

CUSTOMARY ELECTION REGULATIONS
OF THE
ATHABASCA CHIPEWYAN
FIRST NATION

Effective as of
October 6, 2010

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Schedule "A" Nomination Paper and Candidate's Acceptance

1 INTRODUCTION

WHEREAS:

- 1.1 The First Nation has the inherent Aboriginal and Treaty right and authority to govern relations among its members and between the First Nation and other governments;
- 1.2 The inherent right of the First Nation to self-government was recognized and affirmed in Treaty No. 8 entered into between Her Majesty The Queen in Right of Canada and the Athabasca Chipewyan First Nation in 1899;
- 1.3 The written Customary Election Regulations of the First Nation were established in 1983 with the consent and participation of the members of the First Nation;
- 1.4 The Customary Election Regulations of the First Nation require democratic, fair and open elections for the leadership;
- 1.5 The First Nation now desires that the Customary Election Regulations be amended as set out herein;
- 1.6 The members of the First Nation have participated in the discussions of the amendments to the Customary Election Regulations; and
- 1.7 At a Band meeting held on October 5th and 6th, 2010, a majority of the Electors present approved the adoption of the amendments to the Customary Election Regulations as set out herein:

2 DEFINITIONS

- 2.1 For the purpose of these regulations:
 - a) "**Council**" means those members elected pursuant to these regulations to hold the offices of Chief and Councillor, and who are empowered to act on behalf of the "First Nation" according to their inherent traditional powers and authorities and pursuant to the *Indian Act*;
 - b) "**Candidate**" means an Elector who has been nominated pursuant to these regulations, as amended;
 - c) "**Elder**" means a member of the First Nation who has reached the age of 55;
 - d) "**Election**" means a band custom Election held pursuant to the provisions of these regulations, as amended;
 - e) "**Elector**" means a person who:
 - i) has his name on the First Nation Membership List; and

- ii) is 18 years of age on or before the date for submitting nomination papers for the purpose of nominations and 18 on or before Election day for the purpose of voting;
- f) "**Electoral Officer**" means a person appointed pursuant to section 5 by a Band Council Resolution for the purpose of conducting the nomination and election of the Council;
- g) "**First Nation**" means the Athabasca Chipewyan Indian Band #463;
- h) "**Membership List**" means the Membership List of the First Nation established pursuant to the Membership Code of the First Nation;
- i) "**Poll Clerk**" means a person appointed by the Electoral Officer to assist in the election and who will have no voting powers;
- j) "**Polling Station**" means that building, hall or room which is selected to be the site for the voting to take place.

3 COMPOSITION OF CHIEF AND COUNCIL AND TERM OF OFFICE

- 3.1 The First Nation will be governed by a Council consisting of one (1) Chief and four (4) Councillors.
- 3.2 A quorum of the Council shall be a majority of Council.
- 3.3 The term of office for the Chief and Councillors shall be approximately four (4) years. It will commence on the day following the Election and be terminated on the Election day approximately four (4) years later.
- 3.4 For greater certainty, in the event of any appeal of an Election result, an elected Chief or Councillor shall be entitled to remain on office until such time as the appeal has been determined and, thereafter, subject to the appeal decision.

4 ELECTION DAY

- 4.1 The Election for the offices of Chief and Council will be every four years commencing in 1999.
- 4.2 The Election day will be held in the last week of October with the specific date during that week to be set by Band Council Resolution.

