



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

Status of Legislation:

Originally enacted in 2016 following the final reading and ratification votes held in: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* came into force on September 28, 2016.

Consultations to the *Election Act* were held in:

Saskatoon, June 10, 2019
Prince Albert, June 11, 2019
Little Red Reserve 106B, June 12, 2019
Montreal Lake Reserve 106, June 13, 2019

and ratification votes on amendments to the *Election Act* were held in:

Saskatoon, September 16, 2019
Prince Albert, September 17, 2019
Little Red Reserve 106B, September 18, 2019
Montreal Lake Reserve 106, September 19, 2019

Amendments to this *Election Act* came into force on September 19, 2019.

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 ("MLCN") AS AN ACT UNDER BAND CUSTOM

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 and/or the Crown.

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.

ATTRIBUTES

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 and possess the following qualities:

kanātisiwin - Today when we speak about purity, most people think of 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.

kanawīthimisowin - We expect our elected officials to 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.

kistīthītamowin / kistithitahkohsowin (self-respect) - Respect is earned and not a given; it 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.

Kwayaskitohcikīwin - 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 are being treated fairly, they reward an elected official with loyalty and dedication.

mamātowisowin - 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..."

māmawīchihitowin - (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.

mithiwātamowin - 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.

mithowīchitowin / 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.

nanahyitamowin - 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.

nanahskomowin - 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.

pā-piyātak mitonīhītamowin - 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.

sākihtowin - 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.

sīpīhthitamowin - 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.

tapah̄thimisowin - 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.

tapw̄ithitamonwin - 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.

tāpw̄win - 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.

PRINCIPLES

We, the people of the Montreal Lake Cree Nation, do hereby assert and affirm our sovereignty as a Nation by reason of the signing of an adhesion to Treaty No. 6 with the British Crown on February 11, 1889, as follows:

- protect, exercise and preserve our rights and freedoms, including Inherent, Aboriginal and Treaty Rights;
- ensure access to justice and security of our persons, our land and resources;
- maintain our Cree tradition and customs;
- promote harmony and the common good; and
- therefore, do establish our own Band Custom Election Act, which shall be referred to as the *Montreal Lake Cree Nation Election Act, 2016*:

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 right to vote according to the terms of this *Act*.
- 2.2 Appeal** means a formal application made to the Appeals Tribunal, by any MLCN member who is qualified to vote, or who tendered his or her vote, 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 Appeals Tribunal** means a tribunal recommended by the Governance Committee and appointed by the Chief and Council, at least one hundred and twenty (120) days prior to the election date and their tenure will be valid for a period of three (3) years, unless he or she resigns or dies. The Appeals Tribunal shall consist of five (5) persons and three (3) alternates (1st alternate, 2nd alternate and 3rd alternate), all of whom are members in good standing of the Montreal Lake Cree Nation. Where feasible, the Appeals Tribunal will consist of members of each electoral sector. A Chairperson will be selected by the Appeals Tribunal from amongst its members. The Appeals Tribunal will make decisions regarding any election appeals, as per the procedures set out under section 15 of this *Act* or disciplinary proceedings under the *Executive Act, 2016*. The alternates *may* be called upon if any of the Appeals 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 and/or *Executive Act, 2016* disciplinary proceedings] or other reason. Members of the Appeals Tribunal are expected to follow the Oath of Office, Code of Conduct, and Conflict of Interest and Corrupt Practice Guidelines of the *Executive Act, 2016*.
- 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 Band Membership List** means a list of band members provided by the Membership Clerk, showing the status number of each member, along with their date of birth.
- 2.7 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*.

- 2.8 Campaign Materials** means any item, design, sound, symbol or mark that is created or copied in any form for the purposes of campaigning.
- 2.9 Candidate** means any elector who appears on the Membership List and 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 *Executive Act, 2016* from running as a candidate in any Election held pursuant to this *Act*.
- 2.10 Chief Electoral Officer ("CEO")** means an individual who has the requisite training and experience, is recommended by the Governance Committee, and appointed by the Chief and Council, to conduct and oversee an Election or By-Election, according to the terms of this *Act*. Further, that the CEO cannot be a member of the Nation, cannot be an immediate family member of the current Chief & Council, cannot be an employee or contractor of band-owned entities.
- 2.11 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. The custom gifting of tobacco and cloth is not a corrupt practice.

