

August 2004

McLeod Lake Indian Band
Membership Code

Preamble

Whereas:

1. the McLeod Lake Indian Band is an Aboriginal people within the meaning of section 35 of the *Constitution Act, 1982*;
2. the McLeod Lake Indian Band is a Band within the meaning of the *Indian Act*, R.S.C. 1985, c. I-5;
3. the McLeod Lake Indian Band adhered to Treaty No. 8 when it entered into the McLeod Lake Indian Band Treaty No. 8 Adhesion and Settlement Agreement with Canada and the province of British Columbia on the 27th day of March 2000;
4. the *Indian Act* distinguishes between Band Members having Indian Status and Band Members not having Indian Status;
5. Treaty No. 8 and the Adhesion distinguish between those members of the McLeod Lake Indian Band who elected to receive land in severalty, and those members whose entitlements were received communally by the McLeod Lake Indian Band;
6. the McLeod Lake Indian Band's Treaty No. 8 Land Entitlements depend upon the number of status members in the Band on March 27, 2000.
7. the McLeod Lake Indian Band has assumed control over its own membership pursuant to section 10 of the *Indian Act*;
8. the McLeod Lake Indian Band recognizes that distinctions between various classes of members must be taken into account in its Membership Code;
9. the McLeod Lake Indian Band amended the McLeod Lake Indian Band Membership Code on December 11th, 2003, pursuant to section 10 of the *Indian Act*;

Now, therefore, the McLeod Lake Indian Band wishes to amend its Membership Code pursuant to the Amending Procedures set out in section 8 of the Code, and its existing electoral procedures, in order to ensure the Membership Code is consistent with the principles outlined above, by repealing it in its entirety and replacing it with the following provisions.

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Definitions

“**Act**” means the *Indian Act of Canada, R.S.C. 1985, c.1-5* as amended.

“**Adhesion**” means the McLeod Lake Indian Band Treaty No. 8 Adhesion and Settlement Agreement with Canada and the province of British Columbia on the 27th day of March 2000.

“**Administrator**” means the person appointed as Registrar for the McLeod Lake Indian Band by Band Council Resolution.

“**Age of Majority**” means 18 years of age or older.

“**Band**” means the McLeod Lake Indian Band.

“**Band Business Earnings**” means earnings of the McLeod Lake Indian Band arising through its conduct of business including businesses it owns or participates in.

“**Band List**” means the list of members of the McLeod Lake Indian Band maintained by the Band pursuant to section 10 of the Act.

“**Band Custom**” means a traditional practice that is established and recognized by the members of the Band.

“**Band Member**” means a person whose name is lawfully entered on the Band List, in accordance with this Code, but does not include honorary members.

“**Child**” means a person under the age of majority and for the purpose of this code a child of the Band includes a child adopted by a Band Member in accordance with Canadian Law or Band Custom.

“**Council**” means the governing Chief and Council of the McLeod Lake Indian Band as elected pursuant to the McLeod Lake Indian Band Custom Election Code.

“**Elector**” means a person who:

- i. Is a registered member of the McLeod Lake Indian Band;
- ii. Has attained the age of eighteen (18) years.
- iii. Qualifies as a registered elector under the McLeod Lake Indian Band Custom Election Code.

“**Honorary member**” means a person who is not a direct descendant of a member of the McLeod Lake Indian Band, but has been granted honorary membership in accordance with this Code.

“**Indian**” means a person who is registered, or is entitled to be registered as an Indian pursuant to the *Indian Act of Canada, R.S.C. 1985, c.1-5* as amended.

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“Marriage” means a union between two people as recognized by Canadian law or Band Custom.

“Per Capita Distribution” means the distribution set out in Article 3.1 (c) of the McLeod Lake Indian Band Treaty No. 8 Adhesion Trust Agreement.

“Registration” means registration on the Band List.

“Severalty member” means a member who has elected to receive land in severalty through the provisions of Treaty No.8, and the Adhesion and Settlement Agreement.

