

Little Red River Cree Nation Referendum Regulations



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PREAMBLE

WHEREAS the Little Red River Cree Nation has been granted by the Creator Inherent Rights and has Indigenous, Aboriginal, Treaty Rights and authority to govern relations among its members, and between the Little Red River Cree Nation and other governments;

AND WHEREAS the Little Red River Cree Nation people are proud and avowing of our language, tradition and history, passed from ancestors, to those of today, for the benefit of *Little Red River Cree Nation*;

AND WHEREAS in accordance with the UN Declaration on the Rights of Indigenous Peoples Little Red River Cree Nation members, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions;

AND WHEREAS these Referendum Regulations is an exercise of Little Red River Cree Nation's Inherent, Indigenous, Aboriginal and Treaty Rights to government itself and nothing in the Election Law may be construed as to abrogate or derogate from any Inherent, Indigenous, Aboriginal and Treaty Rights of the Little Red River Cree Nation;

AND WHEREAS the Council of the Little Red River Cree Nation deems it advisable to hold referenda on matters which are of general importance to the Little Red River Cree Nation;

AND WHEREAS the Council of the Little Red River Cree Nation deems it to be in the best interests of the Nation to enact the Little Red River Cree Nation Referendum Regulations for such purposes;

NOW THEREFORE BE IT RESOLVED that the Council of the Little Red River Cree Nation at a duly convened meeting, enacts the following by-law.

TITLE, APPLICATION, AND DEFINITIONS

1. This document shall be referred to as the *Little Red River Cree Nation Referendum Regulations* (the "Regulations").
2. These Regulations apply to any Referendum held by the Little Red River Cree Nation unless otherwise directed by Council Resolution.

3. In these Regulations,
 - a. **“Council”** means the duly elected Chief and Council of the Little Red River Cree Nation;
 - b. **“Council Resolution”** means a written resolution passed at a duly convened meeting of the Council and signed by at least a quorum of the Council;
 - c. **“Deputy Referendum Officer”** means a person or persons appointed by an Referendum Officer for the purposes of a Referendum;
 - d. **“Elector”** means a person whose name appears on the Little Red River Band List and is 18 years of age or older on the date the Referendum is to be held or a person who otherwise meets the definition of an Elector pursuant to any applicable code or bylaw enacted by Little Red River from time to time;
 - e. **“Electronic Voting”** means voting via a website in accordance with these Regulations;
 - f. **“List of Electors”** means the list of Little Red River members eligible to vote in the Referendum;
 - a. **“Little Red River Cree Nation”** means the Little Red River Cree Nation, which is a “band” within the meaning of the *Indian Act*, R.S.C., 1985, c. I-5;
 - b. **“Notice of Referendum”** means the document posted by the Referendum Officer in accordance with sections 14-16 of the Regulations;
 - c. **“Referendum”** means a vote of the Electors of Little Red River held in accordance with these Regulations for the purpose of determining whether the Electors are in favour of a proposed measure or agreement involving the Little Red River Cree Nation;
 - d. **“Referendum Officer”** means the person appointed by Council to exercise the authority contained within these Regulations in conducting a Referendum pursuant to these Regulations; and
 - e. **“Review Panel”** means the panel of persons appointed by Council Resolution in accordance with sections 54-55 of the Regulations.

CALLING A REFERENDUM VOTE AND APPOINTING REFERENDUM OFFICER

4. Council shall, by Council Resolution:
 - a. appoint a person who is to serve as the Referendum Officer for the purpose of carrying out a Referendum;
 - b. set a date for the Referendum;

- c. set out whether Electronic Voting will be utilized; and
 - d. set out the number and location(s) of community meetings.
5. The Referendum Officer is responsible for overseeing the conduct of the Referendum in accordance with these Regulations and has all the powers necessary to carry out that responsibility.
6. The Referendum Officer shall not be an Elector.
7. The Referendum Officer may appoint one or more Deputy Referendum Officers and may delegate any of the duties of the Referendum Officer as set out in these Regulations, except the verification of the results of the Referendum.
8. If, at any time, the Referendum Officer is unable to perform his or her duties, Council shall, by Council Resolution, appoint an acting Referendum Officer.

