

POKAGON BAND OF POTAWATOMI INDIANS

ENROLLMENT CODE

Section 1. Authority.

This Code may be cited as the "Pokagon Band Enrollment Code" and may be referred to herein as "this Code". This Code is enacted by the Pokagon Band Tribal Council pursuant to the express grant of authority enumerated in Article V, Section 3, and Article IX, subsections 1 (a), 1 (c), and 1 (d), and subsections 2 (a) and 2 (i) of the Constitution and the inherent authority of the Band as a sovereign tribal nation to provide for the health, safety, and welfare of the Pokagon Band of Potawatomi Indians.

Section 2. Purpose.

The purpose of this Code is to provide fair and reasonable laws and procedures to all applicants and Citizens for enrollment, disenrollment, and adoption into the Pokagon Band of Potawatomi.

Section 3. Definitions.

As used in the Code:

- A. The Pokagon Band of Potawatomi is also referred to as the "Pokagon Band," the "Band" and the "Tribe."
- B. The phrase "*adopted by a non-Pokagon family*" means and requires all of the following:
 - (i) all of the person's biological parents who are Pokagon Band Citizens or meet the criteria for Citizenship provided in subsection 4.A of this Code either relinquished or had their parental rights terminated with regard to such person while such person was a Minor; and
 - (ii) upon entry of the final decree of adoption or the order granting adoption, no one with parental rights to such person is a Pokagon Band Citizen or meets the Criteria for Citizenship provided in subsection 4.A of this Code.
- C. *Adoption* refers to children given up by their natural parents and adopted by others. It does not refer to adult Potawatomi Indians adopted into the citizenship nor to honorary membership into the Band.
- D. *Asset* refers to per capita payments.

- E. *Citizen* means a person who meets all requirements for enrollment as a member of the Pokagon Band of Potawatomi Indians, as set forth in Article V of the Constitution and Section 4 of this Code, subject to all limitations and procedural requirements stated therein. The term Citizen shall have the same meaning as the term “member” as used in the Constitution, this Code, and the other enacted laws of the Band.
- F. *Citizenship* means the status of being a Citizen and all those rights to which a Citizen is entitled under the Constitution. The term *citizenship* shall have the same meaning as the term “membership” as used in the Constitution, this Code, and the other enacted laws of the Band.
- G. *A disinterested third person* means a non-relative who has no interest in, either for or against, a pending enrollment matter.
- H. *A Federally Recognized Indian Tribe* means any Indian Tribe, Band, Nation, Rancheria, Pueblo, Colony, or Community, including any Native Hawaiian group or any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) amended which is federally recognized as eligible by the U.S. Government for the special programs and services provided by the Secretary to Indians because of their status as Indians.
- I. *Minor* refers to a person under eighteen (18) years of age.

Section 4. Citizens.

- A. Subject to the conditions set forth in Subsection 4.B below, every person who meets one of the following criteria shall be eligible for citizenship.
 - (i) His or her name appears on the Cadman Roll of 1895 or the Shelby Roll of 1896; or
 - (ii) The name of any of his or her lineal ancestors appears on the Cadman Roll of 1895 or the Shelby Roll of 1896; or
 - (iii) He or she, or any lineal ancestor, is identified as a Pokagon Band member on any other payment roll, census, or record determined to be reliable, made prior to 1900 for the Pokagon Band by officials or agents of the Department of the Interior, the Bureau of Indian Affairs or their predecessor agencies, or by the governing body of the Pokagon Band; or
 - (iv) He or she, or any lineal ancestor, is identified as a Pokagon Band member on the May 2, 1996 Base Roll of the Pokagon Band.

