

## **PREAMBLE**

The *onihcikiskwapowin* – Tribal Custom Election Code and the Regulations are enacted according to the customs, traditions and beliefs of the peoples of Saddle Lake Cree Nation (SLCN):

## **INTERPRETATION**

### **1. Title**

1.1. The title of this document is the *onihcikiskwapowin - Saddle Lake Cree Nation Appeals Procedure Regulation*. (“*Appeals Procedure Regulation*”)

### **2. Enforcement**

2.1. The *Appeals Procedure Regulation* comes into force upon approval by Chief and Council pursuant to the *SLCN Tribal Custom Election Code* (“*Code*”).

### **3. Interpretation**

3.1. The definitions used in the *Code* shall have the same meaning in the *Appeals Procedure Regulation*.

3.2. If there is any inconsistency between the *Code* and the *Appeals Procedure Regulation*, the *Code* shall prevail over any such inconsistency.

3.3. If there is any inconsistency between the *Code* and the *Appeals Procedure Regulation* with any other enactment of the Saddle Lake Cree Nation, the *Appeals Procedure Regulation* shall prevail to the extent of such inconsistency.

### **4. Definitions**

4.1. The following words and phrases have the following meanings:

(a) “*Code*” means the *onihcikiskwapowin – Saddle Lake Cree Nation Tribal Custom Election Code*;

(b) “*Appeal*” means an appeal filed by a Candidate in respect to any Election;

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- (c) “Appeals Committee” means those individuals appointed to form an independent board who will hear Appeals filed pursuant to the *Code* and the *Regulations*;
- (d) “*Appeals Procedure Regulation*” means the *Saddle Lake Cree Nation Appeals Procedure Regulation*;
- (e) “Appellant” means a Candidate who submits an Appeal in accordance with the *Appeals Regulation*;
- (f) “Council” means the Chief and Councilor’s of the Saddle Lake Cree Nation elected in accordance with this *Code*;
- (g) “Respondent” means an individual who may be required to respond to an Appeal filed in accordance with the *Appeals Procedure Regulation* and shall include the Chief Electoral Officer, and as required, the Candidates at the Election that the Appeal has been filed in relation thereto.

### **APPEALS COMMITTEE**

#### **5. Composition of Appeals Committee**

- 5.1. For the purposes of hearing an Appeal of any Election or By-Election, an Appeals Committee will be established.
- 5.2. At least sixty (60) days prior to the Election, the Tribal Administrator in consultation with the Chief and Council and Elder’s Advisory Committee shall prepare a list of three (3) individuals who may be chosen as candidates for the Appeals Committee.
- 5.3. From this list, the Tribal Administrator shall appoint three (3) individuals to be on the Appeals Committee and such appointments will be affirmed by the Chief and Council by motion.
- 5.4. There will be three (3) official members of the Committee: one (1) Elder, one (1) Adult, one (1) Indigenous Lawyer (practicing or non-practicing and who is not a band member) and a youth observer (20 years or less)
- 5.5. To be eligible for appointment to the Appeals Committee as an Elder or an Adult and youth individuals shall:
  - (a) Be a member of the Saddle Lake Cree Nation;

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- (b) Not be a Candidate for office;
  - (c) Not be involved in the campaign or promotion of any Candidate in the Election;
  - (d) Not be immediately related (spouse, daughter, son, sister, brother, mother, father, grandparent) to any candidate in the Election and will not be currently employed by the Nation;
  - (e) Not have been convicted of an indictable offence within the past ten (10) years;
  - (f) Not be convicted of a corrupt practice in connection with an election including the acceptance of a bribe, dishonesty or willful misconduct;
  - (g) Have knowledge about procedures in Elections; and
  - (h) Understand the principles of natural justice.
- 5.6. The term of office of the Appeals Committee shall be from its appointment and terminating at the end of the Appeals period or until an Election Appeal is decided, whichever is later. The individuals appointed to the Appeals Committee may be reappointed for future Elections.
- 5.7. The Appeals Committee is responsible to conduct, hear, and determine in accordance with the *Code* and its *Regulations* any Appeal from an Election.

## **APPEALS**

### **6. Timing**

- 6.1. An appeal must be made within seven (7) days from the date on which the Election was held, submitted to the Appeals Committee.

### **7. Grounds for Appeal**

- 7.1. An Appeal submitted must sufficiently outline one or more of the following:
- (a) That the person declared elected was not qualified to be a Candidate;

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- (b) That there was a violation of the *Code* and its *Regulations* in the conduct of the Election that might have materially affected the result of the Election; or
- (c) That there was corrupt or fraudulent practice in relation to the Election.

