

**TRIBAL CODE**

**CHAPTER 11:**

**MEMBERSHIP ORDINANCE**

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HISTORY NOTE:

Current Ordinance:

Revised Membership Ordinance, adopted by Board motion on December 19, 1990.

Reenacted in Tribal Code format as part of the Tribal Code July 5, 1995, Resolution No. 95-89, effective immediately.

Amendments:

Tribal Resolution 2018-104, adopted May 1, 2018, adding §11.111(4), Member-Veteran Identification cards.

Tribal Resolution 2018-41, adopted March 6, 2018, amending §11.112(5), no fee for card if defective magnetic strip.

Tribal Resolution 2016-254, adopted November 1, 2016, amending §11.103(2) by adding (f) and §11.115(3), by adding (a), (b), (c), and (d).

Tribal Resolution 2016-212, adopted August 16, 2016, amending §11.112(1), youth tribal identification cards.

Tribal Resolution 2014-194, adopted November 4, 2014, amending §11.115(2) deleting number 18 and replacing it with number 21.

Tribal Resolution 2011-216, adopted October 11, 2011, amended the ordinance by adding Sections 11.105 (2), 11.111 (2) and (3) and 11.115(2) and (3), and rewording and amending Sections 11.106, and 11.113, and deleting section 11.107.

Tribal Resolution 99-165, adopted December 7, 1999, amended the ordinance by adding to '11.108 sub section (3), '11.109 renumbered as '11.110 adding a new '11.109, "11.110 through 11.114 renumbered as "11.111 through 11.115, '11.110(4) amended, '11.114 (1) amended.

Resolution 99-26, adopted March 16, 1999, amends '11.111 (1) Membership cards.

Resolution 97-87, adopted October 7, 1997, amends '11.111 Processing Charge. Tribal Resolution 95-71, adopted June 6, 1995, amended " 11.103(1), 11.109, and 11.112.

Tribal Resolution 4-28-92E, adopted April 28, 1992, amended the ordinance by adding '11.106(4).

Resolution 93-81, adopted July 24, 1993, amended '11.104, 11.106, 11.107, 11.109 (3)-(5), 11.110(2), 11.111, 11.112(3), (5)-(7), and 11.113(5).

Resolution 96-146, adopted December 3, 1996, amends '11.112 Adoption.

#### Prior Ordinances and Amendments:

Resolution No. 5-22-75C, adopted May 21, 1975, established a membership fee schedule.

Tribal Ordinance No. 2, Membership Ordinance, was adopted as an interim measure by Board motion on September 8, 1975. It was made a permanent ordinance on September 14, 1976.

Resolution 12-07-77C, adopted December 7, 1977, amended the ordinance to establish the position of Interim Registrar to perform the functions of the disbanded Membership Committee.

Resolution No. 4-13-77H, adopted April 13, 1977, changed the number of Membership Committee members.

Resolution No. 1-11-78A, adopted January 11, 1978, adopted the Amended Membership Ordinance.

Resolution No. 1-11-78B, adopted January 11, 1978, closed the tribal membership roll for a one year period from April 1, 1978, through March 31, 1979, for preparation of an official roll for BIA. During this period and subsequent periods when the roll was closed, the Board approved membership on an individual hardship basis. The membership roll was reopened by Board motion on March 28, 1979.

The Amended Membership Ordinance was amended several times. Board motion on February 22, 1978, changed the composition of the Membership Committee. Resolution No. 3-22-78B, adopted March 22, 1978, changed provisions regarding membership documentation. Board motion of January 28, 1981, provided for Membership/Adoption Committee review of hardship enrollment cases.

Resolution No. 11-28-79B, adopted November 28, 1979, closed the membership roll on February 1, 1980, until a roll could be submitted to the BIA.

Resolution No. 8-19-80A, adopted August 19, 1980, opened the roll for the limited purpose of enrolling children involved in ICWA proceedings.

A new Membership Ordinance was adopted by Board motion on February 25, 1981. It was amended by Tribal Resolution No. 2-07-89, adopted March 9, 1989, to change the adoption procedure.

Various fees for enrollment and other Enrollment Department services were established by Resolution 2-24-82H, adopted February 24, 1982; Board motion of March 24, 1982; and Board motion of April 28, 1982.

