

*Constitution*  
*of the*  
*Sawridge First Nation*

This Constitution was ratified by  
the Electors of the Sawridge First Nation  
in a Referendum held for that purpose on

August 24, 2009

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# SAWRIDGE FIRST NATION

## CONSTITUTION

### PREAMBLE

We the Cree People of the Sawridge First Nation, having the inherent responsibilities, rights and powers to govern ourselves and the lands to which we belong, from time immemorial granted to us by the Creator for as long as the grass grows, the wind blows and the water flows, HEREBY DECLARE THE FOLLOWING TO BE OUR TRUTHS:

1. Family is the foundation of our Community. We value Community, Relationships, Cultural Survival, the Cree Language, and our Ancestors and will strive for the protection of these values.
2. We continue to live in family-based communities in the territory which we have occupied since time immemorial.
3. We have the obligation and responsibility to preserve our culture and language and to pass on our language, our cultural practices and our history to our descendants.
4. Our Land, waters, and natural resources are sacred and essential to the survival of our community.
5. As with all peoples, we have the inalienable right to the pursuit of happiness.
6. We will govern ourselves as a community which is safe, supportive, prosperous, friendly, and caring, and which will always be here for our grandchildren and descendants.

7. Our ancestors occupied these lands and utilized our waters and resources since time immemorial, living by the Natural Law which is encompassed by the traditional values of Love, Honesty, Kindness, Humility, Respect, Truth, Patience, Contribution, Responsibility, Self-Reliance, Independence, Accountability, and Wisdom.
8. Our inherent right to govern ourselves was recognized in Treaty #8 which was entered into between our ancestors and the Crown as original signatories.
9. Since the signing of Treaty #8, this inherent right has been distorted by the imposition of forced dependency, attitudes of superiority, systems of control, which, through this Constitution we disavow, denounce, and discard.
10. To ensure the preservation and advancement of the Sawridge First Nation we herein record the traditions, customs and practices of the Sawridge First Nation, formerly called the Sawridge Indian Band, in this, the Constitution of the Sawridge First Nation.
11. The Sawridge First Nation shall, in accordance with its customs and traditions, have an effective governing body which is transparent and accountable to the members of the Sawridge First Nation, which respects and preserves the rights of those members, and manages the property, resources, programs and services of the First Nation, and which is mandated to defend and protect our lands, waters, resources, air space, rights and Treaty relationship.
12. Reflecting an integral part of our tradition, our wish is that our governance be guided by Elders who have the respect and trust of the First Nation; who are known for their wisdom and good judgment; who demonstrate a significant commitment to and knowledge of the history, customs, traditions, cultural and communal life of the First Nation, and who are known for a character and lifestyle that does not cause detriment to the future welfare or advancement of our First Nation.

## **Article 1: Interpretation**

1.(1) The definitions in this section apply in this Constitution:

“Chief” means the leader of the First Nation as selected in accordance with this Constitution with the authority delegated by the Members of the First Nation;

“Code” means a code of the First Nation recognized by this Constitution, or established pursuant to a referendum of the Electors held pursuant to this Constitution;

“Constitution” means the Constitution set out in this document once it has been ratified according to Article 22 herein;

“Council” means the governing body of the First Nation as selected in accordance with this Constitution and is composed of the Chief and Councilors;

“Councilor” means a member of the Council, other than the Chief, as selected in accordance with this Constitution, and is elected separately from the Chief;

“Elders Commission” means the Commission established by Article V of this Constitution;

“Elder Commissioner” means a member of the Elders Commission as selected in accordance with this Constitution;

“Elector” means a person who is

- a) 18 years of age or over;
- b) a Member; and
- c) not otherwise disqualified, pursuant to this Constitution, from voting at elections or referendums of the First Nation;

“Electoral Officer” means the person appointed pursuant to this Constitution as electoral officer for an election of the First Nation;

“First Nation” means the Sawridge First Nation which is recognized and governed by this Constitution, For greater clarity, the Sawridge First Nation was formerly known as the Sawridge Indian Band which has governed itself since time immemorial and which was an original signatory to Treaty #8 which was signed on June 21, 1899;

“First Nation Money” is money held or controlled by the First Nation for the use and benefit of the First Nation;

“General Assembly” means the body established by Article 13 of this Constitution;

“Law of the First Nation” means a law of the First Nation made in accordance with this Constitution;

“Member” means a member of the First Nation in accordance with the Membership Code of the First Nation;

“Membership Code of the First Nation” means the rules for the First Nation’s membership system established by this Constitution;

“Membership Rules” are those rules adopted by the Sawridge Band to govern its membership system prior to the establishment of this Constitution;

“Principal Office” of the Sawridge First Nation is a place where meetings of Chief and Council are held, where financial records and files of the First Nation are maintained, and where administration of the First Nation is conducted;

“Resident” means a Member whose primary residence is on Sawridge Lands or within 10 km. of a Principal Office of the Sawridge First Nation;

“Sawridge Lands” means those lands which at the time of adoption of this Constitution were reserved for the use and benefit of the Sawridge Indian Band as well as those lands which in the future become lands reserved for the use and benefit of the Sawridge First Nation;

1.(2) Every article of this Constitution shall be construed so as to uphold existing Aboriginal and treaty rights and freedoms including those recognized and affirmed under sections 25 and 35 of *The Constitution Act, 1982*, and not to abrogate or derogate from them.

