



INTERIM CITIZENSHIP CODE

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PREAMBLE

Whereas the Ktunaxa Nation is an Indigenous people that since time immemorial has been, and continues to be, present in ʔamakís Ktunaxa;

Whereas the Ktunaxa Nation has maintained its unique culture and identity through its oral traditions, spiritual beliefs, language and its relationship to the land and resources;

Whereas the Ktunaxa Nation has the inherent right to determine who are its own citizens;

Whereas this Interim Citizenship Code is based on the Ktunaxa Nation's collective rights and values that are fundamental to maintaining its unique culture and identity; and

Whereas Article 33 of the *United Nations Declaration on the Rights of Indigenous Peoples* states:

1. Indigenous peoples have the right to determine their own identity or membership in accordance with their customs and traditions. This does not impair the rights of indigenous individuals to obtain citizenship of the States in which they live.
2. Indigenous peoples have the right to determine the structures and to select the membership of their institutions in accordance with their own procedures.

TITLE

1. This Interim Citizenship Code may be cited as the *Ktunaxa Nation Interim Citizenship Code*.

DEFINITIONS AND INTERPRETATION

2. In this Interim Citizenship Code:

Citizenship and Enrollment Board means the board established by the Ktunaxa Nation Executive Council in accordance with Part 8;

Interim Citizenship Code or **Code** means this Ktunaxa Nation Interim Citizenship Code;

Interim Ktunaxa Nation Constitution means the interim constitution of the Ktunaxa Nation to be approved by Ktunaxa Citizens through a referendum;

Ksawizkin ʔa·kikʔiyamis (Registrar) means the registrar appointed by the Ktunaxa Nation Executive Council in accordance with Part 10;

Ktunaxa ʔaʔakuʔpukamnam (Kin) means an individual whose Ktunaxa roots are recognized either through their extended Ktunaxa family or Ktunaxa Community or through genealogy, and who can provide substantive evidence of their Ktunaxa lineage, adoption or genealogy;

Ktunaxa Community means any community formally recognized by the Ktunaxa Nation Government as a Ktunaxa community and includes the four Ktunaxa Indian Act Bands;

Ktunaxa Custom Adoption means the process, described in Appendix 1, of formally accepting an individual who does not otherwise meet the definition of Ktunaxa ʔaʔakuʔpukamnam (Kin) as a Ktunaxaniʔtik (Ktunaxa Citizen) with all of the rights, responsibilities and privileges of a Ktunaxaniʔtik, which has been endorsed by the Ktunaxa Nation Traditional Knowledge and Language Sector Council in collaboration with the Ktunaxa Nation Traditional Knowledge and Language Advisory Group;

Ktunaxa Indian Act Band means any one of the four Ktunaxa Bands recognized as a “band” under the *Indian Act* (Canada), specifically ʔaʔam, ʔakisʔnuk First Nation, Lower Kootenay Band, or Tobacco Plains Band;

Ktunaxa Nation means the collectivity of Ktunaxaniʔtik (Ktunaxa Citizens);

Ktunaxa Nation Executive Council means the executive body of the Ktunaxa Nation Government described in the bylaws of the Ktunaxa Nation Council

Society, and any successor to this representative body established under the Interim Ktunaxa Nation Constitution;

Ktunaxa Nation Government means the members of the Ktunaxa Nation Council Society who comprise the interim governing structure of the Ktunaxa Nation as set out in the constitution and bylaws of the Ktunaxa Nation Council Society, and any successor to this governing body established under the Interim Ktunaxa Nation Constitution;

Ktunaxaniṅtik (Ktunaxa Citizen or Ktunaxa Citizens) means an individual or individuals, as the case may be, granted citizenship in accordance with Part 4;

Métis Nation refers to the collectivity that is governed by the Métis National Council and its Provincial chapters;

ḥakḥak ḥaqḥsmakṅik (Other Ktunaxa Citizen or Other Ktunaxa Citizens) means an individual or individuals, as the case may be, granted Other Ktunaxa citizenship in accordance with Part 6.

