

HOPI TRIBAL ORDINANCE #33

HOPI ENROLLMENT ORDINANCE

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HOPI TRIBAL ORDINANCE #33 HOPI

ENROLLMENT ORDINANCE

SECTION 1. STATEMENT OF PURPOSE

The purpose of this Ordinance is to define and regulate membership in the Hopi Tribe in accordance with the Constitution and By-Laws of the Hopi Tribe and to establish an orderly enrollment procedure that will be followed and administered.

SECTION 2. SHORT TITLE

This Ordinance may be cited as the "Hopi Enrollment Ordinance".

SECTION 3. AUTHORITY

The authority for this Ordinance is Article II and Article VI, Sections 1 (a), (g), (k), and (I), of the Constitution and By-Laws of the Hopi Tribe.

SECTION 4. DEFINITION OF TERMS

- 4.1 Adult- means any person who has reached the age of 18 years or older.
- 4.2 Appellant - means a person who is appealing the Hopi Tribal Council's decision to disapprove an application for enrollment or to disenroll/rescind Hopi Tribal membership.
- 4.3 Applicant- means a person seeking enrollment into the Hopi Tribe.
- 4.4 Census Roll - means the December 31, 1937 Census Roll of the Hopi Tribe with such corrections and amendments as approved by the Hopi Tribe and the Secretary of the Interior, also referred to as the Base Roll.
- 4.5 Enrollment Application - means the process of applying for membership as set forth in Article 11, Sections 1, 2(a), 2(b) and 5 of the Constitution and By- laws of the Hopi Tribe.

- 4.6 Enrolled Member - means an individual who is listed on the Hopi Tribe's official membership roll/records.
- 4.7 Membership Roll - means the Hopi Tribe's official enrolled member list of records maintained in the membership data base within the Enrollment Office.
- 4.8 Tribal Enrollment Office - means the Office established by the Hopi Tribal Council to receive and process applications for membership, to maintain records and documents on all Hopi Tribal members, pending applicants and descendent members, and to serve as a resource center on statistical information as needed by the Hopi Tribe and authorized entities.
- 4.9 Father - means biological father.
- 4.10 Hopi Appellate Court - means the appellate court established by the Hopi Tribal Council.
- 4.11 Hopi Tribal Council - means the governing body of the Hopi Tribe as defined in the Constitution and By-Laws of the Hopi Tribe.
- 4.12 Hopi Tribal Court - means the judicial court established by the Hopi Tribal Council under Article VI, Section 1 (g) of the Constitution and By-Laws of the Hopi Tribe.
- 4.13 Indian Tribe - means any federally recognized Indian Tribe.
- 4.14 Member - means any individual who is a biological lineal descendent of a Hopi or Tewa Indian whose name appears on the corrected Census/Base Roll of the Hopi Tribe and who is one-fourth (1/4) degree or more Hopi or Tewa blood or one-fourth (1/4) degree or more Hopi-Tewa blood combined.
- 4.15 Membership - means the status of being an enrolled member of the Hopi Tribe with all rights and privileges accorded the person.
- 4.16 Mother - means biological mother.
- 4.17 Relinquishment - means the voluntary written withdrawal from membership in the Hopi Tribe or the voluntary written withdrawal from membership in any other federally recognized Indian Tribe.

SECTION 5. CONFIDENTIALITY AND ACCESS TO RECORDS

The Hopi Tribal Council recognizes that records concerning an individual's enrollment contain sensitive personal information. The confidentiality of individual enrollment records shall be protected and preserved, although reporting of information contained in the enrollment records may be permitted in accordance with established policies and procedures provided in this Section of Ordinance 33 in governing the protection and preservation of the confidentiality of such records. Except as authorized by the provisions of Ordinance 33, no information collected pursuant to Ordinance 33 shall be disclosed. The Hopi Tribal Council and the Enrollment Office and any Reviewing Committee that may be established will discuss such records only while in executive session.

5.1 Protection of Confidentiality

Any person with access to information from Enrollment files collected under Hopi Enrollment Ordinance 33 shall observe the following measures to protect the confidentiality of the information against inappropriate access or disclosures.

