

Election Code

SECTION 1. TITLE AND PURPOSE

Section 1.1 Title

The following ordinances shall be known as the Nottawaseppi Huron Band of Potawatomi (NHBP) Tribal Election Code.

Section 1.2 Purpose

The purpose of this ordinance is to ensure that procedures used in the Huron Tribal Elections are legal, consistent, fair and efficient.

SECTION 2. ELIGIBLE VOTERS AND CANDIDATES

Section 2.1 Voters

All persons 18 years or older who are enrolled members of the NHBP shall be eligible to vote in elections governed by this ordinance.

Section 2.2 Candidates

Candidates for the Tribal Council must be enrolled members of NHBP who are at least 21 years of age and have not been convicted of a serious crime within the past seven years. Any enrolled member may submit a nomination for a candidate in writing to the Election Board within sixty days of a scheduled election.

Section 2.3 Certificate of Candidacy

The Election Board shall review all nominations to determine if the nominee meets all the requirements of Section 2.2. If the Election Board determines that the candidate is qualified, it shall issue a signed Certificate of Candidacy to the candidate within 10 days of its receipt of the nomination. The decision of the Election Board as to whether a candidate is qualified shall be final.

SECTION 3. ELECTION BOARD

Section 3.1 Appointment and Term

(A) The Tribal Council shall appoint an Election Board each year in January consisting of a Tribal Council member to be Chair of the Board and four other members. The Council shall also appoint a first and second alternate. Election Board members shall serve for a one year term or until a successor is selected by the Tribal Council. Board members may be appointed for successive terms. Any Board member who resigns, is removed or is unable to serve will be replaced by an alternate.

(B) Election Board members shall be persons who are eligible to vote in tribal elections. Any Board member who becomes a candidate for Tribal Council or who appeals his or her removal from Tribal Council shall be automatically removed from the Election Board.

Section 3.2 Officers and Duties

(A) The duties of the Chair shall include all Election Board meetings; supervising the publication of the Initial Notice of Election and Final Notice of Election; maintaining or causing to be maintained a list of the Absentee Ballot requests, preparing or causing to be prepared a tally sheet to be used at the election, and signing the certification of the Election results.

(B) The duties of the recording Secretary shall include assisting the Chair as called upon and keeping and maintaining minutes of all Tribal Election Board meetings.

Section 3.3 Board Duties

The Election Board shall perform such duties as prescribed by this Ordinance and any additional duties prescribed by the Council. These duties include, but are not limited to the following:

(A) To publish and post notice of all elections and referendums;

(B) To prepare both regular and absentee ballots;

- (C) To compile a list of eligible voters before the polls open;
- (D) To supervise activity at the polls;
- (E) To verify the eligibility of every person who wishes to vote and to distribute one ballot to each eligible voter at the polls;
- (F) To keep record of persons who vote and of the number of ballots distributed and cast at an election;
- (G) To resolve any disputes which may arise at the polls regarding a person's eligibility to vote of balloting procedure;
- (H) To count and validate ballots and record the number of votes cast for each candidate or for each option on the ballot;
- (I) To certify the results of the election or referendum.
- (J) To hear and decide any election challenges.
- (K) To recommend to the Tribal Council any supplemental rules or changes in this ordinance which the Board believes are necessary to achieve the purpose of this ordinance.

Section 3.4 Election Oath

Before taking office, Election Board members shall swear or affirm that they will carry out their duties faithfully; that they will not let their preferences in an election influence their actions as Board members; and that they will not engage in, sanction, or permit to go on unchallenged conduct which could prevent a fair election.

SECTION 4. NOTICE OF REGULAR AND SPECIAL ELECTIONS

Section 4.1 Initial Notice of Election

An Initial Notice of a regular election or special election to fill a vacancy on the Tribal Council for an expired term will be sent to all enrolled members at least sixty (60) days prior to an election by inclusion in a Tribal Newsletter sent to each member's last known address as it appears in the tribal records.

- (A) The Notice shall include with the following information.
 - (1) announcement of place, date, and time for the election;
 - (2) list vacancies to be filled;
 - (3) those terms of office and any vacancies to be filled; and
 - (4) the closing date set to receive absentee ballot requests.
- (B) A write-in nomination form will be sent with the initial notice of a regular or special election. Each write-in nomination form must be signed and dated by the Voter and returned to the Board at least sixty days prior to the scheduled election.
- (C) An absentee ballot request form will be sent with the initial notice of a regular or special election. All absentee ballot requests must be signed and dated by the Voter.

