



**MEMBERSHIP LAWS  
OF THE  
SAGAMOK  
ANISHNAWBEK**

Enacted May 26, 1999

# MEMBERSHIP LAWS OF THE SAGAMOK ANISHNAWBEK

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**WHEREAS** the Sagamok Anishnawbek assert our inherent sovereignty which emanates from our people, our culture and our Aboriginal rights, and as a natural corollary, hereby exercise our powers of self-government and self-determination as recognized and affirmed by Section 35 of the Constitution Act, 1982;

**AND WHEREAS** the Sagamok Anishnawbek have come to a community decision and desire to make a by-law for the control and maintenance of addition, deletions and review of the Band list of the Sagamok Anishnawbek;

**AND WHEREAS** paragraphs 10 and 81(1)(p.4) of the *Indian Act* empower the Sagamok Anishnawbek First Nation to make by-laws to provide for control, maintenance and review of any and all addition and deletions of the Band List of the Sagamok Anishnawbek;

**AND WHEREAS** the Sagamok Anishnawbek have deemed it necessary to amend the Membership Laws of Spanish River Band of Indians enacted by the Spanish River Band of Indians on June 27, 1987 by replacing it with this by-law;

**NOW THEREFORE** the Sagamok Anishnawbek First Nation hereby amend and rescind all previous membership by-laws by replacing them with the following by-law:

**SHORT TITLE**

1. This by-law may be cited as “the Membership Law of the Sagamok Anishnawbek “.

**INTERPRETATION**

2. (1) In this by-law, "adoption" means adoption of a person who was at birth entitled to be registered as an Indian, and includes adoption according to custom, the law of the Province of Ontario, or the law of the Sagamok Anishnawbek, and the terms "adopted" and “adoptive” shall be correspondingly interpreted;

"Authority" means the Membership Authority of the Sagamok Anishnawbek established pursuant to this law;

“Band List” means the Band List maintained by the Registrar pursuant to the *Indian Act* immediately before this law came into effect;

“Band Records” means the records maintained by the Authority pursuant to section 6 of this law;

“Chief and Council” means the duly elected Chief and Councillors of the Sagamok Anishnawbek;

“Child” means a person under the age of eighteen years;

“Community” includes but is not necessarily limited to the Sagamok Anishnawbek Territory;

“Grandparents” means any natural or adoptive parent of an individual's natural or adoptive parents and for the purpose of determining the membership of an applicant, both natural and adoptive grandparents may be taken into account;

“Indian” means a person who is or, if no longer living, was entitled to be registered as an Indian under the *Indian Act*;

“Indian Act” means the *Indian Act*, R.S.C. 1995 c.I-5, as amended from time to time;

“Member” means a person who is or, if no longer living, was entitled to have his or her name entered in the membership register;

“Membership Register” means the register maintained by the Authority pursuant to section 5.(1) of this law;

“Parent” includes biological parent as well as parent by adoption as defined within this by-law;

“spouses” means either of a man and a woman married to each other according to the laws of the Province of Ontario or according to the law of the Sagamok Anishnawbek;

“Status Record” means the record of members of the Sagamok Anishnawbek who are Indians for the purposes of the *Indian Act*, maintained pursuant to this law;

2. (2) Words used in this law which are not defined in section 2.1, but which are expressly defined in the *Indian Act* shall have the meaning ascribed to them in that Act.

## **MEMBERSHIP AUTHORITY**

- 3.(1) The Membership Authority of the Sagamok Anishnawbek is established and shall consist of not more than seven and not less than four members of the Sagamok Anishnawbek as elected from time to time by the general Sagamok Anishnawbek membership.
- 3.(2) Subject to subsection 4.(7), the term of office of Membership Authority members shall automatically lapse upon the occurrence of either:
- (i) the second anniversary of their election, or
  - (ii) the day of the election for their seat on the Membership Authority which is held within 30 days of the second anniversary of their election, whichever comes first.