## **Article 2: Rights and Freedoms**

2.(1) The following Rights and Freedoms of Members are protected subject to the collective rights of the Sawridge First Nation and such other reasonable limits prescribed by Laws of the First Nation as can be demonstrably justified in a free and democratic society:

- a. Right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice;
- b. Freedom of culture, language, conscience and religion;
- c. Freedom of thought, belief, opinion and expression;
- d. Freedom of peaceful assembly;
- e. Freedom of association;
- f. Right to be secure against unreasonable search or seizure;
- g. Right not to be arbitrarily detained or imprisoned.
- h. Right to be treated fairly;
- i. Right to live in peace and good order.
- j. Right not to be discriminated against based on age, sex, religion, or mental or physical disability. Right to equal Protection, treatment and benefit under Laws of the First Nation.

2.(2) All Members and others affected by decisions made by First Nation officials or employees shall have access to a conflict resolution instrument established or to be established for by Law or regulation of the First Nation when a person believes he or she has been treated unfairly, discriminated against, or treated in a manner not in accord with accepted standards of administrative fairness.

## **Article 3: Membership**

### Control of Membership

3.(1) The First Nation has the inherent right to control its own Membership in accordance with its own laws, codes, customs, practices, traditions and traditional values and principles.

### Transitional

(2) Members of the Sawridge Indian Band recorded on the Membership List of the Sawridge Indian Band and maintained by the Band in accordance with the Membership Rules of the Sawridge Indian Band are the Members of the First Nation on the day that this Constitution is adopted.

### Membership Code

(3) Until amended in accordance with this Constitution, membership in the First Nation shall be determined by the Membership Rules that were in force immediately before the day on which this Constitution came into force with such modification as are required by the Constitution. The Membership Rules shall thereafter be called “the Membership Code”.

### Members of other First Nations

(4) No member of another Band or another First Nation may be a member of the First Nation at the same time.

### Amendment

(5) The Membership Code may only be amended in the same manner as the Constitution may be amended.



## **Article 4: Governing Bodies**

4.(1) The Government of the First Nation shall consist of three bodies:

- a. The First Nation in Assembly
- b. The Council
- c. The Elders Commission

### How Elected

(2) The Chief, Councilors and Elder Commissioners shall each be elected in an election of the First Nation by a plurality of the votes cast by Electors pursuant to the provisions of this Constitution in accordance with all of the Election Procedures set out in Laws or Codes of the First Nation.

### Official Location

(3) The official place of business of the First Nation shall be on Sawridge Lands. The Principal Offices of the First Nation shall be maintained on the Sawridge Lands. At least one-half of all meetings held by the First Nation or any of its bodies shall be held on Sawridge Lands.

## **Article 5: Elders Commission**

- 5.(1) The Elders Commission shall have the same number of members as the Council.
- (2) To be nominated in an election for the position of Elder Commissioner, a person must:
- (a) be an Elector of the First Nation;
  - (b) have all of his or her debts owed to the First Nation in good standing and
  - (c) not have been convicted in criminal proceedings for theft, fraud, bribery or breach of trust.

### Elder Commissioner Representing Non-Resident Electors

(3)(a) One half of all positions of Elder Commissioner shall be reserved for Elder Commissioners who are elected by Electors who are not Residents. In representing the interests of the entire First Nation, the Elder Commissioner so elected shall ensure that the voice of the Members who are not Resident is heard in the proceedings of Council. Being a Resident is neither a requirement nor a bar for this Elder Commissioner elected by Electors who are not residents.

(b) One half of all positions of Elder Commissioner shall be reserved for an Elder Commissioner who is elected by Electors who are Residents. In representing the interests of the entire First Nation, the Elder Commissioner so elected shall ensure that the voice of the Resident members is heard in the proceedings of the Elders Commission. Being a Resident is neither a requirement nor a bar for this Elder Commissioner elected by Electors who are Residents.

(c) The principle of having equal numbers of Elder Commissioners in each of the two categories will be maintained regardless of the proportion of Members who are Residents as compared to those who are not Residents.

(4) The Elders Commission may provide advice to the Council. The Council must hear the advice of the Elders Commission, but the advice shall not bind the Council.

(5) The Council may refer matters to the Elders Commission for their advice.

(6) The Council may also delegate decisions or appeal matters for consideration by the Elders Commission stating whether Council asks that the Elders give recommendations, or make a decision..

(7) Before adopting an annual budget, the Council shall ask for and consider the advice of the Elders Commission.

(8) When so instructed by the Elders Commission, the Council shall call a Special General Assembly of the Members.

## **Article 6: The Council**

6.(1) The Executive Branch of the First Nation's government shall be called the Council and its members shall consist of a Chief and Councilors selected in accordance with the provisions of the Constitution. The Council shall govern the affairs of the First Nation.

### Number of Councilors

(2) At the time a regular election is called, the number of Councilors to be elected shall be two Councilors if there are fewer than 300 members. If there are 300 or more Members but fewer than 500 Members, there will be four councilors. If there are 500 or more Members but fewer than 700 Members, there will be six councilors. If there are 700 or more Members there will be eight councilors. There shall be a maximum of eight councilors.

