

THE SERPENT RIVER FIRST NATION

Updated April 16, 2019

CITIZENSHIP/MEMBERSHIP CODE - PROPOSED AMENDMENTS

PART 1

Definitions

- Definitions
1. In this code,
- "band" (a) "community" means the Serpent River First Nation;
- "Chief and Council" (b) "Chief and Council" means the duly elected Chief and Councillors of the Serpent River First Nation;
- "Child" (c) "child" means a person under the age of 18 years of age, including a child adopted in accordance with the custom of the Serpent River First Nation or other applicable laws;
- "code" (d) "code" means the **Citizenship/Membership Code of rules of band citizenship/membership and any amendments hereto**;
- (e) **"conflict of interest" means no employee, council, or committee member shall advance or protect their own interest or the interest of an immediate family member in such a way that it is perceived to be at the detriment of the interest of Serpent River First Nation as per section 8.1 Conflict of Interest Definitions of the Governance Manual..**
- Definition- immediate family member: Spouse or common-law spouse, father, mother, father-in-law and mother-in-law, children, or children of spouse or common-law spouse, brother, sister, brother-in-law, sister-in-law, grandparents and spouse's grandparents, grandchildren and spouse's grandchildren, and any relative permanently residing with the individual applying for membership.**
- "general membership" (f) "general citizenship/membership means the citizens of the Serpent River First Nation;
- "Indian Act" (g) "Indian Act" means the *Indian Act*, R.S.C. 1985, c. 1-5, as amended from time to time;
- "reserve" (h) "reserve" means those lands set aside for the use and benefit of the **Serpent River First Nation**;
- "Serpent River First Nation" (i) "Serpent River First Nation" means the Serpent River Band of Ojibwe, an Indian Band pursuant to the *Indian Act*;
- "sponsor" (j) "sponsor" means a **band** citizen/member of the Serpent River First Nation, at least eighteen years of age, who is ordinarily resident on the Serpent River First Nation;
- "spouse" (k) "spouse" means either a **person who is married**, or who has lived together in a permanent conjugal relationship outside of marriage for a period in excess of **three** years.

“transfer”

(l) **“transfer” means to reassign one’s bandFirst Nation citizenship/membership from one registered bandFirst Nation to another registered bandFirst Nation; the transferring member must resign their membership in the former bandFirst Nation and the new bandFirst Nation must accept their membership transfer through a Band Council Resolution.**

“citizen/member”

(m) **“citizen/member” means a person listed on the citizenship/membership register of the Serpent River First Nation.**

PART 2

Administration

Duties of Chief and Council

2. This code shall be administered by the Chief and Council of the Serpent River First Nation.

Delegation

3. None of the powers of decision ascribed in this code to Chief and Council or to the general citizenship/membership may be delegated to any other person or body.

Membership Records

4. The Chief and Council shall maintain the following citizenship/membership records:

Citizenship/Membership Registration Register

(a) A Citizenship/Membership Registration Register, which shall contain the name, sex, date of birth, and date of admission to citizenship, and/or date of loss of citizenship for all members of the Serpent River First Nation.

Applications

(b) All applications for citizenship/membership will be kept on file in the citizenship/membership office.

(c) All applications shall be kept in a secure filing cabinet and kept locked for confidentiality of the applications and to protect the privacy of the individuals, as per the Privacy Act and the Personal Information Protection and Electronic Documents Act (PIPEDA).

(d) Only the Membership Administrator will have access to the membership files and the membership applications will be shown to the membership committee for review of the application and then returned to the membership administrator.

Record of Transfer

(e) A Record of Transfer shall be recorded in the file of any person who has transferred citizenship/membership in/out of the Serpent River First Nation.

Appointment of Officials

5. The Chief and Council may appoint officials to advise and assist in the administration of this code and the maintenance of citizenship records, including:

Citizenship/Membership
Registration Administrator
Aka by ISC as "Indian"
Registry Administrator

(a) A **Citizenship/Membership** Registration Administrator, and

Citizenship Elections
Committee

(b) a Membership Committee of not less than three (3) persons,

If none appointed

However, if there is no appointment, or in the event of vacancies, the duties of the Registrar or the Membership Committee, as set out in this Code, shall be performed by the Serpent River First Nation Chief and Council.