5 APPOINTMENT OF ELECTORAL OFFICER AND APPEAL ARBITRATOR

- 5.1 The Electoral Officer shall be appointed not less than forty (40) days before the date selected by the Chief and Council as the Election day. The Electoral Officer shall not be a member of the First Nation, a permanent employee of the First Nation, or any other member or employee of any other First Nation in the region, or the Athabasca Tribal Council.
- 5.2 The Electoral Officer shall be appointed by Band Council Resolution which will contain:
- a) their full name;
 - b) a description of the general duties and obligations of the Electoral Officer;
 - c) the date, time and location in the community of Fort Chipewyan for the meeting at which nomination papers must be filed with the Electoral Officer; and
 - d) the specific date for the Election, By-election or Run-off Election, and the locations for posting notices of nomination and notices of Election.
- 5.3 The Electoral Officer shall prepare an Electors list based upon the Membership List identifying all members 18 years of age or older certified to be correct by the First Nation's membership clerk.
- 5.4 The Electoral Officer shall establish an Election file and place on that file copies of all correspondence associated with the up-coming Election and that file shall remain open until such time as the appeal period has expired. The file shall then be closed and become the property of the First Nation.
- 5.5 The Electoral Officer shall appoint such Polling Clerks and interpreters as they deem necessary and shall document the details of this on the Election file.
- 5.6 The Electoral Officer shall remain in office until all Appeals, if any, of an Election, Run-off Election or By-election have been determined.
- 5.7 All appeals shall be determined by an Appeal Arbitrator who is appointed by Band Council Resolution not less than forty (40) days prior to the date selected as the Election day.
- 5.8 The Election Appeal Arbitrator shall be a retired Judge or a lawyer qualified to practice law in the province of Alberta who is not or has not and will not be retained by the First Nation or any member of the First Nation, other than as an Election Appeal Arbitrator, and shall not be a member or related to any member.
- 5.9 The amount and terms of the remuneration to be paid to an Electoral Officer and Election Appeal Arbitrator shall be fixed by the Council at the time of their appointment and reported in the annual Band audit.

6 NOMINATION PROCEDURE

- 6.1 The Electoral Officer shall post a notice of a meeting for the delivery and receipt of nomination papers at least thirty (30) days prior to the date set as the Election day. The notice of the meeting to receive nomination papers shall be posted in the First Nation band office, in Fort Smith, in Fort McMurray, in Edmonton and other public places in locations designated by Band Council Resolution.
- 6.2 The notice of the meeting to receive nomination papers shall contain and set out:
- a) the date, time and location in the community of Fort Chipewyan for the meeting where nomination papers must be filed or delivered to the Electoral Officer;
 - b) a copy of the form of nomination papers and candidate's acceptance that must be completed and delivered to the Electoral Officer;
 - c) the position or positions open for Election;
 - d) the date of the Election; and
 - e) a statement that a copy of the these regulations may be obtained from the Electoral Officer and contact information for the Electoral Officer.
- 6.3 The meeting for the delivery and receipt of nomination papers shall be at least fifteen (15) days prior to the date set as the Election Day.
- 6.4 In order to qualify for nomination an Elector must:
- a) be a member of the First Nation and at least 18 years of age or older;
 - b) not be employed by the First Nation or any related business corporation or other entity which is owned or controlled, in whole or in part, by the First Nation. For greater certainty, an employee who has taken unpaid leave of absence from employment prior to their nomination is not considered to be employed within the meaning of this section and a Chief and Councillor in office at the time of an Election is called is not considered employed within the meaning of this section;
 - c) not have been convicted of any indictable criminal offenses or stand charged of any indictable criminal offenses within seven (7) years from the date of nomination;
 - d) not have been found liable in a civil court or pursuant to criminal proceedings in respect of any matter involving theft, fraud or misuse of property belonging to the First Nation or any related business corporation or other entity which is owned or controlled, in whole or in part, by the First Nation; or

- e) not have been delinquent in the repayment of any indebtedness to the First Nation or any related business corporation or other entity which is owned or controlled, in whole or in part, by the First Nation.
- 6.5 The Electoral Officer shall attend the meeting to receive nomination papers in the community of Fort Chipewyan and shall declare the meeting open for the purpose of receiving the nomination papers of candidates for the positions advertised.
- 6.6 The Electoral Officer shall keep the meeting open two (2) hours.
- 6.7 All nominations shall be submitted by the filing of nomination papers and candidate's acceptance in the form prescribed in Schedule "A" to these regulations.
- 6.8 All nomination papers and candidate's acceptances must be personally delivered by the candidate to the Electoral Officer.
- 6.9 No Elector can nominate more candidates than the number of positions open for election for that office.
- 6.10 An Elector may be nominated for one position only, either Chief or Councillor.
- 6.11 The nomination form submitted by the candidate to the Electoral Officer shall be accompanied by:
- a) a letter signed by the Administrator or Chief Executive Officer of the First Nation or First Nation Business Entity stating the nominee is not employed by the First Nation or any related First Nation business Entity or the nominee has taken unpaid leave of absence from employment prior to their nomination;
 - b) a statutory declaration signed by the nominee affirming that they have not been convicted of an indictable offence within the seven (7) years from the date of nomination;
 - c) a statutory declaration signed by the nominee affirming that they have never been found liable in civil court or pursuant to criminal proceedings in respect of any matter involving theft, fraud or misuse of property belonging to the First Nation or any business corporation or other entity which is owned or controlled by the First Nation;
 - d) a letter signed by the Administrator or Chief Executive Officer of the First Nation or First Nation Business Entity stating the Nominee has no outstanding arrears for debts or salary or travel advances to the First Nation.
- 6.12 The Electoral Officer shall determine whether a nomination form is fully complete and constitutes a proper nomination and shall promptly advise the Nominee of any deficiencies.