### Categories of Councilors

(3) There are two categories of councilor: “a councilor who represents Members who are not Residents” and “a councilor who represents Members who are Residents”. For each pair of two councilors, one of them will be a councilor who represents Members who are Residents, and the other will be a councilor who represents Members who are not Resident. The principle of having equal numbers of councilors in each of the two categories will be maintained regardless of the proportion of Members who are residents as compared to those who are not residents.

### Councilor Representing Members who are Not Residents

(4) Each position for a Councilor elected by Members who are not Residents shall be filled by a Councilor who, without regard to whether he or she is Resident or not Resident, is nominated by and elected by Electors who are not Resident on Sawridge Lands. In representing the interests of the entire First Nation, the Councilor so elected shall ensure that the voice of the Members who are not Residents is heard in the proceedings of Council.

Councilor Representing Electors who are Residents

(5) Each position of a Councilor who represents Members who are Residents shall be filled by a Councilor who, without regard to whether he/she is Resident or not Resident, is nominated by and elected by Electors who are Residents. In representing the interests of the entire First Nation, the Councilor so elected shall ensure that the voice of the members who are Residents is heard in the proceedings of Council.

Prohibition

(6) No person may hold a position on Council and the Elders Commission at the same time, nor simultaneously hold two positions on either body.

## Article 7: Eligibility

### Chief

- 7.(1) No person is eligible to be nominated for election as Chief unless
- a) the person is an Elector of the First Nation;
  - b) the person is a Resident,
  - c) all debts owed to the First Nation by the person are in good standing;
  - d) no court has convicted the person in criminal proceedings in respect of an indictable offense for which the person has not been pardoned; and
  - e) the nomination of the person is made by two persons who are themselves Electors and who submit the nomination to the Electoral Officer on or before the date set for the close of nominations, together with a statutory declaration sworn by the nominee attesting to the matters mentioned in this subsection and a certificate from the First Nation's Chief Financial Officer in respect of subparagraph (c).

### Councilors

- (2) No person is eligible to be nominated for election as Councilor unless
- a) the person is an Elector of the First Nation;
  - b) all debts owed to the First Nation by the person are in good standing;
  - c) no court has convicted the person in criminal proceedings in respect of an indictable offense for which the person has not been pardoned; and
  - d) the nomination of the person is made by two persons who are themselves lawful Electors and who submit the nomination to the Electoral Officer on or before the date set for the close of nominations, together with a statutory declaration sworn by the nominee attesting to the matters mentioned in this subsection and a certificate from the First Nation's Chief Financial Officer in respect of subparagraph c), providing that the nomination of an Elector for the position of Councilor who represents Members who are not Residents shall be made only by Electors who are themselves not Residents, and the nomination of an Elector for the position of Councilor who represents Members who are Resident shall be made only by Electors who themselves are Residents.

### Disqualification

- (3) If the Chief ceases to be resident on Sawridge Lands, or the Chief, an Elder Commissioner or Councilor ceases to be an Elector, ceases to be mentally competent, having been so declared by any authority having the lawful power and expertise to do so, or is convicted in criminal proceedings for theft, fraud, bribery or breach of trust, that person thereupon ceases to be Chief, an Elder Commissioner or a Councilor as the case may be. This provision shall not cause an Interim Chief to cease to be an Interim Chief merely because the Interim Chief is not a resident.

## **Article 8: Functions and Duties of Council**

### Authorization of Council to Exercise Powers

8.(1) The First Nation authorizes and directs the Council to exercise the First Nation's powers and carry out its duties in accordance with this Constitution.

### Duties of Council

(2) The Council has the duty to protect and uphold the Constitution and its guiding principles and the duty to protect the values and rights recognized by the Constitution.

### Ratification of Actions

(3) The Council may, by resolution, ratify the actions of Council or the actions of any of the members of Council, including decisions that have been made, expenses that have been incurred and contracts that have been entered into. Any such ratification by Council shall be by way of motion, evidenced by a resolution in writing. Any decision not to ratify an action of any of the members of Council shall also be by resolution in writing.

### Delegation of Functions

(4) The Council may authorize the Chief or any other designated person or body to perform and exercise any of its duties, powers and functions. Any such authorizations shall be by way of motion, evidenced by a resolution in writing.

### Officers, employees, etc.

(5) The Council may appoint officers, agents and employees of the First Nation and establish administrative and advisory bodies to assist in the administration of the affairs of the First Nation. Any such appointments by Council shall be by way of motion, evidenced by a resolution in writing.

### Non-Liability

(6) No Member, Councilor, Chief, Elder Commissioner or employee shall be personally liable for any debt or obligation of the First Nation.

## **Article 9: Appointing Electoral Officer**

9.(1) The Council, in consultation with the Elders Commission, shall appoint an Electoral Officer not later than eighty days before the date on which an election is to be held.

### Disqualification

(2) The Electoral Officer must not be a Member of the First Nation or an employee of the First Nation or the Council. No person may be an Electoral Officer who has been convicted of an indictable offence.

### Replacement

(3) Where an Electoral Officer resigns, dies or is otherwise unable to fulfill the duties as an Electoral Officer the Council shall immediately appoint a replacement Electoral Officer.



## **Article 10: Calling of Elections**

10.(1) Within 60 days after ratification of this Constitution by the Electors of the Sawridge First Nation, at a Special General Assembly of the First Nation called for that purpose, and with advance notice of the proposal having been provided in the Notice of Assembly, the Council will table a proposed "Elections Act" for the consideration of the Assembly.

