

# BLUEBERRY RIVER FIRST NATIONS MEMBERSHIP CODE

(“EXAMPLE CODE”)

July 18, 2022 - Draft for discussion purposes only



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## BLUEBERRY RIVER FIRST NATIONS MEMBERSHIP CODE

We, the people of the Blueberry River First Nations, recognizing our inherent right to govern ourselves within our traditional territories, and in order that we may survive as a distinct people within Canada in a manner consistent with our heritage, our culture and our values, we do hereby proclaim the Blueberry River First Nations Membership Code.

### DEFINITIONS

1. In this Membership Code:

“adopted” means to take into one’s family the Indian child of another by legally prescribed channels or in accordance with Blueberry River custom;

“acquired member” means a member of the Blueberry River First Nations under sections 9 and 10;

“band member” means a person who, prior to [◆*effective date of Membership Code*], was a member of the band, as that term is defined under section 2(1) of the *Indian Act*, known as the Blueberry River First Nations;

“Council” means the council of the band known as the Blueberry River First Nations within the meaning of subparagraph 2(1) of the *Indian Act*, as elected from time to time under their custom;

“Council Resolution” means a resolution of Council approved by a quorum of Council;

“descendant member” means a member of the Blueberry River First Nations under section 5;

“Blueberry River First Nations” means the Blueberry River Indian Band as represented by its elected Council within the meaning of subparagraph 2(1) of the *Indian Act*;

“Elder” means a member who is of the age of 55 years or older, and who is recognized as an elder by the custom of the Blueberry River First Nations;

“General Meeting” means:

- (a) a membership meeting called by Council, with at least 14 days’ notice of any motion to be voted on, posted at the administrative offices of the Blueberry River First Nations, and attended by a quorum consisting of not less than 25% of the members, or



- (b) if a quorum is not constituted at a meeting under the preceding subsection (a), where a majority of the members present at that meeting voted in favour of the motion, a second meeting called by Council to be held within 30 days and with at least 14 days' notice posted at the administration offices of the Blueberry River First Nations, at which the members present shall constitute a quorum;

“honourary member” means a person who, after [◆*effective date of Membership Code*] under this Membership Code, is registered under section 13 on the membership list as an honorary member of the Blueberry River First Nations;

“Indian” means a person who, under the *Indian Act*, is registered as an Indian on the Indian register;

“*Indian Act*” means the *Indian Act*, R.S.C. 1985, c. I-5 as amended from time to time and the regulations thereto;

“Indian child” means a child of Indian descent born in or out of wedlock;

“Indian register” means the register of Indians that is maintained under section 5 of the *Indian Act*;

“married” means

- (a) married by the traditional laws and customs of the Blueberry River First Nations, or
- (b) married in accordance with the laws of a Province or other jurisdiction;

“kindred member” means a member of the Blueberry River First Nations under section 8;

“lineal member” means a member of the Blueberry River First Nations under section 7;

“member” means a person who, after [◆*effective date of Membership Code*] under this Membership Code, is registered under section 2 on the membership list as a member of the Blueberry River First Nations;

“Membership Committee” means the Membership Committee appointed by Council under section 23;

“membership list” means the list of members maintained by the Blueberry River First Nations under section 3;

“policies” means policies approved by Council under section 21;



“registrar” means the officer of the Blueberry River First Nations appointed by Council under section 16; and

“status” means a person who is registered as an Indian in the Indian register.

## MEMBERSHIP LIST

2. The members of the Blueberry River First Nations are those persons whose names are entered on the membership list as descendant members, lineal members, kindred members or acquired members. ***[Membership is broken down into four categories: descendant (section 5), lineal (section 7), kindred (section 8) and acquired (section 9) membership. The descendant and lineal membership entitlement is automatic, whereas kindred and acquired membership is discretionary.]***
3. The registrar of the Blueberry River First Nations must maintain a membership list that must include:
  - (a) the names and birth dates of all living persons who are entitled to be members in accordance with the provisions of this Membership Code; and
  - (b) the date on which the name was entered on the membership list;and may include other information which the Membership Committee or Council considers appropriate.
4. A member may inspect a copy of the membership list at the principal administration offices of the Blueberry River First Nations during the regular business hours of the administration of the Blueberry River First Nations.

