination Meetings for Chief and Councillors must be held in an accessible, public place in each Electoral Sector. The Chief Electoral Officer **shall** close the Nomination Meeting and announce the date of the General Election or By-election.
- 12.12 Where there are no more Candidates than there are openings for a particular position, the Chief Electoral Officer **shall** declare the Candidate(s) elected by Acclamation. Thereafter, the Chief Electoral Officer shall post a notice that sets out the name(s) of any person(s) elected by acclamation and the position that each will hold.

SECTION 13 – ELECTION PROCEDURE

13.1 Elections and By-elections *shall* be conducted as follows:

- (i) The Chief Electoral Officer or his/her designate *shall*, if the number of nominations does not exceed the number of positions open at the end of the Nomination Meeting, declare such Candidates Elected by acclamation.
- (ii) If the number of Candidates exceeds the number of positions open for Election or By-election, the Chief Electoral Officer or his/her designate will announce the Polling Date(s) (Advance Poll and Poll).
- (iii) The Chief Electoral Officer or his/her designate *shall* without undue delay following his/her appointment, post a Notice of Poll setting out the time and place(s) and date(s) for voting. Such Notice *shall* be posted on public notice boards in all MLCN Offices [i.e., Band Offices and program offices] and such other public places as the Chief Electoral Officer or his/her designate deems necessary including the website. In any case, this Notice *shall* be posted not less than fourteen (14) days prior to the date scheduled for the Poll.
- (iv) There *shall* be established one (1) Polling Station in each Electoral Sector at a place designated by the Chief Electoral Officer or his/her designate. The Polling Station should be in a place that is accessible to all Band Members.
- (v) The Chief Electoral Officer or his/her designate *shall* have prepared the names of the Candidates for the positions of Chief and Councillors, which names and nicknames, if any, *shall* be listed on two (2) ballot papers in alphabetical order and grouped according to the position sought [i.e., Chief or Councillor] as described below. In addition, the Candidates' pictures *shall* be posted in each polling booth along with the Candidate's name. Candidates shall be consulted about how they want their legal names to appear on the ballots.
- (vi) One (1) or two Advance Polls *shall* be held pursuant to this Act. Advance Polls *shall* be conducted in the same manner as the regular Poll.

13.2. The Polls *shall* be operated as follows:

- (i) On Polling Day, the Chief Electoral Officer or his/her designate [i.e., Deputy Electoral Officer] *shall* at all times be in attendance at the time and place set out in the Notice of Poll.
- (ii) The Chief Electoral Officer or his/her designate *shall* immediately before the opening of the Poll open the ballot box(es) and call such persons as *may* be present to witness that it(they) is(are) empty; he/she *shall* then lock and properly seal the box(es) to prevent it(them) from being opened without breaking the seal and *shall* place it(them) in plain view for the reception of the ballots and the seal(s) *shall not* be broken nor the ballot box(es) unlocked at any time during the time appointed for the taking of the Poll.
- (iii) The acts of locking and sealing the box(es) *shall* be witnessed by a person appointed by the Chief Electoral Officer or his/her designate and *may* be witnessed by the Scrutineers and/or Polling Clerks. The locked and sealed boxes shall be delivered to the RCMP to hold for safe-keeping until the count.