- 6.13 Upon the close of nominations, the Electoral Officer shall promptly notify, in writing, all nominees who have completed all of the requirements set out in these regulations whether they are eligible to be candidates.
- 6.14 Nominees who are ruled ineligible by the Electoral Officer, or whom the Electoral Officer determines have not filed a completed nomination form or have not filed other required documents by the close of nominations are not eligible to be candidates.
- 6.15 Any candidate wishing to withdrawn may do so but must give notice in writing to the Electoral Officer or his designate, not less than 48 hours before the advance polls open. Withdrawal is effective at the time the Electoral Officer or his designate is notified in writing.
- 6.16 At the close of nominations, if the number of Candidates nominated for any office is the same as the number to be elected, the Electoral Officer will declare the persons nominated to be elected.

7 ELECTION PROCEDURE

- 7.1 At least fourteen (14) days prior to an Election day, the Electoral Officer must post notices of Election in public places in Fort Chipewyan, in Fort Smith, in Fort McMurray, in Edmonton, and any other locations designated by Band Council Resolution.
- 7.2 The notice of Election must set out the following information:
 - a) the date of the Election;
 - b) the Candidates nominated and the office for which they are nominated;
 - c) the location of each Polling Station and the hours when each Polling Station will be open;
 - d) the date, location and time of the advance poll; and
 - e) a statement that a copy of the list of Electors and these regulations may be obtained from the Electoral Officer and contact information for the Electoral Officer.
- 7.3 Any member of the First Nation 18 years or older shall be entitled to seek confirmation from the Electoral Officer that their name is on the list of Electors. In the event that the name of the Elector has been omitted from the list of Electors, the Elector may apply to the Electoral Officer to have their name added to the list of Electors and, upon proof that the person has been admitted to membership of the First Nation, the Electoral Officer shall add that person's name to the list of Electors.

Applications for addition to the list of Electors shall be received no later than 6 p.m. on the day prior to the Election Day.

- 7.4 Advance polls for Election will be held at Fort Chipewyan and Fort McMurray:
- a) the advance polls shall be held within in five (5) working days before the Election day and shall follow all procedures prescribed for the regular poll;
 - b) the Electoral Officer shall personally retain custody or arrange custody of the sealed ballot boxes and not open or otherwise break the ballot box seal until the Election day at the time all ballots are counted;
 - c) the advance polls shall be open from 5:00 pm to 9:00 pm.
- 7.5 There will be established one polling station at each of:
- a) the community of Fort Chipewyan;
 - b) the community of Fort Smith;
 - c) the City of Fort McMurray; and
 - d) the City of Edmonton.
- 7.6 The Electoral Officer or his designate shall obtain such ballot boxes and equipment as necessary to establish a voting location.
- 7.7 The Electoral Officer or his designate shall construct or erect polling booths such that the privacy of the voter is maintained.
- 7.8 The Electoral Officer or his designate shall, where he considers it necessary, appoint an interpreter, who is not a First Nation member, or resident in the community of Fort Chipewyan at advance polls and at each polling station on the Election day.

8 ELECTION

- 8.1 The Electoral Officer will appoint Polling Clerks as he deems necessary. The Electoral Officer shall assign the Polling Clerks duties and they shall be in attendance at the Polls, at the time and place as is set out in the notice of Election.
- 8.2 The Electoral Officer or the Polling Clerks shall hold the polling stations open from 10:00 am to 10:00 pm at the locations in Fort Chipewyan, Fort Smith, Fort McMurray and Edmonton.

