TRIBAL COUNCIL OF THE
IIPAY NATION OF SANTA YSABEL

BILL

To Approve Amended and Restated Iipay Nation of Santa Ysabel Enrollment Code

BILL NO: LB 01--24

DATE INTRODUCED: 04/16/24

SPONSORING Council Member(s): ALL Tribal Council Members

SUBJECT: Iipay Nation of Santa Ysabel Enrollment Code

IIPAY NATION OF SANTA YSABEL ENROLLMENT CODE

ARTICLE I - TITLE.

1.01. Title. The attached ordinance, entitled *"Iipay Nation Tribal Enrollment Code"*, shall be referred to as the "Iipay Nation of Santa Ysabel Enrollment Code" or "Enrollment Code".

ARTICLE II- FINDINGS.

2.01. Findings. The Tribal Council finds:

a. The Iipay Nation of Santa Ysabel ("The Nation") is a Federally Recognized Tribe with approximately 15,000 acres of trust land ("the Reservation") spread between three parcels located in North San Diego County; and
b. The Tribal Council has been charged by the Constitution to regulate and govern

assert sovereignty and jurisdiction over all lands within the Territory of the Nation; and

c. The Tribal Council shall oversee the establishment of governmental departments and offices; and
d. The Tribal Council has the power to make laws necessary and proper for the good of the Nation; and
e. The Tribal Council has determined that the Enrollment Code revision is necessary to set forth procedures that the nation will follow for the enrollment of citizens; and
f. The Tribal Council has developed this Ordinance to assist in the enrollment of tribal citizens

ARTICLE III - PURPOSE.

3.01 Purpose. The purpose of this Ordinance is to dissolve the Enrollment Committee and utilize the Enrollment Department to set forth procedures that the nation will follow for the enrollment of citizens.

ARTICLE IV – ENACTMENT OF THE ENROLLMENT CODE

4.01 Enactment.

a. The Tribal Council hereby enacts the attached Ordinance entitled "Iipay Nation Tribal Enrollment Code"
b. All acts, laws or customs and traditions in conflict with this Ordinance are hereby repealed.

ARTICLE V - SEVERABILITY

5.01. Severability. If any provision of the Iipay Nation Tribal Enrollment Code is held to be void, invalid, or unenforceable, it shall be considered deleted, and the invalidity of such provision shall not affect the validity or enforceability of any other provision which shall be given effect in the absence of the invalid provision. The remaining provisions shall continue in full force and effect without being invalidated.

Certification

SO ENACTED this 224 th day of August 2024, by the Tribal Council of the Iipay Nation by a vote of 5 FOR, 0 AGAINST, AND 0 ABSTAINING as follows:

		FOR	AGAINST	ABSTAIN	NOT PRESENT
Kevin Osuna	Chairman				
Christopher Cleland	Vice-Chairman	1			
Silva French	Secretary	1			
Michael Baay	Councilmember	1			
George Rodriguez	Councilmember				X
Vanessa Christman	Councilmember	1			
Bruce Durbin	Councilmember	1			

LEGISLATIVE HISTORY

Date of Formal Introduction	07/07/2024
Date of Reading into the Legislative Record	07/07/2024
Date of Publication into the Legislative Calendar	07/07/2024
Date of Public Hearing	07/07/2024
Date of Approval by the Tribal Council	08/11/2024
Date of the Chairman's Signature	08/11/2024
Deadline of Receipt of Verified Petition to General Council Date of General Council Repeal	09/08/2024

Chairman Kevin Osuna _____ **DATE:** August 11, 2024



IIPAY NATION
TRIBAL ENROLLMENT CODE

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ARTICLE 1. TITLE

The following Code shall be known as the "Enrollment Code of the Iipay Nation of Santa Ysabel ("Code"). This Code shall govern all enrollment matters of the Nation.

ARTICLE 2. PURPOSE

The purpose of this Code is threefold. First, the Code establishes a procedure and process for enrolling new Tribal Members. Secondly, the Code allows for ensuring enrolled Tribal Members and eligible applicants are protected. The Code also establishes a mechanism for Tribal Members to recalculate their blood quantum.

ARTICLE 3. AUTHORIZATION

This Code is authorized under the Constitution of the Iipay Nation of Santa Ysabel Article III, Membership, Section 3 Enrollment Process, and Article V, Tribal Council Section 2. Powers and Duties, subsections (a) and (g).

