

Athabasca Chipewyan First Nation Election Code

Approved by ACFN Membership: August 29, 2023



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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 His Majesty the King in Right of Canada and the Athabasca Chipewyan First Nation in 1899;
- 1.3 The written Election Code of the First Nation was established in 1983 with the consent and participation of the members of the First Nation;
- 1.4 The First Nation's Election Code requires democratic, fair, and open Elections for the leadership;
- 1.5 The Election Code was amended effective October 6th, 2010, by a majority of Electors present at meetings held on October 5th and October 6th, 2010; and
- 1.6 The Election Code was further amended effective August 29, 2023, by a majority of the Electors who convened to vote on the amendments.

2. DEFINITIONS

- 2.1 This Code may be referred to as the Athabasca Chipewyan First Nation Election Code.
- 2.2 For the purpose of this Election Code:
 - (a) **"Council"** means those members elected pursuant to this Code 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 met the prescribed nomination requirements and who has been nominated in accordance with this Code;
 - (c) **"Election"** means a band custom Election held pursuant to the provisions of this Code;
 - (d) **"Elector"** means a person who:
 - (i) has their name on the First Nation Membership List; and
 - (ii) will be 18 years of age or older on the Election day;

- (e) **“Electoral Officer”** means a person appointed pursuant to section 5 to conduct an Election in accordance with the terms and conditions set forth in this Code;
- (f) **“First Nation”** means the Athabasca Chipewyan First Nation;
- (g) **“Membership List”** means the Membership List of the First Nation established pursuant to the Membership Code of the First Nation;
- (h) **“Polling Clerk”** means an election official appointed by the Electoral Officer to assist in the conduct of an Election; and
- (i) **“Polling Station”** means that building, hall or room which is selected to be the site for the voting to take place and, where the definition permits it, includes the any electronic service or other means by which electronic ballots are submitted.

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 For the purposes of the Election to the office of Councillor, there shall be two (2) Councillor’s districts as follows:
 - (a) District J̄ághe (District One) comprised of the unincorporated hamlet of Fort Chipewyan in the Province of Alberta and ACFN’s reserve lands; and
 - (b) District Náke (District Two) comprised of the City of Edmonton in the Province of Alberta, the Urban Service Area of Fort McMurray in the Province of Alberta and the Town of Fort Smith in the Northwest Territories.
- 3.3 The three (3) Councillor positions for District J̄ághe (District One) must within 30 days of being elected obtain, and throughout their term of office maintain, residency in District J̄ághe (District One). The one (1) Councillor position for District Náke (District Two) must within 30 days of being elected obtain, and throughout their term of office maintain, residency in District Náke (District Two).
- 3.4 The Chief must within 30 days of being elected obtain, and throughout their term of office maintain, residency in District J̄ághe (District One).
- 3.5 A quorum of the Council shall be a majority of Council.
- 3.6 The term of office for the Chief and Councillors shall be approximately four (4) years. It will commence upon the declaration of the Election results and be terminated upon the declaration of the Election results in the next Election approximately four (4) years later. The exercise of

powers by the Chief and Councillors is at all times, including during campaign periods, subject to the provisions of the Council Code of Conduct and Procedures Law.

4. ELECTION DAY

- 4.1 The Election for the offices of Chief and Council will be every four (4) years.
- 4.2 The Election Day will be held within the first 21 days of February with the specific date during that month to be set by Band Council Resolution.
- 4.3 The provisions of sections 4.1 and 4.2 may be temporarily suspended or the time periods revised once per election by a period of no greater than 120 days, if the Chief and Council have declared a state of emergency. A state of emergency means an event that requires prompt coordination of action or special regulation of persons or property to protect the safety, health or welfare of people or limit damage to property or the environment and includes:
 - (a) Epidemics or pandemics;
 - (b) Wildfires or other natural disasters; and
 - (c) Environmental disasters such as chemical spills or power failures.

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) whether the ballots will be paper only, both paper and electronic, or electronic only;
 - (c) whether there will be an advance poll; 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 who will be 18 years of age or older on the date of the Election. The Electors list shall be certified to be correct by the First Nation's Membership Registrar.

