

December, 2021

Fisher River Cree Nation

Governance Code



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MISSION

Fisher River Cree Nation is a community in which our history, language, traditions, and culture are paramount to who we are as a people. We will protect and maintain the spirit and intent of the treaties and our inherent rights. Fisher River will be a self-sustaining progressive community with a strong and accountable government. We will provide an environment where all people are healthy, safe and respected.

It is the mission of our leadership to provide quality services and programs that are coordinated and responsive to the needs of our people. All services and programs will be aimed at making our community progressive and self sustaining, while recognizing that our treaty relationship is paramount.

The protection of FRCN's shared and traditional lands and resources for our members will always be paramount. FRCN will never abrogate or derogate from any treaty rights that pertain to our members.

PREAMBLE

Fisher River Cree Nation ("FRCN") hereby approves and implements, by virtue of its inherent right to self-government, this Governance Code. The purpose of this Code is to codify and protect the customary, traditional, and current governance practices of Fisher River Cree Nation. This Code will be applied to all governance processes and will be interpreted in a manner consistent with the traditional values and practices of the community.

This Governance Code was approved by the FRCN Chief and Council, after local consultations with organizations and entities, at a duly convened meeting of the Chief and Council which was held on the _____ day of _____, 2021.

1. Definitions

1.1. The following definitions will apply to this Code:

Chief means the Chief of Fisher River Cree Nation;

Chief and Council means the Chief and Council of Fisher River Cree Nation;

Code means the Fisher River Cree Nation Governance Code;

Community means the Fisher River Cree Nation community;

Community Meeting means an assembly of the FRCN Electors convened by the Director of Operations:

i. of which written notice of the meeting date, hour and location and any resolutions proposed to be passed or items to be voted upon or discussed at the Community Meeting are:

(A) posted at all FRCN Posting Sites by the Director of Operations; and

(B) forwarded by mail to all Off-Reserve Electors by the Director of Operations;

at least 21 days prior to the date of the Community Meeting, unless otherwise provided;

ii. at which a quorum will be those FRCN Electors present in person at the meeting, whether or not their number represents a broad consensus of the FRCN Electors;

iii. at which the FRCN Electors present are given an opportunity to be heard; and

iv. at which any resolution proposed to be binding on FRCN is passed by a majority of the Electors present and voting at the Community Meeting;

provided that:

v. only an assembly of FRCN Electors convened by the Director of Operations will be a Community Meeting having the legal authority to make resolutions binding on FRCN.

Council means the Chief and Council of Fisher River Cree Nation;

Councillor means a member of Council other than the Chief;

Director of Operations means the person appointed by the Council to administer the affairs of FRCN, and failing such appointment, will be the person holding the most senior position in the finance department of FRCN.

Elector or FRCN Elector means a person eligible to vote in an Election in accordance with section 8.2 of the Fisher River First Nation Custom Election Code;

Elected Official means a member of the Chief and Council of Fisher River Cree Nation duly elected pursuant to the Fisher River Cree Nation Custom Election Code;

Executive Assistant means the person appointed by Chief and Council to be the Executive Assistant to Chief and Council;

FRCN means the Fisher River Cree Nation;

FRCN Posting Sites will have the same meaning as defined in the Fisher River Cree Nation Custom Election Code;

Majority means a simple 51% majority unless otherwise defined.

Member means a person whose name appears on the FRCN membership list maintained by the Department's Registrar at ISC.

Membership means all Members of the Fisher River Cree Nation collectively;

Off-Reserve Elector means an Elector not Ordinarily Resident on Reserve.

On-Reserve Elector means an Elector Ordinarily Resident on Reserve.

Ordinarily Resident on Reserve means the residential status of an Elector who is considered to have his or her ordinary residence on Reserve, if the Reserve can be described as the place:

- i. where he or she normally eats and sleeps;
- ii. where he or she receives mail;
- iii. of residence of that person's Immediate Family Members who share his or her dwelling space; and
- iv. in proximity to that person's place of employment;

except that:

- v. if a person while working usually has his or her meals and is employed and sleeps in one or more other places involving travel, the place of ordinary residence is where that person returns when not working;
- vi. if a person usually sleeps in one place and has his or her meals or is employed in another place, the place of ordinary residence is where that person sleeps;
- vii. a person can have one place of ordinary residence only, and he or she will retain such place of ordinary residence until another is acquired; and
- viii. temporary absence from the place of ordinary residence for education, medical reasons, employment, or other reasons does not cause a loss or change of ordinary residence.

Regular Business Hours means Monday to Friday 8:30 A.M. to 4:30 P.M.