“Trust” means the McLeod Lake Indian Band Treaty No. 8 Adhesion Trust Agreement, or any other Trust created for the administration of the Band’s communal property.

“Trust Programs or Benefits” means distribution programs or benefits in accordance with the Trust.

Section 1 – Title

1.1 The Code may be cited as the McLeod Lake Indian Band Membership Code, as ratified and amended the 20th day, of August, of the year 2004.

Section 2 – Objective

- 2.1 The objective of the McLeod Lake Indian Band Membership Code is to;
- a. Identify persons who have a right to Membership within the McLeod Lake Indian Band; and
 - b. Identify persons who may be granted Membership within the McLeod Lake Indian Band.

Section 3 – Entitlement to Membership and Classification of Members

3.1 Unless otherwise provided in this Code, persons born to at least one parent who is directly descended from persons registered as members in the McLeod Lake Indian Band as of March 27, 2000 are entitled to membership by birthright.

3.1.1 Notwithstanding anything in this Code, nothing prevents different classes of members from having different entitlements.

Current members:

3.2 Unless otherwise provided in this section, this Code adopts and recognizes those members who were registered on the Band list as of March 27, 2000.

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3.2.1 The entitlements of persons identified in section 3.2 are listed in the Entitlement Policy attached as Appendix I - table A.

Children registered after March 27, 2000

3.3 Persons:

- a. born to at least one parent who is directly descended from persons identified in section 3.2;
- b. who registered after March 27, 2000; and
- c. who are entitled to Indian Status;

are entitled to membership by birthright.

3.3.1 The entitlements of persons identified in section 3.3 are listed in the Entitlement Policy attached as Appendix 1-table B.

Non Status

3.4 Persons:

- a. born to at least one parent who is directly descended from persons identified in section 3.2;
- b. who registered after March 27, 2000; and
- c. who are not entitled to Indian Status;

are entitled to membership.

3.4.1 The entitlements of persons identified in section 3.4 are listed in the Entitlement Policy attached as Appendix 1-table C.

Honorary Membership

3.5 Honorary membership will be granted to persons not descended from the persons on the original Band List upon application as provided in this section.

3.5.1 Applications for Honorary Membership may be made by persons

- a. who are employed by the McLeod Lake Indian Band or its wholly owned subsidiaries, or
- b. who marry a McLeod Lake Indian Band member but who are not otherwise entitled to membership under this Code.

3.5.2 For greater certainty, entitlement to honorary membership is set out in the Entitlement Policy attached as Appendix 1-table D.

3.5.3 No rights or entitlements attach to honorary membership.

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Adopted Children

- 3.6 Children not otherwise entitled to membership under this Code, who are adopted by a McLeod Lake Indian Band member are eligible for membership.
- 3.6.1 The entitlements of persons identified in section 3.6 are listed in the Entitlement Policy attached as Appendix 1-table C.

Transferee

- 3.7 Former members of the McLeod Lake Indian Band who are directly descended from at least one McLeod Lake Indian Band parent and are now registered on another Indian Band list, will be readmitted as members of the McLeod Lake Indian Band if they provide
- a. a Band Council Resolution from the McLeod Lake Indian Band consenting to their transfer to the McLeod Lake Indian Band; and
 - b. a Band Council Resolution from the Band where they are currently registered, also consenting to their transfer out of that Band.
- 3.7.1 Children of members who have transferred in under the provisions of this section are transferee members unless they were members listed on the Band List on March 27, 2000.
- 3.7.2 The entitlements of persons under this section are set out in the Entitlement Policy attached as Appendix 1-table E.

Severalty

- 3.8 Those members who have elected to receive Land in Severalty are entitled to membership.
- 3.8.1 A Severalty member may become a member under section 3.2 of this Code if, at any time prior to conveyance of land in severalty to the severalty member, he or she follows the procedures set out in Article 8.6 of the Adhesion.
- 3.8.2 Children of severalty members are severalty members unless they were members listed on the Band List on March 27, 2000.
- 3.8.3 The entitlements of persons under section 3.8 are set out in the Entitlement Policy attached as Appendix 1-table F.
- 3.8.4 The provisions of this section apply notwithstanding anything else in this Code.