The Board by motion on September 21, 1983, established a blood quantum assumption for names with "red checks" on the Durant Roll.

The Board by motion on October 1, 1983, reopened the Tribal membership roll.

# TRIBAL CODE

## CHAPTER 11:

### MEMBERSHIP ORDINANCE

#### 11.101 Tribal Registrar.

There shall be created the office of the Tribal Registrar, who shall have the duties specified in this Chapter, and approved by the Tribal Board of Directors. The Tribal Registrar may be removed from office by the Tribal Board of Directors at their discretion.

#### 11.102 Membership/Adoption Roll.

(1) The Tribal Registrar shall have the duty of maintaining a current membership roll in which shall be listed all persons who are members of the Sault Ste. Marie Tribe of Chippewa Indians, whether by enrollment or adoption. The roll shall contain, for each person, a roll number, name, address, sex, date of birth, degree of Chippewa blood, total degree of Indian blood, and in the remarks column, name and degree of relationship of the ancestor or ancestors through whom eligibility was established.

(2) Information contained in the membership files of the Tribe is confidential. It shall be released only pursuant to this Chapter or to any subsequent resolution of the Board of Directors. Membership information contained in individual membership files may be used by the Tribal offices in the normal course of business. It may be released to agencies of the Federal government for the purposes of establishing an approved Tribal roll, or in support of an application of the individual for a Federal program if the information is necessary to prove the individual's eligibility for the program.

#### 11.103 Enrollment Committee.

(1) There shall be established a Special Needs/Enrollment Committee, which shall be composed of the Tribal Registrar as ex-officio, twelve members appointed by the Board of Directors, and the Enrollment Secretary acting as Recording Secretary . District one (1) shall have five representatives, district two (2) shall have two representatives, district three (3) shall have two representatives, district four (4) shall have two representatives, and district five (5) shall have one representative. In the event that no interested parties are available, members will be appointed at large. The Tribal Registrar shall be a member of the Tribe, appointed by the Board of Directors. All other Committee persons shall be Tribal members. The members of the Special Needs/Enrollment Committee may be removed by the Board of Directors for good cause.

(2) The duties of the Special Needs/Enrollment Committee shall include, but not be limited to:

- (a) to receive and process applications for membership;
- (b) to investigate applications and the documentation furnished with them;
- (c) to enroll applicants eligible for membership and adoption;
- (d) to establish and certify blood quantum of members; and
- (e) to notify rejected applicants of the reasons for their rejection.

(f) to create and administer procedures governing the proper methods and standards in the acceptance and review of DNA evidence, including selecting acceptable testing centers.

(3) A Chairperson shall be elected from within the Committee and sanctioned by the Board of Directors. The Committee shall meet monthly or whenever deemed necessary by the Chairperson. The Committee shall establish its own rules governing its meetings and procedures for processing applications for membership, subject to approval by the Board of Directors.

(4) It shall be the responsibility of the Registrar and Tribal Chairperson to sign all membership cards issued by the Special Needs/Enrollment Committee, or the Board of Directors on appeal.

#### **11.104 Application Process.**

(1) All persons not on the membership roll of the Sault Ste. Marie Tribe of Chippewa Indians on the date of adoption of this ordinance who wish to apply for membership by enrollment shall submit a written application upon such forms as shall be approved by the Registrar. Said forms shall be available from the Tribal Registrar upon request, and shall be submitted to the Special Needs/Enrollment Committee for processing.

#### **11.105 Membership by Enrollment.**

(1) All persons who meet the requisites for membership set forth in Article III, Section 1 (a), (b) or (d) of the Tribal Constitution shall be eligible for membership by enrollment.

(2) All persons who are descended from individuals listed as members of the Traverse Band of Indians on the Durant Roll or the 1870 Census Roll, whose names appear on the Tribal membership roll on March 1, 1978, or who were prior to that date members of the Tribe and were denied renewal of their membership due to their status as Traverse Band descendants during the year prior to that date, and the descendants of these people, are eligible for membership by enrollment.

(3) The Special Needs/Enrollment Committee shall recognize that the historical bands have been treated under different names at different times. Eligibility for membership by enrollment shall be as set forth in 11.106.

