

Winnemucca Indian Colony

Home of the Western Band of Western Shoshone
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ORDINANCE NO. 310a addendum to ORD. 310

This addendum to ORDINANCE NO. 310 will be the guidelines that membership committee of ORDINANCE NO. 310 will use.

SECTION 1—DEFINITION OF TERMS

1. **ADOPTED CHILD-** One whose natural parent's parental rights have been terminated by a court order and given to another.
2. **ADOPTEE-**A person who is adopted by the Colony into membership.
3. **ADOPTION-**Granting colony membership to a membership to a person who does not meet the eligibility requirements for enrollment.
4. **APPLICANT-**The person seeking to be enrolled.
5. **BASE ROLL-**The base roll document shall be the official December 9, 1916 Census Roll of the Winnemucca Shoshone Indians.
6. **OFFICIAL ROLL-**The official roll document shall be the approved and revised roll of February 14, 1998.
7. **CONSTITUTION-**The Constitution and by-laws of the Winnemucca Indian Colony of Nevada approved March 5, 1971. Is the Supreme law of the land. (340 acres)
8. **COUNSEL-**Attorney, lawyer, Advocate, Spokesman, or Representative of his or her choice
9. **DIRECT DESCENDANTS-**Those persons who are the issue of the ancestor through whom enrollment rights or degree of blood are claimed, namely, the children, grandchildren etc. etc. It does not include collateral relatives such as aunts, uncles, cousins, etc.
10. **DISENROLLMENT-**The official action taken by the Winnemucca Indian Colony Council to terminate and remove an individual's name from the membership roll.
11. **DUAL MEMBERSHIP-**Enrollment in more than one Federally Recognized Indian group. No person(s) enrolled with, affiliated with, or recognized as a member of another Federally Recognized Indian group shall be eligible for membership in the Winnemucca Indian Colony.
12. **ENROLLMENT CLERK-**The person to maintain Colony Enrollment records, also to be appointed by Colony Council, from within it's membership.

13. **MEMBERSHIP COMMITTEE-** A 5-membership committee established by the Winnemucca Indian Colony Council with the authority to recommend to the Council whether an application for enrollment should be approved or rejected.
14. **MEMBERSHIP APPLICATION-**A written application form prescribed by the Winnemucca Indian Colony Council to be enrolled as a member of the Winnemucca Indian Colony.
15. **LINEAL ANCESTORS-**Ancestor, living or deceased, who is related to an applicant by direct ancestry, namely parents, grandparents, etc. etc. It does not include collateral relatives such as aunts, cousins, etc.
16. **WINNEMUCCA INDIAN COLONY COUNCIL-** The elected governing body of the Colony.
17. **RELINQUISHMENT-**The voluntary membership withdrawal from the Winnemucca Indian Colony. Relinquishment shall be final, except in the case of a person relinquished as a minor child. In such a case this person will be eligible to re-apply for membership within 5 years after he/she turns 18 years of age unless he/she has received Judgment funds as a member of another Federally Recognized Indian group, prior to re-enrolling in the Winnemucca Indian Colony..
18. **RESIDENT-**One who makes the Winnemucca Indian Colony (physical) his/her fixed and permanent home and to which, if he/she is absent he/she intend to return.
19. **NON-RESIDENT-**One who does not physical live in the lands of the Colony, but is a member, and will be treated as such according to status of membership entrance.
20. **SECRETARY-**The Secretary of the Interior or his/her authorized representative.
21. **SPONSOR-** An individual or entity that inter-relates with Colony on behalf of applicant.
22. **SUPERINTENDENT-**The official in charge of the Western Nevada, Bureau of Indian Affairs Agency or other designated representative of the Bureau of Indian Affairs.

SECTION 2—ENROLLMENT STANDARDS

- A. **PERSONS CONSIDERED FOR ENROLLMENT--**In accordance with the Constitution and by-laws of the Winnemucca Indian Colony, persons in the following section (art.II,sect.1,2,3,) shall be considered for enrollment provided that they file a written application.

