

Final Draft: June 3rd, 2019

**POUNDMAKER CREE NATION
MEMBERSHIP CODE 2019**

WHEREAS The Poundmaker Cree Nation has had the inherent authority and the right to self-government and self-determination since time immemorial including the right to determine Band Citizenship;

WHEREAS The Poundmaker Cree Nation is desirous in asserting its inherent right to assume control; regulate individual Citizenship; and to regulate the right to be entered into or deleted from the Poundmaker Cree Nation Citizenship List in accordance with this *Poundmaker Cree Nation Membership Code 2019*; and

WHEREAS As evidenced by the official referendum records, the electorate of the Poundmaker Cree Nation gave their consent to enact and adopt this *Poundmaker Cree Nation Membership Code 2019* that shall govern the eligibility and the right to enjoy Poundmaker Cree Nation Membership (Citizenship);

NOW THEREFORE This *Poundmaker Cree Nation Membership Code 2019* is hereby adopted as follows:

Preamble

Our Creator is hereby acknowledged as the Supreme Being and is recognized as foremost in this our legislation. We the people of Poundmaker Cree Nation, hereby assert our inherent right to self-government, exercise self-determination, establish Peace Order and Good Government in the exercise of enacting this our legislation; and to encourage harmony with one another and with our Natural Environment; to secure the Blessings and Gifts of our Creator through respect of our ancient Teachings and Belief Systems of our Cree First Nation, DO HEREBY establish this Poundmaker Cree Nation Membership Code 2019 for the Citizens of Poundmaker Cree Nation.

Article One

Short Title

1.01 This Legislation may be cited as the *Poundmaker Cree Nation Membership Code 2019*.

Article Two Definitions

2.01 In this Membership Code, unless the context otherwise requires:

- (a) "Act" means the Poundmaker Cree Nation Membership Code 2010.
- (b) "Adult" means a person twenty one (21) years of age or older.
- (c) "Applicant" means a person who is applying for Citizenship onto the Poundmaker Cree Nation in his or her own behalf or on behalf of a Minor or an incapacitated person and the word "Application" has a corresponding meaning.
- (d) "Band" means the Poundmaker Cree Nation.
- (e) "Citizen" has the same meaning as "Poundmaker Cree Nation Band Member" or "Band Member" and it means a person whose name appears on the Poundmaker Cree Nation Citizenship List or entitled to be registered on the Citizenship List.
- (f) "Citizenship List" has the same meaning as "Membership List" and it means the list of the names of the Citizens of the Poundmaker Cree Nation maintained in accordance with these rules.
- (g) "Citizenship Registry Number" means a written enumeration of Poundmaker Cree Nation Citizens created by the Poundmaker Cree Nation administration that serves to identify each and every Citizen and includes each duly eligible person to be entered on the Citizenship List.
- (h) "Citizenship Registrar" means the person selected by the Poundmaker Cree Nation Chief and Council, by Band Council Resolution, to maintain and administer the Citizenship List, and is the person responsible to receive applications for Citizenship and to enter names of Applicants who have been approved by the Council or approved by the Electorate at Scheduled Band Meeting into the Citizenship List or reject applications for Citizenship in accordance with this Act. The Registrar is also responsible for the administration of this Act.
- (i) "Council" means the Chief and Council of the Poundmaker Cree Nation.
- (j) "Custom Adoption" means a Minor adopted in accordance with Cree custom and confirmed by three (3) respected Elders in the community who are appointed by the Chief and Council at Council's sole discretion.
- (k) "Director of Operations" means the person designated as such in the organizational structure of Poundmaker Cree Nation and is the main senior administrative officer of the Band administration and includes the successor

position. The Director of Operations is sometimes referred to as the "Band Manager".

