
MEMBERSHIP CODE

WHEREAS the Chief and Council of the Kapawe’no First Nation have determined that it is desirable and necessary for the fair and equal treatment and consideration of all Nation members to establish a code to regulate the process for membership of the Kapawe’no First Nation.

AND WHEREAS the Kapawe’no First Nation has the inherent Aboriginal rights, treaty rights and authority to govern relations among its members and between the First Nation and other governments.

AND WHEREAS the peoples of our Nation have approved by vote the adoption of the Kapawe’no First Nation Membership Code as outlined herein.

AND HAVING by the consent of the peoples of our Nation confirmed that this written code represents the accepted process to be followed for determining membership in our Nation.

AND THEREFORE the Chief and Council of the Kapawe’no First Nation at a duly convened meeting of the Chief and Council hereby enact the following code to regulate the process for membership of the Kapawe’no First Nation.

SHORT TITLE

- 1) This code may be cited as the “Kapawe’no First Nation Membership Code”.

INTERPRETATION

- 2) This Code shall be:
 - i) Interpreted in accordance with the values, traditions, customs and laws of the Nation; and
 - ii) Interpreted and applied to protect and preserve the cultural integrity, social unity, and historical traditions of the Nation; and
 - iii) Interpreted consistent with the spirit and intent of all Treaty 8 and Aboriginal rights of the Nation.
- 3) Every section of this Code is severable and in the event any part is declared void, the remainder continues to be valid and in full force and effect.



- 4) In this Code:
- a) “Act” means the Indian Act being chapter I-6 of the Revised Statutes of Canada 1970, as amended;
 - b) “Nation List” means the list of Members of the Nation as maintained by the Department pursuant to section 9 of the Indian Act.
 - c) “Department” means the Department of Indian and Northern Affairs of the Government of Canada;
 - d) “Elector” means a Member who is eligible to vote in elections of Chief and Council under the Tribal Election Regulation Code of the Tribe;
 - e) “Indian” means a person
 - i) Whose name appears on the Indian Register as defined in the Indian Act, or
 - ii) Who, by the tribal law, custom and tradition adopted by the Tribal Council, is recognized as a descendent of a signatory or at treaty with Her Majesty the Queen or a treaty with the Government of Canada;
 - f) “Member” means a person whose name is entered on the Treaty 8 and Aboriginal Rights List maintained by the Nation;
 - g) “Treaty 8 and Aboriginal Rights List” means the list of members maintained by the Nation;
 - h) “Resident” means a person who has permission to reside on a Reserve pursuant to the Residency By-Law of the Kapawe’no First Nation;
 - i) “Reserve” means the Kapawe’no First Nation Reserve;
 - j) “Kapawe’no Council” means the Chief and Council of the Kapawe’no First Nation;
 - k) “Nation” means the Kapawe’no First Nation;
 - l) “Membership List” means the list of Members of the Nation as maintained by the Kapawe’no First Nation.



MEMBERS

- 5) A person's name shall be entered on the Membership List if
- a) His/her name appeared or was entitled to appear on the Nation List immediately prior to April 17, 1985;
 - b) He/she has been admitted as a Member by a motion of the Chief and Council in accordance with this Code; or
 - c) He/she is entitled pursuant to section 11(1)(c) of the Indian Act to have his/her name entered on the Nation List and he/she has submitted an application for membership to Council together with satisfactory evidence that
 - (i) His/her name was removed from the Indian Registry and Nation List for reasons set out in paragraph 6(1)(c)
 - (ii) His/her name has been re-entered on the Indian Registry maintained by the Department of Indian Affairs.
 - d) He/she is entitled pursuant to section 11(1)(d) of the Indian Act to have his/her name entered on the Nation List and he/she has submitted an application for membership to Council together with satisfactory evidence that:
 - (i) Both parents, if alive, are entitled to have their names appear on the Nation List or if either or both parents are dead that they were entitled at the date of death to have their names appear on the Nation List
 - (ii) His/her name has been re-entered on the Indian Registry maintained by the Department of Indian Affairs.
 - e) His/her name appeared or was entitled to appear on the Nation List pursuant to Section 11(2) of the Indian Act and he/she has submitted an application for membership to Council together with satisfactory evidence that:
 - (i) He/she is entitled to be registered under paragraph 6(1)(d) or (e) of the Indian Act and ceased to be a member of the Nation by reason of circumstances set out in that paragraph; or
 - (ii) He/she is entitled to be registered under paragraph 6(1)(f) or subsection 6(2) of the Indian Act and a parent referred to in that provision is entitled to have his/her name entered in the Nation List or, if no longer living, was at the time of death entitled to have his/her name entered on the Nation List.



