

OCHAPOWACE

COMMUNITY TRIBUNAL

MANUAL

MAY, 1999

# ***COMMUNITY TRIBUNAL MANUAL***

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# *OCHAPOWACE COMMUNITY TRIBUNAL MANUAL*

## PREAMBLE

We the People of Ochapowace within Treaty 4 Territory are;

CONVINCED that it is our inherent right to control our own destiny and government,

POSSESSING our inherent natural rights to function as a Nation,

CONFIRMING that our People are organized with rules which establish, empower and regulate our institution of Government;

REAFFIRMING our ancestors' guarantees, by Treaty 4 with the Crown of Great Britain, to preserve our way of life in perpetuity;

CONVINCED that we must affirm our rights as Peoples to honour our system of Government;

BELIEVING that the Chief and Council are the representatives of our Government of Ochapowace, and that the Ochapowace Election Act of January 01, 1999 has endorsed, created, and mandated the Ochapowace Community Tribunal;

PERSUADED that the rules for establishing, empowering, and regulating our institution of Government, although evolving since time immemorial, must be written to better regulate our lives and to provide us with a clear means of procedure according to our Laws and Customs connected with our traditions and culture;

ACCORDINGLY the Ochapowace People through extensive consultation and involvement, who exhibited their full powers found to be in good form, have agreed to the Election Act January 01, 1999 of Ochapowace, for the institutions thereof, and the procedures connected therewith. The Community Tribunal which is a Tribunal respecting and upholding the election procedures and processes of Ochapowace shall henceforth be referred to as the Ochapowace Community Tribunal

### **Purpose and Principles:**

1. To recognize and uphold our jurisdictions, and that no other jurisdictions shall infringe, impede, or affect this Community Tribunal Manual the Community tribunal and it's decision making process and decisions.
2. To maintain and promote respect, honesty, trust, and unity among our Peoples of Ochapowace.
3. To develop a standard from which all candidates, and elected officials have equal status and involvement according to our customs and traditions.

## SECTION ONE

### 1. INTRODUCTION

Developed through consultation sessions with the on and off-reserve membership over a period of time, the Ochapowace Election Act had allowed the full participation of eligible voters and membership to contribute to its development. The ratification vote of December 1998 was viewed as a significant step towards the implementation of our Government. The Ochapowace Election Act is now an "Ochapowace Law" document of the Ochapowace Nation.

Creating a process of electing our leaders, the Ochapowace Election Act also identifies procedures for governing the elections, conduct of candidates, grievances, discipline, and the removal from office of our elected. Through the establishment of an executive group of the Ochapowace Membership the Ochapowace Community Tribunal gained the endorsement and approval of the Council of Elders/Seniors, and created this document as a condition of the Election Act.

### 2. PURPOSE

This document, is intended for the use of the Ochapowace Community Tribunal to govern the situations affecting and impacting upon the candidates and elected officials. It indicates the processes utilized to govern all aspects contained within the Election Act.

### 3. MANDATE

The ratification vote of December 18, 1998 endorsed and accepted the Community Tribunal and development. Solely responsible for interpreting and implementing the Election Act Procedures, the Tribunal is authorized by Ochapowace as expressed by the Election Act and other Laws of the Nation. The Community Tribunal is hereby mandated to manage and make decisions on the following matters:

- a) Elections and Election Appeals;
- b) Develop and monitor the Standards of conduct during the campaign period;
- c) Grievances, Discipline or removal from Office as contained in the Community Tribunal Manual.
- d) By-elections

4. COMPOSITION AND STRUCTURE

- a) The Community Tribunal shall consist of seven (7) members as appointed by the Seniors/Elders Council upon expression of interest by individual band members.
- b) The members of the Tribunal shall be selected on the following basis:
  - i) Two (2) Band members aged sixty-five (65) and older from the on-reserve community; Evelyn Isaac, and Mrs. Leita Henry appointees.
  - ii) Three (3) Band members aged twenty-one (21) to sixty-four (64) from the on-reserve community, one of which shall serve as a Chairperson; Freida Sparvier, Elvis Bear, Brett Alary appointees.
  - iii) Two (2) Band members aged sixteen (16) to twenty (20) from the on-reserve community; Natasha Isaac, Bert George appointees.