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 include, but are not limited to, 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; *or*
- (v) defamatory statements, which is the intentional false communication, either published or publically spoken, that injures another's reputation or good name. Holding up a person to ridicule, scorn or contempt in a respectable and considerable part of

community; may be criminal or civil. Includes both libel and slander.

2.12 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.

2.13 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.

2.14 Elders Advisory Council means a Council appointed by the Chief and Council of the Montreal Lake Cree Nation, in accordance with the *Executive Act, 2016*.

2.15 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 majority 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.
- (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 majority choice *or* whose Candidacy is neither opposed nor challenged in which case their office is assented to by acclamation.
- (iii) The Chief and Council will select a Vice Chief from amongst the Band Council.

2.16 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 (3) years, in accordance with Band Custom and as prescribed in this *Act*.

2.17 Election Official includes the Chief Electoral Officer and the Deputy Electoral Officers.

2.18 Elector means a person duly qualified to vote and:

- (i) who, irrespective of their Ordinary Place of Residence, is registered on the ~~First~~ Montreal Lake Cree 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 an Election Official.

2.19 Electoral Sector means one of the following Electoral Sectors:

- (i) Montreal Lake Reserve 106;

- (ii) Little Red Reserve 106B; and
- (iii) Off-Reserve.

2.20 Electorate means the voter turnout or the people who actually voted or who are expected to vote in an Election.

2.21 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, at least six (6) months prior to the Election.

2.22 Enumerator means the person or persons appointed by the Chief and Council, to conduct a review of the Voter's List (18 years of age on or before Polling Day), prepared by Indigenous Services Canada ("ISC") and the Candidate's List (18 years of age on or before Nomination Day) to ensure their accuracy on each of those days.

2.23 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).

2.24 Force Majeure means an unforeseen catastrophe.

2.25 Governance Committee shall mean a committee that is appointed by Chief and Council with representation from each electoral sector and two technicians to provide oversight and recommendations on governance issues in accordance with the terms of reference that may be established by the Nation and changed from time to time.

2.26 Immediate family shall include the spouse (married or common-law) of the person, the grandparents, the parents (natural or adoptive), the siblings (natural or step), the offspring (natural or adopted) and grandchildren of the person; or the grandparents, parents, siblings, offspring and grandchildren of the spouse of the person. Common-law means a person who is cohabiting with an individual in a conjugal relationship, having so cohabited for a period of at least one (1) year.

2.27 Improperly Marked or Defaced Ballot means one where either

- (i) the Elector has marked the ballot with any mark other than an "X" or "check mark" or a shading in of the box; *or*
- (ii) the Elector has attempted to erase or strike out his/her choice on the ballot.

2.28 Libel means defamation expressed by print, writing, pictures or signs, including the use of social media platforms.

2.28 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.

2.29 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.

2.30 Misfeasance means a failure to act properly [i.e., a failure to conduct or comport oneself according to Band custom or law].

2.31 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 appears on the Band Membership List.

2.32 Nonfeasance means a failure to act.

2.33 Off-Reserve means, in relation to residency, any Band Member that does not reside at Montreal Lake 106 or Little Red Reserve 106B.

2.34 Ordinary Place of Residence 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;
- (ii) the residence of his/her immediate family; or
- (iii) 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.

2.35 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.

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

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

2.38 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. For the purposes of this

Act, they are not considered Election Officials.

2.39 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.

2.40 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.

2.41 Slander means oral defamation; the speaking of false and malicious words concerning another or group, or whereby injury results to his or her reputation.

2.42 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*.

2.43 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.

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

2.45 Voter's List means an alphabetical list of Band Members eligible to vote, prepared by Indigenous Services Canada ("ISC") 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.

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 shall 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 his or her right to vote in more than one Polling Station. Advance Polls *may* also be established in any or all of the above locations. If a Voter exercises his or her right to vote in an Advance Poll, he/she *may not* vote again on Polling Day.
- 3.3 Candidates, voters, scrutineers, interpreters, polling clerks, and security shall not be under the influence of alcohol, illicit drugs, and/or any other substances that may impair their judgement at the Polling Stations as determined by the Chief Electoral Officer. To do so may result in their removal, in accordance with section 8.8 herein.

