



# FORT WILLIAM FIRST NATION *CITIZENSHIP CODE* *Renewal, Resurgence, Re-Membering*



DRAFT FOR COMMUNITY COMMENT



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Draft saved: Tuesday, April 7, 2015

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# Foreword

How we think about band membership at Fort William First Nation is changing.

For decades, membership here has been determined by whether a person has enough “Indian blood” to be considered an “Indian” under Canada’s *Indian Act*. The problem with this approach, however, is that the *Act* is designed to get rid of Indians over time; it hijacks family-making practices so that our “Indian blood” is diluted over generations as we marry and parent with people who do not have “status.” As Anishinaabeg, we fall in love with whom we will; some of those we love are status Indians, others are non-status Indians, and others still are not Indigenous at all. But the *Indian Act* penalizes our love: Anishinaabeg are being forced to choose between love and Treaty rights, because depending on who we parent with, our children are at risk of being denied the benefits of the Robinson-Superior Treaty. This is a racist approach to determining belonging – Indigenous peoples are the only peoples in Canada forced to decide between their rights and their family

Today, we have the intellectual resources to free ourselves from such an oppressive approach to discerning our membership. The Fort William First Nation Governance Committee has worked for three years to re-consider the issue of band membership in ways that promote justice, decolonization and the resurgence of Anishinaabeg citizenship laws. And we have come to two major conclusions. First, we have found that if First Nations communities within Robinson-Superior Treaty Territory continue to discern band membership according to blood quantum traced along the male’s line, we will be nearly extinct in law within the next four generations. This extinction must be avoided if we are to renew our nation seven generations into the future. Second, we have concluded that to promote *mino-bimaadiziwin*, we need to ensure that every individual who rightfully belongs with our community has the opportunity to do so officially. As of today, it is possible that individuals may rightfully belong with our community according to Anishinaabeg law, but nonetheless be excluded from fully participating in our community life due to a foreign law: the *Indian Act*. This possibility must be destroyed if we are to determine belonging in a just way.

To this end, the Committee looked to the *Final Report of the Royal Commission on Aboriginal Peoples* for ideas on how decisions about belonging can be informed by our self-determination. The *Royal Commission* noted that “[f]or purposes of self-determination, Aboriginal peoples should be seen as organic political and cultural entities, not groups of individuals united by racial characteristics.”<sup>1</sup> In deepening this, the Royal Commission noted that individuals should be considered eligible for citizenship within Indigenous nations on the basis of:

- community acceptance,
- marriage to a citizen,
- cultural or linguistic affiliation
- birthplace,
- adoption,
- self-identification,
- parentage or ancestry,
- residence.<sup>2</sup>

These criteria are more reflective of Indigenous citizenship systems, and provide us with a framework to think about what our band membership could look like if we were to remove the *Indian Act* from our thinking when discerning who belongs with our community.

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<sup>1</sup> See: <http://goo.gl/EWU9ZD>

<sup>2</sup> See: <http://goo.gl/0gAQEb>

The draft Citizenship Code before you now re-imagines band membership based in ways that centre our community and Anishinaabeg law. It represents not only the Governance Committee's conclusions drawn from our research and training over the past three years, but also the thoughts and ideas shared with us by those who belong with Fort William First Nation. In addition to conducting research on the *Indian Act*, blood quantum, decolonization and Anishinaabeg citizenship laws, the Committee also engaged our community through Focus Groups and community information sessions. There, we heard from a number of people about what belonging means to them. Based on what we learned, we have decided to speak about band membership in terms of "citizenship," because citizenship is about giving back to your community as much as taking from it. Band membership, on the other hand, is similar to being a member of a "club," where you expect to receive things with little reciprocity. We are not members of a club; we are citizens of the Anishinaabeg nation.

This draft Citizenship Code therefore represents the opening of the next phase of establishing a just law governing who belongs with Fort William First Nation. As a draft, however, it is not complete; it is being disseminated to our community for comment. In the coming months, we will be inviting you to share your feedback on the ideas presented below. In particular, we will be seeking input from off-reserve citizens, as well as those living within Fort William First Nation.

