

**Arkansas Cherokee Nation
aka Chickamauga Cherokee of Arkansas
ENROLLMENT ORDINANCE**

I. Authority.

Pursuant to Article II, Membership of the Constitution and Bylaws, the Membership Board is responsible for making decisions on applications for enrollment and eligibility as a member of the Arkansas Cherokee Nation with final approval reserved to the tribal council. As an inherent attribute of that sovereign authority the Arkansas Cherokee Nation Tribal Council finds that it is necessary and appropriate to enact an ordinance governing enrollment.

II. Purpose.

The purpose of this Ordinance is to establish guidelines, rules and an orderly procedure to maintain a current membership roll of the Arkansas Cherokee Nation. The Tribal Council recognizes that the process of enrollment is not static but that it evolves as records previously unavailable become known to persons both within and outside of tribal government.

III. Definitions.

A. "Another Tribe" means a tribe on the list of federally-recognized Indian tribes, as published from time to time in the Federal Register, and Canadian tribes.

B. "Applicant" means a living person who has submitted an application for membership in the Arkansas Cherokee Nation, or on whose behalf such application has been submitted.

C. "Ancestral Base Roll" means the recreated roll of ancestors that were in present day Arkansas and the following counties of Jasper, Greene, Polk, Dade, Dallas, Newton, McDonald, Lawrence, Barry, Stone, Webster, Wright, Christian, Taney, Ozark, Douglas, Texas, Howell, Oregon, Shannon, Reynolds, Carter, Ripley, Butler, Wayne, Stoddard, New Madrid, Bollinger, Pemiscot, Mississippi, Cape Girardeau, Dunklin and Scott in present day Missouri, and the following counties of, Le Flore, McCurtain, Sequoyah, Adair, and Delaware in present day Oklahoma in the 1800's. This recreated Ancestral Base Roll must be approved by the Tribal Council, and shall be designated as the official Tribal roll for purposes of determining membership in the Arkansas Cherokee Nation.

D. "Basic Membership Roll" means All persons whose lineal descent is from the Ancestral Base Roll of paragraph "C" above. And must show a direct blood linkage to the Cherokee of Arkansas in the 1800's.

E. "Sub Basic Member" means all married males whose wife meets requirement one (1) of the Eligibility Criteria (IV) section shall be eligible for enrollment as a sub-basic member under the wife's roll number with the letter (M) added to the end of the number. This member is entitled to vote in elections, be appointed to commissions and boards and participate in tribal activities but is not eligible to seek nor hold any elected office or receive any other benefits.

F. "Child born to a member" means the biological child of a person who at the time of the child's birth was an enrolled member of or eligible for membership and, subsequent to the child's birth, enrolled in the Arkansas Cherokee Nation.

G. "Constitution" means the Constitution of the Arkansas Cherokee Nation, as amended.

H. "Enrollment Office or Membership Board" means the person or entity designated by the Tribal Council as having authority and responsibility for processing enrollment applications.

I. "Incompetents" means persons who have been determined by a court of competent jurisdiction to be unable to act on their own behalf.

J. "Arkansas Cherokee Blood" and "Arkansas Cherokee Tribe Indian Blood" mean blood derived from persons on the Ancestral Base Roll in paragraph "C" above.

K. "Minor" means a person under the age of eighteen (18) years.

L. "Relinquishment" means a personal, voluntary action taken by an applicant or another person legally authorized to act on behalf of the applicant to terminate the applicant's membership with another tribe. A relinquishment on behalf of a minor must be signed by both parents or by the parent with legal custody.

M. "Review Committee" means the committee authorized by this ordinance to hear requests for reconsideration of denials of applications for enrollment.

IV. Eligibility Criteria.

A. Article II of the Constitution provides that the membership of Arkansas Cherokee Nation shall consist of the following:

1. All persons whose lineal descent is from the Ancestral Base Roll of paragraph "C" above and must show a direct blood linkage to the Cherokee of Arkansas in the 1800's.

2. All children of the Arkansas Cherokee blood born after the adoption of the Ancestral Base Roll by the Arkansas Cherokee Nation, to a parent or parents, either or both of whose names appear on the basic membership roll, must provide an application for enrollment with the enrollment office within one year after the birth of such child.