A. Data contained in Enrollment files may be disclosed to:

- 1) The individual asking to see his or her own file.
- 2) An individual asking to see the file of his or her parents or children.
- 3) An attorney or other person asking to see the file of an individual he or she represents when such representation and disclosure is authorized in writing.
- 4) Tribal departments/programs, committees, federal or state agencies or Officials when:
 - (a) the information is needed for purposes of determining an individual's initial or continuing eligibility for enrollment, aid, services or other benefits accruing on the basis of tribal membership;
 - (b) investigating or prosecuting alleged or suspected crimes including fraud or similar abuse of the enrollment program or;
 - (c) information is requested by the Hopi Tribal Court for the purpose of summoning a jury;
 - (d) information is requested by the Hopi Tribe's Election Registrar or Election Board for the purposes of determining eligibility to participate in Hopi Tribal elections; or
 - (e) the information is needed for the purpose of benefiting the Tribe as a whole as determined by resolution of the Hopi Tribal Council.

- 5) Village Administrations, who may request a list of enrolled Hopi Tribal members affiliated with that respective village.
- B. A note shall be entered in each file reviewed under section (a) above showing who reviewed the file, the date reviewed and the purpose of the review.
- C. Information made available under subpart (a) above shall not be used for any purpose other than an individual's eligibility for enrollment, aid, services, or other benefits as relating to Tribal Membership.
- D. All requests for information from the Enrollment Office must be submitted in writing and provide the proposed use for the information. Decisions regarding the release of information including the type of information to be released from the Enrollment Office shall be made by the Enrollment Director.
- E. The files shall be stored in a place physically secure from access by unauthorized persons.
- F. Files in electronic format such as magnetic tapes or discs shall be stored and processed in such a way that unauthorized persons cannot retrieve the information by means of computer, remote terminal or other means.
- G. The department, committee or officials shall on a continuing basis instruct all personnel who have access to the files as to the confidential nature of the files, the requirements of this section, and the civil sanctions against prohibited use or disclosure of enrollment information covered by this section contained in Hopi Tribal Ordinance #33. Failure of any Tribal employee to comply with the confidentiality provisions set forth in this Ordinance may result in disciplinary action in accordance with Section 1.2 of the Hopi Tribal Human Resources Policies and Procedures Manual.

5.2 Violation

No information obtained through implementation of this Ordinance shall be made public except as provided for in Section 5.1 or any other policies prescribing the rules for disclosure of confidential information. Any person who makes public information in violation of this subsection shall be civilly fined not more than \$500, after a hearing by the Hopi Tribal Court.

SECTION 6. MAINTAINING A CURRENT TRIBAL MEMBERSHIP ROLL

6.1 Maintenance of Membership Roll/Data Base Records

- A. The Enrollment Office shall maintain a current membership roll and records which shall be based upon the corrected December 31, 1937 Census/Base Roll. The

Enrollment Director shall from time to time review the membership roll and records to ensure that it is current and correct and shall make a report to the Hopi Tribal Council on an as needed basis.

- B. The names of all persons who are deceased shall be noted in the membership data base and on the member's records by "Deceased".
- C. All persons who have relinquished their membership in the Hopi Tribe in writing shall be noted in the membership data base and on member's records as "Relinquished".
- D. The names of all persons whose applications for enrollment have been approved by the Hopi Tribal Council under the provisions of Section 8 shall be added to the roll and entered into the membership data base and recorded on the enrollee's records.
- E. The names of all persons disenrolled or removed, for whatever reason, shall be noted in the membership data base and on all records as "Disenrolled" or "Removed".

6.2 Corrections to Membership Roll and Data Base Records

The following corrections to the membership roll and the data base records may be made by the Enrollment Office (all such corrections shall be explained, documented, dated and signed):

- A. Correction of mathematical errors, when the record clearly shows that numbers have been figured incorrectly;
- B. Correction of incorrect sex designation;
- C. Correction of spelling errors;
- D. Correction of incorrect date of birth or age;
- E. Correction of village affiliation;
- F. Recording of date deceased;
- G. Correction of incorrect blood degree, when such correction does not render any individual ineligible for membership in the Hopi Tribe;
- H. Recording of a change of name.

SECTION 7. THE ENROLLMENT PROCESS

7.1 Persons Not Requiring an Application

Persons listed on the corrected Census/Base Roll are not required to submit any application for enrollment. These persons are base enrollees and their enrollment/membership is automatic, upon approval of the corrected Census Roll by the Hopi Tribal Council on March 5, 1981 and the Secretary of Interior on March 14, 1981.

7.2 Persons Requiring an Application

Persons who are not listed on the corrected Census/Base Roll must file an individual written application for enrollment in the Hopi Tribe, in the form authorized by section 7.3 of this Ordinance, or have such a written application filed on their behalf, as provided for in Section 7.4 of this Ordinance, in order to be considered for membership in the Hopi Tribe.

