



## PAUQUACHIN MEMBERSHIP CODE

1. This Code shall be called the Pauquachin Membership Code as enacted by the Pauquachin People.

### 2. PREAMBLE

WHEREAS section 35 of the Constitution Act, 1982 recognizes and affirms the existing aboriginal and treaty rights of the aboriginal peoples of Canada; and,

WHEREAS section 25 of the Constitution Act, 1982 provides that the guarantee of individual rights and freedoms shall not be construed so as to abrogate or derogate from any aboriginal, treaty or other rights and freedoms that pertain to the aboriginal peoples of Canada; and,

WHEREAS section 10 of the Indian Act, 1985 provides that a Band may assume control of its membership if it establishes Membership Rules for itself in writing and receives the consent of its members; and,

WHEREAS a majority of the electors of the Pauquachin Indian Band have duly consented as annexed hereto in Schedule A:

NOW THEREFORE, the Band enacts as follows:

### OBJECT OF THE RULES

The object of the Rules is to:

- (i) protect and enhance the cultural integrity, social harmony and economic stability of the Band;
- (ii) exercise and protect the aboriginal and inherent rights of the Band; and,
- (iii) assert our sovereign status as a Nation, governed by the customs handed down by our forefathers;

3. DEFINITIONS

- a) "Appeal Committee" shall consist of five (5) impartial persons appointed by the Pauquachin Council;
- b) "Band" means the Pauquachin Indian Band;
- c) "Certified evidence" is one or all of the following:
  - (i) vital statistics documents; or,
  - (ii) sworn affidavits;
- d) "Child" includes a child born in or out of wedlock, and legally adopted child and a child adopted in accordance with the custom of the Band;
- e) "Council of the Band" means the Chief and Council chosen according to the election provisions set out under section 74 of the Indian Act;
- f) "Elector" means a person who is:
  - (i) registered on the Band List;
  - (ii) of the full age of 18 years; and,
  - (iii) ordinarily resident on the reserve;
- g) "General Membership Register" is the register in which the name of every Pauquachin member appears;
- h) "Inactive Member" is a person whose name appears on the Inactive Register;
- i) "Inactive Register" is a list containing the name and personal history of every inactive member under this Code which shall include the date that person's name was included therein;
- j) "Sponsor" is a Pauquachin Member who initiates or supports the application of a person who wishes to become a Pauquachin member;
- k) "Spouse of a Pauquachin Member" refers to one of the following:
  - (i) a person legally married to a Pauquachin Member; or
  - (ii) a person in a common law relationship with a Pauquachin Member which has existed for at least 8 continuous years;
- l) "Treaty Descendant" refers to a person who provides the Pauquachin Council with certified evidence of the nearest ancestor of an original Pauquachin signatory of the James Douglas Treaty of 1852;
- m) "Pauquachin Member" is a person whose name appears on the General Membership Register; and
- n) Use of the words denoting the male gender are deemed to include the female gender.

4. ADMINISTRATION

a) Chief and Council shall be responsible for all matters relating to membership in accordance with this Code, including:

- (i) the maintenance of the Inactive and General Membership register;
- (ii) the processing of applications for membership; and,
- (iii) all other procedures and matters ancillary to the administration of membership;

b) Council may appoint an individual or individuals to administer these rules; and,

c) Council may direct that applications and appeals be:

- (i) accompanied by a fee;
- (ii) submitted on a form to be prescribed; and,
- (iii) accompanied by certified evidence of Pauquachin Descent.

5. PAUQUACHIN MEMBERSHIP

a) The following persons are entitled to automatic membership and enrolment on the Band List:

- (i) all persons entered or entitled to be entered on the Band List of the Pauquachin Band immediately prior to April 17, 1985;
- (ii) all persons born on or after April 17, 1985 to natural parents both of whom are or, if no longer living, were Pauquachin members;
- (iii) a person entitled to be restored to the Band List by operation of section 6(1) (c) of the Indian Act, namely:
  - (a) persons who lost Indian status and Band membership under the so-called "double-mother" rule;
  - (b) Indian women who lost Indian status and Band membership by marriage to a non-Indian man;
  - (c) persons whose names were deleted from the Band List because of protest by the Band that his or her father was not Indian;
  - (d) persons who lost Indian status and Band membership through enfranchisement; and,

b) All persons who provide the Council with certified evidence of Pauquachin Descent may apply for Membership with the Pauquachin Band;

- c) Classes of persons referred to in section 5 b) include:
- (i) persons contemplated by section 6(1) d, e, f, and 6(2) of the Indian Act;
  - (ii) natural or adopted persons of those referred to in section 5 b):
  - (iii) a spouse of a Pauquachin Member; and
  - (iv) a former Pauquachin Member whose name appears on another Band List;
- f) The onus is on the individual or his sponsor, to make application and demonstrate entitlement to Band Membership pursuant to this Code; and,
- g) Persons referred to in Section 5b) shall be deemed to be Inactive Members and listed on the Inactive Register until membership has been granted or all rights of appeal have been exhausted.

