

***WE WAI KAI NATION***  
***CITIZENSHIP CODE***  
***(2022)***

---

Approved at a special general meeting held on [DATE] and replacing the *We Wai Kai Nation Citizenship Code (2009)*



## **Table of Contents**

Table of Contents	2
PREAMBLE	4
PART I INTERPRETATION AND PURPOSE	4
1 SHORT TITLE	4
2 DEFINITIONS	4
3 PURPOSE	9
PART II CITIZENSHIP COMMITTEE AND CITIZENSHIP OFFICER	9
4 CITIZENSHIP OFFICER	9
5 CITIZENSHIP COMMITTEE	9
6 TERMS	10
7 VACANCIES	10
8 OATH OF OFFICE	11
9 CHAIRPERSON OF CITIZENSHIP COMMITTEE	11
10 MEETINGS OF CITIZENSHIP COMMITTEE	12
11 QUORUM FOR CITIZENSHIP COMMITTEE	12
12 VOTE OF CITIZENSHIP COMMITTEE	13
13 CONFLICT OF INTEREST	13
14 CONFIDENTIALITY	15
PART III CITIZENSHIP GENERALLY	15
15 INDIAN STATUS AND ANCESTRAL CONNECTION	15
16 MEMBERSHIP IN ANOTHER BAND	16
17 CITIZENSHIP ENTITLEMENTS	16
18 TRANSITION ONTO CITIZENSHIP ROLL	16
PART IV JUVENILE APPLICANTS	16
19 APPLYING FOR CITIZENSHIP AS A JUVENILE APPLICANT	16
20 CITIZENSHIP COMMITTEE REVIEW OF JUVENILE APPLICANTS	17
PART V CITIZENSHIP BY VOTE	19
21 APPLYING FOR CITIZENSHIP BY VOTE	19
22 CITIZENSHIP COMMITTEE SCREENING OF APPLICATION	20
23 VOTING ON APPLICATIONS FOR CITIZENSHIP	21
PART VI RE-APPLICATION PROCESS	23
24 RE-APPLICATIONS	23
PART VII LOSS OF CITIZENSHIP	23
25 LOSS OF CITIZENSHIP	23
26 REVOCATION OF CITIZENSHIP	25
PART VIII CITIZENSHIP COMMITTEE DECISION APPEALS	26
27 APPEALS OF CITIZENSHIP COMMITTEE DECISIONS	26
28 APPEALS OF CITIZENSHIP REFERENDUM AND REVOCATION VOTE	28
PART IX OTHER MATTERS	28
29 NON-SUBSTANTIVE AMENDMENTS	28
30 SUBSTANTIVE AMENDMENTS	28

31	ADMINISTRATION	31
32	IMMUNITY	31
33	COMING INTO FORCE	32
	<b>OATH OF OFFICE</b>	<b>33</b>

CONFIDENTIAL

**PREAMBLE**

**WHEREAS** the Wai Kai Nation is a First Nation within Canada;

**WHEREAS** section 35 of Canada’s *Constitution Act, 1982* recognizes and affirms the existing aboriginal and treaty rights of First Nations;

**WHEREAS** authority for the We Wai Kai Nation to determine its own membership derives from Aboriginal rights, including the right to self-govern, which right has never been extinguished by the We Wai Kai Nation;

**WHEREAS** section 10 of the *Indian Act*, R.S.C. 1985, c. I-5 further provides that a First Nation may assume control of its membership if it establishes rules for reviewing membership decisions and if it receives the consent of its membership, in accordance with the requirements of the *Indian Act*, R.S.C. 1985, c. I-5, for the adoption of those rules;

**WHEREAS** the We Wai Kai Nation assumed control of its membership in accordance with the requirements of the *Indian Act*, R.S.C. 1985, c. I-5 when it adopted the *Cape Mudge Indian Band Membership Rules* on June 19, 1987, which rules were subsequently amended, and later replaced on November 20, 2009 by the *We Wai Kai Citizenship Code*;

**WHEREAS** the We Wai Kai Nation now wishes to repeal the *We Wai Kai Nation Citizenship Code* enacted on November 20, 2009 and, in accordance with the amendment provisions contained therein, replace it with the within *We Wai Kai Nation Citizenship Code (2022)*;

**WHEREAS** it is the intention of the We Wai Kai Nation to protect We Wai Kai culture and history by only permitting individuals who have an ancestral connection to We Wai Kai to become citizens of the We Wai Kai Nation; and

**WHEREAS** the within *We Wai Kai Nation Citizenship Code (2022)* was approved by a majority of the electors of the We Wai Kai Nation present at a special general meeting of membership held on [DD/MM/YYYY].

**NOW THEREFORE**, the We Wai Kai Nation enacts the following *We Wai Kai Nation Citizenship Code (2022)*:

**PART I**  
**INTERPRETATION AND PURPOSE**

**1 SHORT TITLE**

1.1 This Citizenship Code may be cited as the *We Wai Kai Nation Citizenship Code (2022)*.

**2 DEFINITIONS**

2.1 In this Citizenship Code:

“2009 Code” means the *We Wai Kai Nation Citizenship Code*, ratified by We Wai Kai membership on November 9, 2009, as thereafter amended from time to time;

“Ancestral Connection” means having both of the following:

- (a) at least one Parent who:
  - (i) is, or was at some point in time, listed on the Citizenship Roll;
  - (ii) was, at some point in time, listed on the Former Citizenship Roll;
  - (iii) was, at some point in time, listed on the Former Band List; or
  - (iv) was, at some point in time, listed on the Cape Mudge Indian Band list maintained under the *Indian Act* R.S.C. 1985, c. I-5, or any former version of the *Indian Act*; and
- (b) at least one Parent of the parent described in paragraph (a) who:
  - (i) is, or was at some point in time, listed on the Citizenship Roll;
  - (ii) was, at some point in time, listed on the Former Citizenship Roll;
  - (iii) was, at some point in time, listed on the Former Band List; or
  - (iv) was, at some point in time, listed on the Cape Mudge Indian Band list maintained under the *Indian Act* R.S.C. 1985, c. I-5, or any former version of the *Indian Act*,

provided that neither the Parent described above in paragraph (a) nor the Parent of the parent described above in paragraph (b) is or was included on the Citizenship Roll, the Former Citizenship Roll, the Former Band List or the Cape Mudge Indian Band list maintained pursuant to the *Indian Act*, R.S.C. 1985, c. I-5, or any former version of the *Indian Act*, as applicable, solely as a result of one or more of the following, in any combination:

- (1) any vote held under the 2009 Code or under the Membership Rules;
- (2) a transfer of a person’s membership from another Band to We Wai Kai under section 13(b) of the *Indian Act* R.S.C. 1970, c 1-6, or under any provision in a former version of the *Indian Act* relating to the same subject-matter;
- (3) an individual being a descendant of a person listed in (2) above;
- (4) the operation of section 10 of the *Indian Act* R.S.C. 1970, c 1-6, which required a wife or child to be added to a band list when their husband or father, as applicable, was added to that band list, or the operation of any provision in a former version of the *Indian Act* relating to the same subject-matter; or
- (5) an individual being a descendant of a person listed in (4) above;

“Band” means an ‘Indian Band’ as that term is defined in the *Indian Act*, R.S.C. 1985, c. I-5;

“Child” means a person under the age of eighteen (18) years and includes a child born in or out of wedlock, a legally adopted child and a child adopted by way of a Custom Adoption;