PART 3
Citizenship/Membership Rules

6. The following persons are **citizens**/members of the Serpent River First Nation:

Members of the Band on
the Band List prior to
Code

(a) Any person entitled to have his or her name entered in the Band List maintained for the Serpent River First Nation under the *Indian Act* on the day immediately before this code came into force, or before June 9, 1987; and

New Members by birth

(b) Any person registered as an **Indian**; born after this code comes into effect, both of whose parents are, or, if no longer living, at the time of death were entitled to membership/**citizenship** in the Serpent River First Nation; and

Members by application

(c) Any person whose application for **citizenship**/membership has been approved.

PART 4
Membership/Citizenship by Application

Who may apply

7. Any person

Indian Status

(a) Who is registered as an "Indian" pursuant to the Indian Act; **and**

Grand parents

(b) Whose natural grandparents include at **least one person** who is or, if no longer living, was or is deemed to have been entitled to be registered as Indian, under s. 6 (1) of the *Indian Act*, **or was deemed to have been entitled to be registered under the Serpent River First Nation Membership Code; and**

Cultural connection

(c) Who is culturally connected with Serpent River First Nation **through a band citizen/member of the Serpent River First Nation, at least eighteen years of age; or**

Registered First Nation
Anishinabek

(d) **Is a member/citizen of another First Nation, and wishes to transfer;**

Sponsorship

may apply, under the sponsorship of a **resident bandFirst Nation citizen/member** of the **Serpent River First Nation** for bandFirst Nation - **citizenship/membership** by application.

- Procedures 8. The following procedures and prescribed times shall apply to the consideration of applications for **citizenship/membership**:
- Form and completeness (a) Within **sixty** days of receipt of an application for **citizenship/membership**, the Membership Committee shall review the application form for completeness and, where in the opinion of the committee the application cannot be adequately assessed without amendment or the inclusion of further information or documentation, the committee shall advise the applicant thereof; and afford the applicant an opportunity to withdraw the application, to amend the application, or to let it stand;
- Transmission to Chief and Council (b) Within **ninety** days of receipt of an application, the Membership Committee shall **forward** the application to Chief and Council with the Committee's input and a recommendation for acceptance, rejection, or rejection for further substantiation;
- Consideration by Chief and Council (c) Chief and Council shall **review and decide on the application for citizenship/membership at least two** times per year;
- Approval of application for membership (d) An application for Citizenship, **other than transfer, or BandFirst Nation/Custom Adoption**, shall be approved if supported by at least three-quarters of the votes cast by Chief and Councillors present at the meeting at which the application is considered;
- Notice of Decision (e) Chief and Council shall notify the applicant of its decision in writing within thirty days of the meeting at which the application is considered;
- Notice of rejection (f) Where an application is rejected, or rejected for further substantiation, the notice provided to the applicant by Chief and Council shall include a statement of the reasons the application was rejected.

PART 5

- Cultural connection with the Band 9. In deciding an application for citizenship, and in determining whether an applicant is culturally connected with the Serpent River First Nation, Chief and Council shall take into account factors which they consider to be relevant, which may include:
 - Length of time of resident (a) The length of time the applicant has been a resident in the Serpent River First Nation community;
 - Knowledge of culture (b) The applicant's knowledge of the language and cultural traditions of the Serpent River First Nation **community**;
 - Affiliation (c) The applicant's affiliation by blood or marriage to **citizens/members** of the Serpent River First Nation **community**;
 - Involvement Community in (d) The degree of the applicant's involvement in the culture and affairs of the Serpent River First Nation **community**;
 - Other factors (e) The health, safety, welfare, good order and advancement of the Serpent River First Nation **community**.

Sponsor may be required to appear before Committee

10.. The **Citizenship/Membership Committee** *and/or* Chief and Council, may require **an applicant, or an applicant's guardian**, and an applicant's sponsor to appear before **them**, or be available **by teleconference or video conference**, on 10 days' notice, to speak to the applicant or to respond to any questions concerning the application.

(a) Where the applicant, or applicant's guardian, and the sponsor fails to appear at the appointment date and time, and this default is not later **rectified**, Chief and Council may reject the application.

