



## Mashpee Wampanoag Tribe

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**2012-ORD-006**

### **ENROLLMENT ORDINANCE**

#### **TABLE OF CONTENTS**

Section 1.	Findings
Section 2.	Authority and Purpose
Section 3.	Definitions
Section 4.	Enrollment Requirements
Section 5.	Enrollment Committee
Section 6.	Applications for Enrollment
Section 7.	Paternity
Section 8.	Right to Appeal
Section 9.	Automatic Forfeiture of Membership
Section 10.	Disenrollment
Section 11.	Relinquishment of Membership
Section 12.	Records
Section 13.	Repealer
Section 14.	Severability
Section 15.	Effective Date

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The Mashpee Wampanoag Tribal Council does ordain as follows:

#### **Section 1. FINDINGS**

- (a) The Mashpee Wampanoag Tribe is a federally-recognized Indian tribe with a duly-enacted Constitution, and the governing body of the Tribe is known as the Mashpee Wampanoag Tribal Council.
  - (b) Article III, § 8 of the Constitution of the Mashpee Wampanoag Tribe provides that the Tribal Council shall enforce Article III of the Constitution, which pertains to Tribal membership, by ordinance.
  - (c) Article VI, § 2.A. of the Constitution of the Mashpee Wampanoag Tribe, provides that the Tribal Council is empowered to promote and protect the health, peace, morals, education, political integrity, economic security and general welfare of the Tribe and its members.
  - (d) The Tribal Council deems it necessary to further refine the procedures for enrollment in the Tribe to ensure that Tribal enrollment is consistent with the substantive and procedural
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## Mashpee Wampanoag Tribe

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requirements of the Constitution of the Mashpee Wampanoag Tribe and the traditions, culture and customs of the Tribe.

- (e) The Tribal Council deems it essential to promote and protect the political and cultural integrity, economic security and general welfare of the Tribe and its Tribal members through the enactment of an Enrollment Ordinance that provides clear and uniform substantive and procedural requirements for enrollment in the Tribe.

### Section 2. AUTHORITY AND PURPOSE

- (a) **Authority.** This Ordinance is enacted pursuant to the authority contained in Article III of the Constitution of the Mashpee Wampanoag Tribe. This Ordinance amends in its entirety the Enrollment Ordinance of the Mashpee Wampanoag Tribe (2006), as ratified by 2010-RES-048, pursuant to Article IX, § 3(2) of the Constitution of the Mashpee Wampanoag Tribe and 2009-ORD-003, Regulating Adoption, Amendment or Repeal of Ordinances and Resolutions.
- (b) **Purpose.** The purpose of this Ordinance is to implement Article III of the Constitution by setting forth substantive and procedural requirements for enrollment in the Tribe. This Ordinance applies to enrollment applications received on or after the effective date of the Constitution (as defined below), but not applications that led to an applicant's enrollment in the Tribe before the date of enactment of this Ordinance.

**Section 3. DEFINITIONS.** For purposes of this Ordinance, the following definitions shall apply:

- (a) "Applicant" means an individual who has submitted a fully-documented enrollment application in accordance with the requirements in this Enrollment Ordinance and Constitution.
- (b) "Constitution" means the document that has been adopted for the self-governance of the Mashpee Wampanoag Tribe, titled "Constitution of the Mashpee Wampanoag Tribe" and adopted on June 28, 2004, with any amendments thereto that may be enacted from time to time.
- (c) "Direct lineal descent" means tracing one's direct lineage from parent to child, generation to generation, without interruption by documentary evidence limited to certified long form birth certificates with a raised seal and certified death certificates with a raised seal to a Mashpee Wampanoag Indian identified in the Report to the Governor and Council, concerning the Indians of the Commonwealth, Under the Act of April 16, 1859 written by John Milton Earle



## Mashpee Wampanoag Tribe

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and published in 1861 by William White, Printer to the State, in Boston, Massachusetts (the "Earle Report") or to the 19<sup>th</sup> century unions of Georgina Palmer and Charles Peters or Leander Peters and Lydia DeGrasse.