- 3.(3) Subject to section 3.(2), the Chief and Council shall call and conduct an election by the Sagamok Anishnawbek general membership to fill the seats on the Membership Authority which become vacant as defined above in section 3.(2).
- 3.(4) The Chief and Council shall give fifteen days notice of an election by posting for that period a written notice in a prominent place at the entrance to the Sagamok Anishnawbek Band Council Office, as well as two other public places the Band Council deems appropriate.
3. (5) Membership Authority members shall be elected by receiving more votes from the members of the Sagamok Anishnawbek than all others.
3. (6) Members of the Authority may be re-elected for successive terms.
- 4.(1) At its first meeting after election, and from time to time as necessary, the Membership Authority shall choose from among its members a person to act as Chairperson.
- 4.(2) The Membership Authority shall perform such duties and exercise such powers as are assigned to it by or under this law, and shall have the authority hereunder to convene meetings of the general membership of the Band to vote on membership applications and expulsions.
- 4.(3) The Membership Authority shall exercise the power set out in 4.(4) and any ancillary powers granted it under this by-law, provided any and all exercises of power are considered and voted upon by a quorum consisting of not less than 50% plus one of all members of the Membership Authority.
- 4.(4) Except as required by statute or under the by-laws, decisions of the Sagamok Anishnawbek Membership Authority shall be made, as far as possible, by consensus or by general agreement. When all reasonable efforts at achieving a consensus have been exhausted without success, a positive vote of 50% plus one of the Membership Authority members in attendance shall be sufficient to constitute a decision.
- 4.(5) Subject to the approval of the Chief and Council, the Authority may retain advisors and employ clerks to assist in the administration of this law, and may determine their remuneration and terms and conditions of contract or employment.
4. (6) The Chief and Council shall appropriate moneys for the operations and expenditures of the Authority.

- 4.(7) The Chief and Council may, by Band Council Resolution, appoint members of the Sagamok Anishnawbek to the Authority to fill vacancies which arise from time to time. Appointees shall hold office until the next election for the Membership Authority. At such election, the remainder of the term of the vacated seat on the Authority, if there is any, shall be filled by the Membership Authority candidate who receives the highest number of votes after the full term seats have been filled.
- 4.(8) If the appointed members ever outnumber the elected members of the Authority, Chief and Council shall, by Band Council resolution, call an election within 30 days to fill the remaining terms of any seats of the Membership Authority which are then filled by the appointed members or are otherwise vacant.
4. (9) Members of the Authority shall be paid an honorarium or other remuneration as fixed from time to time by Band Council resolutions.

#### **THE MEMBERSHIP REGISTER**

- 5.(1) The Authority shall maintain a Membership Register in which shall be recorded from time to time the names, dates of birth and *Indian Act* registration numbers of all members of the Sagamok Anishnawbek.
5. (2) Any member of the Band or applicant shall have a right to inspect the Sagamok Anishnawbek Membership Register.

#### **THE BAND RECORD**

6. The Authority may maintain a confidential Band Record in which is recorded the names; sex; place and date of birth and death; parentage and lineage; marital status; spouses and dependants; dates of admission to membership, expulsion, or renunciation; status under the *Indian Act* and dates of acquisition or loss of status; last known address, and other information the Authority deems relevant in relation to any person whose name is or has been recorded in the Band List or Membership Register of the Sagamok Anishnawbek, where these facts are known to or disclosed to the Authority.

#### **THE STATUS RECORD**

7. The Authority shall maintain a record in which is recorded the names of members of the Sagamok Anishnawbek and other persons residing on the Reserve who are registered or entitled to be registered as Indians pursuant to the *Indian Act*.

