



TEMPLATE MEMBERSHIP/ CITIZENSHIP CODE FOR FIRST NATIONS GOVERNMENTS

LEGAL AFFAIRS
AND JUSTICE





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Citizen Code Of [Name] First Nation

Preamble

WHEREAS [Name] First Nation has inherent jurisdiction to determine citizenship and other related issues since time immemorial; and

WHEREAS the [Name] First Nation recognize jurisdiction over citizenship is an essential function of First Nation governments; and

WHEREAS citizenship is a core jurisdiction of First Nations, which has been maintained through customary and traditional process and is integral to our distinctive culture; and

WHEREAS the United Nations Declaration on the Rights of Indigenous Peoples affirms that Indigenous individuals have a right to belong to their Nation. By virtue of that right, [Name] First Nations may freely determine the requirements of citizenship in their Nation; and

WHEREAS the determination of Indian status and membership arbitrarily set out in the Indian Act is contrary to the United Nations International Covenant on Civil and Political Rights of which Canada is a signatory to and has been found by the courts in various jurisdictions to be discriminatory; and

THEREFORE BE IT RESOLVED that [Name] First Nation enact this citizenship law to determine our own citizenship in accordance with historical practice and in accordance with our inherent rights, and the rights guaranteed by the United Nations Declaration on the Rights of indigenous Peoples and the United Nations International Covenant on Civil and Political Rights.

Short Title

1. This law may be cited as the “[name] Citizenship Act”.

Part I – Citizens Through Birth Eligibility and Right Citizenship

2. A person is entitled to be a citizen of [Name] First Nation provided that the person:
 - a. as of the date of this Act’s entering into force, is registered as a Band member of [Name] First Nation;
 - b. can trace their descendancy through at least one parent who is a signatory to Treaty No. #; (only for numbered treaty nations)

- c. can trace their descendancy through at least one parent to the original people of an [Name] First Nation;
- d. has at least one parent who is a member currently registered with an [Name] First Nation;
- e. the person can trace their descendancy through at least one parent to a status Indian who is registered or entitled to be registered with an [Name] First Nation; or
- f. the is a descendent of a person who was entitled to become a citizen but for any reason failed to make an application to retain his/her citizenship under the Act or did make such an application that subsequently was not approved due to flawed legislation;

3. No citizen of the Frist Nation who is adopted by a non-member shall, by reason of that adoption, lose any rights to citizenship.
4. There shall be no discrimination of any kind by the registrar or the designated person in charge of registration against an applicant to membership on the basis of gender, religion, physical handicap, political affiliation, or marital status if the applicant meets the condition set out in paragraph 2.

Part II - Grants Of Citizenship Adoptees- Minors

5. On application, the Citizenship Committee shall grant citizenship to a person who, while a minor child, was adopted by a citizen of the First Nation, provided that the adoption:
 - a. was in the best interest of the child;
 - b. created a genuine relationship of parent and child;
 - c. was in accordance with the laws of the place where adoption took place and the laws of the country of residence of the adopting member;
 - d. did not circumvent the legal requirements for international adoptions and was not entered primarily for the purpose of acquiring membership status.
6. Where a minor has been adopted by custom within his extended family, the adopting parents shall assume full legal parental responsibility for the minor, to care for and make decisions on behalf of the minor, as if the adoption had taken place pursuant to provincial legislation.



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7. The following materials are required to support an application for citizenship of an adopted minor, whether through custom or provincial process:
- a. court order where adoption took place under provincial legislation; or
 - b. affidavits by the adopting parents or parent consenting to the custom adoption;
 - (i) affidavits by the birth parents confirming that they consent to a custom adoption;
 - (ii) where the consent of any birth parent cannot be obtained, by reason of death, illness, incapacity, estrangement or other cause, the affidavits of elders shall provide that explanation; and
 - (iii) affidavits by at least two elders confirming that the adoption has taken place by custom and by agreement within the extended family, where applicable.

Adoptees- Adults

8. The Citizenship Committee may, on application, grant citizenship to a person who is over eighteen years of age and who is not a citizen of the First Nation, where adopted by a citizen of the First Nation if the following elements are present:
- a. There is a need for the adoption to take place in the best interests of the person.
 - b. The person's birth parents, if they are alive, consent to the adoption.
 - c. The person's adopting parent's consent to the adoption.
 - d. The person consents to the adoption.
 - e. At least one of the adopting parents is a citizen of the First Nation.
9. The following materials, which shall constitute the adoption record, shall be provided to the Citizenship Committee in support of an application for citizenship of a person over eighteen years old:
- a. affidavits by the birth parents confirming that they consent to the adoption by custom. Where the consent of any birth parent cannot be obtained, by reason of death, illness, incapacity, estrangement or other cause, the affidavits of elders shall provide that explanation;
 - b. affidavits by the adopting parents or parent consenting to the adoption by custom.

- c. affidavits by at least two elders from the First Nation confirming that the adoption has taken place by custom and by agreement;
- d. affidavits by at least two members of the person's extended family setting out the reasons for the adoption; and
- e. evidence that an adoption ceremony for the custom adoption took place in the First Nation at a public occasion at which all citizens of the First Nation were welcome to participate.

