



MISSISSAUGA FIRST NATION

Debaakinagewin Naakinagewin

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1. PREAMBLE

- 1.1. **Whereas** the Mississauga First Nation have the inherent right given by the Creator to enact any law necessary in order to protect and preserve our Anishinaabe culture, to protect our lands, our language, customs, traditions and practices;
- 1.2. **Whereas** we, the citizens of Mississauga First Nation, have exercised our inherent aboriginal and treaty rights to govern ourselves through enacting our own laws through our own *Misswezahging Constitution*, duly ratified March 15, 2015;
- 1.3. **Whereas** the Mississauga First Nation has entered into the Framework Agreement on First Nation Land Management with Canada (February 12, 1996, as amended: the "Framework Agreement"), which was ratified on behalf of the Government of Canada by the First Nations Land Management Act (1999);
- 1.4. **Whereas** the Mississauga First Nation ratified the Framework Agreement and brought its Land Code into effect on August 1, 2009;
- 1.5. **Whereas**, pursuant to the Mississauga Land Code, laws may be enacted to protect Mississauga Land, the use and benefit of Mississauga Land, the occupation of Mississauga Land, residence on Mississauga Land, and the creation of offences, penalties and remedies for violations of Mississauga laws; and
- 1.6. **Whereas** the Chief and Council of Mississauga First Nation deems it advisable and in the best interests of Mississauga First Nation to enact a Law by which Mississauga First Nation will operate a community dispute resolution mechanism.

2. DECLARATION OF PRINCIPLES OF ANISHINAABE LAW

- 2.1. We consider each Anishinaabe have been given gifts to share with the world
- 2.2. We believe that people are not inherently bad, but their behaviours may harm others including shkagamikwe, our Mother Earth
- 2.3. We recognize the limitations of punishment in the Canadian criminal justice system
- 2.4. We believe resolving disputes with a restorative process will build community harmony
- 2.5. We consider it a privilege to uphold our clan teachings within this system, those clans will guide our decision making
- 2.6. We will include our all of our ancestors' knowledge while making decisions in the best interests of the community
- 2.7. We will ensure that all voices are heard and respected at the Circle
- 2.8. We believe every Anishinaabe person must walk their own path and exercise the freedom to make their own decisions
- 2.9. We also believe that individual freedoms must be balanced with our reciprocal relationship with the community as a whole

3. DEFINITIONS

3.1. In this document:

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| Chief and Council | means the body composed of those persons elected pursuant to the <i>Misswezahging Constitution</i> and the <i>Mississauga First Nation Custom Election Code</i> ; |
| Language | Words in the singular include the plural and words in the plural include words in the singular, unless the context demands otherwise; |
| Community Member | has the same meaning as that term has under the Mississauga Membership Code; |
| Mississauga First Nation | means the Mississauga First Nation, also commonly referred to as Mississagi, Misswezahging, Mississauga #8, Mississauga Reserve, Mississauga Indian Band, Mississaugi River Band of Indians or any other commonly referred to names; |
| Misswezahging Constitution | means the supreme law adopted by the Mississauga First Nation on March 15, 2015, and as may be amended thereafter, under which all other laws can be created and that we, the citizens of Misswezahging, have created through our inherent Indigenous and treaty rights to govern ourselves and our traditional territory; |

4. CIRCLE MEMBERS

Term of Service

- 4.1. Debaakinagewin Circle members will have a term of 5 years.
- 4.2. Debaakinagewin Circle members will be eligible to apply to continue on in their role at the end of their term.

Recruitment

- 4.3. Six (6) months before the end of the term of service for the existing Debaakinagewin Circle members, a notice will be posted in the Designated Public Locations outlined in section III(1) of the *Community Approval Law, 2019* to the community that a new selection process will take place.
- 4.4. This notice must be posted for at least forty-five (45) days before the deadline date for submissions.
- 4.5. The notice shall include,
 - 4.5.1. A description of the Debaakinagewin Circle activities;
 - 4.5.2. The deadline date for the submission of applications; and,
 - 4.5.3. The criteria for selection.

Criteria for Selection

- 4.6. Interested Community Members must submit, as part of whatever application form Council may, from time to time, set, answers to the following selection questions,
 - 4.6.1. Why do you want to be a part of the Debaakinagewin Circle?
 - 4.6.2. How would your life experiences be a benefit to the Debaakinagewin Circle?
 - 4.6.3. What can you do as a community Member to ensure we live peacefully with one another?
- 4.7. Sitting members of Chief and Council will not be eligible to be members of the Debaakinagewin Circle.
- 4.8. Interested Community Members must be willing to attend training at least twice yearly.
- 4.9. All applicants must provide a vulnerable sector Criminal Records Check, or whatever equivalent check of criminal records as may be available at the time, the results of which are clear of any records of conduct that are inconsistent with duties of Members of the Debaakinagewin Circle or the best interests of the First Nation.