Section 4.2 Final Notice of Election

The Final Notice of election will be sent at least ten days prior to the date set for an election by inclusion in a Tribal Newsletter sent to each member's last known address as it appears in the tribal records.

- (A) The Final Notice shall include:
 - (1) Announcement of the date, time, and place of the election.
 - (2) Announcement of all position to be filled.
 - (3) The names of all persons duly certified as eligible candidates.
 - (4) Instructions for Absentee Ballots and the deadline for submitting Absentee Ballots, which deadline shall be the date that is the day before the polls open for the election.
 - (5) A reminder to voters to have some form of identification at the poll.

SECTION 5. BALLOTS

Section 5.1 Ballots

- (A) Candidates for each office shall be listed on the ballot alphabetically by their last names. A box shall appear next to each candidate so a vote may be marked in the box. Write-in votes are not valid and will not be counted
- (B) All ballots, both regular and absentee, shall include instructions as to casting the ballot and a statement that any extraneous marking on the ballot will spoil the ballot.

Section 5.2 Casting Ballots

If a person votes for more candidates than there are positions open, that portion of the ballot shall be invalid.

Section 5.3 Spoiled Ballots

- (A) Any voter who spoils a ballot shall be entitled to a new ballot upon surrender of the spoiled ballot to the Election Board. No voter shall receive more than one additional ballot. A Board member shall place the name of the voter and the Board Member's initial on the back of the spoiled ballot. All ballots voluntarily surrendered due to spoliation shall be secured separately.
- (B) After the polls close the Chairman shall, upon removing ballots from the box determine which ballots are spoiled. Ballots not completed as specified on the ballot shall be considered spoiled. Spoiled ballots shall not be counted. All spoiled ballots shall be kept in a separate envelope, securely sealed, marked "SPOILED BALLOTS". All spoiled ballots shall be retained until the time period for Election Challenge has expired.

Section 5.4 Absentee Ballots

Any person duly qualified to vote may request an absentee ballot, so long as such request is received pursuant to the deadline set in the Initial Notice of Election.

Section 5.5 Delivery of Absentee Ballots

Each absentee ballot to mailed or personally delivered to the eligible voter shall

Be sealed in an envelope, with instructions for the return of the ballot, along with a pre-Addressed envelope to the Election Board or designee, and a second envelope, which shall be marked on the front "ABSENTEE VOTER'S BALLOTT" and which shall have on the back the following affidavit:

I, _____, do solemnly swear that I an entitled to cast the enclosed ballot and duly qualified to vote by absentee ballot.

Voter's signature

Section 5.6 Cut-Off date for Return of Absentee Ballots

No absentee ballot shall be counted unless received in hand by the Election Board or designee on or before the date that is the day before the polls open for the election.

Section 5.7 Record of Absentee Ballots

The Election Board shall make and keep a record of absentee ballots requested, delivered and cast. This record must contain the name of the absentee voter, address of absentee voter, date of ballot issue and date of return. No person who has cast his ballot by absentee ballot may cast a vote in person.

Section 5.8 Absentee voter who seeks to vote in person

Any person who received an absentee ballot, who appears at the poll to vote in person, may do so as long as he has brought his absentee ballot, which shall be marked with a statement that "Voter Appeared in Person to Vote" and kept with the spoiled ballots.

Section 5.9 Handling Absentee Ballots

All absentee ballots, when received, will be placed in the absentee ballot box under the supervision of the Election Board or its designee.

Section 5.10 Counting of Absentee Ballots

The absentee ballots will be counted according to the normal counted procedure on Election Day. The absentee ballot box will be opened and the ballots counted after the ballots from the regular box are counted.

Section 5.11 Counting Ballots

The counting of ballots shall be open to all tribal members. Ballots shall be counted a minimum of three times. The totals must agree at least twice to be valid.

Section 5.12 Retention of Ballots

Ballots shall be secured in a locked container and may be destroyed only after the expiration of the challenge period, if no such challenge has been filed. If a challenge is filed, the ballots may only be destroyed after the final disposition of the challenge. The tally of each election and the results thereof shall be retained in the permanent records of the Election Board.

SECTION 6. POLLING PLACES, TIMES AND REGULATIONS

Section 6.1 Polling places and Times

- (A) Elections of Tribal Council members shall be held at the annual membership meeting for those tribal council seats whose holders' term expire. All special elections to fill seats on the Tribal Council for the unexpired term of office shall be held on the date set by the Tribal Council
- (B) Polls shall be open from _____ to _____.
- (C) Balloting in all elections shall take place at the tribal center, unless otherwise specified in the notice.