### **8. Submission**

8.1. An Appeal submitted to the Appeals Committee must:

- (a) Be in writing and set out in an affidavit sworn before a notary public or duly appointed commissioner for taking oaths the facts substantiating the grounds for the Appeal accompanied by any supporting documentation;
- (b) Be served either personally or by registered mail to the Appeals Committee at Box 100, Saddle Lake Cree Nation, T0A 3T0;
- (c) Contain the signature of the person initiating the Appeal; and
- (d) Be accompanied by a non-refundable fee in the amount of fifteen hundred (\$1500.00) dollars.

### **9. Procedure**

9.1. Upon receipt of an Appeal, the Appeals Committee shall:

- (a) In the case where the Appeal is submitted in accordance with the *Code* and its *Regulations*, forward a copy together with supporting documents by registered mail to the Respondents from the Election; or
- (b) In the case where the Appeal is not submitted in accordance with the *Code* and its *Regulations*, inform the Candidate in writing that the Appeal will not receive further consideration.

### **10. Investigation**

10.1. The Appeals Committee may, if the material that has been filed is not adequate for deciding the validity of the Election complained of, conduct such further investigation into the matter (s) as the Appeals Committee deems necessary.

10.2. The Appeals Committee will ensure the information gathered during any additional investigation is made available to the appellant within the review period.

**11. Conduct of Review**

- 11.1. The Appeals Committee shall conduct a review of the Appeal within seven (7) days of receipt of the Appeal to determine whether there will be an oral hearing to gather additional evidence.
- 11.2. The Appeals Committee must give to the parties to review:
- (a) A copy of the decision of the Appeals Committee regarding whether or not an oral hearing will be held or if the review will be conducted on written submissions only;
  - (b) If an oral hearing is to be held, not less than ten (10) days' notice of the time, date and location of the oral hearing; and
  - (c) If no oral hearing is held, not less than ten (10) days' notice of the date by which any Candidate or the Chief Electoral Officer may forward by registered mail a written response to the Appeal allegations, together with any supporting documentation.
- 11.3. The Appeals Committee shall provide notice of the hearing to the Candidate and the Respondents and give each party full opportunity to present his or her evidence and submissions at the hearing.
- 11.4. In their deliberations, the Appeals Committee will:
- (a) Examine the record including all written submission as part of the eligibility process;
  - (b) Engage and question the Appellant, the Respondents and any witnesses as deemed necessary;
  - (c) Cause the appearance of any witnesses of the Candidate or the Respondents or any witnesses who may, in the Appeals Committee's opinion, assist in the deciding the Appeal;
  - (d) Conduct the proceedings in any way in which the Appeals Committee deems appropriate in order to decide the Appeal.

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### **12. Decision**

12.1. The Appeals Committee shall render a decision on the appeal within fourteen (14) days of the hearing or within fourteen (14) days of the deadline for receipt of written submissions.

12.2. After a review of all of the evidence received, the Appeals Committee shall rule:

- (a) That the evidence presented was not sufficiently substantive to determine that:
  - i. A violation of the *Code* or the *Regulations* had taken place that might have affected the results of the Election;
  - ii. That the person declared elected was not qualified to be a Candidate; or
  - iii. There was a corrupt practice or fraudulent practice in relation to the Election that might have affected its results.

And dismiss the Appeal; or

- (b) That all evidence and information gathered allows for the reasonable conclusion that:
  - i. A violation of the *Code* or the *Regulations* had taken place that might have affected the results of the Election;
  - ii. That the person declared elected was not qualified to be a Candidate; or
  - iii. There was a corrupt practice or fraudulent practice in relation to the Election that might have affected its results;

And uphold the Appeal.

12.3 If the Appeal Commission upholds the appeal then the Committee may decide the following remedies:

1. Set aside the Election of one or more members of Council.
2. Order that the candidate(s) with the next highest votes be duly elected.

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12.3. The decision of the Appeals Committee made pursuant to the Appeals Procedure Regulations shall be:

- (a) Published in the community’s newspaper or newsletter, official website, Facebook site (etc.); and
- (b) Posted openly in public spaces (SLCN buildings) on the Reserve.

12.4. The decision of the Appeals Committee is final and not subject to appeal, in accordance to the *onihcikiskwapowin – SLCN Tribal Custom Election Code*.

### **13. Withdrawal of Appeal**

13.1. An Appellant filing an Appeal may, at any time before the Appeals Committee has rendered a final decision, withdraw the Appeal in writing and no further action shall be taken on the matter.

### **14. Costs of Appeal**

14.1. Each party will cover all their own costs for filing the Appeal and any costs in relation to their witnesses.

14.2. SLCN will cover the reasonable costs for the Appeals Committee from the funds garnered through the nomination/nominator processes.

### **15. Amendments**

15.1. This *Appeals Procedure Regulation* may be amended from time to time by a resolution of the Chief and Council on the recommendation of the Elders’ Advisory Council to allow for the good governance of *onihcikiskwapowin*.