

# **COQUILLE INDIAN TRIBAL CODE**

## **Chapter 192**

### **Part 1 – General Governmental Affairs**

#### **Enrollment Ordinance**

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## **192.010 Authority and Purpose**

The authority for this Ordinance is found in the Coquille Constitution Article II.

### 1. Purpose

The purpose of this ordinance is to support the development and maintenance of the membership of the Coquille Indian Tribe and to establish an orderly process for considering enrollment applications as required by Article II of the Constitution of the Coquille Indian Tribe.

## **192.150 Enrollment Board**

### 1. Appointment and Qualifications

- a. All applications for enrollment and related matters will be reviewed by an Enrollment Board. The Enrollment Board will consist of six members, five selected from members of the General Council and one non-voting Tribal Council Representative.
- b. All Enrollment Board members shall be Coquille Tribal Members.
- c. The Tribal Council will appoint the Enrollment Board by Resolution.
- d. The Enrollment Board will perform all duties and functions described by the Tribal Constitution and this Tribal Council approved Enrollment Ordinance.

### 2. Term in Office

- a. Enrollment Board members will serve three (3) year terms and may be appointed for additional terms. Terms may be staggered as needed to enhance continuity and stability.

### 3. Removal

- a. The Tribal Council may remove a member of the Enrollment Board who fails to perform the duties set forth in this Ordinance. The member may be removed by a majority vote of all Tribal Council members Present in a duly held meeting.

### 4. Vacancies on the Enrollment Board

- a. Any vacancy on the Enrollment Board shall be filled by Tribal Council via Resolution after giving notice of a vacancy on the Board.

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5. Responsibilities

- a. The Enrollment Board shall work with tribal enrollment staff to make enrollment applications available upon request and to establish and maintain the Coquille Tribal roll. It shall also review each application for enrollment and recommend to the Tribal Council either acceptance or rejection of each application.

**192.160 Enrollment Staff**

The Tribal Enrollment staff shall maintain files with enrollment information and supporting documents for each application, review and evaluate all applications for enrollment, make recommendations to the Enrollment Board, maintain the Coquille Tribal Roll, and do other duties as required. The members of the Enrollment Staff are tribal employees and are subject to tribal personnel policies and regulations in the same manner as other tribal employees.

**192.170 Confidentiality**

All applications for enrollment and supporting documents are confidential information. These documents shall only be available to the Enrollment Board, Tribal Enrollment staff, Tribal Council, or other necessary staff on a need-to-know basis. The Tribal Court and any designated third-party investigator shall also have access to this information when officially reviewing an appeal or challenge involving enrollment. Revealing information in the enrollment files to someone other than those parties indicated above shall be grounds for disciplinary action if employed by the Tribe, or grounds for removal from the Enrollment Board.

**192.180 Conflict of Interest**

Members of the Enrollment Board and Tribal Enrollment staff may not make a recommendation on any enrollment application involving a member of his or her immediate family. A member of the Enrollment Board may count toward the quorum requirements regarding action taken by the Enrollment Board which involves a member of his or her immediate family as that term is defined in CITC § 144.130

The definition of immediate family is father, mother, sister, brother, daughter, son, spouse or spouse equivalent or any other person living in the same household as the Enrollment Board or staff member. CITC §144.130.

**192.190 Enrollment Requirements**

In order to be eligible for enrollment in the Coquille Indian Tribe, an applicant must either:

1. Be named on the official tribal membership roll prepared pursuant to the requirements of Section 7 (b) of the Coquille Indian Restoration Act, 103 Stat. 91; provided, that such roll may be corrected by the Tribal Council with the approval of the Secretary of the Interior; or,

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2. Be a descendant of a member of the Coquille Indian Tribe. For purposes of this Enrollment Ordinance, descent from a member of the Coquille Indian Tribe shall include lineal descent from any person who was named on any roll or records of Coquille Indian Tribe prepared by the Department of the Interior prior to the effective date of the Tribal Constitution. See, Coquille Indian Tribe Constitution, Article II, Section 1.