PART 6

Citizenship by Transfer of Band?First Nation Membership/Citizenship or Citizenship by First NationBand/Custom Adoption

Petition for Transfer of bandFirst Nation membership/citizenship from another band

11. **Any registered status person** or member of another First Nation community, who is culturally connected with the Serpent River First Nation may submit **an application**, under the sponsorship of a resident **First Nationband** citizen/member for citizenship/membership by **BandFirst Nation transfer or citizenship by custom/bandFirst Nation adoption**. **The applicant will be responsible for all expenses related to the application for transfer or First Nationband adoption.**

Procedure for Transfer of bandFirst Nation membership / citizenship from another bandFirst Nation

12. **An application** for transfer of **First NationBand citizenship/membership** from another **First NationBand** or **an application for custom/bandFirst Nation adoption** shall be decided by the general membership of the Serpent River First Nation in accordance with the following procedures and prescribed times:

Review process

(a) Within **ninety** days of receipt, the **Citizenship/Membership Committee** shall forward the **application** to the Chief and Council together with any information, recommendations or comments which the Committee wishes to place before the general membership in respect of the **application for Citizenship,**

General Membership vote

(b) Within one hundred twenty days of receipt, Chief and Council shall convene a meeting of the general membership of the Serpent River First Nation to decide the **application for Citizenship/Membership.**

Sponsor must be present

(c) **An application for transfer of BandFirst Nation Citizenship/Membership or BandFirst Nation Adoption** shall not be submitted to a vote, if the applicant's sponsor is not present at the general membership meeting convened to consider the **application.**

Sponsor must respond

(d) Any citizen of the Serpent River First Nation present at the general membership meeting may require **the applicants'** sponsor to speak to the **application**, or to respond to questions in relation to the **application for Citizenship/Membership.** The chair of the meeting shall have absolute discretion to disallow any question.

Approval by Majority vote

13. **An application for citizenship/membership shall be approved if, at the duly convened general citizenship/membership meeting to consider the application,**

Electorate

(a) **All eligible voters of Serpent River First Nationthe band will be provided with information related to the application of transfer of**

BandFirst Nation Membership / Citizenship or First NationBand/Custom Adoption; and

Majority of votes in favour

- (b) a majority of the electors who cast votes at the general citizenship/membership meeting are in favour of granting citizenship/membership to the applicant.

PART 7

Applications: Form and Content

"Application" defined

- 14. **For the purposes of this part, "application" shall include an application for citizenship/membership.**

Form and Content

- 15. Applications shall be in the form prescribed from time to time by the Citizenship / Membership Committee, and;

To be in writing

- (a) shall be in writing, signed by the applicant or, in the case of a dependant, by the legal guardian, and;

Sponsor must be resident

- (b) shall be signed by a sponsoring BandFirst Nation Citizen/Member who is ordinarily a resident on the Serpent River First Nation, and who is able to explain and support the applicant's claims to a cultural connection with the Serpent River First Nation;

Personal references

- (c) shall include signed letters from at least two Serpent River First Nation citizens/members who are not in a "conflict of interest" with the applicant, in addition to the applicant's sponsor, who have agreed to act as references as to the applicant's personal character and any person entitled to live with the applicant. Each reference letter must contain the name, address, email address, and telephone number of the writer.

Particulars

- (d) shall set out in concise outline/detail the basis upon which the application is made, and

Submitted to Chief and Council

- (e) Shall be submitted to the Chief and Council and the Citizenship/Membership Committee of the Serpent River First Nation.

Members of Other First Nation Anishinabek Bands

- 16. **An application by a person who is a member/citizen of another First Nation other than the Serpent River First Nation shall not be considered unless the applicant provides a Statement of Consent to renounce or resign membership/citizenship from the releasing First NationBand. An application becomes effective upon the official recognition of registration of the transfer or First Nation Band/Custom Adoption by Indigenous Services Canada, or the acceptance of the First Nation Band Custom Adoption by the First NationBand.**

PART 8

Time Limit

One year limit to decide applications and petitions

- 17. **Applications for *citizenship*/membership and petitions for *First Nation Band Adoption*, other than applications or petitions under appeal, shall be decided within one year of receipt by Chief and Council, and an application or petition which is not decided within the prescribed time shall be deemed rejected and the applicant or petitioner shall have a right to appeal in accordance with this code.**

