Chippewas of Nawash First Nation # 27

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Custom Election Code

Introduction

This document is a custom election code produced by the Chippewas of Nawash First Nation Custom Election Committee, Project Coordinator and Band Membership. It is intended for the use of the Chippewas of Nawash First Nation who will be shortly opting out of Sec. 74 of the *Indian Act* and will be undertaking their own process of moving from the conduct of their elections under the Act to that under this code produced specifically for the band and having received community approval.

Please note that this is a draft code only and will come into effect pending the ratification/approval of the document by the membership of the Chippewas of Nawash First Nation.

Chippewas of Nawash

Custom Election Code (Draft}

We, the Chippewas of Nawash by virtue of our inherent right and traditional freedom to regulate our own internal affairs, do hereby adopt and declare these provisions as our custom election provisions, regulations and procedures.

These custom election provisions, regulations and procedures are declared by us and are to be cited as the Chippewas of Nawash Custom Election Code.

The provisions found in the Indian Act, R.S.C. 1985, C. 1-5 respecting the Band Elections of Chiefs and Band Councils do not and shall not apply to the Chippewas of Nawash.

Citation

2.0 This Custom Election Code shall come into full force and effect on the _th day of ___. 2010, and may be amended from time to time in accordance with processes set out hereunder.

How the Council will be elected

3.0 Members of the Nawash Council will be elected by the process outlined in this Custom Election Code document.

4.0 Interpretation

4.1 "Appeal Board" means the body appointed by band council resolution in accordance with section 19.0 of this code.

4.2 "Appellant" means an individual who submits an appeal in accordance with this code with respect to an election.

4.3 " By-election" means a special election to fill a position on the council that has become vacant in accordance with section 9.0.

4.4 "Candidate" means a band member who:

a) is at least 18 years of age on the day on which the nomination meeting is held;
b) is a member of the Chippewas of Nawash band;

c) has been nominated to be a candidate pursuant to the provisions of this code sec 13.0

4.5 "Chief' means the elector who is elected pursuant to this Custom Election Code to hold office of the Chief of the Chippewas of Nawash.

4.6 "Code" means the leadership selection system set out herein.

4.7 "Corrupt Practices" means any wrongful act or omission committed, undertaken or carried out by a person in connection with this Custom Election Code including bribery, harassment, intimidation, or any other wrongful act which could reasonably influence the outcome of an election.

4.8 "Council" means the body composed of those persons selected pursuant to this code.

4.9 "Councillor" means the eligible elector who is elected pursuant to this Custom Election Code to hold office of a councillor of the Council.

4.10 "Custom Election Code" means the rules, provisions, regulations and procedures as set out and prescribed in this code for the conduct of an election of the Chippewas of Nawash.

4.11 "Election" means an election held according to the process of the Chippewas of Nawash as codified by this Custom Election Code

4.12 "Elector" means a person who:

a) has attained the age of (18) eighteen years;
b) is living on or off Reserve; and
c) is registered on the membership list of the Chippewas of Nawash band

4.13 "Electors List" means the list of the Electors eligible to vote in an election, as prepared by the Indian and Northern Affairs in accordance with this Custom Election Code.

4.14 "Electoral Officer" means a person appointed by the Council of the Band for the purposes of administering a band election in accordance with this Custom Election Code

Part 3- Composition of the Council

5.0 The council shall consist of one chief and nine councillors.

Term of Office

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6.0 The Council shall hold office for (3) three consecutive years

6.1 If a vacancy is filled in accordance with the process outlined in this code; the individual will hold the position for the remaining term of the Council.

6.2 The Council will establish the next election date which must be a minimum of 5 days before the 3 consecutive years of their swearing in day.

6.3 All duly elected members of the Council must swear the oath of office within 10 days of their election

Eligibility of Voters

7.0 All registered Band members of the Chippewas of Nawash Band whom are (18) eighteen years of age at the time of the election shall be considered Electors.

