

MONTREAL LAKE CREE NATION EXECUTIVE ACT, 2016

Adopted on 28/09/2016 following a ratification vote held on the following dates:

Saskatoon, September 23, 2016

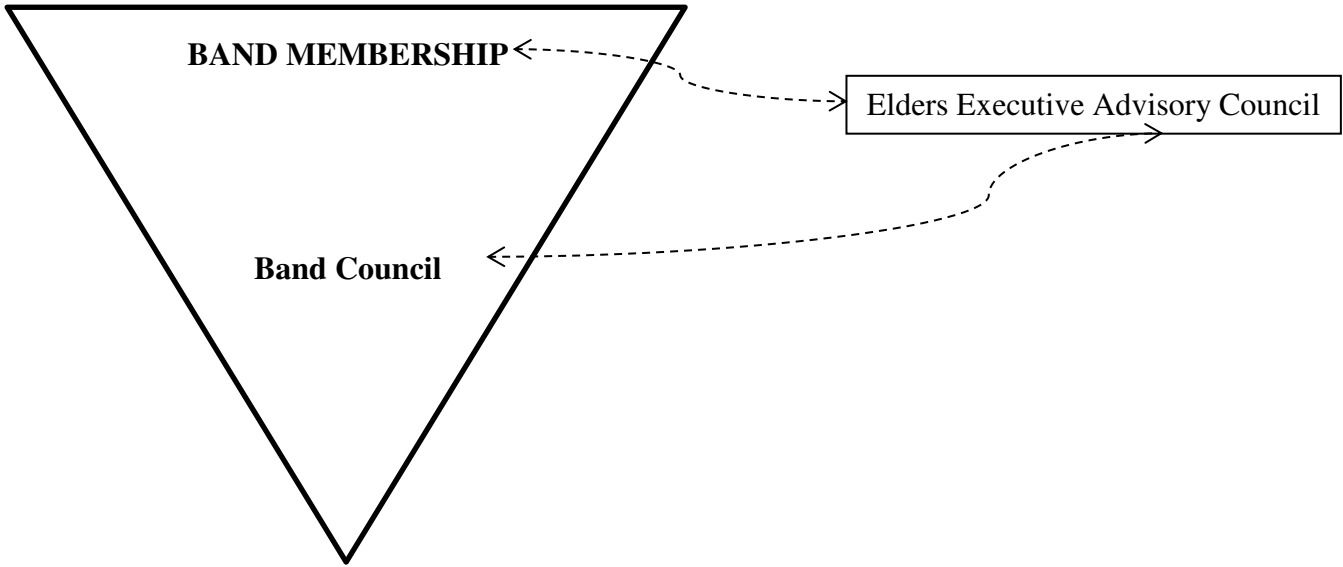
Prince Albert, September 26, 2016

Montreal Lake Reserve 106, September 27, 2016

Little Red Reserve 106B, September 28, 2016



Status of Legislation



QUALITIES WE EXPECT OF OUR ELECTED OFFICIALS

Thkanahtahk Today when we speak about **purity**, most people think about personal hygiene and healthy lifestyles, and while those remain very important, years ago when old people talked about cleanliness, they meant spiritual cleanliness – purity in thought, word and deed. Clean thoughts come from a clean mind and this comes from our spirituality. With a clean mind and sense of peace within we learn not to inflict ills on others.

kanweyimithosowin We expect our elected officials a set an example for staff in achieving a work-life balance. We also expect our elected officials to assume responsibility for promoting balance and well-being for our individual Band members, their families, the community and the First Nation.

kistithitumowin / kistithitahkowsowin **Respect** means giving honor to our Elders and fellow Band members, to the strangers that come to visit our community, to the people we invite to the Reserve and to all of life. We must honour the basic rights of all others. We must treat others with respect and dignity.

kwayaskwâtisiwin **Fairness** means dealing with others consistently and justly. An elected official must check all the facts and hear everyone out before passing judgment. He or she must avoid leaping to conclusions based on incomplete evidence or spreading false information. When people feel they that are being treated fairly, they reward an elected official with loyalty and dedication.

mamatowisowin **Creativity** is the ability to think and problem-solve differently, to get outside of the box that constrains solutions. Creativity gives elected officials the ability to see things that others have not seen and thus lead the Band in new directions. The most important question that an elected official can ask is, "What if ...?" Possibly the worst thing an elected official can say is, "I know this is a dumb question..."

mamawîchihitowin (sharing) We learn to be part of a family and community by helping with the provision of food and other basic needs. Through the **sharing of responsibilities** we learn the value of **working together** and enjoying the fruits of our labor. **Magnanimity** means giving credit where it is due. A magnanimous leader ensures that credit for success is spread as widely as possible throughout the organization. Conversely, a good leader takes personal responsibility for failures. This sort of reverse magnanimity helps other people feel good about themselves and draws the team closer together. To spread the fame and take the blame is a hallmark of effective elected leadership.

mithiwatumowin We must show some **enthusiasm** to encourage others. Our positive words and acts will uplift others. This is how we share happiness and create positivity.