PART 9

Appeals

Right to appeal to general membership

- 18. A person
 - (a) Whose claim to be included in the *citizenship*/membership of Serpent River First Nation by right is refused or rejected by the Registrar of INAC or Chief and Council, or
 - (b) Whose application for *citizenship* is rejected by the Chief and Council.
 - ~~(c) Whose claim or application is affected by a decision of the Chief and Council concerning another person,~~

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*May appeal the refusal, rejection, or revocation by notice in writing delivered to the Chief and Council and the *Citizenship* / Membership Committee within sixty days after the application is refused, rejected, or the decision is rendered.*

Special general membership Meeting

- 19. Within **one hundred and twenty days** of the receipt of a notice of appeal, the Chief and Council shall **give notice of, call and hold a** special meeting of the general *citizenship* meeting at which the appeal shall be considered.

Persons who may address meeting

- 20. **The person bringing the appeal, his or her sponsor, any persons affected by the refusal, rejection, revocation, or decision, and any *citizen*/member of the Band present, may address the general *citizenship* meeting.**

Deciding appeal

- 21. Appeals shall be decided by a majority of the votes cast by the *citizens*/ members of the Serpent River First Nation over the age of eighteen years present at a general *citizenship*/ membership meeting convened to consider the matter. An appeal shall be deemed dismissed unless:
 - (a) a majority of the votes cast at a duly convened general membership/ *citizenship* meeting vote in favour of allowing the appeal, and
 - (b) a majority of the votes cast are in favour of granting membership to the applicant.

PART 10

Protests

- Protest Procedure 22. A **citizen** of the Band may protest the inclusion, addition, or deletion of the name of any other person from the **Citizenship** Register, other than as an outcome of an appeal to the general **citizenship** specifically in relation to the name of that person, **within six** years of the inclusion, addition or deletion, by notice in writing delivered to the Chief and Council containing a brief statement of the grounds of the protest, and such protest shall be deemed to an appeal for the purposes of this code.

PART 11

Renunciation of Membership/Citizenship

- Renunciation of Membership 23. A **citizen** of the Serpent River First Nation eighteen years of age or older may renounce his or her **citizenship/membership** by submitting a written statement to the Chief and Council requesting that his or her name be removed from the **Citizenship/ Membership Register and pay any applicable fees.**

- ~~Renunciation In Case of Dependents~~ 24. ~~A person who has lawful custody of a dependent child and who renounces or has renounced **citizenship** may submit a renunciation statement on behalf of the child accompanied by the consent in writing of:~~
 - ~~(a) Any other person who has custody of the child, and;~~
 - ~~(b) Where the child is twelve years of age or older.~~

- Property Entitlement 25. Renunciation of **citizenship/membership** shall not entitle a person to make any claim to any property of the Serpent River First Nation.

- Reversion of Renunciation 26. A former member/ **citizen** may revoke his or her renunciation of **citizenship** by notice in writing delivered to the Chief and Council, and upon delivery of the notice where

(a) the person’s classification , in accordance to the Indian Act, was immediately prior to the revoked renunciation;

- (i) was entitled to membership/ **citizenship** by birth, or
- (ii) entitled to have his or her name entered in the Band List maintained for the Serpent River First Nation Band on the day immediately before this membership/ **citizenship** code, or any previous version of this code came into force,

The name of that person shall be entered in the Membership/ **Citizenship Register** forthwith; and where

(b) that person acquired the renounced right of membership/ **citizenship** by application or by petition, he or she shall be eligible to make a new application or petition.

PART

Effective Date

Effective Date

27. This code shall have effect from the day on which the Chief and Council give notice to the Minister of Indian Affairs pursuant to subsection 10(6) of the Indian Act that the Serpent River First Nation is assuming control of its own membership/**citizenship** and provide the Minister with a copy of the Code.

PART

Amendment

Method of Amendment

28. This code may be amended by a resolution of the members/**citizens** of the Serpent River First Nation at the full age of eighteen years, provided that no such resolution shall be deemed adopted unless:
- (a) a majority of the votes cast at a duly convened general **citizenship membership** meeting are in favour of the resolution.