

Key

First Nation

Citizenship

Act

DRAFT

For Discussion Purposes

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## **KEY FIRST NATION CITIZENSHIP ACT**

### **1. Short Title**

This Act may be cited as “Key Citizenship Act”

### **2. Interpretation**

- 2.1 “FIRST NATION” means Key First Nation
- 2.2 “CITIZEN” means a person registered as a citizen of the Key First Nation under the Key First Nation Citizen Act, 2004, as amended from time to time.
- 2.3 “REGISTERED AS A CITIZEN” means a person whose name appears on the First Nation citizenship list or who is entitled to have his name appear on the citizenship list.
- 2.4 “CITIZENSHIP LIST” means the list of names of the Key First Nation citizens as maintained in accordance with this Act.
- 2.5 “CITIZENSHIP COMMITTEE” means the Committee that is responsible for the general coordination and management of the citizenship list and citizenship applications.
- 2.6 “CITIZENSHIP CLERK” means the member selected in accordance with First Nation personnel policies to maintain and administer the citizenship list and citizenship applications.
- 2.7 “CHIEF” means the Chief of the Key First Nation.
- 2.8 “COUNCILLOR” is a member of the Council who has been elected to that position according to the Key First Nation Election Act.
- 2.9 “COUNCIL” shall mean the Chief and Councillors of the Key First Nation
- 2.10 “TRIBUNAL” shall mean the Treaty 4 Tribunal as provided for in this Act.

### **3. Jurisdictional Authority**

- 3.1 This Act is authorized by the electors of the Key First Nation in accordance with the Key First Nation Constitution, which directs the development and implementation of a Key First Nation Citizenship Act. This Act asserts jurisdiction over citizenship, application for citizenship, and appeals related to applications.

### **4. Rights of the Citizens**

- 4.1 All Key First Nation citizens, regardless of the time of their registration on the Key First Nation Citizenship List, shall have the full rights of citizenship accorded to any Key First Nation citizen in accordance with the Key First Nation laws and customs.

### **5. Eligibility for Registration as a Citizen**

- 5.1 Any citizen of the Key First Nation whose name appears on the First Nation Membership List on the date this Act came into force and effect, shall be a citizen of the Key First Nation. His name shall appear on the Key First Nation Citizenship List hereinafter, unless said citizen has officially renounced his citizenship in the Key First Nation in accordance with paragraph 5.7 herein.
- 5.2 Any person who has one parent who is a citizen of the First Nation shall be eligible for registration as a citizen upon application to the Citizenship Committee.
- 5.3 Any person who is under the age of 18, and who is from a single-parent family and that parent is a member of the First Nation, shall be eligible for registration as a citizen upon application by the parent who has custody of the person; or where the application includes formal written agreement by a non-citizen parent to proceed with such registration as a citizen of the Key First Nation.
- 5.4 Any person over the age of 18 who had one parent that is no longer living but was eligible for citizenship in the First Nation at the time of death, shall be eligible for registration as a citizen upon application to the Citizenship Committee. In the case of such a person under the age of 18, the application would have to be made by the legal guardian

- 5.5 Any person who is a member or citizen of another First Nation, who is eligible for registration as a citizen of the Key First Nation in accordance with the above provisions, may apply to the Citizenship Committee for registration. Such application shall include, as a condition of citizenship in the Key First Nation, a written statement that renounces his membership or citizenship in the other First Nation. Registration as a citizen of the Key First Nation shall be effective on the date of removal of the applicant's name from the membership or citizenship list of the other First Nation.
- 5.6 Any person who has been adopted by a member of the Key First Nation in accordance with paragraph 12 of this Act shall be eligible for registration as a citizen upon application to the Citizenship Committee.
- 5.7 A citizen may renounce his citizenship, or that of his children over which he has custody, in the Key First Nation by forwarding a written statement to this effect, as witnessed by a Commissioner of Oaths, to the First Nation Office. Such letter may identify the date on which the renunciation will take effect and the legal names of the person(s) so renouncing their citizenship.

## **6. Citizenship List**

- 6.1 The names of citizens entered on the Citizenship List approved by the Citizenship Committee in accordance with this Act shall constitute the official Citizenship List of the Key First Nation.
- 6.2 The Citizenship List shall be maintained by the Citizenship Clerk and shall be updated every Four (4) months on or before the dates January 1<sup>st</sup>, May 1<sup>st</sup>, and September 1<sup>st</sup> in each and every year.
- 6.3 The Citizenship List shall be posted in a conspicuous place in the Key First Nation office and such other places, as the Citizenship Committee deems necessary. The Citizenship list is a public document, which is available to the citizens of the Key First Nation upon formal request by said citizen.
- 6.4 A copy of each Citizenship List may, at the discretion of the Council, be relayed to other agencies in other orders of government including Indian and Northern Affairs Canada and Health Canada.

