

Title 15

HOH ENROLLMENT ORDINANCE

§2.001 AUTHORITY AND PURPOSE:

(a) The authority for this Ordinance is found in the Hoh Constitution, Articles II and IV.

(b) The purpose of this Ordinance is to provide for the development and maintenance of the membership roll of the Tribe, to ensure the integrity and accuracy of the roll, and to set out clear procedures for enrollment related actions.

§2.002 MEMBERSHIP REQUIREMENTS:

The requirements to qualify as a member of the Hoh Indian Tribe are set out in Article II of the Hoh Constitution.

(a) **Membership Criteria.**

The membership of the Tribe shall consist of:

(1) all persons whose names validly appear on the October 14, 1966 approved official tribal base membership roll prepared in accordancw with Public Law No. 89-655, 80 Stat. 905 (Oct. 14, 1966)¹; or

(2) all persons who possess at least one-fourth (1/4) degree Indian blood born to any member of the Hoh Tribe.

(b) **Definition of Indian blood.** For purposes of this section, Indian blood is defined as all blood from a federally recognized Indian Tribe, Nation, Band, Pueblo, Village, Corporation or Rancheria, including blood derived from a direct ancestor whose name validly appears on the official tribal membership roll prepared under the official approved base roll of the Tribe as of October 14, 1966.

¹ Section 4 of Public Law No. 89-655 limited the Hoh base membership roll to “applicants who demonstrate that their names or the names of lineal ancestors from whom they are descended appear on the Census of the Hoh Indians of Neah Bay Agency, Washington, June 30, 1894.” Section 4 stated that upon approval by the Secretary of the Interior, such roll would thereafter serve as the Hoh base roll for all purposes. The official tribal roll approved by the Secretary of Interior is dated October 14, 1966.

(c) Children born out of wedlock.

(1) If an applicant for enrollment in the Hoh Tribe is born out of wedlock and the mother of the applicant is a member of the Tribe, the applicant shall be deemed to possess one-half the Hoh blood quantum possessed by the mother; the father's Indian blood quantum, if any, will be counted if the application is accompanied by an official birth certificate naming the father along with a written acknowledgment of paternity by that person, an order of paternity by a court of competent jurisdiction, or by certification of paternity based on a DNA test. The Enrollment Office or Tribal Council shall have authority to require a DNA test if paternity is in question.

(2) The Tribal Indian Child Welfare Program shall provide to the Enrollment Staff any information about paternity of children in its care or custody or being considered for same that are being considered for enrollment. The Indian Child Welfare Program may apply for enrollment on behalf of any minor as necessary to ensure protection of that child under the federal Indian Child Welfare Act, as set forth below.

(d) Adopted Persons. Persons adopted by members of the Tribe or by the Tribe are not eligible for enrollment in the Hoh Tribe unless they independently meet the requirements for membership of the Constitution and of this Ordinance. Adopted persons who are not otherwise eligible for enrollment in the Hoh Tribe do not qualify for benefits and services provided to tribal members. Adoption by the Tribe shall only occur pursuant to affirmative vote of the Hoh General Council.

§2.003 ENROLLMENT OFFICE AND STAFF

(a) **Enrollment Staff.** The Business Committee shall ensure that sufficient staff are hired as are necessary to fulfill the functions identified in this Ordinance. The enrollment staff shall be hired in accordance with Tribal personnel policies and be subject to all Tribal personnel policies in the same manner as other Tribal employees.

(b) **General Duties and Powers of Enrollment Staff.** The Enrollment Staff shall establish enrollment procedures, including appropriate forms, subject to approval of the Business Committee, and which are consistent with this Ordinance. The Enrollment Staff shall make an annual report to the General Membership of its proceedings and activities, including the number of new enrollees during the preceding year and the current number of Tribal members. Enrollment Staff shall report to the Business Committee on its activities as requested by the Business Committee, and at least semi-annually. The Enrollment Staff shall maintain the roll and keep an accurate file on each tribal member containing all relevant records documenting membership eligibility. The records shall include originals or certified copies of documents received to support enrollment applications. Enrollment Staff shall enter name changes into the Tribe's Membership roll upon proof of final action by a court of competent jurisdiction making such name change, and upon approval of such by the Business Committee, as set forth elsewhere in this Ordinance. The Enrollment Staff will also maintain a list of deceased Tribal members who have been removed from the active tribal membership roll upon documentation of death, subject to approval of the Business Committee to move such members to the deceased tribal members list. Enrollment Staff or another tribal office designated by the Business Committee shall be responsible for issuing tribal

membership cards, in a form and design approved by the Business Committee.