- (iv) The Chief Electoral Officer or his/her designate *shall* hold the polling booth(s) open from 9:00 a.m. to 6:00 p.m. Central Standard Time at each Polling Station on the date(s) set out in the Notice of Poll. At the close of the Poll and Advance Poll and, in the event there are Electors waiting in line at 6:00 p.m., the doors to the Polling Station *shall* be closed and everyone who is waiting in line *shall* be allowed to finish voting.
- (v) The Chief Electoral Officer or his/her designate *shall* at all times maintain order in the Polling Station and *may* cause to be removed any person who in any way interferes, disrupts or attempts to influence the orderly conduct during the Poll.
- (vi) Every person presenting themselves for the purpose of voting *shall* upon being confirmed by the Chief Electoral Officer or his/her designate as an eligible Elector whose name appears on the Voter's List, be given one (1) ballot for the Election of the Chief and/or one (1) ballot for the Election of the Councillors, upon which to mark his/her vote. Where there are two (2) Ballots, each *shall* be a different colour. The Ballots for Councillor in each Electoral Sector *shall* also be a different colour from the Ballots for Councillor in the two other Electoral Sectors. The Ballot(s) *shall* be initialed by the Chief Electoral Officer or his/her designate before they are given to an Elector.
- (vii) Every person presenting themselves for the purpose of voting who requires interpretive or other assistance to exercise their franchise *shall* so indicate to the Chief Electoral Officer or his/her Deputy and the Chief or Deputy Electoral Officer *shall* arrange for an Elder to act as Interpreter to assist the Elector if that service is called for or if the Elector requires physical assistance to properly mark his/her ballot. In both cases, the Elder *shall* follow the instructions of the Elector with respect to marking the ballot.
- (viii) Each Elector receiving a Ballot *shall* proceed directly to the place provided for marking ballots [i.e., Polling Booth] and *shall* mark his/her ballot by placing an "x" or "✓" in the box opposite the name [i.e., or] of the Candidate for whom he/she desires to vote and *shall* then deposit the ballot in the ballot box supplied. While either the mark of an "x" or "✓" *shall* be accepted as a vote, any other mark other than writing that clearly indicates the Voter's preference [i.e.,] will be accepted provided that there are no more boxes marked than there are openings on the Council in that Electoral Sector and any ballot rejected by the Chief Electoral Officer or the Deputy Electoral Officer as improperly marked *shall not* be grounds for appealing the Election if it is clear that a mark other than an "x" or "✓" or was used.
- (ix) An Elector who has inadvertently dealt with his/her ballot paper in such a manner that it cannot be conveniently used *shall* return the same to the Chief Electoral Officer or his/her designate who *shall* write the word "spoiled" upon the Spoiled Ballot and preserve it. The Elector *shall* then be issued a new ballot. The Chief Electoral Officer *shall* make a notation on the Voter's List showing that the Elector returned a Spoiled Ballot and received a new ballot in its place.
- (x) Any person who has received a ballot paper and either
 - (a) leaves the Polling Place without delivering the same to the Chief Electoral Officer or his/her designate in the manner provided, *or*

- (b) after receiving the ballot paper, refuses to vote

shall forfeit his/her right to vote at the Election, and the Chief Electoral Officer or his/her designate *shall* make an entry on the Voter's List in the column for remarks opposite the name of each person to show that such person received the ballot paper and the word "declined" *shall* be written in this column and if the ballot is returned unmarked, also upon the ballot, and all ballot papers so marked *shall* be preserved.

- (xi) No person *shall* use or cause to be used a public address system or other loud-speaker device on Polling Day for the purpose of promoting or securing the Election of any Candidate.

- (xii) No person *shall* on Polling Day:

- (a) while in a Polling Place display on his/her person; *or*

- (b) post or display in or within one hundred and fifty feet (150') of a Polling Place or in or on the window or door of a Polling Place or on the walls or any part of the building in which a Polling Place is situated;

any campaign literature, emblem, ensign, badge, label, banner, card or device that could be taken as an indication of support of or for a particular Candidate.

- (xiii) No person *shall* on Polling Day take a cell phone into a Polling Place.

13.3 Any Candidate who chooses to withdraw prior to the Election *may* do so by notifying the Chief Electoral Officer. If such Notice is provided in writing seven-two (72) hours/or 3 days before the first Nomination Meeting, the fee will be returned and that person's name will be left off the ballot paper.

13.4 The Ballots, including the ballots from the Advance Poll(s), if any, *shall* be counted as follows:

- (i) Immediately following the close of the Poll, the Chief Electoral Officer and/or his/her designates *shall* in the presence of such Candidates or their Scrutineers/Agents as are in attendance at the Polling Station open the Ballot Box and thereupon examine the ballots and

- (a) reject any Ballot that does not give a clear indication of the Voter's preference. If any Ballot has more votes than there are vacancies for that position, the Ballot *shall* be rejected. All rejected papers *shall* be preserved. Any Ballot that selects fewer Candidates than there are vacancies will be deemed to be a good Ballot if it is proper in all other respects in accordance to this Act.

- (b) reject any ballot upon which anything appears by which the Elector can be identified.

- (c) subject to review on recount or on an Election Appeal, take note of any objection(s) made by any Candidate or his/her Scrutineers/Agents to any of the ballot papers found in the ballot box and decide any questions arising out of the objection.