In closing, I would like to thank the members of the Fort William First Nation Governance Committee, and those community members who have participated in this process to date. I would also like to thank Melody McKiver for her comments on earlier drafts of this document. With the continued input and leadership of our people, we can produce in the next phase of development a Citizenship Code that truly reflects an Anishinaabeg approach to discerning who belongs with our community.

Baamaa pii,



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## *1. Preamble*

Our sacred mountain, Anemki Wadjiw, is the basis of our citizenship.

Our citizenship and belonging is not a matter of simply discerning who has rights to resources controlled by Canada; rather, our citizenship is a matter of how we belong together with each other, with the land, and with the Creator.

Our citizenship thus goes beyond merely the human; it is determined by the relationship we hold with the land, animal and plant nations and all of Creation.

Citizenship at Fort William First Nation is therefore determined through more than just blood quantum and Indian status: it is a matter of how we carry ourselves in relation to the land and each other, and is both symbolically and literally manifest in the health of our relationship with the land, and our culture.

Our mountain is the basis of our citizenship; all who rightfully belong with Anemki Wadjiw have a right to be a citizen of the Anishinaabeg nation at Fort William First Nation.

## *Definitions*

### *2. In this Code,*

- a) “Aadizookaan” and “Aadizookaanag” mean sacred Anishinaabeg story or stories.
- b) “Adoption” and “adopted” means a child cared for on a permanent basis by parents other than her or his own, as taking place through provincial adoption laws or Anishinaabe custom adoption practices.
- c) “Ancestry” means one’s biological and/or ethnic background.
- d) “Band” means the Fort William First Nation unless otherwise stipulated.
- e) “Band Council” and “Council” mean the Chief and Council of the Fort William First Nation Band as established by the Indian Act.
- f) “Child” means a person under the age of eighteen years, and includes both natural and adopted children.
- g) “Citizen” means a citizen of the Fort William First Nation Band, and includes people who are entitled to be registered as citizens of the Band, whether they have been registered or not.
- h) “Commission” means the Citizenship Commission appointed by the Fort William First Nation Band Council in accordance with this Code (see s.13-16).
- i) “Descendancy” means one’s connection to family, and is found through birth and adoption.

- j) "Marriage" means a union of two consenting adults, whether recognized through provincial law, Anishinaabe customary law, or common law, and includes same-sex as well as opposite-sex unions.
- k) "Mino-bimaadiziwin" refers to living the good life achieved through finding balance in our decisions regarding citizenship in that all who rightfully belong with the Anishinaabeg nation at Fort William First Nation may participate in the continuous renewal of the Anishinaabeg nation.
- l) "Citizenship Clerk" means a person employed by the Fort William First Nation Band charged with administering this Citizenship Code.
- m) "Reserve" means the Fort William First Nation land base.
- n) "Seven Grandmother/Grandfather teachings" refer to the seven Anishinaabe teachings of Nbwaakaawin (wisdom), Zaagidwin (love), Mnaadendimowin (respect), Aakwade'ewin (bravery), Dbaadendiziwin (humility) Gwekwaadiziwin (honesty), and Debwewin (truth).
- o) "Spouse" means husband or wife or partner.
- p) "Sui generis" means of its own kind, unique.
- q) "Tribunal" means the Citizenship Tribunal appointed in the accordance with this Code (see s.63-72).

## *Title*

3. This code shall be known as the Fort William First Nation Citizenship Code.

## *Inherent Right*

4. This Code is enacted pursuant to the inherent right of Anishinaabeg to discern who belongs with our nations according to sui generis Anishinaabeg constitutional orders.

5.1. Fort William First Nation, a community within the Anishinaabeg nation, has the inherent right to discern its citizenship as a member of the larger Anishinaabeg nation.

5.2. Fort William First Nation's inherent right to discern citizenship enjoys expression in the United Nations Declaration on the Rights of Indigenous Peoples, specifically Articles 3, 4, 5, 9, 33, and 37 (See Appendix A herein).

## *Treaty Responsibility*

6. This Code is enacted to fulfill, in part, our treaty responsibility to maintain Anishinaabeg populations, according to Anishinaabeg political traditions, as agreed upon in the Robinson-Superior Treaty of 1850.

## *Interpretation*

7.1. This Code shall be interpreted using the teachings of mino-bimaadiziwin and the Seven Grandmother/Grandfather teachings.