(c) **Processing of Enrollment Applications.** The Enrollment Staff shall review and evaluate all applications for membership and shall forward such applications for determination by the Business Committee as follows:

- (1) **Adults.** The Enrollment Staff shall review and evaluate all applications for membership, and submit its proposed recommendations for adult applicants (those who are 18 years of age or older on the date of Business Committee decision) along with supporting documentation to the Business Committee for consideration.
- (2) **Minors.** For minors between newborn and 18 years of age who are not subject to the emergency enrollment provisions of subsection 2 of this subsection, the Enrollment Staff shall submit its proposed recommendation for each applicant along with supporting documentation to the Business Committee for approval at a Regular Business Committee meeting.
- (3) **ICWA Emergency Enrollment Review.** For minors who may be eligible for enrollment and who are the subject of a state court proceeding involving the custody of the child, the Enrollment Staff shall determine whether the child is eligible for enrollment as soon as practicable. If the child is eligible for enrollment, the Enrollment Staff shall file an application for the child's enrollment on behalf of the parent(s), legal guardians or legal custodians and, if the application otherwise meets the criteria established by this Ordinance, shall forward such application directly to Tribal Business Committee for its consideration.

(d) **Access to Records.** Confidentiality: All enrollment records, except adoption records, shall remain open during business hours to inspection only by the Executive Director, the Tribal Attorneys and Enrollment Staff. Enrollment records or enrollment information may also be disclosed by Enrollment Staff to other tribal employees as necessary to conduct the business of the Tribe, but such information shall be returned to the Enrollment Staff immediately upon completing use of such records. Enrollment Staff will coordinate with the Accounting Department in maintaining accurate tribal member addresses and contact information. Except as thus provided, all enrollment records shall be confidential, unless a tribal member or applicant voluntarily consents to release of his or her records in writing. Enrollment records, except adoption records, may also be inspected by Tribal members pursuant to a Tribal Court order authorizing access to enrollment records; provided however, that such order may only be issued upon a showing by the requesting Tribal member of a good faith basis or reason for accessing the requested enrollment records, and after notice to and the opportunity to object by the member whose information is sought. Revealing information in the enrollment records to someone other than a Tribal member, the Executive Director, or the Tribal Attorney, the Committee or enrollment staff shall be deemed grounds for termination of employment, recall of an elected Tribal official, or cause for removing a committee member.

§2.004 PROCEDURES FOR MEMBERSHIP APPLICATION:

(a) **Application Form.** Enrollment Staff shall develop an application form which must be used when making an application for enrollment, subject to approval of such form by the Business Committee. The form shall be entitled "Application for Enrollment" and shall contain spaces for the following information:

- (1) Name and address of the applicant;
- (2) All names by which the applicant is or has been known;
- (3) Date of birth of the applicant;
- (4) Names of the parents of the applicant and the Tribal ancestor or ancestors through whom Hoh blood quantum is traced;
- (5) If the applicant is under the age of 18 or incompetent, the name, address and relationship of the person making the application on behalf of such minor or incompetent;
- (6) Certification by the applicant, or by the person making the application on behalf of the minor or the incompetent applicant, that the information is true.

Enrollment staff may include requests for additional information in the application form, subject to approval of the Business Committee.

(b) **Consent to Jurisdiction.** Any person submitting an enrollment application for him or herself or on behalf of another person or who submits documentation or other information or an affidavit in support of an application for enrollment thereby expressly consents to the jurisdiction of the Hoh Tribe and the Hoh Tribal Court for any matter arising out of said enrollment application.

(c) **Supporting Documents.** An applicant for enrollment in the Hoh Tribe is responsible for proving their eligibility for enrollment. It is not the responsibility of Enrollment Staff to research or prepare documentation supporting an application. Documentation evidencing eligibility for enrollment shall accompany the application. Enrollment Staff shall have the authority to require an applicant to furnish such additional evidence or proof as is necessary to make a determination. Any handwritten corrections or additions on documentation will be considered alterations, and shall not be considered by Enrollment Staff unless proof of authority for such changes is provided. Enrollment staff shall establish the nature and types of acceptable evidence, which will include but not be limited to, court documents, and tribal, state or federal records. Copies of these documents may be submitted in lieu of originals, provided that Enrollment Staff may require an applicant to provide originals to verify their authenticity where appropriate.