3. All married males whose wife meets requirement one (1) of this section shall be eligible for enrollment as a sub-basic member under the wife's roll number with the letter (M) added to the end of the number. If the marriage is cancelled, annulled or broken up this membership shall be immediately cancelled.

B. No person shall be eligible for enrollment if enrolled as a member of another tribe, or if not an American citizen.

C. Any person of Arkansas Cherokee Indian blood who meets the membership requirements of the Tribe, but who because of an error has not been enrolled, may be admitted to membership in the Arkansas Cherokee Nation by adoption, if such adoption is approved by the Tribal Council, and shall have full membership privileges from the date the adoption is approved.

V. Filing an Application.

A. Who must file? All persons not enrolled as members of the Tribe on the effective date of this Ordinance must file an application on the form prescribed by the Enrollment office. Applications for minors or incompetents must be filed by a parent, guardian or other person legally authorized to act on behalf of said applicant.

B. When and where to file an application. Applications may be filed with the Enrollment Office of the Tribe or any member of the Tribal Council. Applications must be filed within one year after the birth of an applicant born after adoption of the Ancestral Base Roll.

C. What the application must contain. Applications must be completed and must contain sufficient information to determine eligibility for enrollment.

D. What documents must be filed with the application.

1. The application must be accompanied by information establishing that the applicant is a child born to a member of the Arkansas Cherokee Nation. If the applicant's biological mother is not a tribal member, then the biological father must be a tribal member and paternity can be demonstrated by:

a. the birth certificate (a certified copy); or

b. an affidavit of paternity from a tribal member, except that an affidavit which is limited by its terms to use for enrollment purposes is not acceptable; or

c. results of a DNA or genetic marker test determining the probability that a specific tribal member is the biological parent of the applicant to be not less than 97%.

2. If the applicant was not born in the United States, proof of United States citizenship.

3. If the applicant is a member of another tribe, proof of relinquishment of that membership. An applicant may submit a relinquishment that is conditioned upon enrollment in the Arkansas Cherokee Nation.

4. In the absence of a birth certificate, other documents may be relied upon to establish any fact necessary to determine eligibility, provided that each fact must be demonstrated by a preponderance of the evidence.

VI. Processing an Application.

The Enrollment Office shall make the initial review of all applications.

A. As in all steps of the process, the burden of proof is on the applicant to demonstrate that each of the eligibility criteria for enrollment in the Arkansas Cherokee Nation has been met.

B. The Enrollment Office shall review the application and make a recommendation to the Tribal Council.

C. Upon completion of its review by an Enrollment Office and recommendation to approve or deny the application, the Tribal Council shall consider the application.

D. Upon the denial of an application by the Tribal Council the applicant will be given notice of the denial and of the right to request reconsideration of the denial by the Review Committee as provided in Section X of this Ordinance.

E. In the event the applicant does not file a timely request for reconsideration or if the Review Committee recommends that the denial of the application be sustained, the applicant will be given notice of the denial and of the right to appeal to the Secretary of the Interior.

F. Denial of an application shall not preclude a subsequent application if it is based on documentation not available and submitted with a prior application.

VII. Determining the Degree of Arkansas Cherokee Tribe Indian Blood.

A. Indian blood shown on the Ancestral Base Roll shall be considered to be Arkansas Cherokee Tribe Indian blood.

B. There will be no determination of the degree of Arkansas Cherokee Tribe Indian Blood for the Basic Membership Rolls. It is determined that if an applicant satisfies Section IV Eligibility Criteria; that applicant shall have sufficient proof of being of Arkansas Cherokee Indian Tribe Blood. Since no other race in the United States is required to prove degree of blood for ancestral determination or government assistance and as per the adopted National Cherokee Constitutions of 1827 and 1839.

IX. Correcting the Base Roll.

A. If an applicant demonstrates by a preponderance of all available evidence that he or she was eligible to be on the Basic Membership Roll, the Basic Membership Roll may be corrected by adding the applicant's name.

B. Applications involving an addition to the Basic Membership Roll shall be processed as set forth in Section VI.

X. Requests for Reconsideration

Any applicant who has been denied enrollment by the Tribal Council may file a request for reconsideration in accordance with this section.