- (l) "Eligible" means possessing the preliminary qualifications to be considered for registration as a Poundmaker Cree Nation Citizen pursuant to this Act.
- (m) "Headman or Headwoman" has the same meaning as the Cree word "Oneekanneew" which means both "Headman and Headwoman" and a leader of the Poundmaker Cree Nation and the plural of "Headman" is "Headmen" and the plural for "Headwoman" is "Headwomen" and such words are interchangeable with the words "Councillor and/or Councillors", respectively.
- (n) "Minor" means a person who is under the age of twenty-one (21) years of age.
- (o) "Nation" means the Poundmaker Cree Nation.
- (p) "Parent" means biological mother or father of a specific person and includes an adoptive parent(s) where the Minor was legitimately adopted by way of Cree custom of adoption or adopted by way of an order by a court of competent jurisdiction in Canada or an order by a court outside of Canada and is recognized in Canada.
- (q) "Permanent Custody" means an order for permanent custody, as opposed to interim custody, issued pursuant to legislation of a province or territory in Canada or a government outside of Canada that is recognized in Canada.
- (r) "Permanent custodial parent(s)" means a parent or parents with a permanent custody order by a court of competent jurisdiction recognized in Canada.
- (s) "Person" means a human being and not a corporation.
- (t) "Prospective Citizen" means a person who is the subject of an Application for Citizenship.
- (u) "Registration" means being recorded as a Citizen (Band Member) on the Citizenship List."
- (v) "Scheduled Band Meeting" means the Scheduled Band Meeting on the dates referred to in section 7.09 pursuant to section 6.08. The powers conferred to the Electorate at the Scheduled Band Meeting is to approve or deny applications under subsections 5.02 (h) and (i) and sections 5.03 and 5.04.
- (w) "Simple Majority" means the vote of 50% plus one of the Electorate who have voted and were in personal attendance at a Scheduled Band Meeting.

(x) "Substantial Connection" means substantial connection as determined by the Chief and Council and such Council may seek advice from a respected Elder or Elders to assist them in the determination. In making a determination, the Chief and Council shall rely on the considerations specified in sections 7.05 and 7.06 of this Act and 7.05 and 7.06 in their deliberations.

(y) "Working Days" means Monday to Friday except days where the Poundmaker Cree Nation's main administrative office is closed due to holidays or funerals.

Article Three

Application

3.01 A Citizen (Band Member) of Poundmaker Cree Nation is a person recorded as a Citizen on the Citizenship List pursuant to this Act and no other.

3.02 The procedures to become recorded as a Citizen on the Citizenship List are governed solely by this Act.

Article Four

Duties and Powers of Council

4.01 The powers conferred to the Chief and Council is to review the findings of the Citizenship Registrar respecting eligibility and approve or deny applications based on the findings of the Citizenship Registrar.

4.02 All decisions of the Chief and Council are made by way of simple majority vote and by way of motion, moved and seconded, and the record of decision is recorded in the minutes of each respective meeting of the Chief and Council. The form of minutes and the form of standing agenda for each meeting of the Chief and Council is determined by regulation or policies of the Poundmaker Cree Nation as may exist from time to time, and in the absence of such provisions, the form of minutes and standing agenda is determined by the Director of Operations.

Article Five

Eligibility for Registration as a Citizen (Band Member)

5.01 Any person of the Poundmaker Cree Nation whose name appears as a Citizen on the Citizenship List prior to coming into force of this Act continues to be a Citizen (Band Member) of the Poundmaker Cree Nation and is entitled to be registered under this Act and whose name, by error or

Nation Citizen upon submitting a valid application to the Registrar and, if the Registrar is satisfied that proper documentation has been submitted, shall thereafter approve the Application and record the successful Applicant to the Citizenship List without any further process.

- 5.07 All Poundmaker Cree Nation Citizens shall be entitled to rights and benefits of Treaty No. 6 including eligibility for Citizenship under this Act whether or not they are eligible to be registered under section 5 of the *Indian Act*, R.S.C. 1985, c. 1-5 as amended from time to time.
- 5.08 All applicants who are approved as Citizens (Band Members) and added to the Citizenship List shall be deemed as Treaty No. 6 individuals and thereby have full rights and benefits as Treaty No. 6 persons.
- 5.09 The Registrar may, upon request by a Citizen, issue appropriate Poundmaker Cree Nation Treaty No. 6 identification cards signed by the Registrar and the Chief of Poundmaker Cree Nation.