(d) **Who May Apply.** Any person who believes that he or she meets the requirements for membership in the Tribe may submit an application for enrollment to the Enrollment Staff. Applications for minor children under the age of eighteen (18) and incompetents may be filed by a parent, legal guardian, other person who has custody of the child under tribal law or custom or to whom physical care, custody, and control has been transferred by the parent of such child, a person or agency who has custody of a child pursuant to an order of a court of competent jurisdiction, or by the Tribe's Child Welfare Department.

(e) **Processing Applications, Right to Protest, Tribal Business Committee Action.**

- (1) Except as provided in Section 2.003(c)(2) of this Ordinance, the Enrollment Staff shall process each complete application and make recommendations to the Business Committee for action at the Business Committee's next regular meeting. In the event staff needs further information necessary to make its proposed recommendation, it shall inform the applicant by letter, with a request for the information needed, and a date by which such information must be provided. Enrollment Staff shall develop a form for request for additional information, subject to approval to approval of the Business Committee. If the additional information is not provided, unless an extension is requested and approved, the enrollment application shall be returned to the applicant. Upon receiving the additional information, the Enrollment Staff shall process the application and make its recommendation on enrollment to the Business Committee. The applicant has the responsibility of proving the statements made in his or her application.
- (2) If the Enrollment Staff determines that an application is complete and the applicant appears to meet the requirements of this Ordinance, the enrollment staff shall prepare a written recommendation along with supporting documentation within thirty (30) days for the Business Committee. The staff shall mail notice by certified mail to the applicant of when the application will be considered by the Business Committee.
- (3) If the Enrollment Staff finds that an applicant appears not to meet the requirements of this Ordinance for membership in the Hoh Tribe, the Enrollment Staff shall mail notice of its determination by certified mail to the applicant. The applicant may file a protest with the Enrollment Staff within thirty (30) days of receipt of the certified letter, stating the reasons he or she believes the application should be approved. The Enrollment Staff shall develop a model protest form, subject to approval of the Business Committee.
- (4) If a protest is filed by an applicant, the Enrollment Staff may reconsider the application in light of the information submitted with the protest. The Enrollment Staff shall then make a final recommendation within fifteen (15) days of receipt of the protest and shall submit its proposed recommendation, with justification and documentation, together with the protest, to the Business Committee. The Business Committee shall make its decision whether to approve or reject the application for enrollment at its next Regular meeting. If the Business Committee's decision is to reject the application, the applicant may appeal the Committee's determination in accordance with the appeal provisions of this Ordinance. If the Business Committee determines that it requires additional information before it can make a decision to accept or reject an enrollment application, the Business Committee shall return the application to Enrollment Staff to request or obtain the requested information.
- (5) If the Business Committee determines that an application should be approved, the Business Committee shall do so by Resolution.

- (6) When the Business Committee approves an application for enrollment, the Enrollment Staff shall enter the name of the applicant on the official tribal membership roll and notify the applicant by certified mail. Eligibility for tribal services and benefits begins in the month after an applicant's name is entered on the membership roll. If the Business Committee decides to reject an application for enrollment, the applicant shall be notified by certified mail and advised of his or her right to appeal the decision in accordance with the appeal provisions of this Ordinance. Notice of enrollment actions by the Business Committee shall be reported at the next General Council meeting.
- (7) The Business Committee may, by majority vote, reopen rejected applications when new substantial evidence is submitted to support an applicant's position and when the Business Committee determines that justice requires that an application be reconsidered. In such case, the new evidence shall be forwarded to the Enrollment Staff for review and preparation of a new recommendation to the Business Committee, along with supporting documentation. An applicant whose application for enrollment in the Hoh Tribe was previously rejected may always submit a new application for enrollment to the Enrollment Staff with new evidence.

(f) **Burden of Proof and Standard of Proof.** The burden of proof shall be upon the Applicant to establish all elements of the Applicant's entitlement to enrollment under the Tribal Constitution and this Ordinance, unless otherwise specifically stated herein. Any matters required to be proved under this Ordinance, unless otherwise specifically stated, must be proved to the satisfaction of the Tribal Business Committee, as provided herein, by clear and convincing evidence.

§2.005 PROCEDURES FOR CORRECTION OF MEMBERSHIP ROLL: Enrollment Staff shall process blood degree correction actions as set out in §2.009 of this Ordinance.

