

Citizenship Code Fact Sheets

Citizenship Code Fact Sheet - Preamble

- A **preamble** is a short preliminary statement or comment primarily an explanatory introduction to a formal document, law or code.
- The purpose of the preamble is an introductory to the citizenship code and expresses the beliefs, values, philosophy and/or principles of the First Nation.
- This section of the citizenship code may contain statements which explain the First Nation's political and philosophical beliefs, Aboriginal rights, as well as human rights. Examples of preamble statements include;
 - A statement expressing that the First Nation has the inherent right to determine their own citizenship
 - A statement expressing that the Creator gave the First Nation the right to self-determinations
 - A statement expressing that the code is based on collective rights and respects fundamental human rights of all individuals
 - A statement expressing that the code will respect international principles of human rights and the *Canadian Charter of Rights and Freedoms*
- Most codes include a preamble affirming inherent right, self-determination, the protection of culture and customs and the principles of good governance.
- Although this is not a key element of a code, it is important to include a preamble in a code because the code itself does not explicitly express or include a section of the rights of neither self-determination nor indigenous human rights.
- Some First Nation codes state that the *Canadian Charter of Rights and Freedoms* will apply to their citizenship code. In general, modern treaties, such as the Nisga'a Final Agreement and self-government agreements include the application of the *Canadian Charter* to both their citizenship acts and constitutions.

Citizenship Code Fact Sheet - Title

- A **title** of a citizenship code, in this case, may express the legality of the document.
- The purpose of this element of the citizenship code is to describe or name the document.
- This section of the citizenship code states the title of the code and is usually one line. For example;
 - This Citizenship Code will be called or cited as the *Stand Alone First Nations Citizenship Code*
 - This Code will be called or cited as *First Nations Citizenship Act*
- This is a key element of a code and should make reference to the First Nation.

Citizenship Code Fact Sheet – Purpose

- The **purpose** element explains the intent or reason(s) purpose for the citizenship code.
- This section of the citizenship code should explain why the code is being enacted, adopted or accepted. For example;
 - This citizenship Code is intended to provide the eligibility criteria and procedures to:
 - Identify persons who are citizens at birth.
 - Determine citizenship of persons who are entitled or eligible to apply for citizenship.
 - Determine citizen’s rights, benefits and responsibilities.
- This section of the code should in clear terms or objectives the intent and reasons for the code.
- This is a key element of a citizenship code and in terms of public policy; the objectives should be clearly defined.

Citizenship Code Fact Sheet - Jurisdiction and Authority

- **Jurisdiction** is defined as the, right and power or authority to interpret and apply the law.
- **Authority** is defined as the power to enforce rules or give orders.
- The purpose of this section of the citizenship code is to define who has the authority and jurisdiction to write, interpret and enforce the citizenship code.
- This section of the citizenship code explains and asserts that the First Nations has the authority and jurisdiction to decide on their citizenship. For example;
 - The Chief and Council have the authority to decide on a person's citizenship.
 - Section 11 of the *Indian Act* delegates authority to First Nations to write and enforce their own Membership/Citizenship codes.
- This section of the code explains who or what entity/body /committee/Council will decide or affirm the citizenship of a person.
- This section of the code may explain the difference between membership and citizenship, or differentiate between the meaning of a member and a citizen of the First Nation. For example;
 - Membership refers to the list of members having status within the meaning of the *Indian Act*; Citizenship refers to a citizen of the First Nation and has decides on who is a citizen
- In the jurisdiction and authority section of some First Nation codes, a clause may include that the preamble is an integral part of the citizenship code.
- This is a key element of a citizenship code and should be included. It is a means of expressing self-determination and the right of First Nations to determine their own citizenship codes.

Citizenship Code Fact Sheet – Definition

- The **definition** element of a citizenship code provides the definitions or meanings of words or concepts in the code.
- The purpose of this element of the citizenship code is to define technical, legal or ambiguous words or terms that are unique to the First Nation. Examples of definitions include;
 - “*Custom Adoption*” means an adoption according to the historical and customary practices of the First Nation
 - “Adoption” means provincially sanctioned
 - “*Regulations*” means the Regulations enacted pursuant to this Citizenship Code
 - “*Family*” means one of the Four Traditional Families of the Traditional House
- This is a key element of a code and should be included to clarify the meaning of words to prevent ambiguity and to prevent misinterpretations.
- In general, the more definitions a code defines provides for clarity and the mutual understanding of words.

