



Henvey Inlet First Nation

E'DBENDAAGZIJJIG NAAKNIGEWIN [RESTATED MEMBERSHIP CODE]

This E'dbendaagzijig Naaknigewin or Membership Code sets out the rules and procedures governing entitlement to be enrolled as a member of Henvey Inlet First Nation.

Definitions and interpretation

1. In this E'dbendaagzijig Naaknigewin:

(a) the following terms shall have the meanings set forth below:

"**Council**" means the elected Chief and Council of Henvey Inlet First Nation;

"**E'dbendaagzijig Naaknigewin**" and "**Code**" mean this law of Henvey Inlet First Nation;

"**elector**" means a member over the age of eighteen (18) years;

"**he or she**" and "**they**" includes persons of any or no gender;

"**member**" means a person who is enrolled on the membership list of Henvey Inlet First Nation;

"**Membership Clerk**" means a person appointed by Council to manage applications made pursuant to this Code;

"**Membership Advisory Committee**" means the committee of members appointed by Council to review applications for membership and to advise Council on membership matters;

"**nda-nwendaagan**" means a person other than a member who is recognized as part of the Henvey Inlet First Nation community, and "**nda-nwendaaganag**" is the plural form thereof;

"**Nda-nwendaaganag List**" means the list of nda-nwendaaganag of Henvey Inlet First Nation;

"**parent**" includes:

- i. a birth parent, whether or not the parental relationship was disrupted by a court order; and
- ii. a parent by adoption in accordance with Indigenous custom, under the laws of Ontario or under the laws of any other jurisdiction recognized by the courts in Canada, where the adoption occurred during the adopted person's minority;

"**police record check**" means a criminal and vulnerable sector record report, including information obtained from the national databases of the Canadian Police Information Centre ("**CPIC**"), issued by the police force in the jurisdiction in which a person resides;

"**ratification vote**" means a poll of the electors conducted in accordance with section 17;

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“serious offence” means an indictable offence under the *Criminal Code* or under any other Act of Parliament for which the maximum punishment is imprisonment for five (5) years or more, or another offence that is prescribed as a serious offence by regulation made under the *Criminal Code*, R.S.C. 1985, c. C-46;

“spouse” includes anyone to whom a person is married or with whom a person has cohabited in a conjugal relationship for a period in excess of three (3) years;

- (b) a person is of **Indigenous ancestry** if that person's parents and grandparents include at least two (2) individuals who are or were members of a First Nation or of an Indigenous community recognized by resolution of Council for the purposes of this Code; and
- (c) a person is of **Henvey Inlet First Nation ancestry** if that person's parents and grandparents include at least three (3) persons who are or were members of a First Nation or an Indigenous community recognized by resolution of Council for the purposes of this Code, at least one (1) of whom is or was a member of Henvey Inlet First Nation who did not acquire membership by marriage.

ENTITLEMENT TO MEMBERSHIP

Entitlement to be a member

2. The following persons are entitled to be enrolled as members of Henvey Inlet First Nation:

Original list member

- (a) a person whose name appeared on the membership list of Henvey Inlet First Nation on the date this Code came into effect;

Person who is of Henvey Inlet First Nation ancestry

- (b) a person of Henvey Inlet First Nation ancestry;

Person of Indigenous ancestry approved by ratification vote

- (c) a person of Indigenous ancestry who is not eligible under subsections 2(a) or 2(b) whose application for membership was approved by a ratification vote conducted in accordance with section 17.

NDA-NWENDAAGANAG

Entitlement to be nda-nwendaagan

3. A person who is not eligible to be enrolled as a member under section 2 but who is an active participant in and contributor to the Henvey Inlet First Nation community, and whose application is approved by ratification vote conducted in accordance with section 17, is entitled to be enrolled on the Nda-nwendaaganag List as an nda-nwendaagan of Henvey Inlet First Nation with such rights as may be specified from time to time by Council in accordance with section 35 of this Code.

APPLICATIONS

Application required

4. Every person who wishes to be enrolled as a member or nda-nwendaagan of Henvey Inlet First Nation shall submit an application in the form prescribed by the Membership Clerk from time to time.