Reserve means any one of the reserves set apart by the Federal Crown under the Indian Act of Canada, for the use and benefit of the FRCN Membership.

2. Responsibilities of Chief and Council

2.1. Chief and Council will act as the elected officials of FRCN to provide direction to policy development, advise and oversee all FRCN business, programs and policies, and act as spokespeople in most dealings with outside agencies, programs or organizations. Chief and Council will consist of one (1) Chief and four (4) Councillors.

2.2. The powers and duties of Chief and Council include:

- a. Attending all general FRCN meetings, all governance meetings and all meetings of Chief and Council;
- b. Chairing general FRCN meetings and governance meetings;
- c. Attending ceremonies and community events when possible;

- d. Ensuring customs are upheld;
- e. Attending special meetings as required;
- f. Attending meetings, as required, both inside and outside the boundaries of the Community, to ensure the best interests of FRCN are advocated;
- g. Ensuring that Members are consulted regarding major decisions and programs impacting FRCN;
- h. Liaising and advocating for FRCN interests with government personnel, agencies, crown corporations and private industry and the media;
- i. Negotiating all claims;
- j. Hiring, supervising, reprimanding and dismissing the Director of Operations;
- k. Appointing and dismissing an auditor and trustees;
- l. Reviewing and approving audited financial statements;
- m. Reviewing, approving and adopting annual program financial budgets;
- n. Selecting tenders for FRCN contracts;
- o. Signing on behalf of FRCN;
- p. Monitoring the operation of committees and authorities and to provide advice and direction on their management, program content and development;
- q. Ensuring codes, policies, by-laws and all governing documents are reviewed, updated and enforced;
- r. Proclaiming local holidays;
- s. Reviewing all correspondence forwarded to Chief and Council and keep updated on the day-to-day business of FRCN;
- t. Appointing all board and committee members and;
- u. Adding and removing committees as needed;
- v. Serve as representatives only on boards and committees;
- w. Reporting committee activity to the Membership;
- x. Maintain records and review all Council Resolutions related to evictions at a minimum of every two years;
- y. Protect the lands, resources and aboriginal and treaty rights of FRCN;
- z. Protecting the safety and wellbeing of the residents of the community.
- aa. Appointing special committees which may be specific to projects identified by Council.

2.3. The specific powers and duties of the Chief are as follows:

- a. Chairing and presiding over all meetings of Chief and Council;

- b. Upon a quorum being present, calling the Council meeting to Order;
- c. Maintaining order and deciding questions of procedure at Council meetings; and
- d. Acting as the main spokesperson for the FRCN.

2.4. The Chief may appoint only a Councillor as proxy to carry out the duties of the Chief at any meeting or event that the Chief is unable to attend. If necessary, the Chief may designate as Vice Chief the Councillor who received the highest number of votes in the most recent general election of Chief and Council.

Conduct

- 2.5. The Chief and Council will attend to their duties during regular business hours or such other times as required except for occasions when the Chief or Councillor is out of the community on FRCN business or is away for holidays, illness and/or bereavement;
- 2.6. The Chief and each Councillor will keep an appointment calendar setting out their activities, attendance and availability during each month and will share their calendar, insofar as is practical, with the community in a quarterly newsletter;
- 2.7. The Chief and each Councillor will ensure that their office is available to meet with FRCN Members during regular business hours;
- 2.8. The Chief and each Councillor will be available on a regular basis for community members either in office or attending to home visits at the request of the band member. The home visits will be made at the discretion of the Chief and Councillors as security concerns must be taken into consideration. When necessary, more than one Council Member will be present during home visits;
- 2.9. The Chief and each Councillor will conduct themselves at all times, whether in or out of the community, in a professional manner so as to maintain the integrity of their office, and so as to preserve the reputation of FRCN.

Honourarium

- 2.10. Chief and Council's positions are full-time and will be compensated on an honourarium basis. As elected officials of FRCN, Chief and Council will adhere to Fisher River Cree Nation Human

Resources policy which applies to all employees of FRCN. They will not be entitled to any compensation time, overtime or other entitlements of employees not listed in this Code. If there is any conflict between the provisions of this Code and the provisions of the Fisher River Cree Nation Human Resources policy, the provisions of this Code will govern.

2.11. In order to hold the position of Chief or Councillor, an individual must not be employed with FRCN or any other employer in any other capacity. Once elected as Chief or Councillor, anyone who is employed with FRCN or any other employer must resign from their employment. Such individuals will not be entitled to a leave of absence from the position and return to their former/previous positions upon the end of their term and will not be entitled to any severance pay or payment in lieu of notice in relation to their previous employment with FRCN.

