

# **MUSHKEGOWUK COUNCIL**



## **ELECTION CODE**

**For the offices  
of  
Grand Chief and Deputy Grand Chief**

**Amendments made to June 2007**

**PREAMBLE**

As the original inhabitants of our rich and beautiful homeland, we were given this land by the Creator, who also gave us the Three Original Laws. These laws are the Laws of the People, the Laws of the Land and the Laws of the Creator (spiritual laws).

Since time immemorial, these Original Laws, teachings and our Cree language have sustained and defined us as a First Nations people. Our inherent right to govern ourselves flows from the Original Laws given to us by the Creator. One of the most fundamental principles of our inherent rights is the right to determine our own leadership. To this end, the people of the Mushkegowuk First Nations have taken a significant and historical step by directly electing a Grand Chief and Deputy Grand Chief who are empowered by the Chiefs, Elders and the First Nations People to speak for the Mushkegowuk traditional territory as a whole.

In doing so the people of the Mushkegowuk First Nations have set in motion one of the contemporary steps towards reclaiming our nationhood. Notwithstanding the fact that the Mushkegowuk Council Election Code clarifies and defines the existing election procedures for the offices of Grand Chief and Deputy Grand Chief, it is acknowledged that the leadership selection process shall evolve in accord with the full development and enactment of our own Omushkego governance jurisdiction.

Having understood that the Omushkego Constitution once adopted shall codify, amongst a range of matters, a nation-based foundation for our leadership selection process, the Mushkegowuk Assembly hereby adopts the Mushkegowuk Council Election Code 2007.

## **PART 1 TITLE**

1.1 This Code may be cited as the *Mushkegowuk Council Election Code 2007* [Previously *Mushkegowuk Council Election Rules and Procedures 1997*].

## **PART 2 AUTHORITY**

2.1 This Code is authorized by the Mushkegowuk Assembly which is comprised of representatives of the First Nations who comprise the Mushkegowuk Council and reflects the current governing structure of the Council;

## **PART 3 PURPOSE AND APPLICATION**

The purposes of this Code are to:

3.1 Provide the foundation to effectively govern and manage the electoral process for the offices of the Mushkegowuk Grand Chief and Deputy Grand Chief;

3.2 Assemble and identify the policies, regulations and procedures respecting leadership selection (elections); and to authorize election officials to make decisions pertaining to Mushkegowuk Council electoral procedures;

3.3 Provide for accountable, transparent and clear electoral processes for leadership selection.

3.4 This Code applies to the following:

- a) To the individual electors of Mushkegowuk First Nations;
- b) To the Mushkegowuk Council;
- c) To the Mushkegowuk Assembly.

## **PART 4 INTERPRETATION**

In this Code the following definitions apply:

4.1 “Chief Electoral Officer” means a person who has been appointed by the Council of Chiefs pursuant to *Part 10* of this Code

4.2 “Council of Chiefs” refers to the elected First Nation Chiefs who comprise the collective membership of the Mushkegowuk Council and which includes the Grand Chief and Deputy Grand Chief as non-voting members (formerly the Board of Chiefs);

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4.3 "Deputy Electoral Officer" means a person appointed by the Electoral Officer pursuant to *Part 10* of this Code.

4.4 "Deputy Grand Chief" means a person who has been elected to the office of Deputy Grand Chief pursuant to this code and who in their elected capacity works with the Grand Chief to fulfill his or her political duties as well as being a member of the Mushkegowuk Council Executive Committee.

4.5 "Elector" refers to any individual on the band list of a Mushkegowuk First Nation who is entitled to vote in accordance with the First Nation's governing election procedures and may also be referred to as a voter.

4.6 "Election" refers to the election of the Grand Chief and Deputy Grand Chief according to the manner prescribed in this Code

4.7 "Grand Chief" is a person who has been elected to the office of Grand Chief pursuant to this Code and who, in their elected capacity, is the primary spokesperson of the people, the Mushkegowuk Council and the Mushkegowuk Assembly as well as being the chairperson of Mushkegowuk Council and a member of the Mushkegowuk Council Executive Committee.

