

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



## **Status of Legislation**

Originally enacted on September 28, 2016 following the final reading and ratification votes held in: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

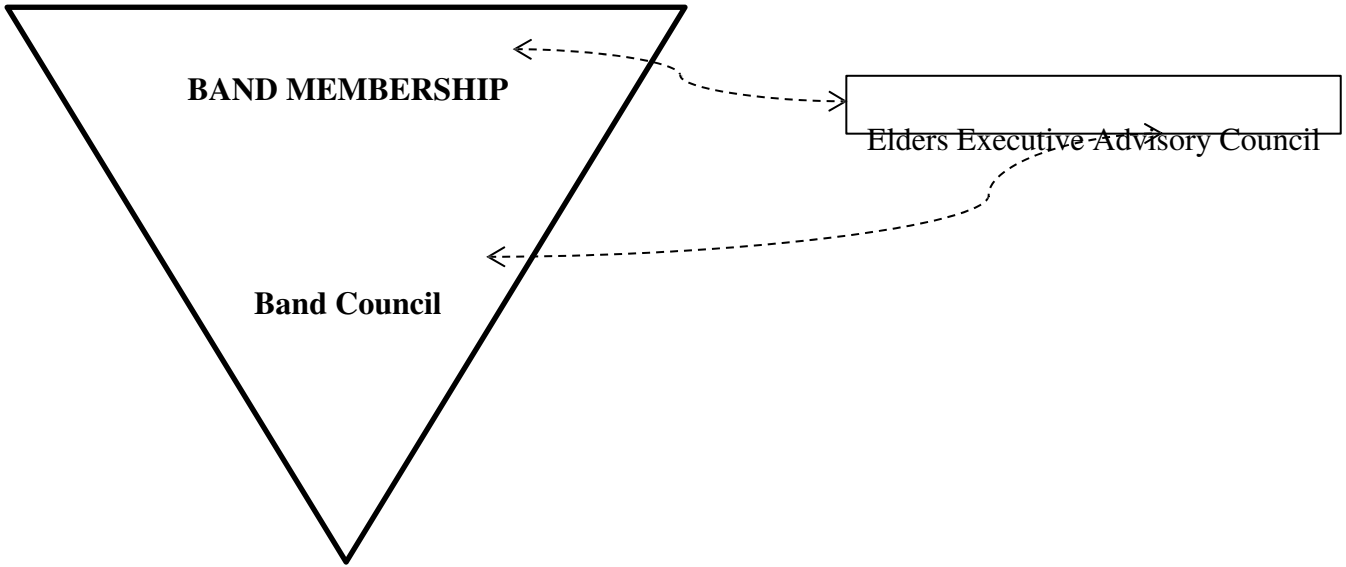
Consultations to the *Executive Act* were held in:

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 *Executive 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 *Executive Act* came into force on September 19, 2019.



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The Montreal Lake Cree Nation is pleased to pass this *Act* to primarily govern the terms and conditions of the office of Chief and Council, the Elders Executive Advisory Council and the Appeals Tribunal.

## 1. **SHORT TITLE**

This Act *may* be cited as *The Montreal Lake Cree Nation Executive Act, 2016*

## 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 **“Appeals Tribunal”** means a tribunal recommended by the Governance Committee and appointed by the Chief and Council for a period of three (3) years, unless he or she resigns. In addition to the duties contained in the *Election Act*, the Appeals Tribunal will make decisions regarding section 13 and 14 of this *Act*.
- 2.3 **“Conflict of interest”** is defined in section 11 of this *Act*.
- 2.4 **“Corrupt Practice”** is defined in section 12 of this *Act*.
- 2.5 **“Governance Committee”** shall mean a committee that is appointed by Chief and Council with representation from each electoral sector 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.
- 2.6 **“Petition”** shall mean the written document commenced by way of Affidavit, presented to the Elders Executive Advisory Council, that sets out a complaint about an elected official, Elders Executive Advisory Council or the Appeals Tribunal, charging him/her with breach of his/her Oath of Office, Code of Ethics or other breach of this *Act*.
- 2.7 **“Petitioner” shall** mean a person who commences a Petition, who was eligible to vote or who actually cast his/her vote in the Montreal Lake Cree Nation Election, pursuant to sections 13 and 14 of this *Act*.
- 2.8 **“Respondent” shall** mean the Chief or Councillor, or member of the Elders Executive Advisory Council or Appeals Tribunal, who are subject to a Petition, pursuant to sections 13 and 14 of this *Act*.