ARTICLE 4. DEFINITIONS

Wherever used in this Code the terms defined in this Code shall have the following meaning:

1. "2007 Base Role" means the membership roll/list that consists of all persons who were enrolled Tribal Members of the Nation in 2007 in accordance with the Constitution

2. "Applicant" means any person who files an application for membership in the Iipay Nation of Santa Ysabel or for whom an application is filed on one's behalf due to incapacity or a Minor.

3. "BIA" means the Bureau of Indian Affairs;

4. "Conditional Relinquishment" means a formal request for removal from the membership roll of a Tribe that is not the Nation in anticipation of approval of an application with the Iipay Nation of Santa Ysabel; or a formal request for removal from the membership roll of the Nation in anticipation of approval of an application with another Tribe that is not the nation.;

5. "Constitution" means the Constitution of the Iipay Nation of Santa Ysabel, as amended on November 4, 2019;

6. "Department of Enrollment" ("Department") means the Tribal department responsible for implementing the Enrollment Code;

7. "General Council" means all Tribal Members of the Iipay Nation of Santa Ysabel who are eligible to vote;

8. "Immediate family" means father, mother, sibling, spouse or child;

9. "Incapacity/Incapacitated" means where a person is unable to complete the enrollment process on their own due to mental or physical ability.

10. "Lineal descendent" means the direct descendant of an ancestor (namely the child, grandchild, great-grandchild, etc.).

11. "Minor" means a person under the age of eighteen (18) years;

12. "Nation" means the Iipay Nation of Santa Ysabel, as described in the Santa Ysabel Reservation Patent, also known as "The Santa Ysabel Band of Diegueno Mission Indians of the Santa Ysabel Reservation, California";

13. "Properly Enrolled" means all persons listed on the California Indian Census of May 18, 1928, Application referencing Santa Ysabel Lineal descendants, and the 1940 Santa Ysabel Census as revised in 1952, and their descendants.

14. "Tribal Council" means pursuant to the Constitution of the Iipay Nation of Santa Ysabel, the Tribal Chairperson, Vice-Chairperson, Secretary and four (4) Councilmembers;

15. "Tribal Council Enrollment Delegates" means the designated group of Tribal Councilmembers comprised of the Chairman and no less than (2) Tribal Councilmembers who are active in their term of office;

16. "Tribal Court" means a court of competent jurisdiction established under the Constitution and laws of the Iipay Nation of Santa Ysabel;

17. "Tribal Member" means:
    a. all persons who are enrolled Tribal Members of the Nation as of the date of the adoption of the Constitution of the Iipay Nation of Santa Ysabel; or

    b. all persons who were Properly Enrolled as Tribal Members of the Nation but are no longer enrolled for the sole purpose of allowing their lineal descendants to be eligible for membership in the Nation; or

    c. all persons who were Properly Enrolled as Tribal Members of the Nation but are now deceased for the sole purpose of allowing their lineal descendants to be eligible for Tribal Membership in the Nation pursuant to Article III, Section l(d), of the Constitution of the Iipay Nation of Santa Ysabel; and

    d. all lineal descendants of any person listed in subsections (a), (b), or (c) above; provided, such descendants possess at least one-eighth degree Indian blood from a federally-recognized Indian tribe located in the United States.

18. "Tribal Membership List" means an active list of all living enrolled Tribal Members as referenced in this Code, Article 14, (C);

ARTICLE 5. DEPARTMENT OF ENROLLMENT

A. Creation

Pursuant to Article V, Section 2(g) of the Constitution, the Tribal Council oversees the establishment of governmental Departments and Offices, such as the Department of Enrollment. By passage of this Code, the Tribal Council hereby establishes a Department of Enrollment.

B. Composition

The Department of Enrollment shall consist of staff of the Department, which may include an Enrollment Specialist, Enrollment Manager and Clerks and/or employees that report to the Director of Operations. In the absence of employees of the Department, The Tribal Council Enrollment Delegates are authorized to perform all necessary functions for enrollment.

C. Duties and Responsibilities

1. The Department's primary function is to review membership applications to reach objective and impartial recommendations on an Applicant's eligibility for membership to present to the Tribal Council Enrollment Delegates.