4.8 "Mushkegowuk Assembly" refers to the voting delegates who have been chosen to represent the interests of each Mushkegowuk Council First Nation and who are in attendance at either a Special or Annual Assembly of Mushkegowuk Council.

4.9 "Mushkegowuk Council" refers to the organization established by a number of Mushkegowuk First Nations with common interests who have voluntarily joined together to provide advisory, political and program services aimed at promoting self reliance and the exercise of self-government for member First Nations.

4.10 "Mushkegowuk Council Constitution" refers to the corporate documents such as the Letters Patent, By-laws #1 and #2 and any amendments thereto.

4.11 "Mushkegowuk First Nation" refers to a First Nation that may also be a band and which is a current member of the Mushkegowuk Council

4.12 "Mushkegowuk First Nation Community" refers to a community governed by a Mushkegowuk First Nation;

4.13 "Regulations" refers to delegated rules that are subordinate to the provisions in this Election Code and consistent with the overall framework of the Election Code. Regulations are developed and enacted through delegation to the Council of Chiefs.

## **PART 5 ELECTIONS**

5.1 The Grand Chief and Deputy Grand Chief of Mushkegowuk Council shall be elected through a universal *one person, one vote* system by the individuals in the Mushkegowuk First Nations.

5.2 Subject to other provisions of this Code, the term for the office of Grand Chief and for the office of Deputy Grand Chief shall be four (4) years respectively and shall be served concurrently.

5.3 Elections for the Grand Chief and Deputy Grand Chief will be held simultaneously in each First Nation with the date determined by the Council of Chiefs. The date shall be publicly announced as soon as determined.

## **PART 6 VOTERS**

6.1 Each First Nation may decide which members of its community are eligible to vote and shall submit a voters list to the Chief Electoral Officer within the time set by the Chief Electoral Officer.

6.2 If a First Nation does not submit a voters list within the time set, all persons who are on the membership list of that First Nation and are eighteen (18) years of age or older on election day will be eligible to vote

6.3 Each elector will be entitled to one vote for position of Grand Chief and one vote for the position of Deputy Grand Chief.

## **PART 7 CANDIDATES**

### **Eligibility**

7.1 In order to be a candidate a person must be:

- a) An eligible elector (voter) of a First Nation which is a member of Mushkegowuk Council;
- b) Eighteen (18) years of age or older at the time of the election; and,
- c) Nominated and verified in accordance with Part 9.

### **Limitations on Candidacy**

7.2 Any person who has been found guilty of a criminal offence is not eligible to be a candidate for the Office of Grand Chief or Deputy Grand Chief unless

officially pardoned. Individuals shall not be ineligible to be a candidate where protection, exercise or enhancement of Treaty and Aboriginal rights was involved in the circumstances of the offence.

## **PART 8 VACANCY OF OFFICE**

8.1 The office of Grand Chief or Deputy Grand Chief becomes vacant when a person who holds that office:

- a) Becomes deceased;
- b) Resigns in writing from their office;
- c) Is convicted of a criminal offence except where the circumstances involve the protection, exercise or enhancement of Treaty and Aboriginal rights;
- d) Fails to take up primary residence in the community in which the Mushkegowuk Council head office is situated within 90 days of assuming office;
- e) Ceases to qualify as a candidate in accordance with the criteria in this Code;
- f) Is removed from office by a majority vote of the Council of Chiefs with ratification by a 2/3 majority of the Assembly;
- g) Is otherwise unable to fulfill the terms of office.

### **Filling Vacancies**

8.2 Where the office of Grand Chief or Deputy Grand Chief becomes vacant more than six (6) months before the date when another election would ordinarily be held a by-election shall be held in accordance with this Code to fill that vacancy. All matters concerning eligibility and procedures that apply to an election shall also apply to a by-election.

8.3 In the event the Grand Chief's position becomes vacant within six months of the next general election and such vacancy does not prevent the ability of Mushkegowuk Council to function, the Deputy Grand Chief will assume the Grand Chief position until the next general election.

