

ENROLLMENT ORDINANCE

OF THE

YUROK TRIBE

APPROVED JULY 20, 1994

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WHEREAS, the Yurok Tribal Council is the governing body of the Yurok Tribe pursuant to the Constitution of the Yurok Tribe as approved on November 19, 1993, and

WHEREAS, THE Yurok Tribal Council is authorized by Article IV of the Constitution of the Yurok Tribe to make rules governing membership and to enact an Enrollment Ordinance setting forth the procedures governing Tribal membership;

NOW, THEREFORE, BE IT RESOLVED that the following Ordinance governing enrollment and membership in the Yurok Tribe is hereby enacted and shall be effective upon the date of approval by the Tribal Council.

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SECTION 1. PURPOSE.

The purpose of this ordinance is to provide for the development and maintenance of the membership roll of the Yurok Tribe, pursuant to Article II of the Constitution of the Yurok Tribe.

SECTION 2. DEFINITIONS

2.1 ADULT. The term “adult” shall mean a person who is 18 years of age or older as of the date of any appointment.

2.2 COUNCIL. The term “council shall mean the Tribal Council of the Yurok Tribe.

2.3 ENROLL. The term “enroll” shall mean the lawful placement of a person’s name upon the tribal roll in accordance with this Ordinance.

2.4 GENDER. The terms “he,” ”his,” ”him,” and the like shall be deemed to include “she,” “her,” etc.

2.5 INDIAN BLOOD. The terms “Indian blood” shall mean the degree of blood stated on the official roll of the Tribe as of November 19, 1993 and in enrollment resolutions. Degree or quantum of blood is determined in accordance with Article II, § 2(b) of the Constitution of the Yurok Tribe, which states as follows: “Possesses at least one-eighth (1/8) degree of Indian blood. Indian Blood is defined as all U.S. Native American Indian or Alaskan Natives.”

2.6 MARRIED. The term “married” shall mean being in the state of matrimony as recognized by the Yurok Tribe or a State.

2.7 TRIBAL MEMBER; MEMBER. The terms “tribal member” and “member” shall mean any person who is or was a duly enrolled member of the Yurok Tribe.

2.8 PARENT OR PARENTS. The term “parent” or “parents” shall mean the biological parent or parents.

2.9 NATURAL PARENT OR PARENTS. The term “natural parent or parents” shall be defined as biological parent or parents

2.10 PARTICIPANT. The term “participant” shall mean the Committee, members requesting a blood degree correction, and applicants or members affected by a proposed correction, who wish to present evidence or argument regarding the correction.

2.11 PREPONDERANCE OF EVIDENCE. The term “preponderance of evidence” shall mean evidence that is superior in weight, importance, or strength, and that is more credible and convincing to the mind than the opposing evidence.

2.12 CLEAR AND CONVINCING EVIDENCE. The term “clear and convincing evidence” shall be defined as clear, explicit, unequivocal, so clear as to leave no substantial doubt, sufficiently strong to command the unhesitating assent of every reasonable man.

2.13 YUROK TRIBAL MEMBERSHIP ROLL, TRIBAL ROLL, ROLL. The term “Yurok Tribal Roll”, “Tribal Roll”, or “Roll” shall mean the list of living members of the Tribe, compiled from the base membership roll as of November 19, 1993 and all subsequent resolutions of the Council concerning the membership or enrollment of members.

2.14 REMAND. The term “remand” shall mean to send or refer back for further action.

SECTION 3. ENROLLMENT COMMITTEE

3.1 ESTABLISHMENT. There is hereby established an Enrollment Committee comprising seven (7) adult members of the Tribe. The Committee shall be appointed by the Chairperson with the advice and consent of the Tribal Council to serve staggered terms to coincide with their respective district council members terms, subject to removal for cause, as determine by the Council’s By-Laws for the Enrollment Committee. Committee members shall take an oath of office, administered by the Chairperson and Vice-Chairperson.

3.2 POWERS. The Enrollment Committee shall exercise the powers and perform the duties assigned to it by this Ordinance, and such other duties as may be assigned to it by the Council to carry out this ordinance. The Committee shall draft for

consideration by the Council, such regulations and forms as necessary to implement this Ordinance.

3.3 RECORDS. The Enrollment Committee shall maintain and safeguard the Tribal Roll and the records and files of this Tribe relating to enrollment. A master copy of the Tribal Roll shall be maintained in a secure location and shall not be removed from the tribal offices at any time. No change shall be made in the Tribal Roll or in the Blood degree of any member except pursuant to written resolution of the Council or this Ordinance. Minutes shall be taken of Committee meetings and a written record shall be kept of actions taken, and all recommendations to the Council made by the Committee. Transcripts or recordings shall be made of all hearings conducted by the Committee, and these shall be permanently maintained.