Public Notice means the posting of information in a public place within each of the band offices of the four Ktunaxa Indian Act Bands, the Ktunaxa Nation Government building and on the Ktunaxa Nation website;

Registered Member means an individual who is registered with the Department of Indian Affairs and Northern Development as a Status Indian;

Shuswap Indian Band means the Indian Act Band whose band number is 605;

Spouse means an individual who is legally married to another individual or has lived and continues to live in a marriage-like relationship with another individual for at least one year;

State means an independent nation-state with standing in international law, including Canada and the United States of America; and

Ya·kiḥ hawizḥkniḥki ḥa·kikḥiyam (Register) means the official set of records maintained by the office of the Ksawizḥkin ḥa·kikḥiyamis (Registrar) containing the

names and other vital information of Ktunaxaniḡtik (Ktunaxa Citizens) and ʔaqʔsmakniḡ (Other Ktunaxa Citizens).

3. In this Interim Citizenship Code,
 - (a) “including” means “including, but not limited to”, and “includes” means “includes, but not limited to”;
 - (b) any reference to a “paragraph”, “section” or a “Part” is a reference to paragraph, section or Part of this Code, unless otherwise stated;
 - (c) any reference to a department, council, group or other body, includes a successor to such body;
 - (d) headings and subheadings are for convenience only and do not form a part of this Code; and
 - (e) the use of the singular includes the plural and the use of the plural includes the singular.

PART 1 - PURPOSE

4. This Interim Citizenship Code is intended to:
 - (a) establish a fair and equitable process for identifying those individuals who are Ktunaxaniḡtik (Ktunaxa Citizens) and ʔaqʔsmakniḡ (Other Ktunaxa Citizens);
 - (b) support the establishment of a voters’ list of Ktunaxaniḡtik who are eligible to vote on the Interim Ktunaxa Nation Constitution; and
 - (c) supersede any prior policy, procedure or code established to determine Ktunaxa citizenship or Other Ktunaxa citizenship.

PART 2 - RATIFICATION

5. Ratification of this Interim Citizenship Code requires that 50% plus one of those Registered Members of the four Ktunaxa Indian Act Bands who cast a vote, vote in favour of adopting this Code, with a minimum participation rate of at least 25% of eligible voters.

Confederated Salish and Kootenai Tribes and is also enrolled as a Registered Member of one of the four Ktunaxa Indian Act Bands or the Shuswap Indian Band

cannot be granted citizenship as a Ktunaxaniḥtik (Ktunaxa Citizen).

9. Despite paragraph 8(a), an individual who meets the criteria set out in section 7 will be granted citizenship as a Ktunaxaniḥtik if they provide satisfactory evidence in writing that they have ceased receiving benefits under a treaty or land claims agreement, or have withdrawn from enrolment as a beneficiary under a treaty or land claims agreement.

PART 6 – ʔakʔak ʔaqʔsmakniḥ (OTHER KTUNAXA CITIZENS)

10. An individual that:

- (a) is a non-Ktunaxa Spouse of a Ktunaxaniḥtik (Ktunaxa Citizen);
- (b) is a non-Ktunaxa step-child of a Ktunaxaniḥtik and is ineligible under paragraph 7(a) or (b) for Ktunaxa citizenship;
- (c) is ineligible for Ktunaxa citizenship and has been living as a member of a Ktunaxa Community for an extended period of time;

is eligible to be granted status as a ʔakʔak ʔaqʔsmakniḥs.

Limitations

11. ʔakʔak ʔaqʔsmakniḥ:

- (a) may not participate in voting processes unless otherwise specifically stated; and
- (b) are not eligible to run for leadership positions in the Ktunaxa Nation Government.

Privileges

12. ʔakʔak ʔaqʔsmakniʔ may:
 - (a) participate in Ktunaxa Nation and Ktunaxa Community gatherings and events, unless otherwise specifically stated; and
 - (b) access programs and services other than those specifically stated or deemed to be exclusively for Ktunaxaniʔtik (Ktunaxa Citizens) or Registered Members of the four Ktunaxa Indian Act Bands.
13. For greater certainty, the Ktunaxa Nation may offer programs and services to Ktunaxaniʔtik (Ktunaxa Citizen) and certain sub-categories of ʔakʔak ʔaqʔsmakniʔ, such as ʔakʔak ʔaqʔsmakniʔ that are resident in Ktunaxa Communities or are spouses of a Ktunaxaniʔtik or members of Ktunaxa families.