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;
 - (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;
 - (iii) he/she has their Grade 12 or an equivalency diploma;
 - (iv) he/she has demonstrated previous positive leadership skills and/or community involvement;
 - (v) he/she has been nominated in accordance with this *Act*;
 - (vi) he/she has not been found guilty by the Appeals Tribunal of a Corrupt Practice, as defined under section 2.11 of this *Act*, for a period of either two (2) preceding consecutive terms, following removal from office;
 - (vii) he/she has *not* been subject to a successful Motion of No Confidence for a period of either two (2) preceding consecutive terms, following removal from office; or six (6) years, whichever is less;
 - (viii) he/she does not owe any money to the Band (excluding band-owned stores), for a period of five (5) years, as evidenced by the Band Manager, Finance Manager, Band Accountant and evidenced by the completion of Form 10, including the Band's most recent accounts receivable, and supported by written confirmation on Montreal Lake Cree Nation letterhead, in the form of a clearance of any monies owing;
 - ix) he/she does not have any Band property in their possession, for a period of five (5) years, as evidenced by the Band Manager and Assets Manager [i.e., anything purchased with Band funds or provided to the Band for the use of Band Members], without due authority to have custody or control of the same as evidenced by the Band Manager, Finance Manager, Band Accountant and evidenced by the completion of Form 10, and supported by written confirmation on Montreal Lake Cree Nation letterhead, in the form of a clearance of any assets;
 - ~~(x) he/she has provided a drug test clearance, for illicit drugs.~~

administered by a duly qualified medical practitioner, and authorized by the Chief Electoral Officer and payable by the Candidate;

- (xi) 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 recent criminal record check, using the Canadian Police Information Centre ("CPIC");
- (x) he/she is not a plaintiff in 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;
- (xi) he/she must be fluent in Cree (to speak to the membership) or be willing to show evidence of learning the Cree language and be fluent in English (to be able to conduct band business);
- (xii) 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, other laws, regulations and procedures;
- (xiii) he/she agrees to abide by any lawful decision of the Appeal Tribunal and/or recommendation by the Elders Executive Advisory Council;
- (xiv) he/she has submitted the requisite fee along with a Declaration of Intent and the supporting documentation; *and*
- (xv) he/she has not declared bankruptcy in the preceding five (5) years;

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.

- (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, other 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, or money order, made payable to the Montreal Lake Cree Nation and delivered to the Band Manager at the time he or she submits his/her Declaration of Intent. Candidates for Councillor must pay a fee of \$300.00 by certified cheque, bank draft, or money order, made payable to the Montreal Lake Cree Nation and delivered to the 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 Any member of the Montreal Lake Cree Nation interested in being a Candidate shall complete Form 10, in writing, to be informed of any debts or assets in their possession (without due authority or control of the same), six (6) months prior to the call of a General Election. This will provide them with an opportunity to address the debts owing and/or return the assets. Any disputes shall be referred to the Chief Electoral Officer for a ruling.

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, provided 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; and
 - (iii) 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 right to vote.

- 5.2 All eligible electors can cast one (1) vote for the position of Chief, four (4) votes for the Montreal Lake 106 Councillor positions, two (2) votes for the Little Red Reserve 106B Councillor positions and one (1) vote for the Off-Reserve Councillor position, irrespective of their ordinary place of residence.
- 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.

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, on the date of the next General Election.
- 6.2 If the Chief and/or a Councillor or Councillors are elected by way of a duly called By-election, their term of office will end two weeks prior to the date of the next General Election.

