

**ENROLLMENT ORDINANCE OF THE
PRAIRIE ISLAND INDIAN COMMUNITY IN THE STATE OF MINNESOTA**

Article I. Purpose, Scope, and Authority

Section 1. Be it enacted by the Community Council of the Prairie Island Indian Community in the State of Minnesota, pursuant to Article III, Section 2 of the Constitution, an Ordinance to define and regulate membership in the Prairie Island Indian Community in accordance with tribal requirements and to establish enrollment procedures which afford equal protection and due process of tribal law to all persons seeking enrollment as a member of the Prairie Island Indian Community. Subject to the laws of the Prairie Island Indian Community, potential members are an integral and active part of the Community and should not be deprived of the right of membership due to circumstances beyond their control and that of the Prairie Island Indian Community.

Article II. Definitions

Section 1. For the purposes of this Ordinance, the words underlined below shall have the following definitions:

- A. Appellant: A person who is appealing the decision of the Membership Committee and/or the Community Council to reject an application for enrollment, or a Member who is appealing a decision to disenroll.
- B. Applicant: A person who is seeking to be enrolled, or a child whose parent(s)/legal guardian is seeking enrollment on his or her behalf.
- C. Application Form: The form approved by the Community Council that must be completed on behalf of the Applicant in order to be considered for enrollment. An example Application Form is attached as Exhibit 1.
- D. Base Roll: The Base Roll is defined in Article III Section 1 of the Constitution and Bylaws of the Prairie Island Indian Community in the State of Minnesota, as amended.
- E. Child(ren): As provided in Article III, Section 1(b) of the Constitution and Bylaws of the Prairie Island Indian Community, “Child(ren)” means the biological children of a member or members of the Prairie Island Indian Community.
- F. Community/Prairie Island Indian Community: The Prairie Island Indian Community in the State of Minnesota.
- G. Constitution: The Constitution and Bylaws of the Prairie Island Indian Community in the State of Minnesota, as amended.

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- H. Member: Anyone listed on the current membership roll of the Prairie Island Indian Community.
- I. Non-Member: A person who does not meet requirements for enrollment under Article III, Section 1, of the Constitution.
- J. Tribal Court: The Trial Court of the “Prairie Island Mdewakanton Dakota Community Tribal Court” as established by Judicial Code Title 1, Chapter 1, Section 1, and the Constitution, which is also referred to as the “Court of Domestic Relations.”

Article III. Eligibility for Membership

Section 1. The eligibility for membership in the Community is governed by Article III, Section 1 of the Constitution, and includes: those persons whose names appear on the Base Roll; and “[a]ll biological children of any [M]ember of the Prairie Island Indian Community, provided that a completed membership application and proof of parentage demonstrated by genetic testing are submitted for such a child within six months of birth, except that this time limitation shall not apply to applicants who were placed for adoption.” Const. Art. III, § 1.

Article IV. Membership Committee

Section 1. The Community Council shall appoint a Membership Committee (sometimes referred to as the “Enrollment Committee”) consisting of at least five (5), but not more than nine (9), adult members of the Community whose term of office shall be identical to that of the Community Council. A Community Council member may serve as a liaison to the Membership Committee; however, that liaison is not a member of the Membership Committee and therefore cannot vote and cannot be counted as a member for determining whether a quorum exists for a particular meeting. Committee members shall execute a confidentiality oath acceptable to the Community Council and Committee members shall abide by the oath.

Section 2. There may also be a Membership Clerk to execute the administrative functions of this Ordinance.

Article V. Filing of Application

Section 1. Applications for enrollment with the Prairie Island Indian Community shall be made on an Application Form authorized by the Community Council (example attached as Exhibit 1) and it must be accompanied by the following:

- A. An original birth certificate of the Applicant;
- B. An original, unsigned social security card of the Applicant;
- C. Genetic testing results evidencing that an enrolled Member is a biological parent of the Applicant, and that the Applicant is of Native American descent. Where the Applicant’s Member parent is deceased, the Applicant must

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provide alternative genetic testing results evidencing that he or she is a lineal descendent of a Member;

- D. The full name (including maiden names), date of birth, and contact information of the Applicant's Member parent(s) and grandparent(s); and
- E. The name and contact information of the Applicant's non-Member parent, if any.

Section 2. If there is a formally-declared state of emergency such as the COVID-19 pandemic, or similar unforeseen events, that cause Federal or State agencies to experience closures or operating delays in producing the documents required in Section 1(A) and Section 1(B), the Membership Committee may accept the application as "complete" without those items. An Applicant must, however, still provide the Constitutionally-mandated genetic testing and proof of date of birth through other documentation, and complete the remaining application process outlined in this Ordinance. An Applicant shall submit the documentation required by Section 1(A) and Section 1(B) to the Membership Committee as soon as they are received.