- (d) count the votes given for each Candidate from the ballots not rejected and make a written statement of the number of votes given to each Candidate and the number of ballot papers rejected or spoiled and not counted by him/her which statement **shall** be signed by him/her and such other persons as were authorized by the Chief Electoral Officer to be present during the count as **may** desire to sign the same.
 - (e) conduct recounts as necessary.
- (ii) Re-counts **shall** be conducted in the case of a tie. Recounts **may** be requested in the following circumstances:
- (a) Any Candidate or his/her agent **may** ask for a recount if the number of Rejected Ballots exceeds the difference between those of a defeated Candidate and a person who has been Elected to the same position. This re-count **shall** be commenced immediately after the initial count if the aforementioned condition is met.
 - (b) After the initial count, the Chief Electoral Officer **shall** announce the name(s) of the Candidate(s) and the total number of votes each received. Any Candidate or his/her Scrutineers/Agents can request a re-count for a particular position if there is less than a ten per cent (10%) difference between the ballots received by a successful Candidate and his/her next closest challenger. This re-count **shall** be commenced immediately after the initial count if the aforementioned condition is met.

13.5. Following the Election or By-election the following **shall** be done:

- (i) After counting and, where it is indicated, re-counting the Ballots, the Chief Electoral Officer or his/her designate **shall** announce and post the names of the successful Candidates.
- (ii) Following the Election Announcement, the Chief Electoral Officer or his/her designate **shall** complete and sign an Election Report [see Schedule B, attached hereto], in triplicate which **shall** contain:
 - (a) a list of all Candidates;
 - (b) the total number of Ballots cast;
 - (c) the number of votes each Candidate received;
 - (d) the number of Voters who required assistance and/or interpretation to exercise their franchise;
 - (e) the number of “spoiled” and “rejected” and “declined” ballots; *and*
 - (f) the number of ballots “not counted” for some other reason [i.e., the Candidate withdrew after the ballots were printed].
- (iii) The Chief Electoral Officer or his/her designate **shall** post one (1) copy of his/her report. He or she **shall** thereafter forward:

- (a) one (1) copy of the Election Report to the Regional / District Office of INAC (North Central District); and
 - (b) one (1) copy to the Band Office.
- (iv) The Chief Electoral Officer or his/her designate *shall* seal all of the ballots in an envelope/box marked "Band Election" or "Band By-election" which *shall* be securely stored in a limited-access filing cabinet in the First Nation Band Office or at the Office of the Band's solicitor along with an original copy of the Election Report, the Election Forms and Schedules.
 - (v) Access to these materials *shall* thereafter be limited to the Chief Electoral Officer and his/her Deputies. The envelope/box *shall* only be removed in the event of an Appeal or when the time has come to destroy the contents.
 - (vi) The ballots *shall* remain sealed unless there is an Election Appeal that requires their examination or re-count. In this event, the Chief Electoral Officer, *shall* deliver the envelope/box to the Appeal Tribunal and in their presence, and before any examination or re-count is commenced, examine the envelope/box to ensure that the seal has not been broken. After the Appeal Tribunal has finished their re-count, the ballots *shall* once again be sealed and immediately thereafter returned to secured storage as set out above.
 - (vii) The ballots *shall* be stored for a period of at least 60 days after the Election or By-election or after any Appeals have been determined whichever is later. A copy of the Election Report *shall* be kept as a Band archival record.

13.6 For the office of Chief, the Candidate having the most votes will be declared the winner.

13.7 For the office of the Councillors, a list *shall* be prepared by the Chief Electoral Officer for each Electoral Sector with the Candidate receiving the most votes listed first, the next highest second and so on. The list *shall* be used to declare the same number of Candidates as there are vacancies involved in the particular Sector, elected or defeated.

13.8 All Candidates *shall* have the right to attend in person, or have a designate attend the counting of ballots.

SECTION 14 - BY ELECTION

14.1 A By-election *shall* ordinarily be called if there is a vacancy on Council and there are more than twelve (12) months remaining in the term of office. However, if a quorum still exists, the Chief and Council *may* decide to forego the expense of a By-election for the balance of the term of office. All By-elections *shall* be held in the same manner as a General Election. There *shall* be no By-election to fill a vacancy of less than six (6) months.