Recruitment Committee

- 4.10. A committee of three (3) Mississauga Nation members, appointed by Band Council, will review all of the applications. The committee shall be composed of,
 - 4.10.1. 1 panel member will be from Mississauga First Nation;
 - 4.10.2. 2 panel members will from other Mississauga Nation communities.

Circle Selection

- 4.11. The Recruitment Committee will use their best judgement to choose, by majority vote if consensus cannot be reached in a reasonable time, a Debaakinagewin Circle panel that reflects a diversity of experiences.
- 4.12. Interested Community Members may apply through whatever means they feel most comfortable with, e.g. written, verbal, video, etc. The Debaakinagewin Coordinator

will prepare video or verbal applications for considerations of the Recruitment Committee.

- 4.13. Panel members will strive to include members with the following attributes,
 - 4.13.1. traditional knowledge holders;
 - 4.13.2. elders;
 - 4.13.3. youth; and,
 - 4.13.4. persons with experiences with dispute resolution processes.

Compensation

- 4.14. Debaakinagewin Circle members will be given honorariums by Band Council on a daily rate pending funding availability.
- 4.15. Rates will be outlined in Band Council's Debaakinagewin Circle Policy.

Source of compensation

- 4.16. The source of Debaakinagewin Circle must be determined by Band Council prior to the Debaakinagewin Circle beginning any new circle process or case.
- 4.17. Administrative appeals should be funded by the department that requires the service unless, in the sole determination of Band Council, this places undue financial stress on the administrative budget.

Training

- 4.18. Mandatory training sessions will be held for Debaakinagewin Circle Members.

Removal of Circle Members

- 4.19. A Debaakinagewin Circle member may be removed by a majority of the Debaakinagewin Circle where the member:
 - 4.19.1. Has criminal charges, convictions or vulnerable sector reports against them that are not consistent with their duties as Debaakinagewin Circle members or the best interests of the First Nation;
 - 4.19.2. Violation of confidentiality obligations;
 - 4.19.3. Violation of conflict of interest guidelines; or,
 - 4.19.4. A pattern of non-attendance at scheduled Circle sessions.
- 4.20. Circle members may voluntarily withdraw with 30 days notice.

5. DEBAAKINAGEWIN CIRCLE AUTHORITY

Canadian Criminal Code Diversion

- 5.1. The Debaakinagewin Circle administrator will liaise with the Ontario courts to divert charges that involve Mississauga First Nation Members to the Debaakinagewin Circle.
- 5.2. Mississauga First Nation may enter into Diversion Agreements with local Ontario courts to outline the responsibilities of each party.
- 5.3. The Debaakinagewin Circle may assist with the diversion of Youth offences that are at the discretion of the First Nations Constables and Ontario Provincial Police.
- 5.4. The Debaakinagewin Circle will also consider assisting with Indigenous peoples that are not part of Mississauga First Nation, but are in need of a restorative justice program based on the resources available.
 - 5.4.1. Interested Indigenous participants must be unable to access services within their own community, geographic area or Political Territorial Organization.

Administrative Appeal Review

- 5.5. In the provision of services, there are times when the Mississauga First Nation departments or committees make service provision decisions, including the allocation of resources that affect the lives or interests of Members. The Debaakinagewin Circle will have the authority to review those decisions made by the administrative departments of Mississauga First Nation.
- 5.6. To ensure fairness, accountability, and transparency, such a decision may be reviewed by the Debaakinagewin Circle to ensure it was reasonable and legally correct, and that appropriate fundamental justice and procedural fairness have been given to the affected Member.
- 5.7. The time limit to appeal an administrative decision is one (1) month from the date of delivery of the decision, or from the date when the Member was first made aware of the decision, whichever is earlier.
- 5.8. When reviewing a decision, the Circle shall ensure that the approved policy and procedures were followed and that all applications of the policy were reasonable.
- 5.9. The decisions made by departments may be reviewed:
 - 5.9.1. Infrastructure & Housing;
 - 5.9.2. Health & Social Services;
 - 5.9.3. Education;
 - 5.9.4. Niigaaniin;
 - 5.9.5. Lands & Resources;
 - 5.9.6. Finance & Administration;
 - 5.9.7. Economic Development; or
 - 5.9.8. Any other Mississauga First Nation decision made by an employee or committee.

Administrative Remedies

- 5.10. If the Debaakinagewin Circle determines that a policy was not followed, or the decision was unreasonable, the Circle may rescind the administration decision.
- 5.11. When an administration decision has been rescinded, the Debaakinagewin Circle shall issue a written ruling setting out their findings, and the matter shall be returned to the responsible department to be reconsidered accordingly.
- 5.12. If the Debaakinagewin Circle determines the matter to have been handled according to policy and reasonably, the review shall be dismissed.
- 5.13. The Debaakinagewin Circle may give recommendations to Council on amendments to policies that the Circle believes would result in a greater administrative fairness.