“Citizen” means a person who is a citizen of We Wai Kai, and who is listed as such on the Citizenship Roll;

“Citizenship” means having the position or status of being a Citizen;

“Citizenship Code” means this *We Wai Kai Nation Citizenship Code (2022)* and any amendments hereto;

“Citizenship Committee” means the committee constituted under section 5 for the purpose of carrying out the duties and obligations set out in this Citizenship Code;

“Citizenship Officer” means the person or persons appointed by Council under section 4 to oversee the day-to-day administration of the Citizenship Roll and to carry out the other duties and obligations required by this Citizenship Code;

“Citizenship Referendum” means a referendum held under section 23 for the purposes of voting on citizenship applications;

“Citizenship Roll” means a list established and maintained under this Citizenship Code, setting out all persons who are Citizens;

“Common Law Spouse” means a person who has lived with another person in a marriage-like relationship for a period of not less than two (2) consecutive years, but who is not Married to that other person;

“Council” means the governing body of We Wai Kai, as lawfully elected under the Referendum Law;

“Council Resolution” means a resolution issued by a quorum of Council, at a duly convened meeting of Council;

“Custom Adoption” means an adoption of a person under the age of nineteen (19) years conducted in accordance with We Wai Kai tradition, as may be further described in any policy or guideline adopted by Council from time to time;

“Elector” means a person who, as of the date of a vote described in this Citizenship Code, is eligible to vote under the Referendum Law;

“Former Band List” means the band list established and maintained under the Membership Rules, and defined in the Membership Rules as the ‘Band List’;

“Former Citizenship Roll” means the citizenship roll established and maintained under the 2009 Code, and defined in the 2009 Code as the ‘Citizenship Roll’;

“Grave Threat” means a severe threat or harm to the safety and well-being of the We Wai Kai Nation or Citizens, which threat or harm results from a person’s past or present activities or behaviours, including but not limited to sexual assault, drug trafficking, or endangering or taking the life of another person;

“Immune Person” means We Wai Kai, present or past Council, Citizenship Officers, the Citizenship Committee and any employees, servants or agents of We Wai Kai;

“Indian Register” means the register maintained by the Department of Indigenous Services Canada under section 5 of the *Indian Act*, R.S.C. 1985, c. I-5, recording the name of those persons who are entitled to be Indians within the meaning of the *Indian Act*, R.S.C. 1985, c. I-5;

“Indian Status” means the status of having one’s name recorded in the Indian Register;

“Juvenile Applicant” means a Child under thirteen (13) years of age, as represented by their Parent or legal guardian, who submits an application for Citizenship under subsection 19.2;

“Marriage” or “Married” means the lawful union of two persons to the exclusion of all others, whether by a religious, civil or customary ceremony;

“Membership Rules” means the *Cape Mudge Indian Band Membership Rules* first adopted by We Wai Kai on June 19, 1987, as thereafter amended from time to time;

“Notice of Appeal” means a notice commencing a formal appeal of a decision of the Citizenship Committee made under either paragraph 20.4(b) or paragraph 22.4(b), which notice is submitted under subsection 27.1 by a Juvenile Applicant, a Vote Applicant or a Revocation Appellant, as applicable, and is in accordance with subsection 27.2;

“Parent” means a biological parent or a parent as a result of a legal adoption or a Custom Adoption;

“Referendum Law” means the *We Wai Kai Nation Referendum Law* ratified by We Wai Kai on December 6, 2010, as amended or replaced from time to time;

“Revocation Appellant” means a person who is appealing, in accordance with section 27, a determination of the Citizenship Committee under paragraph 25.7(a) and the subsequent revocation of their Citizenship;

“Special General Meeting” means a meeting held in accordance with section 29 of this Citizenship Code to consider amendments to, or the replacement of, this Citizenship Code;

“Spouse” means a person who is Married to another person, or who is a Common Law Spouse;

“Vote Applicant” means;

- (a) a person who submits a subsection 21.3 application on their own behalf; or
- (b) a Child of thirteen (13) years of age or older, as represented by their Parent or legal guardian, who submits a subsection 21.3 application;

“We Wai Kai” means the We Wai Kai Nation; and

“We Wai Kai Lands” means:

- (c) the following We Wai Kai reserves:
    - (i) Village Bay Indian Reserve # 7;
    - (ii) Open Bay Indian Reserve # 8;
    - (iii) Drew Harbour Indian Reserve # 9;
    - (iv) Cape Mudge Indian Reserve # 10; and
    - (v) Quinsam Indian Reserve # 12; and
  - (b) lands set apart by Canada in the future as lands reserved for the use and benefit of We Wai Kai, within the meaning of subsection 91(24) of the *Constitution Act, 1867* and section 2(1) of the *Indian Act, R.S.C. 1985, c. I-5.*
- 2.2 Where the time period for doing an act expires or falls on a Saturday, Sunday or a federal or provincial holiday, the act may be done on the next day that is not a Saturday, Sunday or holiday.
- 2.3 Where the time period for doing an act in the We Wai Kai administration building falls on a day when the office is not open during regular business hours, the act may be done on the next day that the office is open during regular business hours.
- 2.4 Where reference is made to a number of days between two events, in calculating the number of days, the days on which the events are to happen must be excluded.
- 2.5 A notice or document will be considered to have been provided to a Citizen or an Elector, as applicable, if it was mailed or delivered to the Citizen’s or the Elector’s last known mailing address, or emailed to the Citizen’s or the Elector’s last known email address.
- 2.6 The invalidity or unenforceability of any provision of this Citizenship Code does not affect the validity or enforceability of any other provision, and any such invalid or unenforceable provisions are deemed to be severable.



### **3 PURPOSE**

- 3.1 The purpose of this Citizenship Code is to ensure that Citizenship is determined by Electors or the Citizenship Committee, in the best interest of the We Wai Kai people, thereby enhancing the social harmony and stability within We Wai Kai.

## **PART II**

### **CITIZENSHIP COMMITTEE AND CITIZENSHIP OFFICER**

### **4 CITIZENSHIP OFFICER**

- 4.1 Council must, by Council Resolution, appoint one (1) or more persons to act as Citizenship Officers and to perform the duties and obligations set out in this Citizenship Code, including:
- (a) maintaining the Citizenship Roll by adding and removing names, as required under this Citizenship Code;
  - (b) establishing and maintaining application forms, as required under this Citizenship Code; and
  - (c) assisting with the Citizenship Referendum process.
- 4.2 To qualify for appointment as a Citizenship Officer, a person:
- (a) must not sit on Council;
  - (b) must not be a member of the Citizenship Committee; and
  - (c) must comply with all of the qualifications set out in paragraphs 5.3 (a) to (e).