Citizenship Code
Fact Sheet – Entitlement and Eligibility Criteria for Citizenship

- The **Entitlement and Eligibility Criteria for Citizenship** is one of the most important elements of a citizenship code.
- **Entitlement** means the right to, or the right to be entitled to citizenship because of one's birth; it is an inherent right.
- **Eligibility** to citizenship implies that a person has to meet certain criteria to apply to be recognized or enrolled as a citizen.
- The purpose of this section of the citizenship code is to explain the difference between entitlement to citizenship and the eligibility to *apply* for citizenship.
- This section of the citizenship code should explain that entitlement means inherent (at birth) First Nation citizenship whereas as eligibility means that the person or applicant must apply to the Citizenship Committee for citizenship.
- This section of the code should explain who is a citizen at birth, or who has inherent citizenship and who has to apply for their citizenship.
- This section should specify who has entitlement to First Nation citizenship. For example;
 - Persons who were at birth a First Nation citizen
 - Person who was entitled to be on previous First Nations list prior to the 1985 *Indian Act* amendments

Citizenship Code
Fact Sheet – Entitlement and Eligibility Criteria for Citizenship

- This section of the code should address the inequities of the Indian Act. This section outlines the *Eligibility Criteria* to apply for citizenship. Examples of eligibility criteria include (*not exhaustive*);
 - Person whose parents were citizens
 - Person of ancestral descent
 - Person adopted by the First Nation
 - Person who was disenfranchised
 - Person who lost their citizenship due to the regulations of the *Indian Act*
 - Person who self-identifies
 - Person who is a beneficiary of a treaty or self-government agreement
 - Person who is Aboriginal
 - Person who is Aboriginal and Canadian
 - Ties to the community
 - Person adopted by the First Nation

- This section of the citizenship code should explain how or who decided on the eligibility criteria. For example;
 - The eligibility rules were drafted by a community committee on citizenship.
 - The eligibility criteria has been determined and sanctioned by Chief and Council
 - The eligibility criteria follow the rules of the *Indian Act*.

- This section of the code should state who, what body, or committee will decide on a person's citizenship.

- This is a key element of a citizenship code and should be included for the reason that it addresses the discriminatory legislation of the *Indian Act*.

Citizenship Code
Fact Sheet - Non – Aboriginal Resident

- A **Non-Aboriginal resident** is a person who is not a citizen of the First Nation.
- The purpose of this section of the citizenship code is to identify individuals who are non - Aboriginal resident (or not a citizen of the First Nation) and should explain what rights, benefits and responsibilities that individual.
- This section of the citizenship code should explain the criteria that define a non – Aboriginal resident. For example, a non – Aboriginal resident is an individual;
 - Who was were never citizens of the First Nation.
 - Who was married and living with a citizen.
 - Who was widowed and still reside in the community.
 - Who has ties to the community.
 - Who was adopted by the First Nation.
- This section of the code should specify if there are certain conditions or restrictions for a non – Aboriginal resident. For example, conditions or restrictions may specify include;
 - Person may live in the community but not own a house
 - Person may or may not receive services or benefits
 - Person may not be entitled to vote or hold political office
 - Person must live in the community for a probationary period of a certain amount of years
- This is a common element of a citizenship code but not all codes include non-Aboriginal resident's clauses.
- This is not a key element of a citizenship code. However, the importance of this section is to respect a person's integrity.