(4) All persons seeking membership by enrollment shall file an application together with required documentation of ancestry and such additional proof that the applicant shall deem helpful. The burden of proof that the applicant meets all membership requirements shall be upon the applicant. Failure to supply sufficient proof of eligibility will be deemed cause for rejection.

(5) The Enrollment Department shall promptly examine the application to determine whether the requisites for membership have been sufficiently established. The Enrollment Department may request additional information or documentation from the applicant, and it may conduct investigations of its own. If the Enrollment Department is satisfied that the applicant has sustained his burden of proof that he meets the requisites for membership by enrollment, the Tribal Registrar shall enroll the applicant. If the Registrar is not satisfied, it shall reject the application and shall promptly furnish to the applicant written reasons for the rejection, along with notice of the applicant's right to apply for adoption and to appeal the rejection to the Special Needs/Enrollment Committee.

(6) The applicant who is rejected shall have the right to file an appeal with the Special Needs/Enrollment Committee, as provided in this subsection.

(a) The appeal shall be instituted no later than thirty (30) days after the mailing of the rejection of the application.

(b) The appeal shall be instituted by filing a letter requesting a hearing with the Secretary of the Special Needs/Enrollment Committee at its next regular meeting, or at a special meeting, according to the wishes of the Committee.

(c) The appeal shall be heard by the Special Needs/Enrollment Committee. The evidence presented at the hearing, together with all documentation submitted to the Registrar, shall constitute the record on appeal.

(d) The appealing applicant, if requested, shall be present at the hearing and shall be entitled to present arguments. The Registrar shall also be present and shall report on the reasons for rejection of the applicant.

(e) The applicant who is rejected shall have the right to appeal to the Board of Directors within thirty (30) days of the rejection of the appeal by the Special Needs/Enrollment Committee. Whether or not to hear the appeal will be left to the Board's discretion. The decision of the Board of Directors shall be final, and there shall be no further appeal of the same application.

### **11.106 Proof of Ancestry.**

(1) An applicant for membership by enrollment shall furnish the Enrollment Department with documented proof of ancestry tracing the individual back to a person listed on a historic roll, census or record of the Sault Ste. Marie Chippewa Indians.

(2) Documents of ancestry shall include birth certificates, death certificates, marriage licenses, baptismal certificates or other church records and court records.

(3) An applicant shall be regarded as tracing his ancestry to a census, roll or record of the historical bands of the Sault Ste. Marie Chippewa Indians if he traces ancestry to a person listed as a member of the Grand Island, Point Iroquois, Sault Ste. Marie, Garden River, Sugar Island, Drummond Island or Mackinac Bands of Indians on:

(a) the Durant Roll of 1907; or

(b) the 1870 Census and Annuity Payment Record for the Ottawa and Chippewa Indians of Michigan; or

(c) the Garden River Annuity Paylist for years 1846 through 1925; or

(d) records concerning land allotments, including patents to the Sault Ste. Marie Chippewa Indians, or payments of grants or awards; or

(e) any judgment award roll prepared in connection with the distribution of the judgment fund awarded for lands ceded by the Treaty of 1836.

(4) An applicant shall be regarded as tracing his ancestry to a census, roll or record of the historical bands of the Sault Ste. Marie Chippewa Indians if he traces ancestry to a person listed on the Garden River Church Records for years 1856 through 1935.

(5) In certifying blood quantum the members who trace ancestry to persons listed on the Durant Roll of 1907, the Enrollment Department shall disregard any red check marks appearing on said Roll and shall establish blood quantum without reference to red check marks.

(6) In certifying the blood quantum of members who trace ancestry to persons listed on any eligible roll or document the blood quantum of that ancestor shall be considered to be full blood.

#### **11.108 Canadian Ancestry.**

(1) Canadian ancestry shall not affect eligibility for membership by enrollment or adoption, provided that all other requisites are met. It shall have no effect on eligibility for membership that the applicant's ancestors sold or otherwise relinquished their Indian status to the Canadian government. Any individual of Canadian heritage who personally sold his/her rights shall not be allowed membership.

