

COWICHAN INDIAN BAND

MEMBERSHIP RULES

PART I

WHEREAS section 35 of the Constitution Act, 1982 recognizes and affirms the existing aboriginal and treaty rights of the aboriginal peoples of Canada;

AND WHEREAS section 25 of the Constitution Act, 1982 provides that the guarantee of individual rights and freedoms shall not be construed so as to abrogate or derogate from any aboriginal, treaty or other rights or freedoms that pertain to the aboriginal peoples of Canada;

AND WHEREAS section 10 of the Indian Act, R.S.C. 1985, c. I-5, provides that a Band may assume control of its membership if it establishes Membership Rules for itself in writing and receives the consent of a majority of its electors;

AND WHEREAS a majority of the electors of the Cowichan Indian Band have duly consented as annexed hereto in Schedule A;

NOW THEREFORE, the Band enacts as follows:

TITLE

1. These Rules may be cited as the COWICHAN INDIAN BAND MEMBERSHIP RULES, as amended June 28, 1992.

OBJECT OF THE RULES

2. The object of these Rules is to:
 - (1) determine Cowichan Band membership through recognition of the cultural traditions, language and customary laws of the Cowichan people;
 - (2) promote and enhance the social harmony and economic stability of the Band; and,
 - (3) safeguard the use of Cowichan reserve lands for the benefit of Cowichan Indians.

INTERPRETATION

3. In these Rules:
 - (1) "**Act**" means the Indian Act, R.S.C. 1985, c.I-5 as amended from time to time;
 - (2) "**Band**" means the Cowichan Indian Band;
 - (3) "**Band List**" means a list of persons belonging to the Cowichan Indian Band that is maintained by the Band under section 8 of the Act;
 - (4) "**Band member**" means a person whose name is lawfully entered on the Band List;

(5) "**child**" includes an Indian child born in or out of wedlock, a legally adopted Indian child and an Indian child adopted in accordance with Indian custom;

(6) "**Council of the Band**" (the "Council") means the Chief and Council chosen according to the election provisions set out under section 74 of the Act;

(7) "**custom adoption**" means the process whereby a Band member, whether a direct blood relative or not, assumes the care and responsibility for a child until that child reaches eighteen (18) years of age;

(8) "**custom marriage**" means the process whereby invited guests witness the ceremony of union between a man and a woman in a traditional Cowichan marriage;

(9) "**elector**" means a person who is:

- (a) registered on the Band List;
- (b) of the full age of eighteen (18) years; and,
- (c) ordinarily resident on or off the reserve;

(10) "**Indian**" means a person with Indian blood who is registered as an Indian within the meaning of the Act;

(11) "**Inter-Band marriage**" means a marriage between a Band member and a member of another Canadian Indian Band;

(12) **"marriage"** means:

(a) a custom marriage according to the Cowichan tradition; or,

(b) a legal marriage.

(13) **"Membership Clerk"** (the "Clerk") means a person appointed by the Council to perform the duties of registrar of Band membership;

(14) **"Membership Committee"** (the "Committee") means a Committee appointed by the Council for a two (2) year term consisting of:

(a) two Council members;

(b) two elders of the Band;

(c) two members who have regained Band membership pursuant to the Act; and,

(d) one member of the original Membership Committee established by the Band on April 5, 1987;

(14.1) **"referendum"** means the process of referring to the electors of the Band for approval of a proposed amendment of the Rules, which process may be a secret ballot, show of hands, petition, or individual consent declaration;

(15) "**reserve**" means a tract of land, the legal title to which is vested in Her Majesty, that has been set apart by Her Majesty for the use and benefit of the Band, or which may be acquired by way of land claim settlement;

(16) "**Rules**" means the Cowichan Indian Band Membership Rules; and,

(17) Use of words denoting the male gender is deemed to include the female gender.

PART II

ORIGINAL MEMBERSHIP

4. The following persons are entitled to membership and enrollment in the Band List:

(1) all persons entered or entitled to be entered in the Band List of the Cowichan Indian Band immediately prior to April 17, 1985;

(2) all persons born to two Band members, whether living or deceased;

(3) all persons entitled to be restored to the Band List by operation of section 6(1)(c) of the Act, namely:

(a) persons who lost Indian status and Band membership under the so-called "double mother" rule;

(b) Indian women who lost Indian status and Band membership by marriage to a non-Indian man;

(c) persons whose names were deleted from the Band List because of protest by the Band that his father was not Indian; and,

(d) persons who were voluntarily enfranchised as a result of his parent or spouse becoming enfranchised; and

(4) all persons born on or after April 17, 1985 to parents both of whom have been restored to the Band List or, if no longer living, were at the time of death entitled to have their names restored to the Band List.

