

Seabird Island Band Membership Codes



Date: _____

Seabird Island Band

Grand Chief Archie Charles



Whereas the Council of the Seabird Island Band desires to establish a Membership Code to provide for the expedient, unbiased, and efficient application and interpretation of membership rules;

And Whereas the Council of the Seabird Island Band is empowered to make such Membership Code, and to rule on any matter ancillary thereto pursuant to paragraphs 81(1) (p), (q), and (r) of the Indian Act;

And Whereas the Seabird Island Band assumed control of its membership pursuant to section 10 of the Indian Act as of June 26, 1987 and established Interim Membership Rules of that date;

Now therefore the Council of the Seabird Island Band makes the following Membership Code. This Membership Code, upon the date of ratification, will replace the Interim Membership Rules;

Seabird Island Band

1.0 Short Title

This Code may be cited as “Seabird Island Band Membership Code Respecting rules and regulations of membership in the Seabird Island Band”.

2.0 Interpretation

In this Code, or in any resolution of the Seabird Island Band Council passed relating to this Membership Code, unless the context otherwise requires, the following words shall have the meaning hereinafter attributed to them:

“Band”	means the Seabird Island Band
“Child”	means a person under 19 years of age and includes a youth:
“Council”	means the duly constituted Chief and Council of the Seabird Island Band as defined in the <u>Indian Act</u> ;
“Duly Convened Meeting”	means a meeting for which notice of at least ten (10) clear days is given to the Electors, outlining the agenda, date, time and place for meeting.
“Electors”	means all those individuals as defined in the Indian Act until such time Seabird Island Band adopts its’ own Election Procedures which include a definition of Electors;
“Enrolment Officer”	means the person appointed by Council to administer the Seabird Island Band Membership Code;
“First Nation”	means a Band as constituted under the <u>Indian Act</u> , R.S.C. 1985, C.I-5, or a federally recognized Tribe in the united State;
“Indian Act”	means the <u>Indian Act</u> , R.S.C., 1985, C.1-5 or any successor legislation;
“Indian Status”	refers to a person who is registered or is entitled to be registered as an Indian within the meaning of the <u>Indian Act</u> , or is an Indian as that term is defined by the United States Bureau of Indian Affairs;
“Membership Code”	refers to the membership rules and regulations contained in this document as adopted by Council;
“Membership Committee”	means a group of no less than seven (7) but not exceeding twelve (12) people appointed by Council whom recommend

Seabird Island Band

	policy regarding membership rules pursuant to the mandate specified in the <u>Seabird Island Band Membership Committee Terms of Reference (see Appendix 1)</u> ;
“Membership List”	means the list of members maintained by the Seabird Island First Nation and certified by the Council as of March 3, 1999. The Membership List shall be added to or deleted from as provided in this Code;
“Peacemaker Tribunal”	means a group of no less than five (5) but not exceeding seven (7) people selected by the Membership Committee to hear membership grievances and appeals pursuant to the authority provided by the <u>Seabird Island Band Membership Committee Terms of Reference</u> ;
“Referendum”	means a vote of the Electors, either by secret ballot, petition or show of hands as determined by Council, for which at least ten (10) clear days notice is given;
“Seabird Island First Nation”	means the Seabird Island Band as constituted pursuant to the <u>Indian Act</u> ;
“Seabird Island Member”	means a person whose name appears on the Seabird Island Membership List or who is entitled to have his name appear on the Seabird Island Membership List pursuant to both the <u>Indian Act</u> , and the rules and regulations contained in the Membership Code;
“Seabird Island Registry Group”	means the list of people who have membership affiliation with the Seabird Island First Nation as maintained by the Department of Indian Affairs;
“Spouse”	means a conjugal partner recognized by legal marriage.

Words importing a male person include a female person and vice versa.

Words importing the singular include the plural and vice versa.