8.4 In the event the Deputy Grand Chief's position becomes vacant within six months of the next general election, and such vacancy does not prevent the ability of Mushkegowuk Council to function, the Grand Chief will assume the duties of the Deputy Grand Chief and the Deputy Grand Chief position will remain vacant pending the next general election.

8.5 Any person elected to office through a by-election, shall only hold office for the remainder of the term of the vacant office being filled.

## **PART 9 NOMINATIONS**

### **Qualifying Nominations**

9.1 All nominations for Grand Chief and Deputy Grand Chief must be:

- a) Supported by and signed by two (2) individuals who are electors of a Mushkegowuk First Nation as a mover and seconder respectively.
- b) Shall provide a Canadian Police Information Center document that states his or her freedom from criminal convictions.
- c) In writing and received by the Chief Electoral Officer by fax, courier, and mail or by personal delivery.
- d) Received by the Chief Electoral Office by midnight thirty days before the Election Day.

### **Opening and Closing of Nominations**

9.2 Nominations shall open sixty (60) days before the election date and shall close by midnight thirty days before the Election Day.

### **Verification of Nominations**

9.3 All nominations will be verified by the Chief Electoral Officer with respect to the eligibility of the candidates and their willingness to stand for office. All nominations must be verified with the mover and seconder.

9.4 Once a nomination is moved and seconded and verified, the mover and seconder do not need to be in attendance at the time of voting.

### **Publication of Candidates**

9.5 A list of the candidates for the Grand Chief and Deputy Grand Chief shall be circulated by fax and mail to all Mushkegowuk First Nations within three (3) days after the closing date for nominations. This list shall also include the movers and seconders for each candidate.

### **Withdrawals**

9.6 A candidate may withdraw his or her nomination at anytime after his or her nomination but not later than 72 hours before the election, by delivering notice in writing to the Chief Electoral Officer.

**Acclamation**

9.7 If there is only one candidate for the position of Grand Chief, that candidate will be acclaimed. The same will apply for the position of Deputy Grand Chief.

**PART 10 ELECTION OFFICIALS**

**Appointment of Chief Electoral Officer**

10.1 All interested individuals shall forward their resumes along with three (3) references and the appointment shall be determined by the Council of Chiefs.

**Criteria for Chief Electoral Officer**

10.2 The Chief Electoral Officer shall be an independent person who has no vested interest in the outcome of the Mushkegowuk Council elections;

10.3 The Chief Electoral Officer shall not be an employee of the Mushkegowuk Council or any of the First Nations Councils.

10.4 The Chief Electoral Officer shall be unanimously selected by the Council of Chiefs.

10.5 The appointment of the Chief Electoral Officer shall be accepted in writing.

**Duties of the Chief Electoral Officer**

10.6 The duties of the Chief Electoral Officer shall be:

- a) Select a Deputy Electoral Officer from each Mushkegowuk community;
- b) Receive nominations;
- c) Verify all nominations, by contacting all movers and seconders and by any other inquiries he or she believes necessary;
- d) Confirm the willingness of all candidates to stand for office;
- e) Circulate nominations;
- f) Prepare a voters list with each Deputy Electoral Officer;
- g) Oversee and coordinate the voting process;
- h) Conduct recounts;
- i) Investigate protests and complaints;
- j) Deal with all matters arising during the course of the campaign and make any necessary rulings;
- k) Carry out the above in accordance with whatever rules (custom or Indian Act) would apply to a local First Nation Chief's election, to the extent applicable or possible.

## **PART 11 CAMPAIGN**

### **Suspension of Roles as Political Organizational Employees during Campaign**

- 11.1 Those candidates holding political office or employed by the Mushkegowuk Council or a First Nation Council or an affiliated Mushkegowuk organization shall be required to take a leave of absence for a thirty (30) day period prior to Election Day.
- 11.2 Each candidate under 11.1 is responsible for making prior arrangements for his or her leave including whether it is leave with or without pay in accordance with their individual employment circumstances.
- 11.3 Participation in the political life of the community should be recognized as an appropriate duty of the individual and should not be penalized with the loss of employment. Reinstatement at the conclusion of the election should be guaranteed to all candidates.