ARTICLE II SECTIONS 1,2, &3 CONSTITUTION OF THE WINNEMUCCA INDIAN COLONY

Section 1. The membership of the colony shall include all persons of at least one-fourth (1/4) degree Paiute and/or Shoshone Indian blood who meet the following requirement: Their names appear, or they are descendants of persons whose names appear, on the December 9, 1916, census of the Winnemucca Shoshone Indians. The degree of Indian Blood of all persons listed on the 1916 roll will be determined from information contained in the records of the Nevada Agency.

Section 2. No person shall be eligible for membership in the Winnemucca Indian Colony who has received land or money as a result of having been enrolled as a member of some other tribe, band or community of Indians.

Section 3. The Winnemucca Colony Council shall have the power to enact ordinances subject to the approval of the Secretary of the Interior or his authorized representative governing the procedures to be followed when a member becomes ineligible for continued membership, when a person wishes to be adopted into membership, and when an eligible member requests to be officially enrolled.

B. ELIGIBILITY FOR ADOPTION

1. That any person of one-quarter or more degree of Shoshone and/or Paiute Indian Blood, or any person of one-half or more Indian Blood married to a member of the Winnemucca Indian Colony, may become a member of the Colony by, submitting an application in writing to the Colony Council in which the applicant agrees to renounce his/her membership in or affiliation with any other Federally Recognized Indian group, and by receiving the endorsement of the Colony Council by an affirmative vote of at least three-fifths of it's members.
2. Any child of one-quarter or more degree Shoshone and/or Paiute blood who is less than 18 years of age and is living with a (an) parent(s) , legal guardian , or relative who is a member of the Colony, is eligible for membership by adoption, by the Colony.

C. ELIGIBILITY FOR HONORARY MEMBERSHIP

1. A person not meeting the eligibility requirements under Art.II Sect. 1,2,& 3 of the Colony Constitution, may be eligible for Honorary Membership by resolution of the Colony Council, provided, however, that such honorary membership shall not entitle any such person to any Colony privileges, rights, resource, property or voting power.

SECTION 3—COUNCIL AUTHORITY

The Council shall have the power to propose ordinances, subject to review by the Secretary of the Interior, governing future membership and the adoption of members by the Winnemucca Indian Colony, provided that no existing property of rights shall be affected by this section.

SECTION 4—RELINQUISHMENT

- A. Any adult member of the Colony may sever his/her membership with the Colony upon written application to the Colony Council and when receipt of such application has been acknowledge by the Council, the applicant shall cease to have any rights as a member of the Colony. Relinquishment shall be final, except in the case of a person relinquished as a minor child. In such case this person will be able to re-apply for membership within 5 years after he/she turns 18 years of age unless he/she has received judgement funds as a member of another Federally Recognized Indian group prior to re-enrolling in the Winnemucca Indian Colony.

SECTION 5—APPLICATION FOR ENROLLMENT

- A. Written application for enrollment must be filed with the enrollment clerk for appropriate action

A separate written application for enrollment on application form approved by the Colony Council must be filed with the enrollment clerk by or on behalf of each person applying for enrollment as a member of the Colony.

- B. Written application sponsoring an application for enrollment on behalf of another person-

If the person sought to be enrolled is a minor or other person in need of assistance; an application for enrollment may be completed and filed by the sponsor of said person.

- C. Enrollment applications to be numbered in sequential order and dated.

After each application is completed and returned; the enrollment clerk shall record the date received.

SECTION 6—PERSONS NOT CONSIDERED FOR ENROLLMENT

In accordance with the Constitution and By-laws of the Winnemucca Indian Colony, Article II Sections 1,2,& 3. Persons in the following sections shall not be considered for membership in the Winnemucca Indian Colony.

- A. Persons who are enrolled members of any other Federally Recognized Indian group, shall not be eligible for membership in the Winnemucca Indian Colony.
- B. No person shall be eligible for membership in the Winnemucca Indian Colony, if such person has relinquished membership in the Winnemucca Indian Colony, unless such person was a minor at the time of relinquishment in which case, at the age of 18, such person may then be eligible to apply for membership, provided that they file an application within 5 years upon their turning 18 years of age.
- C. Persons who have received land and/or monies as a result of being part of a recognizable tribe, band, or any other form of community of indians.