Part 7 - OBLIGATIONS

14. Ktunaxaniʔtik and ʔakʔak ʔaqʔsmakniʔ must observe all relevant laws, policies and procedures of the Ktunaxa Nation and the Ktunaxa Community in which they reside.

PART 8 - CITIZENSHIP AND ENROLLMENT BOARD

15. The Citizenship and Enrollment Board will be appointed in accordance with terms of reference approved by the Ktunaxa Nation Executive Council.
16. The role of the Citizenship and Enrollment Board is to review and make decisions on applications for the granting of Ktunaxa citizenship and Other Ktunaxa citizenship in accordance with the criteria set out in this Interim Citizenship Code.
17. The Citizenship and Enrollment Board will establish policies, procedures and processes to ensure:
 - (a) compliance with this Interim Citizenship Code;

- (b) applicants are fully aware of the criteria and processes;
 - (c) applications are reviewed and processed in a fair, equitable and timely manner; and
 - (d) procedural fairness is followed in implementing this Code.
18. The Ktunaxa Nation Executive Council will provide Public Notice containing the contact information for the Citizenship and Enrollment Board.

PART 9 – REMOVAL, REVOCATION AND RE-ENROLLMENT

No Removal

19. The name of an individual may not be removed from the Ya·kiḥ hawizkniḥki ḥa·kikḥiyam (Register) except in accordance with this Interim Citizenship Code.
20. No individual, including a parent or guardian of a minor, may request the removal of the name of a minor who is a Ktunaxaniḥtik (Ktunaxa Citizen) from the Ya·kiḥ hawizkniḥki ḥa·kikḥiyam except in the event of the minor's transfer to a band that is not a Ktunaxa Indian Act Band.
21. An individual, who has the legal authority to manage the affairs of another individual who is a Ktunaxaniḥtik, may not request the removal of the name of that other individual from the Ya·kiḥ hawizkniḥki ḥa·kikḥiyam except in the event of that other individual's transfer to a band that is not a Ktunaxa Indian Act Band.

Request for Removal

22. Subject to sections 19 and 20, the Citizenship and Enrollment Board may instruct the Ksawizkin ḥa·kikḥiyamis (Registrar) to remove the name of a Ktunaxaniḥtik or a ḥakḥtak ḥaqḥsmakniḥk (Ktunaxa Other Citizen) from the Ya·kiḥ hawizkniḥki ḥa·kikḥiyam upon receipt of a notice in the form required, from the Ktunaxaniḥtik or a ḥakḥtak ḥaqḥsmakniḥk in question or an individual who has the legal authority to manage the affairs of that individual, requesting removal from the Ya·kiḥ hawizkniḥki ḥa·kikḥiyam.

Upon Death

23. The Ksawiz̄kin ᑭa·kikᑭiyamis (Registrar) must revise the Ya·kiᑭ hawiz̄kniᑭi ᑭa·kikᑭiyamis (Register) to indicate that a Ktunaxaniᑭtik (Ktunaxa Citizen) or a ᑭaᑭᑭak ᑭaqᑭsmakniᑭ (Other Ktunaxa Citizen) is deceased upon receiving satisfactory evidence of their death.

Revocation

24. The Citizenship and Enrollment Board may instruct the Ksawiz̄kin ᑭa·kikᑭiyamis to revoke the enrollment of a Ktunaxaniᑭtik or a ᑭaᑭᑭak ᑭaqᑭsmakniᑭ if the Citizenship and Enrollment Board has substantive evidence that an individual was:
 - (a) enrolled on the basis of false representation, fraud or by knowingly withholding material facts, or
 - (b) not eligible to be enrolled.
25. The Citizenship and Enrollment Board may instruct the Ksawiz̄kin ᑭa·kikᑭiyamis to revoke the enrollment of a ᑭaᑭᑭak ᑭaqᑭsmakniᑭ if they become aware that the individual:
 - (a) is a ᑭaᑭᑭak ᑭaqᑭsmakniᑭ by virtue of paragraph 10(a) and becomes separated or divorced from their Spouse who is a Ktunaxaniᑭtik;
 - (b) no longer meets the criteria of a ᑭaᑭᑭak ᑭaqᑭsmakniᑭ, except in the case of an individual eligible under paragraph 10(a) whose Ktunaxaniᑭtik Spouse has died, if that individual continues to participate in Ktunaxa cultural life and Nation/community activities; or
 - (c) is in serious breach of their obligations as set out in section 14 and the Ktunaxa Community of their residence has requested, by way of a band council resolution, that the individual's status as a ᑭaᑭᑭak ᑭaqᑭsmakniᑭ be revoked.
26. Prior to removing the name of a Ktunaxaniᑭtik (Ktunaxa Citizen) or a ᑭaᑭᑭak ᑭaqᑭsmakniᑭ (Other Ktunaxa Citizen) from the Ya·kiᑭ·hawiz̄kniᑭi ᑭa·kikᑭiyam(Register), the Ksawiz̄kin ᑭa·kikᑭiyamis (Registrar) will provide at