7.2. For further clarity, mino-bimaadiziwin and the Seven Grandmother/Grandfather teachings will guide the practice of discerning who is a citizen of the Band in accordance with this Code, and shall guide all remedies developed by the Citizenship Commission (see s. 13-16) and Citizenship Tribunal (see s.63-72) when discrepancies arise in the application of this Code.

## *Ascendancy*

8. This Code replaces all Indian Act law concerning membership and/or citizenship at Fort William First Nation.



### *Amendment*

9. This Citizenship Code may be amended only by referendum with 30 days notice, where a majority of citizens of the Band over the age of 18 years vote to accept changes proposed to Sections of this Code.

### *Mobility*

10. All citizens of the Band will have equal treatment and access to the rights and resources available to Fort William First Nation citizens, regardless of where they live.

### *Transitional Provisions*

### *Transitional Provisions*

11. Every person who was entitled to have his or her name appear on Fort William First Nation's membership list on the date this Code is adopted is a citizen of the Band under this Code.

### *Citizenship List*

12.1. The Fort William First Nation Citizenship Clerk shall maintain a list of full and probationary citizens of the Band.

12.2. Additions to and deletions from the Citizenship List are determined only by the Citizenship Commission and Citizenship Tribunal in accordance with all relevant sections of this Code.

### *Citizenship Commission*

13. a) The Band Council shall establish a Citizenship Commission, and shall appoint to it five (5) citizens of Fort William First Nation.

b) The term of office of the members of the Citizenship Commission shall be five (5) years, with no more than two (2) of its members completing their term of office in the same year.

c) Members of the Citizenship Commission may be removed by petition signed by a majority of the citizens of the Band of voting age.

d) No person of the Citizenship Commission shall be a member of the Commission and a member of the Band Council.

e) No members of the Citizenship Commission shall participate in the review of an application if the applicant is her or his son (adopted or natural born), daughter (adopted or natural born), sister, brother, parent, grandparent, grandchild, spouse, son-in-law, daughter-in-law, sister-in-law, brother-in-law or parent-in-law.

f) The Citizenship Commission shall establish its own rules of procedure in accordance with this Code, and shall cause those rules to be posted in a conspicuous place in the Band Office and on a publicly-viewable Internet webpage.

14. The Citizenship Commission shall review all applications for Probationary Citizenship.

15. The Citizenship Commission shall make decisions on Probationary Citizenship according to the provisions set out in this Citizenship Code.

16. Any decision of the Citizenship Commission may be appealed to the Citizenship Tribunal, in accordance with this Code.



## *Probationary Citizenship*

17.
  - a) Every person who applies for probationary citizenship shall complete a written application for that status in the form prescribed by the Fort William First Nation Citizenship Clerk.
  - b) Every application for probationary citizenship shall be reviewed by the Citizenship Clerk for completeness, and shall be forwarded by the Clerk to the Citizenship Commission within 30 days of being deemed complete.
18. If a person applying for probationary citizenship meets the criteria for probationary citizenship as decided by the Citizenship Commission, she or he will become a Probationary Citizen of the Band.
19. The application in s.17 is confidential and shall remain in a secure location in the custody of the Citizenship Clerk after review by the Citizenship Commission.
20. A probationary citizen of the Band has the right to reside on the Reserve, in accordance with the 1987 Fort William First Nation Residency By-law (See Appendix B herein).
21. A probationary citizen of the Band does not have the right to possess land or any interest in land on the Reserve.
22. A probationary citizen of the Band does not have the right:
  - a) to vote in Band elections;
  - b) to vote in referenda;
  - c) to stand as a candidate for the office of chief or councilor.
23. A person who has been a probationary citizenship of the Band for the full period of two years may apply for full citizenship in the Band. The application shall be made in writing and shall be filed with the Citizenship Clerk.
24. Where a probationary citizen of the Band has applied for full citizenship, the Citizenship Clerk shall, within 60 days of the application, refer the application to the Citizenship Commission.
25. The Citizenship Commission, in assessing applications for probationary citizens of the Band, will take into account
  - a) the applicant's familial connections, if any, to Fort William First Nation families, not limited by the nuclear family; this should not be construed to mean that parents of non-citizen children who marry Band citizens become entitled to citizenship in the Band through the marriage of their children to a Band citizen.
  - b) the applicant's connection to the community, in addition to or other than that outlined in s.25 a);
  - c) the applicant's demonstrated contributions to Fort William First Nation;

d) the extent of the applicant's familiarity or opportunities to acquire familiarity with the Band and its way of life;

e) whether the applicant could play a productive role in the social, political and/or cultural life of the Band; and,

f) evidence that probationary citizen has been accepted by the community.