## MEMBERSHIP ENTITLEMENT

### ***Descendant Members***

5. Subject to sections 6 and 20, the following persons are entitled to have their names entered on the membership list as descendant members:
  - (a) a person whose name was entered on the Indian register as a band member, or whose name was entitled to be entered on the Indian register as a band member, as of [◆ *effective date of Membership Code*], including a person who was entitled to be entered on the Indian register under the amendments to the *Indian Act* given Royal Assent on June 28, 1985; ***[Existing members of Blueberry at time of Membership Code effective date, other than those who received membership by marriage/adoption]***



- (b) a person whose name was entered on the Indian register as a band member and was involuntarily transferred out of the Blueberry River First Nations when that person married a member of an Indian band other than the Blueberry River First Nations; *[Women who were forced to transfer when married into another band.]*
- (c) a biological child of a person entitled to membership under section 5(b) and whose name has been entered on the Indian register, or who was entitled to have their name entered on the Indian register *[Children of women who were forced to transfer when their mother married into another band.]*; and
- (d) a person with two biological parents who are, or if no longer living would be, if alive:
  - (i) both entered on or entitled to be entered on the membership list as descendant members; or
  - (ii) entered on or entitled to be entered on the membership list, one as a descendant member and the other as a lineal member.

*[Both biological parents are descendant members (ie. 5(a)-(d)) **OR** one is a descendant member and the other is a lineal member (see section 7 below) - this section 5(d) is relevant to future descendant member entitlement only]*

*[Within this draft membership code scheme, descendant members may be thought of as at least  $\frac{3}{4}$  or 75% Blueberry, and have the full ability to pass on entitlement to membership to their children – descendant membership is an automatic entitlement]*

- 6. A person is not entitled to have their name entered on the membership list as a descendant member under sections 5(a), 5(b) or 5(c) if their original entitlement to have their name entered on the Indian register was acquired as a consequence of marriage or adoption.

*[Exception to descendant member entitlement for existing members who only have status because of marriage to or adoption by a Blueberry member – for example a non-Indian woman who acquired status as a Blueberry member when she married a Blueberry member prior to 1985. These existing members are still entitled to membership under section 9 below as “acquired” members]*

#### ***Lineal Members***

- 7. Subject to section 20, a person with:
  - (a) one biological parent who is, or if no longer living would be, if alive, entered on or entitled to be entered on the membership list as a descendant member;

- (b) two biological parents who are, or if no longer living would be, if alive, both entered on or entitled to be entered on the membership list:
  - (i) as lineal members; or
  - (ii) one as a descendant member and the other as a kindred member;

is entitled to have their name entered on the membership list as a lineal member.

***[“Lineal” member status - one biological parent is a descendant member (ie. 5(a)-(d) above) OR both biological parents are lineal members (this section 7) - relevant to future membership only and automatic membership entitlement)]***

***[Within this draft membership code scheme, lineal members may be thought of as at least ½ or 50% Blueberry, and have a more limited ability to pass on entitlement to membership to their children (ie. the other parent must also be a descendant or lineal member of the Nation.)]***

#### ***Kindred Members***

8. Subject to section 20, a person with:
- (a) one biological parent who is, or if no longer living would be, if alive, entered on or entitled to be entered on the membership list as a lineal member; or
  - (b) two biological parents who are, or if no longer living would be, if alive, both entered on or entitled to be entered on the membership list:
    - (i) as kindred members; or
    - (ii) one as a lineal member and the other as a kindred member;

may apply to have their name entered on the membership list as a kindred member.

***[“Kindred” member status – one biological parent is a lineal member (section 7 above) and one is a kindred member (this section 8) OR both biological parents are kindred members - relevant to future membership only and non-automatic membership (discretionary decision on application and must show close connection/commitment to Blueberry)]***

***[Within this draft membership code scheme, kindred members may be thought of as at least ¼ or 25% Blueberry, and have very limited ability to pass on entitlement to membership to their children (ie. the other parent must be a descendant member of the Nation.)]***



