

**TRIBAL COUNCIL OF THE NORTHERN CHEYENNE TRIBE
NORTHERN CHEYENNE RESERVATION
LAME DEER, MONTANA**

ORDINANCE NO. DOI-_____ (2018)

**AN ORDINANCE OF THE NORTHERN CHEYENNE TRIBAL COUNCIL APPROVING
AND ESTABLISHING THE FOLLOWING REGULATIONS GOVERNING THE
ENROLLMENT OF INDIVIDUALS ELIGIBLE FOR MEMBERSHIP, CURRENT
MEMBERSHIP AND THE LOSS OF MEMBERSHIP.**

WHEREAS, the Northern Cheyenne Tribal Council is the governing body of the Northern Cheyenne Indian Reservation by authority vested in it pursuant to the Amended Constitution and Bylaws of the Northern Cheyenne Tribe as approved by the Secretary of the Interior on May 31, 1996; and

WHEREAS, Article II of the Northern Cheyenne Amended Constitution and Bylaws authorizes the Northern Cheyenne Tribal Council to promulgate ordinances covering future membership including adoptions and the loss of membership; and

WHEREAS, the Northern Cheyenne Tribal Council is authorized under Article IV, Section 1 (m) of the Amended Constitution and Bylaws of the Tribe to administer charity and to protect the health, and general welfare of the Tribe; and

WHEREAS, the Northern Cheyenne Tribal Council is empowered under Article IV, Section 1 (s) to delegate to subordinate boards or officers or to cooperative associations which are open to all members of the Tribe any of the foregoing powers, reserving the right to review any action by virtue of such delegated powers; and,

WHEREAS, the Northern Cheyenne Tribal Council recognizes the need to update and replace the current tribal enrollment ordinance, due to paternity issues, DNA testing, confidentiality, office automation and new technologies, and changing federal, state and tribal laws, and has reviewed the new Tribal Enrollment ordinance; and,

NOW THEREFORE BE IT ORDAINED, that the Northern Cheyenne Tribal Council hereby approves and establishes the following regulations governing the enrollment of individuals eligible for membership, current membership and the loss of membership; and

BE IT FURTHER ORDAINED that the Northern Cheyenne Tribal Council sets forth this ordinance and can only be amended, rescinded or repealed only by an affirmative vote of two-thirds (2/3) of the Tribal Council; and,

BE IT FINALLY ORDAINED that the Northern Cheyenne Tribal Council hereby repeals and rescinds Ordinance No. 4 (85) and Ordinance 3 (90) and hereby repeals and rescinds in whole or in part any resolutions or ordinances that may conflict with this ordinance.

Northern Cheyenne Tribal Enrollment Ordinance

This ordinance is enacted pursuant to the authority contained in Article II, Section 2, of the tribal Constitution. This ordinance governs current membership, future membership and loss of membership into the Northern Cheyenne Tribe.

SECTION I. DEFINITIONS

Adoption Child into a Family – Legal action whereby parental rights of natural parents are terminated by court order and assigned to another.

Into Membership – Granting tribal membership to a person who does not meet the “automatic” eligibility requirements for enrollment. Adoption requires approval from the governing body. There is no appeal if adoption is denied.

Applicant A person who seeks to be enrolled in the tribe and whose name is on the application.

Burden of Proof The duty to positively prove a fact (or set of facts) in dispute. The membership applicant has the burden of proof in demonstrating eligibility.

Collateral Relatives Descendants from the same ancestor, but not from one another, namely aunts, uncles, brothers, sisters, cousins, etc.

Dis-enrollment An affirmative action by the tribe to deprive a member of right to tribal membership.

Dual Enrollment Membership in more than one tribe.

Enrollment Committee An official group established by the Tribal Council for the purpose of regularly reviewing enrollment applications and recommending whether they should be approved or rejected.

Guardian One who has the care of a person or property of another.

Lineal Descendant The direct issue of an ancestor, children of parents or grandparents who are tribal members. Collateral relatives such as aunts, uncles, brothers, sisters, etc., are not considered lineal descendants.