- 8.3 The Electoral Officer or his designate shall maintain, at all times, order in the polling station and may cause to be removed any person, who attempts to influence Electors or in any way interferes with or disrupts the orderly conduct of the vote.
- 8.4 A person presenting themselves for the purpose of voting shall, upon being confirmed by the Electoral Officer or Polling Clerk, as an Elector, be given one (1) ballot upon which to register his vote. If requested to do so by the Electoral Officer or the Polling Clerk, each person requesting a ballot must present identification to the Electoral Officer or Polling Clerk verifying his age and name.
- 8.5 Each ballot must contain the names and photographs of Candidates for the office(s) of Councillors and for Chief.
- 8.6 At each polling station the following instructions shall be posted in a large, readable font:
- a) each Elector is entitled to vote for no more than one (1) Candidate for the office of Chief;
 - b) each Elector is entitled to vote for no more than four (4) Candidates for the office of Councillor;
 - c) use "X" or " ✓ " to mark your ballot;
 - d) do not make any other writing or marking on the ballot;
 - e) if you accidentally tear or damage a ballot, please request a replacement from the Polling Clerk or Electoral Officer; and
 - f) torn, defaced or otherwise mutilated ballots will not be counted.
- 8.7 All Candidates shall be entitled to have one agent (scrutinizers) at each of the Polling Stations. The agent shall be allowed to remain in the Polling Station and witness the conduct of voting. The names of agents appointed by each Candidate for each Polling Station must be submitted in writing to the Electoral Officer two (2) days prior to Election day. No persons, other than named agents, may act on behalf of or represent the Candidate.
- 8.8 Subject to sections 8.10 and 8.11, voting in all Elections, By-elections and Run-off Elections will be by secret ballot.
- 8.9 No person shall be required to disclose whether he has voted or for which particular Candidate he has voted for.
- 8.10 The Electoral Officer or a Polling Clerk, at the request of an Elector who is unable to mark his ballot in the usual manner because he is unable to read or is incapacitated by blindness or other physical condition may, mark the vote of that Elector on the

- Elector's ballot in the manner directed by that Elector, and shall immediately deposit the ballot in the ballot box.
- 8.11 If an Elector does not understand the English language, the Electoral Officer may allow an interpreter to translate any statements, questions, or documents necessary to allow the Elector to vote.
 - 8.12 Where any Elector has required the assistance of an interpreter, the Electoral Officer shall make a report in the prescribed form.
 - 8.13 The Electoral Officer, or his designate, shall initial each ballot upon giving it to the Elector.
 - 8.14 An Elector who mistakenly spoils their ballot may return the ballot to the Electoral Officer or the Polling Clerk and receive another ballot. The Electoral Officer or the Polling Clerk must write the word "spoiled" on the ballot, initial the ballot, and place it in the ballot box.
 - 8.15 Each Elector receiving a ballot shall proceed directly to the place provided for marking ballots and shall mark their ballot by placing a cross or check mark opposite the name of the Candidates from whom they desires to vote and shall then deposit the ballot in the ballot box supplied.
 - 8.16 The Elector Officer, or their designate, shall note upon the voters list any irregularity in connection with voting and shall specifically note any ballots marked by the Electoral Officer or their designate at the request of an Elector, but shall not note the candidate for whom the ballot was cast.

9 COUNTING OF THE VOTES

- 9.1 Immediately following the close of the poll, the Electoral Officer their designate shall, in the presence of such candidates or their agents and Electors as may be present, open the ballot box or boxes.
- 9.2 The Electoral Officer or their designate shall examine the ballots and any ballots:
 - a) not bearing the initials of the Electoral Officer or Polling Clerk;
 - b) having more votes than an Elector is entitled to cast;
 - c) having anything written or marked on it by which an Elector can be identified;
 - d) that is torn, defaced or is otherwise dealt with by an Elector in a manner that might identify the Elector;
 - e) not marked with an "X" or "✓"; or

- f) without a vote cast on it by an Elector;

shall be rejected.

- 9.3 The Electoral Officer shall count the votes given for each candidate from the ballots and supply a written statement of the number of votes given to each candidate and of the number of ballots rejected.

10 ELECTION RESULTS

- 10.1 After the counting of the ballots, the Electoral Officer shall immediately announce and post the names of the successful candidates at the polling stations and at the First Nation band office.

- 10.2 Following the Election result announcement, the Electoral Officer shall place all ballots cast in a sealed envelope and that envelope will remain in their possession until the appeal period has lapsed or all appeals have been concluded.

- 10.3 Within twenty-four (24) hours following the Election, the Electoral Officer shall complete and sign an Election report which shall contain:

- a) a list of all Candidates;
- b) the number of ballots cast;
- c) the number of votes for each Candidate; and
- d) the number of assisted or interpreted votes.