3.0 Membership Criteria

3.1 Subject to sections 3.2, 3.3, 3.4 and 5.0 the following persons are eligible to membership in the Seabird Island First Nation and may be added to the Membership List, provided they have Indian Status and transfer to the Seabird Island Registry Group and upon the Enrolment Officer being satisfied, that the requirements of this Code have been met;

(a) Birth

- i any individual with at least one natural (biological) parent who has or is entitled to have membership in the Seabird Island First Nation whether the parent is living or deceased;
- ii the Enrolment Officer certifies that the information provided by the applicant is both complete and accurate;

(b) Marriage

- i Spouses of the Seabird Island Members may be granted membership in the Seabird Island First Nation provided the applicant:
 - 1) is not a member of any other First Nation, and if so, is willing to renounce his/her membership in the First Nation: and
 - 2) the Enrolment Officer certifies that the information provided by the applicant is both complete and accurate;

(c) Adoptions

- i Adopted children may be granted membership in the Seabird Island First Nation provided that:
 - 1) at least one adoptive parent has membership in the Seabird Island First Nation; and
 - 2) the child has been legally adopted within the meaning of the Adoption Act, R.S.B.C. 1996, C.5.; and
 - 3) the child is under the age of 19 years; and
 - 4) the Enrolment Officer certifies that the information provided by the applicant is both complete and accurate.

(d) Reinstatement

- i Persons eligible for membership pursuant to section 3.1 (a), who were removed from the Seabird Island First Nation Membership List when adopted by non-Seabird Island members may, upon application, be reinstated in the Membership List provided that the applicant:
 - 1) is over 19 of age: and
 - 2) the Enrolment Officer certifies that the information provided by the applicant is both complete and accurate.

(e) Band Vote

- i Members of other First Nations may be granted membership provided that the applicant:
 - 1) receives the approval and consent of at least 60% of the Electors at a duly convened Referendum held specifically for the purpose; and
 - 2) the Enrolment Officer certifies that the information provided by the applicant is both complete and accurate.

(f) Pending Applications

A person whose name has appeared in the Seabird Island Registry Group from June 26, 1987 to the date of Ratification of these Membership Codes shall be automatically granted membership to the Seabird Island First Nation provided that they fall under section 3.1 (a), (b), (c), (d);

- (g)** Any person who would be entitled pursuant to subsection 11 (1)a of the Indian Act to have their name entered in the Indian Registry for Seabird Island Band;

3.2 A child of a person who gained membership through marriage pursuant to section 3.1 (b) is not entitled to membership under section 3.1 (a) or (c) unless the child's other natural (biological) parent is also a Seabird Island Member.

3.3 A child of a person who gained membership through Band vote pursuant to section 3.1 (e) is not entitled to membership under section 3.1 (a) unless the Child's other natural (biological) parent is also a Seabird Island Member.

3.4 Notwithstanding the provisions of section 3.1 no applicant shall be entitled to membership in the Seabird Island First Nation if both parents received their membership through either marriage as per section 3.1 (b) or through Band vote as per section 3.1 (e) of this Membership Code.

4.0 Application for Membership

4.1 A person who is eligible to have his name entered on the Membership List will not have his name entered herein unless and until an application for membership has been made and the information contained within the application has been certified as complete by the Enrolment Officer.

4.2 The parent or legal guardian must make membership application for a child.

4.3 All persons applying for membership must fully complete, sign and date the application form provided by the Enrolment Officer.

Seabird Island Band

- 4.4 All available supporting documents must accompany the application for membership (i.e., large form birth certificate, marriage certificate, letter of entitlement/reinstatement, etc.). The Enrolment Officer may request any supporting documentation or other evidence that she feels, in her sole discretion, be warranted by the circumstances.
- 4.5 All applications for membership, upon submission to the Enrolment Officer, will be processed in accordance with section 7.0 of this Membership Code.
- 4.6 A person is not eligible for membership in the Seabird Island First Nation if they are a member of any other First Nation, unless they are willing to, and take all necessary steps, renounce their membership in their other First Nation.

5.0 Loss of Membership

- 5.1 Notwithstanding anything to the contrary contained, or interpreted as being contained, anywhere in the Membership Code, no person may be a member of the Seabird Island First Nation while simultaneously holding membership in another First Nation. A person immediately ceases to be a member of the Seabird Island First Nation upon becoming a member of another First Nation.
- 5.2 A person who after the date of ratification of this Membership Code, gained Seabird Island Membership solely by reason of the person's marriage to a Seabird Island Member, ceases to be a member of the Seabird Island First Nation immediately upon a legal divorce or annulment of the marriage.
- 5.3 A person who has gained Indian Status solely by reason of the person's marriage to a Seabird Island Band Member, ceases to be a member of the Seabird Island First Nation immediately upon a legal divorce or annulment of the marriage which divorce or annulment occurs after the date of ratification of this Code.
- 5.4 Whereas a member who acquired Indian Status through marriage becomes widowed, that person shall retain membership until death or upon marriage to a Non-Seabird Island member. Membership may not be conferred by that person upon any child resulting from a union with a non-Seabird Island Member.
- 5.5 A Seabird Island member may renounce his membership by stating his desire to be deleted from the Membership List in writing to the Enrolment Officer, providing that he has reached the age of 19.
- 5.6 A Seabird Island Member who has not reached 19 years of age, may have his membership transferred by his parents or guardians. However, the child upon application, may be reinstated on the Membership List upon reaching the age of 19 pursuant to section 3.1 (d) of the Membership Code.