Separate application for each applicant

5. A separate application shall be made by or on behalf of each person seeking to be enrolled as a member.

Information required to be provided in an application

6. An application to be enrolled as a member or nda-nwendaagan shall be in writing, sworn by the applicant before a commissioner of oaths, and shall include:

- (a) particulars of the applicant's ancestry, spouse, and dependants, supported by official documentation satisfactory to the Membership Advisory Committee;
- (b) particulars of the applicant's occupation or profession, history of community involvement, connection with Henvey Inlet First Nation, and knowledge of its culture, language, customs, community, and treaty;
- (c) where section 7 of this Code applies, a police record check compliant with that section; and
- (d) the importance of Henvey Inlet First Nation identity and participation in the Henvey Inlet First Nation community to the applicant.

Police record check

7. With the exception of applications on behalf of minors, an application to be enrolled pursuant to:

- (a) subsection 2(b), where the applicant claims entitlement to membership as the child of a former member of Henvey Inlet First Nation who transferred to another First Nation;
- (b) subsections 2(c); or
- (c) section 3;

shall not be accepted or approved in respect of a person who has failed to provide a police record check dated within the three (3) months immediately prior to the submission of the application, or who has produced a police record check which does not satisfy the requirements for membership or the Nda-nwendaaganag List set out in the Henvey Inlet First Nation CPIC Record Policy adopted by Council from time to time or, in lieu of the establishment of such a policy, which discloses that the applicant has been convicted of a serious offence within the previous five (5) years or is a dangerous offender or sexual offender.

Police Record Check Decision - Appeal

8. On an appeal pursuant to section 20 of a decision of the Membership Advisory Committee to reject an application on the basis of information disclosed in a police record check, the applicant may make submissions that he or she does not pose a threat to the Henvey Inlet First Nation community.

Police record checks not to be retained

9. All police record checks shall be returned to the person named therein as soon as may be practical after the Membership Advisory Committee's review pursuant to section 13, and the Membership Advisory Committee and any other person who may have had any access thereto shall not disclose to any person the contents thereof except as provided in section 13 or as required by law.

Application on behalf of minor

10. An application made on behalf of a minor shall include a consent signed by every person having a right to custody of the minor.

Transfers

11. Notwithstanding anything elsewhere provided in this Code, an application by or on behalf of a person who is enrolled as a member of a First Nation or of an Indigenous community recognized by resolution of Council for the purposes of this Code, shall include the consent of that First Nation or Indigenous community to the transfer, and if approved, shall not take effect until the applicant has ceased to be a member of that First Nation or Indigenous community.

REVIEW AND DECISION OF APPLICATIONS**Intake by Membership Clerk**

12. Within thirty (30) days of receipt of an application for membership, the Membership Clerk shall review the application for completeness and either:

- (a) provided the application is complete, forward the application to the Membership Advisory Committee for verification; or
- (b) reject the application and return it to the applicant with a written explanation of the reasons for rejection.

Verification by Membership Advisory Committee

13. Within sixty (60) days of receipt of a complete application, the Membership Advisory Committee shall review the information set out therein, and the police record check for each adult for whom a police record check is required, and either:

- (a) provided the information contained in the application is accurate and the police check satisfies the requirements for membership set out in section 7, sign and attach a certificate of verification to the application, and deliver written notice of verification to the applicant; or

- (b) reject the application and return it to the applicant with a written explanation of the reasons for rejection.

Application based on original list or Henvey Inlet First Nation ancestry (ss. 2(a) or 2(b))

14. On verification by the Membership Advisory Committee of an application by a person entitled to membership under subsections 2(a) or 2(b), the Membership Clerk shall add the name of that person to the membership list and send written notice of enrolment to the applicant.

Applications requiring a ratification vote (ss. 2(c) or 3)

15. An application for membership pursuant to subsection 2(c) or for the Nda-nwendaaganag List pursuant to section 3 shall be decided as follows:

- (a) Within sixty (60) days of the verification of an application by the Membership Advisory Committee, Council:
 - i. may meet with the applicant to review and discuss the application;
 - ii. having regard to the criteria in section 16, shall either reject the application or direct that the application be submitted to a ratification vote as soon as may be practicable and in any case within one (1) year; and
 - iii. shall deliver a Notice of Decision in writing to the applicant setting out its decision.
- (b) A ratification vote in respect of an application for membership or for enrolment as a Nda-nwendaagan shall be conducted and approved in accordance with section 17 of this Code, and on completion of the vote, Council shall deliver a Notice of Decision in writing to the applicant stating whether membership was approved or denied.