## SECTION TWO

### 1. DEFINITIONS

In reference to the official Ochapowace Election Act Document:

- (a) *"Band Member"* means a member of the Ochapowace Nation, if he/she is a Treaty Indian registered as a member of Ochapowace on the membership list maintained by the Ochapowace Registrar.
- (b) *"Electors"* means a person who is a member of Ochapowace whose name appears on the membership list maintained by the Ochapowace Registrar and is of the full age of eighteen (18) years of age.
- (c) *"By-Election"* means a special election to fill a position that has become vacant.
- (d) *"Election"* means the leadership selection process whereby the Chief and Council are chosen in accordance with this Act.
- (e) *"Election day"* is the day upon which the Election or By-Election is held.
- (f) *"Electoral Officer"* means the Electoral Officer and his/her appointed Deputy, who are empowered and entrusted to conduct and oversee an Election or By-Election according to the terms of this Act.
- (g) "Majority of Voters" means a simple majority of the votes cast.
- (h) *"Nomination Meeting"* is the day upon which the Candidates are formally nominated.
- (i) *"Rejected/Spoiled Ballots"* are those ballots that have been improperly marked and/or defaced by the voters and left out of the tally of properly cast ballots by the Electoral Officer.
- (j) *"Community Tribunal"* means an appointed body of band members to establish and implement the rules and regulations governing the Election, by-election, appeals, and disciplinary processes.
- (k) *"Chief and Council"* means the executive government of Ochapowace.
- (l) *"Chief"* means the duly elected Chief of Ochapowace.

- (m) ***"Councillor"*** means a duly elected Councillor of Ochapowace.
- (n) ***"Registrar"*** means that function responsible for maintaining the Ochapowace Membership list.
- (o) ***"Code of Ethics"*** are guidelines that govern the conduct of duly elected officials of Ochapowace.
- (p) ***"Oath of Office"*** means a sworn statement required of duly elected officials of Ochapowace.
- (q) ***"Senior/Elders Council"*** means a group of seniors/elders from Ochapowace.
- (r) ***"Residence"*** means a household maintained and occupied by a member of Ochapowace located on those lands designated Ochapowace Reserve status or Fee simple.



## 2. JURISDICTION

The Ochapowace Community Tribunal recognize and uphold the Principles established by and as a result of the ratification of the Ochapowace Election Act, and contained therein.

## 3. DECISION MAKING

Decisions of the Community Tribunal shall follow traditional practices of dialogue, feedback, openness, honesty, and forthrightness, at all times respectful and mindful of peoples differences of opinions, and positions. Decisions shall embody the spirit and achievement of a consensus.

## 4. APPEALS PROCEDURE

### 1. Appeal of Election

Any elector may appeal an election prior to 4:30 in the afternoon within the tenth (10) working day of the election by delivering an appeal in writing setting out the grounds of the appeal to the Ochapowace Community Tribunal Chairman.

### 2. Grounds For Appeal

- a) election practices which contravene the Ochapowace Election Act, or
- b) illegal, fraudulent or criminal activity which may have reasonably affected the outcome of the elections, or
- c) contravention of candidates oath.

### 3. Method of Appeal

- a) Upon written receipt of a written appeal, the Chairman of the Community Tribunal shall immediately deliver and present "the appeal" to the Tribunal, Council, and specifically to any individual whose election to Council is affected by the appeal.

