

## Chapter 2

### COMMUNITY MEMBERSHIP

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## ARTICLE I. IN GENERAL

### Sec. 2-1. Office of membership services.

(a) The office of membership services ("membership office") is hereby established to employ staff and develop policies, consistent with this article, to implement the Community laws regarding membership (including enrollment, relinquishment, disenrollment and other relevant matters affecting a person's status as a member of the Community).

(b) The membership office is responsible for carrying out its functions to ensure that membership decisions are administered in a fair, consistent and uniform manner pursuant to the Community Constitution and this article.

(c) The membership office shall maintain a current roll of the enrolled members of the Community.

(Code 1981, § 2-0; Code 2012, § 2-0; Ord. No. SRO-354-2010, 10-28-2009; Ord. No. SRO-402-2012, § 2-0, 5-30-2012)

### Sec. 2-2. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Applicant* means a person or a minor's parent or legal guardian who applies for membership pursuant to this article.

*Community* means the Salt River Pima-Maricopa Indian Community.

*Complete enrollment application* means a membership application submitted in conjunction with the following documentation:

- (1) Evidence of one-fourth degree Indian blood;
- (2) Evidence that the applicant is a biological child or biological grandchild of an enrolled member of the Community;
- (3) Evidence of United States citizenship;
- (4) Evidence of nonenrollment in any other federally recognized tribe; and

- (5) Evidence that the applicant has never relinquished enrollment from another federally recognized tribe (if applicable).

*Council* means the Community Council, the governing body of the Community.

*Disenrollment* means the removal of a member's name from the current roll of the enrolled members of the Community and, therefore, such person is ineligible for Community benefits.

*Relinquishment* means the voluntary request by an Community member for his or her name to be removed from the current roll of the enrolled members of the Community, thus becoming ineligible for Community benefits.

*Salt River Pima-Maricopa Indian Community (SRPMIC)* means the Community.

(Code 1981, § 2-1; Code 2012, § 2-1; Ord. No. SRO-354-2010, 10-28-2009; Ord. No. SRO-402-2012, § 2-1, 5-30-2012)

### Secs. 2-3—2-22. Reserved.

## ARTICLE II. MEMBERSHIP AS A MATTER OF RIGHT

### Sec. 2-23. Membership criteria.

The following persons shall be enrolled as members of the Community:

- (1) Any person of Indian blood whose name appears or rightfully should appear on the official allotment roll of Community; and
- (2) All persons whose names validly appear on the latest duly certified membership roll of Community; provided that, the Community Council may correct such roll in accordance with applicable Community law; and
- (3) Any biological lineal descendant of an original Salt River allottee who meets all of the following criteria:
  - a. Is at least one-fourth degree Indian blood;

- b. Is the biological child or biological grandchild of an enrolled member of the Community;
- c. Is a United States citizen;
- d. Is not enrolled in any other federally recognized tribe; and
- e. Has never relinquished enrollment from another federally recognized tribe except as provided by article II, section 2 of the Community Constitution.

(Code 1981, § 2-2(a); Code 2012, § 2-2(a); Ord. No. SRO-354-2010, 10-28-2009; Ord. No. SRO-402-2012, § 2-2(a), 5-30-2012)

**Sec. 2-24. Criteria for membership of minors enrolled elsewhere.**

Any person enrolled in any other federally recognized tribe before reaching the age of 18 years is eligible for enrollment by right with Community:

- (1) If such person is:
  - a. A biological lineal descendant of an original Salt River allottee;
  - b. At least one-fourth degree Indian blood;
  - c. The biological child or grandchild of an enrolled member of the Community;
  - d. A United States citizen; and
- (2) If such person files an application for enrollment with the Community within 180 days after turning 18 years of age; and
- (3) If such person relinquishes membership in any other federally recognized tribe before filing an application for enrollment with the Community.

(Code 1981, § 2-2(b); Code 2012, § 2-2(b); Ord. No. SRO-354-2010, 10-28-2009; Ord. No. SRO-402-2012, § 2-2(b), 5-30-2012)

**Sec. 2-25. Verification of criteria.**

(a) The membership office shall enroll an applicant if the applicant provides satisfactory evidence that the applicant meets the criteria in sections 2-23 and 2-24 establishing his or her eligibility for enrollment. An applicant has the burden to establish his or her eligibility of enrollment and is responsible for any and all costs associated with his or her application for enrollment. The following evidence shall be sufficient evidence for Community enrollment purposes:

- (1) *One-fourth degree Indian blood.*
  - a. An affidavit or official certification from a federally recognized tribe attesting that the applicant has at least one-fourth degree of Indian blood; or
  - b. An official certificate of degree of Indian blood (CDIB) issued by the Bureau of Indian Affairs attesting that the applicant has at least one-fourth degree of Indian blood.
- (2) *Biological child or biological grandchild.*
  - a. Proof of descent from an official government issued birth certificate providing satisfactory evidence that the applicant is a biological lineal descendant of an original Salt River allottee; or
  - b. Community court decree determining that the applicant is a biological lineal descendant of an enrolled member of the Community. The Community court may use certified DNA evidence from a DNA lab accredited by the American Association of Blood Banks.
- (3) *United States citizenship.*
  - a. Official government issued certificate of birth;
  - b. Official United States Passport; or
  - c. Any other federal issued certification that specifically attests that the applicant is a United States citizen.