7.3 Enrollment Application

The Enrollment Office shall develop the forms necessary to apply for enrollment in the Tribe. Information required of applicants shall be limited to that which is essential in determining an individual's right to enrollment.

Additional information may be requested, but failure to supply such information shall not prevent an application from being acted upon in a timely manner in accordance with the established application process.

7.4 Sponsoring an Applicant for Enrollment

If an applicant for enrollment is deceased, a minor, an incompetent person, or a person who is residing outside of the reservation, then the applicant's parents, legal guardian, next of kin, spouse, or an enrolled member of the Hopi Tribe authorized by such person's relative(s) or as authorized by the village pursuant to Article 111, Section 2(a) of the Constitution and By-Laws of the Hopi Tribe, may submit the application on behalf of such person, provided that if the applicant is not deceased, a minor or an incompetent person, written authorization by the applicant to be represented must be submitted with the enrollment application.

7.5 Burden of Proof on Applicant

The burden of proof for establishing the right to be an enrolled member in the Hopi Tribe is on the person applying for enrollment.

7.6 Enrollment Office Duties

Upon receipt of applications, the Enrollment Office shall:

- A. Number and date all incoming applications
- B. Review applications for adequacy and acceptability of documentation

- C. Inform applicants, guardians/sponsors of any deficiencies in documentation and of any additional documents required to determine Hopi membership eligibility and descendant verifications
- D. Maintain files on pending applicants and enrolled/descendants members
- E. Request for non-enrollment status documentation from other Federally Recognized Indian Tribe(s) for dual enrollment purpose
- F. Submit completed applicant files to the Enrollment Director or Reviewing Committee for review and recommendation for approval. A completed applicant file is one containing an application with sufficient information to determine eligibility for membership and appropriate supportive documentation
- G. Notify on each applicant of the complete status of their application and the Enrollment Office or Reviewing Committee's recommendation to the Tribal Council
- H. Prepare the notification of Tribal Council's action as required in Section 9 of this Ordinance.

7.7 The Enrollment Director or Reviewing Committee's Duties

Upon receipt of applications, the Enrollment Director or the established Reviewing Committee shall:

- A. Review applicant files and make recommendations in writing to the Hopi Tribal Council of each applicant's eligibility. Such recommendations shall be made within 60 days of each file's initial review by the Enrollment Director or the Committee, unless such additional time is extended by the Enrollment Director or the Committee.
- B. Notify, set, and conduct hearings, in accordance with Section 8 of this Ordinance, for applicants who are being considered for negative recommendations.

7.8 The Hopi Tribal Council's Duties

Upon receipt of the applications, the Hopi Tribal Council shall:

- A. Review the applicant names along with other pertinent information on each applicant and consider the Enrollment Office or Reviewing Committee's

recommendations.

- B. In review of the completed applicants data and information, the Tribal Council shall approve or disapprove each application for membership in the Hopi Tribe by resolution, or refer the disapproved applicant's name back to the Enrollment Office for further documentation or investigation.
- C. The Hopi Tribal Council's Resolution addressing the Enrollment of the applicants shall state whether the Enrollment Office or Reviewing Committee recommended approval or disapproval. If the application is disapproved by the Council, the membership requirement(s) which the Council determined that the applicant did not establish shall be cited in the Resolution. Additionally, if the Enrollment Office or Reviewing Committee recommended that the application be disapproved, the Resolution shall state that written notice of a right to a hearing pursuant to Section 8 before the Tribal Council or Reviewing Committee was given and also state whether or not such hearing was held and whether or not the applicant was present at such hearing.

SECTION 8. HEARING WHEN DISAPPROVAL OF APPLICATION IS CONSIDERED

8.1 Written Notice Required

- A. When the Enrollment Office or Reviewing Committee considers recommending disapproval of an application, the person filing the application shall be given written notice that a hearing on the matter will be held with the Tribal Council or the Committee before its final determination is made.
- B. The written notice shall:
 - 1. Indicate the tribal membership requirement(s) that the applicant failed to establish or other reasons why the application is being considered for disapproval
 - 2. Designate a time and place when the Tribal Council or the Reviewing Committee will hold a hearing prior to making its final determination
 - 3. Indicate that the person filing the application may appear before the Tribal Council or with the Reviewing Committee at the time and place designated for such hearing to present additional evidence and oral testimony on his or her behalf
 - 4. Advise the applicant that it is the applicant's duty to furnish the Tribal

Council or the Reviewing Committee with adequate evidence to establish the applicant's right to enrollment.