### **5 CITIZENSHIP COMMITTEE**

- 5.1 Council must constitute a Citizenship Committee to perform the duties and obligations set out in this Citizenship Code, including:
- (a) reviewing subsection 19.2 applications for Citizenship by Juvenile Applicants and accepting or denying Juvenile Applicants' applications for Citizenship;
  - (b) reviewing subsection 21.3 applications for Citizenship by vote and determining whether the Vote Applicants will proceed to a vote at a Citizenship Referendum;
  - (c) providing reports to Council on Vote Applicants whose application for Citizenship will be sent to a Citizenship Referendum;
  - (d) providing advice to Council and Citizens on the operation and application of this Citizenship Code; and

- (e) doing all other acts related to the duties and obligations of the Citizenship Committee under this Citizenship Code, provided those acts do not conflict with We Wai Kai laws, regulations or policies.
- 5.2 Council must, by Council Resolution, appoint five (5) persons to constitute the Citizenship Committee, as follows:
- (a) two persons who sit on Council; and
  - (b) three persons who do not sit on Council.
- 5.3 To qualify for appointment to the Citizenship Committee, a person must:
- (a) be a Citizen listed on the Citizenship Roll;
  - (b) be an Elector;
  - (c) possess good character, be credible and have a good reputation within the We Wai Kai community;
  - (d) have knowledge of the We Wai Kai community and Likwiltok history, culture, traditions and language; and
  - (e) not have been convicted of an indictable offence in Canada, or of a felony offence in the United States, within ten (10) years of their appointment.

## **6 TERMS**

- 6.1 Subject to subsection 6.2, each member of the Citizenship Committee must be appointed for a four (4) year term, and they may be re-appointed thereafter.
- 6.2 Notwithstanding subsection 6.1, the member of the Citizenship Committee who sits on Council must be appointed for a term that mirrors, but does not exceed, their term as a Council member, and they may be re-appointed to the Citizenship Committee thereafter under either paragraph 5.2(a) if they are re-elected to Council, or under paragraph 5.2(b) if they are not re-elected to Council.
- 6.3 Council must, by Council Resolution, set out the term of office for each appointed Citizenship Officer, which term may be extended from time to time, as Council sees fit.

## **7 VACANCIES**

- 7.1 Every member of the Citizenship Committee and every Citizenship Officer holds office for their term, as set out in section 6, or until their position becomes vacant under subsection 7.2.
- 7.2 A Citizenship Committee member position or a Citizenship Officer position becomes vacant where the person holding the position:

- (a) has their term expire;
  - (b) dies;
  - (c) resigns from their position by sending notice in writing of the same to Council;
  - (d) is convicted of an indictable offence in Canada or a felony offence in the United States; or
  - (e) fails or refuses to take the ‘Oath of Office’ set out at Schedule “A” of this Citizenship Code within the timeframe set out at subsection 8.1.
- 7.3 Where there is a vacancy in the membership of the Citizenship Committee, Council must, by Council Resolution and within sixty (60) days of the vacancy, appoint a replacement member, who meets the requirements of subsection 5.3, to hold office for the remainder of the former member’s appointment term.
- 7.4 Provided quorum can be met, a vacancy in the membership of the Citizenship Committee will not impair the ability of the remaining members of the Citizenship Committee to carry out their rights, duties and obligations under this Citizenship Code.
- 7.5 Where there is a vacancy in the position of a Citizenship Officer that:
- (a) leaves the position unoccupied, Council must, by Council Resolution, appoint a replacement Citizenship Officer, who meets the requirements of subsection 5.3, to hold office for the remainder of the former Citizenship Officer’s appointment term; or
  - (b) does not leave the position unoccupied, Council may, by Council Resolution, appoint a replacement Citizenship Officer, who meets the requirements of subsection 5.3, to hold office for the remainder of the former Citizenship Officer’s appointment term.
- 8 OATH OF OFFICE**
- 8.1 Each member of the Citizenship Committee and each Citizenship Officer must, within thirty (30) days of their appointment, take before a commissioner for taking oaths the ‘Oath of Office’ set out at Schedule “A” of this Citizenship Code, and provide the same to Council.
- 9 CHAIRPERSON OF CITIZENSHIP COMMITTEE**
- 9.1 At the first meeting of the Citizenship Committee, the members of the Citizenship Committee must select from among themselves a chairperson and an alternate to act in the chairperson’s absence, but neither the chairperson nor the alternate may be the member who sits on Council.

9.2 The chairperson must act as chairperson for the term of their appointment to the Citizenship Committee, unless before the expiry of that term a majority of the members of the Citizenship Committee vote to replace the chairperson with another member.

9.3 The chairperson of the Citizenship Committee is responsible for:

- (a) organizing, calling and presiding over all meetings of the Citizenship Committee; and
- (b) ensuring minutes of meetings are recorded and distributed to members of the Citizenship Committee in a timely manner.

## **10 MEETINGS OF CITIZENSHIP COMMITTEE**

10.1 The Citizenship Committee must meet at least once every six (6) months, and may meet at such other times, as necessary, to carry out its responsibilities under this Citizenship Code.

10.2 The Citizenship Committee may, subject to this Citizenship Code, establish rules and procedures for its meetings.

10.3 At least seventy-two (72) hours before a meeting of the Citizenship Committee, the chairperson must give notice of the meeting to each member of the Citizenship Committee, specifying the place, date and time of the meeting.

10.4 A notice or meeting of the Citizenship Committee may be given to a member of the Citizenship Committee, in accordance with the contact information provided by that member, in the following manners:

- (a) in-person;
- (b) by telephone;
- (c) by facsimile; or
- (d) by e-mail.

## **11 QUORUM FOR CITIZENSHIP COMMITTEE**

11.1 Quorum for any meeting or vote of the Citizenship Committee is three (3) members, provided that where quorum cannot be established because of a conflict of interest under section 13, the matter must be adjourned to a future meeting or vote where quorum can be established.

11.2 The chairperson of the Citizenship Committee will be included in the counting of quorum.

## **12 VOTE OF CITIZENSHIP COMMITTEE**

- 12.1 All matters that are before the Citizenship Committee for a determination must be decided by a majority vote of the members of the Citizenship Committee present, provided that the chairperson will only be entitled to vote in the event of a tie vote.
- 12.2 Where there is a tie vote, the chairperson of the Citizenship Committee must cast the deciding vote.
- 12.3 Voting on any matter before the Citizenship Committee will be by a show of hands indicating a “yes” or a “no” vote.
- 12.4 No member of the Citizenship Committee may abstain from voting, and must vote either “yes” or “no” to any matter before the Citizenship Committee.

## **13 CONFLICT OF INTEREST**

- 13.1 For the purposes of this section 13:
  - (a) “business interest” means any financial involvement, whether direct or indirect, in a business; and
  - (b) “immediate family” means a Spouse, Parent, parent-in-law, grandparent, brother, sister, Child (including children living with a Citizenship Committee member or Citizenship Officer), grandchild, or Spouse of an immediate family member.
- 13.2 A conflict of interest arises where a member of the Citizenship Committee, a person in a member’s immediate family, a Citizenship Officer or a person in a Citizenship Officer’s immediate family, has a personal or business interest in any matter under consideration by the Citizenship Committee or Citizenship Officer, as applicable.
- 13.3 A member of the Citizenship Committee or a Citizenship Officer who has a conflict of interest must, as soon as possible, disclose the nature and extent of their conflict to the chairperson of the Citizenship Committee.
- 13.4 Where a member of the Citizenship Committee has a conflict of interest in respect of a matter under consideration by the Citizenship Committee, the member must not:
  - (a) participate in, or be counted towards the quorum for, any meeting related to that matter; or
  - (b) vote on that matter.
- 13.5 Where a Citizenship Officer has a conflict of interest in respect of any matter before them, the Citizenship Officer must:
  - (a) if possible, refer that matter to another Citizenship Officer who does not have a conflict of interest in the matter; or