- b) The Chairman shall notify the appellant of the mandate of the Community Tribunal authorized by the electors of Ochapowace, and the procedures connected with the appeal.
- c) The Chairman shall also notify the appellant of the binding decision and the finality of the process with the issuance of the Community Tribunal decision.
- d) The Chairman shall ensure that appellant has understood 4.3.b & c and the appellant accepts the role of the Community Tribunal and processes utilized to gain a decision.
- e) The Community Tribunal shall hold a formal appeal hearing within fifteen (15) days of receiving written notice of appeal. This hearing shall include those appealing as well as the individual(s) whose election to Council is called into question by the appeal.
- f) The Community Tribunal shall establish it's own rules of evidence and procedures for gaining an informed decision. The appellant(s) and defendant(s) shall be afforded a reasonable opportunity to hear the appeal and be given sufficient opportunity to respond.
- g) The Ochapowace Community Tribunal shall at all times uphold the Ochapowace Election Act January 01, 1999 Purposes and Principles and contents. At no time shall legal representation be allowed, nor the decision and decision process of the Tribunal be subject to, affected by, impeded, or impacted upon by foreign law systems or jurisdictions.

#### 4. Results of Appeal

- a) Upon conclusion of the appeal hearing the Tribunal shall undertake to reach a decision on the Appeal and the decision shall:
  - i) determine whether appellants have proven the grounds for appeal as set out in the letter of appeal;
  - ii) determine whether the grounds as proven may reasonably have affected the outcome of the election;

- iii) order a new election for the position(s) on Council contested by the Appeal where the Community Tribunal is satisfied that the grounds for appeal have been proven and are in accordance with the Ochapowace Election Act.
  - iv) uphold the election where the grounds of appeal were not proven; or even if proven; could not have reasonably affected the outcome of the election.
- 
- b) The decision of the majority of the Community Tribunal shall be final on all parties. No other tribunal or court may hold a hearing subsequent to the decision of the Ochapowace Community Tribunal; nor is the decision of the Ochapowace Community tribunal subject to any further appeal or any other court or tribunal.
  - c) The decision of the Community Tribunal shall be delivered by the Tribunal Chairman to the parties concerned with the appeal; and to the Electoral Officer and to Council.
  - d) Upon notification of the decision of the Community Tribunal, Council, and the Family Representatives Committee shall take all steps necessary to enforce the decision.
  - e) The Community Tribunal shall recommend to the Electoral Officer a by-election where necessary.
  - f) The Community Tribunal through the Chairman shall issue a public notification about the decision.

## 5. STANDARDS OF CONDUCT FOR CANDIDATES

Standards:

At all times it is necessary for Candidates and Elected Officials of Ochapowace to:

-uphold and honour the Ochapowace Election Act,

-uphold and honour the processes, procedures and institutions connected with the Election Act,

- understand and respect the role of the Ochapowace Community Tribunal,
- understand and respect any decisions made by the Tribunal,
- maintain, and promote unity and unity issues on Ochapowace,
- maintain respect for fellow candidates,
- exercise forthrightness and honesty, and promote myself in humility to the People of Ochapowace
- uphold the Laws and Government of Ochapowace

## 6. GRIEVANCES, DISCIPLINARY MEASURES OR REMOVAL FROM OFFICE PROCEDURES

### Grounds for Disciplinary or Removal from Office

Once duly elected by members of Ochapowace, the Chief and Council are politically and financially accountable to all members of Ochapowace and as such they may be disciplined, suspended or removed from office if they:

- (a) Fail to comply with the "Oath of Office" and/or "Code of Ethics".
- (b) Are absent from three (3) consecutive Ochapowace membership assemblies or duly convened council meetings without justified cause;
- (c) Are convicted of an offence under the Controlled Drugs and Substances Act, the Narcotic Council Act or the Food and Drug Act of Canada involving the importing, exporting, trafficking, or possession for the purpose of trafficking of a substance covered by any of the aforementioned Acts from time to time;