6.0 Erroneous Membership

6.1 In the event that it is subsequently ascertained that a person whose name has been included on the Membership List has had his membership granted and recognized on the basis of inaccurate, false or misleading information, that person's name shall be deleted from the Membership List, subject to the Right of Appeal provided in section 9.

7.0 Administration

7.1 The Council shall appoint an Enrolment Officer mandated to fulfill the following roles and responsibilities:

- (a) maintain the Membership List;
- (b) make additions, deletion and correction to the Membership List in accordance with the Membership Code;
- (c) record dates of Membership List additions, deletion and corrections;
- (d) maintain an organized filing system for all documents and correspondence pertaining to membership;
- (e) process application quarterly during the months of April, July October and January;
- (f) notify the Seabird Island Council, in writing, of all decisions regarding applications. Be prepared to provide verbal background information upon Council's request;
- (g) notify applicants in writing of decisions, or status of application, within 30 days upon receiving the application;
- (h) process all proposals for Membership Code amendments in accordance with section 10 of the Seabird Island Membership Code:
- (i) acknowledge all appeals within 30 days of receipt: and
- (J) carry out any other duties related to membership administration as directed by Council.

7.2 The Enrolment Officer will discharge all the duties under section 7.1 in a manner that protects the confidentiality of individuals and the integrity of the Membership Program.

8.0 Community Consultation

8.1 Before any person's name is added to or deleted from the Membership List, the proposed addition or deletion shall be posted in the Seabird Island Administration Office, and at least one other public location on the Reserve. This must be done so as to allow Members a period of thirty days on which to comment on the proposed addition or deletion.

8.2 Throughout the process of examining documents and other sources of evidence submitted by persons applying for membership in the Seabird Island First Nation, the Enrolment Officer may consult with Elders and other community leaders so as to ascertain the validity of the information being scrutinized.

8.3 Protest Section

(I) A protest may be made in respect of the addition or deletion of a name from the Membership List provincial that such protest is made prior to, or within (3) years of, the addition or deletion;

(III) A protest must be made by filing a notice in writing with the Enrolment Officer containing a brief statement of grounds of the protest;

(IV) A protest may only be made by Seabird Island Band Member, but may not be made by the whose name is to be, or has been, added or deleted;

(V) Where a protest is made under the Part, the Enrolment Officer shall cause an investigation to be made into the matter and, upon the conclusion of the investigation, shall render a decision;

9.0 Right of Appeal

9.1 An applicant for membership, or parent or legal guardian on their behalf, may submit an appeal of any membership decision made by the Enrolment Officer to the Peacemaker Tribunal.

9.2 All appeals to the peacemaker Tribunal shall be made by written application and must be delivered within one year from the date the decision was made.

9.3 The Peacemaker Tribunal will hear only one appeal on any decision.

9.4 The Peacemaker Tribunal shall set a hearing date for the appeal within 60 days of receiving the written application. The Peacemaker Tribunal shall hear both sides of the case, including hearing from or interviewing any relevant witness. The Peacemaker Tribunal is free to receive evidence in any manner that it may deem appropriate, fit, or just, regardless of whether or not such evidence would be admissible in court of law.

9.5 The Peacemaker Tribunal will decide all appeals by review of the relevant evidence and by applying this Membership Code and any other applicable laws. Within one month of the hearing, the Peacemaker Tribunal shall render a written decision stating the reasons supporting the decision. The Peacemaker Tribunal shall render one of the following decisions:

- (a) uphold the decision made by the Enrolment Officer;
- (b) direct the Enrolment Officer to reverse his decision;
- (c) make any other order as it may deem appropriate under circumstances.

9.6 The decision of the Peacemaker Tribunal pursuant to this section is both final and binding.

10.0 Amendments

10.1 Proposals to amend this Membership Code shall be made in writing and must be submitted to the Enrolment Officer accompanied by a petition, the wording of which has been approved by Council or its designate showing the support of at least 30% of the Electors.