- B. Any person that fails to complete all requirements of the enrollment process under Pokagon Band law prior to his or her twenty-first (21st) birthday shall be ineligible for membership with the Pokagon Band, *provided* that this Subsection shall not apply to any person that completes all such enrollment requirements prior to October 31, 2010 or persons that were legally adopted by a non-Pokagon family.
- C. **[Reserved]**
- D. Citizenship Rights of Adopted Children or Persons.
 - (i) Any child or person of Pokagon descent who is or was legally adopted shall be eligible for citizenship in the Band, notwithstanding such adoption.
 - (ii) **[Reserved]**
- E. Dual enrollment is prohibited.
 - (i) No person shall be eligible to be a Citizen of the Pokagon Band if that person is currently enrolled in another Indian tribe, band, or group recognized by the United States or Canada. The prohibition against dual enrollment shall not extend to any person who formally and irrevocably relinquishes membership in such other tribe, band or group at any time before the Pokagon Band renders a final decision on such person's application for citizenship in the Pokagon Band.
 - (ii) Any Citizen of the Pokagon Band who becomes an enrolled member of another Indian tribe, band, or group recognized by the United States or Canada shall thereby automatically forfeit citizenship, citizenship rights, and benefits in the Pokagon Band and shall be disenrolled.
 - (iii) A Citizen's Pokagon Band citizenship rights will not be affected by his/her enrollment on a descendency payment roll of another tribe, band, or group recognized by the United States or Canada, provided that such enrollment does not grant the Pokagon Citizen membership rights in the other tribe, band, or group.

Section 5. Administration.

- A. To aid in developing and maintaining fair enrollment procedures, the Tribal Council shall appoint an Enrollment Committee composed of four (4) to six (6) Band Citizens, one (1) of whom shall be the Tribal Council Chairperson, or a Council member designated by the Tribal

Council Chairperson, who shall serve as a non-voting ex-officio member whose presence at any Committee meeting shall not be counted in meeting a quorum requirement. The process for making appointments to the Committee shall comply with the requirements regarding committee appointments set forth in Section 15.04 of the Tribal Council Procedures Act.

- (i) A Tribal Council member shall not serve as Chairperson of the Enrollment Committee. The Committee members shall choose a Chairperson and Secretary among themselves.
 - (ii) The terms of appointment shall be two (2) years each and staggered; provided that any term of a Tribal Council member serving as a non-voting ex-officio member shall be coterminous with his or her term of office on the Tribal Council.
 - (iii) To maintain a staggered system, the initial appointments shall be:
 - (a) The Chairperson shall serve for two (2) years, subject to the limitation stated above in (ii);
 - (b) One member shall serve for two (2) years; and
 - (c) the remaining members shall each serve a one (1) year term.
- The Enrollment Coordinator shall not be eligible to serve on the Enrollment Committee.
- (iv) Reappointments are permitted. The Council shall endeavor to post for a seat that is vacant. Before an Enrollment Committee Member may be reappointed, a notice must be posted in the Tribal Newsletter for at least thirty (30) days prior to reappointment of an Enrollment Committee Member.
 - (v) Any Committee Member may voluntarily resign at any time upon notice to the Committee Chairperson.
 - (vi) Upon a majority vote of the Committee, the Committee may request the Tribal Council to remove a Member for misconduct or negligence of duty, which shall include, but not be limited to, the unexcused absence from three (3) meetings.
 - (vii) In filling a vacancy, the Tribal Council shall appoint a successor for the length of the unexpired term.

- (viii) A quorum of the Committee shall be half of all voting Committee members currently in office plus one.
- B. An up-to-date record of living Band Citizens, to be called the “Current Roll”, shall be maintained by the Enrollment Committee.
- C. The Enrollment Committee shall make recommendations to the Tribal Council on enrollment policies, laws, and citizenship approvals, and it shall aid the Enrollment Staff in the administration of tribal enrollment laws and procedures.
- D. The Enrollment Committee shall have the authority to issue any guidelines it deems necessary for the carrying out of the policies and procedures set forth in this Code.
- E. All Enrollment Staff members must be a Citizen.

Section 6. Application for Enrollment.

- A. **Who Must File.**
All persons who request citizenship in the Pokagon Band of Potawatomi must file an enrollment application. Applications for minors or legal incompetents may be filed by parents, guardians, or other sponsors such as social workers.
- B. **When and Where to File an Application.**
 - (i) All enrollment applications must be filed with the Enrollment Clerk or such other person as may be designated by the Enrollment Committee of the Pokagon Band. An applicant may obtain enrollment forms by oral or written request from the Pokagon Band Enrollment Office.
 - (ii) There is no deadline date established for filing enrollment applications. The enrollment eligibility and enrollment application filing date for enrollment to share in such distribution or other purposes will be set forth in specific regulations issued by the Tribal Council.
- C. **What the Application Must Contain.**
 - (i) Each enrollment application must be completed in its entirety and must contain sufficient personal information to properly determine the applicant’s eligibility for enrollment. Applications must be completed on the forms provided by the Enrollment Office and include the following:

- (a) All names by which the applicant is known;
 - (b) The address of the applicant;
 - (c) A Pokagon Band Family Tree showing the names of all Pokagon Band lineal ancestors whose names appear on any roll, census, or record identified in Section 4 of this Code;
 - (d) In the event the applicant claims to be a Pokagon Band Citizen adopted out of his/her biological family through which citizenship is sought, a Bureau of Indian Affairs staffperson or official, or another qualified disinterested third person acceptable to the Committee shall examine the records and swear as to whether or not the record shows the applicant is a child of a Citizen. The third person's affidavit shall act as authority for enrollment instead of the natural parent's enrollment or identification number.
 - (e) The name of the tribe(s) and degree(s) of Indian blood of any tribe(s) other than Pokagon Band;
 - (f) The signature of the applicant or sponsor; and
 - (g) The date of the filing of the application.
- (ii) The application must be accompanied by a certified state or county copy of the applicant's birth certificate and, as needed, other documentary evidence showing the name of the parent through whom eligibility for citizenship is claimed, except as noted in Subsection (C)(i)(d) of this Section. If the applicant requests that the certified state or county copy of his or her birth certificate be returned to him or her, an enrollment staff member shall reproduce said copy and attest that he or she made a reproduction of this certified copy.

Paternity shall be proven pursuant to the requirements of the Pokagon Band Paternity Proceeding Act or pursuant to the laws of another jurisdiction, provided that such other laws include standards and procedures that are at least as stringent in those of the Pokagon Band Paternity Proceeding Act.

D. Reapplication Upon Denial.

- (i) Upon being denied citizenship under the provisions of this Code, a person may reapply for citizenship only if he/she submits relevant new material(s) to be added to his/her previously rejected application.
- (ii) In submitting this material, the applicant must:
 - (a) describe the material submitted; and
 - (b) explain why he/she thinks the new material is relevant to establishing his/her citizenship in the Band. The applicant may submit this explanation in writing, or he/she may meet with an Enrollment Staff member to explain the new material submitted.
- (iii) Once an applicant has submitted new materials, the application shall be processed as described in Section 7 of this Code.
- (iv) If an applicant does not follow the procedure for submitting reapplication materials, e.g., he or she simply submits the previously rejected application without submitting any new material(s) with his/her reapplication, the Enrollment Coordinator and/or the Enrollment Committee shall have the authority to reject the application.

Section 7. Processing the Application.

A. By the Enrollment Staff.

- (i) All applications shall be received by the Enrollment Clerk or other enrollment staff personnel at the tribal office designated to receive them. The enrollment staff shall then:
 - (a) Stamp the application form with the date on which it is received, and send acknowledgment of receipt to the applicant;
 - (b) Make a folder for the application and supporting documents;
 - (c) Make sure the application is complete. If not, notify the applicant of what is required;
 - (d) If applicant claims any other Indian blood or enrollment in another tribe, verify these claims as completely as possible;

- (e) Compute degree of Pokagon Band blood;
 - (f) Separate applications into two stacks:
 - (i) Applicants who meet requirements, and
 - (ii) Applicants who do not meet requirements or who do not have proper documentation;
 - (g) Prepare resolutions accepting and/or rejecting applications for consideration of the Enrollment Committee.
 - (h) Provide the Enrollment Committee with the application, supporting documents, and the proposed Enrollment Committee resolution.
- (ii) The above actions shall be completed by the Enrollment Office within sixty (60) business days of its receipt of the application.

B. By the Enrollment Committee.

- (i) To process the application, the Enrollment Committee shall:
 - (a) Examine applications and documentation presented by enrollment staff; provided, however, that no Enrollment Committee member shall examine the files of applicants claiming citizenship through him/her, his/her spouse, his/her parents, or his/her grandparents.
 - (b) Determine accuracy and sufficiency of research, requiring additional action by staff if necessary;
 - (c) If applicant is officially enrolled in another federally recognized tribe, request him/her to relinquish that enrollment;
 - (d) Recommend approval or rejection of application to Tribal Council; and
 - (e) Direct the Enrollment Staff to record in applicant's file any Tribal Council decision concerning citizenship status and notify applicant of the decision.

- (ii) The above actions shall be completed by the Enrollment Committee within sixty (60) business days of its receipt of the application material from the staff.

