



## Henvey Inlet First Nation

### RESTATED E'DBENDAAGZIIG NAAKNIGEWIN [MEMBERSHIP CODE]

This E'dbendaagzijig Naaknigewin or Membership Code sets out the rules and procedures governing entitlement to be enrolled as a member of Henvey Inlet First Nation, and is a comprehensive restatement of the Membership Code adopted by Henvey Inlet First Nation on 22 June 1987, with amendments.

#### Definitions and interpretation

1. In this E'dbendaagzijig Naaknigewin:

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

"**common-law partner**" means anyone with whom a person is cohabiting in a conjugal relationship, having so cohabited for a period of at least one (1) year;

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

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

"**eligible voter**" means a person enrolled on the Membership List who is over the age of eighteen (18) years;

"**enrolment vote**" means a poll of the eligible voters conducted in accordance with section 18;

"**First Nation**" means an Indigenous people recognized as a band for the purposes of the *Indian Act*, R.S.C., 1985, c. I-5, and any other band, tribe or community of Indigenous people in Canada or the United States, other than Métis or Inuit, who may be recognized by resolution of Council for the purposes of this Code;

"**guarantor**" means a person, other than the applicant's parent or legal guardian, who is at least eighteen (18) years of age and who is employed in one of the occupations listed in Schedule "A";

"**he**", "**she**" and "**they**" include all persons of any or no gender;

"**HIFN Ancestor**" means a person who is, was or was entitled to be enrolled as an HIFN member at the material time;

"**HIFN community**" means the members who participate in activities within Henvey Inlet First Nation's reserves and other lands in which Henvey Inlet First Nation has a legal or beneficial interest;

"**HIFN CPIC Policy**" means the requirements set out in section 8 of this Code;

"**HIFN member**" means a person who is enrolled on the Membership List;

**"Liaison Officer"** means a Liaison Officer recognized by resolution of Council and by the Ontario Provincial Police, provided that where that office is vacant, the duties of the Liaison Officer pursuant to this Code may be discharged by the Membership Clerk;

**"material time"** means, for the purposes of determining whether the parent of a person is or was entitled to be enrolled as a member of a First Nation, the date of the person's birth or adoption;

**"Membership Clerk"** means a person appointed by Council pursuant to section 33 of this Code;

**"Membership Advisory Committee"** means the committee of members appointed by Council pursuant to section 35 of this Code;

**"Membership List"** means the list of names of members of Henvey Inlet First Nation;

**"parent"** includes:

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

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

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

**"spouse"** includes anyone to whom a person is married or a common-law partner;

## ANCESTRY

### Ancestry rules

2. The following rules shall apply in the determination of whether a person is entitled to membership by ancestry:

- (a) A person is of "**HIFN Ancestry**" if that person's parents and grandparents include either:
  - i. at least three (3) members of First Nations, at least one (1) of whom is an HIFN Ancestor; or
  - ii. at least two (2) members of Henvey Inlet First Nation, provided neither of those HIFN Ancestors were enrolled as a member pursuant to this 2(a)ii.
- (b) A person is of "**Other First Nation Ancestry**" if either:
  - i. that person's parents and grandparents include at least three (3) members of First Nations; or

- ii. that person's parents, grandparents and great-grandparents include at least seven (7) members of First Nations.
- (c) In the count of qualifying ancestors under this section 2:
- i. for the purposes of subsection 2(a), an ancestor who is or was enrolled or entitled to be enrolled as an HIFN member solely by transfer from another First Nation may not be counted;
  - ii. an ancestor who, but for the application of discriminatory provisions in the *Indian Act*, R.S.C., 1985, c. I-5, would otherwise be entitled to be enrolled as a member of a First Nation at the material time, may be counted;
  - iii. an ancestor who acquired membership solely by marriage may not be counted;
  - iv. an ancestor who is not a member of a First Nation but who at the date of an application is, or if living would be, entitled to be enrolled as a member of the First Nation, other than solely by marriage or transfer, may be counted; and
  - v. an applicant who was adopted may choose to count a biological parent in lieu of an adoptive parent but not both, and the applicant's grandparents and great-grandparents will be determined by that choice.

## ENTITLEMENT TO MEMBERSHIP

### Entitlement as a member

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

#### Original list member

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

#### HIFN Ancestry

- (b) a person of HIFN Ancestry;

#### Other First Nation Ancestry

- (c) a person of Other First Nation Ancestry who is not eligible under subsection 3(b) whose application for membership was approved by an enrolment vote conducted in accordance with section 18.

## APPLICATIONS

### Application required

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

**Separate application for each applicant**

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

**Information required to be provided in an application**

6. An application to be enrolled as a member shall be in writing, sworn by the applicant before a commissioner of oaths or submitted with a guarantor's signature, and shall include:

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

**Police record check**

7. With the exception of applications on behalf of minors, an application shall not be accepted or approved unless the applicant has produced to the Liaison Officer for review a police record check which is dated within the previous three (3) months and which satisfies Henvey Inlet First Nation's CPIC Policy.