11 RUN-OFF ELECTIONS

- 11.1 In the event of a tie vote, a Run-off Election will be held within fourteen (14) days of the Election or By-election giving rise to the tie vote. For greater certainty, a Run-off Election may be delayed in the event of an appeal which may affect the result which gave rise to the tie vote and, in such cases, the Run-off Election shall be held within 10 days of the determination of the appeal. The only eligible Candidates will be those Candidates who received the same largest number of votes for the position of Chief and the last position for Councillor(s).

- 11.2 Within three (3) days following the Election day giving rise to the Run-off Election or the determination of an appeal, as the case may be, the Electoral Officer must post a notice of Run-off Election in the same time, manner, form, and places as the initial notice of Election.

- 11.3 In a Run-off Election, the list of Electors must be the same as the list of Electors used in the Election or By-election.
- 11.4 The locations of Polling Stations and, with the exception of time requirements set forth in these regulations, the rules and procedures for conducting a Run-off Election will otherwise be the same as those used for conducting an Election or By-election.
- 11.5 In the event of a tie vote in the Run-off Election, another Run-off Election will be held.
- 11.6 The elected Candidate assumes office the day after the Run-off Election.

12 BY-ELECTION

- 12.1 In the event the Chief dies, resigns, or is removed from office and there is more than six (6) months remaining in their term of office, the Council will:
- a) within fourteen (14) days of the effective date of the resignation or removal, set the date for the By-election to fill the vacant office and appoint an Electoral Officer to conduct the By-election; and
 - b) the By-election must be held within sixty (60) days of the effective date of the death, resignation or removal of the Chief.
- 12.2 In the event that a Councillor dies, resigns, or is removed from office and there is more than twelve (12) months remaining in their term of office, the Council will:
- a) within fourteen (14) days of the effective date of the resignation or removal, set the date for the By-election to fill the vacant office and appoint an Electoral Officer to conduct the By-election; and
 - b) the By-election must be held within sixty (60) days of the effective date of the death, resignation or removal of the Councillor.
- 12.3 The person whose resignation or removal from office pursuant to section 14 and prompted the holding of a By-election is not eligible to be a candidate in the By-election.
- 12.4 The rules and procedures for conducting a By-election are the same as those used for conducting an Election.
- 12.5 The elected candidate assumes office the day after the By-election.

13 ELECTION APPEALS

- 13.1 Any candidate or Elector who voted in the Election, By-election, or Run-off Election, as the case may be, may, within five (5) days of the Election, By-election, or Run-off

Election, as the case may be, appeal the result if they have reasonable and probable grounds based upon evidence that:

- a) the Electoral Office made an error in the interpretation or application of these regulations which materially and directly affected the outcome of the Election, By-election or Run-off Election, as the case may be;
- b) a candidate who ran in the Election, By-election, or Run-off Election, as the case may be, was ineligible to run and provided false information or failed to disclose information relevant to the validity of their nomination;
- c) a person voted in the Election, By-election, or Run-off Election, as the case may be, who was ineligible to vote and provided false information or failed to disclose information relevant to their right to vote; or
- d) a candidate was guilty of a corrupt Election practice or benefited from and consented to a corrupt Election practice.

13.2 Corrupt Election practice means:

- a) attempting or offering money or other valuable consideration in exchange for;
 - i) an Elector's vote; or
 - ii) the falsification of an electoral report;
- b) threatening adverse consequences, coercing or intimidating an Elector or an election official for the purposes of influencing;
 - i) an Electors vote; or
 - ii) an electoral report;
- c) forging documents or providing false or misleading information for the purposes of influencing;
 - i) an Elector's vote; or
 - ii) an electoral report.

13.3 A notice of appeal must be in writing and include the following:

- a) the Election results appealed from and the name of the affected candidate or candidates;