(2) A female who is enrolled or eligible for enrollment with the Tribe does not lose membership upon marriage to a member of a Canadian Tribe or Band, notwithstanding the fact that she may gain rights in her husband's Tribe or Band by virtue of marriage.

(3) This provision shall be applicable only for the duration of the marriage.

#### **11.109 Dual Enrollment.**

(1) No person shall be enrolled in the Tribe if the person is enrolled with any other tribe or band of North American Indians except as provided in Section 11.108 or this section.

(2) A person who is enrolled with the Tribe and with another tribe or band of North American Indians shall not lose tribal membership until a disenrollment hearing is held.

(3) The disenrollment hearing shall first be convened by the Special Needs/Enrollment Committee. The Committee shall provide the person with written notice of the reason for the proposed disenrollment. The person has the right to be present and to provide arguments on the person's behalf.

(4) At the hearing the Committee shall determine if the person is in fact enrolled with another tribe or band of North American Indians. If so, the person shall be disenrolled from the Tribe.

(5) Upon conclusion of the disenrollment hearing, the Committee shall submit a written recommendation, together with the proposed grounds for any disenrollment, to the Board of Directors. A copy shall be provided to the person who is the subject of the recommendation. The Board of Directors shall, if requested by the person involved, hold a second disenrollment hearing. The person has the right to be present at the hearing and to provide arguments.

(6) Any minor child who otherwise meets the membership criteria of Article III of the Tribal Constitution shall be and remain enrolled in the Tribe notwithstanding the fact that the child may be enrolled in another tribe or band. Upon reaching the age of 18, the child shall be notified in writing by the Enrollment Department that the child must choose whether to remain a member of the Tribe and relinquish membership in the other tribe or band. The notice shall provide a reasonable time within which to accomplish the relinquishment and to provide documentation to the Enrollment Committee. If the child fails to relinquish membership in the other tribe or band within the time allowed, the Enrollment Department shall begin disenrollment proceedings as provided in this section.

(7) The following provision shall apply to persons who are enrolled in the Tribe and another tribe or band on December 7, 1999. It shall not apply to persons who become enrolled in another tribe or band after that date.

(a) At the hearing the Committee shall determine if the person is in fact enrolled with another tribe or band of North American Indians. If so, the Committee

shall then determine whether by operation of tribal or federal law the person is prohibited from relinquishing membership in the other tribe or band. If such relinquishment is not prohibited, the person shall be disenrolled unless the person relinquishes membership in the other tribe or band within a reasonable period of time set by the Committee.

(b) If the person is prohibited from relinquishing membership in the other Tribe or band, the person shall be disenrolled unless the person submits a notarized letter of relinquishment in the other tribe or band, in a form acceptable to the Committee, within a reasonable period of time set by the Committee. A copy of the letter, together with proof of service upon the other tribe or band, shall be provided to the Tribal Registrar. The letter shall include a provision forfeiting any and all benefits from the other tribe or band.

(c) No person who has submitted a letter of relinquishment under this section shall receive or accept any benefit or services from, or participate in any governmental activities of, the other tribe or band. A violation of this subsection shall be grounds for disenrollment under Section 11.110.

#### **11.110 Loss of Membership.**

(1) A member who has failed to document his ancestry as required by '11.106 shall not be granted a renewal of membership, and the name of such person shall be removed from the Tribal Roll.

(2) A legally competent adult member of the Tribe may relinquish that member's membership in the Tribe by furnishing a signed statement to that effect to the Registrar and appearing before the Board of Directors to state the reason for the relinquishment. The Registrar shall maintain a record of the relinquishment and remove the name of the member from the Tribal Roll. A relinquished member shall not be re-enrolled in the Tribe. A minor child enrolled under a parent shall not be removed from the Tribal Roll upon relinquishment by the parent, but shall remain enrolled.

(3) Minor children's memberships shall be retained in the Tribe when the child's parent(s) relinquishes his or her own membership even though the parent may choose to enroll his or her minor child with another federally recognized tribe or band. Upon reaching the age of 18, the child shall be notified in writing by the Enrollment Department requesting that the Tribe be informed of which tribe or band the child wishes to maintain their membership with.