Mediation Services

- 5.14. There are circumstances in which the Debaakinagewin Circle may be able to assist organizations, departments, individuals, or family with resolving conflict.
- 5.15. Provided the Debaakinagewin Circle feels they have appropriate expertise and comfort in relation to the issues, and with the consent of the parties, they may assist with the following matters:
 - 5.15.1. Family Mediation (with or without Nogdawindamin CFSA)
 - 5.15.2. Healing Circles
 - 5.15.3. Family Relationship Circle
 - 5.15.4. Truancy
 - 5.15.5. Police Relationships

Governance Review

- 5.16. The Debaakinagewin Circle may overturn a decision of Chief and Council only if the decision breaches the *Misswezahging Constitution*.
- 5.17. Mississauga First Nation Chief and Council makes governance decisions in the best interests of the community.
- 5.18. A Mississauga First Nation Member may apply to the Debaakinagewin Circle to review a governance decision, provided that Member is directly and personally affected by that decision.
- 5.19. The time limit to request a Governance Review is 90 days from the date of the decision.
- 5.20. The Circle will review the relevant Chief and Council motion, directive, Band Council Resolution, law-making, or other decision. If the Circle determines that the decision does not comply with the *Misswezahging Constitution*, they may make recommendations to Chief and Council with outlined rationale for reconsideration of the matter.
- 5.21. The Circle must provide detailed and written rationale for their decision in relation to the *Misswezahging Constitution*.

6. DEBAAKINAGEWIN POLICY

- 6.1. The Debaakinagewin Policy must be approved before the Debaakinagewin Circle is authorized to hold hearings, consider matters, or issue decisions.
- 6.2. The Debaakinagewin Policy must be approved by Band Council Resolution..
- 6.3. Sections of the policy must include:
 - 6.3.1. Initiation Procedure
 - 6.3.2. Briefing Note
 - 6.3.3. Conflict of Interest
 - 6.3.4. Pre-circle Information Gathering
 - 6.3.5. Number of Circle members required for decision-making authority
 - 6.3.6. Victim and Client Participation/Spokesperson/Support people
 - 6.3.7. Debaakinagewin Process
 - 6.3.8. Consent Forms
 - 6.3.9. Lead Facilitator
 - 6.3.10. Scheduling
 - 6.3.11. Authority of Lead Facilitator
 - 6.3.12. Circle Code of Conduct
 - 6.3.13. Healing & Wellness Plan
 - 6.3.14. Reinstitution Plan
 - 6.3.15. Aftercare
 - 6.3.16. Debriefing and Circle Care

Community Resources

- 6.4. For reference purposes, the Debaakinagewin Circle administrator will maintain a list of community resources that may be utilized to assist individuals and families who access the Debaakinagewin Circle. The Community Resource list will include:
 - 6.4.1. Departments of the Mississauga First Nation
 - 6.4.2. Nogdawindamin
 - 6.4.3. Treatment centers
 - 6.4.4. Cultural groups
 - 6.4.5. Traditional counselling
 - 6.4.6. Teachers, warriors, healers and other respected persons
 - 6.4.7. Possible mentors
 - 6.4.8. Traditional lodges in the area
 - 6.4.9. Scheduled cultural events
 - 6.4.10. Opportunities for community service, including elders in need of assistance
- 6.5. Mississauga First Nation administration departments are expected to assist the Debaakinagewin Circle and accept applicable referrals for services within their programs.

7. ENFORCEMENT

Criminal Code

- 7.1. Criminal diversion enforcement will be governed by an agreement with the local Ontario Courts.

Administrative Appeals

- 7.2. Administrative review decisions will be final and cannot be appealed to Chief and Council.
- 7.3. The Debaakinagewin Circle has the authority to decide to,
 - 7.3.1. Uphold the original Administrative decision based on policy grounds;
 - 7.3.2. Rescinding the original decisions and ordering corrective actions by an Mississauga First Nation Administrative department
 - 7.3.3. Overturning section(s) of an Administrative policy on the reasonable grounds that it conflicts with the *Misswezahging Constitution*, giving a 90 day timeframe for revisions and Council approval.

Mediation Services

- 7.4. Mediation Services are based on voluntary participation.
- 7.5. Debaakinagewin Circle may facilitate referrals based on the decision of participants in the Circle.

Governance Review

- 7.6. Debaakinagewin Circle will issue an order to rescind the law to Chief and Council when it considers the original decision to be a breach of the *Misswezahging Constitution*.
- 7.7. Debaakinagewin reviews of Governance decisions will be made public.