C. **By the Tribal Council.**

- (i) The Tribal Council shall then act to:
 - (a) Accept or reject applicants based solely on the merits of the Committee's recommendations; and
 - (b) Document decisions with resolutions.
- (ii) The above action shall be completed by the Tribal Council within sixty (60) business days of its receipt of the application from the Enrollment Committee.

D. **Notice Requirements.**

The Enrollment Office shall, within fourteen (14) days of the decision, provide notice by certified mail, return receipt requested, to all applicants of any final decision on their enrollment applications. If the decision is to deny the enrollment application, the notice shall identify and explain the specific reasons on which the decision was based.

Section 8. Records.

A. **Content of Individual Folder.**

An individual folder shall be established for each Band Citizen. This folder shall contain the following items:

- (i) Application and supporting documentation, as outlined in Section 6 (C) of this Code;
- (ii) Correspondence;
- (iii) Copy of Resolution(s) affecting enrollment; and
- (iv) All other documentation on the person pertinent to citizenship in the Band.

B. **Access to Records.**

- (i) A list of Citizens' names shall be exempt from disclosure under § 2.01 of the Pokagon Band Freedom of Information Act, provided that a list of Citizens' names may be reviewed by any Citizen of the Pokagon Band at the Enrollment Office during regular business hours.

Neither the list nor any portion thereof, however, may be copied and/or distributed to any person or organization except upon permission of the Tribal Council by appropriate resolution or ordinance.

- (ii) Documents and information in individual folders shall be exempt from disclosure under § 2.01 of the Pokagon Band Freedom of Information Act. Notwithstanding the foregoing, the documents and information in an individual folder shall:
 - (a) be available for review or copying at the Enrollment Office during regular business hours by the individual Citizen who is the subject of the file, his/her duly authorized agent or representative, the Enrollment Staff, Enrollment Committee members, Tribal Council Members, Tribal Court staff, and the Bureau of Indian Affairs when such examination is necessary in considering enrollment decisions; and
 - (b) be available for review at the Enrollment Office during regular business hours by the Band's Director of the Department of Social Services; provided, however, that:
 - (1) review shall be limited to the individual folder of a minor Citizen and of such minor Citizen's biological parent(s);
 - (2) the minor Citizen has been or will imminently be removed from his or her parent(s) or guardian(s), in connection with a child protection matter, and is in need of placement;
 - (3) such review is necessary to determine whether documents in such folders contain information which may lead to the identification of a relative or relatives of the minor Citizen in order to assist with such placement of the minor Citizen; and
 - (4) the Director of the Department of Social Services provides his or her request for review in writing to the Enrollment Office.
- (iii) Documents and information in any file concerning an adopted person shall be exempt from disclosure under § 2.01 of the Pokagon Band Freedom of Information Act, shall not be disclosed to any person without a valid order from a court of competent jurisdiction, and shall be contained in locked file cabinets and protected by adequate safeguards to protect the confidentiality of the records.

- (iv) Except as provided in this Section, documents and information in individual folders shall not be removed from the Enrollment Office for any reason, including without limitation by photocopy, transfer to computer disks or other electronic media, or by electronic transmittal such as facsimile (fax) machines or electronic mail. Documents or information, in whole or in part, in individual folders may only be removed from the Enrollment Office by authority of a resolution or enactment of law by the Tribal Council.
 - (a) The resolution shall state the specific reason for removal of the documents or information, the manner by which removal may be accomplished, the date the documents or information may be removed and the date it shall be returned.
 - (b) Any Pokagon Band employee that unlawfully removes documents or information from an individual enrollment folder shall be subject to discipline, including termination from employment, and may be subject to criminal or civil penalties.
- (v) The Tribal Council shall use its discretion in using and/or releasing documents or information from the tribal roll for the benefit of Band Citizens or tribal programs.

C. **Updating Records.**

- (i) Upon receipt of appropriate documentation, the enrollment staff is authorized to update the information on the tribal roll and/or in individual folders. The following documentation is deemed adequate for such actions to be taken:
 - (a) Name Change- Certified copy of Marriage license
Certified copy of Divorce decree
Certified copy of Court order changing name
 - (b) Address Change- (1) A move to the Band's Service Area:
Written statement or address form provided by the Enrollment Office that is signed by Band Citizen or, if the

Citizen is less than eighteen (18) years of age, his/her duly authorized guardian, a photo I.D. w/a current address and a second proof of residence. Addresses for all three documents must match. All correspondence from the Band will be mailed to the last address the Citizen supplied to the Enrollment Office.