- (d) "Disenrollee" means an individual that has been removed from the Tribal roll under Section 10 of this Ordinance and therefore is no longer entitled to any rights and benefits as a member of the Tribe.
- (e) "Enrollment Ordinance" or "Ordinance" means this Enrollment Ordinance of the Mashpee Wampanoag Tribe.
- (f) "Family Members" means immediate and biological Mother, Father, Sibling, and Children.
- (g) "Indian Tribe" means any:
- (1) federal or state recognized Indian governments, nations, tribes, bands, pueblos, or rancherias, including any Alaskan Native Villages, or regional or village Corporations; and
  - (2) any foreign Indian tribes or indigenous peoples considered to be tribal in nature.
- (h) "Minor" means a person under eighteen (18) years of age.
- (i) "Near Mashpee, Massachusetts" means physically residing within 20 miles of Mashpee, Massachusetts.
- (j) "To denounce" shall mean to publicly discredit, condemn or cause harm to, or to deny the existence of, the Tribe.
- (k) "Tribal community involvement" or "Tribal community affairs" means, but is not limited to, participation in traditional, Tribal, cultural and social Mashpee Wampanoag activities, but excludes general public activities, including, but not limited to, standing alone or in combination thereof, the (1) Annual powwow, (2) the Annual Ball, (3) and family reunions. It is presumed that the applicant knows the meaning of the inclusive activities and such knowledge is an indicator of active community involvement. The Mashpee Wampanoag Tribe is a living, functioning entity consisting of blood-related families that have existed on or near the same land since time immemorial. The continued existence of the Tribe has been based on those families living and surviving together against all odds. To be an enrolled



## Mashpee Wampanoag Tribe

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member of this Tribe it is expected and required that you and your family have and continue to contribute to the spiritual, traditional, social, and overall well-being of the Tribe.

- (l) "Tribal Court" means those Tribal Courts established pursuant to 2008-ORD-002, Mashpee Wampanoag Tribal Judiciary
- (m) "Tribal Council" and "Mashpee Wampanoag Tribal Council" means the governing body of the Tribe pursuant to the Constitution.
- (n) "Tribal Member" means an enrolled member of the Tribe.
- (o) "Tribe" means the Mashpee Wampanoag Tribe.

**Section 4. ENROLLMENT REQUIREMENTS.** A person is eligible for membership in the Mashpee Wampanoag Tribe if that person can by documentary and other forms of evidence show all of the following:

- (a) **Direct Lineal Descent.** The person can trace direct lineal descent; and
- (b) **No Public Denouncement.** The person has not publicly denounced Mashpee Tribal existence or their affiliation to the Tribe; and
- (c) **Live in or Near Mashpee.** For at least the preceding twenty (20) years prior to application for membership, the person (1) has lived in or near Mashpee, Massachusetts, or (2) has had family members actively involved in Tribal community affairs and who have lived in or near Mashpee, Massachusetts; and
- (d) **Tribal Community Involvement.** The person can demonstrate Tribal community involvement.

### Section 5. ENROLLMENT COMMITTEE

- (a) **Composition of the Committee.** An Enrollment Committee has been established under the existing Enrollment Ordinance of the Mashpee Wampanoag Tribe (2006), as ratified by 2010-RES-048, and its existence and authority is continued herein without interruption. It shall continue to be composed of five (5) Tribal members, each appointed for staggered terms of three years by the Tribal Council. The Committee members shall appoint a Committee Chairman. A list of Committee members and their terms shall be posted at the Tribal Council building and on the Tribe's internet website.