***Acquired Members***

9. Subject to section 20, a person whose name was entered on or who was entitled to have his or her name entered on the Indian register as a band member solely as a consequence of marriage to or adoption by another person whose name was entered on the Indian register as a band member is entitled to have their name entered on the membership list as an acquired member. ***[addresses the exception to descendant member entitlement for existing members who are only members because of marriage to or adoption by a Blueberry member – for example a non-Indian woman who acquired status as a Blueberry member when she married a Blueberry member prior to 1985. Automatic membership entitlement.]***
10. Subject to section 20, the following persons may apply to the Membership Committee to have their names entered on the membership list as acquired members:
  - (a) an Indian child under the age of eighteen years who has been adopted by parents, both of whom are, or if no longer living, were members ***[addresses future adoption circumstances – must be child with status. Non-automatic membership (discretionary decision on application)]***; and
  - (b) a person who is married to a descendant member ***[addresses future marriage circumstances – must be a person with status. Non-automatic membership (discretionary decision on application)]***; and
    - (i) is a member of an Indian band other than the Blueberry River First Nations; or
    - (ii) whose name appears on the Indian register;except if the person acquired status as a consequence of marriage or adoption.
11. Notwithstanding any other section of this Code, a member of an Indian band other than the Blueberry River First Nations may not become a member of the Blueberry River First Nations unless they give up membership in the other Indian band.
12. A non-Indian child who is adopted by a member is not eligible for membership in the Blueberry River First Nations.

***[“Acquired” member status - acquired members have no ability to pass on entitlement to their children. This category would primarily consist of adopted Indian children and Indian spouses from other Nations who married or marry Blueberry members. These spouses or adoptees would have no Blueberry blood quantum, or if they did, it would be less than 25%.]***





***Honourary Members***

13. Subject to section 20, the following persons may apply to the Membership Committee to have their names entered on the membership list as honorary members provided such application is sponsored by a member and is in a manner and in the form set out in the policies:
  - (a) an Indian who resides in a Blueberry River First Nations community and makes a contribution to the Blueberry River First Nations; and
  - (b) a person who has made a significant contribution to the Blueberry River First Nations and whom the members wish to honour as an honorary member.
14. The Council may, by resolution, determine what rights, if any, an honorary member may have within the Blueberry River First Nations.
15. If, after 14 days' notice to the honorary member, a General Meeting approves by a majority vote the removal of an honorary member's name from the membership list, the registrar will remove that person's name from the membership list.

***[“Honourary” member status - honorary members have no ability to pass on entitlement to their children. This is an honorary membership given by the Nation to persons it wishes to honour. There are no benefits that flow from such membership, unless specifically granted by Chief and Council. This category is relevant to future membership only and non-automatic membership (discretionary decision on application - must live in community, have application sponsored by member, and make significant contribution to Blueberry)]***

**APPLICATION FOR MEMBERSHIP**

16. Subject to section 17, every person entitled to have his or her name entered on the membership list under sections 5 or 7 and every person who may apply to have their name entered on the membership list under sections 8, 9 or 10 must apply to the Membership Committee in a manner and in the form set out in the policies. ***[Persons seeking membership under any category must apply to the Membership Committee]***
17. An application to the Membership Committee under section 16 is not required for a person:
  - (a) whose name was entered on the Indian register as a band member on [◆ effective date of Membership Code]; or

- (b) who is entitled to have their name entered on the membership list under sections 5(d) and 7 if notice of the birth of the person is given to the registrar in a manner and in the form set out in the policies.

***[Exceptions to application requirement – existing members as of effective date, and where notice of birth given to registrar for new descendant or lineal member]***

18. In considering applications under sections 8, the Membership Committee must, along with the applicable membership criteria guidelines in the policies as required by section 28(b), consider evidence of the applicant's:
- (a) self-identification with, and participation in, the Blueberry River First Nations community;
  - (b) ancestral connection to the historic Blueberry River First Nations directly through either the applicant's matrilineal ancestral line or patrilineal ancestral line; and
  - (c) acceptance by the Blueberry River First Nations members as being a part of their shared culture, customs and traditions that constitute the Blueberry River First Nations' identity.

***[Applications for kindred membership – Membership Committee must consider evidence of self-identification and connection to/acceptance by Blueberry community]***

19. An application made to the Membership Committee for honorary membership under section 13 must be reviewed by the Membership Committee within 60 days of the application being complete and the Membership Committee must make a recommendation concerning the application to the next regularly scheduled General Meeting of the members of the Blueberry River First Nations for which notice of the application can be sent to the members of the Blueberry River First Nations 14 days prior to the application being heard and such General Meeting may approve, decline or table such application as it deems fit.