LIST OF ELECTORS

9. At least thirty (30) days before the date of the Referendum, the Little Red River Cree Nation membership department shall provide the Referendum Officer with a List of Electors.
10. The List of Electors shall set out the following:
 - a. the names of all Electors, in alphabetical order; and
 - b. the Certificate of Indian Status Registry number of each Elector.
11. On request, the Referendum Officer shall confirm whether the name of a person is on the List of Electors.
12. The Referendum Officer may revise the List of Electors where it is demonstrated that:
 - a. the name of a person has been omitted from the List of Electors;
 - b. the name of a person is incorrectly set out in the List of Electors; or
 - c. the name of a person not qualified to vote is included in the List of Electors.
13. For the purposes of section 12, a person may demonstrate:
 - a. that the name of a person has been omitted from, or incorrectly set out in, the List of Electors by presenting to the Referendum Officer evidence from Little Red River that the person is an Elector; or

- b. that the name of a person not qualified to vote has been included in the List of Electors by presenting to the Referendum Officer evidence that that person is not an Elector.

NOTICE OF REFERENDUM

14. At least thirty (30) days before the date of the Referendum, the Referendum Officer shall post the Notice of Referendum and the List of Electors in at least one public area within the Little Red River Cree Nation.
15. The Elector Officer may post the Notice of Referendum at any other physical public spaces or on the internet as the Referendum Officer deems appropriate.
16. The Notice of Referendum shall contain:
 - a. the question or questions to be submitted to the Electors;
 - b. the date or dates on which the Referendum will be held;
 - c. the location of each polling station and the hours that it will be open for voting;
 - d. information on alternative options for voting including Electronic Voting, if available;
 - e. instructions for obtaining a copy of an information package, if available;
 - f. the dates, times, and locations of any information meetings; and
 - g. contact information for the Referendum Officer.

INFORMATION MEETINGS

17. Fourteen (14) days before the day on which a Referendum is to be held, the Referendum Officer shall ensure that at least one information meeting has been held to provide Electors with information regarding the subject matter of the Referendum.

PREPARATION FOR REFERENDUM

18. Prior to the date of Referendum, the Referendum Officer shall:
 - a. prepare sufficient ballots, initialed on the back by the Referendum Officer or the Deputy Referendum Officer, stating the question or questions to be submitted to the Electors;
 - b. procure a sufficient number of ballot boxes and locks for each ballot box; and
 - c. ensure that ballot papers and a sufficient number of lead pencils for marking the ballot papers are available to the Electors.

ELECTRONIC VOTING

19. The Council may determine if Electronic Voting shall be available to the Electors.
20. If Electronic Voting is used in the Referendum, the Referendum Officer shall ensure that:
 - a. any information regarding Electronic Voting, including the voting period, is provided in the Notice of Referendum;
 - b. a secure Electronic Voting platform is available to Electors;
 - c. individual Electronic Voting results will remain secret at all times and individual Elector choices shall be protected in such a way to ensure voter anonymity;
 - d. once an Elector has voted by Electronic Voting, the Elector will be restricted from voting again;
 - e. the Referendum Officer can confirm that the person voting is an Elector;
 - f. the Referendum Officer has the date and time that each Electronic Vote was received;
 - g. Electronic Voting will at the time of closing of the polls on the day the Referendum vote; and
 - h. immediately upon the closing of the poll, the Referendum Officer will be provided with a summary of the Electronic Voting results.

VOTING AT POLLING STATIONS

21. The Referendum Officer shall establish at least one polling station at each of the following locations on the applicable date(s) on which the Referendum is to be held:
 - a. John D'Or Prairie;
 - b. Fox Lake; and
 - c. Garden River.
22. The Referendum Officer shall provide a voting booth at each polling place where the Elector can mark his or her ballot paper free from observation.
23. The Referendum Officer shall, immediately before the opening of the poll, open the ballot box and call upon such persons who may be present to witness that it is empty and shall then lock and properly seal the box and place it in view for the reception of the ballots.
24. Polling stations shall be kept open from 10:00 a.m. until 7:00 p.m., local time, on the date of the Referendum unless otherwise directed by Council Resolution.