- (b) if referral under paragraph (a) is not possible, refer that matter to the Citizenship Committee for consideration.
- 13.6 Where a party to a matter before the Citizenship Committee or a Citizenship Officer believes that a member of the Citizenship Committee or a Citizenship Officer, as applicable, has a conflict of interest which has not been declared, or where a member of the Citizenship Committee believes that another member has a conflict of interest which has not been declared, the party or the member, as applicable, may make an application to the remaining members of the Citizenship Committee for a ruling as to whether a conflict of interest exists.
- 13.7 If the Citizenship Committee receives an application under subsection 13.6, the members of the Citizenship Committee who are not the subject of the application must consider the application at a meeting of the Citizenship Committee and make a final and binding ruling as to whether or not a conflict of interest exists.
- 13.8 If a conflict of interest first becomes apparent at a meeting of the Citizenship Committee, then:
- (a) the member of the Citizenship Committee who has a conflict of interest must declare the conflict at that meeting; or
  - (b) the member of the Citizenship Committee who believes that another member has an undeclared conflict of interest must make an application under subsection 13.6 for a ruling as to whether a conflict exists,
- and if the declaration or ruling, as applicable, results in a loss of quorum, the meeting must be adjourned until a quorum can be established.
- 13.9 If, because of a conflict of interest, a quorum of the Citizenship Committee can never be established with respect to a matter under consideration by the Citizenship Committee, the matter must be brought before Council to consider, or make a ruling on, at a duly convened meeting of Council.
- 13.10 At the Council meeting held under subsection 13.9:
- (a) the members of the Citizenship Committee affected by the conflict of interest must disclose the specifics of the conflict to Council; and
  - (b) Council must:
    - (i) consider whether a conflict exists, and if a conflict does exist, make a ruling on the matter at issue; and
    - (ii) if a ruling is made under paragraph (b), record that ruling in the form of a Council Resolution.

13.11 A Council Resolution issued under paragraph 13.10(b) has the same effect as if it was a decision of the Citizenship Committee where no such conflict existed.

#### **14 CONFIDENTIALITY**

14.1 Members of the Citizenship Committee must not disclose any information they received in the course of carrying out their rights, duties and obligations under this Citizenship Code, unless the information is:

- (a) being disclosed directly to Council for the purpose of carrying out the obligations under paragraphs 5.1(c), 13.10(a), 20.7(c) or 22.6(c);
- (b) being disclosed to Applicants, Citizens or Council, as applicable, for the purpose of carrying out the obligations in sections 20 or 22;
- (c) already public; or
- (d) information which the Citizenship Committee, by vote of members at a duly constituted meeting, decides to release.

14.2 Citizenship Officers must not disclose any information they receive in the course of carrying out their rights, duties and obligations under this Citizenship Code, unless the information is:

- (a) being disclosed directly to the Citizenship Committee or Council for the purpose of carrying out the obligations under subsections 20.3, 22.3 or 25.5;
- (b) being disclosed to Applicants, Citizens or Council, as applicable, for the purposes of carrying out the obligations under subsections 20.9 or 23.2; or
- (c) already public.

### **PART III** **CITIZENSHIP GENERALLY**

#### **15 INDIAN STATUS AND ANCESTRAL CONNECTION**

15.1 Notwithstanding anything in this Citizenship Code, no person may be a Citizen unless they have Indian Status.

15.2 Notwithstanding anything in this Citizenship Code, no person may be granted Citizenship and be added to the Citizenship Roll under this Citizenship Code unless that person:

- (a) has an Ancestral Connection; or
- (b) is automatically added to the Citizenship Roll under subsection 18.1 by virtue of having been entered on the Former Citizenship Roll on the day this Citizenship Code comes into effect.

**16 MEMBERSHIP IN ANOTHER BAND**

- 16.1 Notwithstanding anything in this Citizenship Code, but subject to subsection 16.2, no person may be a Citizen and a member of another First Nation or Band at the same time.
- 16.2 A person who is a member of another First Nation or Band and who is granted Citizenship under this Citizenship Code must, as soon as possible after being notified of his or her grant of Citizenship:
- (a) relinquish membership in the other First Nation or Band; and
  - (b) provide proof of such relinquishment to the Citizenship Officer.
- 16.3 No person's name shall be added to the Citizenship Roll until the Citizenship Officer is satisfied that they are not a member of any other First Nation or Band.

**17 CITIZENSHIP ENTITLEMENTS**

- 17.1 No person is entitled to any rights, privileges, entitlements or benefits associated with Citizenship unless:
- (a) their Citizenship has been granted in accordance with this Citizenship Code;
  - (b) their name is on the Citizenship Roll; and
  - (c) their name has remained on the Citizenship Roll for a period of at least one (1) year.
- 17.2 For greater certainty, no rights, privileges, entitlements or benefits associated with Citizenship will accrue to a person solely by virtue of that person applying for Citizenship, or solely by virtue of that person appealing a decision made under either paragraph 20.4(b) or paragraph 22.4(b).

**18 TRANSITION ONTO CITIZENSHIP ROLL**

- 18.1 The Citizenship Officer will automatically add to the Citizenship Roll the names of all persons who, on the day this Citizenship Code comes into force, were entered on the Former Citizenship Roll, and those persons whose names have been added under this subsection 18.1 will be deemed to have been listed on the Citizenship Roll for a period of at least one (1) year.

**PART IV**  
**JUVENILE APPLICANTS**

**19 APPLYING FOR CITIZENSHIP AS A JUVENILE APPLICANT**

- 19.1 Subject to section 24, a Juvenile Applicant with a purported Ancestral Connection may apply for Citizenship in accordance with subsection 19.2.
- 19.2 To apply for Citizenship a Juvenile Applicant must:



- (a) submit an application to the Citizenship Officer, in the form established by the Citizenship Officer from time to time, setting out:
  - (i) the Juvenile Applicant’s full name and date of birth;
  - (ii) a description of the Juvenile Applicant’s Ancestral Connection; and
  - (iii) any other information which may be required by the application form;
- (b) enclose with the application the following documents:
  - (i) proof of Indian Status;
  - (ii) written confirmation from any First Nation or Band which the Juvenile Applicant is currently a member of that the Juvenile Applicant will be removed from that Band or First Nation’s membership list immediately upon notification of their successful application for Citizenship; and
  - (iii) any other documentation which may be required and as set out in the application form; and
- (c) pay any applicable administrative fees, as set by Council from time to time, unless this requirement is waived by the Citizenship Officer.

**20 CITIZENSHIP COMMITTEE REVIEW OF JUVENILE APPLICANTS**

- 20.1 Upon receipt of an application under subsection 19.2, the Citizenship Officer must review the application to verify that it is complete, that all required documents are enclosed and that any applicable administrative fees have been paid.
- 20.2 If a Citizenship Officer determines that an application under subsection 19.2 is not complete, the Citizenship Officer may request from the Juvenile Applicant any additional information or documents that the Citizenship Officer deems necessary in order to complete the application.
- 20.3 When the Citizenship Officer is satisfied that all of the requirements under subsection 19.2 have been met, the Citizenship Officer must forward a copy of the application and all enclosed documents to the Citizenship Committee.
- 20.4 Upon receipt of an application from the Citizenship Officer under subsection 20.3, the Citizenship Committee must:
  - (a) review the application and the enclosed documentation; and
  - (b) determine, in accordance with subsection 20.5, but subject to subsections 15.1 and 15.2, whether or not the Juvenile Applicant’s application for Citizenship is accepted or denied.