26. Notwithstanding the establishment of any procedures made pursuant to s.13. f), the Citizenship Commission may receive all forms of evidence to assess probationary citizenship applications, including oral histories, interviews with existing citizens of the Band, and certified and uncertified documents when conducting a review of an application for citizenship in the Band or probationary citizenship in the Band.

27. Between the date of the application for full citizenship and the date of the decision made by the Citizenship Commission regarding full citizenship, the applicant shall continue to be a probationary citizen of the Band, unless she or he ceases to hold that status through the operation of any section of this Code.

28. The Citizenship Commission shall provide in writing all decisions regarding a probationary citizen's application for full citizenship within 90 days following the two-year probationary period.

29. The application for full citizenship of one or more probationary citizen may be reviewed by the Citizenship Commission at any given time.

30. a) Where a probationary citizen has applied for full citizenship with the Band, the Citizenship Commission may:

- i) accept the application for full citizenship;
- ii) reject the application for full citizenship, or;
- iii) continue the applicant's probationary status.

b) Where the application has been accepted, the probationary citizen shall, as of the date of the Citizenship Commission's decision, cease to be a probationary citizen of the Band and will become a full citizen of the Band, with all rights and privileges of a full citizen of the Band;

c) Where the application has been rejected by the Citizenship Commission, the applicant shall cease to be a probationary citizen of the Band and by virtue of this will not become a full citizen of the Band, but may, subject to s.30. e), apply again at a future date if her or his situation permits;

d) Where the Citizenship Commission decides that the applicant's probationary status shall be continued, the probationary citizen shall have the right to apply again for full citizenship in the Band two years after the date of decision;

e) For those who have had their application for full citizenship denied, they have the right to apply again for probationary citizenship in the Band no more than a total of three times.

31. The Citizenship Commission shall inform the applicant in writing of its decision and, where the application is rejected, shall inform the applicant of the reasons for the rejection. The decisions of the Citizenship Commission are confidential between the applicant and the Committee.



### *Responsibilities of Citizens*

32. All citizens of the Band have the responsibility to:

- a) Honour the customs, traditions, and must comply with the codes, laws and regulations of Fort William First Nation.
- b) Respect creation, our mountain, and our more-than-human brothers and sisters.
- c) Contribute to the preservation, resurgence and advancement of the Anishinaabeg cultural, political, spiritual, intellectual and linguistic traditions.
- d) Respect and protect children, persons, and lands of traditional use within the territory.
- e) Maintain active ties and good relations with the community of Fort William First Nation.

### *Entitlements of Citizens*

33. Subject to Fort William First Nation laws, regulations and policies, full citizens of the Band have the following entitlements, and privileges with regards to benefits and services:

- a) To reside, without discrimination, within the Territory, on the reserve, and off the reserve.
- b) To participate in the selection of Fort William First Nation leaders, pursuant to election conventions at Fort William First Nation.
- c) To seek and hold a leadership position.
- d) To own and transfer to other Fort William First Nation citizens, interests situated on lands within the territory or reserve.
- e) To receive educational services.
- f) To own and operate a business in the reserve, available lands permitting.
- g) To receive housing assistance and a land lot for housing, available lands permitting.
- h) To receive services from social, health, welfare and economic departments or other programs of the Band.
- i) To renounce their Band citizenship without prejudice.