#### **192.200 Application for Enrollment**

1. The Tribal Enrollment staff shall develop and maintain an enrollment application form. This application form shall contain space for the name of the applicant, his or her date of birth, the parentage of the applicant, if the applicant is a minor or incompetent, the name of the person filing the application, and a statement that all of the statements on the application are true, complete and correct to the best of the applicant's knowledge and are made in good faith. All applications for enrollment shall begin with the written completion of this form and submission of it along with the supporting documents to the Tribal Enrollment staff.
2. All persons who filed complete applications for enrollment on the Tribal roll prepared by the Bureau of Indian Affairs pursuant to Section 7 of the Coquille Restoration Act but did not qualify for enrollment on that tribal roll shall be deemed to have submitted applications for enrollment as of the enactment date of this ordinance.

#### **192.210 Applicant**

Applications for enrollment may be filed by any person who believes he or she meets the enrollment criteria. Applications for minors (children under age eighteen years of age) or incompetent persons may be filed by a sponsor, including but not limited to their parents, next of kin, legal guardian, or other person responsible for the applicant's care.

#### **192.220 Supporting Documents**

1. Every application for enrollment must be accompanied by at least one supporting document. This supporting document or documents must establish ancestry and parentage of the applicant. Supporting documents may include but are not limited to: a copy of the applicant's birth certificate, court decrees, or notarized acknowledgments of paternity. The Enrollment Staff or Enrollment Board will, in most cases, request DNA testing of parents or relatives sufficient to prove lineal descent and may request other additional supporting documents.

When the Enrollment Board requests an applicant to submit proof of DNA testing in support of his or her application, the Tribe will pay for the DNA testing when the results of such testing establishes the eligibility for enrollment in the Tribe provided that such funding has been appropriated by the Tribal Council in the annual budget.

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2. Any paternity acknowledgments and other affidavits filed as supporting documents shall be retained in the applicant's file and shall not be released except by lawful order of a court of competent jurisdiction or pursuant to CITC 192.291. Recommendations to the Tribal Council on the applicant's enrollment shall not include these supporting documents or the information in them. The recommendation need only state that sufficient evidence was presented to establish eligibility.

#### **192.240 Burden of Proof**

The burden of proving eligibility for enrollment shall be upon the applicant or the person making the application. The burden of proof shall be by clear and convincing evidence.

#### **192.250 Acceptance or Rejection of Enrollment**

When the application for enrollment is complete and it has been reviewed by the Enrollment staff and Enrollment Board, the application and the recommendation of the Enrollment Board shall be presented to the Tribal Council. The Tribal Council shall accept or reject an application for enrollment by resolution. More than one applicant may be accepted or rejected in each resolution.

The Tribal Enrollment Staff shall inform each applicant in writing of the Tribal Council's decision within ten working days of the decision. The notification of rejection of enrollment must include an explanation of the basis of the rejection. Notices of rejection of enrollment must be sent by certified mail, return receipt requested.

#### **192.260 Appeals**

1. Any person who filed an application for enrollment which was rejected may appeal that decision to the Tribal Court.
2. Procedure
  - a. Petition for Review
    - i. The aggrieved person must file a petition for review with the Tribal Court within fifteen working days of receipt of the notice of rejection. The Petition must include the information required on the enrollment application; copies of the supporting documents submitted with the application and state the reasons why the Petitioner believes that the decision to reject the enrollment application was wrong. The Petitioner must also send a copy of the appeal with the Tribe's Enrollment Office.
    - ii. If the applicant is a minor, a Petition for Review may be filed on his or her behalf by:
      1. either parent, or;
      2. a legal guardian including a tribal or state social services agency who has

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permanent or temporary legal custody of the Child.

iii. The petition shall substantially be as follows:

COQUILLE INDIAN TRIBAL COURT

IN THE MATTER OF:	)	Petition to Challenge
ENROLLMENT APPLICATION	)	Denial of Enrollment
OF _____	)	
	)	Case No.