**Citizenship Code
Fact Sheet - Citizenship Committee**

- The **Citizenship Committee** element is a key element of a citizenship code.
- The purpose of this element of the citizenship code is to explain *who* has the authority to decide, rule or affirm a person's citizenship and explain *how* that decision was decided.
- This section of the citizenship code should explain who, what body or committee will decide who is a citizen. For example, the Citizenship Committee will be a community committee, Council, Council of Elders, the community, etc.
- This section of the code should explain that a person's citizenship is decided or affirmed made by an independent body of more than one person such as the Citizenship Committee and is legitimately appointed or elected by either the Chief and Council or the community.
- This section of the code should outline the Citizenship Committee's composition. For example;
 - The Citizenship Committee will be composed of one Elder and two citizens.
 - The Citizenship Committee will be composed of one Councilor/Chief, two citizens (male and female) and a youth.
- This section of the code should explain whether the Citizenship Committee's members are appointed, elected or volunteers.
- This section of the code should outline the roles and responsibilities of the Citizenship Committee; For example, the role and the responsibilities of the Citizenship Committee is to;
 - Review applications.
 - Decide a person's citizenship.
 - Review appeals.
 - Declare a conflict of interest.

**Citizenship Code
Fact Sheet - Citizenship Committee**

- This section of the code should explain the rules and procedures the Citizenship Committee will follow when deciding on a person's citizenship. For example, the code should state;
 - The Citizenship Committee's decision concerning a person's citizenship will be fair, based on facts and determined by;
 - A decision will be made by consensus of the Committee, or
 - A decision will be made majority rule of the Committee, or
 - A decision will be made by secret ballot, or
 - A decision will be made by a community vote
 - The Citizenship Committee is required to obtain quorum in order for a decision to be valid or recognized concerning a person's eligibility for citizenship.
 - The Citizenship Committee will sign a Code of Ethics or an Oath of Ethical Conduct.
- This section of the code should explain the reasons why a committee member should be removed from their position. Examples for the removal of a committee member could include;
 - Breaching the Oath of Ethical of Conduct
 - Not being able to fulfill their role and responsibilities
- Some Citizenship Committees include Chief and Council; however, in terms of transparency the decision making body should be an independent impartial non-political body.

Citizenship Code Fact Sheet - Application Process

- The **Application Process** is a very important key element of a code.
- The purpose of this section of the citizenship code is threefold:
 - First, it should state that a person who meets the eligibility requirements has the right to apply for citizenship.
 - Secondly that the onus is on the applicant to prove their citizenship.
 - Thirdly, it should clearly outline how an applicant applies for citizenship within the First Nation.
- This section of the citizenship code should explain that a person is a citizen at birth (sometimes referred to as *automatic* citizenship) and that they do not need to apply for citizenship.
- This section of the code should state that a person is entitled to be a citizen if that person lost their status due to the regulations of the *Indian Act*.
- This section of the code should state that if a person does not have inherent (at birth) citizenship then the person must apply for their citizenship.
- This section of the code should outline in detail the steps required in the application process. For example;
 - The applicant must submit an application form to the Registrar.
 - The applicant must attach copies of the proper documentation to the Registrar or to the Citizenship Committee.
 - The applicant must submit their application within two years of the enactment of this code.
- This section of the code should describe what documentation should be submitted with the application. For example;
 - An applicant must submit an application form and copies of their Status Card, birth certificate, and genealogy
- This section of the code should describe the timeframe or how long the Citizenship Committee will take to decide or affirm a person's citizenship.
- This section of the code should explain how the Citizenship Committee will notify the applicant of their decision.
- This section of the code should explain that a parent or guardian must apply for a child or a dependent person's citizenship.

**Citizenship Code
Fact Sheet - Appeal and Review Process**

- The **Appeal and Review Process** is a key element of a citizenship code in terms of good governance for it allows for fairness, transparency and accountability.
- The purpose of the **Appeal and Review Process** element in a citizenship code is to provide an applicant with an avenue of recourse or due process if their citizenship application is denied by the Citizenship Committee.
- This section of the citizenship code should explain that a person has the right to appeal a decision concerning their citizenship.
- This section of the code may state that any citizen of the First Nation can appeal the Citizenship Committee's decision.
- This section of the code should explain how a person requests an appeal. For example;
 - A person, or any citizen, must submit in written a request for an appeal and review to the *Appeal Review Board*
- This section of the code should explain on what grounds a person can make an appeal. For example;
 - The appeal must cite what section of the code has not been respected
 - The appeal can be reviewed if new facts or information are submitted
 - An appeal can be made if the Citizenship was not fair in their deliberation of a person's application.
- This section of the code should explain who or what body will review an applicant's appeal. Examples of a review committee include;
 - Council of Elders, or
 - Citizenship Review Council, or
 - Elder's Tribunal, or
 - Appeal Review Board, or
 - Review Tribunal, or
 - Community Review