### **Conduct of Campaign**

- 11.4 Electoral campaigns are to be conducted in an open, fair and transparent manner.
- 11.5 The Chief Electoral Officer shall be responsible for regulating the conduct of candidates during the campaign and may apply regulations developed under this Code with respect to standards of conduct for candidates including but not limited to debates, campaign funds and time limits on campaign periods.

## **PART 12 POLLING PLACES**

- 12.1 A polling station will be established in each Mushkegowuk First Nation in accordance with their current election procedures. Additional off-reserve polling stations shall be established in Moosonee, Timmins, Cochrane and Kapuskasing. The Mushkegowuk Council Office will be the central controlling polling station for the coordination and counting of all votes.
- 12.2 There will be no loitering or campaigning around the polling stations (ballot boxes).
- 12.3 The candidates running for office shall not be in or near the polling stations (voting area) when ballots are being cast. Anyone doing so shall be disqualified by the Chief Electoral Officer.

## **PART 13    BALLOTS**

### **Style of Ballots**

13.1 The names of all candidates running for the position of Mushkegowuk Grand Chief and Deputy Grand Chief will be listed on the ballot in alphabetical order in Cree and English.

13.2 Secret ballots will be used for the election.

13.3 A sample form of ballot is attached.

### **Marking**

13.4 The voter is to mark his or her ballot by placing an “x” within the box placed by the candidate’s name. A ballot upon which there is any writing or other than an “x” will be rejected.

## **PART 14    VOTING**

### **Voting List**

14.1 Before the election date, each Deputy Electoral Officer must post a voters list for his or her community.

### **Manner of Voting**

14.2 Instructions to voters will be posted both inside and outside the polling place of each First Nation office.

14.3 When a voter is in the polling station for the purpose of marking his or her ballot, no one else is allowed to be in. Special provisions will be made for receiving the votes of those who cannot read and others unable to mark their ballots.

### **Results of Voting**

14.5 The candidates for Grand Chief and Deputy Grand Chief with the most votes by a simple majority will be declared the elected candidates.

**Tied Vote**

14.6 In the event of a tie for the lead between two candidates a recount shall be held. If there remains a tie between two leading candidates a run-off election shall be held between the two candidates who lead in the recount. The run-off election shall use the voters' lists and personnel and procedures used in the initial election, to the extent possible and shall be held within ten (10) days.

**PART 15 COUNTING AND RETURNS**

**Counting Ballots**

15.1 The Deputy Electoral Officer will declare the ballot box closed and sealed. At least one other person should count the ballots with the Deputy Electoral Officer. That person may be a NAPS Officer, Elder or Scrutineer.

**Scrutineers**

15.2 All candidates are entitled to one Scrutineer per polling station when the ballots for their position are being counted.

15.3 After the ballots have been counted, the Deputy Electoral Officer shall sign and fax the results to the Chief Electoral Officer at the Mushkegowuk Office. All other counters shall be invited to sign the results.

**Results**

15.4 The Chief Electoral Officer will transmit the election results by fax and if possible by Wawatay radio to each First Nation office immediately following the count.

15.5 Spoiled ballots will be included in the results.

15.6 The ballots will be destroyed eight (8) weeks after the election is completed.

**Recounts**

15.7 The Chief Electoral Officer and Deputy Electoral Officers shall conduct a recount at the request of any candidate.

15.8 Any such request must be made in writing within three (3) days of the election.

15.9 No more than one count shall be held, unless the Chief Electoral Officer considers it necessary.

15.10 Scrutineers may be present during recounts.

## **PART 16 PROTESTS AND COMPLAINTS**

16.1 Any candidate may protest the election with respect to the eligibility of any candidate, mover and seconder or the conduct of the election/voting process.

16.2 A protest regarding eligibility must be brought with ten (10) days of the close of nominations and other protests may be brought at any time before the election.

16.3 A protest may be brought within twenty-four (24) hours after the election results have been announced with respect to any irregularity in the election, voting or counting of votes.