Relinquishment of Membership Personal action by a tribal member to sever his tribal relationship.

SECTION II. THE MEMBERSHIP OF THE TRIBE SHALL CONSIST OF THE FOLLOWING:

1. Base Roll:

- a) All persons of Northern Cheyenne Indian blood whose names appear on the official census roll as of January 1, 1935, provided that by January 1, 1962, corrections shall be made in said roll by the Tribal Council, subject to approval of the Secretary of the Interior. Base Roll membership does not necessarily constitute current membership in the Tribe.

2. Current Membership Roll:

- a) Each person of one-half (1/2) or more Northern Cheyenne Indian blood, regardless of residence, born heretofore or hereafter to any member or descendant of a member of the Northern Cheyenne Tribe whose name was or is on the census roll referred to in Section 1(a) shall automatically be entitled to membership in the Northern Cheyenne Tribe. or;
- b) All children heretofore born to any member of the Northern Cheyenne Tribe who was a resident of the Northern Cheyenne Indian Reservation at the time of the birth of said children. or;
- c) The lineal descendants of persons listed on the Base Roll listed in Section II.1a) of this Article, providing they possess a minimum of 1/4 Northern Cheyenne blood. or;
- d) All children hereafter born to an enrolled male member of the Northern Cheyenne Tribe shall be entitled to membership in the Northern Cheyenne Tribe.

3. Adoptions:

- a) **Procedure for Adoption.** No person has an absolute right or entitlement to be adopted into membership in the Northern Cheyenne Tribe, regardless of whether or not an applicant meets the requirements and considerations set out below. Adoption into the tribe is at the absolute and exclusive discretion of the Northern Cheyenne Tribal Council. Any person desiring to be considered for adoption into the Northern Cheyenne Tribe shall submit to the enrollment staff a completed application upon a form provided by the enrollment office. The Tribal Council will render a decision and document their ruling with the enactment of an adoption ordinance.
- b) **Requirements for Adoption.** An applicant must satisfy the following requirements in order to be considered for adoption:
 1. The applicant has 1/4 or more Indian blood;
 2. The applicant is related by blood, marriage or legal adoption to a current or past member of the Northern Cheyenne Tribe.
- c) **Considerations for Adoption.** The Council, with the advice of the enrollment committee, shall consider the following factors prior to making a decision:
 1. Traditional practices of the Northern Cheyenne Tribe will be considered.
 2. Residency. The applicant resides on the Northern Cheyenne Tribe and has participated in the Northern Cheyenne Indian Reservation for at least three years immediately prior to submitting the application for enrollment.
 3. Benefit to the Community. The applicant has been or will likely be a benefit to the Northern Cheyenne Tribal Community by virtue of his/her deeds, actions or status.
 4. Moral Character. The applicant should be of good moral character. Such things as reputation in the community, conviction of felony offenses or offenses involving dishonesty or any other relevant factors may be considered.
 5. Intent. There exists the likelihood that the applicant will be an active participating member of the Northern Cheyenne Tribal Community for the duration of his/her membership.
- d) **Benefits.** The Tribal Council on a case by case basis will determine which of the following benefits the adopted member will receive:
 1. Full Benefits
 2. Partial benefits
 3. No benefits

SECTION III. SPECIAL CONDITIONS

1. Currently enrolled members will retain full membership.
2. Dual enrollment is prohibited. If he or she is enrolled in more than one tribe, the individual must decide in which tribe he/she wishes to be enrolled. Any tribal member or applicant who otherwise qualifies for membership but who is or has been enrolled as a member of another Federally Recognized Indian tribe, Band, Pueblo or Indian Nation of the United States may be enrolled as a member of the Northern Cheyenne Tribe providing they relinquish their membership from all other Federally Recognized Indian Tribes, Bands, Pueblos and Indian Nations of the United States within thirty (30) working days of notification by certified mail, return receipt requested. In the case of a minor or incompetent the parent having custody, or the guardian makes the selection.
3. Applicants that have exhausted all avenues for membership and have been rejected for membership may file a new application only if they meet one of the following requirements:
 - a) They have documented evidence that supports their new claim to membership.
 - b) The constitutional criteria for membership have changed since their last application
4. Referendum Vote. At least 10 percent of the registered voters from each district must sign a petition to demand a referendum vote on any tribal adoption of an individual or the elimination of an individual from the tribal roll. The vote of the majority of the qualified voters voting in such a referendum shall be conclusive, provided at least 30 percent of the eligible voters vote in such a referendum.