3.4 REMOVAL FOR CAUSE. An Enrollment Committee members may be removed from their appointment for violation of any of the General Qualifications for Officers as defined in Article III, Section 5 of the Constitution of the Yurok Tribe or for willful neglect of duty, corruption in office, habitual drunkenness, or use of illegal drugs, incompetency, incapability of performing his/her duties or committing any offense involving moral turpitude, or conduct seriously detrimental to the sovereignty or traditions of the Yurok Tribe while in office.

SECTION 4. CRITERIA FOR ENROLLMENT.

As provided in Article II of the Constitution of the Yurok Tribe the membership of the Tribe consists of the following:

4.1 BASE MEMBERSHIP ROLL.

Those persons on the Settlement Roll who made or were deemed to have made an election pursuant to the Yurok Tribal Membership option shall constitute the base membership roll of the Yurok Tribe.

4.2 YUROK TRIBAL MEMBERSHIP ROLL.

After approval of the Yurok Tribal Constitution, a revised Yurok Tribal Membership Roll shall be prepared and periodically updated, that shall include all those persons on the Base Membership Roll and persons who apply for membership and meet the following criteria:

- a) Has a biological parent who is an enrolled member of the Yurok Tribe, and
- b) Possesses at least one-eighth (1/8) degree of Indian Blood. Indian Blood is defined as all U.S. Native American Indian or Alaskan Natives.

4.3 TRIBAL MEMBERSHIP BASED UPON EXTRAORDINARY CIRCUMSTANCES.

In extraordinary circumstances, a person may be determined to be eligible for membership in the Yurok Tribe. For the purpose of this subsection, “extraordinary circumstances” shall be defined to include:

- a) Applicant must possess at least one-eighth (1/8) degree of Indian Blood (as defined in Article II, Section 2), and be
- b) A full or half sibling or and allottee of land on the Yurok Reservation with the same qualifying ancestry, and lineal descendants of such parents, or
- c) Any adopted person whose biological parents (parent) would have qualified, or would have qualified if alive for the Yurok Membership Roll, or
- d) Allottees of the Yurok Reservation, and lineal descendants of such persons, when that applicant and lineal ancestors have not been enrolled members of another Tribe.

SECTION 5. ENROLLMENT ELIGIBILITY; EVIDENCE.

- 5.1 ELIGIBILITY FOR ENROLLMENT. Any applicant for enrollment who is determined by the Enrollment Committee to meet the criteria for enrollment set forth in the Constitution of the Yurok Tribe.

5.2 LIMITATIONS ON MEMBERSHIP.

a) No person who exercised the lump sum buy-out option under 25 USC Section 1300i5(d) shall qualify for membership in the Yurok Tribe.

b) The Yurok Tribe does not allow “Dual Enrollment”. No person who is a member of any other Federally Recognized Indian Tribe, shall qualify for membership or remain in the Yurok Tribe, unless he or she has relinquished in writing his or her membership in such other Tribe.

c) No person who is a lineal descendant of a present or former member of another Tribe and who is without a parent enrolled with the Yurok Tribe shall qualify for membership in the Yurok Tribe.

5.3 BURDEN OF PROOF. The burden of proof shall be upon the applicant To establish every element of his eligibility for enrollment under the Constitution of the Yurok Tribe and this Ordinance, unless otherwise specifically stated herein. Any matter to be proven under this Ordinance must be proven to the satisfaction of the Enrollment Committee or the Council by a preponderance of the evidence.

5.4 ENROLLMENT EVIDENCE. Any relevant evidence may be considered. Acceptable evidence shall include, but not be limited to: Certified copies of birth certificates; baptismal records; 1928, 1950, or 1968 applications for the roll of Indians of California; reservation census rolls; Bureau of Indian Affairs allotment or probate records; marriage licenses; records of state Bureau of Vital Statistics; historical society records; adoption agency records; results of blood tests; welfare certificates; military records; verified statements concerning paternity as defined under Section 6.3 of this Ordinance; newspapers; Hoopa-Yurok Settlement Roll records and court decisions or competent jurisdiction.

SECTION 6. DETERMINATION OF INDIAN BLOOD

6.1 COMPUTATION. The degree or quantum of Indian blood of an applicant shall be determined by adding one-half the degree of Indian blood of each parent.

In the event of a conflict among the roll schedules and enrollment resolutions as to an individual's degree of Indian blood, the most recent tribal resolution regarding enrollment or Indian blood degree possessed shall control.