## *Marriage*

34. A person who is not a citizen of the Band, and who is married to a citizen of the Band, may apply to become a probationary citizen of the Band, in accordance with this Code.
35. No person shall automatically gain or lose citizenship in the Band as a result of marriage.
36. To be recognized by this Code, a marriage as defined in this Code must be registered with the Citizenship Clerk:
- a) In the case of legal marriages, a certificate of the marriage shall be registered.
  - b) In the case of common law marriages, the married parties will inform the Band that they are living together as a married couple, using documentation requirements set out by the Citizenship Clerk.
  - c) In the case of marriage conducted in accordance with Anishinaabe custom, the married couple shall provide the Citizenship Clerk with a letter signed by the Elder or knowledge holder who facilitated the marriage, noting the marriage took place in accordance with Anishinaabe or otherwise Aboriginal marriage custom.
  - d) For clarity, the letter required in s.36 c) need not explain the custom.

## *Divorce or Separation During Probationary Period*

37. a) Subject to s.38 of this Code, a person who has become a probationary citizen of the Band who becomes legally separated from his or her spouse, or ceases to live with his or her spouse as married parties for a period of three months, shall cease at that time to be a probationary citizen of the Band.
- b) For further clarity, in the case where the probationary citizen discussed in 37. a) loses her or his probationary citizenship status, but can demonstrate grounds for continued probationary citizenship status pursuant to s.25, her or his probationary status will continue unimpeded as a probationary citizen of the Band in accordance with relevant sections of this Code, subject to the decision of the Citizenship Commission.
- c) If the couple begins to live together again, the non-citizen's probationary status shall be reinstated, but it shall be deemed to have begun on the date that they resumed living together, subject to the decision of the Citizenship Commission.
- d) Subject to s.38, a person who has become a probationary citizen of the Band who becomes divorced from his or her spouse, or whose marriage is annulled, shall cease at that point in time to be a probationary citizen of the Band.
38. a) Where in a marriage between a citizen of the Band and a probationary citizen of the Band, there has been a divorce, annulment, or separation of more than three months, and there are children



of that marriage who are citizens of the band and are in custody of the probationary citizen, the probationary citizen's status shall not be affected by the divorce, annulment or separation.

b) However, the probationary citizen discussed in s.38 a) may chose to cease to be a citizen of the Band, and may do so without prejudice to herself or himself, or their children.

#### *Death of a Spouse*

39. a) If a citizen of the Band dies while his or her spouse is a probationary citizen of the Band, the probationary status of the spouse shall not be affected.

b) However, a probationary citizen discussed in s.39 a) may chose to cease to be a probationary citizen of the Band, and may do so without prejudice to herself or himself, or their children.  
In such cases, the probationary citizen will inform the Citizenship Commission in writing.

40. A probationary citizen whose full citizen spouse has died may have the decision on their probationary citizenship status deferred up to one year on compassionate grounds, upon application to the Citizenship Commission. In the case where a deferral is agreed upon, the probationary period continues uninterrupted; it is the decision that is deferred, not the period of time.

## *Children*

41. A child born after the ratification of this Code is a citizen of the Band if at least one of his or her parents is a citizen of the Band.

## *Adoption of Band Citizens*

42. Subject to s.43, no Band citizen shall cease to be a citizen of the Band as a result of his or her adoption by persons who are not citizens of the Band.

43. a) Where a citizen of the Band is adopted by a person or persons who are citizens or members of another Band in Canada, the adopting parents may make application to the Fort William First Nation Band Council, and the Council may consent to the child ceasing to be a citizen of the Band for the purpose of becoming a citizen or member of the Band of his or her adopting parents.

b) If the child is more than twelve years old, the consent of the child to the transfer of citizenship shall also be required.

44. A child who was originally a citizen of the Band, and who, by reason of adoption, was transferred to another Band, shall have the right, upon written application addressed to the Citizenship Commission care of the Citizenship Clerk, to become an immediate full citizen of the Fort William First Nation Band again.

## *Adoption by Band Citizens*

45. A child who is adopted by a citizen or citizens of the Band shall, as of the date of the adoption, become a full citizen of the Band.