### **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 *Election Act, 2016* or any successor legislation.
- 3.2** The Chief and Council, as long as they remain qualified to hold office, *shall* be the authorized government and legislative authority on the Reserves of the First Nation.

### **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 ("PAGC"), the Federation of Sovereign Indigenous Nations ("FSIN") or the Assembly of First Nations ("AFN"); and
  - (j) being ambassadors of the 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 [including 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.

- (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.

**4.5** 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.

**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 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 Band Custom. He or she:
  - (a) *shall* preside as Chairperson at meetings of Chief and Council;
  - (b) *may* call special meetings of Chief and Council;
  - (c) *may* authorize Councillors to be absent from duly-convened 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 and the Appeals Tribunal. 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 a voice and will work toward achieving consensus for decisions. In the event consensus is not reached or quorum of Council is affected, then a motion will be put forth at which time the Chief will exercise his/her right to vote. In the event the Chief fails or neglects to vote, except where exempted because of a real or potential conflict of interest, he/she will be deemed to have voted in the affirmative. For greater certainty, the Chief shall not have veto power over Council decisions. In the event there is a tie vote, the motion is considered defeated. However, the motion can be re-introduced at a future Council meeting.

## **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 a 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 and is accountable to them.

- 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 accountable to the Elders Executive Advisory Council and to the Appeals Tribunal and is otherwise 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 in accordance with section 13 of this *Act*. 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 is primarily a recommending and advisory body and *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; and
  - (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 the electorate and hold themselves to the highest standards.

- 8.7** Members of the Elders Executive Advisory Council *may* be re-appointed.
- 8.8** Members of the Elders Executive Advisory Council are bound by this *Act* and are expected to follow the Oath of Office, Code of Ethics, Corrupt Practice and Conflict of Interest Guidelines of this *Act*.
- 8.9** For greater certainty, in the event a petition is brought against a member of the Elders Executive Advisory Council, it will be dealt with by the Appeals Tribunal in the same procedure as section 13.

## **9. APPEALS TRIBUNAL**

- 9.1** The Chief and Council of the Montreal Lake Cree Nation shall appoint the Appeals Tribunal upon recommendation by the Governance Committee at least one hundred and twenty (120) days prior to the election date.
- 9.2** The Appeals Tribunal tenure will be valid for a period of three (3) years unless he or she resigns.
- 9.3** A call for members of the Appeals Tribunal will be publicized 180 days (September 30) before the General Election.
- 9.4** 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 tribunal will consist of members of each electoral sector.
- 9.5** A chairperson will be selected by the Appeals Tribunal from amongst its members.
- 9.6** In addition to the duties under the *Election Act*, the Appeals Tribunal will make decisions regarding the procedures in section 13 and 14 of this *Act*. 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 Family members of one or more of the parties to the appeal] or other reason.
- 9.7** Members of the Appeals Tribunal are bound by this *Act* and are expected to follow the Oath of Office, Code of Ethics, Corrupt Practice and Conflict of Interest Guidelines of this *Act*.
- 9.8** Members of the Appeals Tribunal are bound by the same rules, bylaws, regulations, policies and procedures that govern all other members of the Montreal Lake Cree Nation.
- 9.9** Members of the Appeals Tribunal shall conduct themselves with the utmost honesty, integrity and impartiality. Members of the Appeals Tribunal shall be treated with respect and esteem provided that their conduct is above reproach.

Members of the Appeals Tribunal must serve as role models for Chief and Council and the electorate and hold themselves to the highest standards.

- 9.10** For greater certainty, in the event a petition is brought against a member of the Appeals Tribunal, it will be referred to the Governance Committee for recommendation as per section 13 and forwarded to the Chief and Council for a decision, along the same lines as section 13.

## 10. CODE OF ETHICS

- 10.1** The Code of Ethics is a set of comprehensive rules that govern what the Chief and Councillors, Elders Executive Advisory Council and Appeals Tribunal *may* or *may not* do during their term of office or appointment. It is a guide by which they should conduct themselves. It is a framework within which the Chief and Council, Elders Executive Advisory Council and Appeals Tribunal can provide the quality of leadership and accountability that is expected of them by the electorate. Every member of the Band Council, Elders Executive Advisory Council and Appeals Tribunal 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.
- 10.2** The Chief and Council, Elders Executive Advisory Council and Appeals Tribunal, (with particular emphasis on 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, appointed 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, appointed 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 106B, in Prince Albert *and* in Saskatoon *at least* bi-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];
  - (l) avoid anything that might be perceived as Conflict of Interest;
  - (m) avoid Corrupt Practice;
  - (n) follow Band protocols, Band policies, bylaws and laws; and
  - (o) not ask a Band employee or Band member to do something contrary to law or to any authorized Band policy, Bylaw, Law or Band Council

Resolution ("BCR).