7.1 All electors may cast only (1) one ballot marking (1) one vote for the Chief.

Vacancy

8.0 The office of Chief or Council Members becomes vacant when:

8.0.1 A person who holds office:

a) Is convicted of an indictable offense

b) Resigns from office

c) Deceased

d) Becomes incapacitated for any reason and/or is incapable of fulfilling their roles and duties as an elected Councillor or Chief

e) Is or becomes ineligible to hold office by virtue of these regulations

8.0.2 The person who holds office misses (3) three consecutive regular meetings without just cause, or

8.0.3 engages in, during his/her term, any wrongful conduct that affects, interrupts, or interferes with the performance of their official duties

8.1 When a vacancy occurs greater than (4) four months prior to the next election, the sitting council may call a By-election to fill that vacancy or may call a general election. The pitting council will inform the community of their decision to have a by- election or general election within (5) business days of the vacancy.

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By Election

9.0 If a council member position becomes vacant, a by-election may be held within 90 days of the position becoming vacant if:

9.0.1 There be a minimum of 12 months between the by-election date and the end of the term of office;

9.0.2 The position needs to be filled in order for the "Council Table" to meet quorum.

9.1 A by-election may not be required if the position becomes vacant before one year of the term of office was served. At which time the person who was the candidate next in line receiving the most votes may be appointed to the position providing that he/she agrees and that the Council passes a resolution to the fact.

Pre- nomination

10.0 The Council Table will pass a resolution to appoint and electoral officer a minimum of_ days before the termination of the Council term of office.

10.1 The resolution must identify the name of. the electoral officer in full, the date of the election, reference to the voting procedure as indicated in the Nawash Custom Election Code and any other instructions which might be necessary at the time.

10.2 The Cotu1dl will appoint an individual as the Electoral Officer who:

10.2.1 Is not a voting member of the community

10.2.2 Has no personal interest in the outcome of the election;

10.2.3 Is at least (1l8) years of age and;

10.2.4 Has experience and related training in running elections

10.3 The Council may also by way. of resolution, appoint a Deputy Electoral Officer in the event that the appointed Electoral Officer is unable to fulfill his/her duties.

10.4 The appointed Electoral Officer and the Deputy Electoral Officer must sign an oath to carry out their required tasks in keeping with the expectations of this code.

10.5 The Electoral Officer is responsible to carry out the pre-election, election and post election procedures included in this code.

10.6 The Electoral Officer or deputy in his/her stand must:

10.6.1 Uphold this Custom Election Code;

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10.6.2 Remain neutral in expressing his support for one candidate or the other;

10.6.3 Not take anything material or otherwise, in exchange for confidential material;

a) Not influence or pressure individuals to vote in a particular manner;
b) To be non-discriminatory;
c) Avoid actual or perceived conflicts of interest

Electors List

11.0 Once the Electoral Officer has been appointed, he/she must obtain the list of community members who have or will have reached the age of voting by the day of the election.

11.0.1 The list must include the individuals name, date of birth and last known contact information

11.0.2 Indian and Northern Affairs must provide the Electoral Officer with the complete electors list by 80 days before the election.

11.0.3 The Electoral Officer will not give out voter information unless approved by the individual elector.

11.0.4 The elector is responsible for making sure his/her name is on the Electors list.

11.0.5 The Electoral Officer may provide the candidates with the names and contact information of those voters who consented to the release of their information.

11.0.6 The Electoral Officer upon receipt of the electors list from the membership clerk shall prepare a electors list in alphabetical order.

11.0.7 The complete electors list (names only) will be posted by the Electoral Officer's key public areas and/or the band office no later than 75 days prior to the election.

11.0.8 The electors list will be amended to remove and/or include voters that:

a) We're not included in the list by error;
b) was recorded wrong on the list;
c) are not eligible to vote.

11.0.9 At any time, a voter may be added to the list providing he/she provides

a) Proof of eligibility to vote in the election;
b) will be of voting age on the day of the election and;
c) that their name is not otherwise represented on the electors list.

Nomination Meeting

12.0 No person may be nominated for Band Election as Chief unless his/her nomination is moved by an elector and seconded by another elector at the nomination meeting.

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12.0.1 The nomination shall be advertised for (2) two weeks in not less than {6) six conspicuous places throughout the reserve and on the Nawash Website announcing the date, place and time of the meeting to nominate candidates for election to Chippewas of Nawash Council.

12.0.2 At the time and place specified in the Notice of Nomination Meeting, the electoral officer shall declare the meeting open for the purpose of receiving nominations, and any person who is and elector may nominate or second the nomination of any eligible nominee to serve as Chief or Councilor.