46. To be recognized by this Code, an adoption of a child as defined in this Code must be registered with the Citizenship Clerk:

a) In the case of adoptions taking place under the purview of provincial laws, a certificate of the adoption shall be registered.

b) In the case of adoption conducted in accordance with Anishinaabe custom, the adoptive parent or parents who is or are, as the case may be, a citizen or citizens of the Band shall provide the Citizenship Clerk with a letter signed by the adoptive parent or parents stating the adoption took place in accordance with Anishinaabe or otherwise Aboriginal adoption custom, or,

c) In the case of adoption conducted in accordance with Anishinaabe custom, the Elder or knowledge holder who facilitated the adoption shall provide the Citizenship Clerk with a signed letter stating the adoption took place in accordance with Anishinaabe or otherwise Aboriginal adoption custom.

d) The letter identified in s.46 b) and/or c) need not explain the process of the adoption custom used.



### *Transfers from Other Bands*

47. A person who is registered or entitled to be registered as a citizen or member of another Band in Canada may apply to become a probationary citizen of Fort William First Nation.

### *Transfers to Other Bands*

48. a) If a citizen of the Band wishes to withdraw from citizenship in the Band and become a member or citizen of another Band in Canada, that citizen shall notify the Citizenship Clerk of the Band in writing, and the Citizenship Clerk shall remove that person's name from the Band citizenship list within 30 days of notification.
- b) Removal of said person's name from the Band citizenship list shall be applied retroactively to the date their letter was submitted.
49. a) Where a citizen of the Band has applied to withdraw from citizenship in the Band to become a citizen or member of another Band, that citizen may also apply to have his or her children's names removed from the Band citizenship list so that they may become citizens of that other Band.
- b) If both parents are full citizens of the Band, the consent of both parents is required to any application made under s.49. a).
- c) If an application under this Section is made on behalf of any child who is over twelve years of age, the consent of the child shall also be required.

### *Termination of Citizenship*

50. a) Each full citizen of the Band has the right to approach the Citizenship Tribunal to request the Tribunal's consideration in terminating a full or probationary citizen's citizenship in the Band.
- b) The Citizenship Tribunal has the authority to investigate and make decisions on termination of citizenship in a manner devised by the Tribunal itself. However, decisions in cases such as these shall be guided by *mino bimaadiziwin* and the Seven Grandmother Teachings.
51. a) The citizen in question in s.50 shall be notified in writing at the beginning of this process if their name is being considered for removal from the citizenship list.
- b) The citizen in question in s.50 shall have the right to address the Citizenship Tribunal in person and in writing.
52. If it is determined that the citizen in question is to have her or his name removed from the citizenship list, she or he will be informed in writing of this decision within 30 days.
53. All citizens of the Band who have their name removed from the citizenship list shall, as of the date of the removal, cease to be citizens of the Band.
54. All citizens of the Band who cease to be citizens shall, if living on the reserve, relocate off the reserve no later than 90 days after from the day their name is removed from the citizenship list.
55. A person who ceases to be a citizen of the Band in accordance with this Code shall not be entitled to any share in the Band's revenues, funds or lands effective the date they ceased to be a citizen.
56. A person who is a citizen of a Band will cease to be a citizen of the Band upon her or his death.

### *Enfranchised Persons*

57. A person who was enfranchised pursuant to the Indian Act as a result of any of the following circumstances shall have the right to be reinstated as a full citizen of the Band:
- a) a person who was enfranchised because she or he lived outside Canada for more than five years without the permission of the Minister of Aboriginal Affairs;
- b) a person who was enfranchised because she or he become a doctor, lawyer, university graduate, priest or nun;
- c) a person who was enfranchised as a result of the enfranchisement of her or his parents;
- d) a person who, in the opinion of the Citizenship Commission, was enfranchised in circumstances that indicate that she or he did not consent to being enfranchised.



58. A person who was enfranchised as a result of his or her own application for enfranchisement may apply to become a full citizen of the Band.

59. Any child of a person who was enfranchised in one of the ways described in s.57 may apply to become a full citizen of the Band.

60. Applications under s.57, s.58 and s.59 shall be addressed to the Citizenship Tribunal, care of the Citizenship Clerk. The Citizenship Tribunal may accept or reject the application in accordance with the provisions found in this Code, but shall do so within 90 days.

*Bill C-3*

61. A person who regained their registration as an Indian under the Indian Act and who can demonstrate that they would otherwise have been a citizen of the Band may apply to become a full citizen of the Band.

62. Applications under s.61 shall be addressed to the Citizenship Tribunal, care of the Citizenship Clerk. The Citizenship Tribunal may accept or reject the application in accordance with the provisions found in this Code.