2. The Department shall maintain the Tribal Membership List for the Nation. The Tribal Membership List and associated files shall be kept in a secure and confidential location pursuant to Article V, Section (D).

3. The Department shall submit the Tribal Membership List to the Tribal Council Enrollment Delegates bi-annually pursuant to Article III, Section (3) of the Constitution. The Tribal Membership List is intended to document enrollments and/or removals from the Tribal Membership List that have occurred during the preceding enrollment process.

4. Among other duties, the Department shall provide information regarding membership eligibility requirements, the enrollment process, distribute application forms, and receive and review completed membership applications.

5. The Department shall provide written documentation for verified lineal descendants, who are not members, to use for purposes of proving native American heritage, such as, but not limited to, using Indian Health Services, obtaining TANIF aid or for scholarship or school enrollment purposes.

6. All Department employees shall be required to sign a "Confidentiality and Privacy Statement" in order to protect the privacy of information provided to the Department by

Applicants and Tribal Members of the Nation.

D. Security

1. All enrollment data and the personal information within enrollment applications shall be kept in a secure room in locked cabinets with controlled access.

2. Secure room access shall be limited to the Department, the Tribal Chairperson, Tribal Council Enrollment Delegates and not more than two (2) Applicants escorted by the Enrollment Specialist.

E. Signatory Authority

Only the Tribal Chairperson is authorized to sign Tribal Enrollment Certifications, letters to Applicants and/or members, and any other documents related to enrollment, in accordance with the decisions and/or directives of the Tribal Council Enrollment Delegates.

ARTICLE 6. REQUIREMENTS FOR ENROLLMENT

A. Eligibility

In order to be enrolled in the Nation, the Applicant must meet the following requirements:

1. Be a lineal descendant of a Tribal Member of the Iipay Nation of Santa Ysabel; and

2. Possess a minimum of 1/8 (one eighth) blood quantum from a federally recognized Tribe.

B. Lineal Descendancy

The burden of proof of lineal descendancy lies with the Applicant. Acceptable proof of lineal descendancy can be in the form of birth certificates, baptismal certificates, DNA test results, and other certifiable documents.

C. Blood Quantum

1. All Applicants for enrollment must establish that they have a minimum of 1/8 (one eighth) blood quantum from a federally recognized Tribe in the United States of America. This may be established through blood degrees listed on an official census of the United States Government ("Official U.S. Census") of either the Applicant or an ancestor of the Applicant; any such census records will be given priority in the calculation of blood degree.

2. If there is no Official U.S. Census to derive blood degree from, other certifiable documents, listed below, shall be considered to determine such blood degree if verified by the Department:

a. "Certificate/Statement of Degree of Indian Blood" from the BIA; or

b. Other official correspondence from the BIA pertaining to one's blood quantum; or

c. Official Tribal correspondence, such as that being on letterhead and/or that containing a Tribal seal that documents the blood quantum of the Applicant or the ancestor of the Applicant from which the blood is being claimed.

ARTICLE 7. INELIGIBLE FOR ENROLLMENT

No persons identified in the categories below shall be eligible for enrollment.

1. Any person who has previously relinquished membership rights in the Nation as a competent adult. This sub-article does not apply to persons whose enrollment was relinquished while he or she was Incapacitated person or a Minor.

2. Any person who is enrolled in another federally recognized Indian Tribe, unless and until they provide written proof of a conditional relinquishment that they are no longer: (1) enrolled; (2) considered a member; (3) registered; or (4) in any way recognized as a person entitled to benefits as a member of another Tribe. Such proof must accompany an application for enrollment before an application shall be deemed complete. An allotment or Interest in an Allotment acquired through inheritance shall not prohibit Enrollment with the Nation.

ARTICLE 8. APPLICATION FOR MEMBERSHIP

A. Any person requesting enrollment must file or have filed on his or her behalf (if a Minor or Incapacitated person), an official Application for Enrollment with the Department.

B. Application forms may be filed on behalf of a minor, an Incapacitated person, or others in need of assistance by an immediate family member or competent adult who has authority to make decisions for Minor and Incapacitated person individuals.

C. In circumstances where the Minor is a ward of a Tribal or state court, the Santa Ysabel Social Services Department or a representative of the Nation, may submit an application on behalf of a Minor that is eligible for enrollment in the Nation.