20.5 The Citizenship Committee must:

- (a) accept a Juvenile Applicant’s application for Citizenship if:
    - (i) the Citizenship Committee is satisfied that the Juvenile Applicant has an Ancestral Connection; and
    - (ii) all of the other requirements of subsection 19.2 have been met; and
  - (b) reject the Juvenile Applicant’s application for Citizenship if:
    - (i) the Citizenship Committee is not satisfied that the Juvenile Applicant has an Ancestral Connection; or
    - (ii) any of the requirements of subsection 19.2 have not been met.
- 20.6 In carrying out its review under paragraph 20.4(a), the Citizenship Committee may request further information or documentation, as necessary, from the Juvenile Applicant where the Citizenship Committee is of the view that the information or documentation is necessary to make a determination under paragraph 20.4(b).
- 20.7 Once a determination under paragraph 20.4(b) has been made, the Citizenship Committee must:
- (a) notify the Juvenile Applicant of the determination;
  - (b) provide the Juvenile Applicant with written reasons for the determination; and
  - (c) prepare, and provide to Council, a report which:
    - (i) sets out the Citizenship Committee’s determination on whether the Juvenile Applicant’s application has been accepted or denied; and
    - (ii) includes the Citizenship Committee’s written reasons for its determination.
- 20.8 The report of the Citizenship Committee prepared under paragraph 20.7(c) in respect of a Juvenile Applicant will be available to all Citizens, upon request.
- 20.9 At the close of each calendar year, or within a reasonable time thereafter, the Citizenship Officer must provide notice to Citizens of the outcome of all Juvenile Applicant determinations that have been made under paragraph 20.4(b) during that calendar year.
- 20.10 Where the Citizenship Committee determines under paragraph 20.4(b) that a Juvenile Applicant’s application for Citizenship should be denied, the Juvenile Applicant may appeal that determination in accordance with the appeal procedures set out at section 27.
- 20.11 The Citizenship Officer must, subject to section 16.3, add to the Citizenship Roll the name of any Juvenile Applicant whose application for Citizenship has been accepted under paragraph 20.4(b).

**PART V**  
**CITIZENSHIP BY VOTE**

**21 APPLYING FOR CITIZENSHIP BY VOTE**

- 21.1 Subject to section 24, any person thirteen (13) years of age or older who has a purported Ancestral Connection may, on their own behalf or as represented by a Parent or legal guardian if the person is a Child, apply under this section to become a Citizen by way of vote at a Citizenship Referendum, and that person shall be hereafter referred to as a Vote Applicant.
- 21.2 For greater certainty, a person is not restricted from applying under subsection 21.1 to become a Citizen by way of a vote, even if the person:
- (a) was formerly listed on the Citizenship Roll, the Former Citizenship Roll or the Former Band List, as applicable, and subsequently relinquished their We Wai Kai citizenship;
  - (b) lost their Citizenship under subsection 25.1 or 25.2; or
  - (c) lost their We Wai Kai citizenship for any reason set out in the 2009 Code, the Membership Rules, or under any version of the *Indian Act*.
- 21.3 A Vote Applicant must:
- (a) submit an application to the Citizenship Officer, in the form established by the Citizenship Officer from time to time, setting out:
    - (i) the Vote Applicant's full name and date of birth;
    - (ii) a description of the Vote Applicant's individual or family connection to We Wai Kai;
    - (iii) a description of the Vote Applicant's Ancestral Connection;
    - (iv) a description of the Vote Applicant's knowledge of the We Wai Kai community and Likwiltok history, culture, traditions and language;
    - (v) the Vote Applicant's reasons for wanting to become a Citizen;
    - (vi) the Vote Applicant's willingness to contribute to We Wai Kai community; and
    - (vii) any other information which the Vote Applicant may consider relevant or which may be required by the application form;
  - (b) enclose with the application the following documents:
    - (i) proof of Indian Status;

- (ii) a copy of the results from a current criminal record check in respect of the Vote Applicant for both Canada and the United States, unless this requirement is waived by the Citizenship Officer; and
  - (iii) written confirmation, from any First Nation or Band which the Vote Applicant is currently a member of, that the Vote Applicant will be removed from that Band or First Nation's membership list immediately upon notification of their successful application for Citizenship; and
- (c) pay any applicable administrative fees, as set by Council from time to time, unless this requirement is waived by the Citizenship Officer.

## **22 CITIZENSHIP COMMITTEE SCREENING OF APPLICATION**

- 22.1 Upon receipt of an application under subsection 21.3, the Citizenship Officer must review the application to verify that it is complete, that all required documents are enclosed and that any applicable administrative fees have been paid.
- 22.2 If a Citizenship Officer determines that an application under subsection 21.3 is not complete, the Citizenship Officer may request from the Vote Applicant any additional information or documents that the Citizenship Officer deems necessary in order to complete the application.
- 22.3 When the Citizenship Officer is satisfied that the application submitted under subsection 21.3 is complete, the Citizenship Officer must forward a copy of the application and all enclosed documents to the Citizenship Committee.
- 22.4 Upon receipt of an application from the Citizenship Officer under subsection 22.3, the Citizenship Committee must:
- (a) review the application for Citizenship by vote; and
  - (b) determine, in accordance with subsection 22.5, whether or not the Vote Applicant will proceed to a vote at the next Citizenship Referendum held under section 23.
- 22.5 The Citizenship Committee:
- (a) must allow the Vote Applicant to proceed to a vote at the next Citizenship Referendum under section 23 if:
    - (i) the Citizenship Committee is satisfied that the Vote Applicant has an Ancestral Connection; and
    - (ii) all of the other requirements of subsection 21.3 are met; and
  - (b) must not allow the Vote Applicant to proceed to a vote at the next Citizenship Referendum under section 23 if:

- (i) the Citizenship Committee is not satisfied that the Vote Applicant has an Ancestral Connection; or
  - (ii) any of the other requirements of subsection 21.3 have not been met.
- 22.6 In making its determination under paragraph 22.4(b), the Citizenship Committee may, in its discretion, request further information or documentation from the Vote Applicant for consideration, or may request to interview the Vote Applicant.
- 22.7 Once a determination under paragraph 22.4(b) has been made in respect of a Vote Applicant, the Citizenship Committee must:
  - (a) notify the Vote Applicant of its determination;
  - (b) provide the Vote Applicant with written reasons for its determination; and
  - (c) prepare and provide to Council a report which:
    - (i) sets out the Citizenship Committee’s determination on whether the Vote Applicant’s application:
      - i. has been rejected; or
      - ii. will proceed to a vote at the next Citizenship Referendum; and
    - (ii) includes the Citizenship Committee’s written reasons for its determination.
- 22.8 Where the Citizenship Committee report under paragraph 22.7(c) indicates that a Vote Applicant may proceed to a vote at the next Citizenship Referendum, Council must place the Vote Applicant on a list of persons whose respective applications for Citizenship will be voted on at the next Citizenship Referendum.
- 22.9 The report of the Citizenship Committee prepared under paragraph 22.7(c) in respect of a Vote Applicant will be available to all Citizens, upon request, before any Citizenship Referendum at which that Vote Applicant’s application for Citizenship is being considered.
- 22.10 Where the Citizenship Committee determines under paragraph 22.4(b) that a Vote Applicant may not proceed to a Vote at the next Citizenship Referendum, the Vote Applicant may appeal that determination in accordance with the appeal procedures set out at section 27.