***[Process for determination of application for honorary membership]***

## **CEASING TO BE A MEMBER**

20. Despite sections 5, 7, 8, 10 and 13, a person will have their name removed from the membership list by the registrar if the person:



- (a) voluntarily, or as a consequence of any action of a parent or legal guardian, is or becomes a member of an Indian band other than the Blueberry River First Nations;
- (b) is at least 19 years old and provides a statutory declaration to the registrar requesting that their name be removed from the membership list;
- (c) acquired status and had their name entered on the membership list as a consequence of marriage and that marriage has since dissolved; and
- (d) had their name entered on the membership list on the basis of a material error in the facts on which their entitlement to membership was based.

***[Bases for removal from membership list]***

**ADMINISTRATION OF MEMBERSHIP LIST**

21. Council may establish policies, including membership criteria guidelines, consistent with this Membership Code with respect to the administration of this Membership Code.

***[Establishment of policies and guidelines – must be consistent with the Membership Code]***

22. A registrar, appointed by Council motion, must
- (a) produce and provide reports when requested by Council;
  - (b) comply with the policies established by Council under section 21;
  - (c) maintain a permanent record of all births, deaths, marriages, divorces, adoptions, changes of name, transfers of membership or citizenship, surrenders of membership, minutes of all meetings of the Membership Committee and a General Meeting at which an appeal or application for membership is heard, and other information pertinent to the administration of the Membership Code;
  - (d) provide application forms and appropriate information and assistance to those who are applying to the Membership Committee for membership;
  - (e) receive and process completed applications for membership for presentation to the Membership Committee;
  - (f) maintain the membership list under section 3 in accordance with policies established under section 21 and:



- (i) add to the membership list the name of a person whose application has been approved by the Membership Committee under section 28;
  - (ii) add to the membership list the name of a person if the Registrar has received notice of their birth under section 17(b);
  - (iii) add to the membership list the name of a person whose application for honorary membership has been approved by a General Meeting under section 13;
  - (iv) remove from the membership list the name of a person required to be removed under section 20; and
  - (v) add to or remove from the membership list the name of a person in accordance with a decision of Council or the General Meeting under section 36;
- (g) post a copy of the membership list in accordance with policies established under section 21;
- (h) provide written notice to a person whose name is removed from the membership list by the registrar under section 20;
- (i) post a copy of the notice provided to a person under subsection (h) at the principal administration offices of the Blueberry River First Nations for 90 days;
- (j) at the request of a person applying for membership under section 10 provide a copy of the current membership criteria guidelines contained in the policies established under section 21 to the person;
- (k) provide a copy of a decision of the Membership Committee under section 28 to a person who applied to the Membership Committee for membership;
- (l) provide written notice to a person of their right to appeal:
- (i) the removal of their name from the membership list by the registrar under of section 20; and
  - (ii) a decision of the Membership Committee under section 28;
- (m) receive and process appeals for presentation to Council or the General Meeting;
- (n) provide notice of an appeal to the General Meeting to the members of the Blueberry River First Nations at least 14 days prior to the date on which a General Meeting is to be held and at which the appeal is to be heard;



- (o) provide notice of an application for honorary membership to the members of the Blueberry River First Nations at least 14 days prior to the date on which a General Meeting is to be held and at which the application for honorary membership is to be heard;
- (p) provide a copy of a decision of Council or the General Meeting under section 36 to:
  - (i) a person whose name was removed from the membership list by the Registrar under section 20; or
  - (ii) a person who appealed a decision of the Membership Committee under section 28;
- (q) if a member of the Blueberry River First Nations appealed the removal of a person's name from the membership list by the Registrar under section 20 or a decision of the Membership Committee under section 28, provide a copy of the decision of Council or the General Meeting under section 36 to the member;
- (r) provide a copy of a decision of the General Meeting under section 19 to the applicant for honorary membership and to the member who sponsored such application; and
- (s) as soon as reasonably possible, post a decision of:
  - (i) the Membership Committee under section 28 for a period of 90 days;
  - (ii) the General Meeting under section 19 for a period of 30 days; and
  - (iii) Council or the General Meeting under section 36 for a period of 30 days,at the principal administration offices of the Blueberry River First Nations.