D. In circumstances where an Incapacitated person's legal guardian(s) or Minor's parent(s) is/are incapable or unwilling to enroll a minor or Incapacitated person, who is determined to be eligible for enrollment in the Iipay Nation of Santa Ysabel, a representative of the Nation, the Santa Ysabel Social Services Department, or other authorized Tribal entity or representative, shall be authorized to submit an application to enroll the Minor or the Incapacitated person.

E. Application forms for enrollment may be obtained by making a written request to the Department. All written requests for an enrollment application will be date stamped. An

application form must be provided to the person requesting the form within ten (10) business days from the date of their request.

ARTICLE 9. APPLICATION REQUIREMIENTS AND APPROVAL

A. Application Requirements/Eligibility. Each enrollment application must be completed in its entirety and must contain acceptable evidence to properly determine the Applicant's eligibility for enrollment, as follows:

1. The current legal name and all names by which the Applicant has been known;

2. The Applicant's Social Security number;

3. The physical and/or mailing address of the Applicant;

4. A family tree chart showing all ancestors from which eligibility is being claimed which discloses:

a. At least one (1) ancestor who is/was a Tribal Member; and

b. Proof of blood quantum as stated in Article 6 (C) of this Code.

5. The printed name and signature of the Applicant and/or their Parent/Guardian;

6. The application filing date; and

7. The Applicant's original or certified birth certificate. The original certificate(s) will be returned when the processing of the application is completed, and a copy will be retained for the enrollment files. Baptismal certificates may be submitted in lieu of a birth certificate if said document was issued prior to 1940.

B. Approval or Denial of Applications

1. The Department shall make a recommendation to the Tribal Council Enrollment Delegates on whether to approve or deny membership applications. Such recommendation shall be based on the documents provided by the Applicant to the Department. The Department's recommendation will be submitted to the Tribal Council Enrollment Delegates for final decision.

2. The Tribal Council Enrollment Delegates shall review Applicant files quarterly and approve or deny enrollment applications twice a year on January 10th and July 10th.

3. The Tribal Council Enrollment Delegates shall promptly inform the Department of decisions with respect to each application. The Nation shall then notify the Applicant of the decision by U.S. certified mail, return receipt requested, to be received by the Applicant

only, or their legal representative, if a Minor or Incapacitated person. Applicants denied membership shall also be advised, through the above referenced notification, of their right to file an Appeal, pursuant to Article 13(A) of this Code within ten (10) business days from receipt of the Tribal Council Enrollment Delegates decision.

ARTICLE 10. VOLUNTARY RELINQUISHMENT OF MEMBERSHIP

A. Any adult Tribal Member of the Nation may voluntarily relinquish their membership. A request for relinquishment or Conditional Relinquishment must be in writing and the signature must be notarized. The Department shall promptly notify the Tribal Council who will make a formal determination that the relinquishment has been approved in writing and such relinquishment shall be reflected on the next updated Tribal Membership List.

B. Whenever a relinquishment is submitted for a Minor Tribal Member or Incapacitated person, care will be taken to determine that the individual who signed the form has the legal authority to act on behalf of the Minor or Incapacitated person affected. Relinquishment for a Minor or Incapacitated person shall not be deemed final until the Department has determined that said Minor or Incapacitated person has been enrolled in another federally recognized Tribe and the Tribal Council Enrollment Delegates confirms the Department's recommendation.

ARTICLE 11. BLOOD QUANTUM RECALCULATION

A. Only Tribal Members enrolled after the Santa Ysabel Base Roll of 2007 may have their blood quantum decreased. Recalculations of a blood quantum (both increase and decrease) shall be initiated by the Department or upon receipt of a request from an Applicant seeking a recalculation for their blood quantum in accordance with Article 6(C). If initiated by a Tribal Member, the request shall be in writing, signed and have attached at least two supporting documents. The request will be time and date stamped upon receipt.

B. The Department shall notify all Tribal Members, known to the Department, who may be affected by the blood quantum correction within thirty (30) days from receipt of the request for the correction. The notice shall inform the Tribal Member of the basis upon which the correction is sought and copies of the request and supporting documents will be included in the notice. The Tribal Member will also be informed that they may submit to the Department any documentation they may want the Department to consider in making its recommendation.