16.4 The Chief Electoral Officer will investigate any protest and make rulings on them according to the Rules and Procedures.

16.5 A copy of all protests and reports on them will be made available with ten (10) days following the election upon request of an individual First Nation member.

## **PART 17 REGULATIONS AND AMENDMENTS**

### **Regulations**

17.1 The Mushkegowuk Council of Chiefs may make electoral Regulations for the purpose of enabling provisions of this Code including Amendments to Regulations;

17.2 The Regulations and any Amendments to the Regulations will be consistent with the provisions of this Code and will not supersede, contradict or in any way change this Code.

### **Amendments**

17.3 Amendments or repeals of this Code shall be made only through a duly called Assembly called specifically for the purpose of amending or repealing this Code.

17.4 Amendments or repeals to be effective must be read before the Assembly and thereafter ratified by a 2/3 affirmative majority vote of the members. A majority is determined as the majority of voting members who are present.

## **Transition**

17.5 Further to these amendment provisions which may amend or repeal in whole or in part the Mushkegowuk Council Election Code, these amendments or repeals may be enacted at such time should any proposed restructuring of Mushkegowuk Council occur or in the event that the *Draft Omushkego National Constitution* is finalized and enacted.

## **PART 18 ROLE, AUTHORITY AND ACCOUNTABILITY OF THE GRAND CHIEF AND DEPUTY GRAND CHIEF**

- 18.1 The Mushkegowuk Grand Chief and Deputy Grand Chief are members of and not separate and apart from the Mushkegowuk Council of Chiefs. He or she functions as executive members of the collective leadership known as Mushkegowuk Council of Chiefs.
- 18.2 The Mushkegowuk Grand Chief and Deputy Grand Chief as executive members are accountable to and shall take direction from the Mushkegowuk Council of Chiefs as a unit. The Grand Chief and Deputy Grand Chief are chosen by the people but empowered by the Chiefs and directed by the mandates of the Mushkegowuk Assembly.
- 18.3 The Mushkegowuk Grand Chief and Deputy Grand Chief shall have a political role and shall be accountable for their political activities to the Council of Chiefs and the Mushkegowuk Assembly.
- 18.4 The Mushkegowuk Grand Chief and Deputy Grand Chief shall carry out their political roles and duties in accordance with a portfolio system.
- 18.5 The Mushkegowuk Deputy Grand Chief may from time to time be designated the capacity to act as Grand Chief during temporary absences of the Grand Chief.
- 18.6 The Mushkegowuk Grand Chief shall be the primary spokesperson of the Mushkegowuk people who are represented through the Assembly. The Deputy Grand Chief will assist the Grand Chief in fulfilling this responsibility.
- 18.7 The Mushkegowuk Grand Chief and Deputy Grand Chief shall have no inherent political authority. Any authority shall derive exclusively and entirely from authority granted from time to time by the Mushkegowuk Council of Chiefs as well as through the mandates given by the Mushkegowuk Assembly.
- 18.8 As leaders who exercise delegated and collective mandates, authority, responsibilities and duties, the Mushkegowuk Grand Chief and Deputy Grand

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Chief shall comply in every respect with the direction given by the Mushkegowuk Council of Chiefs and the Mushkegowuk Assembly.

18.9 The Mushkegowuk Grand Chief and Deputy Grand Chief shall be responsible to ensure regular administrative and financial reports to the Mushkegowuk Assembly and Mushkegowuk Council Board of Chiefs are received from the Mushkegowuk Council Administration.

18.10 The Mushkegowuk Grand Chief and Deputy Grand Chief, as trustees of the sacred obligations granted by the Creator, shall adhere to a code of conduct specific to their political office which shall include conflict of interest provisions and a provision requiring efforts to learn and practise the Cree language. As elected representatives, the Grand Chief and Deputy Grand Chief shall uphold and abide by a sworn oath of office.

# **Appendix A**

# **FORMS**



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*Other forms suggested as attachments:*

Ballot  
Nomination Forms  
Verification of Nomination  
Oath of Office