14.2 If the position of Chief is vacated mid-term, the Councillor with the most governance experience *shall* be designated "acting Chief" until a By-election can be called.

14.3 Vacancies *shall* occur in the event of the following:

- (i) The offices of Chief and Councillor **shall** immediately become vacant when the person holding that office
 - (a) is *convicted* of a criminal offence that **may** affect their ability to give effective leadership or bring disrepute to their person or the office including, but not limited to, fraud, violent crimes including murder, manslaughter and assaults of any kind, any sexual offences, any offences intending to corrupt morals, disorderly conduct, offences involving drugs or alcohol including the Band bylaw and offences under the *Controlled Drugs and Substances Act* involving trafficking of a prohibited or controlled substance;
 - (b) dies;
 - (c) resigns his/her office by notice in writing to the Council or the Elders Advisory Council;
 - (d) upon expiration of his/her Elected term; *or*
 - (e) declares bankruptcy; *or*
 - (f) is determined to be incompetent by a duly licensed medical practitioner; *or*
 - (g) has been found guilty of Corrupt Practice; *or*
 - (h) has been subject to a successful Motion of No Confidence; *or*
 - (i) has been absent from meetings of the Band Council for three (3) consecutive meetings without being authorized to do so; *or*
has been absent from any of the Band meetings held throughout the year, without being authorized to do so; *or*
 - (j) fails to uphold the Oath of Office, breaches the Code of Ethics or the *Executive Act*; *or*
 - (k) fails to observe any Band by-laws; *or*
 - (l) is determined to be ineligible to hold office by virtue of this Act, the *MLCN Executive Act* or any amendments to either Act.

SECTION 15 - APPEALS & DUTIES OF APPEALS TRIBUNAL

15.1 The Appeal procedure **shall** be as follows:

- (i) Any Elector or Candidate who gave or tendered his/her vote at the Election or By-election or whose name appears on the Voter's List **may**, within fourteen (14) calendar days of the Poll, appeal the Election if he/she has reasonable and probable grounds for believing that:
 - (a) an error or violation of this *Election Act* was made in the interpretation or application of the Act which might have affected the outcome of the Election;
 - (b) a Candidate who ran in the Election was ineligible to do so pursuant to this Act; *and/or*
 - (c) there was a Corrupt Practice to secure votes in contravention of the *Election Act*.

- (ii) An Appeal of a MLCN Election or By-election *may* be launched in the following manner:
 - (a) a Notice of Appeal in writing, duly verified by properly sworn Affidavits, *shall* be forwarded by registered mail or hand delivered to the Chief Electoral Officer outlining the grounds for the Appeal. Reference *must* be made to the specific section(s) of the *Election Act* that were allegedly breached and to particular errors of omission or commission. If the Notice of Appeal and Affidavits do not provide this detail, the Appeal will be dismissed.
 - (b) The Notice of Appeal must be received within fourteen (14) calendar days of the Election or By-election.
- (iii) The Appeal Tribunal *shall* within seven (7) days of receiving the complaint rule on whether to allow or disallow an Appeal Hearing based on the sufficiency of the evidence presented in the complaint and thereafter, as soon as is reasonably practicable, advise the Band, the complainant(s) [**“the Appellant(s)”**] and any Candidate(s) who might be affected by an adverse decision of the Appeal Tribunal and any Electoral Officers accused of wrong-doing [**“the proper Respondent(s)”**], of the Appeal Tribunal's Preliminary Ruling and reasons.
- (iv) If the Appeal Tribunal decides to proceed with an Appeal Hearing, the Hearing *shall* be held within fourteen (14) days of receiving the complaint. All proper parties *shall* be given notice of the date, time and place of the Appeal Hearing and the grounds for appeal by registered mail or personal service. Recipients *shall* confirm receipt of the same in writing,
- (v) At the Appeal Hearing, the Appellant(s) *shall* present his/her/their case. All proper Respondents are entitled to make full answer and defence. The Appellant(s) *shall* then have an opportunity for rebuttal.
- (vi) The parties [Appellants and Respondents] *may* be represented by legal or other counsel, each at their own expense. The Appeal Tribunal *may* consult with legal counsel at the Band's expense. The Electoral Officers *may* with consult with separate legal counsel at the Band's expense provided there was no wrong-doing on their part.
- (vii) The Appeal Tribunal *shall* hear any and all relevant evidence brought forth by the Appellants and/or Respondents.
- (viii) The Appeal Tribunal *shall* within seven (7) days of holding an Appeal Hearing, make one of the following decisions:
 - (a) deny the Appeal on the grounds that the evidence presented did not indicate an infraction of the Act and so advise the Band and the Complainant(s);
 - (b) uphold the Appeal but allow the Election to stand, on the grounds that the infraction would not reasonably be seen to have affected the results of the Election; *or*