C. In making its recommendation, the Department shall review the supporting documentation submitted with the request, documents submitted from Tribal Members who are affected by the blood quantum recalculation, and other relevant documentation. Tribal Members may use experts and documentation such as anthropologists, historians, DNA analysis etc., as necessary. After such review, the Department shall make its recommendation to the Tribal Council Enrollment Delegates in writing and set forth the facts and documentation supporting the recommendation. The Tribal Council Enrollment Delegates shall review the recommendation of the Department and issue a decision within ten (10) business days. The Nation's decision shall be served (personally

or certified mail) on all interested parties and inform the person that if they disagree with the decision, they may file an Appeal pursuant to Article 13A within ten (10) business days from receipt of the decision with the Tribal Court.

D. If no Appeal is taken or the decision of the Tribal Council Enrollment Delegates to make a blood quantum correction is affirmed on appeal, the Tribal Council Enrollment Delegates shall notify the Department, who shall make such corrections of blood quantum on the Tribal Membership List.

ARTICLE 12. LOSS OF MEMBERSHIP

A. Only Tribal Members enrolled after the Santa Ysabel Base Roll of 2007 may be subject to loss of tribal membership. A Tribal Member may be subject to disenrollment under the following circumstances:

1. It is determined that an individual is enrolled in more than one Tribe. In such cases the Department will take the following steps:

   a. A written notice will be sent to the Tribal Member informing them that the Nation is aware of the existence of their enrollment in another Tribe and that such enrollment is specifically prohibited under this Code.

   b. The individual will have sixty (60) calendar days from receipt of the written notice to provide the Department written proof from the governing body or enrollment department/committee of the Tribe that is not the Nation of relinquishment of membership from said Tribe.

   c. If the individual has not provided such proof required in subsection (b) above within the sixty (60) day-period, the Nation will initiate disenrollment proceedings.

2. The Department determines that there was a mistake on a Tribal Member's enrollment application that when corrected makes the individual ineligible for enrollment.

3. The Department determines that a Tribal Member has fraudulently submitted information on his or her enrollment application and when such information is no longer considered or removed from the application the Tribal Member is no longer eligible for enrollment.

B. Disenrollment must be initiated by the Department upon discovery of sufficient documentation demonstrating that a Tribal Member should not have been enrolled. The Department is charged with investigating all disenrollments and recommending to the Tribal Council Enrollment Delegates for a final decision.

C. If the Department determines that an investigation is warranted, it will notify the Tribal Member(s) whose enrollment is being challenged and provide them supporting documentation and other relevant information supporting ineligible enrollment. The Tribal Member shall be

given thirty (30) days to present the Department with documents and evidence to support their proper enrollment. The Department may grant an extension of this time period if requested by the Tribal Member.

D. At the conclusion of the investigation, the Department shall present a recommendation in writing to the Tribal Council Enrollment Delegates for final decision. The Tribal Council Enrollment Delegates shall decide only after considering the written recommendation of the Department and evidence submitted on behalf of the affected Tribal Member.

E. If the Tribal Council Enrollment Delegates determine that a Tribal Member should not have been enrolled, then the Tribal Member whose enrollment is challenged shall be notified and provided with the Tribal Council Enrollment Delegates and Department's written findings and all supporting documentation. The Tribal Member shall also be informed that the Department will be filing a "Petition for Disenrollment" on behalf of the Nation with the Tribal Court, pursuant to Article 13(A) of this Code, within ten (10) business days from the Tribal Member's receipt of the Department's findings. Only the Department or Tribal Council on the are authorized to file "Petitions for Disenrollment." The Department shall meet and confer with the Tribal Council Enrollment Delegates on its findings and that the matter is being referred to the Tribal Court. The Tribal Court shall make all disenrollment decisions pursuant to Article 13 of this Code.

ARTICLE 13. TRIBAL COURT REVIEW

A. **"Notice of Appeal" and "Petition for Disenrollment".** The form of all "Notice of Appeals" and "Petitions for Disenrollment" shall comply with, to the extent applicable, any "Rules of Court" or "Code of Civil Procedure" of the Tribal Court in which the action is filed. The "Notice of Appeal" shall have attached the decision which is being appealed.