## 11. CONFLICT OF INTEREST

11.1 These guidelines shall apply to the Chief and Council, Elders Executive Advisory Council and Appeals Tribunal. 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, Elders Executive Advisory Council or Appeals Tribunal member 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, Elders Executive Advisory Council or Appeals Tribunal member 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, Elders Executive Advisory Council or Appeals Tribunal member is a partner; or
    - B. of which one of the partners is a corporation directly associated with the Chief or Councillor, Elders Executive Advisory Council or Appeals Tribunal member, by reason of subclause (i) or (ii);
  - (iv) a person or a group of persons acting as the agent of the Chief or Councillor, Elders Executive Advisory Council or Appeals Tribunal member and having actual authority in that capacity from the Chief and/or Councillor, Elders Executive Advisory Council or Appeals Tribunal member;
- (b) **“immediate family”** with respect to Chief and Council, Elders Executive Advisory Council or Appeals Tribunal member means immediate family member as defined in the *Election Act*.
- (c) **“spouse”** means married or common-law.

11.2 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.

11.3 A Chief or Councillor, Executive Advisory Council or Appeals Tribunal member has a Conflict of Interest when he/she makes a decision or participates in making a decision affecting his or her office or appointment 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.

11.4 A Chief or Councillor, Executive Advisory Council or Appeals Tribunal member 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.

**11.5** 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.

**11.6** The prohibition in subsection 11.5 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.

**11.7** A Chief or Councillor, Elders Executive Advisory Council or Appeals Tribunal member *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 his or her’s interests, his or her family’s interests, or the interests of an associate, business partner or close friend.

**11.8** The following Conflict of Interest guidelines *shall* apply to Chief and Council, Elders Executive Advisory Council or Appeals Tribunal member, and 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.

## **12. CORRUPT PRACTICE**

- 12.1** Corrupt Practice means any act done by Chief or Councillors, Elders Executive Advisory Council or the Appeals Tribunal 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.
- 12.2** 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 Chief or Councillors, Elders Executive Advisory Council or the Appeals Tribunal that is intended to procure future votes [i.e., 'buying' votes, securing votes with alcohol, tobacco, gasoline or food, or promises of particular jobs or other benefits, or threats of termination, etc.] or interfere with the democratic process. The following are examples of Corrupt Practice, including but not limited to:
- (i) attempting or offering money or other valuable consideration in exchange for an Elector's future vote;
  - (ii) threatening adverse consequences, coercing or intimidating an Elector for the purposes of influencing an Elector's future vote;
  - (iii) forging documents or providing false or misleading information for the purposes of influencing an Elector's vote in the future;
  - (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 in a future election for any particular Candidate or Candidates; or
  - (v) Defamation means an intentional false communication, either published or publicly 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 a community; may be criminal or civil. Includes both libel and slander.

### **13. DISCIPLINE**

- 13.1** A duly sworn petition, containing a complaint and a non-refundable security in the amount of \$500.00 shall be sent to the Chairperson of the Elders Executive Advisory Council. The security shall be paid by a money order or bank draft made payable to Montreal Lake Cree Nation and delivered by registered mail to the Chairperson.
- 13.2** The petition should indicate the names and addresses of each Petitioner(s). It should be clearly written or printed and be free from erasures or alterations. 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. 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 it should be respectful, decorous and temperate in language.