Eligibility Requirements for Candidates

13.0 candidate must be a registered band member of the Chippewas of Nawash First Nation

13.1 be eighteen (18) years of age or older

13.2 Upon confirmation of the candidate, shall include the following

13.2.1 A biography of the candidate

13.2.2 A resume

13.2.3 A recent CPECK at the cost of the candidate, thus, is providing proof of not having been convicted of an Indictable offense that has not yet been pardoned.

13.2.4 *a recent CAS check, thus, providing proof of not harming any child*

13.3 No candidate may run for office of both Chief and Councillor in the same election.

13.4 Candidates standing for election shall be required to confirm acceptance of nomination to the Chief Electoral Officer within 5 business days of the close of nominations.

13.5 All candidates must be nominated by two eligible nominators.

13.6 Anyone removed from office shall not be nominated or stand for the election for a period of three years from the time of their removal from office.

Voting Regulations

14.0 The Electoral Officer with such appointed deputies as he/she deems necessary shall be in attendance at the time and place as is set out in the notice of the poll.

14.1 The Electoral Officer shall immediately before the commencement of the poll open the ballot box(es) and call such persons as may be present to witness that it is empty; he/she shall then lock the box to prevent it from being open and shall place it in view for the reception of the ballots and the box shall not be unlocked during the time appointed for taking the poll.

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14.2 The Electoral Officer shall hold the polling booth open from 9:00 am to 8:00pm (EST) The polling hours shall not be extended however; voters who are inside a polling place and waiting to vote at the time the poll closes are allowed to cast their ballot.

14.3 The Electoral Officer and his deputies shall maintain order at all times in the polling station and may cause to be remove any person who in anyway interferes, disrupts or attempts to influence the orderly conduct of the poll

Mail-in Ballots

15.0 Every off-reserve elector shall receive a package at least (35) thirty-five days consisting of:

15.0.1 The polling notice

15.0.2 A ballot with your initials on the back

15.0.3 An outer, postage paid return envelope, pre addressed with the address of your post office box

15.0.4 A second inner envelope marked with the word "ballot," in which the elector will place his or her completed

15.0.5 A voter declaration accompanying mail in ballot

15.0.6 Instructions on how to complete the ballot and return it

15.0.7 A list of any candidate who have been acclaimed along with their biography

15.1 The Electoral Officer will place on the Voters List a mark opposite the name of every Elector to whom a mail-in package has been sent.

15.2 Every Elector who receives a mail-in package and who chooses to vote by this method will:

15.2.1 mark the ballots by placing a cross ("X") or other mark that clearly indicates the Electors choice in the space provided on each ballot opposite the name of the candidate;

15.2.2 fold the ballots to conceal the mark and to expose the initials on the back of the ballots;

15.2.3 place the ballots in the envelope and seal the envelope;

15.2.4 complete and sign the declaration before a witness, and obtain the signature and address of the witness on the declaration;

15.2.5 place the completed declaration and the envelope with the sealed ballots in the return envelope and seal the return envelope; and

15.2.6 Make arrangements for delivery or mailing of the sealed return envelope to the Electoral Officer at the address specified on the return envelope so that it will be received by the Electoral Officer prior to the Election Day.

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15.3 The Electoral Officer, upon receiving a return envelope prior to the Election Day and. upon ensuring that the Elector has not voted in an Advance Vote, will, in the full view of at least two other persons present, place on the Voters List a line through the name of the Voter indicating that the Voter as sent in a mail-in return envelope. If the Voter has voted in an Advance Vote, the return envelope will not be opened and the return envelope will be marked as "NOT COUNTED". The ballots will be recorded as spoiled.

15.4 On the Election Day and prior to the Electoral Officer declaring the poll closed, the Electoral Officer, in the full view of at least two other persons present, will open each return envelope and determine if the declaration is enclosed and properly executed; and

15.4.1 If the declaration is enclosed and properly executed, the Electoral Officer will open the envelope containing the ballots and without unfolding the ballots or in any way disclosing the mark made by the Voter verify his or her initials. If the ballots appear to be the same one mailed to the Voter, the Electoral Officer will tear off the perforated strip, if any, and deposit the ballots in a ballot box and place a line through the name of the Voter on the Voters List; or

15.4.2 If no declaration is enclosed or if the declaration is not properly executed, the Electoral Officer will make an entry on the Voters List 9pposite the name of the Voter that no declaration was enclosed 0r that the declaration was not properly executed. The Electoral Officer will mark the envelope with, the sealed ballots as "IMPROPER MAIL-IN BALLOTS" and place a line through the name of the Voter on the Voters List and will not open the envelope with the sealed ballots or deposit the ballots in the ballot box. The ballots will be recorded as spoiled.