§2.006 RELINQUISHMENT OF MEMBERSHIP:

(a) **Adults.** Any adult member of the Tribe may relinquish his or her membership in the Tribe upon written notice to the Business Committee. Such notice shall be forwarded to the Enrollment Staff for its review and recommendation. Upon receipt of written notice of relinquishment, the Business Committee shall take action to disenroll the member and shall direct enrollment staff to remove the name of the individual from the Tribal Membership roll. The individual may not reapply for membership, if said individual was over the age of eighteen (18) years at the time of relinquishment. If a member relinquishes in the Hoh Tribe in order to enroll in another federally-recognized Indian tribe and their application for membership in such other tribe is rejected, the member may, within sixty (60) days of such rejection, reapply for membership in the Hoh Tribe.

(b) **Minors.** A minor may not relinquish his or her membership in the Hoh Tribe without the approval of the Business Committee. Upon receipt of a request by an adult parent or custodian to relinquish the enrollment of a minor Hoh tribal member, the Business Committee shall forward

such request to the Enrollment Staff and the Indian Child Welfare Program for their review and recommendation. The Business Committee shall not approve the relinquishment of membership by a Hoh minor tribal member unless the minor is going to be enrolled in another federally-recognized Indian tribe, and the Business Committee shall not approve such relinquishment until receiving documentation that the minor has been or will be enrolled in such other tribe. Upon reaching eighteen (18) years of age, a child whose membership was relinquished may re-apply for membership. An individual or agency acquiring legal custody of a minor whose enrollment has been relinquished by a previous legal custodian may apply for re-enrollment of the minor in the Tribe in accordance with this Ordinance.

§2.007 LOSS OF MEMBERSHIP:

(a) **Grounds.** Enrollment Staff shall recommend to the Business Committee, along with supporting documentation, the removal from the Tribal roll of any person who becomes ineligible for membership because of enrollment in another federally recognized Nation, Tribe, Band, Pueblo, Village, Corporation, Rancheria, or Community, has been enrolled in error because he or she did not meet the requirements set for membership at the time of enrollment, or is no longer eligible for enrollment as the result of a blood degree correction made under this Ordinance.

(b) **Procedure.** Prior to removal, a Tribal member shall be given notice by certified mail by the Enrollment Staff of the right to a hearing and to hear the evidence against him or her, confront witnesses, be represented by legal counsel at his or her own expense, and to present evidence to the Business Committee in opposition to his or her proposed disenrollment. A Tribal member who is found to be dual enrolled in another tribe shall be given thirty (30) days to relinquish his or her enrollment in such other tribe before the Enrollment Staff will proceed with disenrollment action under this Section. A Tribal member receiving such notice shall request a hearing within ten (10) days of receiving such notice. Such hearing shall take place within thirty (30) days after written notice of a request for a hearing by the proposed disenrollee. Any disenrollment decision shall be made by the Business Committee. If the Business Committee decides to proceed with disenrollment of the Tribal member, it shall make such decision by Resolution and shall direct the Enrollment staff to remove the person from the Hoh Membership roll, subject to the appeals procedure set forth in this Ordinance.

§2.008 DECEASED MEMBERS: The Enrollment Staff shall notify the Business Committee of the death of Tribal members, and shall obtain a death certificate to put in the member's Enrollment file. Upon notice, the Business Committee shall remove deceased members from the active Membership roll, and the Enrollment Staff shall list such member on a deceased Tribal members' list.

§2.009 BLOOD DEGREE CORRECTION: Corrections of blood degrees of Tribal members or ancestors may be initiated by the Enrollment Staff upon receiving or obtaining evidence that existing Hoh Indian blood quantum may not be correct, as necessary to maintain the accuracy of the Tribal membership roll. Tribal members wishing to make a correction in their own and/or their minor dependent's blood degree may also initiate a request for a blood degree correction. In any such case, the Enrollment Staff shall contact the tribal member and his or her family members who may be affected by any such change, provide them with the evidence in support of a Membership

Roll correction, and give them the opportunity to provide evidence in support of or against a change. After the receipt of such information, or upon the expiration of the time frame given to provide such evidence, the Enrollment Staff will prepare a recommendation on a Membership Roll correction, along with supporting documentation, and shall forward the recommendation to the Business Committee for action at its next Regular meeting. The Business Committee shall direct the Enrollment Staff to make such corrections to the blood quantum of persons on the Tribal roll as it deems necessary and proper. The corrected roll shall be the basis for re-evaluating all future applicants. Any change in blood degree shall only be made by the Business Committee. A Tribal member aggrieved by a blood quantum correction decision may appeal that decision pursuant to the Appeal provisions of this Ordinance.