(2) The proposed Act will set out the procedures, rules, and regulations regarding the conduct of elections by the First Nation, including the appointment of an Electoral Officer to conduct elections and to report on the results of each election to the General Assembly;

### General Elections

(3) The Council shall call a general election of the First Nation for the positions of Chief and Councilors, the Elders Commission, and members of an Audit and Compensation Committee to be held not later than four years from the date on which the last general election was held.

### By-Elections

(4) If a vacancy occurs for the office of Councilor, the Elders' Commission, or the Audit and Compensation Committee before the end of the term of such office, the Council may call a by-election at its discretion to fill the vacancy for the unexpired term of office, but must call such a by-election to be held within 90 days of the vacancy occurring if less than three years have expired since the previous election. Where a by-election is called to fill a vacancy for a position which was previously filled by a Member who was elected in a vote in which only Members who are residents or Members who are not residents are eligible to participate, then only that same group of Electors will be permitted to vote in the by-election.

### Interim Chief

(5) If the Chief resigns, dies or is otherwise unable to act as Chief, the Council shall immediately appoint an Interim Chief, which may be one of the members of Council or a member of the Elders' Commission, regardless of whether that person is Resident, and shall call a by-election to be held within 90 days of the vacancy occurring if less than three years have expired since the previous election. The Interim Chief shall serve out the term of Chief until the next scheduled election or a duly-called by-election has elected a successor. Where an Elders Commissioner or Councilor is appointed as Interim Chief they shall return to their position as Elders Commissioner or Councilor after a by-election for the position of Chief where they are not elected as Chief. Their seat on the Elders Commission or Council shall remain vacant without the need for a by-election while they serve as interim Chief.

### No Council

(6) If a vacancy occurs in all of the positions of Council at any time, then the Elders Commission shall call a general election to be held within 90 days of the vacancies occurring and the Elders Commission shall immediately convene a Special General Assembly to appoint an interim Chief and Councilors who shall serve as such until a by-election has been held and a Council has been affirmed by the Electoral Officer.

(7) If the Elders Commission for any reason fails to immediately convene a Special General Assembly to appoint an interim Chief and Councilors, 25% or more of the Electors may themselves call a Special General Assembly by posting a notice of the Special General Assembly with their signatures affixed thereto, to deal with the emergency situation and to ensure that a proper general election is held pursuant to this Constitution. Should more than one group of Electors call such a Special General Assembly, the Assembly shall be held on the date set by the group with the largest number of Electors.

### Recall

(8) Upon receipt of a petition signed by at least 50% of the Electors of the First Nation calling for the removal of a Councilor, an Elder Commissioner, or the Chief, the Council shall call a by-election for the position occupied by that person to be held within 90 days of the receipt of the petition, provided that there is more than six months remaining in that person's term of office. The person in respect of whom the petition of removal was received shall continue in office until the by-election in respect of that person's position is held and may be nominated as a candidate in the by-election.

### Disqualification as Electors

(9) The following Members shall be disqualified as Electors:

- a) any Member who is mentally incompetent, having been so declared by any authority having the lawful power and expertise to do so;
- b) any Member who has been convicted of an indictable offence and who is in custody in relation to that conviction at the time of the election.

## **Article 11: Appealing Election Result**

- 11.(1) Within fourteen days after an election, any candidate in the election or any Elector may lodge a written appeal with the Electoral Officer if the candidate or Elector has reasonable grounds to believe that there was
- a) a corrupt practice in connection with the election; or
  - b) a contravention of this Constitution, or any law of the First Nation that might have affected the result of the election.
- (2) The Electoral Officer shall make a decision in respect of any appeal within seven days of receipt.
- (3) If any candidate at the election or any Elector is not satisfied with the decision of the Electoral Officer in respect of the appeal, then that person may within 28 days after the decision of the electoral officer is made appeal further to the Elders Commission (if the election was for Council or other office) or the Council (if the election was for the Elders Commission) in writing. The Elders Commission or Council, as the case may be, shall be referred to as “the Appeal Tribunal” and shall make a decision in respect of any appeal within seven days of receipt.
- (4) If any candidate at the election or any elector is not satisfied with the resolution by the Appeal Tribunal of any appeal made to them pursuant to subsection (3), then that person may within fourteen days after the appeal was made, lodge an appeal to a Special or Regular General Assembly which shall be called for that purpose within thirty days from the date the appeal is received.

### Sending documents to Electoral Officer

- (5) Upon the filing of an appeal, the appellant shall forward a copy of the appeal together with all supporting documents to the Electoral Officer and to each candidate.

### Written Answers Required

- (6) Any candidate may, and the Electoral Officer shall, within fourteen days of the receipts of a copy of an appeal under subsection (4), forward to the Appeal Tribunal, by registered mail, a written answer to the particulars set out in the appeal, together with any supporting documents relating thereto duly verified by affidavit.

The Record

(7) All particulars and documents filed in accordance with this section form the record.

Relief

(8) The Electoral Officer, Appeal Tribunal, or the General Assembly may provide such relief as it sees fit, when it appears that there was

- a) a corrupt practice in connection with the election that might have affected the result of the election; or
- b) a contravention of this Constitution, or any law of the First Nation that might have affected the result of the election.

