

Governance Pilot Project: Mistawasis First Nation

The Mistawasis First Nation Constitution is comprehensive, encompassing ten chapters that address the following matters:

- First Nation government structures and procedures
- lands and resources
- citizenship
- accountability
- rights
- relationships with other governments
- legal capacity and powers
- application and relationship of laws
- citizen participation in decision making, and
- First Nation public bodies and institutions.

The Constitution is not in final form, as important decisions remain to be made on key matters, such as the number of Councilors, terms of office and threshold levels of support for decisions made by various government bodies.

Government structures include a General Assembly comprising the entire membership, an Executive Council, a Legislative Council, an Elders Advisory Council, a Youth Council, the office of Chief Executive Officer and the First Nation Government Administration. The General Assembly reviews major plans, decisions and budgets, as well as conflict of interest rules, ethical guidelines for leaders and financial and other reports. Its role in the amendment of the Constitution is contemplated but not fully defined.

The Legislative Assembly comprises members of the Executive Council (Chief and Councilors), representatives of the Elders and Youth Councils and others. In addition to making laws, the Legislative Assembly has responsibilities in respect of financial management, budgeting and the implementation of laws ratified by the community membership.

The Executive Council's role is to represent the First Nation externally, and to ensure that First Nation laws are put into practice, and that the administrative functions and operations of the government receive proper direction on a day to day basis.

Elders and Youth Councils have an advisory and oversight function. They operate according to consensus decision making rules.

With respect to core procedures, the constitution establishes basic provisions regarding elections, resignations, vacancies, removal from public office and recall through petition. No residency requirements are specified in relation to eligibility for public office, or to vote in elections and community referendums. Procedures to remove public officials from office involve joint resolutions from the Legislative Assembly and Elders Advisory Council. Recall of public officials is effected through a petition signed by a specified percentage of voters who were eligible to vote for the public official in the previous election. The law making procedure of the First Nation involves law development by the Legislative Assembly, information meetings and opportunities for input from citizens. Laws may be passed by the Legislative Assembly without community approval, except in those areas where the constitution identifies that such approval is required. A First Nation

law register must be maintained, and copies of laws must be shared with the Governments of Canada and Saskatchewan. Laws may be challenged if a petition is signed by a certain percentage of electors.

The Mistawasis Constitution includes a chapter on lands and resources. It calls for a Land Management Code to be developed and approved through a community referendum vote. The general framework and content of the Land Management Code is specified.

Until the First Nation develops a Citizenship Code that is approved through community referendum, membership provisions under the *Indian Act* remain in effect.

An Accountability chapter establishes a comprehensive framework for political, financial and program accountability of Mistawasis Government to its citizens, and to governments who provide funding for program and service delivery. These provisions, set out in some detail, identify what internal accountability relationships are sustained, how these are sustained, and what each component part of the governance system is accountable and responsible for. Principles of financial accountability that will be established by the Mistawasis First Nation in a Mistawasis First Nation Financial Management and Administration Code are identified.

The constitution also addresses matters related to the legal capacity and powers of the First Nation. The scope of First Nation powers asserted goes well beyond the *Indian Act* and the *First Nations Governance Act*. The subject matters in relation to which the First Nation can make laws, regulations and authorities is comprehensive of social, economic, and cultural spheres as well as the natural and physical infrastructure environment. These authorities may be delegated to other governments in accordance with procedures specified in the constitution. The relationship of First Nation laws to the laws of Canada and the province is contemplated in another chapter.

The penultimate chapter of the constitution sets out the ways and means by which First Nation citizens can participate directly in governance. These include participation by way of a community referendum vote, consultative referendum and community consultations. The constitution identifies many areas in which community decision making is required before First Nation government action may be taken.

A final chapter of the constitution recognizes that First Nation public bodies and institutions may be established by the Mistawasis First Nation government to carry out governmental responsibilities and exercise powers delegated by the Legislative Assembly. These must be established by First Nation law, but may assume a variety of forms including commissions, committees, circles, tribunals or boards.

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