



MISSISSAUGA FIRST NATION

Debaakinagewin Naakinagewin

Enacted
Community Meeting
3rd Reading
2nd Reading
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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 exercise 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 & 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:

| | |
|-----------------------------------|--|
| Chief & Council | means the body composed of those persons elected pursuant to the <i>Misswezahging Constitution</i> and the <i>Election Law</i> ; |
| Language | Words in the singular include the plural and words in the plural include words in the singular, unless the context demands otherwise; |
| Member | means a person whose name appears on the Mississauga First Nation Band Membership List on Ratification Day; |
| 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 under which all other laws can be created and that we the citizens of Misswezahging have 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. Members will be eligible to apply to continue on in their role at the end of their term.

Recruitment

- 4.3. 6 (six) months before the end of the term of service for the current circle members, notice will be posted to the community that a new selection process will take place.
- 4.4. This notice will be posted for forty-five (45) days.
- 4.5. Notice will include;

- 4.5.1. A description of the Debaakinagewin Circle activities
- 4.5.2. The deadline date for submission of application
- 4.5.3. The criteria for selection

Criteria for Selection

- 4.6. Interested members must submit answers to 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 Circle?
 - 4.6.3. What can you do as a community member to ensure we live peacefully with one another?
- 4.7. Members of Chief & Council will not be eligible to be members of the Circle
- 4.8. Interested members must be willing to attend training at least twice yearly
- 4.9. Provide a clear vulnerable sector CRC

Recruitment Committee

- 4.10. A panel of 3 Mississauga Nation members will review the application together.
 - 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 members will use their best judgement to choose a panel that reflects a diversity of experiences.
- 4.12. Interested members may apply through whatever means they feel most comfortable with, e.g. written, verbal, video, etc.
- 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
 - 4.13.4. persons with experiences with dispute resolution processes

Compensation

- 4.14. Circle members will be given honorariums on a daily rate pending funding availability
- 4.15. Rates will be outlined in the Debaakinagewin Circle Policy

Source of compensation

- 4.16. Compensation source must be determined prior to the beginning of a new circle process
- 4.17. Administrative appeals should be funded by the department that requires the service unless this places undue financial stress on the administrative budget

Training

- 4.18. Training sessions must be attended at least twice (2) yearly

Removal of Circle Members

- 4.19. Circle members may be removed for the following reasons by a quorum of the Debaakinagewin Circle:
 - 4.19.1. Unable to provide a clear CPIC
 - 4.19.2. Violations of confidentiality
 - 4.19.3. Violations of conflict of interest guidelines
 - 4.19.4. 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 offenses that involve Mississauga First Nation members.
- 5.2. 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.
 - 5.2.1. Interested Indigenous participants must be unable to access services within their own community, geographic area or Political Territorial Organization.

Administrative Review

- 5.3. The Debaakinagewin Circle will have the authority to hear appeals from the administrative departments of Mississauga First Nation
- 5.4. In the provision of services, there are times with MFN Administration makes decisions that affect the lives of members.
- 5.5. To ensure fairness, accountability, and transparency, any decisions made by Administration may be reviewed for correctness by the Debaakinagewin Circle.
- 5.6. The time limit to appeal an administrative decision is one (1) year from the date of delivery of the decision.
- 5.7. Reviewing for correctness means that the Circle will review the circumstances of the case and ensure that the approved policy and procedures were followed.
- 5.8. The following departments may be appealed;
 - 5.8.1. Infrastructure & Housing
 - 5.8.2. Health & Social Services
 - 5.8.3. Education
 - 5.8.4. Niigaaniin

- 5.8.5. Lands & Resources
- 5.8.6. Finance & Administration
- 5.8.7. Economic Development
- 5.8.8. Any other MFN department

Administrative Remedies

- 5.9. If it is determined policy was not followed, the Circle may decide to rescind the decision.
- 5.10. When a decision has been rescinded, the matter will return to the responsible department for correction with a summary of findings.
- 5.11. If an administrative appeal reviews the matter and determines the matter to have been handled according to policy, they may also give direction on amending the policy to be more fair in practice.

Mediation Services

- 5.12. There are other circumstances in which the Debaakinagewin Circle may be able to assist organizations, departments, individuals, or family with resolving conflict.
- 5.13. In consideration of the expertise and comfort of the Circle, they may assist with the following matters:
 - 5.13.1. Family Mediation (with or without Nogdawindamin CFSA)
 - 5.13.2. Healing Circles
 - 5.13.3. Family Relationship Circle
 - 5.13.4. Truancy
 - 5.13.5. Police Relationships

Governance Review

- 5.14. MFN Chief & Council makes governance decisions in the best interests of the community
- 5.15. The Debaakinagewin Circle may receive a request for a Governance Review from a MFN member
 - 5.15.1. The request must be a matter directly pertaining to the members who applies for the review
- 5.16. The time limit to request a Governance Review is two (2) years from the date of the decision.
- 5.17. The Circle will review a Chief & Council motion, directive, Band Council Resolution, or other decision and then make recommendations to C&C with outlined rationale for reconsideration if they believe the Chief & Council decision was unsound
- 5.18. The Debaakinagewin Circle may overturn a decision of Chief & Council only if the decision is in conflict with the Misswezahging Constitution.
- 5.19. The Circle must provide detailed rationale for their decision in relation to the Misswezahging Constitution

6. DEBAAKINAGEWIN POLICY

- 6.1. The Debaakinagewin Policy must be outlined before the Debaakinagewin Circle is authorized to issue decisions.
- 6.2. The Debaakinagewin Policy must be approved by quorum of Debaakinagewin Circle members
- 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.
 - 6.4.1. The Community Resource list will include:
 - 6.4.2. Departments of MFN
 - 6.4.3. Nogdawindamin
 - 6.4.4. Treatment centers
 - 6.4.5. Cultural groups
 - 6.4.6. Traditional counselling
 - 6.4.7. Teachers, warriors, healers and other respected persons
 - 6.4.8. Possible mentors
 - 6.4.9. Traditional lodges in the area
 - 6.4.10. Scheduled cultural events
 - 6.4.11. Opportunities for community service, including elders in need of assistance
- 6.5. Mississauga First Nation administrative departments are expected to assist the Debaakinagewin Circle with receiving referrals for services.

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 appeal decisions will be final and cannot be appealed to Chief & Council.
- 7.3. The Debaakinagewin Circle has the authority to decide on;
 - 7.3.1. Upholding the original Administrative decision based on policy grounds
 - 7.3.2. Rescinding the original decisions and ordering corrective actions by an MFN Administrative department
 - 7.3.3. Overturning section(s) of an Administrative policy on the grounds that it conflicts with the Misswezahging Constitution

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. Chief & Council must rescind a decision if the Debaakinagewin Circle considered the original Chief & Council decisions to be in conflict with the Misswezahging Constitution
- 7.7. Debaakinagewin reviews of Governance decisions will be made public