Matters relevant to deciding applications pursuant to ss. 2(c) or 3

16. In deciding an application for membership pursuant to subsection 2(c), or for the Nda-nwendaaganag List pursuant to section 3, Council, or the electors as the case may be, shall have regard to:

- (a) the applicant's ancestry, family, and dependants;
- (b) the applicant's occupation or profession;
- (c) any history of community involvement or other connection with Henvey Inlet First Nation;
- (d) the applicant's knowledge of or contributions which the applicant may make to the language, culture, community, or economy of Henvey Inlet First Nation;
- (e) the potential impact of a grant of membership on Henvey Inlet First Nation resources;
- (f) the importance of Henvey Inlet First Nation identity and participation in the Henvey Inlet First Nation community to the applicant; and

- (g) any other consideration or information Council deems to be relevant to the decision.

RATIFICATION VOTE

How conducted

17. A ratification vote in respect of one (1) or more applications for membership or the Nda-nwendaaganag List, or any membership matter, may be held by Council as follows:

- (a) Council shall provide not less than forty-five (45) days' notice of the ratification vote to the electors, and where the ratification vote concerns one (1) or more applications, to the applicants.
- (b) The notice of ratification vote provided to each elector shall include a written summary of the matters to be decided including, where the ratification vote concerns one (1) or more applications, the material facts with respect to each person included in each application to be decided at the meeting, as determined by Council, and a copy of this Code.
- (c) Council shall convene, on not less than thirty (30) days' notice to the electors, at least one information meeting prior to the ratification vote for a review by the electors of the matters or applications submitted for ratification. An Information Meeting may be convened at a location within the reserve or traditional lands of Henvey Inlet First Nation, and shall be open only to the electors, persons named in the applications, and other persons expressly invited to attend by Council, any of whom may participate in person or by two-way video conferencing application. Applicants and persons other than members may be permitted to address the electors and to respond to any questions of the electors, and may be excluded from parts of the Information Meeting.
- (d) Each matter and application to be decided shall be listed separately on the ratification ballot and shall be subject to a separate secret yes or no vote.
- (e) Ratification votes may be mailed in, cast in person or by internet-based voting application, or by any combination of those methods specified by resolution of Council.
- (f) A matter or application for membership pursuant to subsection 2(c) shall be deemed approved if at least 10% of the eligible voters cast a vote in respect of the matter or application, and a majority of the votes cast are in favour.
- (g) An application for enrolment as an Nda-nwendaagan pursuant to section 3 shall be deemed approved if at least 10% of the eligible voters cast a vote in respect of the application, and two-thirds (2/3) of the votes cast are in favour.

Enrolment

18. The Membership Clerk shall add the name of a person whose application has been verified pursuant to section 13 and approved pursuant to section 17 to the membership list or the Nda-

nwendaaganag List as applicable, subject only to fulfillment of any requirements of a transfer and the consent of the applicant, and send written notice of enrolment to the applicant.

APPEALS AND PROTESTS

Appeal of decision of Membership Clerk or Membership Advisory Committee

19. Any member and any person named in an application may appeal a decision, action, or failure to act of the Membership Clerk or Membership Advisory Committee by submitting a written notice of appeal to the Council, setting out the particulars of the Membership Clerk or Membership Advisory Committee's action or failure to act which that person wishes to appeal and the grounds of the appeal.

Decision of Appeal

20. An appeal of a decision, action, or failure to act of the Membership Clerk or Membership Advisory Committee shall be decided by majority vote of Council, a quorum being present, and the decision of Council shall not be subject to any further appeal.

No appeal of Council decision or ratification vote

21. Neither a decision of Council nor a ratification vote is subject to any form of appeal other than a protest as provided in this Code.