## **23 VOTING ON APPLICATIONS FOR CITIZENSHIP**

- 23.1 Council must ensure that a Citizenship Referendum is held at least once every two (2) years, at the date and time set by Council.
- 23.2 The Citizenship Officer must, in advance of any Citizenship Referendum, provide the Electors with:

- (a) a list of all Vote Applicants whose respective applications for Citizenship will be voted on separately at the Citizenship Referendum;
  - (b) for each applicable Vote Applicant, a copy of the application submitted under paragraph 21.3(a) and a copy of the written reasons of the Citizenship Committee prepared under paragraph 22.7(b) determining that the Vote Applicant would proceed to a vote; and
  - (c) an overview of how the voting process will be administered and how the vote will be counted, including a notation that if both the “YES” and the “NO” boxes are left unmarked beside the name of a Vote Applicant, then that ballot will be rejected and will not be counted as a vote cast.
- 23.3 The vote and the procedure at a Citizenship Referendum must be carried out in accordance with the Referendum Law, except that where there is a conflict between anything in the Referendum Law and anything in this Citizenship Code, this Citizenship Code will prevail.
- 23.4 The Citizenship Officer must ensure that the voting ballot at the Citizenship Referendum:
- (a) clearly sets out the vote question, which must be substantially similar to the following, “should [the respective Vote Applicant] be accepted as a citizen of We Wai Kai Nation?”;
  - (b) separately lists the name of each Vote Applicant whose application for Citizenship is being considered, and provides a “YES” and a “NO” box beside each such name, so that Electors can record their response to the vote question in respect of each respective Vote Applicant; and
  - (c) includes instructions in large, capitalized and bolded letters, indicating that if both the “YES” and the “NO” boxes are left unmarked beside the name of a Vote Applicant, then the ballot will be rejected and will not be counted as a vote cast.
- 23.5 A Vote Applicant’s application for Citizenship is:
- (a) accepted if a majority of Electors who cast a ballot recorded a “YES” in the box beside the name of the Vote Applicant in question; and
  - (b) rejected if:
    - (i) 50% or more of the Electors who cast a ballot recorded a “NO” in the box beside the name of the Vote Applicant in question; or
    - (ii) no ballots at all were cast for that Vote Applicant,
- where, for greater certainty, the absence of a marking in either the “YES” or the “NO” box beside the name of a Vote Applicant shall result in a rejected ballot, which will not be counted as a cast ballot.

- 23.6 The Citizenship Officer must, within three (3) days of a Citizenship Referendum, provide notice of the outcome of a Citizenship Referendum to all Vote Applicants and Citizens, by listing the Vote Applicants who were the subject of the Citizenship Referendum and by identifying whether their application for Citizenship was accepted or rejected under subsection 23.5.
- 23.7 Where a Citizenship Referendum results in the rejection of a Vote Applicant’s application for Citizenship under paragraph 23.5(b), the Vote Applicant may appeal the outcome of the Citizenship Referendum in accordance with the appeal procedures set out at section 28.
- 23.8 The Citizenship Officer must, subject to subsection 16.3, add to the Citizenship Roll the name of any Vote Applicant whose application for Citizenship has been accepted under paragraph 23.5(a), provided that if an appeal leads to the setting aside of the results of a Citizenship Referendum, the names of any Vote Applicants so affected will be removed from the Citizenship Roll.

**PART VI**  
**RE-APPLICATION PROCESS**

**24 RE-APPLICATIONS**

- 24.1 A Juvenile Applicant whose application for Citizenship is rejected under paragraph 20.5(b)(i) and a Vote Applicant who is precluded from proceeding to a Citizenship Referendum under paragraph 22.5(b)(i) may not reapply for Citizenship under this Code unless:
- (a) new information evidencing the Ancestral Connection of the Juvenile Applicant, or Vote Applicant, as applicable, has become available; and
  - (b) that new information was not before the Citizenship Committee at the time of their determination under paragraph 20.4(b) or paragraph 22.4(b), as applicable.
- 24.2 A Vote Applicant whose application for Citizenship is rejected under subsection 23.5(b) following a Citizenship Referendum may reapply for Citizenship under this Code at any time.
- 24.3 For greater certainty, subsection 24.1 does not prohibit a person from applying for Citizenship under this Code if their Citizenship was relinquished or lost in a manner described in subsection 21.2.

**PART VII**  
**LOSS AND REVOCATION OF CITIZENSHIP**

**25 LOSS OF CITIZENSHIP**

- 25.1 If a person who is a Citizen becomes a member of another First Nation or Band, then:

- (a) that person will automatically lose their Citizenship; and
  - (b) the Citizenship Officer must promptly remove the person’s name from the Citizenship Roll.
- 25.2 A Citizen may renounce their Citizenship by written notice to Council and the Citizenship Officer, and upon receipt of such notice, the Citizenship Officer will promptly remove that person’s name from the Citizenship Roll.
- 25.3 The Citizenship Officer must remove the name of a deceased Citizen from the Citizenship Roll upon confirmation of that person’s death by way of death certificate, or other confirmation of death as accepted by the Citizenship Officer in their sole discretion.
- 25.4 Where the Citizenship Officer has reasonable grounds to believe that a person became a Citizen under sections 20 or 23 of this Citizenship Code, under the 2009 Code, or under the Membership Rules, primarily as a result of an error, false information or inaccuracies, the Citizenship Officer must:
  - (a) provide written notice to the person of the alleged error, false information or inaccuracies; and
  - (b) provide the person with a period of at least thirty (30) days to respond and explain any error, or to clarify any falsities or inaccuracies.
- 25.5 Upon the expiration of the time period set out in subsection 25.4, the Citizenship Officer must refer the matter of the validity of a person’s Citizenship to the Citizenship Committee for consideration, along with a description of the alleged error, false information or inaccuracies, the written notice issued under paragraph 25.4(a) and any response received under paragraph 25.4(b).
- 25.6 In considering the matter under subsection 25.5, and prior to making a determination, the Citizenship Committee may request further information or documentation from the person whose Citizenship is in question, or may seek to interview the person.
- 25.7 Following a consideration of the referral package received under subsection 25.5, the Citizenship Committee must:
  - (a) determine whether the person whose Citizenship is in question became a Citizen primarily as a result of an error, false information or inaccuracies; and
  - (b) provide the person in question with notice of its determination under paragraph (a), and written reasons for the same.
- 25.8 In the event the Citizenship Committee determines under paragraph 25.7(a) that a person became a Citizen under sections 20 or 23 of this Citizenship Code, under the 2009 Code or under the Membership Rules primarily as a result of an error, false information or inaccuracies, then:



- (a) the person’s Citizenship is revoked; and
- (b) the Citizenship Officer must promptly remove the person’s name from the Citizenship Roll.

25.9 Upon removal of a person’s name from the Citizenship Roll under paragraph 25.1(b), subsection 25.2 or paragraph 25.8(b), the Citizenship Officer must send written notice to the person, informing them that they are no longer a Citizen and that person is restricted from reapplying for Citizenship under this Citizenship Code for a period of one (1) year.

## **26 REVOCATION OF CITIZENSHIP**

26.1 A Citizen who is found to be a Grave Threat may, in accordance with this section 26, have their Citizenship revoked.

