

RULES RESPECTING MEMBERSHIP IN THE HUPACASATH BAND OF INDIANS
AND ENACTED IN ACCORDANCE WITH SECTION TEN OF THE INDIAN ACT

PREAMBLE

WHEREAS;

We the Hupacasath tribe have the inherent right to determine our membership.

The strengths of the Hupacasath Tribe stem from our beliefs in our culture, traditions, ancestral heritage and our ownership of our territories and resources.

It is incumbent upon this generation of the Hupacasath to preserve the integrity of our territories and our resources for the benefit of all Hupacasath: past, present and future.

The Hupacasath believe in self-government according to our philosophies and traditions.

We are Hupacasath.

Therefore, the following membership rules are those that will govern our membership in the future.

SHORT TITLE

1. These rules may be cited as the Hupacasath Membership Rules.

DEFINITIONS

2. (1) In these Rules,

“aboriginal descent” descended from the aboriginal peoples of the Americas, and accepted by the aboriginal peoples as being of aboriginal descent;

“adult” means a person of the full age of eighteen years;

“Chief and Council” means the Chief Councilor and Council of the Hupacasath Band of Indians.

BAND LIST

3. (1) The Hupacasath Band List shall be maintained by the Hupacasath Band.
- (2) The membership of the Hupacasath First Nations shall consist at any time of all those persons entitled to be members of the Hupacasath Band and whose names are at that time registered in the Hupacasath Band List.
- (3) The name of a person who is entitled to have their name entered into the Hupacasath Band List is not required to be entered therein unless an application for entry therein is made.
- (4) The Hupacasath band List shall be maintained in accordance with the Indian Act and these rules.
- (5) No person's name may be added to or deleted from the Hupacasath Band List without direction from the Membership Committee.
- (6) The Hupacasath Band List shall be kept at such place as Chief and Council may from time to time decide.

ENTITLEMENT TO REGISTRATION

4. (1) The following persons are entitled to be members of the Hupacasath First Nation and to have their names registered in the Hupacasath Band List;
 - (a) Any person whose name appeared or was entitled to appear on the Band List of for the Hupacasath First Nation as maintained by the Department of Indian Affairs immediately prior to these rules taking effect save and except those persons the inclusion of whose names on the Hupacasath Band List as maintained by the Department of Indian Affairs immediately prior to these rules taking effect is successfully protested by the Hupacasath First Nation or the Hupacasath Chief and Council pursuant to the provisions of the Indian Act of those persons whose name may be removed from the Hupacasath Band List pursuant to these Rules.
 - (b) Any person both of whose biological parents are or, if no longer living were at the time of death registered or entitled to be registered in the Hupacasath Band List.

- (c) Any person of aboriginal descent one of whose biological parents is or, if no longer living was at the time of death registered or entitled to be registered in the Hupacasath Band list except those persons who at the time of their birth, had no biological parent registered or entitled to be registered in the Hupacasath Band List;
- (d) Any person of aboriginal descent whose name was deleted from any Band List for the Hupacasath First Nation as maintained by the Department of Indian Affairs at any time prior to these rules taking effect for the reason of that person being enfranchised:
- (e) Any person who has applied for membership in the Hupacasath First Nation in accordance with Section Eight of these Rules and whose application for membership in the Hupacasath Band has been accepted pursuant to the provisions of these Rules;
- (f) Any person of aboriginal descent whose name was deleted from any Band List for the Hupacasath First Nation as maintained by the Department of Indian Affairs at any time prior to these Rules taking effect for the reason of that person being adopted.

PERSONS NOT ENTITLED TO REGISTRATION

- 5. (1) Notwithstanding any other provisions of these Rules and for greater certainty the following persons are not entitled to be registered in the Hupacasath band List;
 - (a) Persons who are not of aboriginal descent and who are not registered in the Hupacasath Band List at the time these rules take effect.
 - (b) Persons of the full age of nineteen years and who are registered in the Band List of Indians other than the Hupacasath First Nation.
 - (c) Persons whose names were deleted from the Hupacasath Band List pursuant to the provisions of these Rules except those persons who have, pursuant to Section Nine of these rules, applied for membership in the Hupacasath First Nation and been accepted.

LOSS OF MEMBERSHIP

- 6. (1) Notwithstanding any other provision of these Rules, a person who is of the full age of eighteen years and is entitled to be a member of the Hupacasath First Nation and who is registered in the Hupacasath Band

List and who is a grave threat to the Hupacasath Band or the members of the Hupacasath First Nation may have their name removed from the Hupacasath Band List and lose entitlement to have their name so registered.

By way of example grave threat may include continued child sexual abuse, continued providing or selling of liquor or drugs to children endangering the lives of Hupacasath band members.