Complaints other than Appeals

(9) In the event that information was provided to the Electoral Officer regarding a corrupt practice in connection with the election or a contravention of this Constitution of any law of the First Nation which did not affect the result of the election, the Electoral Officer shall investigate the matter and report on it to the General Assembly.

(10) Any party who might be affected by decisions made by the Electoral Officer, the Appeal Tribunal, or the General Assembly shall have the right to respond to allegations and to provide evidence and submissions,

## **Article 12: Audit and Compensation Committee**

12.(1) The First Nation shall have an “Audit and Compensation Committee”. At each regular election for the offices of Chief and Councilors, the Electors shall also elect two Electors to serve as members of an Audit and Compensation Committee. The Council shall also appoint one of its members to serve on the Committee.

(2) Prior to each Regular General Assembly of the First Nation, the Audit and Compensation Committee shall, subject to the ratification of the Regular General Assembly, review the remuneration, benefit package, personnel policies and other conditions of employment, contract, or honoraria provided to employees, committee members, Elders Commission members, and the Council; and report its recommendations to the Regular General Assembly for ratification.

(3) At each annual Regular General Assembly of the First Nation, the Audit and Compensation Committee shall recommend to the Assembly the appointment or reappointment of an auditor to audit the books and accounts of the First Nation, provided that the auditor must be independent of the First Nation and must be a member in good standing or a partnership whose partners are members in good standing of the Canadian Institute of Chartered Accountants Association of the Province of Alberta.

(4) At any time, the Audit and Compensation Committee shall:

(a) receive, on a confidential basis, the auditor’s report, or the notice of Council that the term of the auditor has expired or for any other reason the position of auditor is vacant;

(b) receive and investigate any reports of corruption, fraud, or suspected fraud, and

(c) after considering such reports, decide if the Audit and Compensation Committee should instruct the Council to call a Special General Assembly of the First Nation or to wait until the next Regular General Assembly of the First Nation.

(5) The Audit and Compensation Committee shall report, on a confidential basis, its findings to the Assembly.

(6) If any two members of the Audit and Compensation Committee consider it would be beneficial for the Elders Commission to assist the Committee, the Elders Commission may provide the requested assistance, and the Committee shall consider the Elders Commission’s advice.

## **Article 13: Meetings**

### General Assembly of The First Nation

13.(1) The Council shall convene a Regular General Assembly of the First Nation at least once in each calendar year and within at least 15 months after the last-held Special General Assembly or Regular General Assembly.

### Special General Assembly of The First Nation

(2) The Council shall call a Special General Assembly within forty-five days of the receipt of a petition, duly signed by at least twenty-five per cent of the Electors, calling for such an Assembly.

### Notice of Assembly

(3) The Council shall post in the First Nation's Principal Offices and mail to each adult member at their last known address a notice setting out the date, time and place of each Regular and Special General Assembly at least one month prior to the date of the meeting. Where exceptional circumstances exist, the Council may provide other forms of notice and shorten the one month notice period, provided that, a majority of the Electors attending the meeting vote to ratify the change of the notice period and method.

(4) Any member may attend and participate in any General Assembly of the First Nation.

### Financial Information

(5) The Council shall, at least once per year, at a duly-convened General Assembly, present to the Assembly the First Nation's budget for the current or ensuing year, audited financial statements of the First Nation for the most recently completed fiscal year, and a five year capital/strategic plan for the First Nation. The presentation of this financial information will be subject to the agreement by all members in attendance that they will keep the information confidential as required by this Constitution.

### Quarterly Reports

(6) The Council shall, at least quarterly provide a report on the activities of the First Nation on a confidential basis either at a General Assembly or in a written report to the Members.

## Article 14: Proceedings and Minutes

14.(1) Minutes shall be taken at all Councils, General Assemblies, and meetings of Committees of either the General Assembly or the Council meetings, but shall not be taken at *in camera* Council Meetings. Subject to any laws of the First Nation and a confidentiality agreement, all minutes, except minutes of *in camera* Council meetings, shall be made available for inspection by any member and other persons authorized by the Council.

(2) Council meetings shall be governed by regulations made by the Council and

- a) A Council meeting may be called by the Chief upon providing the Councilors with 7 days notice of such meeting and by posting the notice in the First Nation Office 7 days prior to the day set for the meeting.
- b) In cases of emergency or urgent business, the Chief and Council may waive the notice requirement for a meeting.
- c) The Council shall meet at least six times each year and at least one meeting shall be held in each annual bi-monthly period.

### Agenda

(3) The Council shall place on the agenda for a meeting of the Council any item submitted by a member at least two days before the meeting.

### Attendance

(4) Any Member may attend any Council meeting, or meeting of a Council Committee as an observer except for *in camera* meetings which are convened to deal with matters the Council deems appropriate for *in camera* meetings.

### In Camera Meetings

(5) An *in camera* meeting is a private meeting to deal with private, confidential or extremely sensitive matters. Such meetings are not open to the general membership of the First Nation and no minutes of such meetings will be kept. All decisions flowing from *in camera* meetings will be made after the *in camera* portion of the meeting has ended.