SECTION IV. DNA TESTING

1. All applicants for membership and biological parents or parent must comply with DNA testing, and failure to do so will result in the disqualification of the applicant(s) in question. The cost of any DNA testing required under this subsection will be paid by the applicant, or the parent(s) or guardian(s) of any minor applicant. All required DNA testing shall be conducted at an American Association of Blood Banks (AABB) certified facility approved by the Enrollment Committee.
 - a) The purpose of DNA testing is to definitively determine biological parentage. In exceptional cases, to determine the blood relationship to collateral relatives.
2. Parent to child testing must be in the 99 percentile of certainty
3. In case by case circumstances, collateral DNA testing can be utilized, such as deceased parent(s) or sealed adoptions.
4. Collateral DNA testing must be in the high percentile of certainty 70% or higher.

SECTION V. THE ENROLLMENT COMMITTEE

1. The Tribal President shall appoint, Tribal Council concurs, by resolution an Enrollment Committee comprised of five (5) tribal members, one from each district, who are not members of the Tribal Council and who shall have the responsibility of reviewing all applications and present them for council approval and recommend to the council approval or rejection. This committee has the authority to require the applicant to furnish such evidence or proof as the committee deems necessary.
2. The enrollment committee shall meet monthly. Special or emergency meetings can be held on a case by case basis. Terms to run concurrent with the President's term.
3. Enrollment committee members shall be compensated at the compensation rate set by the Tribal Council according to an annual budget which shall be provided by the Tribal Council for the committee.

SECTION VI. WHO MUST FILE

1. All persons not listed on the membership roll of the Tribe as of the effective date of this ordinance, who request membership in the Tribe, must file an enrollment application. Parents, guardians, or other sponsors such as social workers may file applications for minors or incompetents. No one will be considered for enrollment unless the individual or a sponsor has filed an enrollment application on an approved form supplied by Tribal Services.
 - a) An application for enrollment shall be filed with Tribal Services
 - b) All applications must be notarized.
 - c) Burden of Proof. It is the responsibility of the person making the application to prove eligibility for enrollment.

SECTION VII APPLICATION FORM

1. Each enrollment application must be completed in its entirety and must contain sufficient personal information to properly determine the applicant's eligibility for enrollment. The application must be accompanied by legal documentation establishing that the applicant is a child born to a member of the Northern Cheyenne Tribe or is a lineal descendant of a member of the Northern Cheyenne Tribe.
2. All documents submitted to the enrollment department by the applicant(s), their guardian or legal representative, are the property of the Tribe and shall remain so indefinitely.
3. The application must be accompanied by certification that applicant is not already enrolled with Tribes other than Northern Cheyenne, if applicant is eligible for enrollment in other tribes; a letter from the other tribe verifying applicant is not enrolled nor has a pending application; or verification of relinquishment from other tribe.
4. The application must be accompanied by the original or certified copy of the applicant's birth certificate and DNA test results.