(2) A move within the Service Area; a move to a Non-Service Area location; or any temporary relocation for active military service: Written statement or address form provided by the Enrollment Office that is signed by the Citizen or, if the Citizen is less than eighteen (18) years of age, his/her duly authorized guardian.

(c) Death-

Death Certificate
Bureau of Indian Affairs records
Mortuary records
Hospital records
Written signed statement from next of kin
Written signed statement from someone who attended funeral and can provide date of death
Social Security Death Index

(ii) Any change for which none of the above documents is available must be approved by the Enrollment Committee. A copy of that resolution stating the reason for the change without usual documentation shall be placed in the individual's folder.

(iii) Citizens shall notify the Enrollment Office within sixty (60) days of the Citizen's name or address change. Next of kin or other appropriate persons are encouraged to notify the Enrollment Office as soon as possible in the event of the death of a Pokagon Band Citizen.

D. **Copying Fees.**

The Enrollment Committee may establish reasonable fees for the copying of Band enrollment records.

Section 9. Computing Degree of Pokagon Band Blood.

All persons, including lineal ancestors, whose names appear on the Cadman Roll of 1895, the Shelby Roll of 1896, or any other payment roll, census, or record made prior to 1900 for the Pokagon Band by officials or agents of the Department of the Interior, the Bureau of Indian Affairs or their predecessor agencies, or by the governing body of the Pokagon Band, shall be conclusively presumed to be full blooded Pokagon Potawatomi Indians.

Section 10. Loss of Citizenship.

A. **Relinquishment.**

Citizenship relinquishment is final and all citizenship rights and privileges cease immediately upon the date relinquishment becomes effective, as indicated below in this Section. A person who relinquishes citizenship shall not be reinstated to citizenship in the Pokagon Band and may not reapply for citizenship in the Band.

(i) **Adult Citizens.**

(a) Any adult Citizen of the Pokagon Band may voluntarily relinquish his/her citizenship. To be effective, a relinquishment must be in writing and the Citizen's signature must be notarized.

(b) *Conditional Relinquishment.* Any Citizen wishing to relinquish citizenship in the Pokagon Band in anticipation of being granted membership in another Indian tribe, band, or group recognized by the United States or Canada shall be encouraged to do so on a conditional relinquishment form approved by the Enrollment Office.

(1) The Citizen's name will not be removed from the Pokagon Band roll until documentation establishing that the Citizen has been granted membership in the other tribe is received by the Pokagon Band Enrollment Office; and

- (2) The conditional relinquishment will be deemed effective as of the date such Citizen's enrollment as a member of the other tribe becomes effective and not when the Pokagon Band Enrollment Office receives notice of such enrollment.
- (c) *Unconditional Relinquishment.* A Citizen that wishes to relinquish citizenship in the Pokagon Band without conditioning such relinquishment on the Citizen being granted membership in another Indian tribe, band, or group recognized by the United States or Canada, shall file with the Enrollment Office an unconditional relinquishment form approved by the Enrollment Office. Such unconditional relinquishment will be deemed effective as of the date indicated on the relinquishment form.
- (d) **[Reserved]**
- (ii) Minor Citizens.
 - (a) The citizenship of any Citizen of the Pokagon Band who is not at least 18 years of age may be relinquished by his/her parent or guardian.
 - (b) Relinquishment must be in writing, and the signature must be notarized.
 - (c) A relinquishment form submitted on behalf of a minor Citizen shall be accompanied by proof acceptable to the Enrollment Office that the individual who signed the form has legal custody or guardianship of the minor affected.
 - (d) Minors whose citizenship was relinquished by a parent or legal guardian may reapply for citizenship at any time after reaching eighteen (18) years of age.

B. **Disenrollment.**

- (i) A decision by the Tribal Council to disenroll a Citizen is final and all citizenship rights and privileges cease immediately upon the date the disenrollment decision becomes effective. Any person who was disenrolled may not reapply for citizenship in the Band.

- (ii) Grounds for disenrollment are limited to citizenship decisions made on the basis of:
 - (a) information later determined to be false by clear and convincing evidence;
 - (b) a clear error of law such that disenrollment is necessary in order to bring the citizenship rolls into conformance with the applicable legal standards for citizenship in the Pokagon Band; or
 - (c) a violation of the prohibition against dual enrollment.
- (iii) The Enrollment Committee shall notify the Citizen who is the subject of the inquiry (Affected Citizen) by certified mail, return receipt requested, of its intent to recommend disenrollment to Tribal Council.