Protest

22. Any member may protest the enrolment of a member or nda-nwendaagan to a person by submitting, within three (3) years after the date membership is granted, a written notice of protest to the Membership Administrator setting out the reasons why that person was not, at the date of enrolment or thereafter, entitled to be a member or nda-nwendaagan under this Code.

Enquiry into protest

23. Where a protest is received in respect of a member or nda-nwendaagan, Council shall make such enquiries or cause such enquiries to be made as it sees fit and shall afford the protested member and any person claiming membership under that member, or nda-nwendaagan, an opportunity to respond to the protest before deciding the protest.

Decision of protest

24. Where Council, after enquiry into a protest as provided in section 23, decides that a person who was enrolled is not entitled to be a member or nda-nwendaagan under this Code, the name of that individual shall be struck from the Membership List or the Nda-nwendaaganag List as applicable and any property of the First Nation transferred to that person after the date they ceased to be entitled shall be returned to the First Nation without interest or deduction.

No appeal of ratification vote or Council decision

25. A ratification vote and a decision of Council shall not be subject to appeal of any kind whatsoever.

RESTRICTIONS AND LIMITATIONS

Effect of banishment

26. Notwithstanding anything elsewhere provided in this law, a person who is banished by a First Nation or of an Indigenous community recognized by resolution of Council for the purposes of this Code, shall not be eligible for membership except by ratification vote pursuant to section 17.

Re-application

27. A person whose application has been refused by Council may not re-apply earlier than the second anniversary of delivery of the Notice of Decision to refuse enrolment.

Members may not be members of any other First Nation, band or tribe

28. No person may be simultaneously a member Henvey Inlet First Nation and a member of any other First Nation, band, tribe, or Indigenous community recognized by resolution of Council for the purposes of this Code.

ADMINISTRATION

Membership Clerk

29. Council shall ensure the appointment at all times of a Membership Clerk to discharge the duties assigned to the Membership Clerk in this Code.

Establishment of the Membership Advisory Committee

30. The Membership Advisory Committee is hereby established for the following purposes:

- (a) to assist with the development and implementation of this Code; and
- (b) to discharge the duties assigned to the Membership Advisory Committee in this Code.

Appointment of Membership Advisory Committee members

31. Immediately upon the coming into effect of this Code, and thereafter as often as required, Council shall appoint one (1) Councillor and at least three (3) but no more than five (5) other members who are not Councillors of Henvey Inlet First Nation to the Membership Advisory Committee to serve until successors are appointed, and appropriate sufficient resources for its operations.

Facilitation by the Membership Clerk

32. The operations of the Membership Advisory Committee shall be facilitated by the Membership Clerk who shall not be a member thereof.

Membership Advisory Committee Rules of Procedure

33. The Membership Advisory Committee shall conduct its affairs in accordance with the First Nation's standard rules of procedure for committees and other governance policies.

Per diem compensation

34. Members of the Membership Advisory Committee members shall be compensated on a per diem basis at rates to be fixed from time to time by resolution of Council.

Entitlement of nda-nwendaaganag to programs, services, and other benefits

35. Subject to the terms or conditions of any grant or funding agreement and the *Canadian Charter of Rights and Freedoms*, Council may by resolution from time to time determine the programs, services and other benefits which may be available to nda-nwendaaganag, and the terms and conditions of access to those programs, services and benefits.

Immunity

36. No criminal or civil proceedings shall lie against any person for anything done or omitted to be done in good faith during the course of the exercise or purported exercise of any power or the performance or purported performance of any duty or function pursuant to this Code.

Annual Membership Report

37. Within six (6) months of the First Nation's fiscal year end in each year, the Membership Clerk shall prepare, and Council shall review, approve, and publish, for the benefit of members, an Annual Membership Report which shall include, for the reported period, a summary of applications and appeals received, approved, denied, pending, or otherwise disposed of.

AMENDMENT AND IN FORCE DATE**Amendment**

38. Council may amend this E'dbendaagzijig Naaknigewin by resolution in open session provided the amendment has been approved by the electors as provided in subsection 17(f).

In force date

39. This E'dbendaagzijig Naaknigewin and any amendment hereto ratified by the electors shall come into force on a date to be fixed by resolution of Council.