- b) the grounds upon which the appeal is made including reference to the relevant sections of these regulations;
 - c) the material facts on which the appellant relies;
 - d) the names of any witnesses the appellant intends to call or a statement that the appellants does not intend to call any witnesses; and
 - e) a list of any documents or records the appellant intends to rely on or a statement that the appellant does not intend to rely on any documents or records.
- 13.4 The notice of appeal must be received with a non-refundable filing fee of \$500.00.
- 13.5 On the expiry of the limitation period for filing an appeal, the Electoral Officer shall, within 3 days of the expiry of the limitation period, notify the Appeal Arbitrator, the appellant, and any affected Candidate whether an appeal hearing is necessary.
- 13.6 The Appeal Arbitrator shall dismiss any appeal which does not meet the requirements of sections 13.3 and 13.4.
- 13.7 The Electoral Office shall further prepare an Election Record and deliver it to the Appeal Arbitrator. The Election Record shall consist of the following:
- a) a copy of these regulations;
 - b) a copy of the Band Council Resolution appointing the Electoral Officer;
 - c) a copy of the Band Council Resolution appointing the Appeal Arbitrator;
 - d) a copy of the Electors list;
 - e) copies of any statutory declarations of Electors sworn in connection with the Election, By-election, or Run-off Election as the case may be;
 - f) a copy of the notice of the meeting to receive nomination papers;
 - g) copies of all filed nomination papers;
 - h) a copy of the notice of Election;
 - i) a copy of the Election report; and
 - j) a copy of the appeal or appeals, as may be the case.
- 13.8 The Appeal Arbitrator has the following powers:

- a) to determine questions of law arising in the course of the appeal hearing;
- b) to rule on any objections made in the appeal hearing;
- c) to order production of documents which are material and relevant to the appeal;
- d) to determine the procedure to be followed having regard for fairness and equality between the parties to the hearing;
- e) to determine the manner in which evidence is to be admitted and the Appeal Arbitrator is not bound by rules of evidence and has the power to determine admissibility, relevance and weight of any evidence;
- f) to determine the time, place and date of the appeal hearing; and
- g) to determine whether the appeal hearing is open to members of the public and who may or may not attend the appeal hearing.

13.9 The Appeal Arbitrator does not have the power:

- a) to subpoena any witness or compel any person to give evidence at an appeal hearing excepting that the Electoral Officer is a compellable witness; and
- b) to order any relief not specifically permitted by these regulations.

13.10 These regulations set out all the powers of the Appeal Arbitrator and neither the *Arbitration Act* of Alberta or the *Commercial Arbitration Act* of Canada or any other like legislation applies to the Appeal Arbitrator or to appeal hearings under these regulations.

13.11 The Appeal Arbitrator shall hold a hearing within fifteen (15) working days of receiving notice that an appeal hearing is required.

13.12 Within five (5) working days of the appeal hearing, the Appeal Arbitrator shall provide written reasons for their decision. The relief which the Appeal Arbitrator may grant shall be limited to the following:

- a) dismissal of the appeal;
- b) upholding the appeal, but allowing the Election results to stand on the basis that any infractions or irregularities did not effect the Election result; or
- c) upholding the appeal and ordering a new Election in respect of the Election results appealed from on the basis that the result was tainted by an infraction or an irregularity.

- 13.13 Notwithstanding paragraph 13.12 above, if the Appeal Arbitrator determines that an appeal was so lacking in merit as to constitute an abuse of the Appeal process he or she may order the appellant to pay the costs of the appeal hearing or the cost of the affected candidates or both.
- 13.14 No decision, order, directive, declaration, ruling or proceeding before the Appeal Arbitrator shall be questioned or reviewed in any court by application for judicial review or otherwise and no order shall be made or process entered or proceedings taken in any court whether by way of injunction, declaratory judgement, prohibition, quo warranto, or otherwise in question, review, prohibit, or restrain the Appeal Arbitrator or the Appeal Arbitrator's decision or proceedings before the Appeal Arbitrator.
- 13.15 Notwithstanding section 13.14 a decision, order, directive, declaration, ruling, or proceeding of the Appeal Arbitrator may be questioned or reviewed by way of an application for judicial review in the Federal Court of Canada on the basis that the Appeal Arbitrator erred in law or failed to observe a principle of natural justice.

14 RESIGNATION OR REMOVAL OF CHIEF & COUNCIL

- 14.1 The Chief or a Councillor may resign from office by submitting a written notice of resignation to the Council.
- 14.2 The notice of resignation must state the effective date of the resignation must not be more than thirty (30) days from the date the Notice is delivered to the Council.
- 14.3 Within 30 days of their Election to office, the Chief and Councillors shall obtain residency and remain permanently resident in the community of Fort Chipewyan throughout the term of their office.
- 14.4 A Chief or Councillor may be suspended or removed from office for cause. Cause means the Chief or Councillor has:
- a) missed three consecutive regular Council meetings of which they had been given verbal and/or written notice and for which no notice or valid reasons were provided to Council;
 - b) been charged with or convicted of an indictable offense under the Criminal Code of Canada;
 - c) refused to establish or maintain ordinary residency, pursuant to section 14.3, in the community of Fort Chipewyan within 30 days of his or her election;
 - d) refuses to resign his or her employment with the First Nation or with a related First Nation entity;