§2.010 NAME CHANGES: Name changes will be initiated by Enrollment staff upon receiving information or evidence that the name of an existing tribal member has been changed by a court of competent jurisdiction. Enrollment staff will inquire to determine that the person who initiated the change (for example, for a minor or incompetent person) had authority to request the name change, and that the court issuing the name change order had jurisdiction to order the change. A certified copy of the name change order shall be provided or obtained. Upon completing its investigation, Enrollment staff will prepare a recommendation to the Business Committee on approving the name change, and the Business Committee shall act on the name change by Resolution. Notice of name changes approved by Resolution will be posted in a manner designed to notify the tribal membership of the name change. Once a name change has been approved by Resolution, Enrollment staff will make the name change in the Tribe's enrollment records and will notify other tribal departments as appropriate to make the name change in their records.

§2.011 PUBLICATION: An updated Tribal roll shall be compiled in January of every year by Enrollment Staff and shall be made available to Tribal members to view (while supervised) only as appropriate. The Tribal roll shall be kept in the Tribal office on the Hoh reservation, and shall be available for inspection upon reasonable request of any Tribal member over the age of 18. The Tribal roll available for inspection under this Section shall only include name and roll number.

§2.012 EFFECTIVE DATE: This Ordinance shall apply to any Applications for Enrollment pending as of the date of Enactment of this Ordinance, including those applications in processing by the Enrollment Staff; or pending determination by the Tribal Business Committee, or Tribal Court.

§2.013 CRIMINAL AND CIVIL SANCTIONS: Any person who requests or is responsible for submitting an Enrollment application, submitting supporting documentation or testimony, requesting disenrollment or a blood degree correction, or participating in any other action under this Ordinance thereby voluntarily consents to the jurisdiction of the Hoh Tribe and Hoh Tribal Court for any dispute arising out of such action. If the Business Committee finds, in disenrolling a person from membership in the Hoh Tribe, that a person engaged in fraudulent or deceptive conduct with regard to enrollment eligibility, dual enrollment, Hoh Indian blood quantum, or any other relevant matter under this Ordinance, the Business Committee may order recovery of any services, benefits or funds received or caused by such person as a result of such conduct, and may refer such person to the enforcement staff and Prosecutor's Office for prosecution for Theft Hoh Tribal Code §§5.9.03 or 5.9.04 or for Fraud, Hoh Tribal Code §5.10.02, and/or Forgery, Hoh Tribal

Code §5.10.03, as appropriate.

§2.014 APPEAL RIGHTS. An applicant or Tribal member who has exhausted his or her administrative appeal rights under any provision of this Ordinance, and is aggrieved by a final enrollment decision, disenrollment decision, or blood degree correction of the Business Committee, has the right to appeal the determination of the Business Committee to the Tribal Court, but only on the grounds that the determination was arbitrary and capricious or a violation of the Tribal Code and/or Tribal Constitution. Such appeal must be filed with the Court in writing on or before the fourteenth (14th) day following receipt of the written determination of or action by Business Committee. A determination by the Court of such appeal shall be final and no further appeal may be had; provided, however, that if a Court of Appeals is established in Tribal Court, the determination may be appealed to the Court of Appeals and such appeal must be filed with the Court of Appeals in writing on or before the fourteenth (14th) day following receipt of the written determination of the Tribal Court. The Court shall review, on the record, the determination of the Business Committee. No new evidence shall be permitted in such proceeding, and no hearing shall take place; only argument shall be allowed. The party appealing the Business Committee's decision shall have the burden of persuading the Tribal Court that the enrollment decision appealed from was arbitrary or capricious or a violation of Tribal law and/or his/her Tribal Constitutional rights. The Tribal Court shall give due deference to the rule of nonprejudicial error and matters within the expertise or judgment of the Business Committee. The Tribal Court shall recognize the obligations of the Tribe under the Tribal Constitution. The only remedy which the Tribal Court may order in matters appealed under this Ordinance is referring the matter back to the Tribal Business Committee for reconsideration in light of the Tribal Court's ruling in such matter. An applicant denied enrollment shall not, under any circumstances, be compensated in money damages against the Tribe, its employees or officers for Business Committee denials and/or delays in enrollment.

§2.015 SEVERABILITY CLAUSE: It is the Business Committee's intent that if any provision of this Ordinance shall be found unconstitutional under the Hoh Constitution or found to be a violation of the Indian Civil Rights Act, that the remainder of this Ordinance shall remain in effect.