mitho-opikihawasowin Our children are gifts from the Creator. We are responsible for their wellbeing: spiritual, emotional, physical, and intellectual, since they are blessed with the gift of representing the continuing circle of life, which we perceive to be the Creator's will. The Band Council must be always thinking ahead and creating a legacy for future generations.

mithowichitowin / kisteyihtōwin If we are to live in **harmony** we must accept one another as we are, and accept others who are not part of our circle. Love means to be good and kind to one another and to ourselves.

mochikisit A **sense of humour** is vital to relieve tension and boredom, as well as to defuse hostility. Effective leaders know how to use humour to energize staff and others. Humour is a form of power that provides some control over the work environment. And simply put, humour fosters good camaraderie.

nanahyitumowin **Obedience** means accepting guidance and wisdom from outside of ourselves, using our ears before our mouth, making informed-decisions. We learn by listening to traditional stories, by listening to our Elders, by reading, by consulting experts. We learn by their behaviors and reminders, so that we know what is right and what is wrong.

nanohskomowin We learn to give thanks: to always be **thankful** for the Creator's bounty, which we are privileged to share with others, and for all the kind things others do for us.

pahkosithimowin We must look forward to move toward good things. We need to have a sense that the seeds we are planting will bear fruit for our children, families and communities. We must have **hope**.

papihatukh mito nīthētumowin **Openness** means being able to listen to new ideas, even if they do not conform to the usual way of thinking. Good leaders are able to suspend judgment while listening to others' ideas, as well as accept new ways of doing things that someone else thought of. Openness builds mutual respect and trust between elected officials and Band members, and it also keeps the Band Council well supplied with new ideas that can further its vision.

sakihitowin **Commitment / Dedication** means spending whatever time or energy is necessary to accomplish the task at hand. An elected official inspires commitment by example, doing whatever it takes to complete the next step toward the strategic vision. By setting an excellent example, elected officials can show Band members and other persons that there are no nine-to-five jobs on the Band Council, only opportunities to achieve something great.

sīpehthitumowin **Strength / determination**). **Assertiveness** is not the same as aggressiveness. Rather, it is the ability to clearly state what one expects so that there will be no misunderstandings. A leader must be assertive to get the desired results. Along with assertiveness comes the responsibility to clearly understand what Band members expect from their elected officials. Being too assertive or too timid may be the most common weakness among aspiring leaders. When we speak of strength we are not talking about physical strength, but about spiritual and intellectual strength. We must learn to be patient in times of trouble and not to complain but to endure and show understanding. We must accept difficulties and challenges as opportunities for growth so that, by example, we can give others the courage to address their own difficulties and challenges. We get intellectual strength from knowing the facts and making informed decisions, by engaging experts to provide advice and help us gain a better understanding,

tapahthēthimisowin **Humility** means we are not above or below others. We feel humbled when we understand our relationship with Creation. We are so small compared to the majestic expanse of Creation, just a "strand in the web of life." Understanding this helps us to respect and value life and to treat others with respect and dignity. Elected officials with humility recognize that they are no better or worse than other members of the Band. A humble leader is not self-effacing but rather tries to elevate everyone. Elected officials with humility also understand that their status does not make them above the law.

tapwīthitumonwin We must learn to trust others, to believe in a power greater than ourselves. To sustain our spirituality, we need to walk it every day - not just sometimes, but every day.

tapwīwin An **honest** person, a person of **integrity** is the same on the outside and on the inside. Such an individual can be trusted because he or she never veers from traditional values, even when it might be expeditious to do so. An elected official must have the trust of followers and therefore must display integrity. Honest dealings, predictable reactions, well-controlled emotions, and an absence of tantrums and harsh outbursts are all signs of personal integrity. An elected official who is centered in integrity will be more approachable by followers. A person of integrity will provide transparent, accountable government.

wahkohtowin Our families are important. This includes our parents, brothers and sisters, our partner and our children all of whom love us and give us roots that tie us to the lifeblood of the earth. It also includes extended family: grandparents, aunts, uncles and cousins, and our in-laws and grandchildren. They are also our brothers and sisters and give us a sense of belonging to a community.

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The Montreal Lake Cree Nation is pleased to pass this Act to govern the terms and conditions of the office of Chief and Council.