(4) A member may lose membership by disenrollment by the Board of Directors if it is proven to the satisfaction of the Board that the individual is not entitled to Tribal membership. The question of disenrollment shall be considered by the Board at a hearing held for that purpose after written notice to the individual of the reasons for the proposed disenrollment. The member shall be entitled to be present at the hearing and to present arguments in his behalf. The burden of proof for removal of a member whose ancestry has been fully documented pursuant to '11.106 shall be on the person seeking removal.

(5) An individual who loses Tribal membership under sub. (1), (2) or (4) has no further association with the Tribe and loses all right, title, and interest which he has, if any, in Tribal property or assets, and all rights or privileges derived from Tribal membership, if any.

(6) Before instituting disenrollment procedures, the Registrar shall consider whether adoption is recommended pursuant to '11.112.

#### **11.111 Identification Cards.**

(1) The Registrar shall issue an identification card to each member upon enrollment. The identification card shall contain such information as the Board of Directors or the Registrar shall require.

(2) Renewal of identification cards of persons who have fully documented ancestry shall be automatic upon request and filling out of any form required by the Registrar.

(3) One six-month renewal of an identification card shall be granted to individuals who have not completely documented their ancestry pursuant to Section 11.106, during which time such persons shall either document their membership in full or be processed for Loss of Membership pursuant to Section 11.110.

(4) Any member, who has served in and who has been honorably discharged from any branch of the Armed Forces of the United States shall be entitled to a designation of their status as a Military Veteran on the face of their membership card. In order to establish eligibility for this designation, the member shall present appropriate documentation such as a copy of their Form DD-214, DD-215, DD-256, NGB-22, or NGB-22-a. Any Honorably Discharged Tribal Member shall be entitled to receive their first issuance of a Member – Veteran identification card free of charge following their honorable discharge or the enactment of this subsection.

#### **11.112 Processing Charge.**

(1) Membership cards shall be for a period of four years and shall expire on the member's birthday. Membership cards issued to any member under the age of eighteen shall not expire pursuant to the preceding but rather shall automatically expire on their eighteenth birthday.

(2) Members fifty-five (55) years of age or older and the permanently handicapped may receive a lifetime card.

(3) In the case of an indigent person, any charges may be waived by the Special Needs/Enrollment Committee after such consultation as the committee deems appropriate.

(4) All persons over the age of 18 requesting membership who have not been previously enrolled will be subject to the \$25.00 new member application fee as provided in '11.104(2)(a).

(5) A replacement fee of Twenty (\$20.00) dollars will be assessed for all unexpired membership cards that are lost, misplaced, or stolen, except no charges shall be assessed to replace membership cards which must be replaced solely due to defective or malfunctioning magnetic strips on the back.

### **11.113 Adoption.**

(1) Any Indian person who lives within the Tribe's service area and has substantial contacts with the Tribe, such as social and economic ties, may be adopted into membership in the Tribe pursuant to this section.

(2) To be adopted into membership, an Indian person must do each of the following:

(a) Submit three affidavits from members of the Sault Ste. Marie Tribe of Chippewa Indians who are not family members of the applicants attesting to the fact that the applicant is an Indian Person.

(b) Trace their Indian ancestry to one of the following documents:

(i) the Durant Census Roll of 1907; or

(ii) the 1870 Census and Annuity Payment Record for the Ottawa and Chippewa Indians of Michigan; or

(iii) the Garden River Annuity Paylist for years 1846 through 1925;

or

(iv) the Garden River Church Records for years 1856 through 1935;

or

(v) records concerning land allotments, including patents to the Sault Ste. Marie Indians, or payments or grants or awards; or

(vi) any judgment award roll hereafter prepared in connection with the distribution of the judgment fund awarded for lands ceded by the Treaty of 1836; or

(vii) any other documents from Canadian Reserves.

(c) Prove residency in the Sault Ste. Marie Tribe of Chippewa Indians service area.

(d) List any family member enrolled in the Sault Ste. Marie Tribe of Chippewa Indians.

(e) State the reason for adoption.

(f) State any expected benefits.

(g) State any current or past membership in any other tribe or band.

(h) State whether the applicant ever relinquished membership from the Sault Ste. Marie Tribe of Chippewa Indians.