2.12. The Chief and each Councillor will be provided with compensation pay when they cease to hold office for FRCN as they are not eligible for Employment Insurance. Compensation pay will be three (3) weeks for each year served during their term. There will be no lapse in the term served, it must be continuous.

However, no Chief or Councillor will receive any compensation pay upon the end of their term if they are elected to serve as either the Chief or a Councillor of FRCN for the following term, or if they cease to hold office for the following reasons:

- a. They resign from their position;
- b. They have been convicted of any indictable offence, excluding offences of a non-violent nature related to the defense of aboriginal rights or title;
- c. The results of their election are declared null under the Fisher River Cree Nation Custom Election Code; or
- d. They are otherwise removed from office in accordance with this Code or the Fisher River Cree Nation Custom Election Code.

2.13. The Chief and each Councillor will be entitled to four (4) weeks of vacation time each year beginning in the year they are first elected to office. Should the Chief or each Councillor serve 3 consecutive terms, they will be entitled to the maximum of five (5) weeks vacation time. Chief and Councillors use of vacation will follow an August-to-August calendar year.

This vacation time must be taken within the year for which it is earned, and must be taken at a

time that minimally impacts the services of FRCN and which is acceptable to Chief and Council. No more than two (2) members of the Chief and Council will take their vacation at the same time. Any time spent on parental leave, sick leave, or any other leave does not count towards the accumulation of vacation time. No member of Chief and Council will be compensated for unused vacation time. The Chief and Council are entitled to tribal and statutory holidays.

2.14. The Chief and each Councillor will accumulate sick time at a rate of 1.25 day(s) per month. Sick days may only be used for personal illness or medical appointments. If this sick time is not used by the end of their term, it will be lost and the Chief or Councillor will not be compensated for this time.

2.15. All new Council members will receive an orientation from Director of Operations upon election. An orientation package will be provided which will include written briefings from all FRCN entities. All briefings will be submitted to Council Executive Assistant prior to election.

Council Oath of Office and Confidentiality

2.16. Every member of Chief and Council must swear the Council Oath of Office and Confidentiality in accordance with section 4.3 (c) of the Fisher River Cree Nation Custom Election Code.

Meetings

2.17. Internal Council meetings will be held once a week, at a minimum. Once a month, these meetings will be open to Community members for observation purposes and will be held via social media or at a location determined by Chief and Council. The agenda for the internal meeting will be set by Council, Director of Operations and Executive Assistant. During this time, families may request appointments to discuss confidential issues at a closed meeting.

- a. Council will hold quarterly Community meetings to hear Community Members' feedback, suggestions and concerns; and for presentations from all programs/departments. Presentations will be alternated amongst program areas. Such meetings may occur over a two-day period.
- b. Council will hold a Community meeting specifically for discussion of the Financial Audit no later than 60 days after the audit has been completed.
- c. The Chief or a quorum of Council can summon a special meeting of Council at any time, with written notice of the meeting date, hour and location to be provided to each member of the Chief and Council by the Director of Operations.

- d. The Chief or a delegate will at the beginning of their term and as required schedule regular duly convened meetings, setting out the date and time of such meetings, for the purpose of conducting FRCN business.
 - e. Council will hold a minimum of two Community meetings for off-reserve membership.
 - f. All meetings will be open to all FRCN members regardless of residency.
- 2.18. A quorum for Council is three Council (Chief and/or Councillors) Members. Where a Council member is unable to attend a meeting in person, they may attend by videoconference or by telephone and this will be sufficient for quorum purposes.
- a. If no quorum is present 30 minutes after the time appointed for the Council meeting, the Council secretary will call the roll and take the names of the Council members present and Council will stand adjourned until the next meeting.
- 2.19. It is the duty of any Member who wishes to attend a meeting of the Council, including a member who lives off-reserve, to make arrangements to attend such meeting. It is in the discretion of the Chief and Council to permit the live streaming of Council meetings and Community meetings through a live video stream.

Reporting to Membership

- 2.20. Chief and Council will provide quarterly written reports to the Membership regarding the operation of FRCN. These reports will include a list of current projects, progress that has been made since the previous report, updates regarding the management of public funds, audit results when applicable, and long and short-term goals and objectives.
- 2.21. At least once per year, an audit will be conducted by an independent auditor, appointed by Chief and Council, of FRCN's financial records for that fiscal year. All directors/managers will make themselves available to attend all audit meetings.