Section 3. A request for an Application Form must be in writing and sent to the Membership Committee Clerk. The Member parent may submit the request and receive an Applicant's Application Form. Alternatively the Applicant's grandparent who is a Member may request and receive an Applicant's Application Form. One Application Form at a time will be issued for each Applicant.

Section 4. A completed Application Form, with all accompanying material, must be physically marked received at the Prairie Island Indian Community Administration Building within six months of the Applicant's birth date pursuant to Article III, Section 1(b) of the Constitution. The Enrollment Clerk or other designated Community employee will provide a receipt confirmation indicating the date that the completed Application Form is received. If there are any disputes on the date of receipt, the Applicant must provide evidence that the completed application was received within the required timeframe.

Section 5. Subject to the exceptions stated in Section 6 and Section 7, the enrolled Member parent of a minor Child Applicant must sign the Application Form.

Section 6. For minor Children who have been removed from the legal custody of their parents, or for Applicants who have been declared legally incompetent by a court of competent jurisdiction, an Application Form may be requested, received, signed and submitted by the person or agency who establishes by court order that he/she or it is legally responsible for the Applicant's care.

Section 7. Where the Prairie Island Indian Community has legal custody of a Child under six months of age who is eligible for enrollment:

- A. The Family Services Department shall use active and best efforts to achieve enrollment of the infant in the Community;

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- B. Whenever possible, the Family Services Department shall have the Member parent sign the Application Form;
- C. Other than when the Member parent is deceased, the Member parent must submit to the genetic testing required by Article III, Section 1(b) of the Constitution. Where the Member parent is deceased, Family Services may facilitate genetic testing from another Member relative in order to evidence that the Applicant is a lineal descendant of a Member.

Section 8. Applicants who were placed for adoption and submit an application for enrollment past the age of six months (as provided in Article III, Section 1(b) of the Constitution) must provide clear and convincing evidence of his or her adoption in addition to complying with the other requirements for Membership stated in the Constitution and this Ordinance. Whether evidence of adoption is clear and convincing is at the discretion of the Community Council based on the recommendation of the Membership Committee.

Section 9. No Applicant can be enrolled in another federally-recognized Indian tribe.

Article VI. Membership Committee Recommendation

Section 1. The Membership Committee shall review all enrollment applications, consider the information and all other available evidence on record concerning Applicants' eligibility for membership. The Membership Committee shall determine whether the application should be approved or rejected and furnish its recommendation to the Community Council.

Section 2. Upon recommendation for approval, the Community Council shall review the Membership Committee's recommendation and decide whether to accept or reject the membership application. An enrollment approved pursuant to Article III, Section 1 of the Constitution shall be submitted by the Community Council to the Secretary of the Interior, Bureau of Indian Affairs.

Section 3. Upon recommendation for rejection, the Membership Chairperson shall send a notice of rejection to the Applicant or person(s) filing the application on the Applicant's behalf by regular mail and certified mail, return receipt requested.

Article VII. Disenrollment

Section 1. The Community Council shall not disenroll any Member except for one of the following reasons:

- A. The Member obtained membership rights by fraud, through error or misrepresentation; or
- B. The Member is dually enrolled in another tribe and refuses to relinquish membership in the other tribe.

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Section 2. Upon receipt of information that a Member is dually enrolled or that any Member has obtained membership through error or fraud, the Membership Committee shall cause an investigation into the matter and, if warranted, shall notify such Member that disenrollment action is contemplated. Notice shall be sent by regular mail and certified mail, return receipt requested. Such Member shall have thirty (30) days upon receipt of notification to submit evidence on his or her behalf. If no acceptable evidence is submitted within the thirty days, the Membership Committee shall recommend to the Community Council disenrollment of such Member.

Section 3. The Community Council shall review the recommendation of the Membership Committee and shall determine if such Member should or should not be disenrolled. The Community Council shall notify the Member of its decision to disenroll in writing by regular mail and certified mail, return receipt requested.

Section 4. The Community Council's act to disenroll a Member shall be submitted to the Secretary of the Interior, Bureau of Indian Affairs, once final.

Article VIII. Appeals

Section 1. Appeal to Community Council:

Subsection A. Any person filing an application for enrollment which has been rejected by the Membership Committee, or a Member who has received notice of the Community Council's decision to disenroll, may appeal to the Community Council within 30 days following receipt of the notice of rejection or disenrollment decision. If such notice is delivered outside the continental United States, there shall be 60 days in which to file an appeal.

Subsection B. An appeal shall be in writing and addressed to the Membership Clerk, who shall then transmit to the Community Council the complete record together with all evidence presented concerning eligibility for membership or for the disenrollment. The burden of proof for establishing eligibility for enrollment is on the Appellant. The burden of proof for establishing that disenrollment is appropriate is on the Community Council.