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Section 4 – Applications for Membership

- 4.1 Legal guardians may make application for McLeod Lake Indian Band membership on behalf of persons who are minors or are incapacitated.
- 4.2 Each application for membership pursuant to Section 3 of the McLeod Lake Indian Band Membership Code will be submitted in writing to the McLeod Lake Indian Band's appointed Administrator in the form prescribed by the Band Council.
- 4.3 An application for membership must
- a. specify the provision of the Code under which the application is brought; and
 - b. identify any facts upon which the applicant relies in order to establish entitlement to membership in the Band.
- 4.4 Within sixty days after receiving an application for membership, the Administrator shall:
- a. Accept the application if the facts upon which the application is based are established;
 - b. Reject the application if the facts upon which the application is based are not established;
 - c. Ask for further submissions; or
 - d. Refer the application to the next Annual General Assembly of the Band.
- 4.5 Subject to section 6, membership may not be denied to any person who establishes an entitlement to membership under this code
- 4.6 Where an application is referred to the Annual General Assembly, the provisions of section 5 apply with the necessary changes in detail
- 4.7 The Administrator must notify the Applicant in writing of his or her decision.

Section 5 – Appeal

- 5.1 Where the Administrator denies an application for membership, the applicant may appeal the decision to the next Annual General Assembly of the McLeod Lake Band.
- 5.2 Before any vote may be conducted, the McLeod Lake Indian Band Tribunal must certify that there is a legitimate issue to be decided by the membership concerning the applicant's entitlement to membership.
- 5.3 An application for certification as a legitimate issue under section 5.2 must be brought to the Tribunal at least ninety days prior to the Annual General Assembly.

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- 5.4 Upon an application under section 5.2, the Administrator will ensure that the record and reasons in the case are forwarded to the Tribunal for review.
- 5.5 No later than thirty days prior to the Annual General Assembly, the Tribunal will either certify that there is a legitimate issue for the Assembly to determine, or refuse such certification.
- 5.6 The decision of the Tribunal as to certification is final and binding.
- 5.3 At the Annual General Assembly, the members of the Band will conduct a vote concerning the application for membership.
- 5.4 In order to overturn the decision of the Administrator:
- a. Twenty-five percent (25%) of the eligible voters must be in attendance and cast a ballot, and
 - b. Fifty percent plus one (50%+1) of those who voted must agree in favour of accepting the applicant as a member of the McLeod Lake Indian Band.
- 5.5 If the application is denied at the Annual General Assembly, there is no further right of appeal.
- 5.6 The decision of the Annual General Assembly is final and binding.

Section 6 – Loss of Membership

- 6.1 Honorary members of the Band whose personal conduct or criminal record demonstrates a threat to the health, peace, and order of the McLeod Lake Indian Band may be removed from the Band List if:
- a. The Band Council passes a Band Council resolution to put the issue of the member's conduct and possible revocation of membership to a vote at the next Annual General Assembly, at least one (1) month prior to the next Annual General Assembly;
 - b. The McLeod Lake Indian Band's Administrator, or other such appointed person, notifies that person that a vote for removal of their membership within the Band will be held at the next Annual General Assembly; and
 - c. Twenty-five percent (25%) of the eligible voters must be in attendance and cast a ballot, and fifty percent plus one (50%+1) of those who voted must agree in favour of removing that member from the McLeod Lake Indian Band membership list.

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- 6.2 Persons who gained honorary membership through marriage will cease to be members on the date of divorce.
- 6.3 Persons who gained honorary membership through employment will cease to be members on the date of employment termination.