SECTION VIII. APPEALS

1. An appeal is written request for reconsideration of the enrollment of an individual.
2. Applicants and/or parent guardian of any minor or incompetent involved who are determined ineligible by the Enrollment Committee shall be notified of their ineligibility by certified mail return receipt requested. The ineligibility notice shall state the specific reason(s) they do not qualify and advise the applicant of the right to appeal. The appellant shall be advised to submit with the appeal any supporting evidence not previously furnished.
3. Appeals shall be filed with the Secretary of the Tribal Council, failure to file within deadline shall be conclusive evidence of non-interest and terminate the right to appeal. An appeal shall be in writing and addressed to the Tribal Council for consideration. The Tribal Council Secretary shall coordinate all appeals and ensure they make the Tribal Council agenda.
4. The Tribal Council must receive any appeal not later than thirty (30) working days from the date of mailing of the notice of ineligibility. If the deadline for an appeal falls on a weekend or on a holiday, the following regularly scheduled workday becomes the deadline.
5. When an appeal is received, the Tribal Council shall base its decision solely upon documentation evidence presented with the application and the appeal, which establishes that the applicant does or does not qualify for membership pursuant to the provisions of Article II of the Constitution of the Tribe. The decision of the Tribal Council on the appeal shall be final.
6. The Tribal Council shall complete the above actions within sixty (60) working days of its receipt of the appeal from the rejected applicant. The decision and appeal documents will be submitted to Tribal Services department for record keeping purposes.

SECTION IX. RECORDS

1. **Content of Individual Membership Folder:** An individual folder shall be established for each *applicant*. This folder shall contain the following items.
 - Application Form
 - Family Tree
 - Birth Certificate – State Certified
 - DNA Test Results
 - Adoption documentation (If applicable)
 - Marriage license(s) (If applicable)
 - Divorce Decree (If applicable)
 - Correspondence
 - Copy of resolutions affecting enrollment
 - All other documentation on the person pertinent to membership in the tribe
 - Death Certificate (If applicable)
2. All documents submitted become the sole property of the Northern Cheyenne Tribe and will not be reproduced other than for the use of the Northern Cheyenne Tribe.
3. Access to Records: Neither the tribal membership roll nor any portion thereof may be copied and/or distributed to any person or organization except upon permission of the Tribal Council by appropriate resolution. The Tribal Council shall use its discretion in using and/or releasing information from the roll for the benefit of tribal members or tribal programs.
4. Information in individual folders shall be considered confidential. It shall not be available to anyone except that individual member (or his/her guardian or legal representative) and to enrollment staff, Enrollment Committee members, and the Tribal Council when such examination is necessary in considering enrollment decisions.
5. Membership records are confidential and individuals personable identifiable shall be governed by the Privacy Act of 1974 5 USC 522a. The strictest confidentiality shall be maintained to protect the individual privacy of all members and their families.

6. Enrollment records shall be contained in locked file cabinets, and adequate safeguards shall be installed to ensure that the confidentiality of these records shall not be violated.
7. Release of information must be provided, unless the member appears in person, before any enrollment information is released. Personal faxes, email and phone requests will be accepted at the discretion of the Tribal Services program.
8. Fees. Fees will be charged for the following copies of:
 - Birth Certificate
 - Court Orders
 - Social Security cards
 - Marriage Certificate
 - CDIBs
 - IDs
 - Death Certificate
 - DNA results
 - Paternity Statements
 - Family Trees
 - Enrollment Application
9. Errors: Any clerical errors found shall be brought to the attention of the Tribal Services department and corrected with supporting documentation. Tribal Services department is authorized to correct and change member names, date of births, and gender.
10. Changes in Blood Quantum Requested by Tribal Member(s). Any requested changes in blood quantum in the enrollment record must be made in writing by the member requesting the change. The member requesting the change must also bring in all supporting documentation. The staff will forward Blood quantum request and appropriate documentation to the Enrollment Committee who will then forward said information to the Tribal Council with a recommendation for or against possible changes. The Tribal Council will render a decision within forty-five (45) working days and submit their decision to the Enrollment Committee, which will inform the staff of any changes directed by the Tribal Council. The staff will then inform the tribal member(s) by certified mail, return receipt requested, of any changes made to his or her record.

SECTION X. LOSS OF MEMBERSHIP

Relinquishments.