#### 6. APPLICATION PROCEDURE

- a) All applicants seeking membership shall submit an application to Council together with an application fee fixed by Council. A sponsor who is a member of the Band and who has knowledge of the applicant's entitlement may be names in the application;
- b) In every calendar year, Council shall fix a date for a general membership meeting giving 30 days notice of the time and place of the meeting and provide particulars of persons who have applied for Pauquachin Membership;
- c) Only electors of the Band shall be eligible to vote.
- d) Upon a majority vote in favour of acceptance by those electors voting, the applicant shall be admitted as a member of the Pauquachin Band;
- e) No person shall make representation through legal council or any person other than a member of the Band without the consent of the Chief or Councillor presiding at the meeting; and,
- f) a general membership meeting may be adjourned to another day without further notice, and Council may call more than one such meeting in any year with notice provided herein.

#### 7. LOSS OF MEMBERSHIP

- a) No rights of membership shall be deemed to exist until the applicant's name is included in the General Membership Register;
- b) No member's rights survive deletion of their name from the General Membership Register, but Council may extend the date of deletion in any case to permit the individual to transfer property on Pauquachin Lands to a member of the Band. No rights survive if the individual fails to act within the period fixed by Council and any property rights not disposed of revert to the Band;

- c) Classes of persons referred to in section 5 b) include:
  - (i) persons contemplated by section 6(1) d, e, f, and 6(2) of the Indian Act;
  - (ii) natural or adopted persons of those referred to in section 5 b):
  - (iii) a spouse of a Pauquachin Member
  - (iv) a treaty decedent.
- d) A Spouse of a Pauquachin Member may submit an application for membership to the Band Council along with certified evidence certifying the person is a spouse of a Pauquachin member.
- e) For greater certainty, a spouse of a Pauquachin member shall be deemed to be a member.

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- c) No person shall be entitled to any payment in the event of loss of membership for any reason out of the funds of the Pauquachin Band;
- d) Any member of the Pauquachin Band shall cease to be a member of the Pauquachin Band effective on the date of admission to the other Band; and
- e) for greater certainty, loss of Band Membership under this part shall not be deemed to deprive that person of any Treaty Rights.

#### APPEALS

- a) A protest or appeal from the decision of the Band Membership may be made in writing to the Council within 30 days by:
  - (i) the applicant;
  - (ii) the sponsor or the applicant; or
  - (iii) a Band Member;
- b) The notice of protest or appeal must state the grounds which gives rise to the protest or appeal. The onus of establishing the grounds lies with the appellant;
- c) Upon receipt of notice under this section, Council shall refer the appeal or protest to the appeal committee. The appeal committee may set its own procedure and hear such evidence in such manner as it may determine, having due regard to the fair presentation of the appellant's case in accordance with the principles of fundamental justice;
- d) After hearing the appeal, the <sup>appeal committee</sup> may order:
  - (i) that the appeal be dismissed; or
  - (ii) that the appeal be allowed, in which case the appellant's name shall be entered in the General Membership Register;
- e) The appeal committee shall give reason for its decision which shall be final; and
- f) No claim shall be against the Band, the Council or a Band Member in relation to any acceptance or denial of Membership in the Band.

#### AMENDMENT PRODECURES

- a) This Code may be amended from time to time on the advice of Council in the same manner as it was enacted; and,
- b) Notwithstanding section 9 a) the Council shall call the Band Membership to review the provisions of this Code within one year after its enactment.

10. COMING INTO FORCE

This Code shall come into force on the day the Band gives notice to the Minister that it is assuming control of its membership pursuant to section 10(6) of the Indian Act.

11. DELEGATION OF POWER

The Band hereby delegates to the Council the authority to administer these Rules in a fair, impartial manner without discriminating on the basis of sex, religion, age or family and in accordance with the best interests of the Band.