- 5.4 The Electoral Officer shall establish an Election file and place on that file copies of all documents which would comprise an Election record and that file shall remain open until such time as the appeal period has expired. Upon the resolution of any legal proceedings respecting the Election, all ballots shall be destroyed by the Electoral Officer.
- 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. Polling Clerks and interpreters shall be non-partisan and may not be Electors.
- 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 at 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 a Province or Territory of Canada 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 nomination specifying the date and time by which nomination papers must be filed with the Electoral Officer. The notice of nomination must be posted at least thirty (30) days (prior to the date set as the Election Day. The notice of nomination shall be posted in the First Nation band office, on the First Nation's website, and at any other locations designated by Band Council Resolution.
- 6.2 The notice of nomination shall contain and set out:
- (a) the date, time and acceptable modes of delivery for the nomination form, documents, and fee to be filed with or delivered to the Electoral Officer (including any time and location they may be personally delivered to the Electoral Officer or their designate, if any);
 - (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 this Code may be obtained from the Electoral Officer and contact information for the Electoral Officer.
- 6.3 The deadline for the delivery and receipt of nomination papers shall be at least seventeen (17) days prior to the date set as the Election Day.
- 6.4 In order to qualify for nomination a person must:
- (a) be an Elector;
 - (b) not be employed by the First Nation or any related business corporation or other business entity which is owned or controlled, in whole or in part, by the First Nation. For greater certainty:
 - (i) An employee who has taken an unpaid leave of absence from employment prior to their nomination and who will remain on leave throughout the campaign period is not considered to be employed within the meaning of this section; and
 - (ii) A Chief and Councillor in office at the time of an Election is not considered employed within the meaning of this section.
 - (c) not have been convicted of any indictable criminal offences within seven (7) years from the date of the Election and must provide a copy of a Criminal Record Check and Vulnerable Sector Check results which are less than six (6) months old;
 - (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 within seven (7) years from the date of the Election;
 - (e) not have the status of a bankrupt as of the date of the deadline for the delivery and receipt of nomination papers and must provide a copy of a court records search for any bankruptcy actions against them;
 - (f) not have any indebtedness to the First Nation or any related business corporation or other business entity which is owned or controlled, in whole or in part, by the First Nation; and
 - (g) must pay a non-refundable filing fee of \$750 dollars for the nomination to the position of Chief or \$375 dollars for nomination to the position of Councillor.
- 6.5 All nominations shall be submitted by the filing of nomination papers and candidates' acceptance in the form prescribed in Schedule "A" to this Code.

- 6.6 All nomination forms, documents, fees, and candidate's acceptances must be delivered by the candidate to the Electoral Officer by the deadline stated in the notice of nomination.
- 6.7 No Elector can nominate more candidates than the number of positions open for election for that office.
- 6.8 An Elector may be nominated for one position only, either Chief, Councillor for District Jághe, or Councillor for District Náke.
- 6.9 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 stating that the nominee is not employed by the First Nation or any related business corporation or other business entity which is owned or controlled, in whole or in part, by the First Nation 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 criminal offence within the seven (7) years from the date of Election and a copy of a Criminal Record Check and Certified Criminal Vulnerable Sector Check results as described in section 6.4(c);
 - (c) a statutory declaration signed by the nominee affirming that they not been found liable in civil court or pursuant to criminal proceedings in respect of any matter involving theft, fraud, or misuse of property within seven (7) years from the date of Election;
 - (d) a statutory declaration signed by the nominee affirming that they do not currently have the status of bankrupt and a copy of a court records search for any bankruptcy actions against them as described in section 6.4(e);
 - (e) a letter signed by the Administrator or Chief Executive Officer of the First Nation stating the Nominee has no indebtedness to the First Nation or any related business corporation or other business entity which is owned or controlled, in whole or in part, by the First Nation;
 - (f) a non-refundable filing fee of \$750 dollars for the nomination to the position of Chief or \$375 dollars for nomination to the position of Councillor made out to Athabasca Chipewyan First Nation.
- 6.10 The Electoral Officer shall determine whether a nomination form is fully complete and accompanied by all required documents and fees and shall promptly advise the nominee of any deficiencies.
- 6.11 Within 48 hours of the deadline for the delivery and receipt of nomination papers the Electoral Officer shall notify, in writing, all nominees who have completed all of the requirements set out in this Code whether they are eligible to be candidates.