least 60 calendar days' written notice by registered mail to the individual advising them of the intent to revoke their citizenship. Such notice shall include:

- (a) the reason for revocation;
 - (b) the proposed effective date of revocation; and
 - (c) the process and time limitations under which the individual may appeal the intent to revoke.
27. Upon receipt of a notice of the intent to revoke their citizenship, the Ktunaxaniḥtik or ʔakʔak ʔaqʔsmakniḥ may challenge the proposed revocation by providing evidence to the Citizenship and Enrollment Board demonstrating that the reason for revocation is not substantiated or valid.
28. The Citizenship and Enrollment Board will consider the evidence provided by the Ktunaxaniḥtik or ʔakʔak ʔaqʔsmakniḥ and make a determination on whether the instructions for revocation should be allowed to stand or rescinded.
29. If the Citizenship and Enrollment Board finds in favour of the Ktunaxaniḥtik or ʔakʔak ʔaqʔsmakniḥ, the Citizenship and Enrollment Board shall:
- (a) immediately rescind the instructions for revocation to the Ksawizkin ʔa·kikʔiyamis; and
 - (b) provide the individual with written notification within 30 calendar days of rescinding the instructions for revocation, that their citizenship status remains valid.
30. If the Ktunaxaniḥtik or a ʔakʔak ʔaqʔsmakniḥ to whom a notice of intent to revoke citizenship is provided fails to commence an appeal within the prescribed time limits, the decision to revoke citizenship shall be final and the individual's name will be removed from the Ya·kiḥ·hawizkniḥki ʔa·kikʔiyams (Register).

Re-enrollment

31. An individual whose name was removed from the Ya·kił hawizkniłki ʔa·kikłiyam (Register) under section 22 may make application for re-enrollment. An individual will only be afforded one such opportunity for re-enrollment.

PART 10 – Ksawizkin ʔa·kikłiyam (REGISTRAR)

32. The Ktunaxa Nation Executive Council must appoint a Ksawizkin ʔa·kikłiyamis immediately upon formal approval of this Interim Citizenship Code.
33. The Ksawizkin ʔa·kikłiyamis will collaborate with, but act independently of, the Citizenship and Enrollment Board in the enrollment process.
34. The duties and responsibilities of the Ksawizkin ʔa·kikłiyamis will be to:
 - (a) receive and review applications for completeness before forwarding them to the Citizenship and Enrollment Board for consideration;
 - (b) upon the recommendation of the Citizenship and Enrollment Board, grant Ktunaxa citizenship and Other Ktunaxa citizenship;
 - (c) oversee the enrollment of Ktunaxaniłtik (Ktunaxa Citizen) and łakłak ʔaqłsmaknił (Other Ktunaxa Citizen) in accordance with this Interim Citizenship Code, including receiving applications, and entering and removing the names of individuals from the Ya·kił hawizkniłki ʔa·kikłiyam as appropriate;
 - (d) establish and maintain the Ya·kił hawizkniłki ʔa·kikłiyam (Register);
 - (e) issue Ktunaxa Nation citizenship identification cards;
 - (f) maintain the record of Ktunaxa genealogy; and
 - (g) work with the Citizenship and Enrollment Board to develop, maintain and, where appropriate, distribute the required files, records, forms, notices, lists and other related materials.
35. The Ktunaxa Nation Executive Council will provide Public Notice containing the contact information for the Ksawizkin ʔa·kikłiyamis (Registrar).