## **CONFIDENTIALITY AND ACCESS TO INFORMATION**

8. (1) Except as provided in this law, no person shall disclose or communicate to any other person information obtained from or any part of the contents of the Band Record. All persons elected or appointed to the Membership Authority Board, or retained, employed or otherwise under the direction of the Membership Authority Board shall subscribe to an oath or undertaking not to disclose confidential information concerning band members or others obtained in the exercise of their duties, except as required by law.
8. (2) Any band member or person applying under this code for membership within the Sagamok Anishnawbek may make a formal request for the following information relevant to their membership or potential membership:
  - (a) whether any person named in the request is or was a member of the Band at the time or times specified in the requisition, and,
  - (b) whether the named member's parents and grandparents were members or Indians, insofar as these facts are a matter of record kept by the Authority or known to the Authority.
8. (3) The Membership Authority Board may prescribe a form for information requests, and shall respond to any properly completed requests within forty-five days of their receipt.
8. (4) Any person applying under this by-law for membership within the Sagamok Anishnawbek shall acknowledge that all information involved with the application process, including the application form and the considerations, deliberations and inquiries of the Membership Authority may be released to the full membership of the Sagamok Anishnawbek, and each applicant shall fully and completely release the Sagamok Anishnawbek from any and all liability which may result from the release of that information.

## **MEMBERSHIP RULES**

9. (1) The following are members of the Sagamok Anishnawbek;

### **Prior Membership**

- (a) any person whose name was entered or who was entitled to have his or her name entered, in the Band List of the Sagamok Anishnawbek on June 26, 1987;

### **Membership by Parentage**

- (b) any Status Indian born after this law comes into effect, at least one of whose natural or adoptive parents are members of the Band or were members of the Band at the time of the person's birth or adoption;

#### Membership by Application

- (c) any person whose application for membership has been accepted by the Membership Authority and who has been granted full membership by the Membership Authority after completing the probationary period.

9. (2) Notwithstanding section 9.(1), members of the Sagamok Anishnawbek does not include:

- (a) a person who has renounced membership in the Sagamok Anishnawbek,
- (b) a person who has been expelled from membership in the Sagamok Anishnawbek,
- (c) a person whose probationary membership under this by-law has been revoked at the end of the probationary term and who has not, therefore, been granted full membership in the Sagamok Anishnawbek, and
- (d) a person who is a member of another Band of Indians.

#### **APPLICATIONS FOR MEMBERSHIP**

10.(1) Any registered Indian who has at least two natural or adoptive grandparents who are, or were at the time of their death, entitled to be registered as Indians, is eligible to apply for membership who is also either:

- (a) a person whose parent is or was a member of the Sagamok Anishnawbek
- (b) the spouse of a member of the Sagamok Anishnawbek, or
- (c) a person who seeks to transfer their existing membership from another First Nation to the Sagamok Anishnawbek, and has received the majority support at a General Membership meeting.

10.(2) Applications for membership shall be in writing, signed by the applicant or, in the case of a dependent child, the persons having lawful custody of the child, and shall set out in concise form the particulars upon which the application is made.

10.(3) The Authority may, from time to time, prescribe and make generally available a form for

applications for membership, and may also set and demand a reasonable non-refundable application fee. Application fees will be used to offset the costs to the Membership Authority of the Application review process.

- 10.(4) Upon receipt of a properly completed application for membership, and the necessary application fee, the Membership Authority shall consider the application, make such enquiries as it deems necessary, and decide the application by consensus.
10. (5) An application by a person eligible to apply under this law shall be approved only if supported by a decision of the Membership Authority.
10. (6) In its consideration of an application for membership, the Authority shall make confidential memorandum in writing of factors which it considers relevant to the applications, which may include:
  - (a) whether the applicant is knowledgeable of the way of life, culture, language, laws and history of the Band;
  - (b) whether the applicant follows a way of life consistent with the common good of the Band;
  - (c) the social, cultural and family ties of the applicant to members of the Band;
  - (d) the length of time the applicant has been resident in the Sagamok Anishnawbek community;
  - (e) on the advice of the Chief and Council, the availability of suitable land, housing and ancillary services which will be required to support the applicant and his or her family;
  - (f) the extent to which the applicant is prepared or able to support himself or herself and his or her dependants, if any, in the Sagamok Anishnawbek community;
  - (g) any falsehood, omission, deception or bad faith on the part of the applicant towards the Membership Authority
  - (h) any other consideration that, in the opinion of the Authority, is relevant to the application or to the health, safety, good order and advancement of the Sagamok Anishnawbek.