- e) becomes an employee of the First Nation or a related First Nation entity;
 - f) engages in drunk or disorderly or inappropriate conduct at council meetings, community meetings, or other public functions in which the Chief or Council are present as representatives of the First Nation which would tend to bring the reputation of the First Nation and its council into disrepute;
 - g) improperly misuses or misappropriates First Nation funds or converts First Nation property to their own use. For the purposes of this section First Nation funds and First Nation property includes the funds or property of related business corporations or entities which are owned or controlled, in whole or in part, by the First Nation; or
 - h) engages in gross financial mismanagement, such that the First Nation is burdened with unnecessary debt.
- 14.5 The process for suspension or removal of a Chief or Councillor for cause may be initiated by:
- a) a Band Council Resolution made by a majority of the Chief and Council excluding the Chief or Councillor in respect of whom the resolution has been made; or
 - b) a Petition of the band members meeting the requirements of section 14.6.
- 14.6 The Petition or the Band Council Resolution shall include the following:
- a) the name of the Chief or Councillor sought to be removed or suspended, as the case may be;
 - b) the grounds on which the Resolution is made or the Petition is signed, as the case may be, with reference to the relevant sections of these regulations; and
 - c) the material facts which support the Resolution or the Petition, as the case may be.
- 14.7 A petition for the suspension or removal of any Chief or Councillor is valid if it meets the following requirements:
- a) the petition has been signed by no less than 60% of the members who are 18 years of age or older and otherwise eligible to vote in elections at the time the petition is signed;
 - b) the petition consists of one or more pages, each of which contains an identical statement of the purpose of the petition including the information required by this section;

- c) the petition includes, for each petitioner;
 - i) the printed surname and printed given names or initials of the petitioner;
 - ii) the petitioners' signature;
 - iii) the mailing address, street address, or land description at which the petitioner resides; and
 - iv) the date on which the petitioner signs the petition;
 - d) each signature on the petition must be witnessed by an adult person who has signed opposite the signature of the petitioner; and
 - e) the petition must have attached to it a signed statement of a person stating that they are the representative of the petitioners and that inquires about the petition may be directed to them.
- 14.8 The Band Council Resolution shall further include the name of an independent arbitrator who shall determine whether there is cause for the suspension or removal of any Chief and Council. If the process has been initiated by way of a Petition, then the majority of the Chief and Council excluding the Chief or Councillor who is the subject of the Petition, shall by Band Council Resolution appoint the independent arbitrator who shall determine whether there is cause for the suspension or removal of any Chief or Councillor. For greater certainty, the Chief and Council shall not be required to appoint an independent arbitrator if the Petition fails to meet the requirements of section 14.7.
- 14.9 The independent arbitrator shall be either a lawyer qualified to practice law in the Province of Alberta or a retired judge. The independent arbitrator must be a person who has not previously represented First Nation or any member of the First Nation. An independent arbitrator who has previously determined the issue of cause for the removal of Chief or Councillor in office at the time of the Band Council Resolution is made may not be appointed.
- 14.10 The independent arbitrator has the following powers:
- a) to determine questions of law arising in the course of the hearing;
 - b) to rule any objections made in the course of the hearing;
 - c) to order production of documents which are material and relevant to the hearing;