Fact Sheet - Appeal and Review Process

- This section of the code should explain how the appeal will be reviewed;
 - A general statement should include that the Appeal Review Board follow the rules and procedures outlined within the code.
- This section of the code should explain how the Appeal Review Board will make their decision. For example, the Appeal Board will make a decision by;
 - By consensus, or
 - By majority rule, or
 - By secret ballot, or
 - By the community
- This section of the code should explain how and when the person will be notified of the decision of the review of the appeal.
- This section of the code should describe how many times a person can make on appeal.
- This section of the code should state if the person making the appeal is required to pay a fee in order to submit an appeal.
 - Most codes do not include a fee but some code's fee for appeal ranges from \$500 - \$1500 or the total cost incurred for the appeal.
- This section of the code should explain that a person can make a written and verbal presentation if a person's citizenship is refused.
- This section of the code should state whether the decision of an appeal is final and binding.
- This section of the code may explain that if the decision of the Appeal Review Board is unchanged, that is, citizenship remains refused or denied the applicant can bring their appeal to a judicial review of the provincial Supreme Court.
- In general, modern treaties, such as the Nisga'a Final Agreement and self-government agreements include a judicial review.
- In this section, some First Nations citizenship codes state that the *Canadian Charter of Rights and Freedoms* applies to the First Nations citizenship code.

Fact Sheet - Adoption of Children

- The **Adoption of Children** is a key element in a citizenship code.
- The **adoption** is the legal act of permanently placing a child with a parent or parents other than the birth (or "biological") mother or father.
- The purpose of this element of the citizenship code should address the issue of the adoption of a child, and the rights and citizenship of adopted children.
- This section of the citizenship code should explain whether adoption is by customary adoption in accordance with the First Nation's customs or practices and/or if adoption follows provincially sanctioned adoption laws.
- The adoption of children (or a child) varies from code to code.
- This section of the code should explain the adopted child's citizenship when the child reaches the age of majority.
- This section of the code should also address the issue of the adoption of children by a person(s) who is not a citizen and state that child will not loss their First Nation citizenship.
- This section of the code may also address customary adoption of persons who are not citizens. For example, a non-Aboriginal person can be adopted into a First Nation by being accepted by the First Nation because of ties to the community or because that person is a widow of a citizen.

Citizenship Code
Fact Sheet – Citizen’s Rights and Benefits

- **Citizenship** is the status of being a citizen of a state, country or community. A citizen is a person that is legally recognized as a member of a state, country or community with associated rights and obligation.
- The purpose of this element of the citizenship code is to explain and identify the rights and benefits a First Nations citizen is entitled to because of their citizenship.
- This section of the citizenship code should describe the rights and benefits a citizen is entitled to. For example;
 - A citizen has the right to;
 - Vote
 - Hold a political office
 - Receive education funding
 - Receive housing assistance
 - Receive social assistance
 - Receive business loans or grants
 - Be buried on the Territory
- This section of the code may contain a clause that states a person’s citizenship does not deny nor confer benefits, rights or entitlements from the First Nation.
- In general, modern treaties, such as the Nisga’a Final Agreement and self-government agreements includes a statement that states that enrolment does not;
 - Confer or deny rights of entry into Canada, Canadian Citizenship, the right to be registered as an Indian under the *Indian Act*, or any of the rights or benefits under the *Indian Act*; or
 - Impose any obligations on Canada or the Province to provide rights or benefits except as set out in this Agreement.