- 6.12 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 all required documents and fees by the close of nominations are not eligible to be candidates.
- 6.13 Any candidate wishing to withdraw may do so but must give notice in writing to the Electoral Officer or their designate, not less than 48 hours before the advance polls open. Withdrawal is effective at the time the Electoral Officer or their designate is notified in writing.
- 6.14 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 the First Nation band office, on the First Nation's website, and at 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) whether there will be an advance poll;
 - (c) whether ballots will be paper only, electronic and paper, or electronic only;
 - (d) the location, hours, and method of voting for each Polling Station, including:
 - (i) the location and hours for any advance poll by paper ballot,
 - (ii) the means and hours for submitting any electronic ballot, and
 - (iii) the location and hours for any Election Day poll by paper ballot;
 - (e) the Candidates nominated and the office for which they are nominated;
 - (f) a statement that a copy of the list of Electors and this Election Code may be obtained from the Electoral Officer and contact information for the Electoral Officer.
- 7.3 Any member of the First Nation who will be 18 years or older at the date of the Election 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 6:00 p.m. on the day prior to the Election Day.

- 7.4 In the event of an advance poll by paper ballot, polls for Election will be held at Fort Chipewyan and Fort McMurray:
- (a) the advance polls shall be held within five 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 In the event of a paper ballot 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 their designate shall obtain such ballot boxes and equipment as necessary to establish a voting location.
- 7.7 The Electoral Officer or their designate shall construct or erect polling booths such that the privacy of the voter is maintained.
- 7.8 The Electoral Officer or their designate shall, where they consider 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.
- 7.9 In the event of an electronic ballot, the electronic poll shall:
- (a) in the event of an advanced poll by paper ballot, open at the same time as the advanced poll by paper ballot;
 - (b) in the event that there is no advanced poll by paper ballot, open no earlier than 5:00 pm five working days before the Election Day and no later than 9:00 am on Election day;
 - (c) in the event of an Election Day poll by paper ballot, close at the same time as the Election Day poll by paper ballot; and

- (d) in the event that there is no Election Day poll by paper ballot, close at 9:00pm on Election Day.

7.10 In the event of an electronic ballot the Electoral Officer or their designate shall do all things necessary to prepare for voting by electronic ballot and to ensure the secrecy and integrity of voting by electronic ballot.

8. ELECTION

8.1 The Electoral Officer will appoint Polling Clerks as they deem 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 set out in the notice of Election.

8.2 The Electoral Officer or the polling clerks shall hold the polling stations open 9:00 am to 9:00 pm at the locations in Fort Chipewyan, Fort Smith, Fort McMurray and Edmonton.

8.3 The Electoral Officer or their 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 ballot upon which to register their 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 their 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 three (3) candidates for the office of Councillor of District Jághe,
- (c) each Elector is entitled to vote for no more than one (1) candidate for the office of Councillor of District Náke;
- (d) Use “✕” or “✓” to mark your ballot:
- (e) do not make any other writing or marking on the ballot;

- (f) if you accidentally tear or damage a ballot, please request a replacement from the Polling Clerk or Electoral Officer; and
 - (g) 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 they have voted or for which particular candidate they voted for.
- 8.10 The Electoral Officer or a Polling Clerk, at the request of an Elector who is unable to mark their ballot in the usual manner because they are 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 matter 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 their 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 desire to vote and shall then deposit the ballot in the ballot box supplied.
- 8.16 The Electoral 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 or their designate shall, in the presence of any candidate's agents and any Electors who may be present, open the ballot box or boxes.
- 9.2 The Electoral Officer or their designee shall examine the ballots and any ballot:
- (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 matter 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/or the electronic poll and supply a written statement of the number of votes given to each candidate and of the number of ballots rejected.

10. RE-COUNT

- 10.1 In the event that there are three (3) or fewer votes separating the successful and unsuccessful Candidates for the office of Chief, the third (3rd) and last Councillor position for District Iłághe (District One), or the Councillor position for District Náke (District Two), there shall be an automatic recount.
- 10.2 Within twenty-four (24) hours of the declaration of the outcome, a Candidate may, in writing, request the Electoral Officer to conduct a re-count of the vote for their office if there are ten (10) or fewer votes separating the successful and unsuccessful Candidates for the position.
- 10.3 Before the re-count, the Electoral Officer shall:
- (a) Notify any Candidates who may be affected by the recount; and

- (b) Notify those electoral officials that the Electoral Officer considers necessary to assist in the recount.
- 10.4 The Electoral Officer, within twenty-four (24) hours of the initial count in the case of section 10.1 or the request for a recount in the case of section 10.2, as the case may be, shall conduct a re-count of the vote in the same manner as prescribed in section 9 and declare the outcome in the manner prescribed by section 11.
- 10.5 After the recount, the Electoral Officer shall correct the ballot account if necessary.