*Review with Tribunal  
address of (a), (b) & (c)*

## 7. DISCIPLINE PROCEDURES

- (a) Any member of Ochapowace, 18 years of age or older, either individually or as part of a group of such members, may submit a complaint in writing concerning on or more alleged violations of the Community Tribunal Manual, Ochapowace Law, Ochapowace Policy, by one or more members of Council by one or more members of Council. Such complaints must include and be accompanied by the following before any action as hereinafter described is taken thereon:
  - i) the specific ground(s) that the complaint is based upon;
  - ii) sufficient particulars to be able to identify the factual circumstances of the alleged violation(s).
- (b)
  - i) The Community Tribunal will review all allegations and attempt to resolve the situation before further additional steps are taken;
  - ii) A written complaint signed by a minimum of not less than 100 electors in support of the complaint is required in order to proceed. The written complaint aforesaid shall be submitted, along with a non-refundable \$500.00 (per grievance) Administration Fee to the Chairperson, of the Community Tribunal;
- (c) Upon receiving notice of a grievance or complaint concerning the conduct of an elected officer, the Community Tribunal shall hold a discipline hearing within 10 working days of the notice. Those making the complaint and the individual(s) against whom the complaint is brought, shall be given a reasonable opportunity to know, respond and to speak to the allegations.
- (d) Upon conclusion of the discipline hearing for purpose of receiving evidence and argument, the Community Tribunal shall endeavour to reach a decision on the complaint as soon as practical and its decision shall:
  - i) determine whether the complaint has been proven on a balance of probabilities;

- ii) where the complaint is found to be proven, decide whether the subject of the companion should be:
  - a) dismissed from office and a by-election called to fill the resultant vacancy; or
  - b) allowed to continue in office with or without conditions attached to that decision.
- (e) The decision of the majority of the Community Tribunal is final and may be made with or without reasons being given for its conclusions.
- (f) The decision of the Community Tribunal shall be relayed to the those grieving; the individual(s) who are the subject of the grievance; and to Council.
- (g) Upon being notified of the decision of the Community Tribunal, Council shall take all steps necessary to enforce the decision, including the calling of a by-election where necessary. Council shall ensure that full public notification is given to the membership about the decision of the Community Tribunal.

## 8. AMENDMENT

As necessary, this Community Tribunal Manual can be improved, altered and developed as a result of continued Tribunal Members , Ochapowace membership input where required, as well as input from the Ochapowace Chief and Council, concerning parts not addressed or changes to be made in this current document.

- (a) The Ochapowace Community Tribunal Chairman will be responsible for coordinating the proposed amendments.
- (b) Suggested amendments by other groups other than the Community Tribunal will be reviewed and where necessary incorporated into this document.

# OCHAPOWACE ELECTIONS

## CANDIDATES OATH

*AS A MEMBER OF OCHAPOWACE, AND AS A CANDIDATE IN THE OCHAPOWACE ELECTIONS ACCORDING TO THE OCHAPOWACE ELECTIONS ACT January 01, 1999.*

*I do solemnly swear to uphold the following:*

- 1. That I recognize the authority, role and responsibilities of the Ochapowace Community Tribunal they are granted, as ratified by the Ochapowace Membership,*
- 2. That I agree to conduct my campaign in a respectful manner, mindful of the expectations of my fellow candidates, the electorship, and the Community Tribunal,*
- 3. That at all times be respectful, honest, forthright, and at every opportunity emphasize unity to my fellow Ochapowace member,*
- 4. That I understand that any violation of this oath will disqualify me from the election process of Ochapowace and disqualify my name from the ballot sheet.*

# *OCHAPOWACE ELECTIONS*

## *"COMMUNITY TRIBUNAL"*

### INTRODUCTION:

The Ochapowace membership ratified the Ochapowace Election Act on December 18, 1999. As a direct result of the ratification, the Ochapowace Community Tribunal was endorsed and accepted.

### MANDATE:

Responsible for interpreting, implementing and upholding the Ochapowace Election Act of January 01, 1999. The Community Tribunal is mandated to manage and make decisions on the following matters:

- a) Elections and Election Appeals,
- b) Develop and monitor the Standards of Conduct during the campaign period,
- c) Grievances, Discipline or Removal from Office as contained in the Community Tribunal Manual,
- d) By-elections.



## COMPOSITION and STRUCTURE:

- a) The Community Tribunal shall consist of seven (7) members as appointed by the Elders/Seniors Council upon expression of interest by individual band members.
- b) The members of the Tribunal shall be selected on the following basis:
  - i) Two (2) Band Members aged sixty-five (65) and older from the on-reserve community;
  - ii) Three (3) Band Members aged twenty-one (21) to sixty-four (64) from the on-reserve community, one of which shall serve as a Chairperson;
  - iii) Two Band Members aged sixteen (16) to twenty (20) from the on-reserve community.