## Mashpee Wampanoag Tribe

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- (b) **Tribal Officials Ineligible; exception.** Any person who holds an elective or appointive Tribal office, or is a candidate for such office shall be ineligible to serve on the Enrollment Committee; however, one member of the Tribal Council may be allowed to serve on the Enrollment Committee. Any member of the Enrollment Committee who is elected or appointed, or becomes a candidate to Tribal office shall automatically forfeit the remainder of his/her term on the date of his/her election or appointment to Tribal office, or upon the date that he/she becomes a candidate of a Tribal office, whichever is earlier in time.
- (c) **Duties of the Committee.** The Enrollment Committee shall:
- (1) Maintain the official membership roll of the Tribe;
  - (2) Review for accuracy and process all applications for enrollment according to the requirements as set forth in the Constitution and in this Ordinance;
  - (3) Enforce all Tribal enrollment laws; and
  - (4) Promulgate such regulations as may be necessary to carry out its duties.
- (d) **Enrollment Committee Review.** Once the Enrollment Committee has reviewed and considered the information contained in an enrollment application and met with the applicant, in its discretion, the Enrollment Committee shall issue a written decision either to accept or deny the Enrollment Application.
- (1) **Acceptance:** If the Enrollment Application is accepted, the applicant shall then be notified of the Enrollment Committee's decision and the applicant's name shall be immediately added to the Tribal roll.
  - (2) **Denial:** If the Enrollment Committee determines that the application for enrollment does not meet the enrollment requirements, the Committee shall notify the applicant that his/her application has been denied. Such notice shall be sent by certified mail, return receipt requested, and shall include a statement of the reason(s) for denial.
  - (3) **Informal Meeting:** The Enrollment Committee may, in its discretion, informally meet with the applicant for the purpose of discussing the applicant's Enrollment Application. If the Enrollment Committee exercises its discretion to request a meeting with the applicant, the Committee shall provide thirty (30) days notice of the date, time and place of the meeting. The meeting shall be between the applicant and the Enrollment Committee only.



## Mashpee Wampanoag Tribe

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- (4) **Written Decision.** A determination of acceptance or denial pursuant to Section 5(d) of this Ordinance shall be issued by written decision no later than thirty (30) working days after the next committee meeting in which the Enrollment Committee makes its acceptance or denial determination.
- (e) **Expedited Negative Decision.** If during the evaluation of an enrollment application it becomes apparent that the applicant fails on one (1) or more enrollment requirements, under the preponderance of the evidence standard, the Enrollment Committee shall issue a denial of the enrollment application based upon the applicant's failure to meet one (1) or more of the requirements. In its evaluation, the Enrollment Committee shall evaluate each enrollment application in the following order of review:
- (A) direct lineal descent requirement as provided in Section 4(a) of this Ordinance and Section 1(a), Article III, of the Constitution;
  - (B) no public denouncement requirement as provided in Section 4(c) of this Ordinance and Section 1(c) of the Constitution;
  - (C) live in or near Mashpee requirement as provided in Section 4(d) of this Ordinance and Section 1(d) the Constitution; and
  - (D) Tribal community involvement requirement as provided in Section 4(b) of this Ordinance and Section 1(b) of the Constitution.
- (f) **Expedited Processing.** Notwithstanding any provision to the contrary in this Ordinance, the Enrollment Committee shall conduct a preliminary review of a fully-documented application to determine if the applicant is under the age of two (2) years old and at least one (1) of his/her parent is an enrolled member of the Tribe. If those requirements are found to exist, then the Enrollment Committee shall expedite the processing of the application under this Ordinance.

### Section 6. APPLICATIONS FOR ENROLLMENT

- (a) **When and Where to File an Application.** All enrollment applications must be filed at the office of the Enrollment Committee. Application forms may be obtained from the Enrollment Committee by oral or written request. Parents or guardians may file applications for minors or incompetents.
- (b) **Moratorium.** The Committee or Tribal Council may impose a moratorium on the distribution, acceptance or processing of applications. Such moratorium shall have the effect



## Mashpee Wampanoag Tribe

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of closing the membership roll of the Tribe. The Committee or Tribal Council may temporarily open the roll for a limited purpose.

(c) **What the Application Must Contain.** Each enrollment application must be signed, completed in its entirety and must be fully documented to contain sufficient personal information to properly determine the applicant's eligibility for enrollment. Applications must show the following:

- (1) All names by which the applicant is known;
- (2) The date and current address of the applicant;
- (3) List of the applicant's physical residence for the last twenty (20) years;
- (4) Direct lineal descent documentation;
- (5) Ancestral and Individual History Chart;
- (6) Evidence of Tribal community involvement; and
- (7) A statement of no public denouncement.