8.2 Manner of Providing Notice

The notice required under this section shall be given no less than thirty (30) days prior to the time designated for the Tribal Council or the Reviewing Committee to hold a hearing to make its final determination. Notice shall be sent to the person or the individual sponsoring the applicant by certified mail with postage fully prepaid and return receipt requested.

8.3 Hearing Procedure

Hearings conducted under this section shall be informal and shall be presided over by the Tribal Enrollment Director or Reviewing Committee Chairman or Vice-Chairman. The applicant shall have the burden of proof in establishing to the satisfaction of the Tribal Council and the Enrollment Office or the Committee that such applicant meets the requirement for membership. The Tribal Council and Enrollment Office or the Committee shall consider all relevant evidence regarding the applicant's eligibility for enrollment. After the hearing, Tribal Council and the Enrollment Office or the Committee shall make its final determination. If the Tribal Council determines disapproval of an application, the determination shall identify the tribal membership requirement(s) which the applicant failed to establish or state other reasons why the application should be disapproved.

SECTION 9. NOTICE TO APPLICANTS OF THE HOPI TRIBAL COUNCIL'S DECISION

9.1 Notice Required

Every person filing an application for enrollment shall be given written notice of whether the Hopi Tribal Council approved or disapproved the application.

9.2 Content of Notice of Disapproval

If the Hopi Tribal Council disapproves an application for enrollment, then its notice to the applicant shall contain the grounds for the disapproval and indicate the time within which an appeal of the Council's decision must be commenced and the procedure for commencing such an appeal.

9.3 Content of Notice of Approval

If the Hopi Tribal Council approves an application for enrollment, then its notice

shall indicate such approval and state the Tribal Resolution number, its date of enactment and the tribal enrollment number assigned to the applicant.

9.4 Manner of Giving Notice

The notice required to be given under this section shall be given within three (3) weeks after the Hopi Tribal Council makes *its* determination. The Notice of Disapproval will be sent by certified mail by the Tribal Secretary, with the Notice of Approval by the Enrollment Office, with postage fully prepaid and a return receipt requested to the address provided by the applicant or guardian/sponsor.

SECTION 10. APPEALS

10.1 Right of Appeal

Any person whose application for enrollment has been disapproved by the Hopi Tribal Council due to failure to meet the membership requirements of Article II, Section 2 (a) & (b), of the Constitution and By-Laws of the Hopi Tribe, may appeal to the Hopi Tribal Court after having a hearing before the Tribal Council or the Reviewing Committee.

10.2 Commencing an Appeal

To commence an appeal, the applicant must, within 30 calendar days of receiving the notice of disapproval from the Tribal Council or Reviewing Committee, may file an appeal in the Hopi Tribal Court and file a copy of the appeal with the Tribal Secretary. If such notice is delivered to an address outside the United States, then the applicant shall have sixty (60) days within which to file the appeal.

10.3 Judicial Review

Once an appeal is initiated and perfected, the Hopi Tribal Council shall transmit to the Hopi Tribal Court the complete record of the application for enrollment together with all evidence presented concerning the eligibility for membership upon written request from the Court. The burden of proof upon the applicant shall be to show that the Hopi Tribal Council or Reviewing Committee acted arbitrarily, unreasonably, or contrary to the law in disapproving the application.

10.4 Decision of the Hopi Tribal Court

The Hopi Tribal Court shall consider the record as presented, together with any legal authority that it may consider pertinent, and may, at its own discretion, allow

oral argument to be made. The decision of the Hopi Tribal Court shall be appealable to the Hopi Appellate Court.

SECTION 11. RELINQUISHMENT OF MEMBERSHIP/ENROLLMENT

11.1 Relinquishment by an Adult Member of the Hopi Tribe

- A. Any adult member who decides to relinquish his or her membership from the Hopi Tribe shall so notify the Hopi Tribal Enrollment Office in writing, stating the reasons for relinquishment. The relinquishment shall be effective as of the date of its receipt by the Enrollment Office, unless the relinquishment itself states otherwise. The Enrollment Office shall provide a copy of the notice of relinquishment to the Hopi Tribal Council and to the member's Village affiliation. Only an adult member of the Hopi Tribe may relinquish his or her membership.
- B. Any adult person of the Hopi Tribe who changes membership to another Indian tribe or who relinquish or renounce membership in the Hopi Tribe may submit an application for enrollment or re-enrollment in the Hopi Tribe, however, such individuals may re-enroll only once. Re-enrollment shall be in accordance with the provisions of Section 7 of this Ordinance.