Section 7 – Amendment Procedure

- 7.1 This Membership Code may be amended by fifty percent plus one (50%+ 1) of all eligible electors of the McLeod Lake Indian Band, during the Annual General Assembly of the McLeod Lake Indian Band, either in person or by mail-in ballot.

Section 8 – Enactment

- 8.1 This Membership Code shall come into force one (1) month after ratification by Band members.

Section 9 – Delegation of Authority

- 9.1 The Band Council may make regulations for the administration of this Code, and for greater certainty, but not so as to limit the generality of the forgoing terms may make regulations prescribing forms for the administration of this Code.

JS

J.H.

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McLeod Lake Indian Band
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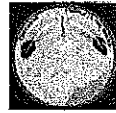


Table A

Those members who were registered on the band list as of March 27, 2000 will be eligible for the following:

- a. Indian and Northern Affairs Canada funding;
- b. First Nations and Inuit Health Branch funding;
- c. Per Capita distribution or any other distributions at the age of majority;
- d. Trust programs;
- e. Band business earnings;
- f. Right to vote in elections and referendums;
- g. Right to run for Band Council, Board of Trustees and any other elected bodies; and
- h. Any other programs or benefits provided by the Band Council from time to time in effect to which they are entitled.

Table B

Those children having Indian Status who are entitled to membership and registered after March 27, 2000 will be eligible for the following:

- a. Indian and Northern Affairs Canada funding;
- b. First Nations and Inuit Health Branch funding;
- c. Trust programs;
- d. Band business earnings;
- e. Right to vote in elections and referendums;
- f. Right to run for Band Council, Board of Trustee and any other elected bodies; and
- g. Any other programs or benefits provided by the Band Council from time to time in effect to which they are entitled.

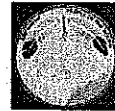
Those children having Indian Status who are entitled to membership and registered after March 27, 2000 may be eligible for the following

- a. Per Capita distribution or any other distributions at the age of majority.

Table C

Those persons, including children adopted by members of the Band, who are entitled to membership, but are not entitled to Indian Status under the *Indian Act*, will be eligible for the following:

- a. Trust programs (excluding per capita distributions);
 - b. Right to vote in elections and referendums; and
 - c. Right to run for Band Council, Board of Trustees and any other elected bodies.
 - d. Any other programs or benefits provided by the Band Council from time to time in effect to which they are entitled.
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Table D

Honorary Membership is available to:

- a. Persons who are employed by the McLeod Lake Indian Band and its wholly owned subsidiaries, after one year of continuous full-time employment; and
- b. Persons who marry a band member

Table E

Those former members of the McLeod Lake Indian Band, who wish to transfer their membership back to the McLeod Lake Indian Band, will be eligible for the following;

- a. Indian and Northern Affairs Canada funding;
- b. First Nations and Inuit Health Branch funding;
- c. Band business earnings;
- d. Trust programs (excluding Per Capita distributions);
- e. Right to vote in elections and referendums; and
- f. Right to run for Band Council, Board of Trustees and any other elected bodies.

Table F

Severalty Members:

- a. Will be eligible for Indian and Northern Affairs Funding;
- b. Will be eligible for First Nations and Inuit Health Branch funding;
- c. Will have the right to vote in elections and referendums, except as provided in this table;
- d. Will have the right to run for Band Council and other elected bodies, except as provided in this table;
- e. Will **not** be entitled to the Per Capita distribution or any other distributions;
- f. Will **not** be entitled to any Trust programs;
- g. Will **not** be entitled to band business earnings; and
- h. Will **not** be eligible to run for Board of Trustees or the Land Management Committee or have the right to vote on Trust issues.

General Provisions

1. No payment set out in this Entitlement Policy is mandatory, excluding per Capita distribution for those members whose names were registered on the membership list on March 27, 2000.
2. If the Council fails to adhere to this Entitlement Policy, an affected party may refer the matter to the McLeod Lake Indian Band Tribunal for Decision. The Tribunal may, in cases where the Council has not adhered to this Policy, order that the Council adhere to it.

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