26.2 If Council has reasonable grounds to suspect that a Citizen is a Grave Threat and that their Citizenship should therefore be revoked, Council must:

- (a) prepare written reasons setting out why Council suspects that the Citizen is a Grave Threat; and
- (b) provide written notice to the Citizen in question, which notice:
  - (i) informs the Citizen that they are suspected to be a Grave Threat and that their Citizenship is being considered for revocation;
  - (ii) includes a copy of Council’s written reasons, as set out in paragraph 26.2(a); and
  - (iii) provides the Citizen with a period of (45) days to respond to the same, in accordance with subsection 26.3.

26.3 A Citizen suspected to be a Grave Threat in accordance with subsection 26.2 may respond to the paragraph 26.2(b) notice by:

- (a) providing Council with written submissions explaining their position;
- (b) providing Council with evidence or documentation in support of their position;
- (c) requesting a meeting with Council to make oral submissions; or
- (d) any combination of the above.

26.4 Upon the expiration of the time period set out in subparagraph 26.2(b)(iii), Council:

- (a) must consider any submissions received under subsection 26.3;

- (b) must, where a meeting has been requested by the Citizen in question, ensure that such a meeting is provided in a timely manner in a forum chosen at Council’s discretion which may include in-person, video-conference or via telephone;
  - (c) may, as Council deems appropriate, request any further information or documentation from the Citizen in question; and
  - (d) may, as Council deems appropriate, interview any other person who may have relevant information related to the Citizen in question.
- 26.5 After considering any submissions, materials or information provided under subsection 26.4, Council must:
- (a) determine whether or not the Citizen in question is a Grave Threat, whose Citizenship should therefore be revoked; and
  - (b) provide the Citizen in question with written notice of its determination under paragraph (a), along with reasons for the same.
- 26.6 If Council determines, under paragraph 26.5(a), that a Citizen’s Citizenship should be revoked, the Citizenship Officer must immediately remove that person’s name from the Citizenship Roll.
- 26.7 Upon removal of a person’s name from the Citizenship Roll under paragraph 26.6, the Citizenship Officer must send written notice to the person, informing them that they are no longer a Citizen, and that they are restricted from re-applying for Citizenship under this Citizenship Code for a period of two (2) years.

## **PART VIII**

### **CITIZENSHIP COMMITTEE DECISION APPEALS**

#### **27 APPEALS OF CITIZENSHIP COMMITTEE DECISIONS**

- 27.1 A Juvenile Applicant, a Vote Applicant, or a person whose Citizenship has been revoked following a determination of the Citizenship Committee under paragraph 25.7(a) (hereafter referred to as a “Revocation Appellant”), may appeal a determination of the Citizenship Committee made under paragraph 20.4(b), paragraph 22.4(b), or paragraph 25.7(a), as applicable, by submitting to the Citizenship Officer a Notice of Appeal within thirty (30) days of the determination in question.
- 27.2 A Notice of Appeal must:
- (a) be in the form established by the Citizenship Officer from time to time, and must include:
    - (i) the date of the determination being appealed;

- (ii) the name, date of birth and contact details of the Juvenile Applicant, the Vote Applicant, or the Revocation Appellant, as applicable, who is appealing the determination;
    - (iii) the grounds on which the Juvenile Applicant, the Vote Applicant, or the Revocation Appellant, as applicable, is appealing the determination;
  - (b) enclose with it any supporting documentation; and
  - (c) be accompanied by any applicable administrative fees.
- 27.3 Upon receipt of a Notice of Appeal, any supporting documentation, and any applicable fees, the Citizenship Officer shall forward the same, along with the paragraph 20.7(c) report, paragraph 22.7(c) report, or paragraph 25.7(b) written reasons, as applicable, to Council.
- 27.4 After reviewing the Notice of Appeal, supporting documentation, and the paragraph 20.7(c) report, paragraph 22.7(c) report, or paragraph 25.7(b), as applicable, Council must, by Council Resolution, do one of the following:
- (a) if Council is satisfied that the grounds for appeal are made out and that the Citizenship Committee’s determination under paragraph 20.4(b), paragraph 22.4(b), or paragraph 25.7(a), as applicable, should be overturned, then:
    - (i) overturn the determination, and grant Citizenship to the Juvenile Applicant, allow the Vote Applicant to proceed to a vote at the next Citizenship Referendum, or reinstate the Revocation Appellant’s Citizenship, as applicable; and
    - (ii) prepare written reasons for the same; or
  - (b) if Council is not satisfied that the grounds for appeal are made out and is not satisfied that the Citizenship Committee’s determination under paragraph 20.4(b), paragraph 22.4(b), or paragraph 25.7(a), as applicable, should be overturned, then:
    - (i) uphold the determination to not grant Citizenship to the Juvenile Applicant, to not allow the Vote Applicant to proceed to a vote at the next Citizenship Referendum, or to revoke the Revocation Appellant’s Citizenship, as applicable; and
    - (ii) prepare written reasons for the same.
- 27.5 When making a determination under subsection 27.4, Council may, in their discretion, interview a Juvenile Applicant, a Vote Applicant, or a Revocation Appellant or request from a Juvenile Applicant, a Vote Applicant or a Revocation Appellant any additional information or documents that Council deems necessary to make the determination.

- 27.6 A member of Council who has been appointed to the Citizenship Committee under paragraph 5.2(b) and who continues to hold office as a member of that committee is prohibited from participating in Council’s appeal determination under subsection 26.4.
- 27.7 Within five (5) days of Council’s determination under subsection 27.4, the Citizenship Officer must:
- (a) provide to the Juvenile Applicant, the Vote Applicant, or the Revocation Appellant, as applicable, notice of the outcome of the appeal and a copy of the written reasons prepared under subparagraphs 27.4(a)(ii) or 27.4(b)(ii); and
  - (b) post the results of the appeal in a public area of the We Wai Kai administration building and in other conspicuous places on We Wai Kai Lands, as may be determined by the Citizenship Officer.
- 27.8 If a Juvenile Applicant’s Citizenship is granted under subparagraph 27.4(a)(i), the Citizenship Officer must, subject to section 16.3, add the Juvenile Applicant’s name to the Citizenship Roll.
- 27.9 If the Revocation Appellant’s Citizenship is reinstated under subparagraph 27.4(a)(i), the Citizenship Officer must add the Revocation Appellant’s name to the Citizenship Roll.
- 27.10 The determination of Council under subsection 27.4 is final and binding.

## **28 APPEALS OF CITIZENSHIP REFERENDUM AND REVOCATION VOTE**

- 28.1 A Vote Applicant whose application for Citizenship is rejected under paragraph 23.5(b)(i) may, in accordance with the appeal procedures set out in Part 13 of the Referendum Law, file an appeal on the grounds set out at subsection 13.1 of the Referendum Law.

### **PART IX** **OTHER MATTERS**

## **29 NON-SUBSTANTIVE AMENDMENTS**

- 29.1 Council may, by Council Resolution, make amendments to this Citizenship Code that do not change the substance of this Citizenship Code, including:
- (a) changes required to ensure that cross references to other We Wai Kai laws and codes are current; and
  - (b) corrections of grammatical and typographical errors.