SECTION 7—PROCESSING ENROLLMENT APPLICATIONS

- A. The enrollment committee shall review all applications and make recommendations to the Winnemucca Indian Colony Council.

The enrollment committee shall review all applications for enrollment and shall consider the information provided in such applications together with all other information concerning the applicant's eligibility for membership, and make it's recommendations to the Winnemucca Indian Colony Council as to whether the application should be approved or rejected.

The written recommendation shall become valid if approved by the Winnemucca Indian Colony Council.

APPLICATION FORM REQUIREMENTS

- 1. Application number affixed for the purpose of tracking and maintaining a record of all applications submitted to the enrollment officer.
- 2. Name, maiden name, mailing address, home address, date of birth, place of birth, social security number, and gender of the applicant.
- 3. Space for the applicant to state the specific legal enrollment criteria that the applicant qualifies under to be a member of the Colony.
- 4. The name of any other Federally Recognized Indian group where the applicant is/or has been enrolled.
- 5. A complete family tree to be filed by each applicant in order to determine degree of Indian blood and descendency.
- 6. A listing of any required documents to be included with the application, or any documents required.
- 7. The recommendation made by the enrollment committee to the Winnemucca Indian Colony Council on the enrollment application.
- 8. The formal action taken by the Winnemucca Indian Colony Council on the enrollment application.

OTHER REQUIRED DOCUMENTS

- a. ***Acceptable Proof of birth.*** The only acceptable proof of birth will be a certified birth certificate. The applicant may keep the certified birth certificate, and the enrollment officer shall copy and put into record, the original document, thus verifying the copy is legitimate.
 - b. ***Acceptable Proof of a Name Change.*** If an individual's name has been changed since the time of birth, by marriage or otherwise, the applicant must submit a copy of one of the following documents establishing the official name change:
 1. Marriage Certificate
 2. Divorce Degree
 3. State Driver's License/LD.
 - c. ***Degree of a child born out of wedlock*** The four legally acceptable proof of fatherhood when the mother is not married are:
 1. A statement acknowledging paternity signed by the father.
 2. A decree issued by a court of law that states who the father is.
 3. The findings of a probate examiner.
 4. Letter of Acknowledgment sent from the Division of Vital Statistics, acknowledging a paternity statement is on file.
- B. Notice of hearing to be given when the application is being recommended or considered for rejection:**
1. **Written notice required:** Whenever the enrollment committee recommends rejection or the Winnemucca Indian Colony Council considers that an application for enrollment should be rejected:

Written notice that a hearing will be held concerning such application in the manner hereinafter provided before a final determination of the applicant's eligibility for enrollment is made by the Winnemucca Indian Colony Council.
 2. **Content of the notice:** The written notice required to be given under this section by the Winnemucca Indian Colony Council shall:
 - a. Indicate the Colony's membership requirement(s) which the applicant failed to establish or other reasons why the application is being considered for rejection.
 - b. Recommend a time and place for the Winnemucca Indian Colony Council to hold a hearing to make it's final determination of the applicant's eligibility for enrollment.
 - c. Indicate that the person or sponsor filing the application may appear before the Winnemucca Indian Colony Council at the time and place fixed for enrollment should not be rejected and to present additional evidence, if any, concerning the applicant's, eligibility for enrollment. The content and form of such written notice shall be approved by the Winnemucca Indian Colony Council.
- C. Manner of giving notice:** The notice required under this section shall be served twenty (20) days prior to the time fixed for the Winnemucca Indian Colony Council to hold a hearing to make it's final determination of the Applicant's eligibility for enrollment. Service of notice means:

1. Delivery to the United States Post office by CERTIFIED MAIL, with postage thereon fully prepaid and return receipts requested, addressed to the person or sponsor filing the application for enrollment at the address provided by such person in the application for enrollment form, or at such different address as the person may subsequently provide to the membership committee.
- D. Presumption of Notice: Presumption that the written notice was received when---
1. Such notice shall be sent by CERTIFIED MAIL, as provided in subsection B above, it shall be presumed that such notice was received by the addressee more than twenty (20) days prior to the time fixed for the hearing by the Winnemucca Indian Colony Council or--
 2. It appears that the notice required under this section was deposited in a United States Post Office more than thirty (30) days prior to the time fixed for the Winnemucca Indian Colony Council to hold it's hearing concerning the applicant's eligibility for enrollment, or if the person refuses to pick up the CERTIFIED LETTER and U.S.Postal time runs out.

SECTION 8--DETERMINATION OF ELIGIBILITY

- A. Review by Colony Council- The Winnemucca Indian Colony Council shall review each application for membership committee and determine whether the applicant is eligible to be enrolled as a member of the Colony. The person or sponsor filing an application has the burden of proof of establishing to the satisfaction of the Winnemucca Indian Colony Council that the applicant meets all the requirements for the Colony membership.
- Winnemucca Indian Colony Council shall consider all relevant evidence regarding the applicant's eligibility for enrollment but the relevancy, weight and sufficiency of such evidence shall be determined by the Winnemucca Indian Colony Council.
- B. Notice of Rejection Hearing- Before making a determination that an application for enrollment should be rejected, the Winnemucca Indian Colony Council shall hold a hearing concerning the applicant's eligibility for enrollment, and the person or sponsor filing the application shall be given written notice of the hearing, in accordance with the provisions of section 7C of this addendum to ordinance 310. The manner of holding such hearing or any other matters pertaining to enrollment procedures shall be determined by the Winnemucca Indian Colony Council. **THE COLONY COUNCIL WILL BE THE DETERMINING BODY FOR MEMBERSHIP AND IT'S DECISION IS FINAL.**
- C. Notice in Writing - The determination as to whether an application for enrollment is approved or rejected by the Winnemucca Indian Colony Council, shall be reduced to writing and signed by the Chairman of the Winnemucca Indian Colony. Such determination shall also set forth findings of the fact indicating whether the membership committee recommended that the application be approved or rejected, the membership requirements which the Winnemucca Indian Colony Council found to be established. If the application is rejected the Winnemucca Indian Colony Council shall also make special finding of fact concerning the written notice of hearing which was given to the person or sponsor filing the application and whether or not such person or sponsor filing the application was present at such hearing.
- D. Serving Notice to Applicant - Every person or sponsor filing an application for enrollment shall be served with written notice of acceptance or rejection by the Winnemucca Indian Colony Council, attached with a copy of the determination of the applicant's eligibility or ineligibility.
1. Content of notice of rejection- If the Winnemucca Indian Colony Council rejected the application for enrollment, the written notice shall provide the rejection of the application for enrollment.

2. Such notice must be sent by **CERTIFIED MAIL**. As provided in subsection B above, it shall be presumed that such notice was received by the addressee more than twenty (20) days prior to the time fixed for the hearing by the Winnemucca Indian Colony Council.
3. **Manner of giving Notice**—The notice required to be given under this section shall be given promptly after the Winnemucca Indian Colony Council makes its determination as to whether the application for enrollment is approved or rejected and shall be sent by **CERTIFIED MAIL**, with postage thereon fully prepaid, with a return receipt requested, address provided by such person or sponsor filing the application or at such different address as may be provided to the Winnemucca Indian Colony Council in writing.