1. SHORT TITLE

This Act *may* be cited as *The Montreal Lake Cree Nation Executive Act, 2015*

2. DEFINITIONS

For the purposes of this *Executive Act*, the definitions contained in *The Montreal Lake Cree Nation Election Act* *shall* apply hereto. In addition, in this Act:

- 2.1 “Affidavit”** means a written sworn statement of fact voluntarily made by the person executing it under an oath or affirmation administered by a person authorized to do so by law such as a lawyer, a notary public or commissioner of oaths.
- 2.2 “Conflict of interest”** means a real or seeming incompatibility between one’s private interests and one’s public or fiduciary duties and includes any act or omission that is recognized by law or custom to be a Conflict of Interest.
- 2.3 “Corrupt Practice”** means any act done by an elected Official, whether Chief or Councillor, or a senior employee or candidate, who unlawfully and/or wrongly uses his or her name or position of authority or trust to procure some benefit or favour for him or herself or for another person contrary to his or her official or fiduciary duties and/or the rights of other persons and includes any act or omission that is recognized by law or custom to be a Corrupt Practice. *The custom gifting of tobacco and cloth is not a corrupt practice.*
- 2.4 “Petition”** shall mean the written document that sets out a complaint about an elected official charging the official with breach of his/her Oath of Office, Code of Conduct or other breach of the Executive Act. The Petition should meet the following commonly accepted conventions:
- (a) it should be addressed to someone or to a decision-making body [i.e., the Appeal Tribunal] or person(s) in a position of authority [i.e., the Band Manager, CEO or Senior Management Team];
 - (b) should contain a request, sometimes also referred to as a prayer, for the addressee(s) to take some action (or refrain from taking some action) within their scope of duties to remedy a grievance;
 - (c) may also include a more detailed description of the grievance and/or a statement of opinion. However, a statement of grievance or opinion alone cannot be received as a petition;
 - (d) it should indicate the names and addresses of each of the petitioners;
 - (e) should be clearly written or printed and be free from erasures or alterations;
 - (f) ~~it should be~~ it should be signed by all of the persons whose names are listed on it and no one else except in the case of infirmity in which case that should be noted;

- (g) if a petition is composed of more than one sheet of signatures and addresses, the subject-matter of the petition should be indicated on each and every sheet; and
- (h) it should be respectful, decorous and temperate in language.

2.5 “**Petitioner**” *shall* mean a person who was eligible to vote in the Montreal Lake Cree Nation Election at the time the Chief or Councillor, who is subject to a Petition for a Motion of No Confidence pursuant to Section 12, was elected to his or her position.

2.6 “**Respondent**” *shall* mean the Chief or Councillor who is subject to a Petition for a Motion of No Confidence pursuant to Section 12.

3. COMPOSITION AND TERM OF OFFICE

3.1. The Chief and Councillors *shall* be elected according to the procedures and for the term of office set out in *The Montreal Lake Cree Nation Election Act* or any successor legislation.

3.2 The Chief and Council, as long as they remain qualified to hold office, *shall* be the authorized Indian government and legislative authority on the Reserve.

4. POLITICAL ROLES OF THE CHIEF AND COUNCIL

4.1. The Chief and Council *shall* set strategic goals and objectives for the Montreal Lake Cree Nation, make and adopt regulations, provide direction to Band employees and provide accountable and fiscally responsible government to Band members including, but not limited to, the following:

- (a) adopting the Annual budgets prepared by the Program Managers/Directors/ Coordinators and the Band administration and present the same to the Band membership at least annually;
- (b) presenting the audited financial statement(s) and auditor’s reports to the membership annually;
- (c) developing a plan to retire any deficit in a timely fashion and present the same to the membership;
- (d) approving major financial transactions provided the same will not create a deficit or compromise the Band’s fiscal autonomy;
- (e) promoting the community’s language, culture and customs;
- (f) promoting economic development, health and social development, education, recreation and healthy life styles on the Reserve;
- (g) overseeing the administration of Band programs and Band employees where they have not delegated that authority to an Executive Director, Program Director, Board of Directors, Chief Executive Officer or a Band Manager;
- (h) fostering and protecting aboriginal, inherent and treaty rights;
- (i) representing the best interests of the Band when dealing with Canada, the Province, Municipal governments, other First Nations, the Prince Albert

Grand Council, the Federation of Saskatchewan Indian Nations or the Assembly of First Nations; and

- (j) being ambassadors of the Woodland Cree people and of the Montreal Lake Cree Nation.

4.2 The Chief and Council stand in a position of trust and authority with respect to the Band and its members.

4.3 The Chief and Council, in exercising their powers and discharging their duties, are required to act honestly and in good faith with a view to the best interests of the Band and to exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.

4.4 The same fiduciary obligation rests upon the Chief and Council with respect to Band assets [**“Band assets”** include anything purchased with Band funds or provided for the benefit of the Band and/or its members] as rests upon any public official empowered to make decisions about public property.

4.5 The Chief and Council must diligently avoid Conflicts of Interest or the appearance of Conflicts of Interest when dealing with Band assets, including land mass. The Chief and Councillors should not participate in any discussion in which they have a Conflict of Interest.

- (a) The Chief and Councillors are required to disclose *in writing* to the Band Council or request to have entered in the minutes of a meeting of the Band Council the nature and extent of his or her interest where he or she:
 - (i) is a party to a material contract or proposed material contract with the Band; *or*
 - (ii) is a director or officer of or has a material interest in any person (see definitions of spouse and family member set out in Section 10), who is a party to a material contract or proposed material contract with the Band; *or*
 - (iii) is a business partner, associate (see definition set out in Section 10) or close family friend of any person who is a party to a material contract or proposed material contract with the Band.
- (b) The disclosure required by subsection 4.5(a) *shall* be made:
 - (i) at the meeting at which a proposed contract is first considered; *or*
 - (ii) if the Chief or Councillor was not then interested in a proposed contract, at the first meeting after he or she becomes interested; *or*
 - (iii) if the Chief or Councillor becomes interested after a contract is made, at the first meeting after he or she becomes interested; *or*
 - (iv) if a person who is interested in a contract later becomes Chief or a Councillor, at the first meeting after he or she becomes Chief or Councillor.