## **PROBATIONARY MEMBERSHIP**

11. (1) The Membership Authority shall grant to all persons whose applications are approved, a probationary membership in the Sagamok Anishnawbek. All persons whose membership

applications are rejected shall receive a copy of the written decision of the Authority.

11. (2) The Membership Authority may impose upon a probationary member reasonable terms and conditions to be observed or fulfilled by the probationary member during the probationary period.
- 11.(3) The Membership Authority may review, from time to time, all probationary member's performance or observance of any terms or conditions imposed by the Authority after the probationary membership is granted.
- 11.(4) At any review of an applicant's probationary membership, the Authority shall give written notice of the review to the applicant 15 days in advance of the review, and shall allow the applicant a reasonable opportunity to make submissions to the Authority.
11. (5) After a review under section 11.(4), the Authority may, by majority vote:
  - a) grant the applicant a further probationary period with such terms and conditions as the board deems necessary;
  - b) revoke the applicant's probationary membership; or
  - c) grant that the applicant shall become a full member of the Sagamok Anishnawbek on the fifth anniversary of the probationary membership; or,
  - d) grant to the applicant full membership in the Sagamok Anishnawbek, provided that the fifth anniversary of the granting of probationary members has already passed.
11. (6) If, in the discretion of the Board, a probationary membership is revoked, the Authority shall cause the applicant to receive written notification of this decision.
- 11.(7) A person who claims membership through a parent whose membership in the Band is probationary at the time the claim is made or arises shall not be eligible for membership except by application pursuant to section 10.(1).
- 11.(8) A probationary member will not be entitled to services accessible to full band members until the five year probationary period has ended and full membership in the Sagamok Anishnawbek has been given to that probationary member. For greater clarity, this includes entitlement to such matters as housing, education funding and employment. However, Chief and Council may, in their complete discretion, provide such services.
- 11.(9) A probationary member is not entitled to a vote in any and all Band Council elections or

referenda, nor to be a candidate for the positions of Chief or Councillor of the Sagamok Anishnawbek. These rights will vest in the probationary member upon their attaining full membership in the First Nation.

## **RENUNCIATION**

- 12.(1) A person eighteen years of age or older may renounce membership in the Sagamok Anishnawbek by a notice in writing executed by the member, duly witnessed and submitted by the member to the Chief and Council or the Authority, renouncing membership or asking that the member's name be removed from the Membership Register.
- 12.(2) A person who has lawful custody of a dependent child and who renounces or has renounced membership may submit a renunciation statement on behalf of the child, however, no such renunciation for a dependent is effective unless, and until, it is accompanied by the written and executed consent to the renunciation by:
  - (a) all other persons who share custody of the child,
  - (b) all other persons who have legal access rights to the child, and,
  - (c) where the child is twelve years of age or older, the consent of the child.
- 12.(3) A renunciation notice shall take effect 14 days after the date the notice is received, unless the renunciation is withdrawn by the member during that time, in which case the renunciation shall be considered void.
12. (4) A person who has renounced membership shall not be eligible for membership thereafter except by application under section 10.(1).
12. (5) Renunciation by a member shall not affect the membership claim of any person born prior to the date upon which the renunciation took effect.

## **EXPULSION**

13. (1) The Band Council may, upon giving the member 60 days written notice, convene a general meeting of the Sagamok Anishnawbek to consider whether the member should be expelled on the grounds that the member constitutes a serious threat to the life, safety, or physical and/or mental and/or spiritual well-being of any other persons residing in the Sagamok Anishnawbek Territory.
- 13.(2) A general meeting called under section 13.(1) shall only be effective if Band Council provides written notice to Sagamok Anishnawbek membership of the time, place and purpose of the meeting 30 days before the meeting is to be held.
- 13.(3) The member whose expulsion is being considered must be given the opportunity to make

submissions and give answers to the general membership before any vote to expel is called.