PART 11 – Ya·kił hawizkniłki ʔa·kikłiyam (REGISTER)

36. The Ya·kił hawizkniłki ʔa·kikłiyam is the official register of Ktunaxaniłtik (Ktunaxa Citizen) and łakłak ʔaqłsmakniłk (Other Ktunaxa Citizen) and will be established and maintained by the Ktunaxa Nation Government through the office of the Ksawizkin ʔa·kikłiyamis.
37. The Ya·kił hawizkniłki ʔa·kikłiyam will include the names of all individuals enrolled as Ktunaxaniłtik and łakłak ʔaqłsmakniłk.
38. The Ya·kił hawizkniłki ʔa·kikłiyam may include personal information such as age, gender, physical and mailing addresses, familial lineage and Ktunaxa name.

PART 12 - CONFIDENTIAL INFORMATION

39. The Ksawizkin ʔa·kikłiyamis (Registrar), members of the Citizenship and Enrollment Board, members of the review and appeal board and any other individuals handling confidential information obtained in connection with the implementation of this Interim Citizenship Code will follow best practices to ensure that the personal information of Ktunaxaniłtik, łakłak ʔaqłsmakniłk and applicants for citizenship is protected.

PART 13 - APPLICATION FOR CITIZENSHIP

40. Individuals who meet the eligibility criteria set out in this Interim Citizenship Code may apply to become a Ktunaxaniłtik or łakłak ʔaqłsmakniłk, as appropriate, by making application for citizenship in accordance with the approved policies, procedures and forms, as may be adopted, amended and published, from time to time by the Citizenship and Enrollment Board.
41. An individual who is a Registered Member of a Ktunaxa Indian Act Band must apply for Ktunaxa citizenship and will not be automatically enrolled as a Ktunaxaniłtik (Ktunaxa Citizen).

42. An individual granted citizenship as a Ktunaxaniḥtik or ʔakʔak ʔaqʔsmaknik (Other Ktunaxa Citizen) will not be automatically granted membership in a Ktunaxa Community.
43. In the case where eligibility must be proven, the burden of proof rests with the individual making the application for Ktunaxa citizenship or Other Ktunaxa citizenship.

PART 14 – APPEALS AND CHALLENGES

44. The Ktunaxa Nation Executive Council must establish and maintain a review and appeal board by regulation made in accordance with section 47 that sets out the composition, procedures and other details of the review and appeal board. This Interim Citizenship Code may not come into force until such a time as the review and appeal board has been appointed.
45. The review and appeal board may hear:
 - (a) the appeal of a decision by the Citizenship and Enrollment Board to deny Ktunaxa citizenship or Other Ktunaxa citizenship;
 - (b) the appeal of a decision by the Citizenship and Enrollment Board to revoke Ktunaxa citizenship or Other Ktunaxa citizenship;
 - (c) the appeal of a decision by a Ktunaxa Community to revoke Other Ktunaxa citizenship;
 - (d) a challenge regarding a proposed Ktunaxa Custom Adoption as set out in Appendix 1; and
 - (e) other appeals, challenges or disputes, as directed by the Ktunaxa Nation Executive Council.
46. A member of the Citizenship and Enrollment Board may not participate as a member of the review and appeal board set up for the purposes of hearing an appeal of a decision made under this Interim Citizenship Code.

PART 15 – REGULATIONS

47. The Ktunaxa Nation Executive Council must make a regulation establishing the review and appeal board that comes into effect on the date that this Interim Citizenship Code is given formal approval.
48. The Ktunaxa Nation Executive Council may make other regulations as required to support the effective implementation of this Interim Citizenship Code.

PART 16 - AMENDMENT PROCESS

49. Any Ktunaxaniḥtik (Ktunaxa Citizen) may propose an amendment to this Interim Citizenship Code by forwarding a proposed amendment to the Citizenship and Enrollment Board for their consideration and endorsement.
50. If the Citizenship and Enrollment Board endorses an amendment proposed under section 49, it will forward the amendment to the Ktunaxa Nation Executive Council.
51. If the Citizenship and Enrollment Board does not endorse an amendment proposed under section 49, the Ktunaxaniḥtik may forward a petition to the Citizenship and Enrollment Board that has signatures indicating that it is supported by no less than 80 Ktunaxaniḥtik for the proposed amendment. Upon receiving such a petition, the Citizenship and Enrollment Board is required to present the proposed amendment to the Ktunaxa Nation Executive Council.
52. The Citizenship and Enrollment Board may, on its own accord, propose an amendment to this Interim Citizenship Code to the Ktunaxa Nation Executive Council.
53. Upon receiving a proposed amendment from the Citizenship and Enrollment Board provided in accordance with section 50, 51 or 52, the Ktunaxa Nation Executive Council will consider and may approve the proposed amendment.