11.2 Relinquishment for a Minor

- A. Both parents or legal guardian of a minor who is an enrolled member of the Hopi Tribe may change membership of such minor to another Indian tribe, with the approval of the Hopi Tribal Council. Approval of the Tribal Council shall be based on the best interest of the child.
- B. Any person whose membership has been changed to another Indian tribe by his or her parents or legal guardian shall, upon reaching the age of adulthood, be eligible for re-enrollment in the Hopi Tribe in accordance with Section 7 of this Ordinance.
- C. Relinquishment or renunciation of Hopi Tribal membership shall not be permitted or become effective for minors, until written proof of enrollment in another Indian tribe has been submitted and verified. If this policy is in conflict with another Indian Tribe, the relinquishment will become effective upon submission of a membership application into another Indian tribe, rather than the relinquishment becoming effective upon enrollment in the other tribe.
- D. If membership is denied into another Indian Tribe, the minor is allowed to

re-enroll in accordance with Section 7 of this Ordinance.

SECTION 12. DISENROLLMENT/REMOVAL AND RESCISSION OF ENROLLMENT

12.1 Grounds for Disenrollment/ Removal and Rescission of Enrollment

- A. Any individual who is enrolled in violation of Article II of the Hopi Constitution and By-Laws shall be disenrolled and removed from the membership roll.
- B. Any individual who gains enrollment through dishonesty or fraud shall be disenrolled and removed from the membership roll. Enrollment through dishonesty or fraud means, but is not limited to, falsifying the enrollment application, falsifying the information on the enrollment application, falsifying the supporting documentation or falsifying the information on the supporting documents.
- C. When enrollment occurs due to an error or mistake on the part of the Tribe or the individual, such enrollment shall be rescinded upon discovery of the error or mistake.
- D. Dual enrollment is not permitted and any individual who is enrolled in any other federally recognized tribe shall be disenrolled and removed from the membership roll.
- E. No statute of limitations shall apply to this section.

12.2 Procedures for Disenrollment /Removal

The Enrollment Office or the Reviewing Committee shall examine all records relevant to the matter in question. The Enrollment Office or the Committee Chairman or Vice Chairman shall show cause to the Hopi Tribal Council why a hearing of inquiry should be held. Should the Hopi Tribal Council determine by majority vote that there is reason to believe that enrollment is improper or has been gained by fraud, dishonesty or mistake, the Hopi Tribal Council shall set a hearing of inquiry on a date certain. The Hopi Tribal Council's decision to disenroll/remove or rescind the enrollment of an individual only becomes effective if approved by a majority vote in the form of a resolution that states the findings of the Council.

12.3 Notice of Hearing of Inquiry

Upon determination by the Hopi Tribal Council that a hearing of inquiry is in order, the Hopi Tribal Council will cause notice to be served upon the affected party or

parties no less than thirty (30) days preceding the date of hearing. Notice shall be sent by certified mail, return receipt requested. The notice shall include the time, date, and place of the hearing; the nature of the irregularities that have been raised and the right of the affected party or parties to appear and present argument and evidence. The burden of proof shall rest on the Hopi Tribe. Within thirty (30) days after the hearing, the Council shall make known its findings regarding the alleged irregularities. The affected party or parties will be notified in accordance with Section 9 of this ordinance. Persons who have been disenrolled/ removed may appeal the decision to the Hopi Tribal Court in accordance with Section 10 of this ordinance.

SECTION 13. DUAL ENROLLMENT IS NOT PERMITTED

The Hopi Tribal Council shall not approve an application for enrollment if the applicant is an enrolled member of another Indian tribe, unless such approval is expressly conditioned upon receipt by the Enrollment Office of an official notice of relinquishment of membership in the other Indian tribe. Any enrolled member of the Hopi Tribe shall be disenrolled and removed from the membership roll in accordance with Section 12 of this Ordinance if that person is or becomes a member of any other Indian Tribe.

SECTION 14. PRIOR ORDINANCES AND RESOLUTIONS

This ordinance supersedes and replaces any resolutions or ordinances which are in conflict with its provisions.

SECTION 15. SEVERABILITY

If any portion of this code shall be ruled invalid by a Court of competent jurisdiction, that portion shall cease to be operative but the remainder of this code shall continue in full force and effect.

SECTION 16. AMENDMENTS

This Hopi Enrollment Ordinance may be amended by resolution of the Hopi Tribal Council.

SECTION 17. EFFECTIVE DATE OF THE ORDINANCE

This ordinance shall be effective upon the date of its approval by the Hopi Tribal Council.