***[Responsibilities of registrar and process requirements]***

**MEMBERSHIP COMMITTEE**

23. A Membership Committee, appointed by Council motion, must consist of not less than
- (a) two elders, one of whom must live on a reserve of the Blueberry River First Nations;
  - (b) six additional members, at least two of whom must live on a reserve or reserves of the Blueberry River First Nations, and

the registrar, who will act as the chairperson of the Membership Committee.

24. Council must, in considering appointments to the Membership Committee under section 23, give consideration to and make appointments with regard to the traditional family groupings of the Blueberry River First Nations, to the extent that is reasonably practicable, so that each of the major traditional family groupings has representation on the Membership Committee and the minor traditional family groupings collectively have at least one representative on the Membership Committee.
25. Members of the Membership Committee, other than the registrar, hold office for a term of three years.
26. If a member of the Membership Committee resigns, or is otherwise unable to complete the term of their appointment, Council may appoint a replacement for the balance of that term.
27. No member of the Membership Committee may participate in any proceeding where the member's participation would constitute a conflict of interest.
28. The Membership Committee must:
- (a) review applications for membership in the Blueberry River First Nations within 60 days of the complete application being delivered to the registrar,
  - (b) consider section 18, if applicable, and the applicable membership criteria guidelines in the policies in making a decision,
  - (c) supply written reasons for its decisions, and
  - (d) produce and provide reports when requested by Council.
29. Decisions of the Membership Committee are to be made by majority vote.

*[Membership Committee – composition and process]*

**APPEALS**

30. The removal of a person's name from the membership list by the registrar under section 20 may be appealed to Council by:
- (a) the person, within 90 days of receiving notice of the removal; and
  - (b) any member of the Blueberry River First Nations, within 90 days of the decision being posted.



31. A decision of the Membership Committee under section 28 may be appealed to Council by:
  - (a) the person applying for membership, within 90 days of receiving the decision; and
  - (b) any member of the Blueberry River First Nations, within 90 days of the decision being posted,where the decision is in respect of an application for membership as a descendant or lineal member.
32. A decision of the Membership Committee under section 28 may be appealed to a General Meeting by:
  - (a) the person applying for membership, within 90 days of receiving the decision; and
  - (b) any member of the Blueberry River First Nations, within 90 days of the decision being posted,where the decision is in respect of an application for membership as a kindred or acquired member.
33. An appeal under section 30 or 31(b) must be heard at the next regularly scheduled Council meeting.
34. An appeal under section 32 must be heard at the next regularly scheduled General Meeting of the members of the Blueberry River First Nations for which notice of the appeal can be sent to the members of the Blueberry River First Nations 14 days prior to the appeal being heard.
35. In hearing an appeal, Council or the General Meeting may consider:
  - (a) all the evidence considered by the registrar or the Membership Committee at the time the decision appealed was made;
  - (b) any additional materials provided by the person appealing the decision; and
  - (c) any other information that it deems appropriate.
36. After hearing an appeal, Council or the General Meeting may:
  - (a) uphold the decision of the registrar or Membership Committee;
  - (b) order the registrar to add or remove a name from the membership list; or



- (c) make any other order that it considers appropriate.
37. A decision by Council to table an appeal made under section 30 or 31 must be heard and finally determined at the next regularly scheduled Council meeting.
38. A decision by the General Meeting to table an application under section 19 or to table an appeal made under section 32 must be heard and finally determined at the next regularly scheduled General Meeting of the members of the Blueberry River First Nations for which notice of the hearing of the tabled application or appeal can be sent to the members of the Blueberry River First Nations 14 days prior to the tabled application or appeal being heard.
39. The decision of Council concerning an appeal made under section 30 or 31 must be recorded in the minutes of the Council meeting and a copy provided to the person who appealed under section 30 or 31 and to the members of the Blueberry River First Nations.
40. The decision of the General Meeting concerning an application under section 19 or an appeal made under section 32 must be recorded in the minutes of the General Meeting and a copy provided to the applicant and sponsor under section 19 or to the person who appealed under section 32 and to the members of the Blueberry River First Nations.
41. A Council Resolution or a decision of a majority of the members in attendance at the General Meeting is final.

*[Process and requirements for appeals to Council or to a General Meeting]*

**AMENDMENTS TO THE CODE**

42. This Membership Code may only be amended with the consent of a majority of the members of the Blueberry River First Nations who vote in a referendum held in accordance with the policies and who are at least eighteen years old.