PART III

NEW BAND MEMBERS

5. All new Band members must have Indian status and:

(1) prove direct descendancy from a Cowichan Indian ancestor;

(2) be married to a Band member; or,

(3) be adopted by a Band member.

6. All persons born to at least one Cowichan Indian Band member are eligible to apply for membership in the Band.

7. An adult applying pursuant to section 5(1) must demonstrate familiarity with his Cowichan family tree or the hereditary ritual ceremonies of his family.

8. An adult applying pursuant to section 5 must demonstrate:

(1) respect for the cultural institutions of the Cowichan people; and,

(2) that he has a residential lot available if he intends to live on reserve.

9. An adult member of another Band must provide an Undertaking to Withdraw his membership, attached as Schedule "C" to these Rules, from the former Band when applying for transfer of his membership to the Band.

10. A child born of an Inter-Band marriage may be registered as a member of the Band of either parent, providing both parents agree in writing to the registration.

PART IV
APPLICATION PROCEDURE

11. All persons seeking Band membership after June 28, 1988 shall make formal application for membership by submitting the application form attached as Schedule "B" to the Clerk. Parents or guardians shall apply on behalf of minor children.

12. The Clerk shall:

(1) acknowledge receipt to the applicant of every application for Band membership within thirty (30) days of submission; and,

(2) ensure each application is supported by an Indian status certificate plus one or more of the following documents:

(a) long form birth certificate;

(b) marriage certificate;

(c) Court adoption order;

(d) proof of ancestral Cowichan family name; or,

(e) other official documents in the nature of vital statistics records which prove entitlement to Band membership.

13. Upon being satisfied that an application is complete with supporting documentation, the Clerk shall call a meeting of the Committee once every two months who shall:

(1) interview the applicant if he is an adult, or the parent or guardian in the case of minors;

(2) give the Clerk and the applicant an opportunity to present relevant evidence, including witnesses;

(3) evaluate the applicant's eligibility for Band membership according to these Rules; and,

(4) recommend acceptance or rejection of the application to Council.

14. Council shall have the authority to accept or reject all applications for Band membership and shall notify the applicant of its decision in writing, giving reasons in the event of rejection.

14.1 An applicant may be rejected by the Committee, the Council or the Band members upon proof of severe anti-social or criminal behaviour which threatens to jeopardize the peace, order, safety and good government of the Band and its membership.

PART V

APPEAL PROCEDURE

15. A person whose application has been rejected may appeal within thirty (30) days from the date of notification of rejection.

16. All appeals must be filed on the Notice of Appeal form attached as Schedule "D" to these Rules.

17. Council shall hold a Band meeting each year during the month of May to vote on all appeals received during the preceding twelve (12) months.

18. The appellant shall be admitted to Band membership if he receives a majority vote of all electors who attend the Band meeting.

19. A person may appeal his rejection by the Council for Band membership only once.

20. Neither the Band nor any of its agents under these Rules shall be liable for any claim made against it by a person whose application has been rejected.

PART VI

LOSS OF MEMBERSHIP

21. Where a person having no Cowichan Indian blood has become a member of the Band through marriage to a Band

member, that person shall no longer be entitled to Band membership upon the event of:

- (1) divorce from the Band member; or,
- (2) living separate and apart from the Band member for one year.

22. For greater certainty, all children of Cowichan Indian ancestry who are adopted out of the Band shall be entitled to Band membership until they turn 18 at which time they may choose to continue or withdraw their membership from the Band.

PART VII

AMENDMENT PROCEDURE

23. On June 28, 1989 the Clerk shall present a report on the first year of operation of these Rules to the Committee.

24. The Committee may recommend amendments for the improvement of these Rules to the Council.

25. Amendments may be made by a Band referendum on June 28, 1990 and, thereafter, every two (2) years if deemed necessary by the Committee.

