

HANNAHVILLE INDIAN COMMUNITY  
TITLE IV, CHAPTER 1  
MARRIAGE

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**HANNAHVILLE INDIAN COMMUNITY  
GENERAL CIVIL CODE – FAMILY/DOMESTIC LAW  
TITLE IV, CHAPTER 1  
MARRIAGE**

**4.1.100 Marriage, Status as a Civil Contract; Necessity of Consent, License, fee, and Ceremony.**

- (1) No particular form is required, except that, in order to have a legally recognized marriage under this Code, the persons to be married must:
  - (a) Have the legal capacity to contract; and
  - (b) freely consent to the marriage; and
  - (c) obtain a marriage license issued by the Hannahville Indian Community, paying any necessary fees, which shall be set from time to time by the tribal council; and
  - (d) declare that they take each other as spouses in the presence of two witnesses before a person authorized to perform marriages within the jurisdiction of the Hannahville Indian Community. The two witnesses shall be in addition to the person who performs the marriage ceremony.

**4.1.101 Persons Authorized to Perform Marriages Under this Code; Validity of Marriages, Conditions.**

- (1) Marriages under this Code may be performed within the jurisdiction of the Hannahville Indian Community by the following persons:
  - (a) The Tribal Chairperson and Vice-Chairperson of the Hannahville Indian Community. The Tribal Chairperson, or Vice-Chairperson when acting through his or her delegated powers, shall, for all purposes, be deemed to be the “mayor of a city” for the purposes of the law of this, or any other, jurisdiction.
  - (b) Any judge or magistrate of the tribal court of the Hannahville Indian Community or the judge of any court of competent jurisdiction if authorized to perform marriages within the jurisdiction in which the judge presides.
- (2) Subject to the requirements of section 4.1.100, ceremonial marriages may also be recognized as valid legal marriages under this Code if a Hannahville Indian Community marriage license is obtained, properly completed, has been endorsed by a duly elected officer of the Hannahville Indian Community Tribal Council and submitted within 30 days of the performance of the ceremony. The officer of the Tribal Council is not required to be present at the ceremony provided that he or she is persuaded that the ceremonial marriage actually did take place. The following persons may perform ceremonial marriages which may be given legal recognition:

- (a) Native American persons who are recognized religious or spiritual leaders.
  - (b) Ministers and spiritual leaders of other religious traditions, if authorized to perform marriages under the law of the state or jurisdiction in which the minister or spiritual leader resides.
- (2) If all the requirements of section 4.1.100 have been satisfied, a marriage shall be valid under this Code if the marriage was contracted by the persons married with the full belief that the person performing the marriage had the authority to perform the marriage even if the person performing the marriage did not, in fact, have the required authority.
  - (3) Nothing in this Code shall be interpreted to prohibit ceremonial marriages.
  - (4) The original license and record of marriage bearing the required signatures of witnesses and persons authorized to perform marriages shall be presumptive evidence of the fact of a marriage.
  - (5) In cases where one or both parties to the marriage are not residents of the Hannahville Indian Community, nothing in this Code shall be interpreted to prohibit persons authorized by the laws of any duly recognized jurisdiction to conduct marriages upon the Hannahville Indian Community tribal properties pursuant to the laws of those jurisdictions provided that a request to perform the marriage has been first obtained from either the tribal chairperson or his or her designee, and/or the director or general manager of any facility in which the ceremony is to be performed.

**4.1.102          Legal Capacity to Contract Marriage; Conditions; Incapacity.**

- (1) The following persons shall be able to legally contract a marriage:
  - (a) persons who have become 18 years of age; and
  - (b) persons who are not legally married under the laws of any jurisdiction; and
  - (c) persons who are legally mentally competent; and
  - (d) persons who are free to give consent.
- (2) A person may not marry his or her parent, sibling, grandparent, child, grandchild, sibling's child or stepparent, or a spouse of the person's grandparent, child or grandchild, or a parent, grandparent, child or grandchild of the person's former spouse, or a parent's sibling, or a cousin of first degree, or a person who is then lawfully married under the laws of any jurisdiction.
- (3) The Hannahville Indian Community recognizes marriage as a legal relationship between persons having the legal capacity to contract marriage under this code, including

persons of the same sex. This Community recognizes all marriages, including same-sex marriages, legally contracted according to the laws of another jurisdiction.