APPLICATION CRITERIA

- 6) On the effective date of this Code, a person may apply to Kapawe'no First Nation only if:
- (a) He/she is an Indian
 - (b) The applicant is eligible for membership;
 - (c) The applicant or one of his/her parents or guardians speaks Cree;
 - (d) His/her membership has been not revoked in accordance with the revocation provisions of this Code; or
 - (e) As a former member did not voluntarily enfranchise prior to April 17, 1985.
 - (f) The applicant, if an adult, is familiar with the customs, traditions, values and government of the Nation and is of good character;
 - (g) The applicant has been resident on Kapawe'no First Nation Reserve for a period of two years;
 - (h) The applicant has made a written commitment to obey the laws of the Kapawe'no First Nation and to maintain the peace, order and harmony of the Nation; and
 - (i) Approval of the application is in the best interests of the Nation and in accordance with the values, customs and traditions of the Nation; and
 - (j) The applicant has agreed to revoke his/her membership, if any, in any other Nation; and
 - (k) The person has not been convicted of an indictable offence that involved property or persons.
 - (l) He/she is a child of parents that are members of Kapawe'no First Nation

ADMINISTRATION

- 7) (1) The Council shall appoint a Membership Clerk to assist in the administration of membership matters and shall determine the terms of employment and remuneration of the Membership Clerk.



- (2) The Membership Clerk shall be responsible for
 - a) Maintaining the Membership List;
 - b) Receiving applications for membership;
 - c) Obtaining necessary documentation and other requirements to establish eligibility;
 - d) Notifying the Council in writing as to the eligibility of the applicant;
 - e) Notifying the Council of any changes to the Membership List;
 - f) Entering names of the Membership List as directed; and
 - g) Other duties as assigned from time to time by the Chief and Council.
- (3) The Membership Clerk shall have the powers of a Justice of the Peace and be bondable.

APPLICATIONS AND REVIEW

- 8) (1). All applications for membership shall be submitted to the Membership Clerk in writing in a form approved by the Chief and Council and shall be accompanied by any documentation or evidence required to establish the eligibility of the applicant.
- (2). When the Membership Clerk is satisfied that
 - (a) The application has been a properly completed and documented, and
 - (b) Either the applicant is eligible for membership or the issue of eligibility should be determined by the Council,

The Membership Clerk shall provide the Chief and Council with written notice of the application and post a notice of the application in the administrative offices of the Nation.

- (3). The Membership Clerk may refer the application to Chief and Council for review and decision. Chief and Council shall meet, review and make a decision on an application within 30 days of the date the application was received and verified under section 8(2)(a) of this code by the Membership Clerk.
- (4). In reviewing the application the Chief and Council may make any reasonable inquiries they deem appropriate to assist in formulating advice with respect to the application.



- (5). If the Council is of the opinion that it would be useful, the inquiries may include interviews with the applicants and other persons.
- (6). In their deliberations and inquiries the Council members are not bound by any formalities of law but they must conduct their review in a manner that is consistent with tribal customs, traditions and values.
- (7). The decision of Chief and Council shall be documented and entered into record.
- (8). At least 14 days prior to the hearing the Membership Clerk shall post in the administrative offices of the Reserves, and serve on the applicant, a written notice specifying the date, time and place of the meeting to review the application and inform the applicant and interested parties they have a right to appear at the meeting and be heard.
- (9). The Council shall conduct the application review meeting informally and shall not be bound by any formal rules of evidence.
- (10). At the application review meeting, the Council:
 - (a) May consider the advice, if any, provided by Elders;
 - (b) Shall provide the applicant or his/her sponsor with an opportunity to present his/her case in support of his/her applications; and
 - (c) Shall provide any other reason, which is present and has a legitimate interest in the application, an opportunity to be heard.
- (11). Once it has heard the evidence the Council may meet in private to make a decision on the application.
- (12). The Council shall not approve an applicant for membership unless it is satisfied that;
 - a) The applicant is eligible for membership;
 - b) The applicant or one of his/her parents or guardians speaks Cree;
 - c) The applicant, if an adult, is familiar with the customs, traditions, values and government of the Nation and is of good character;
 - d) The applicant has been resident on Kapawe'no First Nation Reserve for a period of two years;



- e) The applicant has made a written commitment to obey the laws of the Kapawe'no First Nation and to maintain the peace, order and harmony of the Nation; and
 - f) Approval of the application is in the best interests of the Nation and in accordance with the values, customs and traditions of the Nation; and
 - g) The applicant has agreed to revoke his/her membership, if any, in any other Nation; and
 - h) The person has not been convicted of an indictable offence that involved property or persons.
 - i) Provide on request a copy of his/her genealogical study, substantiating his/her ancestry lineage to Kapawe'no First Nation.
- (13). Within 10 days of the application review meeting, the Council shall, by resolution, grant or deny membership to the applicant, and shall provide written reasons for its decision.
 - (14). Within 5 days of the Council's decision, the Membership Clerk shall post a copy of the resolution and reasons in the administrative offices of the Nations and shall mail a certified copy of the resolution and reasons to the applicant.
 - (15). If no appeal is filed within thirty days of the posting of the decision, the Membership Clerk shall enter the applicant's name on the Treaty 8 and Aboriginal Rights List.