## *Citizenship Tribunal*

63. There shall be a Citizenship Tribunal.

64. Nine citizens of the Band shall be appointed to the Citizenship Tribunal by a committee of Band citizens, from various families, with representation from both on and off reserve, appointed for this purpose .

65. The term of office of each Citizenship Tribunal member shall be ten (10) years with no more than two (2) of its members completing their term of office in the same year.

66. A Citizenship Tribunal member shall be removed by a petition signed by a majority of the electors of the Band.

67. On any case heard by the Citizenship Tribunal, there shall be a minimum of three members of the Tribunal sitting.

68.1. No person shall be both a member of the Band Council and a Citizenship Tribunal member.

68.2. No person shall be both a member of the Citizenship Commission and a Citizenship Tribunal member.

69. No Citizenship Tribunal member shall participate in a case in which the applicant is:

- a) their spouse (husband or wife);
- b) their son or daughter;
- c) their grandchild;
- d) their brother or sister;
- e) their mother or father;
- f) their son-in-law or daughter-in-law.

70. A person who appeals to the Citizenship Tribunal may appear before the Tribunal in person and/or may choose to be represented by another person.

71. In any appeals brought to the Citizenship Tribunal, the Tribunal shall in each case be governed and decide by the terms and provisions of this Citizenship Code, including specifically the ethic of mino-bimaadiziwin and the Seven Grandmother/Grandfather Teachings.

72. The Citizenship Tribunal shall establish its own rules of procedure, which shall include an amendment clause allowing for public input, and shall cause those rules to be posted in a conspicuous place in the Band Office and on a publicly accessible webpage.

73. Jurisdiction of the Citizenship Tribunal

- a) The decisions of the Citizenship Tribunal shall be final. There shall be no appeal from the decisions of the Citizenship Tribunal to any other body, court or tribunal.



b) The Citizenship Tribunal shall have exclusive jurisdiction over all matters concerning the citizenship of the Band and the administration and contents of this Citizenship Code. No other body, court or tribunal - including the Government of Canada, and its courts - shall hear any matter concerning these issues.

c) The decisions of the Citizenship Tribunal are binding on the Band, its Council, and on Her Majesty and the Government of Canada.

#### *Powers of the Citizenship Tribunal*

74. In any appeal, the Citizenship Tribunal may:

- a) order that the Citizenship Commission begin a new application process for a person's citizenship in the Band or probationary citizenship in the Band;
- b) order a person's name removed from the Citizenship List;
- c) order a person's name added to the Citizenship List;
- d) order that a person be granted probationary citizenship in the Band;
- e) order an employee or official of the Band to perform any administrative task pursuant to the Citizenship Code;
- f) propose an amendment to any section of this Code; in such cases, the Tribunal shall provide a rationale for doing so, and provide a clear procedure for amending the struck out sections of this Code in accordance with s.9 of this Code.

75. Appeals against administrative decisions and the way the Citizenship Code is applied:

Any citizen of the Band, any person who has applied for citizenship in the Band, any person who has applied for probationary citizenship in the Band, and any person who has applied on behalf of another person for citizenship or probationary citizenship in the Band, may appeal to the Citizenship Tribunal

- a) if she or he feels that the Citizenship Commission or the Band's administrative staff, including the Citizenship Clerk, have acted unfairly, or have unfairly failed to act;
- b) if she or he feels that in dealing with her or his application, the terms of the Citizenship Code were not applied or followed properly;
- c) if she or he feels that in any proceeding or hearing by the Citizenship Commission or any body of the Band, she or he was denied a full opportunity to be heard, or denied natural law.

76. Appeals against the Citizenship Code:

Any citizen of the Band, and any person who has applied for citizenship or probationary citizenship in the Band, may appeal to the Citizenship Tribunal:

- a) if she or he feels that a provision of this Citizenship Code is discriminatory on the basis of sex, religion, race, marital status, sexual orientation, and/or age;
- b) if she or he feels that a provision or process of this Citizenship Code violates rules of natural law;
- c) if she or he feels that a provision or process of this Citizenship Code violates the ethic of mino-bimaadiziwin and/or the Seven Grandmother/Grandfather teachings;
- d) if she or he feels that a provision of the Citizenship Code is otherwise unfair.