54. Despite section 53, the Ktunaxa Nation Executive Council may amend Appendix 1 to this Interim Citizenship Code after providing Ktunaxaniḥtik (Ktunaxa Citizen) with 30 days' written notice of a proposed amendment if the proposed amendment has been endorsed by the Ktunaxa Nation Traditional Knowledge and Language Sector Council in collaboration with the Ktunaxa Nation Traditional Knowledge and Language Advisory Group.
55. The Citizenship and Enrollment Board may, by resolution passed by the members of the Citizenship and Enrollment Board, make amendments to this Interim Citizenship Code to cure a grammatical or editing error in the Code. The Citizenship and Enrollment Board may only make these types of amendments if:
 - (a) they do not adversely affect the original intent of the Code; and
 - (b) the amendment is supported by consensus of the Citizenship and Enrollment Board.
56. After approving any amendments to the Interim Citizenship Code, the Ktunaxa Nation Executive Council or the Citizenship and Enrollment Board, as the case may be, will post the revised Code on the Ktunaxa Nation's website and forward a copy to the Ksawiz̄kin ḡa·kikḥiyamis (Registrar).

PART 17 – FORMAL APPROVAL

57. Upon ratification of this Interim Citizenship Code through the process described in Part 2, the Ktunaxa Nation Executive Council shall, at its earliest opportunity and through its processes, formally approve this Code.
58. Upon formal approval of this Interim Citizenship Code, the Ktunaxa Nation Executive Council will post this Code on the Ktunaxa Nation's website and forward a copy to the Ksawiz̄kin ḡa·kikḥiyamis.

PART 18– REPLACEMENT BY A KTUNAXA NATION STATUTE

59. Following the coming into force of the Interim Ktunaxa Nation Constitution, this Interim Citizenship Code may be replaced by a statute enacted by the Ktunaxa Nation Government.

Appendix 1 – Ktunaxa Custom Adoption Process

A Ktunaxa Custom Adoption must follow the process as set out below:

An individual who is a Ktunaxaniḥtik (Ktunaxa Citizen) makes a declaration that they wish to adopt a named individual (who is generally, but need not be, a child). The declaration must include the reason that the proposed adopter wishes to adopt the named individual. The declaration must be supported by a minimum of three Ktunaxaniḥtik, at least one third of whom are not directly related to the adopter or adoptee.

The proposed adopter shall make the declaration before the Ktunaxa Nation Traditional Knowledge and Language Advisory Group (the “Advisory Group”). If the members of the Advisory Group can provide no justifiable reason why the adopter should not be able to adopt the specific individual, the members of the Advisory Group shall endorse the adoption.

Once the members of the Advisory Group have endorsed the adoption, the Ksawizkin ḥa-kikḥiyamis (Registrar) shall provide 30 days’ Public Notice of the pending adoption providing an opportunity for any Ktunaxaniḥtik to provide a justifiable reason why the adoption should not proceed or to provide their support in favour of the adoption.

If no justifiable reason for not proceeding with the adoption is received, the Ksawizkin ḥa-kikḥiyamis shall confirm that the individual is adopted and eligible for enrollment as a Ktunaxaniḥtik.

If a justifiable reason is provided by a Ktunaxaniḥtik for not proceeding with the adoption, the Ksawizkin ḥa-kikḥiyamis shall request a hearing by the review and appeal board where the Ktunaxaniḥtik challenging the adoption must appear to provide their evidence and rationale supporting the opposition. If the challenger fails to appear or the review and appeal board finds that the challenger’s rationale is without merit, the adoption shall be allowed to proceed.

Once an adoption is finalized, public acknowledgement of the adoption shall be given at a Ktunaxa public function.