4.6. Any Corrupt Practice must be carefully avoided.

5. DELEGATION

- 5.1** To carry out the legislated decisions of Chief and Council, a Montreal Lake Cree Nation Public/Civil Service has been created with distinct areas of delegated responsibility, *including but not limited to*, Lands and Resources Management, Economic Development, Education, Health and Social Development, Public Works and Housing, Justice, Sports, Culture and Recreation, and Treaty Land Entitlement.
- 5.2** The Band Council, as the legislative arm of the Montreal Lake Cree Nation Indian Government, sets policies, passes bylaws, establishes regulations and identifies procedures to be followed by the Montreal Lake Cree Nation Public/Civil Service.
- 5.3** The Montreal Lake Cree Nation Public/Civil Service, as the executive arm of the Montreal Lake Cree Nation, delivers the services and implements the Band programs that have been established by Chief and Council in accordance with Band policies, procedures and regulations that are ratified from time to time.
- 5.4** The legislative arm consists of Chief and Council. The executive arm consists of the Band employees who are divided into management and non-management staff.
- 5.5** The Band Manager / Director of Operations / Chief Executive Officer [“CEC”], if any, oversees the day-to-day operation of the Band Office. He or she reports to Chief and Council and is among the senior public servants at the Band level.
- 5.6** Each program [Lands and Resources Management, Economic Development, Education, Health and Social Development, Public Works and Housing, Justice, Sports, Culture and Recreation, and TLE] is headed by a Program Director / Manager / Coordinator who oversees the day-to-day operation of the respective program. He or she reports to Chief and Council and is among the senior public servants at the Band level.
- 5.7** The division of powers between the legislative and executive arms increases the level of accountability and transparency of Band programs and services. Chief and Council have no mandate to do the tasks of the Band Manager / Director of Operations / CEO or the respective Program Directors / Managers / Coordinators nor are they responsible for the day-to-day operation of the Band or any of its programs.
- 5.8** The legislative (political) arm of the Band is responsible to the electorate. The executive arm is responsible to Chief and Council to ensure that the policies and procedures identified by Chief and Council are implemented and carried out.

6. AUTHORITY OF THE CHIEF

- 6.1** The individual who is elected Chief of the Montreal Lake Cree Nation derives his or her power from the *Indian Act* and from Band custom. He or she

- (a) **shall** preside at meetings of Chief and Council;
- (b) **may** call special meetings of Chief and Council;
- (c) **may** authorize Councillors to be absent from special meetings of Council;
- (d) **shall** set the agenda for Council meetings;
- (e) **shall** maintain order and decide all questions of procedure at Band Council meetings;
- (f) **may** exclude any Band member from a Council meeting for improper conduct or for causing a disturbance;
- (g) **may** appoint a Chair from among the Council at any regularly scheduled meeting of Council at which he or she expects to be absent; and
- (h) can summon a Band meeting.

6.2 The Chief is a role model for Councillors and an ambassador for the Montreal Lake Cree Nation at meetings with other levels of government [federal, provincial, municipal, and First Nation]. It is by his or her words, conduct and integrity that the public will view the nature and stature of the Montreal Lake Cree Nation.

6.3 The Chief is expected to conduct him or herself in a manner that will do credit to him or herself, his or her family and the Band.

6.4 The Chief is accountable to the electorate and to the Elders Executive Advisory Council. The Chief is expected to contribute to the betterment of the Montreal Lake Cree Nation and to Montreal Lake Band members generally.

6.5 The Chief is bound by the same rules, bylaws, regulations, policies and procedures that govern all other members of the Montreal Lake Cree Nation.

6.6 The Chief is bound by the terms of this Act for his or her term of office.

6.7 The Chief has voice and one (1) vote at Council meetings.

7. THE AUTHORITY OF THE BAND COUNCIL

7.1 The Band Council represents the legislative arm of the Montreal Lake Cree Nation and consists of a quorum of the Chief and Council.

7.2 A simple majority [50% *plus* 1] of the Band Council constitutes a quorum.

7.3 Councillors are required to vote on any motion duly made and seconded at a Band Council meeting. Each Councillor has voice and one (1) vote at Council meetings.

7.4 A Councillor who fails or neglects to vote, except where exempted because of a real or potential conflict of interest, will be deemed to have voted in the affirmative.

7.5 A Councillor is required to declare any conflicts of interest and exclude him or herself from any discussion or decision in which he or she **may** have a conflict of interest.