In the event the Affected Citizen cannot be reached by certified mail, the Enrollment Committee shall publish in a monthly tribal publication with a general distribution to the Pokagon Band citizenship a request asking the Affected Citizen to contact the Enrollment Committee. The Enrollment Committee shall publish such a request for at least two (2) consecutive months if it cannot notify the Affected Citizen.

- (iv) Once the Enrollment Committee has notified the Affected Citizen by certified mail or publication, the Committee shall schedule a disenrollment hearing before Tribal Council. The Committee shall notify the Affected Citizen at least fourteen (14) calendar days in advance of the hearing before Tribal Council. Included in the notice shall be the date and time set for the disenrollment hearing before Tribal Council. The notice shall also inform the Citizen of his/her right to appear before the Tribal Council.
- (v) The purpose of the hearing before the Tribal Council is to review the law and evidence on which the disenrollment recommendation is based and to consider arguments regarding the law and the relevance and sufficiency of the evidence. The Tribal Council shall establish rules governing the conduct of the hearing. At the hearing, the Affected Citizen shall have the right to assistance of legal counsel of the Affected Citizen's choice and at the Affected Citizen's sole cost.

- (vi) Within fourteen (14) calendar days following the hearing, whether or not the Affected Citizen makes any appearance or response, the Tribal Council shall schedule a meeting to determine if the Citizen is to be disenrolled. The Council shall base its decision solely on the merits of the Committee's recommendations and shall document its decision by resolution, which shall include findings of fact and conclusions of law. A decision to disenroll an Affected Citizen shall be supported by clear and convincing evidence that the Affected Citizen does not meet the eligibility standards for Band citizenship.
- (vii) The Tribal Council shall notify the disenrolled Citizen of the action taken by certified mail, return receipt requested. Such notice shall include the right to appeal the decision to the Tribal Court. In the event that the Affected Citizen was notified by publication and did not appear at the hearing or file any response, notice of the disenrollment decision may be accomplished by publication in a monthly tribal publication with a general distribution to the Pokagon Band citizenship.
- (viii) Every disenrollment proceeding commenced shall conclude with a decision either that the Citizen is disenrolled or that the Citizen's eligibility for citizenship is reaffirmed. No Pokagon Band Citizen may be subjected to more than one disenrollment proceeding.

C. Challenges to Citizenship Eligibility.

Any enrolled Citizen of the Pokagon Band (the Challenger) who has information that he or she reasonably believes establishes grounds for disenrollment of an enrolled Citizen of the Pokagon Band (the Affected Citizen), shall present such evidence in writing along with all supporting documentation to the Enrollment Committee. If the Enrollment Committee considers such evidence to be reliable and adequate as grounds for opening an inquiry into the Affected Citizen's citizenship eligibility, it shall send a copy of all such evidence to the Affected Citizen along with advance notice of at least fourteen (14) calendar days of the date, time, and location for an informal Enrollment Committee meeting with the Challenger and Affected Citizen for the purpose of inquiring into the Affected Citizen's eligibility for citizenship in the Pokagon Band. If following such meeting and full consideration of all information presented at such meeting, the Enrollment Committee determines that adequate grounds

exist to commence a disenrollment proceeding of the Affected Citizen, the Committee shall begin a disenrollment proceeding as provided in this Section.

D. Notice Requirements.

The Enrollment Office shall, within fourteen (14) days, provide notice by certified mail, return receipt requested, to all Affected Citizens of any final decision regarding a disenrollment proceeding and shall identify and explain the specific reasons on which the decision was based, regardless of whether the decision was to reject or approve disenrollment. Upon the Affected Citizen's request, the Commission shall provide the Affected Citizen with copies of all documents and other evidence that the Commission considered when reaching a decision to disenroll the Affected Citizen. The Enrollment Office shall also provide prompt notice by certified mail, return receipt requested, to all Citizens who relinquished citizenship in the Pokagon Band of the acceptance of such relinquishment and the date such relinquishment became effective.

Section 11. Tribal Citizenship Cards.