(4) *Nonenrollment in any other federally recognized tribe and nonrelinquishment status.*

- a. The applicant's affidavit attesting that he or she has never been:
  1. Enrolled in another federally recognized tribe; and
  2. Has never relinquished membership in any other federally recognized tribe; or
- b. In the case of an applicant that is within 180 days of turning 18 years of age and proceeding pursuant to section 2-24, the applicant shall provide an affidavit attesting that he or she has relinquished his or her membership before filing the application consistent with section 2-24(3); and
- c. In addition to the applicant's affidavit, the applicant must submit an official certification from any other federally recognized Indian tribe that the applicant is eligible to be enrolled in attesting that the applicant:
  1. Is not enrolled in the tribe; and
  2. Has never relinquished membership in the tribe (unless the applicant relinquished membership in another federally recognized tribe in order to apply for membership in the Community within 180 days from turning 18 years of age).

(b) If the applicant is unable to secure the required official certification documentation from another federally recognized tribe after the applicant has made bona fide efforts to obtain such documentation, the applicant may seek technical assistance from the Community membership staff who may assist in attempting to secure such documentation.

(Code 1981, § 2-2(c); Code 2012, § 2-2(c); Ord. No. SRO-354-2010, 10-28-2009; Ord. No. SRO-402-2012, § 2-2(c), 5-30-2012)

**Sec. 2-26. Application and review process.**

(a) *Application.* A person seeking to begin the enrollment process must submit an application for membership to the membership office. Applications for membership within the Community shall be in a form prescribed by the membership office.

(b) *Preapplication review.* The membership office shall provide each applicant with a documentation checklist for a complete enrollment application and an initial evaluation regarding the sufficiency of the applicant's documentation.

(c) *Confirmation of initial receipt of application.* The membership office shall issue a written letter confirming receipt of a submitted application and supporting documentation.

- (1) The confirmation letter will be sent within five business days of receipt of the application.
- (2) The confirmation letter does not imply or convey any rights or benefits of the applicant in regards to membership within the Community.

(d) *Review of application and supporting documentation.* Within 60 calendar days of the receipt of a complete enrollment application, the membership office shall review the application and the submitted documentation to determine whether the application meets the membership criteria. The membership office shall inform the applicant that the membership office is processing the application and verifying all relevant information.

- (1) If after verifying applicant's submitted information, the membership office determines that the applicant meets the membership criteria, then the membership office shall assign the applicant an enrollment number.

- a. The membership office shall notify the applicant in writing that his or her application has been approved and shall also provide the applicant with his or her Community enrollment number. The membership office shall send the applicant notice of

their decision via standard and certified/registered mail or personal service.

- b. Community enrollment is effective on the date the membership office approves his or her membership. Membership is not retroactive to the date of submission of the enrollment application packet.

- (2) If after verifying the applicant's submitted documentation and completed enrollment package, the membership office determines that the applicant does not meet the membership criteria, then the membership office shall inform the applicant of their deficiencies. The membership office shall send the applicant a denial letter via standard and certified or registered mail.

(e) *Appeal process.* An applicant, or parent or legal guardian of an applicant, may file a written statement appealing the denial of the applicant's application and supporting documentation.

- (1) The applicant's written appeal must provide a statement of reasons for the appeal.
- (2) The applicant must file his or her written appeal with the council secretary within 14 calendar days from the date of service of the membership office's decision. If the applicant mails the written appeal request, it must be postmarked within 14 calendar days from the date of service of the membership office's decision.
- (3) The council secretary shall forward the appeal request to the council within seven business days of receiving the request, at which time, the council shall determine if there is a claim upon which relief can be granted and as such warrants a hearing upon the merits.
- (4) The Community Council shall schedule a hearing within 14 business days after receiving the appeal from the council secretary.

retary. The council secretary shall notify the appellant and the membership office of the hearing's date, time and place.

- a. Appellate hearings involving the enrollment or membership status of a minor under the age of 18 shall be conducted in executive session.
- b. Hearings involving the enrollment or membership status of an applicant over the age of 18 shall be conducted in open general session.