10.2 Provided the proposed amendments are legal, the Enrolment Officer shall commence amending procedures within ten (10) days of receiving the written proposal.

10.3 The Seabird Island Membership Code may be amended after:

- (a) public notice has been given to the Electors that an amendment has been proposed;
- (b) a Duly Convened Meeting of the Electors, specifically called to discuss the amendment proposal.
- (c) Referendum is held within thirty (30) days of the Duly Convened Meeting.
- (d) Support from at least 60% of the Electors has been secured in a Referendum held specifically for the purpose.

10.4 A new Referendum to amend the Membership Code shall not occur before the expiration of one (1) year from the time the last Referendum.

10.5 Notwithstanding the amendment procedures described in section 10.3 of this Code, the Council in coordination with the Seabird Island Membership Committee shall call a general meeting, with ninety (90) days of the first anniversary of the ratification of this Code, and every year for the following four (4) years thereafter. The Seabird Island Membership Committee shall review the Membership Code prior to the meeting, and bring any amendments or issues to Council. All amendments to the Code shall be brought to Seabird Island Membership Committee, at a Duly Convened meeting for ratification. All

amendments to this Code must receive a favorable vote of at least 60% of the Electors in attendance at the meeting held specifically for that purpose before any amendments may occur.

11.0 Extraordinary Meetings

11.1 In the event that a membership issue arises at the beginning of the 6th (sixth) year of ratification and thereafter, that is not directly addressed by this Code, Council may call a Duly Convened Meeting of Electors. If the issue results in a proposed amendment(s) of this Code, a minimum of 60% support of the Electors at a Duly Convened Meeting shall be required to enact the proposed amendments.

12.0 Liability

12.1 The Seabird Island First Nation or its members shall not be liable for any claims, losses or damages resulting from the deletion or addition of an individual's name to the membership list.

12.2 The Seabird Island First Nation or its members cannot and will not accept any liability for declining membership to and applicant.

13.0 Severability

13.1 If any portion of this Membership Code is found to be invalid or unenforceable by decision of a court of competent jurisdiction, such invalidity or unenforceability shall not affect the validity or enforceability of the remainder of this Membership Code.

14.0 Coming Into Force

14.1 The rules and regulations contained in this Membership Code shall come into force on the 3rd day March 1999.

Seabird Island Band

This Membership Code is hereby certified as having received the approval of the Seabird Island First Nation Electorate at a Referendum held specifically for the purpose on this 3rd day of March 1999.

Chief Archie Charles

Councillor Marcia Peters

Councillor Richard Louie

Councillor Margaret Pettis

Councillor Clement Seymour

Councillor Paul Andrew

Witness, Daryl McNeil

Signed and dated this 11th day March 1999

Appendix (1)

Terms of Reference of the Seabird Island Membership Committee:

The Seabird Island Membership Committee (SIMC) shall consist of at least seven (7) Members and not more than twelve (12) Members of the Seabird Island First Nation who have reached the age of majority and must be approved by Council. The SIMC will meet at least six (6) times prior to the annual amendment Membership Code and to assist the Enrolment Officer and/or when requested by Council. A quorum of the SIMC member will consist of any seven (7) of the SIMC. Any SIMC member that is absent for three (3) consecutive SIMC meetings without legitimate reason will be removed from the SIMC.

AMENDMENT: Section 10.5

February 28, 2004

Notwithstanding the amendment procedures described in Section 10.3 of this code, the Council, in coordination with the Seabird Island Band Membership Committee, shall call a General Meeting within ninety (90) days of the first anniversary of the ratification of this code:

- 10.5.1** And every year thereafter;
- 10.5.2** The Seabird Island Band Membership Committee shall review the Membership Code prior to the meeting and bring any amendments to the Seabird Island Band Council for approval;
- 10.5.3** All amendments to this code shall be brought to the Seabird Island Band Membership at a Duly Convened meeting for ratification;
- 10.5.4** Band Members may submit amendments, in writing, one hundred and twenty (120) days prior to the anniversary date, to the Seabird Island Band Membership Committee for consideration;
- 10.5.5** All amendments to this Code must receive a favorable vote of at least 60% of the Electors in attendance at a meeting held specifically for that purpose before any amendments may occur. All amendments will come into force the day following a favorable vote;
- 10.5.6** Any Membership Code amendment vote that takes place during the year of a Council Election will coincide with the election, if possible.