## **30 SUBSTANTIVE AMENDMENTS**

- 30.1 Subject to section 29, Council must initiate the preparation of any proposed amendments to this Citizenship Code by:

- (a) issuing a Council Resolution authorizing the preparation of proposed amendments; and
  - (b) calling a Special General Meeting for the consideration and approval of any such proposed amendments.
- 30.2 In preparation for a Special General Meeting to consider proposed amendments to this Citizenship Code, the Citizenship Officer must:
- (a) provide notice of the Special General Meeting to all Citizens at least twenty (20) days before the meeting, which notice must include:
    - (i) the date, time and place of the meeting;
    - (ii) notification that proposed amendments to this Citizenship Code will be considered at the meeting;
    - (iii) a summary of the proposed amendments;
    - (iv) identification of where a full copy of the proposed amendments can be obtained; and
    - (v) a statement that there will be a vote of Electors to decide whether or not the proposed amendments should be accepted;
  - (b) post notice of the Special General Meeting in the We Wai Kai administration building;
  - (c) publish notice of the Special General Meeting online, in a location that can be accessed by Citizens; and
  - (d) make reasonable efforts to ensure that a written copy of the notice set out in paragraph (a), and a full written copy of the proposed Citizenship Code amendments are:
    - (i) received by each household of Electors residing on We Wai Kai Lands at least seven (7) days prior to the Special General Meeting; and
    - (ii) mailed to all Electors not residing on We Wai Kai Lands at least ten (10) days prior to the Special General Meeting.
- 30.3 Quorum for a Special General Meeting for the purpose of considering proposed amendments to this Citizenship Code is thirty (30) Electors who are not members of Council.
- 30.4 If less than thirty (30) Electors who are not members of Council are present at the Special General Meeting, Council must:
- (a) postpone the meeting; and

- (b) call a new Special General Meeting at which to consider the proposed amendments.
- 30.5 Except for the requirement under paragraph 30.1(a), all of the requirements of this Citizenship Code related to Special General Meetings for the consideration of proposed amendments apply to any new Special General Meeting that has been called under paragraph 30.4(b).
- 30.6 At a Special General Meeting for the consideration of proposed amendments, Council or the Citizenship Committee must explain the proposed amendments, including the reasons for the amendments, and Citizens may ask questions and provide comments.
- 30.7 At the conclusion of the explanation and discussion of the proposed amendments under subsection 30.6, a vote of Electors by secret ballot must be held in respect of the proposed amendments.
- 30.8 In order to vote on proposed amendments at a Special General Meeting, Electors must attend in person, and no proxy or other form of authorization allowing another person to vote on an Elector's behalf is permitted.
- 30.9 Proposed amendments to the Citizenship Code are:
- (a) approved if:
    - (i) at least thirty (30) Electors cast ballots; and
    - (ii) if a majority of those ballots approve the proposed amendments; and
  - (b) rejected if:
    - (i) less than thirty (30) Electors cast votes; or
    - (ii) at least thirty (30) Electors cast ballots, but a majority of those ballots reject the proposed amendments.
- 30.10 Where proposed amendments are rejected under paragraph 30.9(b) following a vote at a Special General Meeting, no further action may be taken on those amendments, or on the development of other proposed amendments on the same subject matter, for at least one hundred and twenty (120) days after the date of the Special General Meeting.
- 30.11 The decision of the Electors at a Special General Meeting for consideration of proposed amendments must be recorded by the Citizenship Officer in minutes of the Special General Meeting, and will be evidence of the approval or rejection of the proposed amendments, as applicable.
- 30.12 Any repeal and replacement of this Citizenship Code must be done at a Special General Meeting, and subsections 30.1 to 30.11 regarding Special General Meetings for proposed amendments apply, *mutatis mutandi*, to such repeal and replacement.

**31 ADMINISTRATION**

- 31.1 Council may, by Council Resolution, enact administrative fees required to be paid by Vote Applicants, Juvenile Applicants, Revocation Appellants, or Citizens, as appropriate, in order to proceed with any processes or procedures set out in this Citizenship Code.
- 31.2 Council may, by Council Resolution, and in Council’s discretion, delegate to the Citizenship Committee or the Citizenship Officer the power to set administrative fees and create forms under this Citizenship Code.

**32 IMMUNITY**

- 32.1 No action for damages lies or may be instituted against an Immune Person for:
- (a) any loss of Citizenship under sections 25 or 26;
  - (b) any denial or rejection of an application for Citizenship by vote under sections 21 to 23;
  - (c) anything said or done or omitted to be said or done by that Immune Person in the performance or intended performance of the Immune Person’s duty or in the exercise of their authority under the powers conferred by this Citizenship Code; or
  - (d) any alleged neglect or default in the performance or intended performance of the Immune Person’s duty or the exercise of their authority under the powers conferred by this Citizenship Code.
- 32.2 An Immune Person is not liable for any damages or other loss, including economic loss, sustained by any person where such damages or other loss are the result of:
- (a) any loss of Citizenship under sections 25 or 26;
  - (b) any denial or rejection of an application for Citizenship by vote under sections 21 to 23;
  - (c) anything said or done or omitted to be said or done by that Immune Person in the performance or intended performance of the Immune Person’s duty or in the exercise of their authority under the powers conferred by this Citizenship Code; or
  - (d) any alleged neglect or default in the performance or intended performance of the Immune Person’s duty or the exercise of their discretion or authority under the powers conferred by this Citizenship Code.
- 32.3 Subsection 32.1 and 32.2 do not provide a defense if:

- (a) an Immune Person has, in relation to the conduct that is the subject matter of the action, been guilty of dishonesty, gross negligence or malicious or wilful misconduct; or
- (b) the cause of action is libel or slander.

32.4 All actions against an Immune Person for the unlawful doing of anything that:

- (a) is purported to have been done by an Immune Person under the powers conferred by this Citizenship Code; and
- (b) might have been lawfully done by an Immune Person if acting in the manner established by law,

must be commenced within six (6) months after the cause of action first arose, but not afterwards.

32.5 A party commencing an action against an Immune Person must deliver notice in writing, setting out the time, place and manner in which the damage was sustained, to We Wai Kai and the Immune Person within sixty (60) days from the date on which the damage was sustained.

32.6 If the party commencing an action against an Immune Person fails to deliver notice to We Wai Kai and the Immune Person as required under subsection 32.5, the action must be struck and the Immune Person will not be liable for any loss or damages.

### **33 COMING INTO FORCE**

33.1 This Citizenship Code comes into force on the date of its approval by a majority of Electors present at a “Special General Meeting” as that term is defined in the 2009 Code, being [DATE].

33.2 Substantive amendments to, and replacements of, this Citizenship Code come into force on the date of their approval by a majority of Electors present at a Special General Meeting held in accordance with section 29.



**SCHEDULE A**

**OATH OF OFFICE**

I, \_\_\_\_\_, do solemnly swear that I accept the office of  
\_\_\_\_\_ for We Wai Kai Nation.

I will do my utmost to carry out the duties of my position faithfully, impartially and to the best of my ability, keeping in mind that at all times my primary duty is to serve in the best interests of We Wai Kai Nation.

I swear not to disclose or cause to be disclosed, during or subsequent to my term of office as \_\_\_\_\_, any matter or information that is confidential under law or under a policy of We Wai Kai Nation, or that is designated as confidential by We Wai Kai Nation Council.

SWORN BEFORE ME at

\_\_\_\_\_, this

\_\_\_\_\_ day of \_\_\_\_\_,

20\_\_\_\_\_.

\_\_\_\_\_  
Justice of the Peace, Notary Public,  
Commissioner for Oaths, etc.

\_\_\_\_\_  
Signature