- 7.6 As an elected member of the Band Council, each Councillor must represent the interests of his or her constituents.
- 7.7 Each Councillor is expected to serve as a role model to the Band members.
- 7.8 Each Councillor is expected to conduct him or herself in a manner that will do credit to him or herself, his or her family and the Band. Every Councillor is expected to contribute to the betterment of the Montreal Lake Cree Nation and to Montreal Lake Band members generally.
- 7.9 Each Councillor is bound by the same rules, bylaws, regulations, policies and procedures that govern all other members of the Montreal Lake Cree Nation.
- 7.10 Each Councillor is bound by this Act.

8. THE ELDERS EXECUTIVE ADVISORY COUNCIL

- 8.1 The Chief and Council of the Montreal Lake Cree Nation *shall* create an Elders Executive Advisory Council which group *shall* hold office for life unless he or she resigns or is removed on the recommendation of a majority of the remainder of the Elders Executive Advisory Council for similar reasons as are set out in s. 13. The Chief and Council *shall* determine the selection process but any vacancies shall be filled not later than one (1) month following the swearing in ceremony.
- 8.2 The Elders Executive Advisory Council *shall* consist of a minimum of five (5) Elders and a maximum of twelve (12).
- 8.3 The Elders Executive Advisory Council *shall* carry out those duties assigned to them including:
- (a) providing guidance to the Chief and Council *when their advice is sought*;
 - (b) acting as the conscience of the Band and, where necessary or warranted, instituting disciplinary or impeachment proceedings against the Chief and Council;
 - (c) providing a sober second thought on issues and concerns of the day;
 - (d) acting as a sounding board to new proposals;
 - (e) serving as a resource to Band members;
 - (f) acting as statesmen and women within the legislative arm.
- 8.4 Members of the Elders Executive Advisory Council *shall* conduct themselves with the utmost honesty, integrity and impartiality. Knowledge and wisdom, coupled with the recognition of respect of the people of the community, are essential for defining characteristics of an Elder. Elders earn that title by setting an example and contributing to the good of the community.
- 8.5 Members of the Elders Executive Advisory Council *shall* be treated with respect and esteem provided that their conduct is above reproach.

- 8.6 Members of the Elders Executive Advisory Council must serve as role models for Chief and Council and hold themselves to the highest standards.
- 8.7 Members of the Elders Executive Advisory Council are bound by the same rules, bylaws, regulations, policies and procedures that govern all other members of the Montreal Lake Cree Nation.
- 8.8 Members of the Elders Executive Advisory Council *may* be re-appointed.
- 8.9 Members of the Elders Executive Advisory Council are bound by this Act.

9. CODE OF ETHICS

9.1 The Code of Ethics is a set of comprehensive rules that govern what the Chief and Councillors *may* or *may not* do during their term of office. It is a guide by which the Elected Officials should conduct themselves. It is a framework within which the Chief and Council can provide the quality of leadership that is expected of them by the electorate.

Every member of the Band Council who wishes to enjoy the respect and confidence of the Band membership should strive to maintain the highest standards of professional and personal conduct both in *and* out of the workplace and both on *and* off Reserve.

9.2 The Chief and Council *shall*

- (a) be motivated by an earnest desire to serve the Band membership;
- (b) endeavour to attend all Band Council meetings and, if it is necessary to be absent from a meeting, to acknowledge and support the decisions made by the Council in his or her absence;
- (c) recognize that Band assets are a public trust and must be used wisely;
- (d) recognize that the Council is accountable for the expenditure of *all* monies that flow through Band accounts whatever their source;
- (e) maintain a system of accountability to the Band members that provides for:
 - (i) **transparency and openness in the Council's decision-making process** including drafting and maintaining at all times a written conflict of interest policy which will, at a minimum, provide that:
 - A. an Elected Official or employee of the First Nation will not benefit from that position beyond the agreed upon compensation as a result of the position they hold; and
 - B. where an Elected Official or employee of the First Nation has a personal interest in the outcome of any decision to be made by the First Nation, and that interest gives rise to a Conflict of Interest, that conflict and the extent of the interest will be disclosed to the First Nation and the First Nation will determine whether that individual will take part in that discussions and decisions;