- (4) Persons who have not become 18 years of age are prohibited from marrying, and such marriages, if entered into, shall be void, except under the following circumstances:
  - (a) Persons who have become 16 years of age but who have not become 18 years of age may contract a marriage with the written and notarized consent of one parent, who shall be the custodial parent or legal guardian of the underage persons wishing to contract the marriage. As proof of age the persons wishing to contract the marriage must present a written official document giving the dates of birth of the individuals making application for the marriage license.
  - (b) Persons who have not become 18 years of age who contract a marriage remain subject to all other applicable requirements of the Hannahville Indian Community Legal Codes and specifically, the fact of having entered into a marriage relationship does not void or modify the requirement for a tribal member to continue to attend school pursuant to Title 3, Chapter 1, the Hannahville Indian Community School Attendance Ordinance.
- (5) No person who has been adjudicated to be mentally incompetent in any jurisdiction shall be legally able to contract a marriage under this Code.

**4.1.103      Marriage License/Record of Marriage; Necessity; Place and Time of Obtaining; Delivery to Person Performing Marriage; Completion of Record; Return of Original; Recording.**

- (1) At least 10 days before the marriage is to take place, persons intending to marry under this Code shall pay any requisite fees and obtain a license and record of marriage from the clerk of the tribal court. However, the court clerk may, upon showing of good and sufficient cause, provide the license within a shorter time period. The license shall then be delivered by the applicants to the person authorized to perform the marriage under this Code. The license to marry shall expire 31 days after it is issued, if the marriage has not been performed. Provided, however, and subject to the requirements of §§ 4.1.100, 4.1.101(2) and the requirements of this section, if the marriage has first been performed as a ceremonial marriage, a license and record of marriage may be obtained, signed by a tribal officer and filed within 30 days after the ceremony.
  - (a) The applicants for the license/record of marriage shall present such official proof of having become 18 years of age as shall reliably show that both parties are legally able to contract a marriage under this Code; or
  - (b) If one or both applicants for the license have not become 18 years of age but have become 16 years of age, the applicants shall present such official proof of age and written and notarized consent of one parent of the underage party, who shall be the custodial parent or legal guardian of the underage person wishing to contract the

marriage. Such custodial parent or guardian shall appear personally before the clerk of court and personally attest to the written consent provided.

(c) Sufficient legal proof of age shall consist of, but not be restricted to any of the following:

[1] Driver's license with pictured i.d.

[2] Certified birth certificate.

[3] Passport with pictured i.d.

[4] State i.d. card with picture.

[5] Tribal Enrollment card with date of birth.

[6] Other reliable official documentation.

- (2) The court clerk shall collect the required fee, give a receipt to the applicant and keep evidence of receipt of license fee, and shall retain and file originals or make copies of all records submitted by the license applicants giving evidence of age, mental and legal competency to marry and/or, the required parental or guardian consents to marry which are provided by the applicants in their request for the license to marry. Upon return of the completed license and record of marriage, the court clerk shall make a copy for the person filing the license/record of marriage and shall file the original document in the file of Marriages of the Hannahville Indian Community.
- (3) The person performing the marriage shall fill in the spaces on the record of marriage left blank for entry of the time and date of the marriage, the names and residences of 2 witnesses, and the signature of the person certifying that the marriage was performed by him or her. The witnesses shall sign on the lines provided for their signatures. Either the persons who have been legally married or the person who performed the marriage may return the record of marriage to the court clerk for filing. Provided, however, that in the case of ceremonial marriages which have been performed without first obtaining a license, the person who performed the ceremony shall obtain the required tribal council officer signatures required by this Code and shall return the original license and record of marriage to the court clerk for filing.