(d) **No Dual Enrollment.** No person shall be eligible to be a Tribal member if that person is enrolled in another Indian tribe or allowed to submit an application for enrollment if such person is enrolled in another Indian tribe.

### **Section 7. DETERMINING PATERNITY TO ESTABLISH CONSTITUTIONAL REQUIREMENT OF DIRECT LINEAL DESCENT**

(a) **Policy.** It is the policy of the Tribe to require genetic testing (DNA testing) only as part of an initial application for Tribal enrollment and only:

- (1) If a child born to persons not married to each other has a reputed father as a Tribal member, then such testing is required in order to establish paternity to allow such child to file an application for enrollment in the Tribe;
- (2) If the natural father's name does not appear on the child's birth certificate; or



## Mashpee Wampanoag Tribe

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- (3) If, upon investigation of the Enrollment Committee, there is probable cause to believe that a birth certificate has been altered to reflect an incorrect father's name or other evidence of fraud or mistake in connection with paternity.
- (b) **Procedure.** In the event that DNA testing is conducted in circumstances as set forth in Section 7(a) above, the following policies and procedures shall be followed:
- (1) No one shall be subjected to DNA testing to determine membership solely on the basis of rumor and/or hearsay. DNA testing may only be ordered upon a specific finding that one of the circumstances as set forth in Section 7(a)(1)-(3) has occurred. An applicant(s) ordered to have DNA testing, must comply. Failure to do so will result in the disqualification of the applicant(s) in question.
  - (2) Persons selected for DNA testing by the Enrollment Committee or other authorized governing body shall be treated with all due respect. No inference of any wrongdoing on the part of the applicant shall be presumed in any forum.
  - (3) All enrollment applications and records of persons ordered to be subject to DNA testing shall be deemed confidential, and at all times kept secure as set forth in Section 12. No one shall be given permission to view such records except when so ordered by the Enrollment Committee and only for enrollment purposes.
  - (4) The Enrollment Committee shall investigate and certify laboratories to be used for DNA testing and such laboratories shall be investigated and scrutinized by authorized representatives of the Tribe. A copy of all certified laboratories shall be maintained by the Enrollment Committee. Any results from a laboratory not certified by the Enrollment Committee are inadmissible.
  - (5) For those individuals seeking enrollment, or for those individuals seeking enrollment for their children, the cost of DNA testing will be borne by those individuals.
- (c) **No Automatic Entitlement to Enrollment.** Establishment of paternity shall in no way constitute automatic entitlement to enrollment in the Tribe. It shall only be used to establish Mashpee Indian ancestry, which is one factor considered in the application process.

### Section 8. RIGHT TO APPEAL

- (a) **Appeals.** Any person whose enrollment application is denied by the Enrollment Committee shall have the right to appeal. There are no available remedies within the Tribal Council to





## Mashpee Wampanoag Tribe

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exhaust. An appeal shall be taken directly to the Tribal Court. Such appeal must be filed with the Tribal Court within sixty (60) days after the applicant receives the final decision of the Enrollment Committee. In the event a letter of notification is returned for lack of an addressee, the sixty (60) days shall begin to run from the day the Enrollment Committee receives the returned letter. The burden to maintain a current address is on the applicant.

- (b) **Standard of Review, Burden of Proof and Default Judgment.** The Tribal Court shall exercise the arbitrary and capricious standard of review for appeals regarding the denial of an enrollment application by the Enrollment Committee. The Tribal Court, therefore, shall uphold a decision of the Enrollment Committee to deny an enrollment application so long as the decision is reasonable, regardless of whether there was a basis upon which the Enrollment Committee could have reached a different result. The applicant shall have the burden of proof. The applicant shall not have the right to seek a default judgment against the Tribe in the event such applicant appeals the Enrollment Committee's denial decision.
- (c) **Tribal Court Decision is Final.** If the Tribal Court finds the Enrollment Committee decision was arbitrary and capricious, it shall remand it to the Enrollment Committee for reconsideration. If the Tribal Court sustains the decision of the Enrollment Committee, it shall enter a final order to that effect. The Tribal Court's decision in either event shall be final.