## **7. Management of the Citizenship List**

- 7.1 The Citizenship Clerk shall, upon direction of the Citizenship Committee, administer all materials related to the Citizenship List and the administration of this Act
- 7.2 The Citizenship Clerk shall, upon instructions from the Citizenship Committee, add to the Citizenship List at any time the name of any person who, in accordance with the eligibility provisions of this Act, has been approved for registration as a citizen of the Key First Nation.

## **8. Application for Citizenship**

- 8.1 Any person wishing to apply for citizenship of the Key First Nation shall use and complete the *Application for Citizenship* form as appended herein and forward it to the Citizenship Clerk at the Key First Nation Government Office.
- 8.2 The Applicant has sole responsibility for the completion and submission of the application form.
- 8.3 A parent, who is a member of the First Nation, has the responsibility for initiating and completing application forms in respect of children, under the age of 18, who are eligible for registration as a citizen in accordance with paragraph 5 of this Act.
- 8.4 Any applicant shall, upon request by the Citizenship Clerk or as required by the application form, provide legal documentation and other supportive materials relating to proof of lineage or identification.
- 8.5 The Citizenship Clerk shall, within thirty days (30) following the receipt of an official application form, provide a written reply to the applicant which acknowledges receipt of the application and which may outline steps or further information requirements.
- 8.6 The Citizenship Clerk shall, within thirty (30) days of the completion of a valid application form process, advise the Chair of the Citizenship Committee of the application.
- 8.7 The Citizenship Clerk shall maintain a standing record of all applications, approvals, denials and inquires relative to registration as a citizens.

## **9. Decision Making and Approval Procedure**

- 9.1 The Citizenship Committee, in accordance with the provision of this Act, has sole and final decision-making authority, subject to the appeal process outlined in paragraph 13 of this Act, with respect to the acceptance or denial of any application for citizenship in the Key First Nation.
- 9.2 In cases where the Citizenship Committee deems it necessary to obtain advice and assistance on any decision regarding an application for Citizenship, the Citizenship Committee may arrange to consult with the Council and Elders of the Key First Nation in a formal meeting called for that purpose.
- 9.3 No other body of the Key First Nation nor any entity external to the Key First Nation shall have authority to make decisions on applications for citizenship.
- 9.4 The Citizenship Clerk shall, on behalf of the Citizenship Committee, maintain a written record of all decisions and deliberations of the Citizenship Committee regarding formal applications for citizenship. Such records shall be deemed to be confidential
- 9.5 Confidential<sup>1.1</sup> The Citizenship Committee shall be comprised of 5 electors as selected by the major clans of Key First Nation, these being the Key, Brass, Papequash, O'Soup and Crane. The Council shall appoint one Elder to the Committee. The Council shall formally recognize the membership of the Committee by resolution.
- 11.2 The Committee representatives shall have a four (4) year term of office.
- 11.3 The members of the Citizenship shall be required to swear to an Oath of Office as prescribe by the Council and attached to this Act.
- 11.4 The Citizenship Committee shall select a chairperson from among its members.
- 11.5 A Committee member shall be replaced in accordance with paragraph 11.1 above if he resigns, is absent from three consecutive meetings of the Committee, has died, or

in the judgement of the Council, is incapacitated or has committed an act which contravenes this Act.

- 11.6 The Council, at a meeting of duly called for this purpose, may recall and/or replace any Committee member where, in the judgement of the Council, the individual is unable to serve or has demonstrated that he should not serve as a member of the Citizenship Committee.

## **10. Adoption**

- 12.1 Family members who have been adopted, and wish to apply for citizenship, shall be governed by the following procedures:
- 12.1(a) The adoption must be recognized as legal under the adoption laws of Saskatchewan, which the Key First Nation recognizes as applying to adoptions by Key First Nation citizens.
- 12.1(b) If the adopted member of the family has reached the age of 18 years, he can apply for citizenship under the provisions of this Act.
- 12.1(c) If the adopted member of the family is under the age of 18, his guardian(s) can apply for citizenship under the provisions of this Act.

## **11. Appeals**

- 13.1 Any applicant may appeal a decision of the Citizenship Committee by delivering an appeal in writing setting forth the grounds of the appeal.
- 13.2 The appeal shall be submitted in written form to the Citizenship Clerk.
- 13.3 Upon reviewing the submission, the Citizenship Clerk will certify that the appeal relates to this Act. An appeal is restricted to the following grounds:
- 13.3(a) Decisions of the Citizenship Committee that have the perception of bias, do not follow due process, are made with inadequate information or do not respect the rights of the applicant.
- 13.3(b) Illegal, fraudulent or criminal activity which may have affected the decision being appealed

- 13.4 Once verified, the Citizenship Clerk will provide a written response within fifteen (15) working days outlining the steps in the appeal process.