Citizenship Code
Fact Sheet - Privileges of Non – Aboriginal Resident

- A **privilege** is a special entitlement or immunity granted by an authority to a restricted group, either by birth or on a conditional basis. A privilege can be revoked in some cases. By contrast, a *right* is an inherent, irrevocable entitlement held by all citizens or all human beings from birth.
- The purpose of this element of the citizenship code is to describe the privilege(s) of a non- Aboriginal resident.
- This section of the citizenship code may explain that a non - Aboriginal resident may have certain rights and conditions
- This is not a key element of a citizenship code and should be included in the section which describes the rights and obligations associated with the status of a Non –Aboriginal resident.

Citizenship Code
Fact Sheet - Roles and Responsibilities of a Citizen

- Citizenship entitles a citizen certain rights. However, citizenship also requires that citizens have **roles and responsibilities** within the community.
- The purpose of this element of the citizenship code is to explain the roles and responsibilities of a citizen.
- This section of the citizenship code explains the roles and responsibilities of a citizen. For example;
 - A citizen should respect individuals,
 - A citizen should respect the culture and customs
 - A citizen must be a resident or have ties to the community
 - A citizen should respect Mother Earth
- This is not a key element in a citizenship code however it is important to include because a citizen not only has rights but responsibilities as well.

Citizenship Code
Fact Sheet - Obligations of Non – Aboriginal Resident

- An **obligation** is an act or course of action(s) to which a person is morally or legally bound.
- The purpose of this section of the citizenship code may explain certain conditions or provisions that a non- Aboriginal resident is required to abide by.
- This section of the citizenship code may explain that a non – Aboriginal resident is obligated to uphold. Fir example;
 - Respect individuals,
 - Respect the culture and customs of the First Nation,
 - Respect Mother Earth.
- This section is not a key element of a citizenship code but could be included in the section describing the rights of non-Aboriginal resident.

Citizenship Code
Fact Sheet - Suspension, Revocation and Renouncement
of Citizenship

- **Suspension** refers to the temporarily removal of a person's citizenship or a citizen's rights.
- **Revocation** refers to the taking away of a person's citizenship.
- **Renouncement** is a formal declaration by a person who gives up their citizenship and their rights as a citizen.
- The purpose of this element of the citizenship code is to provide the reason(s) or rationale(s) as to why a person's citizenship would be suspended, revoked, or renounced.
- This section of the citizenship code should explain the reason(s) why a person's citizenship would be suspended or revoked. For example;
 - A person's citizenship will be suspended if they commit a criminal offence.
 - A person's citizenship will be revoked if the person obtained their citizenship fraudulently.
 - A person's citizenship will be revoked if the person was never a citizen.
- This section of the code should explain why a person's citizenship would be renounced. For example;
 - A person citizenship's will be renounced if they are a citizen of another First Nation.
 - A person's citizenship will be renounced if they are enrolled in a land claims agreement or treaty agreement.
 - A person's citizenship will be renounced if they request to the Citizenship Committee that their citizenship be renounced.
- In general, most codes do not allow for dual First Nation citizenship. A citizen can only hold citizenship in one First Nation.
- Codes sometimes address this element of the code as a "Loss of Citizenship" but such wording has a negative connotation.
- This is a key element of a citizenship code and should be included to address the issue of dual citizenship but it these elements could also be addressed in rights and obligations of citizenship.

**Citizenship Code
Fact Sheet - Offences and Penalties**

- An **offence** is an illegal act; a breach of a law or rule.
- The purpose of this section of the citizenship code is to explain what constitutes an offence(s) and what fine(s) or penalties(s) the citizen will have to pay.
- This section of the code should explain what constitutes an offence. For example, offences include
 - A person living within the community/Territory who is not a citizen or a non - Aboriginal resident.
 - A person who obtained their citizenship fraudulently.
- This is not a key element of a citizenship code and could be addressed in the revocation or suspension section of the citizenship code, or perhaps in a criminal code.