25. An Elector who is inside a polling station at the time that the polling station is to close is entitled to vote.
26. When a person attends at a polling station for the purpose of voting, the Referendum Officer shall:
 - a. ensure the person's name is set out in the List of Electors;
 - b. ensure the person has not already voted by way of Electronic Voting;
 - c. provide the Elector with a ballot;
 - d. mark the Elector's name on the List of Electors as having been provided with a ballot; and
 - e. explain the mode of voting upon request by the Elector.
27. On the application of an Elector who is not able to read, or is physically incapable, the Referendum Officer, or a person designated by the Referendum Officer shall assist that Elector by marking his or her ballot paper in the manner directed by the Elector and shall place the ballot paper in the ballot box.
28. The Referendum Officer shall make an entry on the List of Electors opposite the name of the Elector that the ballot paper was marked by another person at the request of the Elector and the reasons therefor.
29. Except as provided in section 33, every Elector receiving a ballot paper shall:
 - a. proceed immediately to the unoccupied voting booth provided for marking the ballot paper;
 - b. mark the ballot clearly indicating the Elector's response to the question or questions stated on the ballot;
 - c. fold the ballot in a manner that conceals the question or questions and any marks, but exposes the initials on the back; and
 - d. immediately deliver the ballot to the Referendum Officer for deposit in the ballot box.
30. An Elector who receives a soiled or improperly printed ballot paper, or inadvertently spoils his or her ballot paper in marking it, shall, upon returning the ballot paper to the Referendum Officer, be entitled to another ballot paper.
31. An Elector who has received a ballot paper and
 - a. leaves the voting booth for marking ballot papers without delivering the same to the Referendum Officer or the Deputy Referendum Officer in the manner provided, or
 - b. refuses to vote,

shall forfeit his or her right to vote on the Referendum and the Referendum Officer, or a person designated by the Referendum Officer, shall make an entry on the list of Electors opposite the name of the Elector that the Elector did not return the ballot paper or refused to vote as the case may be.

32. The Referendum Officer shall maintain peace and good order during the voting.
33. Whenever the Referendum Officer does not understand the language spoken by an Elector, he or she shall enlist the aid of an interpreter to communicate with respect to all matters required to enable that Elector to vote.
34. No person shall:
 - a. interfere or attempt to interfere with an Elector when marking his or her ballot paper;
 - b. obtain or attempt to obtain information at the polling place as to how an Elector is about to vote or has voted;
 - c. mark a ballot that identifies the Elector; or
 - d. attempt to vote more than once.

COUNTING OF VOTES

35. As soon as is practicable after the close of the polls, the Referendum Officer shall, in the presence of a Deputy Referendum Officer, if appointed, and any members of Council who are present, open all ballot boxes and perform the following:
 - a. examine the ballot papers;
 - b. set aside any ballot that does not have the initials of the Referendum Officer on the back;
 - c. reject all ballot papers
 - i. that have been marked incorrectly, or
 - ii. upon which anything appears by which an Elector can be identified;
 - d. count the votes given in favour of and against the question or questions submitted in the Referendum; and
 - e. prepare and sign a written statement outlining the number of votes so given and of the number of ballot papers rejected.
36. A ballot set aside under section 31 is void and shall not be counted as a vote cast.

37. Within two (2) days of the date of the Referendum, the Referendum Officer shall complete, sign under oath, and deliver to Council three (3) signed originals of a report containing the following information:
- a. the number of Electors who were entitled to vote;
 - b. the number of Electors who voted;
 - c. the number of votes cast in favour of the question or questions submitted in the Referendum;
 - d. the number of votes cast against the question or questions submitted in the Referendum;
and
 - e. the number of rejected ballots.
38. Unless otherwise directed by Council Resolution, the proposed law, measure will be assented to in the Referendum when:
- a. For a Referendum concerning a proposed law of the Little Red River Cree Nation, the majority (50% plus 1) of the ballots cast by at least 30% of the Electors under these Regulations are in favour of the proposed law.
 - b. For a Referendum concerning land provided to Little Red River:
 - i. at least 50% of the Electors cast ballots in that Referendum (“quorum of Electors”); and
 - ii. the majority (50% plus 1) of the ballots cast by the Electors under these Regulations are in favour of the proposed measure or agreement.
39. Notwithstanding section 38, if the terms of a Little Red River law to which the Referendum is held specifies a different formula for determining assent to a proposed measure or agreement, the terms of that law will apply.
40. The Referendum Officer shall deposit the ballots used in the Referendum in a sealed envelope, affix his or her signature on the seal, and retain them.
41. If no review has been requested pursuant to section 50 of these Regulations, the Referendum Officer shall destroy the ballots within sixty (60) days of the Referendum vote.
42. Notwithstanding the procedure prescribed for manual counting of ballots in these Regulations, a Referendum may be conducted with automatic or electronic equipment.