6.2 MARRIED PARENTS. Where the biological mother or the applicant was married prior to the applicant's birth, there shall be a rebuttal presumption that the mother's husband at the time of the applicant's conception is the biological father of the applicant. The presumption may be rebutted by a preponderance of evidence..

6.3. UNMARRIED PARENTS. Where the biological mother of the applicant was not married prior to the applicant's birth, the applicant's birth certificate showing the name of the claimed or stated father, or a statement signed by the applicant's biological mother naming the father of the applicant or both, shall not be sufficient to establish paternity. The Indian blood degree of the biological father of the applicant may be used to compute the applicant's Indian blood degree when there is proof of paternity which may include the following:

- a) Sworn affidavit signed by the father, or
- b) Birth Certificate signed by the father himself, or
- c) Decree issued by a court of law of competent jurisdiction establishing paternity of a child, or
- d) Blood tests results that are legally acceptable to confirm that the alleged parent is the biological parent of the applicant.

6.4 BLOOD DEGREE CORRECTIONS.

6.4.1 Standing Parties. Only the following may apply to increase or decrease any blood degree presently listed on the roll: Any member who desires to have their own blood degree, as listed on the roll, corrected; provided that in this subsection "member" shall mean the parent or legal guardian of any minor or incompetent member. Where a decrease is proposed the Committee shall endeavor to determine whether any other members will be affected by the correction.

- 6.4.2 Standard of Proof. In all proceedings regarding blood degree corrections, the person seeking a blood degree correction shall be required to prove by clear and convincing evidence that a blood degree other than that listed on the roll, for the person whose blood degree is at issue, is the correct blood degree to be listed on the roll.
- 6.4.3 Procedure. Requests to make a blood degree correction shall be initiated by filing an application and proceedings shall be handled pursuant to Section 9. Such applicants shall clearly indicate the “Blood Degree Correction” is the action requested. Affected members, as determined by the Committee, shall be sent copies of the application by personal service or registered mail and shall be given thirty days to indicate in writing whether they intend to become participants in the proceedings regarding the proposed blood degree correction. Participants who timely respond to the notice shall be given an additional thirty days to present to the Committee any written evidence or argument regarding the proposed change.
- 6.4.4 Copies. An explanation of the subject blood degrees, before and after a correction, shall be contained in the Council resolution on the matter. Copies of resolutions changing a blood degree shall be submitted to the Bureau of Indian Affairs in a timely manner in order that Bureau blood degree certifications conform with tribal records.

SECTION 7. DISENROLLMENT.

7.1 GROUND FOR DISENROLLMENT. All proceedings for disenrollment shall be pursuant to this section:

7.1.1. Fraud or misrepresentation of any evidence, application or data relevant to enrollment eligibility that is presented in connection with his application; or

7.1.2. The person is listed on a final termination roll of another federally recognized Indian tribe or band after November 19, 1993; or

7.1.3. Error; errors will be corrected; or

7.1.4. Receipt of a verified request of an adult member, or guardian of an incompetent member, or the parent or guardian of a minor member, relinquishing membership; provided the verified request is accompanied by satisfactory proof that membership of the incompetent member or minor is being relinquished to permit the enrollment of that incompetent member or minor in another Indian Tribe.

7.2 DISENROLLMENT PROCEDURE. An involuntary disenrollment proceeding may be initiated by the Council only if the grounds for involuntary disenrollment under Section 7.1 have been established. In the case of involuntary disenrollment, the burden of proof shall rest upon the Council, and the member who is the subject of the proceeding shall be given not less than ninety (90) days written notice, by personal service or registered mail, or the hearing before the Committee on the proposed disenrollment. Proceedings shall otherwise be governed by Section 9 of this Ordinance and the Constitution of the Yurok Tribe (November 19, 1993).

SECTION 8. MAINTENANCE OF THE TRIBAL ROLL.

8.1 TRIBAL ROLL. The names of all living members shall be listed on a register, which shall indicate the member's tribal roll number, date of birth, degree of Indian blood, the place of residence and mailing address, and which shall be regularly updated by the Enrollment Committee. The case file and all relevant records of each tribal member shall be securely maintained.

8.2 REGISTER OF FORMER TRIBAL MEMBERS. The names of all former Yurok Tribal members shall be listed on a register that is regularly updated and shall include the names of all individuals who selected the "Buy-Out" option under the Hoopa-Yurok Settlement Act, and all individuals who have been disenrolled pursuant to this Ordinance and the Constitution of the Yurok Tribe. Case files and all relevant records of such individuals shall be securely maintained.

8.3 REGISTER OF DECEASED MEMBERS. The names of members who are deceased shall be removed from the tribal roll upon presentation of an Official Death Certificate or other appropriate documentation, and shall be listed on a register which indicates the date of death. Case files and all relevant records of such individuals shall be securely maintained.