SECTION 7 - GENERAL ELECTIONS

- 7.1 The Chief and Council *shall* call for a General Election one hundred and twenty (120) days before the General Election with a Band Council Resolution. Only one General Election shall be called by the Chief and Council within each three-year election cycle.
- 7.2 The Chief and Council shall advertise a call for proposals for a Chief Electoral Officer, three (3) Deputy Electoral Officers, along with a call for applications to be a member of the Appeals Tribunal one hundred and eighty (180) days before the General Election.
- 7.3 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 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.
- 7.4 Declarations of Intent need to be returned to the Chief Electoral Officer at least one (1) week prior to the first Nomination Meeting,
- 7.5 The Chief and Council and the Elders Executive Advisory Council shall ensure that at least one (1) Election Official is fluent in both Cree and English.
- 7.6 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.
- 7.7 The Chief Electoral Officer and the Deputy Electoral Officers will each be subject to contracts with the Montreal Lake Cree Nation. Such contracts will include a 10% hold back. Provided that there are no appeals within thirty (30) calendar days after the date of the

General Election, the hold back will be paid to the Chief Electoral Officer and Deputy Electoral Officers. In the event of an appeal and the Chief Electoral Officer and Deputy Electoral Officers have not committed malfeasance, misfeasance or non-feasance, the hold back will be paid to them. In the event of an appeal and the Electoral Officers have committed malfeasance, misfeasance or non-feasance, the hold back will be forfeited to the Band.

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 Enumerator(s) *shall* be responsible for preparing a voter's list at least four (4), months in advance of a General Election and assisting the Deputy Electoral Officers at the polling places on Election Day. The Enumerators *shall* prepare one (1) Voter's List. For privacy reasons, the Voter's List shall be available to view upon request but will not be publicly posted.
- 8.2 The Chief Electoral Officer *shall* be responsible for:
- (i) preparing an election budget and submitting it to Chief and Council for approval;
 - (ii) ensuring that the policies and procedures outlined in this Act are followed in the subsequent Election or By-election;
 - (iii) posting copies of the *Election Act*, the Notice of Election, the Notices of Nomination Meetings and the Voters' List at the Band Offices, schools, stores, PA Now, LaRonge Now, Friendship Centres, and on the Montreal Lake Cree Nation website;
 - (iv) receiving the Declarations of Intent by March 1st, two weeks prior to the Nomination Meeting, and determining whether each Candidate is duly qualified to run in the General Election or By-election;
 - (v) presiding as chairperson at any Election or By-election proceedings, including the Nomination meeting;
 - (vi) ensuring that the polling facilities [Polling Places, Polling Booths, etc.] are in order;
 - (vii) ensuring that the Polls are open from 9:00 am to 6:00 pm;
 - (viii) 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;
 - (ix) reviewing the Voter's List with the Enumerators, Membership Clerk and the Polling Clerks;
 - (x) providing training to Deputy Electoral Officers and Polling Clerks as required;
 - (xi) delivering copies of the Voter's List 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 right to vote;
 - (xii) ensuring that copies of the declarations with respect to the ballot boxes are delivered to each polling station;
 - (xiii) overseeing the counting, initialing and distribution of ballots;

- (xiv) 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;
- (xv) marking declined, spoiled or rejected ballots as set out herein;
- (xvi) 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);
- (xvii) 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;
- (xviii) conducting any recount required by this *Act*;
- (xix) declaring the results of the Election or By-election.
- (xx) 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 Montreal Lake Cree Nation RCMP Detachment 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 Executive Advisory Council and Band Manager 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*;
- (xxi) posting the results of the General Election or By-election at the Band Offices, schools, stores, PA Now, LaRonge Now and on the Montreal Lake Cree Nation website;
- (xxii) filing an Election report with Indigenous Services Canada ("ISC") and the Band Manager;
- (xxiii) advising the Prince Albert Grand Council ("PAGC") and the Federation of Sovereign Indigenous Nations ("FSIN") of the results of the General Election or By-election; and
- (xxiv) 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 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.

8.5 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, Status Card, birth certificate, driver's license, 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 right to vote. 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.

8.6 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 this *Act* and to examine ballot papers during the count/re-count for any irregularities. In addition to this, Agents/Scrutineers:

- (i) 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; and
- (ii) *shall* observe the voting procedure to ensure procedural fairness and to witness the actual counting of ballots.

8.7 The Chief Electoral Officer *shall* appoint sufficient Interpreters so that there is

always one present at each Polling Station. 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, have a hearing, visual or speech impairment but who do not lack the capacity to exercise their right to vote, as evidenced by their ability to give clear directions with respect to the same. The 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 Interpreter is not disqualified from exercising his/her own right to vote. The 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. Interpreters are not considered "Election officials" for the purposes of this *Act*.