B. **Service of Process.** All persons, including the Nation, a "Notice of Appeal" or, in the case of a "Petition for Disenrollment," the Nation shall be called the "Petitioner." The Petitioner shall serve a copy of the "Notice of Appeal" or "Petition for Disenrollment" on the adverse party, herein "Respondent, d pursuant to the applicable "Rules of Court" or "Code of Civil Procedure" for the Tribal Court in which the action is being filed. Upon receipt of the "Notice of Appeal" or a "Petition for Disenrollment" the Respondent shall follow the applicable "Rules of Court" or "Code of Civil Procedure" for the Tribal Court in which the action was filed. All other hearings and procedures for the matter will be in accordance with the applicable "Rules of Court' or "Code of Civil Procedures" for the Tribal Court in which the action was filed.

C. **Standard of Evidence**. The standard of evidence applied by the Tribal Court to all enrollment/disenrollment matters shall be a preponderance of the evidence.

D. **Discovery**. The Department shall produce, upon written request from the Petitioner and/or the Tribal Court, all documents the Tribal Council Enrollment Delegates relied upon in making a decision which is being appealed. In a case of disenrollment, the Department will produce for the parties and the Tribal Court all documents previously submitted by the parties during the

Department's investigation and all documents relied upon by the Department and the Tribal Council Enrollment Delegates in making their respective findings. Where necessary, such documents shall be filed with the Tribal Court as "Confidential" and shall not be disseminated except as necessary as determined by the Tribal Court.

E. **Finality.** The Tribal Court decision shall be final.

ARTICLE 14. TRIBAL MEMBERSHIP LIST

A. Current Tribal Membership List

1. After final action has been taken on all application forms, the Department shall prepare a list of all approved living Tribal Members of the Nation. This list will be known as the Tribal Membership List. The list shall include the Tribal Member's full name, birth name (if different), date of birth, blood quantum and any other information desired by the Department. The Department shall affix and sign a certification as to the correctness of the Tribal Membership List. The original Tribal Membership List shall be maintained at the Enrollment Office and not be subject to public review. A copy of the certified Tribal Membership List shall be forwarded to the Tribal Council as the official list of Tribal Members of the Nation.

2. A modified Tribal Membership List will be created by the Department that contains only the name of the Tribal Members of the Nation. No further identifying information shall be revealed on the modified copy. A copy of the modified Tribal Membership List shall be kept at the Tribal Administrative Office and available to Tribal Members of the Nation for reference purposes only. The Tribal Administrative Office copy shall not be removed from the premises nor shall copies be permitted. The Tribal Membership List shall be the basis for the Election Committee's list of eligible voters, as set forth in the Election Ordinance, but the Tribal Membership List shall not be considered the voter's list and shall not be used in that manner.

B. Updating the Current Tribal Membership List

1. The Department shall be responsible for maintaining the Tribal Membership List on a bi-annual basis by:

   a. removing the names of persons who have relinquished their membership to the Nation;

   b. removing a Tribal Member's name that has died;

   c. removing the name of a person who has been disenrolled, upon receipt of a final Tribal Court decision if the former Tribal Member appealed their disenrollment;

d. adding the names of persons approved for membership; and

e. making any non-substantive corrections to the list, including corrections to misspelled names, dates of birth, family relationships, etc., provided that such corrections are supported by satisfactory evidence.

2. All names removed from the Tribal Membership List shall be maintained on a separate list entitled "Former Tribal Members of the Nation" for purposes of establishing lineal descendancy. Such list shall be maintained in the secure location and may only be accessed by the Department or the Tribal Council (including the Tribal Council Enrollment Delegates).

C. Use of the Tribal Membership List

After it has been certified by the Department and approved by the Tribal Council Enrollment Delegates, the list shall be used for official purposes of the Nation, including but not limited to the distribution of Tribal benefits.

ARTICLE 15. CODE APPROVAL AND AMENDMENTS

The Enrollment Code will become effective upon approval by the Tribal Council and in compliance with the Legislative Process as set forth in Article VI, Section 2 of the Constitution. Notwithstanding the supremacy of the Constitution, approval of this Code repeals all previous Enrollment Codes, tribal laws, or Resolutions regarding enrollment. All enrollment applications pending at the time this Code is approved will be processed and governed by this Code. All future amendments shall follow the process set forth in Article VI, Section 2 of the Constitution.