**Section 9. AUTOMATIC FORFEITURE OF MEMBERSHIP.** A member shall be deemed to have automatically forfeited membership in the Tribe along with all rights and benefits to which members are entitled:

- (a) **Dual Enrollment.** Upon enrollment in another Indian tribe, and/or
- (b) **Fraud.** Upon a written finding by the Enrollment Committee that membership in the Tribe was obtained by fraud.

### **Section 10. DISENROLLMENT**

- (a) **Grounds for Disenrollment.** A Tribal member may be disenrolled, as set forth in this Section 10, only upon a finding by the Tribal Council that is supported by a preponderance of the evidence that the Tribal member:
- (1) is enrolled in another Indian tribe;
  - (2) obtained Tribal membership by fraud; or



## Mashpee Wampanoag Tribe

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- (3) lacks an enrollment requirement.
- (b) **Initiation of Disenrollment Proceeding.** Upon finding grounds for disenrollment, the Enrollment Committee shall have sixty (60) days to prepare and submit to the Tribal Council a written recommendation to disenroll a Tribal member, the grounds for such disenrollment, and all documentary evidence supporting the Enrollment Committee's recommendation. The Tribal Council shall within sixty (60) days of receipt of the Enrollment Committee's recommendation consider in executive session of a regular meeting of the Tribal Council whether to initiate disenrollment proceedings based on a review of the Committee's recommendation, including the documentary and other evidence supporting its recommendation.
- (c) **Notice of Disenrollment.** Upon a decision by Tribal Council to initiate disenrollment proceedings, the Tribal Council shall cause to be sent by certified mail, return receipt requested, or by personal service a notice of disenrollment to the Tribal member that shall include the date, time and place of the disenrollment hearing and the grounds for disenrollment. The notice must provide the Tribal member thirty (30) days from receipt of such notice to respond in writing. The Tribal member will have at least sixty (60) days notice of the hearing. The notice must also contain information regarding the Tribal member's hearing and appeal rights. If the notice is returned as undeliverable, the Tribal Council shall cause the notice to be posted in the main Tribal administrative building and Tribal website for at least sixty (60) days prior to the hearing.
- (d) **Disenrollment Hearing.** At the hearing, the Tribal member shall have the right to present his/her argument with an attorney at his/her own expense. The Enrollment Committee and any other person representing the interests of the Enrollment Committee shall have the same right. No later than sixty (60) days after the hearing, the Tribal Council in executive session at a regular meeting shall make a decision on disenrollment by majority vote and shall immediately thereafter send by certified mail, return receipt requested, or by personal service the final decision to the Tribal member or disenrollee. If the decision is to disenroll, the decision must include an explanation of the disenrollee's right to appeal. If the decision to disenroll is returned as undeliverable, the Tribal Council shall cause the decision to be posted in the main Tribal administrative building and Tribal website for sixty (60) days with an explanation of the disenrollee's right to appeal.
- (e) **Appeal from a Decision to Disenroll.** A disenrollee may appeal to the Tribal Court no later than sixty (60) days from receipt of the decision to disenroll or before the expiration of sixty (60) days' notice posted in the main Tribal administrative building and Tribal website.