## **Article 15: Laws of the First Nation**

### Legislative Jurisdiction

15.(1) Subject to this Constitution, the First Nation may make Laws of the First Nation in relation to the following subject matters:

1. Referendum and Election procedures
2. Council Procedures
3. Taxation and Licensing
4. Expenditures
5. Land Management, zoning, development and land use.
6. Law and Order
7. Traffic
8. Administration of Justice
9. Protection of Minors and Dependent Adults and their property
10. Culture, traditions and customs
11. Health and Hygiene
12. Welfare and Social Services
13. Marriage, divorce, separation and matrimonial property
14. Custody, Placement and Adoption
15. Wills and Estates
16. Trusts
17. Education
18. Natural Resources
19. Infrastructure
20. Environment
21. Trespass and nuisance
22. Public games, gaming, sports and amusements
23. Recreation
24. Animals
25. Weapons
26. Intoxicants
27. Local Institutions
28. Policing
29. Businesses and Corporations
30. Any other matter, activities or things relating to the First Nation, its members, lands, moneys or property.



### Legislature

- (2) The Electors of the First Nation in Assembly shall constitute themselves as a Legislative Assembly to propose, pass, amend, and rescind laws of the First Nation. In addition to legislative activity, the Legislative Assembly may discuss and debate matters of importance, may pass motions and resolutions, establish its procedures and rules,
- (3) In acting as a Legislature, the Electors of the First Nation explicitly state they are acting by virtue of their inherent powers of self-government, and are not acting as any federal body, agency, commission, or tribunal of Canada.
- (4) A proposed law of the First Nation may be proposed a) by the Council, b) by the Chief or a Councilor, c) by the Elders Commission, or d) by any member or members supported by a petition signed by at least 25% of the Electors of the First Nation.
- (5) Notice of the proposed law of the First Nation will be provided in an official Notice of General Assembly sent to the Electors of the First Nation.
- (6) For the General Assembly to be called to order at least 12 Electors must be present.
- (7) The General Assembly will first attempt to reach consensus on all decisions. If consensus cannot be achieved, the vote will be carried by a simple majority providing that on other than a vote to adjourn, no vote will be valid unless at least 12 Electors vote in favour. A higher level of majority may be required within the proposed Law.

### Readings

- (8) A properly proposed Law of the First Nation shall be discussed by the General Assembly, and after discussion may be a) tabled, b) tabled until the next General Assembly, c) amended by consensus or vote of the Assembly, and/or d) passed at First Reading as amended. A proposed Law of the First Nation passed at First Reading may be referred by the General Assembly to a Standing Committee or special Committee of the General Assembly for further study and/or amendment, or it can be referred to the next Assembly for further consideration.
- (9) Except where the proposed Law of the First Nation is of an emergency nature, the Council shall make reasonable efforts to have a copy of every proposed law of the First Nation passed at First Reading, as amended, sent to every Elector of the First Nation, together with a statement from the Minutes of the General Assembly setting out the manner the Assembly dealt with the proposed law of the First Nation. It is the responsibility of each member interested in a proposed Law of the First Nation thereafter to monitor the progress of the proposed Law of the First Nation through the legislative process.

(10) A proposed Law of the First Nation which has passed First Reading may be brought up again for Second Reading as ordered by the General Assembly or by a Committee to which it was referred by the General Assembly, together with any amendments which the Committee has made. At Second Reading, the proposed Law of the First Nation shall be discussed by the Assembly, and after discussion may be a) tabled, b) tabled until the next Assembly, c) amended by consensus or vote of the Assembly, and/or d) passed at Second Reading. A proposed Law of the First Nation passed at Second Reading may be referred by the General Assembly to a Standing or Special Committee for further study and action before returning it to the Assembly for its consideration, or it can be referred to the next General Assembly for Third Reading.

(11) A proposed Law of the First Nation passed at Third Reading constitutes a Law of the First Nation and comes into effect upon passage by the Assembly at Third Reading, or at some later date set out in the Law.

(12) A proposed Law of the First Nation may pass from First to Second to Third Reading in the same session by unanimous consent of all Electors present at a General Assembly provided that at least fifty percent (50%) of the Electors of the First Nation are present.

(13) A Law of the First Nation passed at Third Reading is binding upon all Members, the Council and other officials of the First Nation, and other persons within the jurisdiction of the First Nation.

(14) Nothing in this Article shall be interpreted to mean that Council may not pass its own resolutions governing its own conduct and decisions.

#### Publication

(15) Upon passage, every law of the First Nation shall be posted in the First Nation's Principal Office and at such other locations as the Council may determine. A copy of the laws of the First Nation shall be maintained at the First Nation Principal Office for review by any person during the hours which the office is open.

#### Register of Laws of the First Nation

(16) The Council shall maintain a general register of the Laws of the First Nation in which are kept the originals of all Laws of the First Nation.

#### No Invalidity

(17) No Law of the First Nation is invalid by reason only of a failure to be registered in compliance with subsection (14).

Right to Obtain Copies

(18) A person is entitled to obtain a copy of a Law of the First Nation upon payment of such reasonable fee as may be fixed by the Council.

## **Article 16: Management of First Nation Money**

### Spending Authority

16.(1) The Council may by resolution expend First Nation Money or commit itself by contract or otherwise to spend First Nation Money for a purpose that, in the opinion of the Council, is for the benefit of the First Nation subject to any limitations set out in this Constitution.

### Validity of Contracts

(2) A failure by the Council to follow the procedures prescribed by this Constitution does not affect the validity of any contract.

### Loans to Members

(3) All loans by the First Nation to Members must be approved by the Council at a duly convened Council meeting and must be in accordance with all applicable Laws of the First Nation.