APPEALS

- 9)
 - (1) Within thirty days of the posting of the decision of the Chief and Council the applicant or any Member may appeal the decision to the Chief and Council by filing a Notice of Appeal with the Membership Clerk.
 - (2). The Notice of Appeal shall state the grounds of the appeal and the interests of the party making the appeal.
 - (3). Within sixty days of the filing of the Notice of Appeal, the Chief and Council shall conduct a hearing on the appeal. The hearing shall be conducted in a similar manner as the Chief and Council review under section 8 of this code.
 - (4). At least 14 days prior to the hearing the Membership Clerk shall post in the administrative offices of the Reserves, and serve on the applicant, a written notice specifying the date, time and place of the hearing and informing the applicant and interested parties that they have a right to appear at the hearing and be heard.



- (5). At the appeal hearing the Chief and Council
 - (a) Shall provide the applicant or his/her sponsor with an opportunity to present his/her case in support of the application; and
 - (b) Shall provide any other person, who is present and has a legitimate interest in the application, an opportunity to be heard.
- (6). Once it has heard all the evidence the Chief and Council may meet in private to make a decision on the application.
- (7). In making its decision on the appeal, the Chief and Council shall be guided by the considerations provided in section 8(12) of this Code.
- (8). Within thirty days of hearing the appeal, the Chief and Council shall pass a resolution granting or denying membership to the applicant who is the subject of the appeal.
- (9). The Membership Clerk shall immediately mail the applicant a certified copy of the decision, post the decision on the Reserves, and, if membership is granted, enter the applicant's name on the Membership List.
- (10). The decision of the Chief and Council is final and binding and not subject to any prerogative writ or any appeal to any Court of Canada.

REAPPLICATION

- 10) (1). A person who has been denied membership may reapply two years after the date of his/her first unsuccessful application.
- (2). A person who has been denied membership more than once may reapply five years after the date of his/her last unsuccessful application.

VOLUNTARY WITHDRAWAL FROM MEMBERSHIP

- 11) (1). A member who is at least twenty-one years old may request, in writing to the Membership Clerk, that the Chief and Council remove his/her name from the Membership List.
- (2). Within thirty days of receiving the request, the Chief and Council shall review the request and by motion of the Chief and Council may direct the Membership Clerk remove that person's name from the Membership List.



- (3). Notwithstanding any other provisions of this Code, a person who has voluntarily removed his/her name from the Membership List in accordance with this section is not eligible for reinstatement.

REVOCATION OF MEMBERSHIP IN THE NATION

- 12) A person's membership may be revoked if
- a. The person has been convicted of an indictable offence that involved property or persons; or
 - b. The person became eligible to be a Member by virtue of marrying a Member but has subsequently divorced or lived separate and apart from the Member for a period of one year or more; or
 - c. The person, in the judgment of Chief and Council does not have a significant commitment to the history, customs, traditions, culture and communal life of the Nation; or
 - d. The person has a character or lifestyle that would cause his/her continued Membership in the Nation to be seriously detrimental to the future welfare or advancement of the Nation.
- 13) (1). On receiving notice that there may be grounds for revoking a membership, the Chief and Council may by motion
- (a) Establish a Revocation Committee consisting of a representative Elder from each clan and Members of the Chief and Council; and
 - (b) Direct the Committee to convene a Revocation Hearing to determine whether the membership of the offending member shall be revoked.
- (2). The Revocation Committee shall determine whether or not his/her membership should be revoked, and in doing so it shall be governed by the same rules as to notice and procedure as this Code provides in section 10(2) through 10(5) to govern a hearing of a membership application.
- (3). Within five days of the Committee determining the matter, the Membership Clerk shall post the decision and reasons of the Committee and mail a copy of the decision to the Member.
- (4). If the Committee decides that his/her membership should be revoked, and no notice of appeal of the decision has been filed with the Membership Clerk within thirty days of the decision being posted, the Membership Clerk shall remove the Member's name from the Membership List.



- (5). Within thirty days of the posting of the decision, the person whose membership is to be revoked may appeal the decision to the Chief and Council by filing a Notice of Appeal with the Membership Clerk stating the grounds of the Appeal.
- (6). Appeals of revocation decisions shall be governed by the same rules of procedure as are provided in section 11 of this Code for appeals of membership application decisions.
- (7). The decision of the Chief and Council on revocation of membership is final and binding and not subject to any prerogative writ or to appeal to any Court in Canada.

GENERAL MATTERS

- 15) Where this Code requires that an individual must receive written notice, the condition is met if a reasonable effort is made to contact the individual and provide him with the required notice.
- 16) Words in this Code that would normally imply a particular gender should be interpreted to include both the male and female gender, as the context requires.
- 17) This Code is effective on the day the Chief and Council determines by resolution that the electors have consented to its adoption as the written statement of the Nation's Membership Rules.

THIS CODE IS HEREBY ENACTED at a duly convened meeting of the Chief and Council of the Kapawe'no First Nation this ____ day of _____, 2003.

Chief Frank T. Halcrow

Witness

Councillor Sydney Lee Halcrow

Witness

Councillor Peter H. Chalifoux

Witness