## Mashpee Wampanoag Tribe

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- (f) **Standard of Review, Burden of Proof and Default Judgment.** The Tribal Court shall exercise the arbitrary and capricious standard of review for appeals regarding a disenrollment decision by the Tribal Council. The Tribal Court, therefore, shall uphold a decision of the Tribal Council to disenroll so long as the decision is reasonable, regardless of whether there is a basis upon which the Tribal Council could have reached a different result. The disenrollee shall have the burden of proof. The Tribal Court's decision in either event shall be final. The disenrollee shall not have the right to seek a default judgment against the Tribe in the event such disenrollee appeals the Tribal Council's disenrollment decision.
- (g) **Removal from Tribal Roll.** If the Tribal Council's final decision is to disenroll and the time has expired for a disenrollee to appeal such decision, the disenrollee's name shall automatically be removed from the Tribal roll by the Enrollment Committee. Such person shall thereafter no longer be entitled to any rights or benefits as a Tribal member. If the disenrollee has timely appealed the Tribal Council's decision to disenroll, the disenrollee's name shall remain on the Tribal roll pending a final decision by the Tribal Court. If the Tribal Court sustains the decision of the Tribal Council, it shall enter an order to remove the disenrollee's name from the Tribal roll forthwith and to rule that such person shall no longer be entitled to any rights or benefits as a member of the Tribe.
- (h) **Reapplication for Enrollment.** A disenrollee removed from the Tribal roll under this Section 10 is permitted to reapply for Tribal membership no earlier than seven (7) years after disenrollment.

### Section 11. RELINQUISHMENT OF MEMBERSHIP

- (a) **Adult Relinquishment.** Any adult Tribal member may voluntarily relinquish his/her membership. The membership of any member of the Tribe who is not at least eighteen (18) years of age may be relinquished by his/her parent or legal guardian. Such a relinquishment must be by notarized affidavit presented to the Enrollment Committee.
- (b) **Reapplication for Membership.** Any adult Tribal member who relinquishes membership shall be ineligible to reapply for Tribal membership for a period of seven (7) years from the date of relinquishment.
- (c) **Minor's Relinquishment.** Whenever a relinquishment is submitted for a minor member, care will be taken to determine that the individual who signed the form has legal custody of the minor affected.

- (1) Any minor whose Tribal membership is relinquished by parent or legal guardian shall have the right to petition the Enrollment Committee for



## Mashpee Wampanoag Tribe

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automatic reinstatement upon reaching the age of eighteen (18) notwithstanding anything to the contrary in Section (11)(b).

- (2) A petition for automatic reinstatement must be submitted to the Enrollment Committee within ninety (90) days from the day that person reaches the age of eighteen (18). The petition must state the name under which the former member was enrolled in the Tribe and contain sufficient documentation to ensure that the person seeking automatic reinstatement is the same person whose membership was relinquished by his/her parent or legal guardian.

### Section 12. RECORDS

- (a) **Content of Individual Folder.** The Enrollment Committee shall establish an individual folder/file for each Tribal member and each applicant for Tribal membership. This folder/file will contain the following items where applicable:

- (1) Application form;
- (2) Family tree, including ancestry and individual history charts;
- (3) Birth certificate;
- (4) Correspondence;
- (5) Copy of Enrollment Committee resolutions affecting enrollment;
- (6) Any other documentary evidence pertinent to Tribal membership;
- (7) Death certificate;
- (8) Marriage certificate; and
- (9) Divorce decree.

- (b) **Access to Records.**

- (1) Except as otherwise provided in this subsection, information contained in individual folder/file shall be considered confidential. It shall not be available to anyone except that individual member (or his/her parent/legal guardian), Enrollment staff and Enrollment Committee members when such examination is



## Mashpee Wampanoag Tribe

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necessary in considering Enrollment decisions and to Tribal Council when considering a disenrollment matter.

(2) No person shall have access to any record without first applying in writing to the Chairperson of the Enrollment Committee who shall in his/her sole discretion determine whether or not records can be viewed by the requestor, and after having obtained the requisite written authorization from the applicant, parents, or legal guardian of the subject individual if such request is granted.

(3) No requests from any government or health care provider shall be considered unless such request is made in writing stating the specific purpose for the request and also after first having obtained written authorization for release from the Enrollment Committee, except for Tribal Council when considering a disenrollment matter.

(c) **Updating Records.** Upon receipt of appropriate documentation, the Enrollment staff is authorized to update the information on the Tribal roll. The following documentation is deemed adequate for such actions to be taken:

(1) Name Change: Marriage license, divorce decree, or court order changing name;

(2) Address Change: written statement signed by Tribal member or his/her parent or legal guardian; and

(3) Death: Death Certificate.