Article Six

The Band Membership List

- 6.01 The names on the Citizenship List maintained in the Poundmaker Cree Nation Band Office immediately prior to the coming into force of this *Poundmaker Cree Nation Membership Code 2019* shall constitute the Citizenship List to be maintained in accordance with this Act.
- 6.02 Upon coming into force of this *Poundmaker Cree Nation Membership Code 2019*, a true copy of this Citizenship List shall be posted in a conspicuous place in the Poundmaker Band Council Office for a term of not less than six months.
- 6.03 On and after the date when this *Poundmaker Cree Nation Membership Code 2019* comes into force and effect the Citizenship List shall be maintained in the Poundmaker Band Council Office by the Citizenship Registrar.
- 6.04 The Citizenship List shall indicate the date on which each name was added thereto or deleted therefrom.

~~6.05 The name of a person who is entitled to have his or her name entered on the Citizenship List upon Application pursuant to subsections 5.02 (a) to (g) of this Act shall not be entered thereon unless the Chief and Council approves the Applicant's Application by passing a motion at a duly convened Band Council meeting.~~

~~List upon Application pursuant to sections 5.03, and 5.04 of this Act shall not be entered thereon unless the Electorate has approved the subject Application at a Scheduled Band~~

or was inadvertently omitted, was not included as a Citizen in accordance with this section of this Act shall be added to the Citizenship List without any further process.

5.02 The following are the eligible Applications for Citizenship under this Act by or for and on behalf of a Prospective Citizen:

- (a) An application on behalf of a Prospective Citizen who is a Minor and at least one parent of the Minor being a Citizen.
- (b) An Applicant by a Prospective Citizen who is an adult and has one parent that is a Citizen, whether such parent is living or dead.
- (c) An Applicant for and on behalf of a Prospective Citizen who is a Minor and has one parent that is a Citizen, whether such parent is alive or dead.
- (d) An application for and on behalf of a Prospective Citizen who is a Minor by a Citizen who is a Permanent Custodial Parent of a Prospective Citizen.
- (e) An application by an adult person on behalf of a Prospective Citizen who is a Minor which Prospective Citizen has at least one parent being a Citizen provided such application is accompanied with the written consent of the other parent of the Minor which parent is not a Citizen; or with the written consent of the parent(s) who have permanent custody of the Minor.
- (f) An application for and on behalf of a Prospective Citizen who is a Minor by a Citizen as an adoptive parent of the Prospective Citizen.
- (g) An Application concerning a Prospective Citizen who has one parent who is a Citizen and the other parent is a member of another First Nation and where there is a Substantial Connection of the prospective Citizen to the Poundmaker Cree Nation.
- (h) An Application by a Prospective Citizen whose parental or grandparental lineage are Citizens, and who can show a Substantial Connection to the Poundmaker Cree Nation.
- (i) An application by a Prospective Citizen who is a spouse that is a Citizen.

5.03 A prospective Citizen, that had one parent that is no longer living and such parent was not a Citizen at the time of death but would have been granted Citizenship if such a parent applied for Citizenship immediately prior to death, is deemed to have a parent that was a Citizen for the purposes of making an Application for Citizenship under this Act.

5.04 An adult member of another First Nation in Canada who is otherwise eligible to apply for Citizenship is required to file with the Application for Citizenship a written statement that the Prospective Citizen will renounce the membership of the Prospective Citizen in the other First Nation in Canada effective on the Applicant being approved as a Citizen, and further, registration as a Citizen is effective on receipt of a band council resolution confirming his/her renunciation from the other First Nation.

5.06 Subject to vital statistics confirmation of parentage, if both parents of a Minor are Citizens (Band Members), such Minor is automatically entitled to be registered as a Poundmaker Cree

Meeting after which the Registrar shall enter the name of such successful Applicant onto the Band Citizenship List.

6.07 The Citizenship Registrar, upon inquiry from any person who believes that he or she, or an individual he or she lawfully represents, is entitled to have his or her name or that person's name included on the Citizenship List, shall indicate to the person making the inquiry whether that certain individual's name is included thereon.

