

THE KOOTENAY NATIONS
ST. MARY'S INDIAN BAND
MEMBERSHIP LAWS
SET FORTH BY THE BAND MEMBERSHIP

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ST MARY'S INDIAN BAND

MEMBERSHIP LAWS

PART I

We, the people of the St Mary's Indian Band of the Kootenay Nation in order that our rights and freedoms, including inherent and aboriginal rights, be fully protected, exercised and preserved, to ensure justice and our security, to maintain Kootenay traditions and customs, to maintain our political integrity, to promote harmony and our common good, therefore do ordain and establish these Membership Laws.

We, the peoples of the St Mary's Indian Band, assert our sovereign status as a Nation and inherent, aboriginal and other rights, as confirmed by our forefathers through the exercise of such rights, and we recognize the protection accorded such rights by sections 35 and 25 of the Constitution Act, 1982 from any abrogation or derogation by the Charter of Rights and Freedoms in the Constitution Act, 1982.

NOW THEREFORE, the Band enacts as follows:

INTERPRETATION

1. In these Rules:

(1) "Act" means the Indian Act, S.C. 1985, c.27 amending the Indian Act, R.S.C. 1970, c.I-6.;

(2) "Band" means the St Mary's Indian Band;

(3) "Band List" means a list of persons that is maintained under section 8 of the Indian Act, 1985, by the Band or the Department of Indian Affairs and Northern Development;

(4) "Band Member" means a person whose name appears on the Band List or who is entitled to have his name appear on the Band List;

(5) "child" means a child born in or out of wedlock, a legally adopted child and a child adopted in accordance with the Kootenay custom;

(6) "Council of the Band " (the "Council") means the Chief and Council chosen according to the custom of the St Mary's Indian Band;

(7) "Elector" means a person who is:

(a) registered on the Band List;

(b) of the full age of eighteen years; and,

(c) is not disqualified from voting at Band elections;

(8) "Indian" means a person of Canadian Indian ancestry who is registered or entitled to be registered as an Indian within the meaning of the Act;

(9) "Indian Blood" refers to a person who is lineally descended from a North American Indian who did not acquire Indian status through marriage;

(10) "Laws" (the "Laws") means the St Mary's Indian Band Membership Laws, as amended from time to time;

(11) "Marriage" means a common law relationship or a legal marriage;

(12) "Membership Committee" (the "Committee") means a committee appointed by the Band membership to act in an advisory capacity and to make recommendations relating to membership to the Council;

(13) "Registered " means a person who is registered as an Indian in the Indian Register;

(14) "reserve" means a tract of land, the legal title to which is vested in Her Majesty, that has been set apart by Her Majesty for the use and benefit of the

Band or which may be acquired by the Band by way of land claim settlement; and,

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

PART II

ORIGINAL MEMBERSHIP

2. The following persons are automatically entitled to membership in the St Mary's Indian Band:

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

(2) a natural child born to two members of the Band since April 17, 1985;

(3) a natural child born to one member of the Band if:

(a) the other parent is a member of another Band; and,

(b) that parent has consented to the child's membership in the Band;

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

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

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

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

(d) persons who lost Indian status and Band membership through involuntary enfranchisement;

3. A child born to a Band member and who is adopted out of the Band shall be deemed to be a Band member until reaching the age of eighteen (18) years after which time that child may choose whether or not to remain a Band member.

PART III

DISCRETIONARY MEMBERS

4. A natural child born to a Kootenay Indian who lost Indian status and Band membership under section 12(1)(b) of the Indian Act, 1951 is eligible for membership if he:

(1) is registered, or entitled to be registered as an Indian;

(2) provides documentary evidence of Kootenay ancestry; and,

(3) has been accepted by a 51% majority of the Band electors who vote at a referendum called for that purpose.

5. In all cases, a person is entitled to be entered in the Band List as a member of the Band where the total electors who voted at the time are 51% in favor the applicant's entitlement to be registered during a referendum called for that purpose.