SECTION 9—MISCELLANEOUS

- A. **Colony Membership Roll**—The Colony Membership Roll shall contain the names of all enrolled members of the Winnemucca Indian Colony. For each such member, the roll shall indicate to the maximum extent possible, the person's:
 - a) Colony enrollment
 - b) Sex
 - c) Date of birth
 - d) Degree of Indian Blood
 - e) Date of enrollment
 - f) Name & Base roll of Parents
 - g) Any notations made upon such roll shall indicate by such notations were made, the date and the authority for making such notations.
- B. **Upkeep of Roll**—The Winnemucca Indian Colony Council shall cause the Colony membership roll to be kept current and shall annually review the roll for such purposes. The names of all persons who are deceased and all persons who have relinquished their membership in the Winnemucca Indian Colony in writing shall be noted in the roll. The names of all persons whose applications for enrollment have been approved by the Winnemucca Indian Colony Council shall be promptly added to the membership roll.
- C. **Repeal of prior ordinance and resolutions**—membership ordinance 310 or resolutions now in effect herewith, shall be repealed to the extent of absolving said membership ordinance and resolutions, but said repeal will not effect current status of enrolled members unless found to be a member in violation of ordinance under which they were granted membership.
- D. **Presumption of Eligibility**—Due to felonious acts against the Winnemucca Indian Colony on February 22, 2000, and thereafter. Resulting in the approved colony memberships rights under the constitution and by-laws of the Winnemucca Indian Colony being violated. It must be presumed that all or part of the required documentation submitted for enrollment have been destroyed, altered, or in other ways discredited. Unconditional and irrevocable membership in the Winnemucca Indian Colony is granted to all members whose name appears on the February 14, 1998 revised and approved membership rolls.

SECTION 10—DISENROLLMENT PROCEDURES

- A. **Persons who shall be considered for disenrollment, any member of the Winnemucca Indian Colony who:**
 1. is an enrolled member of any other federally recognized Indian group, and/or
 2. has been found not to be within the requirements for eligibility for membership in the

Winnemucca Indian Colony, shall be considered for disenrollment from the Winnemucca Indian Colony. When the Colony Council becomes informed that a person may be considered for disenrollment, the Colony Council shall give notice to the member that procedures will be taken to disenroll such member .

- B. **Notice of Hearing** –When a member is being considered for disenrollment by the Winnemucca Indian Colony Council a written notice will be served to the member.
1. Written notice of a hearing is required whenever the Colony Council considers the disenrollment of an enrolled member of the Winnemucca Indian Colony, in the manner provided hereinafter, before final determination is made by the Winnemucca Indian Colony Council on the disenrollment.
 2. **Content of Notice**–The written notice required to be given under this section by the Winnemucca Indian Colony Council shall:
 - a) indicate the reason the enrolled member is being considered for disenrollment.
 - b) fix a time and a place for the Winnemucca Indian Colony Council to hold a hearing to make its final determination on the action to disenroll the member.
 - c) indicate that the member or legal guardian may appear before the Colony Council at the time and place fixed for such a hearing to show why the member should not be disenrolled, the member, at his/her expense, shall be given the opportunity to provide evidence and offer testimony as to why he/she should not be disenrolled. The form and content of such notice shall be approved by the Winnemucca Indian Colony Council.
- C. **Manner of Giving Notice**–The notice required under this section shall be served twenty (20) days prior to the time fixed for the Winnemucca Indian Colony Council to hold a hearing to make its final determination on the disenrollment.
- Delivery to the U.S.Post Office by CERTIFIED MAIL, RESTRICTED DELIVERY with postage thereon fully prepaid and return receipt requested, addressed to the member's last known address.
- D. **Presumption of Notice** -Presumption that the written notice was received when:
- a) such notice was sent by CERTIFIED MAIL, it shall be presumed that such notice was received by the addressee more than twenty (20) days prior to the time fixed for the hearing by the Winnemucca Indian Colony Council or,
 - b) it appears that the notice required under this section was deposited in a U.S.P.O. at least thirty (30) days prior to the time fixed for the Winnemucca Indian Colony Council to hold its hearing regarding the member's disenrollment, or if the person refuses to pick up the certified letter, and U.S.Postal Times runs out.
- E. **Procedures After Disenrollment** -After the Winnemucca Indian Colony Council has disenrolled a member of the Winnemucca Indian Colony, a notice will be sent to the member by CERTIFIED MAIL return receipt requested notifying the member of the action. In addition the Winnemucca Indian Colony Council shall forward all material regarding the disenrollment to the Bureau of Indian Affairs.