

TEMPLATE

Key Elements of a Indian Act Citizenship Code (16 Elements) MODEL

1. Title

- **States the title of the code;**
 - This Citizenship Code will be called or cited as the *First Nations Indian Act Citizenship Code*

2. Preamble

- **Expresses the beliefs, values, philosophy and or principles of the First Nation;**
 - States that First Nations has the inherent right to determine their own citizenship/membership
 - States that the Creator gave the First Nation the right to self-determination and the right
 - States that the code is based on collective rights and respects fundamental human rights of all individuals
 - States that the code will respect international principles of human rights and the *Canadian Charter of Rights and Freedoms*

3. Authority

- **States that the First Nation has the inherent right to decide their own citizenship**
- **Explains who or what entity/committee/Council will decide or affirm the citizenship of a person**

4. Definition

- **This is an essential element of a code**
- **Defines technical, legal or ambiguous words;**
 - “*Custom Adoption*” means an adoption according to the historical and customary practices of the First Nation
 - “*Chief and Council*” means the Executive Council

5. Entitlement to be a Citizen

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- **Explains the eligibility criteria to be a citizen of the First Nation**
 - Original members entered on the Band List
 - On previous *Indian Act* registry list
 - Descendants of both parents of the First Nation
 - Degree of First Nation's ancestry based on 50 % Blood Quantum
 - Knowledge of culture and customs of the First Nation
 - Ties to the community

6. Application Process

- **Explains that if a person does not have *automatic* citizenship the person must apply for citizenship**
- **Explains the application process;**
 - A person (the applicant) must submit an application form to the Registrar
- **Explains what documentation is required to apply;**
 - An applicant must submit an application form and copies of their Status Card, birth certificate, genealogy

7. Customary Adoption

- **Explains that the First Nation respects customary adoption and entitles a person to citizenship**

8. Renouncement of Citizenship

- **This is a common element of a code**
- **Explains that a citizen cannot have dual First Nation citizenship and must renounce or give up their citizenship with the other First Nation**

9. Non - Member Resident

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- **Explains who and what defines a non - member resident;**
 - Persons who were never citizens of the First Nation
 - Persons who are married and living with a citizen
 - Persons who are widowed and still reside in the community
- **May explain certain conditions, restrictions or probation for a non-member resident;**
 - Person may live in the community
 - Person may or may not receive services or benefits

10. Decision Making Authority

- **Explains who has the authority to decide whether a person is *entitled* to be a citizen;**
 - The decision can be made by one person, a committee, Council, Council of Elders, the community, etc., but the decision is usually made by a committee of at least three people
- **Explains the Committee's composition and whether they are appointed or elected;**
 - The Committee will be composed of one Elder and two citizens
 - The Committee will be composed of one Councilor/Chief, two citizens (male and female) and a youth
- **Explains the Committee's rules and procedures concerning the decision of a person's citizenship;**
 - The Committee's decision on a person's citizenship will be fair, based on facts and determined by;
 - Consensus,
 - Majority rule,
 - Secret ballot,
 - Community vote
 - Quorum of the Committee is required in order for a decision to be valid or recognized concerning a person's eligibility

11. Appeal and Review Process

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- **Explains that a person has the right to appeal a decision concerning their citizenship**
- **Explains how the appeal process functions**
- **Explains who can make an appeal**
- **Explains who will review the appeal;**
 - Council of Elders, or
 - Citizenship Review Council, or
 - Tribunal, or
 - Appeal Board
 - Community Review
- **Explains how the decision will be made;**
 - By consensus,
 - By majority rule,
 - By secret ballot,
 - By the community
- **Explains how many times a person can make on appeal**
- **Explains on what grounds a person can make an appeal**
- **May explain that a person can make a written or verbal presentation if a person's application is refused**
- **May state that an appeal is final and binding**

12. Membership List

- **Is the First Nations list of citizens**

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- **The list can be referred to as the Registry;**
 - First Nations Registry
 - Band List
 - Band Membership List
 - Citizenship Registry
- **Explains where the list will be kept and who has access to it**
- **States whether the Registry will be sent to Indian and Northern Affairs**

13. Conditions of Citizenship

- **States that citizenship within the First Nation neither confers or denies entitlements and benefits**
- **May explain certain conditions or restrictions concerning a citizenship's rights;**
 - May state that if a citizen does meet eligibility criteria they will be removed from the registry
 - Spouse – of another First Nation may become a citizen however they must renounce their citizenship
 - Must have knowledge of the First Nations' culture and customs
- **May explain that dual citizenship is not permitted and that a citizen must renounce their citizenship if they transfer to another First Nation**
- **Explains that if a citizen obtained their citizenship fraudulently they will be removed from the citizenship list**

14. Regulations

- **This is not an essential element of a code**

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- **Explains that regulations or procedures can be enacted and carried out by Chief and Council if required;**
 - By – laws for residency
- **May explain if Chief and Council has discretionary powers**

15. Amendment Process

- **Explains how the code will be passed or ratified**
 - The amendments will be voted on by a majority of eligible voters at a General Assembly, a community meeting or by the Citizenship Committee or Chief and Council

16. Enactment Process

- **Explains when and how the Code shall come into force and effect**
 - The rules and provisions of this Code shall come into effect on the day in which the Council gives notice to the *Minister* pursuant to Section 10 (6) of *Indian Act*
- **Explains that previous Codes will be repealed and null and void**