Article Seven

Eligibility for Registering on the Citizenship List

7.01 An Applicant shall be accepted as a Citizen of the Poundmaker Cree Nation upon approval of his or her application under section 6.06 for Citizenship by way a simple majority of the Electorate at a scheduled Band Meeting. A decision of the Electorate shall be recorded in writing and shall be final and binding upon the Poundmaker Cree Nation.

7.02 For greater certainty, acceptance and approval by the Electorate of an application for Citizenship made pursuant to this Act shall constitute acceptance and approval of the applicant as a Citizen of the Poundmaker Cree Nation and such decision shall be final and binding upon the Poundmaker Cree Nation and the Poundmaker Chief and Council.

7.03 In the consideration of any Application for Citizenship in the Poundmaker Cree Nation under this Act, the Chief and Council shall consider, or the Electorate may consider, the following:

- (i.) whether or not the applicant identifies himself or herself with the Cree community and with the Poundmaker Cree Nation, and demonstrates that such person has knowledge of the language, custom and history of the Poundmaker Cree Nation; and,
- (ii.) whether or not the applicant has connected consanguinity (blood relations) with members of the Poundmaker Citizens; and
- (iii.) whether or not the applicant, if an Adult, can demonstrate loyalty to the Poundmaker Cree Nation

7.04 No Applicant shall be excluded from Citizenship in the Poundmaker Cree Nation solely because he or she lacks knowledge about the language, customs and history of the Band, if, given the circumstances of the Applicant's life, the Applicant may not have had a reasonable opportunity to acquire knowledge of those matters.

- 7.07 No person is entitled to have his or her name entered in the Poundmaker Cree Nation Citizenship List if his or her name is registered on another band's citizenship list maintained by the Department of Indigenous and Northern Affairs Canada or by any another band.
- 7.08 Applications for membership in the Poundmaker Cree Nation shall be determined within three hundred and sixty five (365) days of filing of those applications with the Citizenship Registrar.
- 7.09 As a matter of process, applications for Citizenship under sections 5.03 and 5.04 shall be submitted to the Citizenship Registrar complete with all necessary and required documents before April 1st of each year in order that each individual's Application can be heard and each Citizenship's Application shall be determined by the Electors of the Poundmaker Cree Nation by the following mid-June of the same year at an assembly of Electors to be known as "Scheduled Band Meeting".

Article Eight

Appeals

- 8.01 Any Poundmaker Cree Nation Citizen may appeal any decision, made by the Registrar, Chief and Council or by the Electorate at a Scheduled Band Meeting concerning Applications for Citizenship, to a court of competent jurisdiction for judicial review at their own cost.

Article Nine

Renunciation of Band Membership

- 9.01 When a Citizen of the Poundmaker Cree Nation conclusively obtains citizenship in any other band, he or she shall automatically be deemed to have renounced Citizenship in the Poundmaker Cree Nation, and his or her name shall be removed from the Citizenship List by the Registrar upon proof that such individual has successfully gained citizenship on that First Nation
- 9.02 For greater certainty, when an Applicant for Citizenship in the Poundmaker Cree Nation is a citizen of another band, he or she shall be required, as a condition of Citizenship in the Poundmaker Cree Nation, to renounce such other band citizenship, and the Citizenship in ~~the other band shall be deemed to be null and void, and the Applicant shall not be deemed to be a citizen of that other band.~~ Citizenship under this Act, and further, such Citizenship shall not be effective until the date of removal of the Applicant's name from the citizenship list of any other band.

Article Ten

Citizenship List

10.01 The names of persons bona fide entered on the Citizenship List are Citizens of Poundmaker Cree Nation without any further proof.

10.02 The Citizenship Registrar adds and deletes names from the Citizenship List in a timely manner based on the content of the records of decisions of the Chief and Council or the Electorate at Scheduled Band Meetings.

10.03 A letter from the Poundmaker Cree Nation under the signature of the Citizenship Registrar and seal of the Poundmaker Cree Nation, if any, or a Poundmaker Cree Nation Treaty No. 6 card, if any, declaring the name of a person as being on the Citizenship List is official evidential proof of being a Citizen.