15.5 For those Voters set out in section 9.1, the Electoral Officer will make enquiries to determine the current address of the Voter and shall send the mail-in package to that address, or the Voter's last known address, as circumstances may require. If no address can be ascertained, or no confirmation of receipt is obtained, the Electoral Officer will record this information on the Voters List opposite the name of that Voter, and the Election Vote shall be held notwithstanding the failure to send or deliver mail-in packages.

15.6 Electors may receive replacements for lost or spoiled mail-in materials or ballots by:

15.6.1 Informing the Electoral Officer that all or part of the mail-in package provided has been lost or spoiled;

15.6.2 Returning any relevant material or ballots still in their possession to the Electoral Officer in sufficient time for the Electoral Officer to provide replacements;

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15.6.3 Providing a Statutory Declaration sworn in front of a Justice of the Peace, Notary Public, or Commissioner for Oaths to the Electoral Officer stating that the materials or ballots have been lost or spoiled.

Equipment for the Election

16.0 Before the polling stations are open, the Electoral Officer will provide the polling station with:

16.0.1 Enough ballot boxes;
16.0.2 A sufficient number of ballots;
16.0.3 Enough voting cubicles so that voters can make their vote in privacy;
16.0.4 Pens/pencils for marking ballots;
16.0.5 Copies of the voting instructions;
16.0.6 Any other equipment that might be required.

Election Day

17.0 The Electoral Officer will not vote in the election.

17.0.1 A Candidate may appoint no more than two agents to be in the polling station at one time. Each agent must present a letter of authorization to the Electoral Officer signed by the candidate in order to remain in the polling station.

17.0.2 The Electoral Officer is responsible to ensure that the polling station remain open during the advertised hours.

17 .0.3 Prior to the opening of the polling station on the election day the electoral Officer and/or his/her designate will open the ballot box(es) in front of all those present to verify that the box(es) are empty. The electoral officer will complete a written statement to be signed by him/her and the witnesses. The ballot box(es) will then be properly sealed preventing it from being opened without breaking the seal. The ballot box will then be placed in view of the public for putting in completed ballots.

17.0.4 All voting will be done by secret voting.
17.0.5 All electors must vote in person.
17.0.6 Any person deemed to be disruptive can be removed by the Electoral Officer.
17.0.7 At the polling station every person must give his/her name to the Electoral Officer or Deputy Electoral Officer.
17.0.8 The Electoral or Deputy Officer will check for the individuals name on the voters list and will provide the individual with an initialed ballot. The voters

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name will be stroked through on the electors list or otherwise marked to show that the person was given a ballot.

17.0.9 Once the individual is given a ballot they will immediately go to the place or compartment where they can privately mark their ballot.

17.0.10 After marking the ballot as per the instructions of the electoral Officer the individual will then fold the ballot in such a way as their choices cannot be seen. Only the initials of the Electoral Officer will be in plain view.

17.0.11 All completed ballots must be returned to the Electoral Officer or Deputy Electoral Officer so that they can verify if the initials on the ballot and then place the ballot in to the ballot box in clear view of the voter and any other person entitled to be present at the polling station.

17.0.12 Any voter who is unable to mark his/her ballot on their own may request the assistance of the Electoral or Deputy Electoral Officer.

17.0.13 Any Electoral or Deputy Electoral Officer asked to help a voter to mark his/her ballot must

a) Mark the ballot in the presence of the voter and another voter who can act as a witness.

17.0.14 Any person who was given a ballot to vote and chooses not to vote must return their ballot to the Electoral Officer before leaving the polling station.

17.0.15 A ballot returned to the Electoral Officer by an individual who does not want to vote will be recorded as declined on the face of the ballot and shall be kept. The individuals name will then be identified on the elector list as having declined to vote.

17.0.16 At the predetermined closing time of the polling station no one will be allowed to enter the polling station. Those already inside will be allowed their time to vote and the polling station will be officially closed after the last voter has had his/her ballot placed in the ballot box.