- (c) uphold the Appeal and call for a new Election or By-election within twenty-one (21) days of the determination of the Appeal for all or some of the positions which were contested, giving clear instruction such that the reason for the original Appeal is corrected. There *shall* be no new or additional nominations beyond the slate that ran in the Election or By-election that is the subject of Appeal but not all Candidates shall be required to proceed to the By-election.

- (ix) Where an Appeal is received by the Appeal Tribunal, the Appeal Tribunal *shall*:
 - (a) within seven (7) days of the receipt of the Appeal forward a copy of the Notice of Appeal together with the supporting documents to each of the parties named above.
 - (b) as soon as is practicable forward a copy of their Preliminary Ruling by Registered Mail or personal service to each of the parties named above. The recipients *shall* acknowledge receipt of the same in writing.
 - (c) advise each of the aforementioned parties by regular, electronic and/or fax mail or personal service of the date, time and place of the Appeal Hearing, if there is to be one, and the grounds of the Appeal. The recipients *shall* acknowledge receipt of the same in writing.
 - (d) advise each of the aforementioned parties by Registered Mail or personal service of the decision of the Appeal Tribunal. The recipients *shall* acknowledge receipt of the same in writing.
 - (e) Appeal Hearings *shall* be held on Reserve,

- (x) **The decision of the Appeal Tribunal shall be final.**

SECTION 16 - DISCONTINUATION OF AUTHORITY

16.1 The following procedures(s) *shall* govern the discontinuation of authority:

- (i) Upon Nomination, unless acclaimed, the Chief and Council are required to relinquish their signing and decision-making authority. During this period, operational decisions *shall* be left to the senior management team.
- (ii) During the period between Nomination Day and Polling Day, an incumbent who wishes to seek re-Election is prohibited from using Band resources (fiscal, capital or human) for his/her campaign including but not limited to cellular phones, vehicles, office equipment, staff and other assets of the Montreal Lake Cree Nation.
- (iii) Wages for elected officials *shall* be paid up to and including Nomination Day. Thereafter, as with other Band employees seeking elected office, they can use compensable leave, if any, to cover the period up to and including Polling Day.

SECTION 17 - AMENDMENTS

17.1 This Act *shall* be amended in accordance with the following procedures:

- (i) Within five (5) years following the most recent review and revision of this Act and during each five (5) year interval thereafter, the Band Council *shall* undertake a review of the provisions of this Act with the Band Membership. In this regard, the Band Council *shall* within each of the five (5) year periods, convene at least three (3) Band Membership meetings, one (1) in each Electoral Sector for the purposes of reviewing the provisions of this Act and obtaining input from the membership as to any proposed amendments.
- (ii) Following the Band Membership meetings referred to above, should the Band Council consider it appropriate (at their discretion) to propose additional amendments to this Act, the Band Council *shall* prepare a document setting out the terms of the proposed amendment(s). The final 'draft' *shall* then be placed before the Membership at subsequent Band Membership meetings in each Electoral Sector where the amended Act *shall* be read in its entirety and voted on by the membership in accordance with the provisions hereof.
- (iii) A Band Meeting *shall* be convened for the purpose of reviewing and ratifying any changes to this Act. Notice of the meetings *shall* be posted thirty (30) days prior to the meeting. The Notices *shall* be posted by the Band Council.
 - (a) in all Band Offices, on the website, and on public notice boards located on and off-Reserve as determined by the Band Council; and
 - (b) in not less than two (2) issues of a daily newspaper [the Prince Albert Daily Herald] including electronic media [PANow] whose circulation encompasses locations off the Montreal Lake Cree Nation Reserves.
- (iv) For amendments to be effective they must be ratified by a simple majority of Electors (50% + 1) present at the Band Membership meetings.
- (v) Upon adoption of any amendments the same *shall* be incorporated into this Act and take effect on the date of the ratification vote.