(Code 1981, § 2-2(d); Code 2012, § 2-2(d); Ord. No. SRO-354-2010, 10-28-2009; Ord. No. SRO-402-2012, § 2-2(d), 5-30-2012)

#### **Sec. 2-27. Secretary to coordinate information.**

The council secretary shall coordinate any required legal review or programmatic information that council determines is necessary to evaluate the membership office's decision.

(Code 1981, § 2-2(e); Code 2012, § 2-2(e); Ord. No. SRO-354-2010, 10-28-2009; Ord. No. SRO-402-2012, § 2-2(e), 5-30-2012)

#### **Sec. 2-28. Burden of proof with applicant.**

The applicant has the burden to prove his or her entitlement to enrollment pursuant to this article and the Community Constitution.

- (1) The membership office shall first present an explanation of its decision.
- (2) After the membership office has presented its case, the applicant may testify and present witnesses to show his or her entitlement to enrollment. The Community Council may allow other witnesses to testify.
- (3) The standard of review for the hearing is de novo.
- (4) If an applicant is unable to submit official certification from any other federally recognized tribe attesting that the applicant has never been enrolled in such tribe and the applicant is denied membership within the Community for this reason, then the council may consider the applicant's ef-

forts to obtain such information when taking the applicant's appeal under consideration.

(Code 1981, § 2-2(f); Code 2012, § 2-2(f); Ord. No. SRO-354-2010, 10-28-2009; Ord. No. SRO-402-2012, § 2-2(f), 5-30-2012)

#### **Sec. 2-29. Timeframe for decision.**

The Community Council shall make a decision within ten business days after the hearing.

(Code 1981, § 2-2(g); Code 2012, § 2-2(g); Ord. No. SRO-354-2010, 10-28-2009; Ord. No. SRO-402-2012, § 2-2(g), 5-30-2012)

#### **Sec. 2-30. Notification.**

The council secretary shall notify the applicant and the membership office in writing of the council's decision within five business days of the council's final decision. Notice to the applicant shall be provided via certified or registered mail or via personal service.

(Code 1981, § 2-2(h); Code 2012, § 2-2(h); Ord. No. SRO-354-2010, 10-28-2009; Ord. No. SRO-402-2012, § 2-2(h), 5-30-2012)

#### **Sec. 2-31. Finality of Community Council decision.**

The council's decision shall be final.

- (1) *Applicant entitled to membership.* If the Community Council determines that the applicant is entitled to membership within the Community, the council shall determine the effective date of membership and the membership office shall include the applicant's name on the official Community membership roll.
- (2) *Applicant denied membership.* If the Community Council determines that the applicant is not eligible for membership or otherwise failed to establish his or her entitlement to membership, the council will inform the applicant in writing of the deficiencies with the application or evi-

dence. This section does not prohibit the applicant from applying for Community membership in the future.

(Code 1981, § 2-2(i); Code 2012, § 2-2(i); Ord. No. SRO-354-2010, 10-28-2009; Ord. No. SRO-402-2012, § 2-2(i), 5-30-2012)

#### **Sec. 2-32. Jurisdiction over membership decisions.**

(a) *Review by court.* No court shall have jurisdiction to review any decision of the Community Council made pursuant to this article.

(b) *Paternity decisions.* All questions relating to the paternity of an applicant for enrollment shall be decided by the Community court and the decision of the Community court shall be final.

(c) *Biological relationship decisions.* For purposes of this article only, when the Community court makes a determination regarding an applicant's required biological relationship, such decision shall be based on an evidentiary hearing where witnesses are called and/or evidence is presented.

(Code 1981, § 2-3; Code 2012, § 2-3; Ord. No. SRO-354-2010, 10-28-2009; Ord. No. SRO-402-2012, § 2-3, 5-30-2012)

#### **Sec. 2-33. Truthfulness in the application process; civil fines.**

Any person who knowingly submits false or inaccurate information for the purposes of obtaining enrollment with Community or aiding another person in obtaining membership with the Community may be prosecuted and liable for a civil fine up to \$5,000.00.

(Code 1981, § 2-3.1; Code 2012, § 2-3.1; Ord. No. SRO-354-2010, 10-28-2009; Ord. No. SRO-402-2012, § 2-3.1, 5-30-2012)

#### **Secs. 2-34—2-54. Reserved.**

### **ARTICLE III. REMOVAL FROM MEMBERSHIP ROLLS**

#### **Sec. 2-55. Petition for disenrollment of a minor or adult.**

A parent or legal guardian (petitioner) may petition the council in writing to have an enrolled



minor (respondent) disenrolled. Petitioner must establish that he or she has legal custody of the minor. In addition, any Community member (petitioner) may petition the council in writing if the petitioner has reason to believe that an adult enrolled Community member (respondent) is not entitled to enrollment based on the enrollment criteria in place at the time of the respondent's enrollment.