#### *Appeals against the Citizenship Commission*

77. Any citizen of the Band, and any person who is subject to a decision made by the Citizenship Commission, may appeal to the Citizenship Tribunal if she or he feels that:

- a) there were improprieties in the decision procedure;
- b) the Commission made a decision not free of prejudice based on sex, religion, race, marital status, sexual orientation, and/or age;
- c) the Commission made a decision that runs counter to the ethic of mino bimaadiziwin and or the Seven Grandmother/Grandfather teachings;
- d) the provision or process of this Citizenship Code violates rules of natural law;
- e) the Commission made a decision that runs counter to provisions of this Citizenship Code.

78. Any and all decisions by the Citizenship Tribunal pertaining to appeals in this Citizenship Code shall be given in writing to the person(s) bringing forward an appeal within 30 days.

79. Form of Appeals:

- a) Every appeal shall be made in writing and shall be registered with the Citizenship Clerk.
- b) Every appeal shall state the name of the person making the appeal, the date of the appeal, and the reasons for the appeal.
- c) Such appeals submissions are to be kept confidential.



#### 80. Limitations:

- a) No appeal to the Citizenship Tribunal resulting from a decision of the Citizenship Commission shall be made more than two years after the Citizenship Commission's decision on the matter.
- b) No appeal against an administrative act by the Band or its staff shall be made more than two years after the act took place.
- c) However, appeals are not governed by this Limitations section when an appellant brings forward new information that may justify revaluation of their complaint.

#### 81. Costs:

Where the Citizenship Tribunal finds that an appeal has been frivolous, vexatious, or an undue waste of the Tribunal's time, or the actions of any party to the proceedings have been in bad faith, the Citizenship Tribunal may order that the appellant, the Band, or any other party to an appeal pay the costs of the appeal to the Tribunal.

## **Appendix A**

### **Selected Articles from the United Nations Declaration on the Rights of Indigenous Peoples**

The following Articles hold relevance for the Fort William First Nation Citizenship Code.  
The entire *Declaration on the Rights of Indigenous Peoples* can be viewed here:  
[http://www.un.org/esa/socdev/unpfii/documents/DRIPS\\_en.pdf](http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf)

### **Article 3**

Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

### **Article 4**

Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.

### **Article 5**

Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State.

### **Article 9**

Indigenous peoples and individuals have the right to belong to an indigenous community or nation, in accordance with the traditions and customs of the community or nation concerned. No discrimination of any kind may arise from the exercise of such a right.

### **Article 33**

1. Indigenous peoples have the right to determine their own identity or membership in accordance with their customs and traditions. This does not impair the right of indigenous individuals to obtain citizenship of the States in which they live.

2. Indigenous peoples have the right to determine the structures and to select the membership of their institutions in accordance with their own procedures.

### **Article 37**

1. Indigenous peoples have the right to the recognition, observance and enforcement of treaties, agreements and other constructive arrangements concluded with States or their successors and to have States honour and respect such treaties, agreements and other constructive arrangements.

2. Nothing in this Declaration may be interpreted as diminishing or eliminating the rights of indigenous peoples contained in treaties, agreements and other constructive arrangements.



## **Appendix B**

### **Copy of the 1987 Fort William First Nation Residency By-Law**

A By-Law  
to provide for  
the residence of band members  
and others on the Fort William Reserve

The Council of the Fort William Band of Indians hereby makes the following by-law, pursuant to Sections 81(1)(p.1) and 81(1)(q) of the Indian Act, R.S., c. I-6.

1. In this by-law,  
"Band" means the Fort William Band of Indians.  
"Membership code" means the rules defining band membership established by the band, as amended from time to time.  
"Reserve" means the Fort William Indian Reserve.
2. A person who has been granted the status of "probationary member" of the Band shall have the right to reside on the reserve.
3. A person who, through the operation of the membership code, loses the status of "probationary member" of the Band, shall thereby lose the right to live on the reserve, unless he is the dependent child of a member of the band living on the reserve, or has been granted permission to continue to live on the reserve by the Membership Court.
4. A person who is a member of the Band other than a "probationary member" shall always have the right to live on the reserve.





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