SECOND REFERENDUM

43. Where a quorum of Electors did not vote in a Referendum called pursuant to this Regulation, the Council may, if the proposed measure or agreement was assented to by a majority of the Electors who did vote, call a second Referendum at which the same question or questions shall be submitted to the Electors.
44. For greater clarification, if the terms of a proposed measure or agreement have materially changed after a first Referendum this will constitute a new Referendum even if the same question or questions are to be submitted to the Electors.
45. The notice of the second Referendum shall be made in the same manner as the first Referendum in accordance with sections 14-16, with at least fourteen (14) days' notice before the day on which the second Referendum is to be held.
46. If information meetings are to be held prior to the second Referendum, the notice of the second Referendum shall set out the date, time and location of the information meetings.
47. Where a second Referendum is called pursuant to section 43, the proposed measure or agreement is assented to in the Referendum if a majority (50% plus 1) of the ballots cast by the Electors are in favour of the proposed measure or agreement.
48. If the proposed measure or agreement is not approved in accordance with section 54, the proposed measure or agreement shall not be executed or implemented on behalf of Little Red River Cree Nation, and shall be of no force and effect.

REVIEW PROCEDURE

49. An Elector may, in the manner set out in section 50, request a review of the Referendum where:
 - a. the question put to the Electors was not sufficiently clear to enable Electors to make an informed choice;
 - b. the Elector believes that there was a material contravention of these Regulations; or
 - c. there is evidence of a corrupt or fraudulent practice that may have affected the results of the Referendum.
50. A request for a review of a Referendum shall be made by an Elector by providing a written request to the Review Panel containing the following information to Council within seven (7) days after the date of the Referendum:
 - a. the name, address, email address, and telephone number of the Elector requesting a review;

- b. the grounds upon which the request for review is made;
 - c. sworn evidence and other materials which will be relied upon;
 - d. a description of the relief requested;
 - e. a signature witnessed by a person who is at least eighteen (18) years of age; and
 - f. a \$1,000 deposit, to be refunded immediately with costs of up to \$1,000 if the Review Panel decides in favour of the applicant.
51. If a request for a review of a Referendum does not meet the requirements of section 57 it will not be considered for review.
52. Within 5 days after the receipt of a request for a review of a Referendum, the Council shall advise the Referendum Officer who conducted the Referendum of the request and shall provide the Referendum Officer with a copy of the request for review.
53. Within ten (10) days of being advised of the Referendum review, the Referendum Officer who conducted the Referendum shall provide a sworn declaration responding to the grounds stated in the request.
54. Prior to the Referendum Officer posting the Notice of Referendum, Council shall appoint a Review Panel by way of Council Resolution consisting of three (3) people, all of whom must be at least 18 years of age and not Members of the Little Red River Cree Nation.
55. In addition, members of the Review Panel cannot:
- a. be an employee of the Little Red River Cree Nation,
 - b. have been convicted of a criminal offence for theft, fraud, bribery, or breach of trust,
 - c. be an immediate family member of the person requesting a review of the Referendum, or
 - d. be a person who might reasonably be considered to have a bias or conflict in connection with the review of the Referendum.
56. If a member of the Review Panel is disqualified for any of the grounds stated above, the Council may appoint a replacement by way of Council Resolution.
57. Within thirty (30) days from the date on which the Referendum vote was conducted the Review Panel has the authority under these Regulations to determine whether the evidence and information provided:
- a. does not support the grounds for review in accordance with section 56 and dismiss the review, or

- b. supports the grounds for review in accordance with section 56, and may order that a new Referendum be conducted.

58. The decision of the Review Panel will be in writing and will be provided to all parties to the review.

59. The decision of the Review Panel is final and not subject to review.

60. The Review Panel shall recognize that time is of the essence and shall endeavor, as circumstances permit, to rule on any Reviews submitted to it provided that the request for review has met the requirements of section 50.

AMENDMENTS

61. These Regulations may be amended or repealed, in whole or in part, by Council Resolution.

Pursuant to a Band Council Resolution passed at a duly convened meeting of the Chief and Council of the Little Red River Cree Nation on the __day of ____, 2020, the Chief and Council authorize and direct that at least a quorum of the Council execute the *Little Red River Cree Nation Referendum Regulations* on behalf of the Little Red River Cree Nation.

Chief

Councillor

Councillor

Councillor

Councillor

Councillor

Councillor

Councillor

Councillor

Councillor

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