1.

Pursuant to Section 192.260.2.(a) of the Coquille Enrollment Ordinance, \_\_\_\_\_  
\_\_\_\_\_(Hereafter Petitioner), respectfully requests the Court to review his/her application for  
enrollment. Petitioner respectfully represents to the Court as follows.

2.

Petitioner submitted an application for enrollment in the Coquille Indian Tribe on \_\_\_\_\_  
\_\_\_\_\_. Petitioner received a letter from the Tribal Enrollment Office on \_\_\_\_\_  
\_\_\_\_\_stating that the Tribal Council rejected Petitioner’s application for enrollment in the  
Tribe.

3.

Petitioner believes that the Tribal Council’s decision to deny his/her application for enrollment  
was wrong based upon the following:

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4.

Petitioner submits that the documentation submitted along with the application for enrollment clearly demonstrates that he/she meets the criteria for enrollment set forth in Section 7 of the Tribe's Constitution and Section 192.190 of the Enrollment Ordinance. The Tribal Council's decision to reject the enrollment application was clearly erroneous.

5.

The petition seeking review of the Tribal Council's decision is timely because it has been filed within fifteen days of the receipt of the letter notifying Petitioner of the rejection of the enrollment application. This Court has jurisdiction over this petition because it was timely filed and the Council's decision to reject an enrollment application is subject to review under CITC 192.260.

6.

WHEREFORE, Petitioner requests this Court remand the application to the Enrollment Board for reconsideration with instructions to accept my application for enrollment.

\_\_\_\_\_  
(Signature of Petitioner)

State of Oregon            )  
  )ss  
County of Coos            )

Signed and sworn before me on \_\_\_\_\_

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

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Certificate of Service

I hereby certify that I sent a copy of my Petition to Challenge Enrollment Decision on the Tribal Enrollment Staff by  
(Choose One)

\_\_\_\_\_ I delivered a copy of my Petition to the Tribal Enrollment Office by leaving a copy of my petition at the Tribal Administrative Office during business hours on \_\_\_\_\_

\_\_\_\_\_ OR  
(Fill in Date Copy was delivered to Administrative Office)

\_\_\_\_\_ I mailed a copy of my Petition to the Tribal Enrollment Office by depositing a copy of my petition in the U.S. Postal Service first class postage prepaid at \_\_\_\_\_

\_\_\_\_\_ on \_\_\_\_\_  
(Fill in City from which document was mailed) (Date it was mailed.)

\_\_\_\_\_  
(Print your name)

\_\_\_\_\_  
(Sign your name)

b. Response to Petition

The Tribal Enrollment Office must file a written statement explaining the decision to reject the application for enrollment within ten business days of the filing of the petition with the Tribal Court. The Enrollment Office must also provide a copy of its Response to the Petitioner.

c. Tribal Court's Review

- i. The Tribal Court in its discretion may hold a hearing on the matter provided that such hearing will be held within thirty days of receipt of the Response to the Petition. At such hearing, both the Petitioner and Enrollment Officers should both have an opportunity to explain their position to the Court and to answer any questions asked by the Court.
- ii. The Tribal Court shall issue a written order explaining its decision on the petition within fifteen days of a hearing if held on the petition or within fifteen days of the filing of the Response to the Petition if no hearing is scheduled.

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d. Standard of Review

The Petitioner shall have the burden of persuading the Court that the decision to reject the application for enrollment was clearly erroneous or violates the Tribe's Constitution.

Remedy:

The only remedy that the Tribal Court may order on such appeals is to remand the application to the Enrollment Board for reconsideration in light of the Court's decision. An applicant denied enrollment shall not under any circumstances be entitled to any money damages from the Tribe, the Enrollment Board, or Tribal staff either in their official or individual capacities.