The Enrollment Office may issue Tribal Citizenship cards to Pokagon Band Citizens. Such cards are the property of the Pokagon Band and must be relinquished to the Enrollment Office upon demand. Tribal Citizenship cards must also be relinquished in the event of a Citizen's relinquishment of citizenship with the Pokagon Band or disenrollment from the Pokagon Band. The Enrollment Committee may establish reasonable replacement fees for Citizenship cards.

- A. All Tribal Citizenship cards shall contain the Citizen's address.
- B. All Tribal Citizenship cards issued to a Tribal Citizen sixteen years of age or older shall include a photograph of the Citizen.
- C. Except as otherwise provided in this Enrollment Code, a Tribal Citizenship card shall expire on the birthday of the person to whom the Tribal Citizenship card is issued in the tenth year following the date of the issuance of the Tribal Citizenship card. A Pokagon Band Citizen holding a Tribal Citizenship card at any time within 180 days before the expiration of his or her Tribal Citizenship card may make application for a new Tribal Citizenship Card as provided for in this Code.

- D. Any Tribal Citizenship card issued to a person who, at the time of issuance is less than seventeen and one-half years of age shall expire on the Tribal Citizen's eighteenth birthday.
- E. Tribal Citizenship cards contain an expiration date only to ensure the photo identification is updated periodically. A duly enrolled Citizen of the Pokagon Band shall enjoy all rights and privileges entitled to all Citizens of the Pokagon Band whether or not the Citizen's Tribal Citizenship card is expired.

Section 12. Appeals.

A. Right to Appeal Adverse Decisions.

Any person whose application for citizenship has been denied or not acted upon, who has been disenrolled, or whose citizenship has been forfeited shall have the right of appeal for declaratory relief to the Tribal Court. In all such actions filed with the Tribal Court, the person who exercises the right of appeal to the Tribal Court shall be a "Petitioner" and the party whose actions or failures to act are being appealed shall be the "Respondent". The Petitioner and the Respondent shall have the right to appellate review of an adverse Tribal Court decision by the Tribal Court of Appeals.

B. Time for filing an Appeal.

An appeal authorized by subsection A must be filed within:

- (i) sixty (60) calendar days from the date that the person entitled to bring the appeal receives notice of the final enrollment decision; and
- (ii) one-hundred and eighty (180) calendar days from the date that the person entitled to bring the appeal knows or should know that a right to appeal has arisen if formal notice is not provided and is required by this Code, if notice is not required by this Code, or if the appeal concerns a failure to perform a non-discretionary act required by law.

C. Appeal Standards.

- (i) If the Court concludes that the necessary facts for the Tribal Council's action, or failure to act, were not supported by reasonable evidence, or that the Council applied the Band's

enrollment laws incorrectly, it shall so declare and return the matter to the Enrollment Committee for further consideration and a new recommendation to Tribal Council.

- (ii) The Judiciary shall, except for compelling reasons, limit its review to the administrative record.
- (iii) The judiciary shall give deference to the reasonable interpretation and application of tribal enrollment law by the decision-making bodies to which such responsibility is assigned by law.

Section 13. Enforcement.

- A. **Criminal Violations.** Any Indian person who intentionally violates this Code, willfully fails to comply with any provision of this Code, or willfully prevents another person from complying with any provision of this Code shall be guilty of a crime and shall be subject to a maximum fine of \$5,000 or one (1) year imprisonment, or both. Each day during which such violation continues shall constitute a separate violation of this Code.
- B. **Civil Violations.** Any person who intentionally violates the Enrollment Code, willfully fails to comply with any provision of the Enrollment Code, or willfully prevents another person from complying with any provision of the Enrollment Code shall be liable for a civil fine not to exceed \$5,000 and shall further be subject to an action to recover an amount equivalent to the value of all payments, distributions, and benefits, of any kind that were obtained by fraud, misrepresentation, or other unlawful activity. Each day during which such violation continues shall constitute a separate violation of the Enrollment Code. All civil fines accruing under the Enrollment Code shall be cumulative and a suit for the recovery of one fine shall not bar or affect the recovery of any other fine, judgment, penalty, forfeiture, or damages, nor bar the power of the Tribal Court to punish for contempt, nor bar any criminal prosecution.

Section 14. Amendments.