1. Any adult member of the Tribe may voluntarily relinquish his/her membership. His/her parent or guardian may relinquish the membership of any member of the Tribe who is not at least 18 years of age. All relinquishment requests must be in writing, and the signature must be notarized.
2. All relinquishment requests received will be presented to the enrollment committee for their recommendation for approval or denial to the Tribal Council. If approved the tribe will comply with the members wishes and will remove the name from the membership roll through tribal ordinance with the effective date.
3. Whenever a relinquishment is submitted for a minor member, or an incompetent, care will be taken to determine that the individual who signed the form is a Tribal member and the legal custodian of the minor or incompetent affected. If both parents have custody rights over a tribal member child, and both parents are tribal members, both parents must sign a relinquishment form before relinquishment becomes effective. A custodial parent who is not a tribal member of Tribe or of another federally recognized tribe may not relinquish the membership of his or her child.
4. Adult Member's relinquishing their membership will not be entitled to re-apply for membership. Once relinquished, their relinquishment is final.
5. Minors who have been relinquished by their parents or guardians may re-apply for membership upon reaching the age of 18 years. In the event that a relinquished minor, after reaching the age of 18, files an application for enrollment into the Tribe, the enrollment criteria pending at the time the application is submitted to the enrollment department will be in effect for those applications.

Dis-enrollments.

1. A tribal member who is found to have been erroneously or fraudulently enrolled, or is an enrolled member of another Indian tribe, or any other person who is found not eligible for tribal membership pursuant to the tribe's membership requirements contained in the Constitution and enrollment ordinance of the Tribe shall be subject to dis-enrollment.

SECTION XI. COURT ORDERS

1. Only permanent Northern Cheyenne tribal court orders will be recognized for enrollment purposes
2. Court orders from other jurisdictions pertaining to enrollment must be recognized by the Northern Cheyenne Tribal court. It is up to the individual or persons to provide proof of recognized court orders.

SECTION XII. MAINTENANCE OF TRIBAL MEMBERSHIP ROLL

1. A current membership roll of the Northern Cheyenne Tribe shall be maintained. The work of maintaining the roll is the responsibility of the Tribal Services department.

SECTION XIII. PER CAPITA PAYMENTS

1. NC Tribal Services will be responsible for providing the accurate list of tribal members with addresses eligible for per capita disbursement to the Finance department for any and all future per capita disbursements.
2. No benefits arising out of enrollment which have already been approved, accrued or paid out in the past shall be awarded a new enrollee. Enrolled individuals are eligible for per capita payments only from the date they are enrolled and thereafter. No back per capita shall ever be paid for new enrollees.

SECTION XIV. BUREAU OF INDIAN AFFAIRS INVOLVEMENT

1. Enrollment is a purely sovereign tribal right. Only the Tribal Council can determine who or who is not to be members of this tribe. Therefore, if the Tribe makes any mistake on enrollment the Bureau of Indian Affairs is requested to honor the action of the Tribal Council and address by letter any mistakes that the Bureau may catch and the Tribe missed. The Tribe will then consider the problem that the Bureau identified and take appropriate action to remedy the mistake.

SECTION XV. AMENDMENTS

1. The Tribal Council by a two-thirds 2/3 vote shall have the power to amend this ordinance, consistent with the provisions of the Constitution. This ordinance supersedes and takes precedence over any enrollment resolution or enrollment ordinances previously adopted.

SECTION XVI. SEVERABILITY

1. In the event any sentence, paragraph or section of this ordinance is held to be unconstitutional or otherwise invalid, the remaining sentences, paragraphs or sections shall remain valid and be presumed consistent with the Constitution and all other applicable laws.

SECTION XVII. CERTIFICATE OF ENACTMENT

PASSED, ADOPTED AND APPROVED by the Northern Cheyenne Tribal Council by _____ votes for passage and adoption, _____ votes against passage and adoption, and _____ abstentions on the _____ day of March 2018.

Conrad Fisher, Acting Tribal President
Northern Cheyenne Tribe

ATTEST:

Melissa Lonebear, Secretary
Northern Cheyenne Tribe