PART IV

MEMBERSHIP THROUGH MARRIAGE

6. Where a member of another Indian Band marries a St Mary's Band member, he may transfer to the St Mary's Band or remain with his original Band.

7. Where a St Mary's Band member marries a member of another Indian Band, the Band member may transfer to the Band of the spouse.

8. The Council shall delete from the Band List the name of a Band member whose name has been added to the Band List of another Band.

PART V

MEMBERSHIP THROUGH TRANSFER

9. An Indian who is a member of another Band may apply for membership in the St Mary's Band. His name shall not be entered on the Band List until he has relinquished membership and has forfeited all communal rights and properties as well as all benefits from the other Band.

10. A St Mary's Band member wishing to transfer to another Band shall not be deleted from the Band List until his name is entered in the Band List of the other Band, and he shall forfeit all communal rights, properties, and benefits deriving from the St Mary's Indian Band.

PART VI

CHILDREN

11. The parents of children affected by Part IV shall have 90 days after the birth or marriage, as the case may be, to notify the Council in which Band List the child will be registered.

12. Children of Band members who transfer their membership to another Band, pursuant to marriage under section 7, shall have the right to remain on the St Mary's Band List.

13. Children of persons affected by sections 8 and 9 may be transferred with the transferring parents providing the other parent consents.

PART VII
LOSS OF MEMBERSHIP

14. Where a person having no Indian blood has become a member of the Band prior to April 17, 1985 through marriage to a Band member, that person shall no longer be entitled to Band membership upon divorce or living separate and apart from the Band member for one (1) year, but if widowed he shall remain on the Band List until he marries a non-Indian.

15. A person admitted into membership of another Band shall no longer be entitled to St Mary's Band membership when the transfer has been completed.

16. No person shall be deprived of his membership for any cause except those outlined in this Part.

PART VIII

APPLICATION PROCEDURE

17. An application for Discretionary Membership shall be sent to the Council in writing on the form entitled: "St Mary's Indian Band, Kootenay Nation, Application for Membership."

18. The Council shall forward the application together with all necessary supporting documents to the Committee, who will present the application to the Band membership for a vote.

19. The applicant will be accepted into the Band upon a vote in favor of his acceptance by 51% of the electors who cast a vote.

20. The decision of the Band membership shall be communicated to the applicant by the Council in writing.

PART IX

APPEAL PROCEDURE

21. Persons whose application for membership has been rejected may appeal the decision to the Committee within one (1) year of the notice of rejection.

22. Within 90 days of receipt of an appeal under this Part, the Committee shall convene a meeting with the

Council to review additional documents or information presented by the appellant.

23. The new information shall be presented to the Band membership for a vote at a referendum called for that purpose.

24. Neither the members of the Committee nor the Council may vote at the appeal referendum.

25. An applicant may appeal only once.

26. No claim shall lie against the Band, the Council, the Band members nor any of their agents for any acceptance or denial of membership in the Band.

PART X

AMENDMENT PROCEDURE

27. Amendments to these Laws shall be initiated by a petition, signed by at least 30% of the Band electors which is presented to the Committee.

28. The Committee shall meet with the Council within 30 days of receipt of the petition to consider the proposed amendment.

29. The Council shall give the membership thirty days written notice of a referendum to vote on the proposed

amendment to the Laws . Assent must be made in the same manner that the Laws were originally established.

30. This Law shall not be repealed, and no decision by the Band to abandon control of its membership shall be valid unless a majority of the electors of the Band consent to the abandonment or repeal in the same manner and proportion as for the establishment of the Laws.

PART XI

DELEGATION OF POWER

31. On the day these Laws come into force the St Mary's Indian Band delegates its authority to the Council, or an appointee of the Council, to maintain and administer these Laws in good faith, without discrimination on the basis of sex, age, religion or family in accordance with the principles of natural justice and in the best interest of the Band.

PART XII

COMING INTO FORCE

32. These Rules shall come into force on the day the Band gives notice to the Minister that it is assuming control of its membership pursuant to section 10(6) of the Act.