Citizenship Code Fact Sheet - Registrar

- A **registrar** is an official keeper, or recorder of records or lists.
- The purpose of this element of the citizenship code is to explain the role, responsibilities and duties of the registrar.
- The Registrar is a person.
- The Registrar is *usually* the only person who maintains the records of the names of the citizens on to the registry or official citizenship list.
- This section of the citizenship code explains the Registrar's duties and responsibilities. For example, the Registrar;
 - Must notify eligible applicants that they can apply for citizenship
 - Must ensure the confidentiality of the records
 - Adds or deletes name of persons on the list
 - Makes available the list to view for review
 - Makes decision's concerning applications
 - Notifies an applicant of the decision
- The Registrar may also maintain a list of non- Aboriginal residents.
- The importance of the Registrar is foremost to ensure the confidentiality of the citizenship list and the applicant's documentation.
- This is a key element in a citizenship code and should be included because the Registrar and registry are important components in the effective administration of citizenship.

Citizenship Code Fact Sheet - Registry

- A **registry** is the place where records or lists are kept.
- The purpose of this element of a citizenship code is to explain what the registry is and who has access to the registry and the citizenship list.
- The registry is the First Nation's "Official" citizenship list or list of citizens.
- This section of the citizenship code should explain that the registry is administered or maintained by the Registrar.
- The Registry can also be referred to as;
 - First Nations Registry, or
 - Band List, or
 - Citizenship List, or
 - Citizenship Registry
- This section of the code should explain where the registry is located and who has access to it. For example;
 - The registry will be located in the main office building of the Council Office.
 - The registry can be viewed by any citizen through a written request.
- This section of the code should states whether the Registry will be sent to Indian and Northern Affairs Canada, Health Canada or another provincial government.
- This is a key element of a citizenship code and should be included because it is an important component for the effective administration of citizenship.

Citizenship Code Fact Sheet - Regulations

- A **regulation** is a law or administrative rule, issued by a body, organization or committee, used to guide or describe the conduct or rules followed by the members of that organization or committee.
- The purpose of this element of the citizenship the code should explain that the Citizenship Committee, the Registrar, Appeal and Review Committee should follow the rules and regulation as outlined in the code.
- This section of the citizenship code explains that the Citizenship Committee can make regulations or rules as to how they will conduct themselves and decide on citizenship. For example, a regulation may include;
 - *An Administrative Manual*
 - *Review and Appeal Board Rules*
 - *Code of Conduct*
 - *Forms and Applications to Apply for Citizenship*
 - *Forms and Application to Apply for a Non-Aboriginal Resident*
- This is not a key element of a citizenship code but should be included to assist in the effective implementation and administration of the code.

**Citizenship Code
Fact Sheet - General Provisions**

- A **provision** refers to terms or specifications of the code.
- The purpose of this element of the citizenship code explains the general provisions of the code.

This section of the citizenship code describes what provisions are included in the code. For example;

- May state that the *Preamble* is an essential part of the code
 - May state budget or funds for the implementation and administration of the code
 - May state that the Citizenship Committee, the Council, the Registrar are not liable.
- This is not an essential element of a citizenship code and such terms can be covered under Regulations.

**Citizenship Code
Fact Sheet - Amendment Process**

- An **amendment** is any alteration made or proposed to be made to the code that adds, changes, substitutes, or omits.
- The purpose of this element of the citizenship code is to explain the amendment process and how, who and when changes or amendments to the code shall be made.
- This section of the citizenship code should explain who and how the code will be changed. For example;
 - Amendments to the code will occur ever two years.
 - Amendment to the present Code may be proposed by a citizen, the Citizenship Committee or Chief and Council
- This section of the code should explain how changes or amendments will be accepted or ratified. For example;
 - 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.
- This is a key element of a code and should be included for it provides for accountability and transparency.

**Citizenship Code
Fact Sheet - Enactment of Code**

- The **enactment** of a citizenship code means that the code has been properly authorized by a legislative body, committee or council.
- The purpose of this element of the citizenship code should explain what body of authority will enact the code and the process of how the code will be enacted, passed or ratified.
- This section of the citizenship code should describe what body of authority will enact the code and how the code will be enacted. For example;
 - This Citizenship Code will come into effect on January 2008 by a Band Council Resolution.
 - This Citizenship Code will come into effect by a referendum vote by the citizens of the community.
 - 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*
 -
- This section of the code also explains that previous code(s) will be repealed, and deemed null and void.
- This is a key element of a citizenship code and should be included for it provides for accountability and transparency.