- 8.8 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.
- 8.9 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.

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.
- 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 regardless of their Ordinary Place of Residence.
- 9.4 Candidates for Councillor positions *shall* only be entitled to run for office in the Electoral Sector they consider their ordinary place of residence to be.

SECTION 10 - COMMENCEMENT OF OFFICE

- 10.1 The newly elected and properly declared Council members *shall* assume office immediately upon completing the Oath of Office.
- 10.2 There shall be a formal meeting between the outgoing Council, newly elected Council, and Montreal Lake Cree Nation's legal counsel, within ten (10) business days 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 the Montreal Lake Cree Nation, where the Band may have some liability.

- 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.
- 10.4 The newly elected Chief and Council, upon being properly declared, shall call a duly convened meeting the next business day to pass a motion and sign a Band Council Resolution to change signing authority on all Montreal Lake Cree Nation bank accounts.

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, which shall be administered by the Elders Executive Advisory Council and not by the Chief Electoral Officer or any other person or body.
- 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 at the Band Offices, schools, stores, PA Now, La Ronge Now, the Montreal Lake Cree Nation website, and at Friendship Centres, 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 for the off-reserve candidates in Prince Albert.
- 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 shall be present to confirm that they are willing to allow their name to stand for a particular position, notwithstanding a medical emergency, or personal and extenuating circumstances that prevents a candidate from being present. He/she must be in communication with the Chief Electoral Officer regarding his/her absence prior to the nomination meeting. 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 Deputy *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 Deputy *shall* record the names of the Candidate, the Nominator and the 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 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, with a speech, provided that no Candidate for Chief or Councillor will have no more than 15 minutes and his/her Nominator will have no more than 5 minutes of total speaking time Speaking order *shall* be determined by alphabetical order.
- 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, by March 1st, 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 by March 1st *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 and shall address those assembled. No Candidate for Chief will have more than 15 minutes of speaking time.
- 12.10 Candidates, Nominators, Seconders and security personnel shall not be under the influence of alcohol, illicit drugs and/or any other substances that may impair their judgment at the Nomination Meeting, all as determined by the Chief Electoral Officer.
- 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 PROCEDURES

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 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 Montreal lake Cree Nation 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, by last name, 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 Montreal Lake Cree Nation RCMP Detachment 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 his/her right to vote *shall* so indicate to the Chief Electoral Officer or his/her Deputy and the Chief or Deputy Electoral Officer *shall* arrange for an Interpreter or other assistance for the Elector, if that service is called for, or if the Elector requires physical assistance to properly mark his/her ballot. In both cases, those providing Interpreting or other assistance *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 "checkmark" or a shading in of the box opposite the name of the Candidate for whom he/she desires to vote and *shall* then deposit the ballot in the ballot box supplied.
- (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, that person's name will be left off the ballot paper but the fee will be forfeited.

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, 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 right to vote;
 - (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 the results of the Election or By-Election. He or she *shall* thereafter forward:
 - (a) one (1) copy of the Election Report to the Regional / District Office of Indigenous Services Canada (North Central District); and
 - (b) one (1) copy to the Band Manager.
- (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 at the Montreal Lake Cree Nation RCMP Detachment, 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-ELECTIONS

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.

14.2 All By-Elections *shall* be held in the same manner as a General Election.

14.3 The Enumerator shall be responsible for preparing a Voter's List for the By-Election, at least forty-five (45) days in advance of the By-Election.

14.4 Only candidates whose names appeared on the ballot slips for the General Election are allowed to run in the By-election. However, in the event Candidates whose names appeared on the ballot slips for the General Election are subsequently found to be ineligible to run for office by the Chief Electoral Officer, leaving a vacant slate, then a general call for nominations will be required.

14.5 If the position of Chief is vacated, the Councillor with the most governance experience *shall* be designated "acting Chief," as evidenced by Band Council Resolution, until a By-Election can be called.