COUNTING OF BALLOTS REGULATIONS

18.0 Immediately following the close of the poll, the Electoral Officer shall, in the presence of such candidates or their agents, and any Electors as may be present, open the ballot box or boxes and:

18.0.1 Examine the ballots and reject any that are not initialed by the Electoral Officer or a deputy, or any other ballots that, in the Electoral Officer's opinion, do not give a clear indication of the voter's preference. If any of the ballots have more votes than

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there are vacancies for that position, that ballot shall be rejected. All rejected ballot papers shall be preserved;

18.0.2 reject any ballot papers upon which anything appears by which the voter can be identified;

18.0.3 subject to review on recount or on an election appeal, take a note of any objections made by any candidate or his agent to any of the ballots found in the ballot box and decide any questions arising out of the objection;

18.0.4 number such objections and place a corresponding number on the back of the ballot paper with the word allowed or disallowed as the case may be, with his initials;

18.0.5 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 of the number of ballots rejected and not counted by him, which statement shall be then signed by him and other persons authorized to be present as may desire to sign the same.

18.1 After tabulation, the Electoral Officer shall announce the names of the candidates that received the highest number of votes and publicly declare these candidates elected.

18.2 Following the announcement, the Electoral Officer shall post in some conspicuous place a statement signed by him showing the number of votes cast for each candidate.

18.3 Following the election announcement the Electoral Officer shall complete and sign an election report (Appendix G), in triplicate, which shall contain:

18.3.1 a list of all candidates;
18.3.2 the number of ballots cast;
18.3.3 the number of votes for each candidate;
18.3.4 the number of assis t d or interpreted voters;
18.3.5 the number of spoiled ballots; and,
18.3.6 the number of rejected ballots

18.4 The Electoral Officer shall forward:

18.4.1 one copy to the Chippewas of Nawash Band administrator,
18.4.2 one copy to the Region, Department of Indian Affairs; and,
18.4.3 one copy to each Chippewas of Nawash Elector.

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Appeal Board

19.0 The appeal board shall consist of the following persons chosen by the sitting council at a meeting called for that specific purpose before elections are set:

19.0.1 An elder of the Chippewas of Nawash
19.0.2 A youth of the Chippewas of Nawash
19.0.3 *A non-member who is familiar with the Chippewas of Nawash and who is also* familiar with the Custom Election Code.

19.1 The members of the Appeal Board shall hold office until (30) days after the election or until such time as all appeals are finalized.

Appeal Process

20.0 Within (30) days after a Band Election, any candidate of the Band Election or any Elector who gave or tendered his vote at the Band Election who has reasonable grounds for believing that:

20.0.1 There were corrupt practices in connection with the band election; or
20.0.2 There was a violation of this Custom Election Code that might have affected the result of the Band Election; or
20.0.3 An elector nominated a candidate in the Band Election who was ineligible to be nominated, may lodge an appeal by forwarding by registered mail to the Chair of the Appeal Board particulars thereof duly verified by affidavit.

20.1 The appeal shall be filed with the Chair of the Appeal Board with all the particulars and documentation The appeal Board shall contact the Electoral Officer for a full hearing on the grounds for appeal.

20.2 The Appeal Board may contact any person or any supporting documents or information pertinent to the appeal to be produced.

20.3 The appeal Board may set aside the Band elections of Chief/ and or Councillor if the Appeal Board is satisfied that:

20.3.1 There were corrupt practices in connection with the band election; or
20.3.2 There was a violation of this Custom Election Code that might have affected the result of the Band Election; or
20.3.3 An elector nominated a candidate in the Band Election who was ineligible to be nominated, in accordance with these procedures.

Amendments of these Regulations

21.0 Amendments to these guidelines may be heard when:

21.0.1 A petition is presented to council signed by eligible voters accompanied with proposed amendments.

21.0.2 A motion is brought forth to council by a member of council. The motion must be accompanied with the proposed amendments.

21.lNo amendments shall be valid unless:

21.1.1 A public meeting and mail out packages of the eligible voters is called to review the proposed amendments.

21.1.2 Consultation meetings and mail outs.

21.2Upon completion of the consultation process, a vote shall be taken by the eligible voters. The proposed amendments shall be deemed approved if the majority of the eligible voters that voted are in agreement. The approved amendments shall become effective five (5) business days after the vote.