13. (4) A resolution expelling a member shall be effective only if supported by at least three-quarters of the votes cast by the members present at a meeting duly convened to consider the expulsion.
13. (5) The expulsion of a member shall not affect the claim to membership of any other person.
13. (6) A person who has been expelled from membership shall not be eligible to receive membership again until the fifth anniversary of the expulsion and, therefore, shall not be eligible for membership except by application pursuant to section 10.(1).

## **PROTESTS**

14. (1) A member may protest the inclusion, addition, deletion or omission of the name of a person from the Membership Register, on grounds of eligibility as defined by sections 9. (1), 9.(2) and 10.(6) only, by notice in writing delivered to the Authority containing a brief statement of the grounds therefor within 180 days of the decision of the Membership Authority. No protests will be accepted beyond this 180 day limitation period, unless the person bringing the protest can show that there was no way for them to have known about the decision within the time period, that they acted expeditiously when they were informed of the decision, and that their protest has some merit.
14. (2) Upon receipt of a notice of protest, the Membership Authority shall cause an investigation to be made into the matter and render a decision.
- 14.(3) The Authority shall provide notice of its decision with reasons in writing to the member who gave notice of protest and to any person whose membership or application for membership, in the authority's view, is affected by the decision.
- 14.(4) The Authority shall amend the Membership Register in accordance with its decision sixty days after notice of the decision is provided unless it receives notice of appeal during that sixty day period.

## **PROPERTY**

15. (1) Except as provided herein, no person is entitled to any payment from Band moneys upon renunciation of membership.
- 15.(2) A person who renounces or is expelled from membership shall divest himself or herself of any interest in any land in the Reserve or any improvements thereon within one year of the date upon the renunciation or expulsion takes effect.

## **APPEAL**

- 16.(1) Any person whose claim to membership is affected by a decision of the Membership Authority may appeal the decision by notice in writing delivered to the Authority within sixty days of when the decision is made, or within sixty days from when the notice of the decision is given to the parties entitled thereto, whichever is later. This notice shall set out the grounds of the appeal.
16. (2) The Membership Authority may reconsider the matter and shall either
  - (a) grant the appeal, or
  - (b) give notice of, call, convene and hold a meeting of the general membership to decide the appeal.
- 16.(3) The appellant, persons whose claim to membership is, or may be, affected by the matter appealed, and any members of the Sagamok Anishnawbek present, may address the general meeting called to consider the appeal.
16. (4) An appeal shall be decided in favour of the appellant if supported by a special majority of three-quarters of the votes cast by members present at the meeting duly convened to decide the appeal.
- 16.(5) A vote by the general membership on a membership matter is an exercise of the political franchise of membership is final and shall not be subject to appeal or review in any form.

## **AMENDMENT**

17. (1) This law may be amended by a resolution adopted by a majority of the members of the Sagamok Anishnawbek present at a general membership meeting duly convened to consider the matter.
17. (2) If any part of this by-law is found to be inconsistent with any law by court of competent jurisdiction that part is, to the extent of such inconsistency, of no force and effect and shall be severed from the by-law in order to preserve the intent of the whole.

## **TRANSITION**

18. Notwithstanding previous versions of this by-law, all persons born after June 26, 1987 who were granted automatic membership by the Membership Office prior to this version

of this by-law because they had at least one natural or adoptive parent was member of the Sagamok Anishnawbek at the time of the person's birth or adoption, are to be considered as having been properly granted full membership by the Membership Authority.

## **INTERPRETATION**

- 19.(1) It is the intention of the Sagamok Anishnawbek that, as much as possible, the members of the Authority be elected on a stagger basis with 4 members being elected on year, and the remaining 3 to be elected the next year. Any ambiguities shall be resolved in favour of the intention.
  
19. (2) At the election called to replace the initial Authority, the four candidates who receive the most votes will be elected for a full two year term. The next three candidates shall be elected for only a one year term of office, and their first anniversary of election shall be deemed their second anniversary for the purposes of section 3.(2), 3.(3), 4.(7) and 4.(8).