14.6 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 affects 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 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;
 - (d) upon expiration of his/her Elected term;
 - (e) becomes and undischarged bankruptcy;
 - (f) is determined to be incompetent by a duly licensed medical practitioner;
 - (g) has been found guilty of Corrupt Practice, as defined in section 2.3 of the *Executive Act, 2016*;
 - (h) has been subject to a successful Motion of No Confidence, as defined in section 14 of the *Executive Act, 2016*;
 - (i) has been absent from three (3) consecutive duly-convened meetings of Council, without being authorized to do so;
 - (j) fails to uphold the Oath of Office, breaches the Code of Ethics or the *Executive Act, 2016*;
 - (k) fails to observe any Band By-Laws or Laws;
 - (l) is determined to be ineligible to hold office by virtue of this Act, the *MLCN Executive Act* or any amendments to either Act; or
 - (m) a vacancy has been declared by a court of competent jurisdiction.
- (ii) the remaining Chief and Council shall declare any of the above-noted vacancies as official by way of Band Council Resolution.

SECTION 15 - APPEALS & DUTIES OF THE APPEALS TRIBUNAL

15.1 The Appeal procedure *shall* be as follows:

- (i) Any Elector or Candidate who is qualified to vote or 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 *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 this *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 courier service to the Chief Electoral Officer outlining the grounds for the Appeal. The Chief Electoral Officer shall forward the Notice of Appeal, as soon as practicable, by registered mail or courier service, to the Chair of the Appeals Tribunal. 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 by the Chief Electoral Officer within fourteen (14) calendar days of the Election or By-Election.
- (iii) The Chair of the Appeals Tribunal shall contact the Band Manager to make arrangements to hold an Appeals Tribunal meeting. The Appeals 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. 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 Appeals Tribunal's preliminary ruling and reasons.
- (iv) If the Appeals 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 Appeals Tribunal and the Electoral Officers *may* consult with legal counsel at the Band’s expense, subject to prior approval by the expected fees, by the Band Manager. In the event of malfeasance, misfeasance or non-feasance on the part of the Electoral Officers, as determined by an Appeals Tribunal following a hearing, the 10% holdback in the contract may be used to offset any legal fees paid by the Band.
- (vii) The Appeals Tribunal *shall* hear any and all relevant evidence brought forth by the Appellants and/or Respondents.
- (viii) The Appeals 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, regarding an elected official, the Appeals 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 either Montreal Lake Cree Nation Reserve 106 or Little Red Reserve 106B.

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

SECTION 16 - DISCONTINUATION OF AUTHORITY

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

- (i) Upon the date of the first Nomination Meeting, unless acclaimed, the Chief and Council are required to relinquish their signing and decision-making authority. The date of the first Nomination Meeting *shall* be the last date on which Band business *may* ordinarily be transacted. During this period, operational decisions *shall* be left to the senior management team. 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. In such an event, the senior management team, consisting of the Band Manager, Finance Manager and Band Accountant are responsible to call the Chief and Council back to office to address the unforeseen catastrophe as overseen by 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 three (3) years following the most recent review and revision of this *Act* and during each three (3) 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 three (3) 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) The Band Council shall create a Governance Committee to assist in the review of this *Act* and to provide direction to the Governance Coordinator.
- (iii) The Band Membership meetings in each Electoral Sector are 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, as follows:
 - (a) in all Band Offices 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 and Prince Albert Tribune], including electronic media [paNOW], La Ronge Now, Montreal Lake Cree Nation website and MBC Radio, whose circulation encompasses locations off the Montreal Lake Cree Nation Reserves.
- (iv) 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 communicate it's proposed changes to the governance committee. The proposed 'draft', which highlights the proposed amendments of the community meetings and the Band Council, *shall* then be placed before the Membership at subsequent Band Membership meetings in each Electoral Sector, where the proposed amendments *shall* be read in its entirety and voted on by the membership in accordance with the provisions hereof.
- (v) Cree language interpreters, hearing impaired, and visually impaired supports shall be made available at all Band Membership meetings in each Electoral Sector.
- (vi) For amendments to be effective, they must be ratified by a simple majority of Electors (50% + 1) present at the Band Membership meeting convened for the purpose of amending the *Act*.
- (v) Upon adoption of any amendments the same *shall* be incorporated into this *Act* and take effect on the date of the last ratification vote.