A. Time for Request. If an application is denied by the Tribal Council the applicant or a person acting on behalf of the applicant must file a request for reconsideration within thirty (30) days of the date of mailing of the notice of denial.

B. Form. Requests must be written, addressed to the Principal Chief of the Arkansas Cherokee Nation, and state the reason or reasons why the applicant believes the denial was erroneous.

C. Processing. Upon receipt of a timely request the Principal Chief shall within ten (10) working days submit the application to the Review Committee, which shall convene within thirty (30) days of such submission to consider the request.

D. Consideration/Evidence. The Review Committee shall notify the applicant of the date, time and place that the Review Committee will convene to hear the request for reconsideration and that the applicant has a right to be heard in person or by representation. The applicant shall be informed that evidence not previously submitted may be presented for consideration, and that the Review Committee will consider all evidence in the application packet. The applicant will be notified that he/she has the burden to demonstrate eligibility by a preponderance of all evidence submitted.

E. Extensions of Time. The Review Committee may extend the time for hearing an appeal upon the request of the applicant and a showing of good cause.

F. Report and Recommendation.

1. Within thirty (30) days of its hearing on the request for reconsideration, the Review Committee shall issue a written report. The report shall include a recommendation to either sustain or reverse the denial and be sent to the applicant, the Enrollment Office and the Tribal Council and shall become a part of the application file.

2. If the recommendation of the Review Committee is to sustain the denial of the application, the applicant will be notified of the right to appeal to the Secretary of the Interior.

3. If the recommendation of the Review Committee is to reverse the denial of the application, the matter will be remanded to the Tribal Council for action consistent with this ordinance. If the application is ultimately denied by the Tribal Council following remand, the applicant will be notified of the right to appeal to the Secretary of the Interior.

G. Composition/Rules.

1. Composition of the Review Committee. The Review Committee shall consist of six (6) persons. Each Tribal Councilman shall appoint one (1) member. Members of the Review Committee will take an oath to abide by the Constitution and this Ordinance and to hear requests for reconsideration fairly, consistently and without bias.

2. Rules of the Review Committee. The Review Committee shall select from its members a person to preside over a hearing on a request for reconsideration. The presiding member shall have the authority to conduct the hearing, to maintain order, and to exclude evidence (oral or written) that is unduly repetitious or plainly irrelevant to the request. The Review Committee will

consider all information in the application packet and all information submitted by or on behalf of the applicant.

H. Exclusive Remedy. The request for reconsideration provided for in this section is exclusive, and there is no right of review in any court, including any court established by the Tribal Council.

XI. Records Management.

Records created or obtained in the enrollment process and possessed by the Arkansas Cherokee Nation will be used in a manner which prevents unwarranted invasions of personal privacy.

A. Use or Disclosure of Records: Except as provided in this section, personal information will not be used or disclosed without the written consent of the individual to whom the record pertains. A disclosure occurs when information identifying an individual is revealed to a third person.

B. Exception to the General Prohibition against Disclosure without Consent: Written consent to disclose will not be required in the following situations:

1. Parent or Guardian: Disclosures may be made to the parent or guardian of minors and incompetents.
2. Need to Know: Disclosures may be made to employees of the Arkansas Cherokee Nation who need the information to carry out their duties.
3. Benefits and Services: Disclosures may be made for the purpose of determining eligibility for services or benefits available to tribal members.
4. Indian Child Welfare Act (ICWA): Disclosures may be made to a social service agency or other governmental agency charged with responsibility for implementing the ICWA.
5. Court Order: Information may be disclosed pursuant to the order of a court of competent jurisdiction.
6. Law Enforcement: Disclosure may be made to a law enforcement agency, provided that the agency specifies in writing the information sought and the law enforcement activity.
7. Health and Safety: Information may be disclosed when there is an emergency involving compelling circumstances affecting the health or safety of an individual.

C. Accounting for Disclosures: When a disclosure is made under any of the exceptions set out above, the employee making the disclosure will record the date, purpose and recipient of the disclosure.

XII. Effective Date.

The Emergency Clause: The Passage of this ordinance being deemed necessary for the immediate preservation of the public peace, health and safety is hereby declared to be an emergency measure and the same shall take effect and be enforced immediately upon approval.

THEREFORE, Be It Enacted by The Arkansas Cherokee Nation Council this 29th Day of August, 2008.