- (ii) **disclosure of the Council's administrative procedures and policies** by making the following documents readily available to all members upon request: the Annual Audit, including the auditor's report; completed evaluations of any Band-administered programs and services; written policies or procedures relating to the provision of any programs or services to Band members; copies of this Act and the Election Act and an annual report of the activities of the Band and its programs during each year; minutes of all Council meetings.
- (iii) **redress** for Band members by ensuring that policies and procedures are in place to address disputes related to the delivery of programs and services, which policies and procedures *shall*, provide for:
 - A. clearly defined and impartial dispute resolution mechanisms for initiating, presenting and resolving disputes including an opportunity for all parties to be heard;
 - B. reasonable time frames within which disputes must be initiated and resolved; *and*
 - C. an appeal process.
- (iv) **responsibility to Band members on and off-Reserve** including holding community meetings at the Reserves (Montreal Lake and Little Red River), in Prince Albert *and* in Saskatoon *at least* annually to review program and service delivery, to present the budget and audited financial reports with respect to all Band accounts, to provide an update with respect to the Band asset inventory and to account for trips, meetings or functions attended in their official capacity, and to provide program reports.
- (v) do everything within their power to maintain the integrity, confidence and dignity of the offices of Chief and Councillor;
- (f) encourage full and open discussion while maintaining proper decorum and behaviour at Band meetings;
- (g) treat each other with respect and consideration so that the Council can work effectively for the best interests of the Band;
- (h) refrain from publicly criticizing any colleague, associate or Band employee;
- (i) recognize that authority rests with a quorum of Council not with individual members of Council;
- (j) refuse any fees or other items offered in reward for duties performed in the ordinary course of their office except such salary, benefits and allowances as *may* be provided for by Band policy;
- (k) refuse salary, benefits or allowances which have not been honestly earned [i.e., collect travel and meal allowances when no trip was taken or the meeting was not attended or collect salary when he or she did not report to work as required by the Personnel Policy Manual or this Act];
- (l) avoid anything that might be perceived as Conflict of Interest;
- (m) avoid Corrupt Practice [see 4.6];
- (n) follow Band protocols, Band policies and bylaws; and

- (o) ask a Band employee or Band member to do something contrary to law or to any authorized Band policy, bylaw or BCR.

10. CONFLICT OF INTEREST

10.1 For the purposes of this Act:

- (a) “associate” *shall* mean
 - (i) a corporation having share capital and carrying on business or activities for profit or gain, where the Chief or Councillor is a director or senior officer of the Corporation;
 - (ii) a private corporation carrying on business or activities for profit or gain, where the Chief or Councillor owns or is the beneficial owner of shares of the corporation;
 - (iii) a partnership having not more than 20 persons:
 - A. of which the Chief or Councillor is a partner; or
 - B. of which one of the partners is a corporation directly associated with the Chief or Councillor by reason of subclause (i) or (ii);
 - (iv) a person or a group of persons acting as the agent of the Chief or Councillor and having actual authority in that capacity from the Chief and/or Councillor;
- (b) “**family**” with respect to Chief and Council, means immediate family member as defined by the Montreal Lake Cree Nation Personnel Policy Manual;
- (c) “**spouse**” means spouse as defined by the Montreal Lake Cree Nation Personnel Policy Manual.\

10.2 Chief and Council *shall* not profit from any institution of the Band, and upon taking office *shall* declare any such Conflict of Interest for the term of his or her office.

10.3 A Chief or Councillor has a Conflict of Interest when that Elected Official makes a decision or participates in making a decision affecting his or her office and at the same time knows that in the making of the decision there is the opportunity to further his or her private interest, his or her family’s interest or the private interest of an associate, business partner or close friend.

10.4 A Chief or Councillor who has reasonable grounds to believe that he or she has a Conflict of Interest on a matter that is before the Band *shall*, if present at a meeting considering the matter:

- (a) disclose the general nature of the conflict of interest; and
- (b) withdraw from the meeting without voting or participating in the consideration of the matter.

10.5 Except as specifically provided in this or any other Act, no Chief or Councillor *shall* participate in a Band contract.

- (a) For the purposes of this Act, “Band contract” means a contract entered into with the Band for any purpose.

- (b) A Chief or Councillor participates in a Band contract where the Elected Official:
 - (i) is, or has a right to become, in the Elected Official's private capacity, a party to or has a beneficial interest in the contract; or
 - (ii) is a shareholder, partner, director, manager, or officer of, or has an interest in, a business that:
 - A. is, or has a right to become, a party to or has a beneficial interest in the contract; or
 - B. has a subsidiary, which is, or has a right to become, a party to or has a beneficial interest in the contract.

10.6 The prohibition in subsection 10.5 does not apply to a Band contract that is not subject to the discretion of any individual, where the standard terms and conditions of eligibility are objective in nature and are prescribed in an Act or regulation

10.7 A Chief or Councillor *shall* not use information that is gained in the course of or by reason of his or her official position or activities and that is not readily available to the Band members, to further or to seek to further the Elected Official's interest, his or her family's interest, or the interest of an associate, business partner or close friend.

10.8 The following Conflict of Interest guidelines *shall* apply to Chief and Council, their associates, family or spouse as defined above:

- (a) public funds, programs and services are intended for the betterment of the Band membership and *shall* be used and managed accordingly;
- (b) Chief and Council and Band employees *shall* not personally benefit beyond the agreed upon compensation as a result of any position they hold with the Band;
- (c) Chief and Council cannot be concurrently Band employees beyond their portfolio appointments; Band employees are deemed to have resigned if they are successful in their bid for the office of Chief or Councillor;
- (d) when Chief and Council or Band employees have a vested interest in the outcome of a decision in which they would otherwise be entitled to participate, they *shall* disclose the Conflict of Interest and abstain from participating in the decision.