(d) **Updating Records by Resolution.** Any change for which none of the above documents in Section 12(c) is available must be approved by the Enrollment Committee. A copy of that Enrollment Committee resolution stating the reason for the change without usual documentation shall be placed in the individual's folder.

**Section 13. REPEALER.** All ordinances or parts of ordinances inconsistent with this Ordinance are repealed.

**Section 14. SEVERABILITY.** If any provision of the Ordinance or its application to any person or circumstance is held invalid, the remainder shall continue to be in full force and effect to the maximum extent possible that can be given effect without the invalid provision or application.



## Mashpee Wampanoag Tribe

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**Section 15. EFFECTIVE DATE.** This Ordinance shall take immediate effect and be enforced from and after its passage and publication according to Tribal law and it shall also apply retroactively. Upon passage, this Ordinance applies to enrollment applications received on or after the effective date of the Constitution (as defined above), but not applications that led to an applicant's enrollment in the Tribe before the date of enactment of this Ordinance.

Passed by the Mashpee Wampanoag Tribal Council on [date].

### *LEGISLATIVE HISTORY:*

*Originally Enacted August 22, 2006*

*Amended by 2009-ORD-001*

*Amended by 2009-ORD-009*

*Ratified by 2010-RES-048*




## Mashpee Wampanoag Tribe

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### CERTIFICATION

We, the undersigned Chairman and Secretary of the Tribal Council of the Mashpee Wampanoag Tribe hereby certify that the Tribal Council is composed of 13 members, of whom 11, constituting a quorum, were present at a meeting thereof, duly and regularly called, noticed, convened and held on the 25<sup>th</sup> day of June, 2012, and that the foregoing Ordinance was duly adopted by the affirmative vote of 8 members, with 0 opposing, and with 2 not voting.

DATED THIS 25<sup>th</sup> day of June, 2012


  
Cedric Cromwell, CHAIRMAN  
Mashpee Wampanoag Tribal Council

ATTEST:

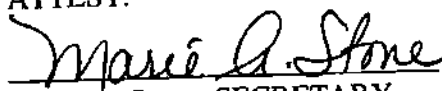
  
Marie A. Stone, SECRETARY  
Mashpee Wampanoag Tribe  
Notary Public, Commission Expires 4-15-2016

### CERTIFICATION OF POSTING

This is to certify that the Ordinance titled 2012-ORD-006, Enrollment Ordinance of the Mashpee Wampanoag Tribe, has been posted in accordance with 2009-ORD-003, Regulating Adoption, Amendment or Repeal of Ordinances and Resolutions.  
DATED THIS 25<sup>th</sup> day of June, 2012

  
Cedric Cromwell, CHAIRMAN  
Mashpee Wampanoag Tribal Council

ATTEST:

  
Marie A. Stone, SECRETARY  
Mashpee Wampanoag Tribe  
Notary Public, Commission Expires 4-15-2016

[TRIBAL EMBLEM]

2012-ORD-00\_  
AMENDMENT TO ENROLLMENT ORDINANCE

TABLE OF CONTENTS

Section 1.	Findings
Section 2.	Authority and Purpose
Section 3.	Amendment
Section 4.	Repealer
Section 5.	Severability
Section 6.	Effective Date

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The Mashpee Wampanoag Tribe does ordain as follows:

**Section 1. FINDINGS**

The Mashpee Wampanoag Tribal Council finds as follows:

- (a) The Mashpee Wampanoag Tribe (the "Tribe") is a federally-recognized Indian Tribe with a duly-enacted Constitution.
- (b) In accordance with 2009-ORD-003 entitled "Regulating Adoption, Amendment or Repeal of Ordinances and Resolutions," the Tribal Council duly enacted 2012-ORD-00\_ entitled "Enrollment Ordinance" (the "Enrollment Ordinance").
- (c) The purposes of the amendments below are to change the definition of "direct lineal descent" and to further clarify the Enrollment Committee's authority in reviewing and processing enrollment applications.
- (d) The Tribal Council finds it in the best interest of the Tribe to amend the Enrollment Ordinance to allow for "direct lineal descent" additional forms of documentary evidence and to further clarify the Enrollment Committee's authority in reviewing and processing enrollment applications.