13.4(a) Step One

The Citizenship Clerk undertakes to provide information to address the appeal. If the appellant is satisfied that the information addresses his concerns, the appeal is dropped.

13.4(b) Step Two

In the event that "Step One" has not satisfied the Appellant, the Citizenship Committee shall hear the appeal, in the presence of the Appellant, within thirty (30) working days of the Citizenship Committee receiving notice from the Citizenship Clerk that "Step One" has not resolved the appeal. The Citizenship Committee may reverse or uphold the rejection of citizenship. If the Appellant is not satisfied, he can request a hearing before the Treaty 4 Tribunal.

13.4(c) Step Three

The Appellant shall be required to deliver, by cheque or money order, to the Citizenship Clerk, a non-refundable fee of \$500.00 made out to the Key First Nation, in order to access the Treaty 4 Tribunal.

Upon receipt of the fee, the Citizenship Clerk shall advise the Council of the Key First Nation of the need to request the activation of the Treaty 4 Tribunal to hear the appeal.

13.4(d) Step Four

Within 15 days following notice from the Citizenship Clerk, the Council of the Key First Nation shall make a request to the Treaty 4 Governance Institute to activate the Treaty 4 Tribunal to hear and decide upon the appeal.

- 13.5 An “Appeal Tribunal” shall consist of Three (3) Members selected by the Treaty 4 Governance Institute.
- 13.6 Upon its appointment, an Appeal Tribunal shall hold a hearing into the appeal(s). Notice of the Appeal Hearing shall be sent by the Appeal Tribunal to the Appellant(s) and to the Citizenship Committee. The Appeal Tribunal shall, at their discretion, have access to technical, translation and administrative assistance and advisory services. The cost of such services shall be borne by the Key First Nation.
- 13.7 At the Appeal Hearing, the Appellant(s) will be given the opportunity to present evidence and argument in support of their respective positions. The Citizenship Committee shall be afforded a reasonable opportunity to respond to the appeal.
- 13.8 Subject to the foregoing, the Appeal Tribunal may establish its own rules of evidence and procedure. Nothing herein shall require the evidence given or procedure adopted to conform to rules of evidence or procedure which may be adopted in any other appeal or by any other Appeal Tribunal, tribunal or court whatsoever;
- 13.9 Upon conclusion of the appeal hearing for purpose of receiving evidence and argument, the Appeal Tribunal shall respond with a decision within 10 working days and in it’s decision shall:
- 13.9(a) determine whether the appellant(s) has proven the grounds for appeal set out in the Notice of Appeal on a balance of probabilities, and
- 13.9(b) determine whether the grounds as proven may reasonably have affected the decision appealed from, and
- 13.9(c) uphold the decision of the Citizenship Committee, or
- 13.9(d) order the Citizenship Committee to register the applicant as a citizen of the Key First Nation.
- 13.10 The decision of the majority of the Appeal Tribunal is final and will be made with written reasons being given

for its conclusions. No other Tribunal or Court may hold a hearing or render a decision on the appeal, nor is the Appeal Tribunal's decision subject to any further appeal to any other court or tribunal

- 13.11 The appeal hearing shall, unless all parties otherwise agree, be held at the Treaty 4 Governance Centre in Fort Qu'Appelle, Saskatchewan.
- 13.12 The decision, once made, shall be forthwith provided by the Appeal Tribunal to the Citizenship Clerk, who shall in turn provide copies of the decision to the appellant(s), the Council, the Citizenship Committee and Director of Operations.
- 13.13 Upon being notified of the decision, the Citizenship Committee and Council of the Key First Nation shall take all steps necessary to enforce the decision and to put the terms thereof into effect.
- 13.14 The Citizenship Committee and Council shall ensure that full public notification is given about the decision of the Appeal Tribunal.

## **14 Amendments**

- 14.1 Amendments to this Act may be made only through the process, as set out in the *Key First Nation Constitution*, for amending Key First Nation la

## **15. COMING INTO FORCE**

- 15.1 After ratification of this Act through the process of approving Key First Nations laws, as set out in the *Key First Nations Constitution*, the pre-existing *Membership Code of the Key Band*, as ratified on June 22, 1987 and proclaimed on June 26, 1987, is repealed in its entirety and replaced by this law, *The Key First Nation Citizenship Act*.

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