**HIFN CPIC Policy**

8. A police record check satisfies Henvey Inlet First Nation's CPIC Policy if it does not disclose that the applicant has been convicted of a serious offence within the previous ten (10) years, has been designated a dangerous offender or long-term offender under Part XXIV of the *Criminal Code*, R.S.C. 1985 c. C-46 or is required to report or register under the *Sex Offender Registration Act*, S.C. 2004 c. 10.

**Review by Liaison Officer**

9. Upon review of a police record check, the Liaison Officer shall advise the Membership Clerk whether the police record check satisfies or fails to satisfy Henvey Inlet First Nation's CPIC Policy, without any further particulars thereof.

**Police record checks not to be retained and to remain confidential**

10. The Liaison Officer shall return the police record check to the person named therein as soon as may be practical and shall not retain any copy thereof or disclose to any person the contents thereof except as provided in sections 9 and 13 or as required by law.

**Application on behalf of minor**

11. An application made on behalf of a minor shall include proof of custody, and where applicable, a consent signed by every person having a right to custody of the minor or an order of a court of competent jurisdiction dispensing with the consent.

**Transfers**

12. Notwithstanding any other provision of this Code, an application by or on behalf of a person who is enrolled as a member of another First Nation shall include the consent of that First Nation to the transfer to Henvey Inlet First Nation, and the application, if approved, shall not take effect until the applicant has ceased to be a member of that other First Nation.

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

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

- (a) if the application is complete, forward the application to the Membership Advisory Committee for verification, on written notice to the applicant; or
- (b) reject the application and return it to the applicant with a written explanation of the reasons for rejection and what may be required for re-submission.

**Verification by Membership Advisory Committee**

14. Within sixty (60) days of its receipt of a complete application, the Membership Advisory Committee shall review the information set out therein, and either:

- (a) if the information contained in the application is accurate and the Liaison Officer has advised that the police check satisfies the requirements for membership set out in section 8, sign and attach a certificate of verification to the application, and deliver written notice of verification to the applicant and to the Membership Clerk; or
- (b) reject the application and return it to the applicant with a written explanation of the reasons for rejection.

**Unknown parent or other ancestor**

15. The Membership Advisory Committee shall draw from any credible evidence provided by the applicant or otherwise obtained, and make every reasonable inference on a balance of probabilities in verifying a claim that an unknown or unstated parent, grandparent or great-grandparent is or was a member of a First Nation.

**Application based on original list or HIFN Ancestry (ss. 3(a) or 3(b))**

16. Where an application by a person entitled to membership under subsections 3(a) or 3(b) is verified by the Membership Advisory Committee, the Membership Clerk shall add the name of that person to the Membership List and send written notice of enrolment to the applicant.

**Application requiring an enrolment vote (s. 3(c))**

17. An application for membership pursuant to subsection 3(c) shall be decided as follows:

- (a) Within sixty (60) days of the verification of an application by the Membership Advisory Committee, Council shall by resolution schedule an enrolment vote to decide the application as soon as may be practicable and in any case within one (1) year of the verification of the application, and deliver notice thereof in writing to the applicant, the Membership Advisory Committee and the Membership Clerk.
- (b) Within ten (10) days of completion of an enrolment vote in respect of an application, the Membership Clerk shall deliver a notice of decision in writing to the applicant, the Membership Advisory Committee and Council stating whether membership was approved or denied.

**Matters relevant to deciding applications pursuant to s. 3(c)**

18. In deciding an application for membership pursuant to subsection 3(c), the eligible voters shall have regard to:

- (a) the applicant's ancestry, family, and dependants, and in particular how many of the applicant's ancestors and relations are or were members of Henvey Inlet First Nation;
- (b) any history of HIFN community involvement or other connection with Henvey Inlet First Nation;
- (c) contributions which the applicant may make through their occupation, profession, or their knowledge of Henvey Inlet First Nation's language, culture, or community, to Henvey Inlet First Nation;
- (d) the importance of Henvey Inlet First Nation identity and participation in the HIFN community to the applicant;
- (e) whether the applicant has been banished by any First Nation; and
- (f) any other consideration or information Council deems to be relevant to the decision.

## ENROLMENT VOTE

### How conducted

19. An enrolment vote in respect of the Membership List may be held under the authority of Council as follows:

- (a) Council shall provide not less than forty-five (45) days' notice of the enrolment vote to the eligible voters, and where the enrolment vote concerns one (1) or more applications, to the applicants.
- (b) The notice of enrolment vote provided to each elector shall include a written summary, prepared by the Membership Advisory Committee and approved by the applicant, of the material facts with respect to each person included in each application to be decided as determined by Council, and a copy of this Code.
- (c) Council shall convene, on not less than thirty (30) days' notice to the eligible voters, at least one information meeting prior to the enrolment vote for a review by the eligible voters of applications to be submitted to a vote. An information meeting may be convened at a location within the reserve or traditional lands of Henvey Inlet First Nation, and shall be open only to the eligible voters, persons named in the applications, and other persons expressly invited to attend by Council, any of whom may participate in person or by two-way video conferencing application. Applicants and persons other than members may be permitted to address the eligible voters and to respond to any questions of the eligible voters, and may be excluded from parts of the Information Meeting.
- (d) Each matter and application to be decided shall be listed separately on the ballot and shall be subject to a separate secret yes or no vote.
- (e) Enrolment votes may be mailed in, cast in person or, where approved by Council, cast by internet-based voting application.
- (f) Where at least 25% of the eligible voters cast a vote in respect of the matter or application, it shall be deemed approved if a majority of the votes cast are in favor and otherwise denied.