11. DISCIPLINE

11.1 If the Elders Executive Advisory Council, acting reasonably, have reason to believe that the Chief or one of the Councillors have breached the Code of Ethics, Oath of Office or Conflict of Interest Guidelines or that the Chief or Councillor are guilty of improper, unethical, immoral or illegal conduct as set out in the *Election Act*, the Elders Executive Advisory Council *shall* call upon the Appeal Tribunal to convene a disciplinary hearing.

11.2 The Chief or Councillor who is being subject to the disciplinary hearing *shall* be given notice of such a hearing by the Appeal Tribunal as soon as practicable after it

has been asked to convene a disciplinary hearing. The notice *shall* provide at least seven (7) clear days before the hearing and *shall* set out:

- (a) the nature of complaint;
- (b) the details of the complaint: describe the incident(s), what is alleged to have been said or done, the date and location of the incident(s), the circumstances surrounding the incident(s), the names of any witnesses and any other relevant information; and
- (c) notice that the Respondent *may* have a friend or solicitor attend the hearing but that any expenses so incurred are the responsibility of the Respondent. The role of such friend or solicitor is strictly advisory. He or she *shall not* address the persons assembled for the disciplinary hearing.

11.3 The Appeal Tribunal *shall* have full powers to investigate, including access to Band records or files, documents and data except where protected by privacy legislation. They *may* interview witnesses, take testimony under oath and make such inquiries as will serve the interests of justice.

11.4 The Appeal Tribunal *may*

- (a) suspend the Respondent without pay during the investigation, which pay will be reinstated if the Appeal Tribunal finds no evidence of wrongdoing on the part of the Respondent;
- (b) give the Respondent a written reprimand setting out the remedial action that is required along with a time line for demonstrating the same;
- (c) suspend the Respondent without pay following a finding of guilt;
- (d) refer the Respondent for assessment and treatment; and/or
- (e) recommend a community meeting to remove the Respondent from office.

12. MOTION OF NO CONFIDENCE

12.1 Grounds for a motion of No Confidence include a serious breach of the duties and responsibilities contained in this Act.

12.2 The process for a motion of No Confidence *shall* be as follows:

- (a) a Petition requesting a motion of No Confidence of the Chief or Councillor must be submitted by a Petitioner in writing to the Elders Executive Advisory Council;
- (b) at the time of the submission of the Petition for a Motion of No Confidence, there *shall* be presented therewith an affidavit by the Petitioner(s) that he, she or they has (have) good reason to believe, and verily does (do) believe, that the person against whom the Petition is filed, has breached the provisions of this Act;
- (c) at the time of the submission of the Petition, security for the payment of all costs, charges and expenses that *may* become payable by the Petitioner(s), *shall* be given on behalf of the Petitioner(s);
 - (i) to any person summoned as a witness on his, her or their behalf; or
 - (ii) to the Respondent.
- (d) The security *shall* be in the amount of \$100.00 per Petitioner and *shall* be

given by a deposit of money to the Elders Executive Advisory Council made payable to the Band;

- (e) The Elders Executive Advisory Council will immediately notify the Chief, and the Respondent; and, if the Chief is the Respondent, the Elders Executive Advisory Council will immediately notify the Councillors; and the Elders Executive Advisory Council will thereafter call a meeting of the Appeal Tribunal, the Respondent and the Petitioner(s) for the purpose of making a determination of the issue. The determination *shall* be made in a closed session by means of resolution confirmed by a quorum of the Elders Executive Advisory Council and the Appeal Tribunal; and
- (i) if the grounds for the Motion of No Confidence are substantiated, bring the matter forward to a Band meeting; or
 - (ii) if the grounds for the Motion of No Confidence are not substantiated, deem the matter closed by resolution.

12.3 The Office of Chief or a Councillor becomes vacant when fifty percent plus one (50% + 1) of the persons present at the Band meeting vote in favour of a Motion of No Confidence.

12.4 If the grounds for the Motion of No Confidence are not substantiated, the security *shall* be forfeited and deposited in the Band account.

12.5 If the grounds for the Motion of No Confidence are substantiated, the security *shall* be refunded to the person(s) who filed the Petition.

12.6 If the complaint is found to be frivolous or vexatious [**“frivolous or vexatious”** means without a legal basis or factual foundation or without reasonable and probable grounds], the Elders Executive Advisory Council and the Appeal Tribunal *shall* assess a penalty of \$500.00 against each of the Petitioner(s) which *shall* show as an Accounts Receivable by the Band until paid. The monies *shall* go to the Band account.