- d) to determine the procedure to be followed having regard for fairness and equality between the parties to the hearing;
 - e) to determine the manner in which evidence is to be admitted and the independent arbitrator or arbitration panel is not bound by rules of evidence and has the power to determine admissibility, relevance, and weight of any evidence;
 - f) to determine the time, place and date of the hearing;
 - g) to determine whether the hearing is open to the members of the public and who may or may not attend the appeals hearing; and
 - h) subject to section 14.13 to determine the remedy appropriate to the circumstances.
- 14.11 The independent arbitrator shall not have the power to:
- a) subpoena any witnesses or compel any person to give evidence; or
 - b) to order any relief not specifically permitted by these regulations.
- 14.12 These regulations set out all the powers of the independent arbitrator and neither the *Arbitration Act of Alberta* or the *Commercial Arbitration Act of Canada* or any like legislation applies to the independent arbitrator or any determination of whether cause for the removal of a Chief or Councillor exists.
- 14.13 The independent arbitrator shall provide written reasons for decision. The relief which the independent arbitrator may grant shall be limited to the following:
- a) an order that an affected Chief or Councillor is suspended from the office for a specified term, or, alternatively, that the Chief or Councillor no longer holds office on the basis that the grounds for the suspension or removal of that Chief or Councillor has been proven; or
 - b) an order that the affected Chief or Councillor remains in office and that the grounds for suspension or removal from office have not been proven.
- 14.14 Once a Band Council Resolution calling for the removal of Chief or Councillor has been made, that Chief or Councillor is suspended with pay until the determination of an independent arbitrator. Suspensions ordered pursuant to section 14.13 shall be without pay.
- 14.15 No decision, order, directive, declaration, ruling or proceeding before the independent arbitrator shall be questioned or reviewed in any court application for judicial review or otherwise and no order shall be made or process entered or proceeding taken in court, whether by way of injunction, declaratory judgement,

prohibition, *quo warranto*, or otherwise to question, review, prohibit, or restrain the independent arbitrator, or the independent arbitrator's decision on proceedings before the independent arbitrator.

14.16 Notwithstanding paragraph 14.15 above, a decision, order, directive, declaration, ruling or proceeding before the independent arbitrator may be questioned or reviewed by way of an application for judicial review in the Federal Court of Canada on the basis that the independent arbitrator erred in law or failed to observe a principal of natural justice.

15 AMENDMENTS TO CUSTOMARY ELECTION REGULATIONS

15.1 The Customary Election Regulations of the Athabasca Chipewyan First Nation may be amended in the following manner:

- a) Approval by Council;
 - i. amendments to the regulations must be approved by motion of the Council.
- b) Notice of Electors of proposed amendments;
 - i. the Council must then post a notice of a general meeting of the Electors of the First Nation in Fort Chipewyan and Fort McMurray and such other places as Council may determine at least thirty (30) days prior to the date of the general meeting;
 - ii. the notice must state the purpose of the meeting is to consider and vote upon amendments to the regulations. It must also state the time, place, and date of the meeting. The general meeting shall be held at locations in Fort Chipewyan and Fort McMurray;
 - iii. a copy of the proposed amendments to the regulations must be attached to the notice.
- c) Approval of amendments by Electors;
 - i. the amendments must be approved by a majority of the total number of electors who voted by secret ballot at both locations;
 - ii. the amendments will be adopted and be effective as of the date of the last meeting whether in Fort Chipewyan or in Fort McMurray.

16 SEVERANCE

If all or any part of any provision contained herein is deleted found to be inoperable by a Court, it will be severed from these regulations and the remaining provisions will remain in full force and effect.

17 EFFECTIVE DATE

17.1 These regulations shall take effect October 6, 2010.

17.2 The first Election for Chief and Councillors to be held for these regulations will occur in October, 2011.

Schedule "A"

Nomination Paper and Candidate's Acceptance

Customary Election Regulations of the
Athabasca Chipewyan First Nation

We, the undersigned electors of the Athabasca Chipewyan First Nation, nominate

Candidate's Full Name: _____

Candidate's Address: _____

as a candidate in the election now about to be held for the office of (circle one)

Chief

Councillor

of the Athabasca Chipewyan First Nation.

Signatures of at least five (5) electors must be included:

Printed Name of Elector	Address of Elector	Signature of Elector

Candidate's Acceptance

I, the above named candidate, solemnly swear (affirm) that:

- I am eligible under section 6.4 of the Customary Election Regulations of the Athabasca Chipewyan First Nation to be elected to office; and
- I am not otherwise disqualified under the Customary Election Regulations of the Athabasca Chipewyan First Nation; and
- I will accept the office if elected; and
- I have read section 6.4 of the Customary Election Regulations of the Athabasca Chipewyan First Nation and understand its contents.

Print name as it should appear on the ballot: _____

SWORN (AFFIRMED) before me)
at the _____ of _____)
in the Province of _____)
this _____ day of _____, 20____.)

) _____
) (Candidate's Signature)

Commissioner for Oaths

**CUSTOMARY ELECTION REGULATIONS OF THE
ATHABASCA CHIPEWYAN FIRST NATION**

TIME LINE