Comprehensive Community Plans

- 2.22. Chief and Council will ensure comprehensive community plans are developed at a minimum every four (4) years, including:
- a. Community Strategic Plan;
 - b. Community Economic Development Plan;
 - c. Community Capital Plan;

- d. Land Use Plan; and
- e. Any other plan as required from time to time.

2.23. Chief and Council will develop Community Plans in consultation with the Membership and Community plans will be approved at a Community Meeting. If a Member cannot attend the Community Meeting, they may submit a signed written comment to Chief and Council prior to the meeting, which comment will be read out during the meeting.

2.24. Chief and Council will review Community Plans each year and amend them as necessary.

Work Plan

2.25. Chief and Council, in consultation with the Director of Operations, will develop a four-year Work Plan to highlight key priorities and major projects to be worked on during their term. The Work Plan will be in line with Community Plans and priorities.

2.26. The Work Plan will be reviewed, and progress will be presented to the Members of FRCN each year or as the need arises.

Portfolios

2.27. At the beginning of Chief and Council's term, and from time to time, the Chief will assign Councillors to be responsible for the following portfolios:

- a. Economic Development;
- b. Education;
- c. Finance;
- d. Health;
- e. Housing;
- f. Social Services;
- g. Lands and Consultation;
- h. Governance;
- i. Personal Care Home;
- j. Youth and Recreation;
- k. Safety and Law Enforcement;
- l. Environmental protection and Waste Management;
- m. Facilitate communication with off-reserve membership;

- n. Any other portfolio as may be required from time to time.

Professional Development

- 2.28. The Chief and each Councillor must attend continuing professional development for a minimum of 20 hours per year. Such professional development must be related to leadership, economic development, or other topics that will assist the Chief and Council in furthering the best interests of FRCN. Continuing professional development should not unduly interfere with Chief and Council's duties or availability to the Membership of FRCN.

3. Accountability and Discipline of Chief and Council

Accountability

- 3.1. The Executive Assistant will ensure that files are kept on all elected officials of FRCN, and will include any commendations, complaints, and/or disciplinary records.
- 3.2. The Executive Assistant will keep a record of Council member attendance at meetings and all time taken by the Chief and each Councillor will be recorded as per FRCN Human Resources Policy.
- 3.3. The Executive Assistant will keep a record of all members who have been removed from the community by Council Resolution.
- 3.4. The Executive Assistant will keep minutes of all meetings and records of all Council Resolutions.

Discipline

- 3.5. In the event that any elected official fails to fulfill their duties, or fail to act in a way that is which is appropriate to their position, or otherwise be in contravention of this Code, they may be reprimanded by a quorum of Chief and Council as follows:
- a. A verbal reprimand which is to be provided to the elected official and noted in their elected official file;
 - b. A written reprimand which is to be provided to the elected official and placed in their elected official file; or
 - c. A suspension from office.
- 3.6. Failure to fulfil duties may include, but is not limited to, repeated failures of the elected official

to attend to their duties or consistent absences at Council meetings or other meetings where such a failure or absence has a negative impact upon the administration of FRCN or causes hardship for other elected officials or for the staff of FRCN.

- 3.7. An elected official acting in a way that is inappropriate may include, but is not limited to, intoxication while attending to duties, violence, theft, dishonesty, causing or allowing serious health and safety risks, discrimination, intimidation, harassment, bullying, mental, emotional, sexual or physical abuse of employees or Members of FRCN, accepting bribes, misusing confidential information, abuse of authority or failure to disclose a conflict of interest.
- 3.8. In the case of a suspension from office, a quorum of Chief and Council will provide the elected official with a letter outlining the allegations against them, to be considered at the next meeting of Chief and Council.
 - a. The elected official will be permitted to respond to the allegations at the meeting, then will remove themselves from the meeting to allow the remainder of Chief and Council to deliberate;
 - b. In the event a consensus cannot be achieved, there will be a vote by secret ballot and the majority vote will be the deciding factor;
 - c. In order for a suspension to stand, the number of Councillors and/or Chief that constitute a quorum must vote in favour of suspension;
 - d. A suspension may be for a period of one (1) to thirty (30) days, without honorarium.
 - e. In the event that a suspension occurs and quorum can not be achieved then the Director of Operations will assume responsibility to ensure the continued operation of FRCN governance.