13. VACATING OFFICE

13.1 An elected office *shall* be declared "vacant" when the person holding office:

- (a) is *convicted* of an indictable offence or of a hybrid or dual offence with respect to which the Crown has elected to proceed by way of indictment or of an offence under the *Controlled Substances Act* involving trafficking of a prohibited or controlled substance or of a violent crime including but not limited to assaults of any kind;
- (b) dies;
- (c) resigns his or her office by notice in writing to the Council or the Elders Executive Advisory Council or tenders a verbal resignation to two or more persons that is acknowledged in writing by the Band Council;
- (d) upon expiration of his or her elected term;
- (e) is determined to be incompetent by a duly licensed medical practitioner;
- (f) has been found guilty of Corrupt Practice;

- (g) has been subject to a successful Motion of No Confidence;
- (h) has been absent from meetings of the Band Council for three (3) consecutive meetings without being authorized to do so;
- (i) has been absent from any of the Band meetings held throughout the year, without being authorized to do so;
- (j) fails to uphold the Oath of Office;
- (k) fails to observe any Band by-laws; *or*
- (l) is determined to be ineligible to hold office by virtue of this Act, *The Montreal Lake Cree Nation Election Act* or any amendments thereto.

13.2 Notwithstanding 13.1(a), the Elders Executive Advisory Council, whose decision **shall** be final, can review any conviction for any offence where Treaty or inherent rights are at issue [i.e., hunting, fishing, or trapping] and can determine that the Chief or Councillor, who has been convicted of an indictable offence, can nevertheless continue to hold office.

14. ATTENDANCE

For the purposes of attendance, accumulation of Annual Leave and Sick Leave credits, the Chief and Council must report to their respective offices during ordinary work hours on Reserve except where their attendance in their elected capacity is required off-Reserve.

15. ANNUAL LEAVE, PUBLIC HOLIDAYS

15.1 Chief and Council are entitled to those public holidays [including statutory holidays, general holidays and gifted days] identified in the Band's Personnel Policy Manual for other persons on the Band's payroll except where their attendance is required in an official capacity.

15.2 Chief and Council **shall** earn annual leave (holiday) credits at a rate of 1.66 days per month (four weeks per year).

- (a) Chief and Council **shall** be entitled to carry over a maximum of ten (10) days holiday credits from one year to the next. The holiday year **shall** be designated as April 1st to the following March 31st.
- (b) Vacation must be used yearly according to the provisions of this clause. No arrangements **may** be made for payment in *lieu* of vacation during the course of the year.
- (c) The Band Manager / Director of Operations / CEO **shall** maintain a current record of holiday credits for each Elected Official, which record **shall** be available for review by the Elected Official.
- (d) The Elected Official **shall**:
 - (i) notify the Chief and Band Manager / Director of Operations / CEO of his or her intent to take annual leave of four (4) days or less;
 - (ii) notify the Council and Band of his or her intent to take annual leave of five (5) days or more; and
 - (iii) in the case of a Chief or Councillor who will be on annual leave for five (5) days or more, he or she **shall** identify an individual to respond to immediate concerns of a Band member.

15.3 Chief and Council are entitled to such other leave as is set out in the Personnel Policy Manual including but not limited to Compassionate Leave, Sick Leave, and Maternity, Paternity or Parenting Leave.

15.4 Members of Council who are planning leaves should, as far as practicable, try to ensure that there will be a quorum of Council present during their absence.

16. REMUNERATION

16.1 SALARY & BENEFITS

The salaries paid to Elected Officials *shall* be in accordance with the salary rates established for their portfolio positions and conditional upon their terms of employment with the Band and as disclosed in the Annual Audit. Elected Officials shall be entitled to the same benefits as other Band Employees. Unless otherwise agreed, Elected Officials shall be bound by the same personnel policies and regulations as other Band employees.

16.2 TRAVEL

Travel allowances [including but not limited to *per diems*, mileage, hotel, meal and incidental expenses] *shall* be based on the current Band Travel Policy.

16.3 BOARDS, COMMISSIONS, COMMITTEES, AND OTHER INSTITUTIONS

- (a) Elected officials *shall* not receive additional remuneration for participation on Boards, Committees and Commissions *of the Band*. The same rule does not apply to external Boards, Committees and Commissions.
- (b) The remuneration received for activities attended on a personal basis will be the property of the Elected Official provided that any such activities attended during regular work hours must be taken as Annual Leave.
- (c) Wherever participation on Boards, Commissions, Committees or other Institutions does not require the participation of an Elected Official, community members *shall* be selected to fill the positions. The community member *shall* be committed to attending all regularly scheduled meetings, to representing the community's best interests and to providing reports to the Band Council and/or membership as required.

16.4 TERMINATION OF OFFICE

All remuneration owing to an Elected Official upon his or her termination of office *shall* be payable within fourteen (14) calendar days.

16.5 PERSONAL EXPENSES

If any act, decision or impairment of the Elected Official results in an added cost for his or her attendance at meetings or to perform the functions of his or her office, the cost *shall* be borne by the Elected Official personally and not by the Band.

17. AMENDMENTS

This Act *may* be reviewed and amended from time to time, by a simple majority of the Band members who attend a meeting convened for that purpose provided there are more than twenty-five persons participating in the vote. The amendments *shall* be in force upon ratification by the Chief and Council.

18. INTERPRETATION IN THE EVENT OF DISPUTE

In the event of a dispute or disagreement arising from the interpretation of any term, condition, word or procedure in this Act, the matter will be referred to the Elders Executive Advisory Council for its decision, which *shall* be final and binding on all parties.