### Unfettered Discretion

(4) In making investments of First Nation Money, the Council has unfettered discretion in their selection, subject, however, to the Laws of the First Nation and this Constitution.

### Distribution of First Nation Money to Members

(5) The proposal of any Law of the First Nation dealing with the per capita distribution of First Nation Money may be made only by the Council.

(6) The Council may propose to any General Assembly a Law of the First Nation providing that First Nation Money be distributed on an equal per capita basis to the Members of the First Nation or any other proposal for equitable distribution, provided that the Council may not propose a distribution if such distribution would, together with all the distributions made in the previous twenty-four months, exceed five percent (5%) of all of the First Nation Money that is held at the time of such distribution, unless such distribution has been approved by ninety percent (90%) of the votes cast both by Electors of the First Nation who are Residents and by Electors of the First Nation who are not residents, voting in separate referendums, held for the purpose of approving that distribution and in each of which ninety percent (90%) of the Electors participate. No Member shall receive more than one a per capita share of such distribution.

(7) Such a proposed Law of the First Nation will be dealt with as any other proposed Law in the manner provided for in this Constitution.

## **Article 17: Accountability**

17.(1) Within 180 days after ratification of this Constitution by the Electors of the Sawridge First Nation, at a Special General Assembly of the First Nation called for that purpose, and with advance notice of the proposal having been provided in the Notice of Assembly, the Council will table a proposed “Financial Management Act” for the consideration of the Assembly.

### Inspection of Financial Records

(2) Any Elector and that Elector’s qualified legal representative and qualified accountant may inspect the budget, the financial statements, the auditor’s report relating thereto and any annual report, if

- a) the Elector’s debts to the First Nation are in good standing, and
- b) the Elector is competent to agree and has agreed in writing, together with the Elector’s qualified legal representative and qualified accountant, to keep the financial information confidential.
- c) the Elector agrees to permit the First Nation to supervise the inspection in a manner which protects both the integrity of the records and the privacy of the Elector.

### Confidentiality

(3) The financial information, which includes the budget and financial statements, of the First Nation is confidential information. Any Elector who wishes to access the information will be required to agree in writing to keep the information confidential and may only discuss it with other Electors or First Nation employees who have themselves agreed to keep the information confidential. No other disclosure may take place without the consent of the Council. Members of Council and employees of the First Nation may disclose such information as is necessarily required in the discharge of their duties provided they take every reasonable precaution to protect the confidentiality of the information.

### When and Where to Inspect

(4) The right of inspection set out in s. 15(2) may be exercised at the office of the Council during normal business hours or at such other places and times as may be provided by Law or regulation of the First Nation.

### Number of Inspections

(5) This right of inspection may not be exercised by a Member more than twice in each fiscal year in addition to inspection of the books and records at the Regular General Assembly as provided for in s. 15(2).

### Fee for Inspection

(6) The First Nation may charge an administrative service fee, in accordance with a law of the First Nation imposing such a fee, to cover the costs of supervision during inspections provided for by subsection (2), but no fee may be charged to inspect the books and records at the Regular General Assembly.

### Conflict of Interest

(7) No elected or appointed official or employee of the First Nation shall act in a manner, or to be seen to act in a manner, so as to further his or her private interests or those of his or her relatives or friends or to improperly further another private interest. Such an action shall constitute a conflict of interest.

(8) Any Elector who has reasonable grounds to believe an action has been taken which constitutes a conflict of interest may lodge a written complaint with the Elders Commission, or if the complaint is with regard to a member of the Elders Commission with the Council,

(9) The body to which the complaint has been made shall investigate the complaint, ensuring that the person against whom the complaint has been made has had the opportunity to reply to the complaint and provide further evidence, and within 30 days of receipt of the complaint, make a decision as to whether the matter complained about constitutes a conflict of interest, and if so, whether the matter should be reported to a Special General Assembly or a Regular General Assembly, and then so report. The report shall contain recommendations in regard to the complaint and its investigation in respect of the complaint. A copy of the report shall be provided to the person against whom the complaint has been made and to the person making the complaint within seven days of the date of the report.

(10) If either the Elector making the complaint or the person against whom the complaint has been made is not satisfied with the report of the body to which the complaint has been made, that person may within 21 days after receipt of the report ask the reporting body to reconsider the matter, providing any further evidence he or she considers relevant.

(11) The body dealing with the complaint may, if it so decides, further investigate and consider any additional evidence and amend its report to the Regular or Special General Assembly, as the case may be. In any case, the complainant and the person against whom the complaint has been lodged shall be advised of the final decision of the investigating body.

(12) Any elected or appointed official or employee who wishes to obtain an advance decision as to whether a proposed action would be considered as constituting a conflict of interest may request in writing that the appropriate body provide a written opinion, and such request and written opinion shall be reported to the next General Assembly.