**192.270 Dual Membership Prohibited**

No person who is an enrolled member of any other tribe, band, or Indian community officially recognized by the Secretary of the Interior shall be qualified for membership in the Coquille Indian Tribe, unless he or she has relinquished in writing his/her membership in such tribe, band or community. Any member of the Coquille Indian Tribe who applies for and is accepted as a member of another federally recognized Indian tribe shall automatically forfeit enrollment in the Coquille Indian Tribe.

If one parent of an applicant for enrollment is a member of another federally recognized Indian tribe, the enrollment application must be accompanied by a certification from the governing body of that tribe or from the Bureau of Indian Affairs office having administrative jurisdiction over that tribe, that the applicant is not a member of the tribe. 192.280 Voluntary Relinquishment of Enrollment

Any tribal member, eighteen (18) years of age or older, may withdraw from enrollment in the Coquille Indian Tribe by filing a notarized written request with the Tribal Enrollment staff. Written requests to withdraw from enrollment filed on behalf of a tribal member who is under eighteen (18) years of age shall not be accepted by the Tribal Council unless either a certification from another federally recognized Indian tribe is submitted that proves that the minor will be enrolled in that tribe, or the minor is currently subject to investigation pursuant to CITC 192.291. Written requests filed on behalf of a minor will only be accepted if filed by a parent or legal guardian of the minor tribal member. Upon receipt of such notice, the Tribal Enrollment staff will send acknowledgment of receipt of the notice stating the date such notice is effective. Withdrawal becomes effective ten (10) business days from the receipt of the notice of withdrawal at the tribal office.

A person who has withdrawn from enrollment in the Coquille Indian Tribe may file an application for re-enrollment. The Tribe will not consider or act on a re-enrollment application until expiration of a ninety day waiting period, measured from the date that such an application is filed.

This ninety day waiting period will apply to all pending and future applications for re-enrollment. A re-enrollment applicant must apply for re-enrollment by filing an enrollment application and documentation that he or she is not enrolled in any other federally recognized Indian tribe.

### **192.290 Challenges to Enrollment**

1. Tribal members may challenge a member's eligibility for enrollment. Such challenges must be written and signed by the tribal member. All such challenges must be presented to the Tribal Court. The sole basis for such a challenge is that the member does not qualify for enrollment in the Coquille Indian Tribe under Article II of the Coquille Tribal Constitution.
2. The burden of proving such challenges shall be upon the proponent of the challenge. The burden of proof shall be beyond a reasonable doubt.
3. The Tribal Court shall have the responsibility of reviewing such challenges in the following manner.
  - a. Upon receipt of such a challenge, the Tribal Court must notify the tribal member whose eligibility is challenged and provide the member with a copy of the written and signed challenge and any attachments to the written challenge. The tribal member shall be given an opportunity to respond to this information in writing to the Court within thirty days of receipt of the Court's notice.
  - b. After the tribal member has responded to the challenge, the Tribal Court will review the challenge, and the response to the challenge. The Tribal Court will review this information and decide if the challenge is more likely than not valid.
    - i. If the Tribal Court decides that it is unlikely that the challenge is valid, the Court must decide that no further action is warranted and notify the parties involved of its decision.
    - ii. If the Tribal Court decides that it likely that the challenge is valued, the Tribal Court will direct the Tribal Enrollment Board to conduct a further investigation of the matter.
      1. Upon the request for further investigation, the Tribal Enrollment Board will review the challenge, the response and the original application for enrollment of the tribal member involved. After reviewing this information, the Board will submit a written report and recommendation to the Tribal Court within thirty days of receipt of the Court's directive to conduct such investigation.
      2. The Tribal Court shall review the report and recommendation and make a final decision on the matter. If the Court decides that the challenge has established beyond a reasonable doubt that the member is not eligible for enrollment in the Tribe, they shall direct the Tribal Enrollment staff to remove the member from the tribal roll and notify the parties of the decision.