- 13.3** The Elders Executive Advisory Council, as soon as practicable, shall convene a meeting and provide an opportunity for the Petitioner and the Respondent to separately address the Elders Executive Advisory Council. Written notice of the meeting shall be provided to the Petitioner and the Respondent at least seven (7) days before the meeting.
- 13.4** At the close of the meeting, if the Elders Executive Advisory Council, acting reasonably, have reason to believe that the Chief or Councillor has seriously breached the Code of Ethics, Oath of Office, Corrupt Practice or Conflict of Interest Guidelines of this *Act*, the Elders Executive Advisory Council shall refer the case to the Appeals Tribunal for a disciplinary hearing.
- 13.5** If the Elders Executive Advisory Council believes that the breach is not of a serious nature, they shall provide advice and/or a verbal reprimand to the Respondent, in an effort to correct the breach within a specific timeframe. This decision shall forthwith be communicated to both the Petitioner and the Respondent, in writing, by the Chairperson of the Elders Executive Advisory Council.
- 13.6** In accordance with 13.4, the Chief or Councillor who is the subject of the disciplinary hearing *shall* be given notice of such a hearing by the Appeals 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.
- 13.7** The Appeals Tribunal *shall* have full powers to investigate and adjudicate, 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. They will have power to subpoena witnesses and receive evidence. The hearing shall be recorded, with transcripts to be provided as soon as practicable.
- 13.8** If the Respondent is found guilty of the breach(es), the Appeals Tribunal *may* choose to take any or all of the following actions:
- (a) suspend the Respondent, with or without pay, during the investigation, which pay will be reinstated if the Appeals 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) refer the Respondent for assessment and treatment; and/or
- (d) recommend a community meeting, pursuant to section 14 of this *Act*.

**13.9** At the close of the hearing, if the Respondent is found guilty of any breach(es), a letter outlining the decision and course of action is to be provided to both the Respondent and the Petitioner. A copy shall be provided to the Governance Committee for their record of Appeals.

**13.10** If the Appeals Tribunal finds the Respondent not guilty of the breach(es), then any suspended pay would be reinstated to him/her (if applicable) and a letter of clearance will be provided to the Respondent with a copy provided to the Petitioner(s). A copy shall also be provided to the Governance Committee for their record of Appeals.

## **14. MOTION OF NO CONFIDENCE**

**14.1** This section is only invoked upon recommendation by the Appeals Tribunal, as per section 13.8(d).

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

- (a) Meetings in each Electoral Sector, as defined in the *Election Act, 2016* are convened for the purpose of voting on the Motion of No Confidence; and
- (b) Notices for the Electoral Sector voting will be posted at least thirty (30) days in advance, along with a copy of the section(s) of the breach(es) that are the subject of the Motion of No Confidence. The Notices shall be posted by the Governance Committee in all Band Offices, on the Montreal Lake Cree Nation website, and on public notice boards located on and off-Reserve.

**14.3** Procedures and conduct for each Electoral Sector meeting will be as follows:

- (a) A chairperson with requisite training and experience to oversee the voting process will be appointed by the Governance Committee to ensure all procedures and conduct herein is followed;
- (b) voting will be by secret ballot only;
- (c) an interpreter shall be made available to those members who are unable to read, have a hearing, visual or speech impairment but who do not lack the capacity to exercise their vote as evidenced by their ability to give clear directions with respect to the same. The interpreter *shall*, in the presence of the chairperson, follow the instructions of the voter with respect to marking the ballot and *shall* be prepared to attest to the fact that he or she did follow these instructions;
- (d) the chairperson, or his or her designate(s), shall check the identity of each voter with reference to government issued identification;
- (e) ensure that all arrangements for ballots, ballot boxes, voting booths, and voting facilities including necessary supplies (packing tape,

pencils, felt pens, coloured pens, rulers, flip charts, tally sheets, etc.) are in place;

- (f) ensure that copies of the petition will be made available in each Electoral Sector, upon request to the Governance Committee in advance of the meeting;
- (g) at the meetings, the petition written in the format of a motion, shall be read in its entirety and the Petitioner and Respondent shall have the opportunity to address the community for no longer than 15 minutes each;
- (h) the chairperson *shall* arrange for security personnel whose duties *shall* include removing any person who in anyway interferes with, disrupts or attempts to influence the orderly conduct of the meetings, including persons who appear to be under the influence of drugs or alcohol;
- (i) the chairperson shall ensure that all discussions of the meeting are limited to the issues and individuals who are the subject of the Motion of No Confidence;
- (j) due to the sensitive nature of the meeting, only band members of the Montreal Lake Cree Nation will be allowed to attend. Strict adherence to this rule will be followed; and
- (k) there will be no video/audio recording or use of social media during the meeting or the voting process. All cell phones must be turned off. Strict adherence to this rule will be followed.

**14.3** The Office of Chief or a Councillor becomes vacant when fifty percent plus one (50% + 1) of the eligible voters present at the three (3) Electoral Sector community meetings vote in favour of a Motion of No Confidence. If the threshold is not met, the vote of No Confidence shall be considered a defeated motion. The results of the electoral sector voting shall be communicated to band membership using the same methods for posting notices of the meeting.