10.04 A current copy of the Citizenship List is made available to the Director of Operations on request, and the Director of Operations is authorized to provide copies of the same or information contained in the Citizenship List to other departments of government including without limitation, the Indigenous and Northern Affairs Canada and the Department of First Nations and Inuit Health Branch of Health Canada, or their successors. For any other requests for such information, the Citizenship Registrar may, with written consent of the Citizen as to whom it is to be disclosed to release such information including the *Indian Act* Registration Number unless the Citizen request that such registration number be redacted.

10.05 The Citizenship List undergoes a comprehensive update by the Citizenship Registrar at least twice per year on or before April 1st and October 1st and the Citizenship List as updated is confirmed by the Chief and Council at the next meeting after each updating.

10.06 Additions or deletions to the Citizenship List, not based on an Application, is void and the same can only be done by a decision of the Chief and Council under subsection 5.02 (a) to (i) or by the Electorate at a Scheduled Band Meeting under sections 5.03 and 5.04 and is recorded in the minutes of such meetings in accordance with this Act.

Article Eleven

Due Process

11.01 No Prospective Citizen has a right to Citizenship other than pursuant to this Act.

11.02 An Applicant can request permission from the Chief and Council to make submissions in person which request may or may not be granted.

11.03 Decisions by the Chief and Council under this Act may or may not be in writing.

Article Twelve

Administrative Process

12.01 The Citizenship Registrar acts as a Registrar under this Act and maintains, keeps all matters current and archives the following information:

- (a) The Citizenship List showing at least the name, the date of birth and the Poundmaker Cree Nation Citizenship Registry Number applicable to each Citizen;
- (b) Maintain a standing log recording all applications, material correspondence relating to applications, denials and specific inquiries relative to registration as a Citizen. The standing log shall include the date of each record, the identity of the Prospective Citizen and a meaningful description of the event, with confidential information not recorded in the log except in general terms with the detail placed in the file of the Citizen or Prospective Citizen;
- (c) Minutes of meetings of the Chief and Council shall be stored in a central location;
- (d) Records of decisions of the Electorate at a Scheduled Band Meeting regarding cases concerning Citizenship applications; and
- (e) Filing system for each application or inquiry received and filed by the name of the Citizen or Prospective Citizen.

12.02 Subject to the *Privacy Act R.S.C. c. P-21*, information items referred to in section **12.01** (a) to (d) are available to be viewed on request by the Council or a Citizen of the Poundmaker Cree Nation during the working hours and availability of the Citizenship Registrar.

12.03 The Citizenship Registrar keeps the Applicant and the Council informed as to material events of concern to each.

12.04 The Citizenship Registrar shall treat all personal information contained within or relating to Applications as confidential. The Citizenship Registrar shall maintain a secured file system respecting such confidential and personal information of each Applicant.

12.05 In the event that any provision contained herein is determined to be unenforceable or void in law, that provision shall be severable and this Citizenship Act shall be read and construed as if it did not contain that provision, and the remainder of this *Poundmaker Band Membership Code 2019* shall not be affected thereby.

Article Thirteen

13.01 No action or other proceeding lies or shall be instituted against the Citizenship Registrar or an Elector, Council or a member(s) of the Council or agent or contractor for any of the same

for any loss or damage suffered by reason of anything done in good faith, caused permitted or authorized to be done, attempted to be done or admitted to be done, by any of them, pursuant to the exercise or supposed exercise of any power conferred under this Act or in the carrying out or supposed carrying out of any order made pursuant to the Act or any duty imposed by the Act. Poundmaker Cree Nation indemnifies and saves harmless the Citizenship Registrar or an agent or contractor of the same for such actions or proceedings.

Article Fourteen

Delegated Authority to Council to Pass Regulations and to Authorize Forms

14.01 Council, by Band Council Resolution, may pass regulations and authorize forms for the good administration of this Act, which regulations and forms cannot be inconsistent with this Act.

Article Fifteen

Passing, Amendment and Effect

15.01 This Act must be passed by way of a simple majority of Electors who cast a vote.

15.02 This Act can be amended or repealed by way of a simple majority vote of Electors who cast a vote.

5.03 This Act takes effect immediately upon this legislation being passed.

15.04 Effective on the passing of this Act, all other previous legislation concerning Poundmaker Cree Nation Citizenship is thereby repealed.