In addition to the above the Community Tribunal Members must not be candidates in the elections of Ochapowace.

The Community Tribunal consists of the following individuals:

65+	Evelyn Isaac, Mrs. Leita Henry,
21 - 64	Elvis Bear, Brent Allary, Freida Sparvier,
16 - 20	Bert George, and Natasha Isaac.

# OCHAPOWACE

## CHIEF AND COUNCIL "CODE OF ETHICS"

This "*CODE OF ETHICS*" forms part of the Election Act, and shall govern all aspects of my function as an elected official of Ochapowace.

As long as I am an elected official of Ochapowace, I shall be committed for the duration of my term to:

- 1) At all times represent the best interests of the people of Ochapowace,
- 2) Work to maintain the integrity, confidence and dignity of the position I hold,
- 3) Make the best informed decisions for the whole of Ochapowace,
- 4) Be motivated by a desire to serve the people of Ochapowace to the full extent of my abilities,
- 5) Focus my efforts on the mission statement of Ochapowace and not on my personal goals,
- 6) Ensure no violations of the trust placed on me for those who elected me or for those we serve, occur,
- 7) Complete my duties to the best of my ability in order that the Administration staff can effectively implement the services and programs approved by the Chief and Council,
- 8) Never exercise authority as a Council member except when acting at a meeting with the full Council or as I am delegated by the Council,
- 9) Recognize that the Ochapowace authority rests with the Council and not with it's individual Council Members and I will act accordingly,
- 10) Listen to what Council Members, those affected and others have to say before I make a final decision(s),
- 11) Abide by majority decisions of the Council when they have been made, and I will accept and support those decisions for the entirety of the term of my office. However, at the time I seek a new term of office I recognize that I shall be free to repeat and support the minority opinion I upheld at the time the decision was made,
- 12) Not discuss the confidential business of the Council in my home, on the street, or in my office. My discussion of these matters will be restricted to Council meetings only, unless otherwise directed,

- 13) Approach all Ochapowace issues with a clear and open mind,
- 14) Do my best to avoid rancor and bitterness, to observe proper procedures and behaviour, to encourage full and open dialogue and discussion in all matters, and to treat all Ochapowace members and employees with respect and consideration,
- 15) Make no disparaging remarks, in or out of Council meetings about other Council Members, employees, or members of Ochapowace,
- 16) Recognize that expenditures of Ochapowace funds is a public trust, and I will ensure that those funds are expended efficiently, economically, and at all times is in the best interests of Ochapowace and the people we serve,
- 17) Not use Ochapowace resources, or any of it's services for my personal advantage or for the advantage of my friends,
- 18) Attend all Council and Committee meetings when required, and when situations arise that disallows me to participate I will ensure that acceptable reasons are supplied,
- 19) Not conceal or withhold information, matters, or considerations, with which the Council and/ or the people of Ochapowace should be concerned, or affected by,
- 20) Declare any, and all material interest should any consideration arise,
- 21) Abstain from personal use of alcohol and illegal drugs,
- 22) Act and maintain a behaviour that will not be a disruptive influence at work or in the community,
- 23) Abide by the laws, customs and traditions of Ochapowace,
- 24) Agree to abide by the disciplinary action established by the Community Tribunal.

# *OCHAPOWACE ELECTIONS*

## *CANDIDATE WITHDRAWAL*

I \_\_\_\_\_, do hereby confirm that I am withdrawing my name as a candidate from the Ochapowace Elections, and withdrawing my name from the ballot for Ochapowace Election Day, Saturday May 15, 1999.

In doing so I recognize, understand, accept and uphold the Ochapowace Elections Act of January 01, 1999.

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_

1. Witness: \_\_\_\_\_

Date: \_\_\_\_\_

2. Signed and Witnessed before me on this date:

\_\_\_\_\_

Deputy Electoral Officer: \_\_\_\_\_