11. ELECTION RESULTS

- 11.1 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.
- 11.2 Following the Election result announcement, the Electoral Officer shall place all ballots cast in a sealed envelope and that envelope and any electronic ballots will remain in their possession until the appeal period has lapsed or all appeals have been concluded.
- 11.3 Within twenty-four (24) hours following the Election, the Electoral Officer shall complete 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.

12. RUN-OFF ELECTIONS

- 12.1 In the event of a tie vote (which has been confirmed by a recount), 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).

- 12.2 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 at the same time, manner, form, and places as the initial notice of Election.
- 12.3 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.
- 12.4 The locations of Polling Stations and, with the exception of time requirements set forth in this Code, 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.
- 12.5 In the event of a tie vote in the Run-off Election, another Run-off Election will be held.
- 12.6 The elected Candidate assumes office the day after the Run-off Election.

13. BY-ELECTION

- 13.1 In the event of a vacancy of office in accordance with the Council Code of Conduct and Procedures Law 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 vacancy of office 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 vacancy of office of the Chief or Councillor.
- 13.2 For greater certainty, there must always be at least three (3) active members of the Council and if the number of vacancies is such that the Council would have less than three (3) active members, then a By-election must be held.
- 13.3 A person whose vacancy of office pursuant to the Council Code of Conduct and Procedures Law prompted the holding of a By-election is not eligible to be a candidate in the By-election.
- 13.4 The rules and procedures for conducting a By-election are the same as those used for conducting an Election.
- 13.5 The elected candidate assumes office as of the declaration of Election result.

14. ELECTION APPEALS

- 14.1 Any Candidate 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 Officer made an error in the interpretation or application of this Code 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.
- 14.2 Corrupt Election Practice means:
- (a) attempting to offer 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 Elector's vote; or
 - (ii) an electoral report;
 - (c) forging documents or providing false or misleading information for the purposes of influencing:
 - (i) an Electors vote; or
 - (ii) an electoral report.

- 14.3 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 this Code;
 - (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 appellant 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.
- 14.4 The notice of appeal must be submitted to and received by the Electoral Officer within five (5) days of the Election, By-Election, or Run-Off Election with a non-refundable filing fee of \$500.00 made out to Athabasca Chipewyan First Nation.
- 14.5 In the event that an appeal or appeals have been filed, the Electoral Officer shall, within 3 days of the expiry of the limitation period for filing an appeal, notify the Appeal Arbitrator, the appellant, and any affected Candidate that an appeal has been filed and send them copies of the notice of appeal and any supporting materials.
- 14.6 The Appeal Arbitrator shall dismiss any appeal which does not meet the requirements of sections 14.1, 14.3, and 14.4.
- 14.7 The Electoral Officer 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 this Code;
 - (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 nomination;

- (g) copies of all filed nomination forms and documents;
- (h) a copy of the notice of Election;
- (i) a copy of the Election report; and
- (j) a copy of the appeal or appeals, together with supporting materials.

14.8 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 the 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 to permit any appellant, witness, or affected Candidate to appear virtually; 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.

14.9 The Appeal Arbitrator does not have the power:

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

14.10 This Code sets 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 this Code.

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

- 14.12 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 affect 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.

15. REMOVAL OF CHIEF & COUNCIL

- 15.1 A Chief or Councillor may be removed from office by a vote of Electors and prohibited from holding office or exercising the rights, powers, or privileges of their office if the person:
- (a) fails to take up or maintain residency in accordance with sections 3.3 or 3.4;
 - (b) engages in any conduct amounting to corrupt practice, accepting a bribe, malfeasance, or misappropriation;
 - (c) is charged with or convicted of an offence under the Criminal Code of Canada;
 - (d) has been absent from three (3) consecutive meetings of the Chief and Council without valid reason or authorization;
 - (e) assaults, harasses, or sexually assaults or harasses an employee or Member of the First Nation or the Chief and Council; or
 - (f) engages in other conduct of a serious and substantial nature such that allowing the office holder to continue to hold public office would undermine the credibility of the First Nation's government.
- 15.2 The general process for removal of a Chief or Councillor is as follows:
- (a) The process for removal is commenced by either:
 - (i) resolution of the Council; or
 - (ii) a petition of the Electors.
- 15.3 A petition of the Electors must include:
- (a) the name of the Chief or Councillor sought to be removed from office; and

- (b) the grounds on which the petition is signed, with reference to the relevant subsection of section 15.1.