## Article 18: Audits

### Determining Independence

18.(1) The First Nation shall appoint and at all times maintain a chartered accountant as the auditor for the First Nation. The auditor must at all times be independent. For the purpose of this section,

- a) independence is a question of fact; and
- b) a person is deemed not to be independent if that person or that person's business partner is a Member of the First Nation or
  - i) is a business partner, an officer or an employee of the First Nation or participates in any of its business or financial interests or is a business partner of any officer or employee of the First Nation,
  - ii) beneficially owns or controls, directly or indirectly, an interest in or securities of the First Nation or any of its business or financial interests, or
  - iii) has been a receiver, receiver manager, liquidator, or trustee in bankruptcy of the First Nation or any of its business or financial interests within two years of the proposed appointment as auditor of the First Nation.
- c) the auditing firm and its members shall be free of any influence, interest or relationship, which in respect of the engagement, impairs the professional judgment or objectivity of the firm or its members. The auditor shall also be free of any influence, interest or relationship, which in the view of a reasonable observer would impair the professional judgment or objectivity of the firm or a member of the firm.

(2) A person is disqualified from being an auditor of the First Nation if the person ceases to be independent of the First Nation, of its businesses or financial interests or of the officers of the First Nation.

### Consequence of Disqualification of an Auditor

(3) An auditor who becomes disqualified under this section shall no longer serve as auditor for the First Nation.

### Auditor's Report

(4) The Council shall enter into a contract with the Auditor decided upon by the General Assembly, stipulating that the auditor shall, within six months after the completion of the financial statement, prepare and provide to the Council a report on the First Nation's financial statement, stating whether, in the opinion of the auditor, the financial statement presents fairly the financial position of the First Nation in accordance with Canadian generally accepted accounting principles and further, that the auditor shall submit the same report to the General Assembly of the First Nation.



## **Article 19: Interests in Sawridge Lands**

19.(1) The following transactions, involving interests in Sawridge lands require approval by ninety percent (90%) of the votes cast by Electors of the First Nation, voting in a referendum held for the purpose of approving any of these transactions and in which at least ninety percent (90%) of the Electors participated:

- a) any sale, transfer, or surrender of any lands or resources;
- b) a mortgage or charge;
- c) the grant of an interest for a term exceeding forty-nine years and
- d) the grant to a Member of any interest other than a grant for personal residential purposes.

### Authorizing Transactions

(2) The Council may by resolution authorize transactions other than those set out in subsection (1), such as the granting of leases, licenses, permits, easements, rights of way, or any other interests in or to the use of Sawridge Lands. Before the First Nation authorizes any granting of leases, licenses, permits, easements, rights of way, or any other interest in or to the use of lands of the First Nation, the Council shall:

- a) post a notice of the proposed transaction in the First Nation's Principal Offices at least thirty days prior to entering into the transaction and send a copy of the notice to all Electors;
- b) consult with any committee of the First Nation that may be affected by the transaction.

(3) All transactions authorized by Council pursuant to this subsection shall be reported to the next General Assembly of the First Nation.

(4) Where any affected committee or any Member has, within the thirty-day period provided Council with a written objection to the transaction, the Council shall refer the matter to a Regular or Special General Assembly of the First Nation for the General Assembly's decision as to how the matter is to be handled.

### Traditional Lands

(5) The First Nation, having been given a mandate to protect the lands, waters, and resources which were provided to us by the Creator and recognized by Treaty #8 as our Traditional Lands, shall protect those lands, waters, and resources for future generations. The area in which these lands lie is considered by the First Nation as its “Traditional Territory”.

- a) The First Nation will insist that all protocols including traditional protocols in respect of our Traditional Lands will be honored;
- b) The First Nation will respect, and will insist that others respect the standards set by the First Nation regarding the environment in all development of our Traditional Lands.

### **Article 20: Transitional**

20.(1) The Band Council that was in place on the day that this Constitution was adopted shall be the Council of the First Nation until a new Council is elected hereunder.

(2) The Council that was in place on the day that this Constitution was ratified shall call an election to be held pursuant to this Constitution on a date not later than the day the current terms of office expire.

3) The bylaws of the Sawridge Indian Band which were in place on the day that this Constitution was ratified are hereby adopted as Laws of the First Nation until such time as they are amended or repealed by the General Assembly in accordance with its lawmaking powers as set out herein.

## **Article 21: Amendment to Constitution**

### When An Amendment Is Effective

21.(1) Subject to subsections (2) and (4), an amendment to the Constitution is effective and in force on the day it is approved by seventy-five percent (75%) of the votes cast in a referendum held for the purpose of amending the Constitution, provided that at least seventy-five percent (75%) of the Electors vote in the referendum, or on such later date as is set out in the amendment.

### Percentage of Vote Required

(2) Where a provision of the Constitution requires approval for any purpose by a percentage of Electors greater than seventy-five percent (75%) of the Electors or in which over seventy-five percent (75%) of the Electors have voted, an amendment to that provision may be made only with the approval of at least that same percentage of Electors and with the same percentage of Electors voting.

### Change of Term of Office

(3) Any amendment to the Constitution dealing with the term of office of the Council shall not come in to force until the next election following the amendment.

### Petition re Amendment

(4) If the Council receives a petition signed by twenty-five percent (25%) of the Electors of the First Nation requesting that a referendum be held in relation to a proposed amendment to the Constitution, the proposed amendment shall be placed on the agenda of the next General Assembly of the First Nation and that General Assembly shall determine if a referendum shall be ordered to determine the matter.

### Required Publication

(5) When the Constitution or an amendment to the Constitution comes into force, the Council shall forthwith post the Constitution or amendment in the First Nation's Principal Office and provide a copy to any Member who requests one.

## **Article 22: Ratification**

22. This Constitution shall come into force on the day that it is ratified by a majority of the Electors voting in a referendum in which a majority of the Electors voted.