## **15. DISPUTE RESOLUTION**

**15.1** Disputes that may arise between members of the Chief and Council, Elders Executive Advisory Council and/or the Appeals Tribunal or a combination thereof, will be referred to the dispute resolution process pursuant to the Montreal Lake Cree Nation Dispute Resolution Policy.

## **16. VACATING OFFICE**

**16.1** 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;
- (d) declares bankruptcy;

- (e) is determined to be incompetent by a duly licensed medical practitioner;
- (f) has been found guilty of Corrupt Practice, as defined in this *Act* or the *Election Act, 2016*;
- (g) has been subject to a successful Motion of No Confidence, in accordance with this *Act*;
- (h) been absent from three (3) consecutive duly-convened meetings of Council, without being authorized to do so;
- (i) fails to uphold the Oath of Office, breaches the Code of Ethics, Corrupt Practice or Conflict of Interest Guidelines of this *Act*;
- (j) fails to observe any Band By-laws or Laws; *or*
- (k) is determined to be ineligible to hold office by virtue of this *Act*, the *Election Act, 2016* or any amendments thereto; or
- (l) a vacancy has been declared by a court of competent jurisdiction.

**16.2** Notwithstanding 16.1(a), the Appeals Tribunal, 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.

## **17. ATTENDANCE**

For the purposes of attendance, the Chief and Council should endeavor to attend all Chief and Council and band meetings and report to their respective portfolios during ordinary work hours on-Reserve except where their attendance in their elected capacity is required off-Reserve.

## **18. ANNUAL LEAVE AND PUBLIC HOLIDAYS**

**18.1** Chief and Council are entitled to statutory public holidays and those additional public holidays recognized by the Band, except where their attendance is required in an official capacity.

**18.2** Chief and Council *shall* be entitled to four (4) weeks of annual leave (holiday), as long as it does not disrupt official band business or affect quorum. Chief and Council shall plan their annual leave with advance notice for minimal disruption.

- (a) The Band Manager and Human Resources *shall* maintain a current record of holidays for each Elected Official, which record *shall* be available for review by the Elected Official.
- (d) The Elected Official *shall*:
  - (i) notify the Chief, Band Manager and Human Resources of his or her intent to take annual leave;
  - (ii) notify the Chief, Band Manager and Human Resources when compassionate or sick leave is required; and
  - (iii) notify the Chief, Band Manager and Human Resources when Maternity, Paternity or Parenting Leave is sought.

**18.3** Chief and Council are entitled to such leaves on an *ad hoc* basis and not considered employees or contractors, as defined in the Montreal Lake Cree Nation Personnel Policy Manual.

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

## **19. REMUNERATION**

### **19.1 HONORARIUM & BENEFITS**

The honorariums paid to Elected Officials *shall* be in accordance with the salary grid jointly established for their portfolio positions, by the Governance Committee in consultation with the Band Manager, Human Resources and Finance departments. Elected Officials shall be entitled to contribute to group pension and group health and dental insurance, at their discretion.

### **19.2 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.

### **19.3 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.

### **19.4 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.

### **19.5 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.

## 20. AMENDMENTS

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

- (a) 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;
- (b) The Band Council shall appoint Band members to the Governance Committee and propose amendments to this *Act*. The Governance Committee shall consist of one (1) representative from each Electoral Sector and two technicians with appropriate background knowledge of this *Act*;
- (c) 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 in all Band Offices, on the Montreal Lake Cree Nation website, and on public notice boards located on and off-Reserve, as determined by the Band Council, and in not less than two (2) issues of a daily newspaper [ie: Prince Albert Daily Herald] including electronic media [ie: paNow, La Ronge Now], whose circulation encompasses locations off the Montreal Lake Cree Nation Reserves;
- (d) Following the Band Membership meetings referred to above, should the Band Council consider it appropriate (at their discretion) to propose additional amendments to this *Act*, the Band Council shall prepare a document setting out the proposed amendment(s). The final 'draft,' which shall contain proposed changes from the Membership and the Band Council, shall then be placed before the Membership at subsequent Band Membership meetings in each Electoral Sector where the proposed changes shall be read in their entirety and voted on by the membership in accordance with the provisions hereof.

**20.2** 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 this *Act*.

**20.3** Upon adoption of any amendments, the same shall be incorporated into this *Act* and take effect on the date of the last ratification vote.

## 21. 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 Governance Committee for its interpretation, which *shall* be final and binding on all parties.