Subsection C. The Community Council shall hold a hearing to consider all evidence. An Appellant may request additional time to submit supporting evidence. If such a request is made the Community Council shall grant a reasonable period of time for submission of the additional supporting evidence.

Subsection D. The Community Council will consider the appeal together with other pertinent information. The Community Council shall provide its final, written decision to the Appellant by certified mail within 60 days.

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Section 2. Tribal Court Review:

Subsection A. Subject to the terms of this Section, an Appellant may file an appeal with the Tribal Court challenging the final, written decision of the Community Council to deny enrollment to an Applicant or to disenroll a Member.

Subsection B. By this Ordinance, the Community Council grants the Tribal Court the sole jurisdiction to consider enrollment or disenrollment appeals strictly pursuant to the terms of this Ordinance. The Tribal Court's jurisdiction to consider enrollment or disenrollment appeals is limited as follows:

1. The Tribal Court may only grant the relief set forth in Article VIII, Section 2, Subsection F of this Ordinance; and
2. The Tribal Court does not have the authority to enroll Community Members, grant monetary relief, or grant any other non-monetary or injunctive relief.

Subsection C. By this Ordinance, the Community waives its sovereign immunity for the limited purpose of the Tribal Court's review of an enrollment or disenrollment decision, and the scope of this waiver does not exceed the limitations of the Tribal Court's jurisdiction and authority as set forth in this Section. This limited waiver of sovereign immunity does not apply to claims or recovery of monetary relief, or any other relief not identified in this Section. This limited waiver of sovereign immunity does not apply to challenges filed in any other jurisdiction.

Subsection D. Any appeal must be filed with the Tribal Court within 30 days of the date the Appellant received the final, written decision by certified mail. The Appellant must serve a copy of his or her appeal upon the Community Council, and the Community Council has 30 days after receiving the appeal within which to file a response. In reviewing the decision, the Tribal Court may only consider the record that was before the Community Council.

Subsection E. To prevail in an appeal, the Appellant must demonstrate that the decision of the Community Council was arbitrary and capricious based on the record before it.

Subsection F. If the Appellant prevails, the Tribal Court shall remand the matter to the Community Council with direction for further proceedings and reconsideration. The proceedings on remand before Community Council shall be in conformity with this Ordinance.

Subsection G. When considering an appeal under this Ordinance, the Tribal Court must strictly apply the filing and documentation requirements of the Constitution and this Ordinance, and does not have any power or authority to ignore or to waive any requirement of the Ordinance, whether on equitable grounds or any other grounds.

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Subsection H. The decision of the Tribal Court shall be in writing and shall state the reasons for the decision. The Tribal Court's decision shall be final, and the Appellant is not entitled to further review by the Court of Appeals or a Court of any other jurisdiction.

Subsection I. The provisions of this Section, which apply only to appeals of enrollment or disenrollment decisions, shall supersede any inconsistent provisions of the Community's Judicial Code.

Article IX. Relinquishment

Any Member may relinquish his or her membership in the Prairie Island Indian Community by filing a completed relinquishment form (example attached as Exhibit 2), which is available upon request to the Membership Committee Chairman or Clerk. Such relinquishment shall become effective upon the date of receipt by the Community Council. Minors whose membership has been relinquished by a parent or legal guardian may regain their membership within five (5) years after becoming a legal adult by notifying the Membership Committee of their desire to continue as a member of the Prairie Island Indian Community.

Article X. Records

Section 1. The Community Council shall furnish the Secretary of the Interior, Bureau of Indian Affairs with all necessary documentation indicating which membership applications are approved and those which are rejected.

Section 2: The Community membership roll shall contain the names of all enrolled Members, including adopted Members. The Membership Committee shall cause the Community membership roll to be kept current and shall regularly review the roll for such purposes. The names of all persons who are deceased and all persons who have relinquished their membership in the Community in writing shall be noted in the roll and the names of all persons whose applications for enrollment have been approved by the Community Council shall be promptly added to the roll.

Section 3. No less than every ten (10) years, the enrollment records of the Prairie Island Indian Community Membership Committee shall be audited.

Article I. Repealer, Severability, and Effective Date

Section 1. Any other ordinances or resolutions relating to enrollment or disenrollment that are in conflict with this Ordinance shall be repealed to the extent of such conflict.

Section 2. Should a court of competent jurisdiction find any provision or provisions of this Ordinance to be invalid or illegal under applicable Community or federal law, such

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provision or provisions will be severed from this Ordinance and the remaining provisions remain unchanged and in full force and effect.

Section 3. This Ordinance shall become effective on April 1, 2017. This Ordinance is not retroactive.