SECTION 9. ENROLLMENT PROCEDURE AND BLOOD DEGREE CORRECTIONS

9.1 APPLICATION FORMS. Application for enrollment or blood degree correction shall be requested by submission of a complete application, on forms approved by the Council. Forms may be obtained from the Enrollment Committee or the tribal offices upon written request or oral request. Each complete application shall contain a statement that the applicant has supplied all relevant data that is intended to be submitted to the Tribe on the issue of enrollment, and a certification sworn to under penalty of perjury that the information contained on the application form and accompanying documents are true and correct to the best of the knowledge and belief of the applicant.

9.2 FILING OF APPLICATION FORMS. Application forms and supporting documents shall be filed with the Committee at the Tribal Office in person or by mail. Appropriate tribal staff shall stamp all application forms with the date on which such forms were filed. A copy shall be made and returned to the applicant. The applicant shall notify the Enrollment Committee in writing of any change in address.

9.3 REVIEW OF APPLICATION BY ENROLLMENT COMMITTEE. The Committee shall review a completed application as soon as is reasonably possible. After any relevant notice periods have expired, and upon review of an application, the Committee shall do the following:

9.3.1 Recommend approval or denial of the application to the Council, in writing, stating the reasons for approving or denying the application, or

9.3.2 Request more information or evidence in support of the application,

or

9.3.3 Set the matter for a hearing.

9.4 COUNCIL ACTION. Following receipt of an application and the recommendation of the Committee, the Council shall approve or deny the application, request more information of the Committee, or remand an application to the Committee for a hearing. In general, enrollment matters shall be taken up as needed.

5.2.1 The factual basis for the Committee's recommendation shall not be reopened by a participant before the Council without showing, as described in Section 11, that the participant has available for immediate presentation certain evidence which could not with reasonable diligence have been presented to the Committee, or that this Ordinance has been violated.

5.2.2 Within 30 days of making a decision, the Council shall notify the applicant and any participant by personal service or registered mail of its decision.

5.2.3 The Council's decision to approve or deny an application shall be final, subject to Section 10.

9.5 EFFECTIVE DATE OF COUNCIL ACTION. Upon enactment by the Council of a resolution approving enrollment, a new member shall be entitled to exercise tribal rights on the effective date of the resolution.

SECTION 10. HEARINGS, REMANDS AND APPEALS.

10.1 COMMITTEE HEARING PROCEDURE. A participant wishing a hearing must request one in writing within 30 days after being notified by personal service or by registered mail of the Committee's recommendation to deny an application. The 30 days will begin from the date of the applicant's signed receipt of notice. The participant's may present witnesses and other evidence and be represented by counsel at participant's own expense. The hearing will be presided over by the Chairman or Vice-Chairman of the Committee. The Committee may be advised by counsel at the hearing. Formal rules of evidence need not be followed, but the burden of proof remains on the applicant, except in disenrollment proceedings. At the end of the hearing, the Committee may make an immediate decision regarding a recommendation or take the matter under advisement for

up to 30 days before making a decision. The Committee shall notify the participant 30 days prior to making its recommendations to Council.

10.2 NOTICE. When a participant requests a hearing by the Committee, or when the Committee or Council sets a matter for a hearing, the participant shall be given written notice of hearing, by personal service or by registered mail, not less than 30 days before the hearing. The notice shall contain the reason for the hearing, describe evidence to be presented, and shall advise the participant of the right to be represented by counsel at the participant's own expense and to present witnesses and other evidence. The Committee may be represented by counsel for the Tribe.

10.3 REMAND. Upon granting a petition under Section 9.4, the Council shall remand the application to the Committee for reconsideration upon any newly-discovered evidence and the previous record. A remanded application shall be treated as if it were an original application.

10.4 APPEALS. The decision of the Council to approve or deny an application, or to deny a petition to reopen, is final, except that the Tribal Court of the Yurok Tribe shall have jurisdiction to hear all appeals of enrollment, disenrollment, or blood degree correction decisions when that court is established.

SECTION 11. REOPENING THE APPLICATION.

Pursuant to Section 9.4 a participant may petition the Council, in writing, to reopen an application on the following grounds:

11.1 Newly discovered, substantial, credible evidence that is material to the application, which the participant could not with reasonable diligence have discovered and given to the Committee; or

11.2 A violation of the Constitution or this Ordinance occurred in the processing of the application.

SECTION 12. EFFECTIVE DATE, AMENDMENT

This Ordinance shall be effective from the date enacted by the Tribal Council. This Ordinance may be amended as provided in the Constitution (Article IV, Sec. 5 (j)).