(3) The Special Needs/Enrollment Committee may waive the requirement to prove Indian Ancestry if the applicant is known in the community as Indian but can not locate any documents to prove ancestry. If the Special Needs/Enrollment Committee waives this requirement, the applicant must provide seven affidavits from members of the Sault Ste. Marie Tribe of Chippewa Indians.

(4) The Registrar shall process applications for adoption and shall report to the Special Needs/Enrollment Committee on each application.

(5) Adoptions shall be considered by the Special Needs/Enrollment Committee on an individual basis. The applicant and other interested members may participate in the hearing.

(6) Recommendations of the Special Needs/Enrollment Committee shall be submitted to the Board of Directors.

(7) Adoptions shall be done by a majority vote of a quorum of the Board of Directors.

(8) Adoptees shall have the full rights of membership in the Tribe, except that those who do not trace ancestry to a signatory Band of the Treaty of 1836 shall not exercise treaty fishing rights or participate in any per capita distribution of the Tribal land claims judgment funds.

(9) No adoptee shall be eligible to hold office as Chairman or member of the Board of Directors.

#### **11.114 Enrollment of Members of Other Tribes.**

(1) Persons who are eligible for enrollment in the Sault Ste. Marie Tribe of Chippewa Indians who are or have been members of another tribe or band of North American Indians prior to applying for membership in the Tribe (hereafter, "members of other tribes") are subject to the provisions of this section.

(2) A member of another tribe shall may apply for membership in the Tribe by submitting the standard enrollment application. Documentation of eligibility required by this Chapter shall be provided to the Tribal Registrar, together with evidence of relinquishment or conditional relinquishment of membership in the other tribe. A conditional relinquishment is a relinquishment which is effective only upon enrollment in another tribe.

(3) The Registrar shall investigate said application and report to the Special Needs/Enrollment Committee. The Committee shall review the application on an individual basis, according to its own procedures. The applicant may participate in the hearing. The Committee shall consider the applicant's reasons for disenrollment from the other tribe, social and economic ties to the Tribe, and other relevant considerations. The Committee shall make a recommendation regarding enrollment to the Board of Directors.

(4) For purposes of this section, relinquishment and conditional relinquishment do not include relinquishment or membership rights of minors executed by parents or guardians. Such minors retain the rights of enrollment unless they exercise rights of membership in other tribes.

(5) Enrollment of members of other tribes shall be done by a majority vote of a quorum of the Board of Directors.

(6) Upon their enrollment, members enrolled under this Section shall enjoy rights of enrollment, except that they shall not be eligible to hold elective office in the Tribe.

#### **11.115 Roll Closure.**

(1) The Board of Directors may close the Tribal Roll to new applicants from time to time by resolution. A closure pursuant to this section prevents the filing of new applications but allows the processing of applications on file with the Registrar on the date of closure.

(2) In the event that the Board of Directors elects to close the Tribal Roll, the enrollment of biological children of fully documented members pursuant to Section 11.106, shall continue to be permitted prior to the date on which the child turns 21 years old.

(3) From time to time the Board of Directors may elect to close the Tribal Roll. During these periods of closure, certain persons may continue to be enrolled, despite having passed the age of 21. The persons so permitted shall be limited to:

(a) persons unable to provide conclusive proof of ancestry prior to the age of 21 due to the fact that their own child custody or adoption records were sealed by order of a court and, as a result of not having access to those records, the person was unable to provide the needed documentation to establish membership under 11.106 prior to the unsealing of the records; or

(b) persons who trace ancestry to the tribe through a parent which was not listed on their birth certificate or acknowledged in fact or through court proceedings, or through a custody order, a child support order, or other proceeding which should have made the person aware of their ancestry prior to the age of 21 (in these cases, the applicant must obtain DNA proof of parentage through that parent to a scientific level of certainty 99.99% or greater, and shall further seek to have their birth certificate amended to correctly list as their parent the person proven by DNA to be their genetic parent); or

(c) persons who have been placed outside the home of their parents who were unable to gain access or knowledge about their Sault Tribe ancestry prior to turning 21; or

(d) direct lineal descendants of those persons enumerated in (a), (b), or (c), above, alive as of date upon which the enrollment of the person is finalized provided that all such lineal descendants must apply within one (1) year of the related person enrolled pursuant to (a), (b), or (c), above.