- (1) The petitioner shall provide a written statement to the council secretary of the reasons for the petition for disenrollment and may provide documentation supporting the petition. The Community Council secretary shall forward the written statement to the council and to the respondent within seven business days of receiving the petition.
- (2) The Community Council shall provide a copy of the petition for disenrollment to the membership office and the membership office shall report to council regarding respondent's membership status and/or qualifications based on the membership criteria in place at the time of respondent's enrollment.
- (3) The membership office shall report back to council within 14 days. For good cause, the membership office can request an extension of time to provide its report to council by submitting a written request to the council secretary.
- (4) After receiving the membership office's report, council shall determine whether there is a claim upon which relief can be granted and therefore a hearing upon the merits is necessary. The council secretary shall notify the petitioner, respondent (both of respondent's parents in the case of a minor), and the membership office of council's decision to either deny the petition without a hearing, or to hold a hearing on a particular date, time and location.
  - a. Generally, disenrollment hearings shall be conducted in an open regular council meeting, except that:
    1. Disenrollment hearings involving minors shall be conducted

in executive session with the minor's parent(s) or legal guardian present.

2. For good cause, an adult respondent can request that council conduct his or her hearing in executive session. Council shall determine whether good cause exists to conduct the hearing in open or executive session.
- b. The council secretary shall coordinate any required legal review or programmatic information that council determines is necessary to evaluate the petition.
- (5) The petitioner shall bear the burden of proving by clear and convincing evidence that the respondent did not meet the applicable membership criteria governing at the time of the respondent's enrollment within the Community.
  - a. At the hearing, the petitioner, respondent, and the membership office may testify and present witnesses regarding the respondent's eligibility to be enrolled with the Community based upon the membership criteria governing at the time the respondent was enrolled. The council may allow other witnesses to testify.
    1. Petitioner shall first present his or her petition and evidence in support thereof.
    2. The membership office shall then provide the results of its verification efforts.
    3. Respondent may then address the council regarding his or her entitlement to membership within the Community.
  - b. The standard of review for the hearing is de novo.
- (6) Council determination.
  - a. If council determines that the petitioner has not met his or her burden



of proof, the respondent shall remain a duly enrolled member of the Community.

- b. If council determines that the petitioner has satisfied his or her burden of proof, the respondent shall be removed from the Community membership roll and the respondent shall no longer be eligible for Community benefits, including per capita distributions, except that a disenrolled minor may reapply for membership pursuant to section 2-26.
- c. The decision of council is final and not subject to any appeal or review by any other court forum.

- (7) Any person who knowingly presents or who aids in the presentation of a frivolous petition to have another member disenrolled may be prosecuted and liable for a civil fine up to \$5,000.00.

(Code 1981, § 2-3.2(a); Code 2012, § 2-3.2(a); Ord. No. SRO-354-2010, 10-28-2009; Ord. No. SRO-402-2012, § 2-3.2(a), 5-30-2012)

#### **Sec. 2-56. Relinquishment.**

An enrolled member may choose to voluntarily relinquish his or her SRPMIC membership. Such relinquishment request shall be in writing and submitted to the membership office.

- (1) The membership office shall evaluate the petition and prepare a recommendation regarding the request.
- (2) The membership office shall submit the petition and recommendation to the council secretary who shall forward the documents to the council.
- (3) Council will consider the petition and recommendation when determining whether to grant or deny the petition for relinquishment.
- (4) Upon council's granting of a relinquishment request, the individual shall no longer be eligible for Community benefits, including per capita distributions.

- (5) Any person who voluntarily relinquishes his or her Community membership shall be ineligible to reapply for membership. (Code 1981, § 2-3.2(b); Code 2012, § 2-3.2(b); Ord. No. SRO-354-2010, 10-28-2009; Ord. No. SRO-402-2012, § 2-3.2(b), 5-30-2012)

#### **Sec. 2-57. Dual enrollment or otherwise ineligible for enrollment.**

If the membership office determines that an Community member is enrolled in another federally recognized Indian tribe or has otherwise become ineligible for enrollment, the membership office shall inform the member of membership office's findings and attempt to remedy the matter with the member. If the matter remains unresolved, the membership office shall initiate a petition for disenrollment before the Community Council.

- (1) The matter shall be heard by council pursuant to the appeal process outlined in section 2-55(1) through (6), and the membership office shall bear the burden of proof.
- (2) The Community member charged with dual enrollment or for being otherwise ineligible for enrollment shall be provided the written notice and opportunity afforded to the applicant in the appeal process outlined in section 2-55(1) through (6).

(Code 1981, § 2-3.2(c); Code 2012, § 2-3.2(c); Ord. No. SRO-354-2010, 10-28-2009; Ord. No. SRO-402-2012, § 2-3.2(c), 5-30-2012)