15.4 The petition of the Electors is not valid unless:

- (a) it has been signed by no less than sixty (60%) percent of the Electors;
- (b) each and every page of the petition contains an identical statement of the purpose of the petition;
- (c) every signatory to the petition has printed their full name, written the date they signed the petition, provided their signature and a witness's signature; and
- (d) the petition has attached to it a signed statement of an Elector stating that they are the representative of all the petitioners and that all inquiries about the petition may be directed to them.

15.5 If the petition meets the requirements of sections 15.3 and 15.4, then a vote of the Electors to remove a Chief or Councillor from office shall be conducted by secret ballot and otherwise in accordance with the procedural rules and safeguards for an election as outlined in this Code with such adaptations as the Electoral Officer deems necessary or advisable.

15.6 Prior to making a Band Council Resolution under section 15.2 or in lieu of removal from office, a Chief or Councillor may be sanctioned by their Council colleagues and suspended from exercising the rights, powers, or privileges of their office (including the denial of remuneration) for a period not to exceed sixty (60) days.

15.7 If the offending Chief or Councillor proves incorrigible, the Chief and Council may also refer the matter to a vote of the Electors to remove the Chief or Councillor pursuant to section 15.5 and repeat breaches of a serious nature may be considered grounds under section 15.1(f).

16. AMENDMENTS TO THE ELECTION CODE

16.1 The Election Code of the Athabasca Chipewyan First Nation may be amended in the following manner:

- (a) Approval by Council;
 - (i) amendments to the Election Code must be approved by motion of the Council;
 - (ii) the location and manner of voting must be set 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 the First Nation band office and on the First Nation's website at least 30 days prior to the date of the general meeting;
 - (ii) the notice must state the purpose of the meeting is to consider amendments to the Election Code 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 and/or electronically;
 - (iii) the notice must state whether the amendments will be voted on in person at the general meeting of the Electors and/or by electronic ballot and, in the case of electronic ballot, the time and procedure for electronic voting;
 - (iv) a copy of the proposed amendments to the Election Code must be attached to the notice.
- (c) Approval of amendments by Electors;
- (i) The amendments shall be voted on by paper ballot at the general meeting and/or by electronic ballot within five (5) days of the general meeting of Electors;
 - (ii) the amendments must be approved by a majority of Electors who vote;
 - (iii) the amendments will be adopted and be effective as of the last date of the vote.

17. SEVERANCE

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

18. TRANSITIONAL

- 18.1 Notwithstanding the term of office set out in section 3.6 and the scheduled Election date set out in section 4.2, the 2023 Election for Chief and Council will be held in October and the term of office of the Chief and Councillors elected in that Election will be terminated upon the declaration of the results of the Election held, subject to section 4.3 or further amendment to this Election Code, in February 2028.

19. EFFECTIVE DATE

19.1 This Election Code shall take effect August 29, 2023.



Chief Allan Adam



Councillor Tim Flett



Councillor Cody Marcel



Councillor Flossie Cyprian



Councillor Teri Villebrun

SCHEDULE "A"

Nomination Paper and Candidate's Acceptance

Election Code of the
Athabasca Chipewyan First Nation

We, the undersigned Electors of the Athabasca Chipewyan First Nation, nominate:

Candidate's Full Name: _____
 Candidates Address: _____
 Candidates Phone Number: _____
 Candidates email address: _____

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

Chief Councillor of District Įłághe Councillor District Náke

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

Candidates Acceptance

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

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

Print name as it should appear on the ballot:	
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SWORN (AFFIRMED) before me at the ____ of _____ in the Province of Alberta this ____ day of _____, 20____.		
		(Candidate's Signature)
Commissioner for Oaths		