### **192.291 Involuntary Relinquishment of Enrollment**

1. An enrolled person may be involuntarily disenrolled by the Tribal Council upon the recommendation of the Tribal Enrollment Board, if the Tribal Enrollment Board determines that the enrolled person was granted membership on the basis of false or erroneous information and that there is no information indicating that the member qualifies for enrollment under Article II of the Coquille Tribal Constitution.
2. The Tribal Enrollment Board will conduct an investigation and prepare a written report as follows prior to taking any action on a person's enrollment status:
  - a. If a Tribal Enrollment Board Member receives or obtains any information that raises a reasonable doubt as to the eligibility of any currently enrolled Coquille Tribal Member they shall share this information with the Tribal Enrollment Board at the next regularly scheduled meeting.
  - b. If a Tribal Enrollment Staff Member receives or obtains any information that raises a reasonable doubt as to the eligibility of any currently enrolled Coquille Tribal Member they shall share this information with the Tribal Enrollment Board at the next regularly scheduled meeting.
  - c. Upon disclosure of the information and discussion as to the credibility and reliability of the information the Tribal Enrollment Board shall vote on the need to authorize an independent investigation. A majority vote by the Board shall be sufficient to sanction an investigation. If the majority vote of the Tribal Enrollment Board is to decline an investigation then no further action will be taken. If an investigation is sanctioned the Tribal Council Representative for the Enrollment Board shall provide notice of such investigation to the Tribal Council no later than the next regularly scheduled meeting of the Tribal Council.
  - d. If the Tribal Enrollment Board authorizes an independent investigation they shall charge the Tribal Legal Department, or such other qualified independent designee, with conducting a confidential fact finding mission and generating a confidential written report outlining the investigation findings. All final written reports shall be prepared timely and housed under lock and key within the Tribal Legal Department.
    - i. Notwithstanding any other Tribal law, and subject to applicable Federal law, the independent investigator shall have full access to review all relevant and pertinent documents and interview all relevant and pertinent people with knowledge of any family history or previous admissions. The independent investigator shall keep all information acquired confidential and shall only share said information in the confidential written report.
    - ii. The independent investigator shall be authorized to request original birth certificates for challenged enrolled persons from the person themselves, or the family members of a minor enrolled person, and from any necessary third party

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- including, but not limited to Tribal or State Courts.
- iii. The independent investigator shall be authorized to request DNA testing for challenged enrolled persons and other necessary family members to confirm direct lineal descent when such information would likely be determinative. Refusal or failure to participate in DNA testing can be considered evidence of a tacit admission.
  - iv. The independent investigator is charged with drafting a report that upholds the enrollment requirement of direct lineal descent as specifically outlined in the Coquille Tribal Constitution under Article II and shall not focus on historical inconsistencies or grammatical discrepancies.
  - v. Notwithstanding any other Tribal law, all employees, staff, and Board members shall have immunity from any actions concerning violations of Tribal laws governing confidentiality when discussing enrollment applications, documents, and related information with the independent investigator.
- e. The Tribal Enrollment Board shall provide a final copy of the confidential report to the enrolled person who is the subject of the report and shall allow them an opportunity to respond to the report in writing within thirty days.
  - f. After reviewing and discussing the written report and any written response, from the enrolled person who is the subject of the report, the Tribal Enrollment Board shall vote, by majority decision, to either provide a recommendation for involuntary disenrollment to the Tribal Council or not to provide a recommendation and to allow the enrollment status to remain unchanged. The Enrollment Board shall provide notice of their final recommendation decision to the enrolled person, who is the subject of the report, and shall allow them an opportunity to voluntarily disenroll if a recommendation for involuntary disenrollment has been determined. Any Enrollment Board Members who find themselves, or an immediate family member, as that term is defined in CITC § 144.130, the subject of an investigation shall recuse themselves from voting.
  - g. The report and the recommendation of the Enrollment Board shall be confidentially presented to the Tribal Council. The Tribal Council shall publicly accept or reject the Enrollment Board recommendation by resolution and must address the issue no later than the next regularly scheduled Tribal Council meeting following presentation of the report and recommendation. More than one enrolled person may be involuntarily disenrolled in each resolution. Tribal Council Members shall abstain from voting on all involuntary disenrollment resolutions that involve themselves or immediate family members as defined in this ordinance.
3. Any person who is a descendant of a person disenrolled pursuant to CITC 192.291 and who does not otherwise meet the membership criteria of the Coquille Indian Tribe under Article II of the Coquille Tribal Constitution shall also be subject to the disenrollment procedures of this section.