Removal from Office

- 3.9. A motion of non-confidence in one or more Council members or the entire Council, for removal from Council, will not be brought before a Community Meeting unless 51% of total Electors give the Council Members in question 30 days written notice of the non-confidence motion, duly signed by each of these Electors, setting out:
 - a. the circumstances including the provisions of the law or any governing authority binding upon the Council Members in question, alleged to have been breached;
 - b. a summary of the argument and evidence against the Council Members in question; and

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- c. the date, hour and location of the Community Meeting where the matter will be decided.
- 3.10 Upon a copy of the written motion of non-confidence being filed with the Director of Operations, the Director of Operations will determine the date, hour and location of the Community Meeting where the matter will be decided. This meeting will be open to FRCN members only.
- 3.11 The Director of Operations will post at all FRCN Posting Sites, the notice of the non-confidence motion, at least 21 days prior to the date of the Community Meeting.
- 3.12 The notice of the non-confidence motion will be forwarded by mail to all Off-Reserve Electors by the Director of Operations, at least 21 days prior to the date of the Special Community Meeting.
- 3.13 The Council Members in question have the opportunity to bring legal counsel to the Community Meeting, upon giving the Director of Operations 7 days written notice setting out the name, address, telephone number, email and fax number of the legal counsel. Legal counsel will be at the expense of Council Members in question.
- 3.14 The Electors alleging non-confidence will also have the opportunity to bring legal counsel to the Community Meeting, upon giving the Electoral Officer 7 days written notice setting out the name, address, telephone number, email and fax number of the legal counsel. Legal Counsel will be at the expense of Electors alleging non-confidence.
- 3.15 At the Community Meeting, the Council Members in question will be given an opportunity to be heard and to present evidence, witnesses, arguments and written submissions to the Community Meeting. Each Council Member in question will be entitled:
- a. to be present while the allegations against him or her, and all supporting evidence, witnesses, arguments and written submissions are presented to the Community Meeting;
 - b. to dispute, correct or contradict anything which is prejudicial to his or her position; and
 - c. to question both the Electors alleging non-confidence, and the witnesses against him or her.
- 3.16 Each Council Member in question, will answer questions put to him or her by:
- a. firstly, the Electors alleging non-confidence; and
 - b. secondly, the Community Meeting.

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- 3.17 The Community Meeting may ask the Council Members in question to excuse themselves from the deliberations by the Community Meeting on the matter.
- 3.18 The Community Meeting will decide the motion of non-confidence separately for each Council Member in question, by deciding whether or not each Council Member in question is removed from Council, and will decide each such motion, by a secret ballot with the balloting and vote counting conducted by the Director of Operations.
- 3.19 The Director of Operations will immediately advise the Council Members in question of the decision of the Community Meeting on the motion of non-confidence and will provide those Council member(s) with a copy of the written resolution of the Community Meeting as soon as is practical.
- 3.20 A vote of non-confidence in a Council Member made by a Community Meeting, will not affect the eligibility of that Council Member to be a Candidate in any Election that follows.
- 3.21 The decision of the Community Meeting on the motion of non-confidence is final, conclusive, and binding, and is not subject to further appeal.
- 3.22 If a Council member is removed from office by a Community Meeting, the Fisher River Custom Election Code will be referred to in order to determine the applicable procedure required to fill the vacancy on Council.
- 3.23 If a Council member is removed from office or ceases to hold office for any reason other than as a result of a vote by a Community Meeting, the Fisher River Custom Election Code will be referred to in order to determine the applicable procedure required to fill the vacancy on Council.

4. Conflict of Interest

- 4.1. The definitions and procedures relating to a Conflict of Interest as contained in the Avoiding and Mitigating Conflicts of Interest Schedule contained in the Fisher River Cree Nation Financial Administration Law 2017 adopted November 28, 2017 and as amended or replaced from time to time, will apply for the purposes of this Code.


4.2. The discipline procedures specified in this Code under sections 3.5 to 3.8 may be utilized to discipline any Councillor or Chief who fails to disclose a Conflict of Interest pursuant to the procedures contained in the Avoiding and Mitigating Conflicts of Interest Schedule contained in the Fisher River Cree Nation Financial Administration Law 2017 adopted November 28, 2017 and as amended or replaced from time to time.

5. **General Provisions, Amendment, Repeal and Coming into Force**

5.1. All references to time in this Code are to be read as referring to Central Standard Time.

5.2. If any provision of this Code is deemed to be invalid or unenforceable, such provision will be severed from this Code to the extent of such invalidity or unenforceability, and the remaining provisions of this Code will continue in full force and effect and will not be affected by such invalidity or unenforceability.

Signed the 12 day of January 2022



David Crate 01/07/2022 14:12 CST



Hillary Murdock 01/07/2022 15:08 CST



Cory Murdock 01/12/2022 15:16 CST