Other First Nation Nationals

10. The Citizenship Committee may grant citizenship to a person who is members or eligible for enrollment in another First Nation or Band of North American Indians, subject to the following provisions:
- a. an affidavit setting out the reasons for the application, for example marriage;
 - b. documentation evidencing membership or eligibility of membership in another First nation or Band;
 - c. evidence of social and economic ties to the First Nation, and other relevant considerations; and
 - d. evidence that applicant is of good moral character.
11. The granting of citizenship of members of other tribes shall be done by a majority vote of a quorum of the Citizenship Committee.

Dual Citizenship

12. No person of the age of majority shall be a citizen of [Name] First Nation if the person is enrolled with any other First Nation, Band or other Aboriginal group of Canada, except as provided in article 13 of this section.
13. Minor children's citizenship shall be retained in the First Nation even though the parent may choose to enroll his or her minor child with another federally recognized First Nation or band. Upon reaching the age of 18, the child shall be notified in writing by the Enrollment Department requesting that the First Nation be informed of which band the child wishes to maintain their membership with.



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14. A person who is enrolled with any other First Nation, Band or other Aboriginal group of Canada will be given ninety (90) days' notice to produce evidence that he/she has formally revoked membership, and such revocation has been accepted, by the other group. Where no evidence is provided to confirm that steps have been made to renounce dual citizenship, such person will automatically lose citizenship with [Name] First Nations.

15. A person may be a dual citizen of [Name] First Nation, where they are enrolled in a Tribe located in the United States or America.

Relationship to Entitlement to Registration under the federal Indian Act

16. So long as there continues to be a federal Indian Act, the citizens of _____ First Nation as determined by this law, are to be entitled to registration as "Indians" and "band members" for the purpose of that Act, and negotiations with the Crown on matters relating to funding supports and agreements for _____ First Nation shall be conducted on the basis of the Crown's obligation to accept First Nation's determination of citizenship as the basis for all funding supports and agreements for the First Nation.

Part III – Application Process Application Process

17. All persons not on the citizenship roll of the [Name] First Nation on the date of the coming into force of this Citizenship Code who wish to apply for citizenship shall submit a written application upon such forms as shall be approved by the First Nation from time to time.

18. The Membership Department shall promptly examine the application to determine whether the requisites for citizenship have been sufficiently established.

19. The Membership Department may request additional information or documentation from the applicant, and it may conduct investigations of its own. If the Membership Department is satisfied that the applicant has sustained his burden of proof that he meets the requisites for citizenship, the Registrar shall forward the application to the Citizenship Committee for consideration.

20. If the Membership Department is not satisfied the applicant has not provided a complete application and the application remains deficient for a period of six (6) months, it shall reject the application and shall promptly furnish to the applicant written reasons for the rejection, along with notice of the applicant's right to appeal the rejection to the First Nation membership at the next available public meeting.

Part IV – Membership Department Application Process

21. The Membership Department shall review, research and make written recommendations to the Citizenship Committee on the eligibility of applicants for membership or other enrollment matters.

22. Recommendations made by the Membership Department shall be based on documents provided by the applicant or citizen and such other information as may be obtained through provincial vital statistic records in the normal course of inquiry concerning enrollment matters.

23. The Membership Department shall be responsible for handling all written and oral communications relating to membership matters.

24. Membership Department shall be responsible for the maintenance of all citizenship and membership records.

25. The Membership Department shall provide administrative support and appropriate assistance to the Citizenship Committee in all enrollment matters.

26. The Membership Department shall render a written decision based on all information gained during the course of its investigation in each application for citizenship presented for investigation and review.

27. The Chairperson of the Citizenship Committee or Director of the Membership Department shall be responsible for presentation of all enrollment matters to the Chief and Council for final approval.



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Citizenship Committee

28. The First Nation shall by resolution establish a Citizenship Committee of seven (7) members who will serve for a term of three (3) years.
29. The Citizenship Committee shall have the authority to review all enrollment matters, including, but not limited to, eligibility for membership, dual citizenship and disenrollment, and changes or corrections to records of the First Nation Citizenship records.
30. The Citizenship Committee shall render a written decision based on all information gained during the course of committee investigation in each enrollment matter presented for review.
31. All applications for citizenship which have been reviewed and decided by the Citizenship Committee shall be presented without undue delay to the Chief and Council.
32. The Chair on of the Citizenship Committee or the Director of the Office of Vital Records shall be responsible for presentation of all enrollment matters to the Tribal Council.

Appeal Process

33. Any person who has made an application with the registrar or any person vested with authority to register is entitled to a right of appeal.
34. An appeal to the decision of a Citizenship Committee shall be made before the membership of the First Nation at a duly convened public meeting and subject to a majority vote.
35. Decisions made by the First Nation's citizens at the public meeting are final and no further appeal is allowable.

Part V – Renunciation And Revocation Of Membership Renunciation of Membership

36. A person may, on application, renounce his citizenship with the First Nation.
37. The Membership Department will issue a certificate of renunciation to the applicant and the applicant ceases to be a citizen upon issuance of the certificate.

Revocation of Membership

38. The Citizenship Committee may revoke a person's citizenship or renunciation of the person where there is sufficient proof that the person has obtained or retained his/her status by fraud or by false misrepresentation or by knowingly concealing material circumstances or facts.
39. The Citizenship Committee shall provide its decision to the person in writing.