#### **4.1.104 Invalid Marriages; Legal Effect.**

- (1) All marriages which are prohibited because of mental incompetence, family relationship, or on account of either party having a spouse then living, if performed under this Code, shall be absolutely void. Children born to a party, or adopted by the parties, during an invalid marriage shall be considered to be the heirs of both parents and shall enjoy all legal rights as if the parents had been legally married.

- (2) Where a marriage was legally contracted by two persons, one or both of whom had not become 18 years of age at the time of the marriage, and where they subsequently separate and do not cohabit together, or in case the consent of one of the parties was obtained by force or fraud, and there has been no voluntary cohabitation of the parties, the marriage shall be deemed void.

**4.1.105 Marriages of Questionable Validity; Annulment; Affirmation; Procedures.**

- (1) A person with legal standing or a party to a marriage which is void under this Code, or a party to a marriage which is of questionable validity for any of the causes for which marriages are prohibited under this Code, may petition the tribal court for an annulment. The petitioner shall follow the notice requirements found in Chapter 1 of this title, the Divorce Code. The court may grant an annulment upon receipt of sufficient information and proof of the nullity of the marriage and shall declare the marriage void by a decree or order of annulment.
- (2) A party may file a petition to affirm a marriage where the validity of the marriage is questioned by either of them or by another person with legal standing. The petitioner shall follow the notice requirements found in chapter 1 of this title, the Divorce Code. The court shall enter a decree or order of affirmation upon proof of validity of the marriage.

**4.1.106 Foreign Marriages; recognition of validity.**

- (1) Marriages performed in other jurisdictions, including same-sex marriages, if legal in the jurisdiction where the marriage was performed, are recognized as legal in this jurisdiction.
- (2) A marriage contracted by persons who are residents of the Hannahville Indian Community and who at the time of the marriage were legally competent to contract marriage under this Code and who have obtained a marriage license and record of marriage under this Code but who have had the marriage ceremony performed within another jurisdiction by a person authorized under this Code to perform marriages or by a person authorized by the laws of the foreign jurisdiction to perform marriages is a valid and binding marriage under the laws of this jurisdiction to the same effect and extent as if the marriage had been performed within this jurisdiction.

**4.1.107 Unlawful Marriage; Civil Penalty.**

- (1) If a person who is authorized to perform marriages knowingly joins any persons in marriage in violation of this Code, he or she shall be fined for each offense a sum not to exceed \$1000.00.

**4.1.108 Unlawful Marriage; Criminal Offense.**

- (1) If any person knows that he or she is not authorized to perform marriages under this Code or knows of any legal impediment to the marriage and nevertheless performs the

marriage, he or she shall be guilty of a violation of the Hannahville Indian Community Legal Code and shall be punished upon plea or conviction by confinement in jail for not more than 90 days, or by a fine of not less than \$100.00, nor more than \$1000.00, or by both such fine and confinement, in the discretion of the court.

**4.1.109 Coercion, Fraudulent Cause or Inducement to Marriage; Civil, Criminal Penalty.**

- (1) Whoever, by fraud or coercion or both, causes or induces a person or persons to marry, shall be fined for each offense a sum not to exceed \$1000.00.
- (2) Whoever, by fraud or coercion or both, causes or induces a person or persons to marry, he or she shall be guilty of a violation of the Hannahville Indian Community Legal Code and shall be punished upon plea or conviction by confinement in jail for not more than 180 days, or by a fine of not less than \$500.00, nor more than \$2000.00, or by both such fine and confinement, in the discretion of the court.

**Enacted by the Hannahville Indian Community Tribal Council for immediate effect on 08/03/15. Votes in favor 10; Votes opposed 0; Abstentions 1.**