- (2) No person's name may be removed from the Hupacasath band list pursuant to subsection 6 (1) of these rules unless:
- (a) That person is given a fair hearing by the Membership Committee, and
 - (b) The Membership Committee recommends to the Band the person's name be removed from the Hupacasath band List, and
 - (c) A majority of the adult members of the Hupacasath First Nation who attend a Band meeting specifically called for the purpose of considering the removal of that person's name from the Hupacasath Band List vote to remove that person's name from the Band List.
 - (d) A decision of the special band meeting referred to in this subsection may be appealed by the person whose removal from the band list is considered at that special band meeting or by the Membership Committee by giving written notice to the business office for the Hupacasath First Nation within thirty days of the decision at that special band meeting;
 - (e) An appeal pursuant to this subsection shall be to the adult members of the Hupacasath First Nation who shall render their decision by way of referendum not more than sixty days from the date the written notice of appeal is received by the business office for the Hupacasath Band;
 - (f) A referendum pursuant to this subsection shall be decided by a majority of the adult members of the Hupacasath First Nation who vote in the referendum;

- (g) Where, pursuant to the provisions of this section the adult members of the Hupacasath First Nation vote to delete a person's name from the Hupacasath Band List, the Membership Committee shall direct that person's name to be removed from the Hupacasath Band List.
- (3)
- (a) Notwithstanding any other provisions to these Rules, a person who is of the full age of eighteen years and who is entitled to be a member of the Hupacasath First Nation and who is registered in the Hupacasath Band List may relinquish their membership in the Hupacasath First Nation and request that their name be removed from the Hupacasath Band List.
 - (b) A request pursuant to this subsection shall be sent in writing to the Membership Committee
 - (c) Within thirty days of receiving a request pursuant to this subsection, the Membership Committee shall direct that person's name be removed from the Hupacasath Band List.
 - (d) Where the Membership Committee directs that a person's name be removed from the Hupacasath Band List pursuant to this subsection, that name shall be deleted from the Hupacasath Band List.
- (4)
- (a) Notwithstanding any other provisions of these Rules, a person who at any time
 - (I) gained Hupacasath Band membership, and
 - (II) gained Indian Status,solely because of that person's marriage to a member of the Hupacasath First Nation shall lose membership in the Hupacasath Band and that person's name shall be deleted from the Hupacasath Band List if;
 - (I) that person becomes divorced, or
 - (II) that person is separated from their spouse for a period of more that one year.
- (5)
- (a) Within five years of these Rules coming into force a committee of membership review shall be established which may;

- (I) Review the Hupacasath Band List and determine if each person on the list is
 - (a) of aboriginal descent, or married to or widowed from a person of aboriginal descent, and
 - (b) at the time of the review and by Hupacasath custom and traditional law, entitled to be a member of the Hupacasath First Nation.

- (II) Recommend to the Hupacasath electors the removal from the Hupacasath Band List of persons who are not of aboriginal descent or married to or widowed from a person of aboriginal descent and at the time of the review and by Hupacasath custom and traditional law entitled to be a member of the Hupacasath First Nation.
 - (a) the committee of membership review shall consist of Chief and Council.
 - (b) Where the committee for membership review recommends the removal of a person's name from the Hupacasath Band List the question of the removal of that person's name from the Hupacasath Band List shall be decided by a majority of the electors of the Hupacasath First Nation who attend a Band meeting specially called for the purpose of considering a removal of that person's name from the Hupacasath Band List.

MEMBERSHIP COMMITTEE

- 7. (1) There shall be established a Membership Committee. The Membership Committee shall review all applications for membership and make recommendations in respect of such applications and carry out the purposes of these Rules.
 - (2) The Membership Committee shall consist of Chief and Council.
 - (3) The Membership Committee shall meet from time to time as required but not less than once every sixty days.
 - (4) No information or documents from the administration of these Rules may be

released or distributed without the authorization of the Membership Committee.

APPLICATION FOR MEMBERSHIP

- (1) Any person of Aboriginal Descent who is not otherwise entitled for registration in the Hupacasath Band List may apply to have his/her name registered in the Hupacasath Band List.
- (2) An application for registration, pursuant to this section, must be supported in writing by at least two adults whose names appear on the Hupacasath Band List and neither of who is a member of the applicant's immediate family.
- (3) Applications for registration must be made in writing to the membership Committee
- (4) The onus of proof on any matter rests with the person applying for membership.
- (5) An application for membership for a person not yet an adult shall be supported in writing by the parent or legal guardian of that person.
- (6) The Membership Committee shall consider an application for membership within one month of the application.
- (7) The Membership Committee shall within two months of receiving the application for membership put the application before a band meeting for a decision. The application for membership shall be decided by a majority of seventy-five percent of Hupacasath electors present at that meeting.
- (8) A person whose application for membership is accepted by the electors and who complies with all other provisions of these rules shall be entitled from the day his application is accepted by the Hupacasath electors at the band meeting to have his name registered in the Hupacasath Band List.

APPEALS

9. (1) An applicant for membership may appeal a decision made by the Hupacasath electors pursuant to Section Eight of these Rules to the adult members of the band.

- (2) The appeal shall be put to a referendum of the adult members of the Hupacasath First Nation no later than ninety days after the decision by the Membership Committee.
- (3) The referendum shall be conducted by secret ballot vote
- (4) An appeal pursuant to this section shall not be allowed unless no less than seventy-five percent of the adult members of the Hupacasath First Nation who vote in the referendum vote to allow the appeal.
- (5) The Appellant shall bear all reasonable costs of an Appeal made pursuant to this section.

REGULATIONS

10. (1) The Chief and Council make Orders and Regulations to carry out the purposes of these Rules.
- (2) Orders and Regulations made under this section shall be posted at the Hupacasath Band Office for no less than thirty days subsequent to being made.

COMING INTO EFFECT OF THE RULES

11. These Rules shall have effect from the day in which the Band Council gives notice to the Minister of Indian Affairs pursuant to subsection 10 (6) of the Indian Act that the Band is assuming control of it's own membership and provides the Minister with a copy of these Rules.

AMENDMENTS TO THE RULES

12. These Rules may only be amended or repealed with the consent of a majority of the electors of the Hupacasath First Nation who are of the full age of eighteen years.