PART VIII
COMING INTO FORCE

26. This amendment to these Rules shall be deemed to have come into force on the 28th day of June, 1992.

PART IX
DELEGATION OF AUTHORITY

27. The Band hereby delegates to the Council the authority to enact regulations to administer these Rules in a fair, impartial manner without discriminating on the basis of sex, religion, age or family in accordance with the principles of natural justice and in the best interests of the Band.



Cowichan Band Council

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FOR OFFICE USE ONLY
SECTION 5 (1) _____
SECTION 5 (2) _____
SECTION 5 (3) _____
SECTION 6 _____

APPLICATION FOR MEMBERSHIP

Cowichan Indian Band Membership Rules - Schedule "B"

1. I, _____
(Print - Full Name)

hereby apply for membership in the Cowichan Indian Band.

OR

2. I, _____
(Print - Full Name)

hereby apply as parent/guardian on behalf of the applicant
who is under 18 years.

3. (1) Full Legal name of applicant:

(2) Current Mailing Address:
(of applicant/guardian)

Phone No. _____

(3) Date of Birth:
(of applicant)

(4) Band and Number: _____

(5) Former Band Number:
(if applicable)

4. (1)(a) Name of spouse (if applicable):

(b) Band and Band number of spouse:

5. (1) (a) Name of father:

(b) Band and Band number of father:
(if applicable)

(2) (a) Name of mother:

(b) Band and Band number of mother:
(if applicable)

6. (1) (a) Name of maternal/paternal grandfather:
(mother or father's natural father)

(b) Band and band number of maternal/paternal grandfather:
(if applicable)

(2) (a) Name of maternal/paternal grandmother:
(mother or father's natural mother)

(b) Band and band number of maternal/paternal grandmother:
(if applicable)

7. Attach proof of Indian Status and one of the following:

- (1) long form birth certificate; or,
- (2) provincial marriage certificate or Cowichan Custom Marriage Certificate; or,
- (3) court adoption order or affidavit of custom adoption by adopting parent; or,
- (4) other proof of descendancy from a Cowichan ancestor.

- 8. If the Application is on behalf of a child of an Inter-Band marriage, both parents of that child must agree in writing to the registration. Complete the Consent to Register form provided at the bottom of this page.
- 9. If the Applicant is a member of another band, attach Undertaking to Withdraw (Schedule "C").
- 10. If applying under PART III, SECTION 5: the applicant must demonstrate that he has a lot available if he intends to live on the Cowichan Reserve. Please provide information. (If someone is giving/selling you land, a letter from him must be provided.)

I, _____ believe all answers herein to be true and accurate to the best of my knowledge.

Signature: _____

Date: _____

<u>CONSENT TO REGISTER</u>	
TO BE COMPLETED ONLY IF APPLYING FOR BAND MEMBERSHIP FOR A CHILD OF AN INTER-BAND MARRIAGE:	
We, the parents of _____ (full legal name of child)	
hereby consent to his/her registration as a member of the Cowichan Indian Band.	
Signature of mother: _____	Signature of father: _____
Date: _____	Date: _____

UNDERTAKING

SCHEDULE "C"

COWICHAN INDIAN BAND MEMBERSHIP RULES

I, _____

_____, undertake to withdraw my membership in the _____ Indian Band if I am accepted into the membership of the Cowichan Indian Band pursuant to the Membership Rules of the Band.

Signed at _____,)
(City))

_____, this)
(Province))

_____ day of _____)
(day) (Month))

19__.

Witnessed by:)

_____))
(Name))

_____))
(Address))

_____))
(Occupation))

Signature of applicant:

NOTICE OF APPEAL

SCHEDULE "D"

COWICHAN INDIAN BAND MEMBERSHIP RULES

1. I, _____,
(Print - Full Name)
hereby appeal the rejection of my Application for
Membership in the Cowichan Indian Band on behalf of
myself _____.
(place "X" if applicable)

OR

on behalf of _____
(Print - Full Name, if a minor)

2. Date of Application _____

3. Date of Rejection _____

4. The ground of this Appeal is as follows:

(State briefly why you believe you are entitled to Band
membership)

(Attach separate sheet if necessary)

5. Attach copies of additional documentary evidence of
entitlement to Band membership.

Signature: _____

Date: _____