20. No enrolment vote shall be held in respect of an application where the applicant has not approved the written summary set out in section 19(b).

### Enrolment

21. The Membership Clerk shall add the name of a person whose application to be enrolled has been approved to the Membership List effective as of the later of the date of the decision or approval, the date of completion of any requirements of a transfer, or receipt of the applicant's consent to enrolment, and shall send written notice of enrolment to the applicant.

22. Notwithstanding section 19, where a person made application for membership prior to the in force date of this Code which is approved after the in force date of this Code, the Membership Clerk shall add the name of such person to the Membership List effective as of the date of their application.

## **APPEALS AND PROTESTS**

### **Appeal of decision of Membership Clerk or Membership Advisory Committee**

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

### **Decision of Appeal**

24. An appeal of a decision, action, or failure to act of the Membership Clerk or Membership Advisory Committee shall be decided by majority vote of Council, a quorum being present.

### **Protest**

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

### **Enquiry into protest**

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

### **Decision of protest**

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

### **No appeal of enrolment vote or Council decision**

28. An enrolment vote and a decision of Council under sections 22 or 25 shall not be subject to appeal of any kind whatsoever.

## **RESTRICTIONS AND LIMITATIONS**

### **Effect of banishment**

29. Notwithstanding anything elsewhere provided in this Code, a person who is banished by a First Nation shall not be eligible for membership except by enrolment vote pursuant to section 19.



**First re-application**

30. A person whose application has been refused under this Code may not re-apply earlier than the second anniversary of delivery of the Notice of Decision to refuse enrolment.

**Subsequent re-applications**

31. Where a person receives a Notice of Decision to refuse enrolment on a re-application under section 30, that person may not submit a further application earlier than the fifth anniversary of the delivery of that Notice of Decision.

**Multiple memberships not permitted**

32. No person may be simultaneously a member Henvey Inlet First Nation and a member of any other First Nation.

**ADMINISTRATION****Membership Clerk**

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

**Establishment of the Membership Advisory Committee**

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

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

**Appointment of Membership Advisory Committee members**

35. Immediately upon the coming into effect of this Code and thereafter as often as required, Council shall solicit applications from members and shall appoint one (1) Councillor and at least five (5) other members who are not Councillors of Henvey Inlet First Nation to the Membership Advisory Committee to serve until successors are appointed, and appropriate sufficient resources for its operations.

**Facilitation by the Membership Clerk**

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

**Membership Advisory Committee Rules of Procedure**

37. The Membership Advisory Committee shall conduct its affairs according to rules of procedure developed by the Committee, presented to the HIFN community for input and feedback, and approved by Council.

**Per diem compensation**

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

**Immunity**

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

**Annual Membership Report**

40. Within six (6) months of the First Nation's fiscal year end in each year, the Membership Clerk shall prepare, and Council shall review, approve, and publish, for the benefit of members, an Annual Membership Report which shall include, for the reported period:

- (a) a summary of applications and appeals received, approved, denied, pending, or otherwise disposed of; and
- (b) a list of the individuals newly enrolled on the Membership List.

**AMENDMENT AND IN FORCE DATE****Amendment**

41. Council may amend this E'dbendaagzijig Naaknigewin by resolution in open session provided the amendment has been approved by a vote of the eligible voters in which at least 25% of the eligible voters cast ballots and a majority of the ballots cast are in favor of the amendment.

**In force date**

42. This E'dbendaagzijig Naaknigewin shall come into force on a date to be fixed by resolution of Council.

**Schedule "A" –  
Eligible Occupations List for Guarantors**

In addition to the criteria set out in section 1 of this Code, a person acting as a guarantor must be employed in one of the following occupations:

- i. an elected member or an employee of Henvey Inlet First Nation or other First Nation or Indigenous organization;
- ii. an elected or appointed official of the federal government, a provincial government or a municipality;
- iii. a justice or public safety official including a judge, magistrate, lawyer, notary, paralegal, police officer, parole officer or Liaison Officer;
- iv. a member of the Canadian military regular or reserve forces;
- v. a medical professional including a dentist, medical doctor, optometrist, pharmacist, chiropractor or nurse;
- vi. a social services professional including social worker, social service worker, counsellor;
- vii. an education professional including teacher, professor, administrator or school board member,
- viii. a financial professional including accountant, financial advisor or actuary;
- ix. a veterinary professional including a veterinary technician;
- x. a scientific professional including an engineer, chemist, surveyor or geoscientist; or
- xi. a religious official.