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4. Upon disenrolling a person via Tribal Council Resolution, the Tribal Enrollment Staff shall promptly provide written notice of the disenrollment decision, by providing a copy of the Tribal Council Resolution, to the disenrolled person. The disenrollment notice shall be sent via first class and certified mail, return receipt requested to the disenrolled person, or in the case of a child, the disenrolled child's parents, guardians or custodians.
5. Nothing in this ordinance shall prohibit a person who has been involuntarily disenrolled from filing a new application for enrollment. If sufficient evidence is provided with any new application for enrollment to support a recommendation for enrollment then said recommendation shall not be unreasonably withheld on the basis of a previous involuntary disenrollment action.

### **192.295 Honorary Tribal Membership**

From time to time, the Tribal Council might wish to recognize the extraordinary contributions to the Tribal community made by non-Tribal members. The Tribal Council may, by resolution, grant the title of "Honorary Tribal Member" to individual people who have demonstrated noteworthy service to the tribe over a significant period of time. The sole benefit of Honorary Tribal Membership status shall be the title of "Honorary Tribal Member". Honorary Tribal Members shall have no benefits or duties of Tribal members enrolled in the Tribe in accordance with the Tribal Constitution and this Ordinance. Honorary Tribal Member status cannot be passed on to one's children. Honorary memberships do not entitle people to participate in federal programs designed to benefit the welfare of Native people. Honorary tribal members may be granted discounts at Tribal businesses, unless otherwise prohibited by CIT ordinance or Federal law. The intent of this paragraph is not to alter the criteria for enrollment in the Coquille Indian Tribe.

### **192.300 Coquille Tribal Roll**

All original Tribal Rolls and census rolls shall be kept under security. An updated Tribal Roll shall be printed annually the last week of December. The Tribal Enrollment staff shall submit quarterly reports to the Tribal Council of the additions and withdrawals of tribal membership and the current number of enrolled members. Information from the Tribal Roll shall be made available to the Tribal Council, tribal staff, Bureau of Indian Affairs, and Indian Health Services upon demonstration of a need to know such information. The Tribal Roll shall be included in the annual tribal report.

### **192.310 Verification of Enrollment**

Upon request of state agencies, federal agencies, other Indian tribes, the tribal enrollment staff shall provide written verification that a person is or is not enrolled in the Coquille Indian Tribe.

### **192.400 Severability**

If a court of competent jurisdiction finds any provision of this ordinance to be invalid or illegal under applicable tribal and or federal law, such provision shall be severed from this ordinance and the remainder of this Ordinance shall remain in full force and effect.

## **History of Amendments**

Revised 03/03/93

Revised 04/06/01

Adopted 05/18/01

Amended 05/16/03

Adopted 06/26/03

Amended May10, 2007

Adopted August 9, 2007

Amended September 24, 2011 CY1195

Adopted December 15, 2011 CY11119

Amended February 7, 2013 CY1316

Adopted April 11, 2013 CY1342

Amended October 8, 2015 CY1589

Adopted December 3, 2015 CY15107

Amended July 12, 2017 CY17073

Adopted August 25, 2017 CY17089

Approved February 27, 2026 CY26020

Adopted April 10, 2026 CY26030