Tribal Council may amend this Code by an affirmative vote of at least eight (8) Tribal Council members at any duly called Tribal Council Meeting, *provided* that any amendment proposed to Tribal Council, other than amendments proposed by the Enrollment Committee, shall first be forwarded to the Committee, and the

Committee shall have thirty (30) calendar days to present Tribal Council with a resolution supporting, opposing, or revising the proposed amendment. Unless otherwise provided by tribal law, any amendment proposed by the Enrollment Committee or any Committee resolution presented in accordance with this section should be given deference, but is not binding upon Tribal Council, and does not limit the policy-making authority of Tribal Council.

LEGISLATIVE HISTORY

THE “ENROLLMENT ORDINANCE” WAS ENACTED ON MARCH 9, 1996 BY ADOPTION OF TRIBAL COUNCIL RESOLUTION NO. 96-03-09-18; ON JANUARY 23, 1997, BY ADOPTION OF TRIBAL COUNCIL RESOLUTION NO. 97-01-23-06, SECTION 6 WAS AMENDED TO INCLUDE SUBSECTION (D) ENTITLED “REAPPLICATION UPON DENIAL”; ON JANUARY 23, 1997, BY ADOPTION OF TRIBAL COUNCIL RESOLUTION NO. 97-01-23-07, SECTION 5 WAS AMENDED TO INCLUDE SUBSECTIONS A (iv) THROUGH A (viii); ON JANUARY 23, 1997, BY ADOPTION OF TRIBAL COUNCIL RESOLUTION NO. 97-01-23-08, SECTION 6 WAS AMENDED TO INCLUDE SUBSECTION (D) ENTITLED “REAPPLICATION UPON DENIAL”, AND SUBSECTION 11.A WAS AMENDED BY INSERTING A NEW PARAGRAPH AS THE FIRST PARAGRAPH OF THE SECTION; ON DECEMBER 9, 2000, BY ADOPTION OF TRIBAL COUNCIL RESOLUTION NO. 00-12-09-04, AMENDMENTS WERE ENACTED TO SUBSECTIONS 4(A)(i)&(ii), SUBSECTIONS 5(A)(i), (ii), (iii), (vi), SUBSECTIONS 6(C)(i) AND (ii), SUBSECTIONS 7(A)(ii), 7(B)(ii), 7(C)(ii), SUBSECTIONS 9(A)(i) THROUGH (vi), 9(B)(i) (a) AND (b), SUBSECTIONS 9(C)(i)(b) AND (c), SUBSECTION 9(D), SUBSECTIONS 11(B)(ii)(a), (b), and (c), SUBSECTIONS 11(B)(iii), (iv), AND (v), SUBSECTIONS 11(B)(v)(a) AND (b), SUBSECTION 11(B)(vi), AND SECTIONS 12, 13, AND 14; ON FEBRUARY 8, 2003, BY ADOPTION OF TRIBAL COUNCIL RESOLUTION NO. 03-02-08-01, SUBSECTIONS 4.A (i) AND 4.A (ii) WERE AMENDED. RESOLUTION NO. 04-11-13-02, SECTION 9(C)(I)(B) WAS AMENDED; ON JUNE 11, 2011, BY ADOPTION OF TRIBAL COUNCIL RESOLUTION NO. 11-06-11-02, THE TRIBAL COUNCIL ENACTED COMPREHENSIVE AMENDMENTS TO THE ENROLLMENT ORDINANCE, THEREAFTER TITLED “ENROLLMENT CODE”; AND ON NOVEMBER 16, 2011, AT A DULY CONVENED LEGISLATIVE SESSION, BY ADOPTION OF TRIBAL COUNCIL RESOLUTION NO. 11-11-16-01, SUBSECTIONS 4.A AND 4B WERE AMENDED TO CONFORM TO THE FIRST AMENDMENT TO THE MEMBERSHIP PROVISIONS IN ARTICLE V, SECTION 2 OF THE CONSTITUTION; ON AUGUST 26, 2013 BY ADOPTION OF TRIBAL COUNCIL RESOLUTION NO. 13-08-26-03, SECTION 3 WAS AMENDED TO INCLUDE A NEW SUBSECTION (B), SECTION 7 WAS AMENDED TO INCLUDE A NEW SUBSECTION 7(A)(i)(h), AND SECTION 8 WAS AMENDED TO INCLUDE A NEW SUBSECTION 8(B)(II)(B); ON OCTOBER 12, 2019, BY ADOPTION OF TRIBAL COUNCIL RESOLUTION NO. 19-10-12-03, SECTION 5 WAS AMENDED TO INCLUDE SUBSECTION 5.E.