**Section 2. AUTHORITY AND PURPOSES**

- (a) **Authority.** The authority for this Amendment is found in 2009-ORD-003 entitled "Regulating Adoption, Amendment or Repeal of Ordinances and Resolutions."
- (b) **Purposes.** The purposes of this Amendment are:

- (1) to change the definition of "direct lineal descent," and



- (2) to further clarify the Enrollment Committee's authority in reviewing and processing enrollment applications.

### **Section 3. AMENDMENTS TO THE ENROLLMENT ORDINANCE**

(a) **Amendment to Section 3.** The Enrollment Ordinance, Section 3 (c) is hereby amended by striking "limited to certified long form birth certificates with a raised seal and certified death certificates with a raised seal" and in substitution thereof inserting ", including birth certificates (with a raised seal for every applicant), marriage certificates and death certificates or obituaries," to read as follows:

"(c) 'Direct lineal descent' means tracing one's direct lineage from parent to child, generation to generation, without interruption by documentary evidence, including birth certificates (with a raised seal for every applicant), marriage certificates and death certificates or obituaries, to a Mashpee Wampanoag Indian identified in the Report to the Governor and Council, concerning the Indians of the Commonwealth, Under the Act of April 16, 1859 written by John Milton Earle and published in 1861 by William White, Printer to the State, in Boston, Massachusetts (the "Earle Report") or to the 19<sup>th</sup> century unions of Georgina Palmer and Charles Peters or Leander Peters and Lydia DeGrasse."

(b) **Amendment to Section 6.** The Enrollment Ordinance, Section 6 (c) is hereby amended by striking "and" from subsection (6) of Section 6 (c), striking the period from subsection (7) of Section 6 (c) and adding a semicolon in replacement thereof, and adding "A signed and notarized release form from the applicant's enrolled parent(s) authorizing the Enrollment Committee to access and use vital records from such parent(s) membership file in order to aid the Committee in the determination of eligibility of the applicant for enrollment in the Tribe; and" as subsection (8) and "A color copy of a valid government-issued ID containing a photo in the name of the applicant." as subsection (9) to Section 6 (c) that reads as follows:

"(6) Evidence of Tribal community involvement;

(7) A statement of no public denouncement;

(8) A signed and notarized release form from the applicant's enrolled parent(s) authorizing the Enrollment Committee to access and use vital records from such parent(s) membership file in order to aid the Committee in the determination of eligibility of the applicant for enrollment in the Tribe; and

(9) A color copy of a valid government-issued ID containing a photo in the name of the applicant."

(c) **Amendment to Section 12.** The Enrollment Ordinance, Section 12 (b) is hereby amended by adding subsection (4) to Section 12 (b) that read as follows:

"(4) If the Enrollment Committee finds that an enrollment application is missing required documentation, the Enrollment Committee may access the enrollment records of Tribal

members that are related to the applicant to obtain the missing documentation provided such members grant consent.”

(d) **Amendment to Section 12.** The Enrollment Ordinance, Section 12 (b) is hereby amended by adding subsection (5) to Section 12 (b) to read as follows:

“(5) At an applicant’s expense, the Enrollment Committee may obtain birth, marriage, death or other records from a local, state, or federal agency that may aid in the determination of eligibility of the applicant for enrollment in the Tribe. If requested by the Enrollment Committee, the applicant shall furnish to the Committee a signed and notarized release form that authorizes the Enrollment Committee to obtain such records.”

**Section 4. REPEALER.** All ordinances or parts of ordinances inconsistent with this Amendment are hereby repealed.

**Section 5. SEVERABILITY.** If any section, subsection, paragraph, sentence, or other portion of this Amendment is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed to be a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion of this Amendment.

**Section 6. EFFECTIVE DATE.** This Amendment shall take immediate effect and be enforced from and after its passage and publication according to Tribal law.

Passed by the Mashpee Wampanoag Tribal Council on [].