Section 6.2 Polling Regulations

- (A) No person shall campaign or otherwise attempt to influence voters or shall loiter on the tribal center grounds or at the polling place during hours when the polls are open.
- (B) Voters who are unable to mark a ballot without assistance because of such special circumstances as physical disability or illiteracy may be assisted in voting by an Election Board member or by a person of the voter's choice.
- (C) Consumption of alcoholic beverages, marijuana, narcotics or other intoxicants at the polls and on tribal grounds is prohibited. No person who is clearly intoxicated or under the influence of drugs shall be permitted to cast a ballot.

SECTION 7. ELECTION TO OFFICE

Section 7.1 Election to Office

Offices for which elections are held shall be filled in the following way: If one position is open, it shall be filled by the person who receives the highest number of votes. If two positions are open, they shall be filled by the two persons who received the highest and second highest number of votes. If one of the open positions has a longer term than the other, the person who receives the highest number of votes shall serve the longer term.

SECTION 8. CERTIFYING THE VOTE

Section 8.1 Certifying the Vote.

When the Election Board has completed the official count and determined the winners, the Election Board Chairman shall issue a certification of the election to the winning candidates, which shall be posted in a conspicuous place within the Tribal Center. The Chairman shall transmit or cause to be transmitted a copy of this certification to the Tribal Council and Regional Director, Midwest Region, Bureau of Indian Affairs.

SECTION 9. ELECTION CHALLENGES

Section 9.1 Election Challenges

A contest of election may be brought by filing with Election Board a written statement setting forth a concise statement of facts on which the contest is based. No challenge shall be considered filed unless filed five days immediately following election day.

Section 9.2 Decision

The Election Board shall render a decision by a majority vote of the Election Board at which a quorum is present, within ten (10) business days of receipt of the contest of election. The Chair shall provide Notice of the decision to the Tribal Council and the candidates affected. If there is a tie vote of the Election Board, the challenge shall be denied.

Section 9.3 Impartiality

No member of the Election Board who is a party to the election challenge or has a spouse, parent, child or sibling who is a party to an election challenge may participate in the deliberations or vote on the challenge as a Election Board member.

Section 9.4 Finality

The decision of the Election Board shall be final.

Section 9.5 Upheld Challenge

Should the challenge be upheld, a re-election will take place within thirty days of the Election Board's decision. The slate of candidates shall be the same as the original election, except that any candidates who were originally duly elected and not subject to the challenge shall be removed from the ballot.

SECTION 10 REFERENDUMS

Section 10.1 Referendums

Any enacted ordinance or resolution of Tribal Council may be submitted to a popular referendum upon affirmative vote of a majority of the Council, or when requested by a petition presented to the Council bearing the signatures of at least twenty-five (25%) of the eligible voters of the Band.

Section 10.2 Petition

- (A) Referendum petition shall be filed with the Tribal Election Board. The Board shall determine the validity of the petition within seven days of receipt of the Petition. The decision of the Election Board shall be final.
- (B) Valid petitions shall have at the top of each signature page the exact language of the ordinance or resolution that is the subject of the referendum and a statement that the Petition is seeking to repeal the ordinance or resolution, and the date the petition commenced.
- (C) In order to be deemed valid, each signature must be accompanied by the printed name and address of the signer.
- (D) In order to be valid a petition must be submitted within thirty (30) days of the date it commenced.

Section 10.3 Referendum Procedures

If there is a valid petition or the Council votes to hold a Referendum, the Election Board shall provide notice to all eligible voters of the Referendum, including the date, time, and place of the Referendum election, which must be held within sixty days of the receipt of a valid petition or the date of the vote of Council. The Notice shall include absentee ballot requests including the deadline for receipt of such requests. The absentee ballot provisions of this code shall apply to Referendum Elections. The Referendum shall pass if it is supported by a majority of the persons voting on the Referendum and if at least fifty (50%) percent of the eligible voters of the NHBP voted in the Referendum. Otherwise, it shall be rejected. The determination of the Election Board as to whether the Referendum passed or was rejected shall be final.

Section 10.4 Impact of Referendum

Any Referendum that is successful shall be prospective only and will not impact any final action or decision of Council that took place before the Referendum.

Legislative History regarding the adoption, amendments and revisions to this Election Code:

1. This Election Code was adopted by the Tribal Council at a regular scheduled meeting on February 18, 2006
2. On November 18, 2006 the Tribal Council voted at a regular scheduled meeting to revise Section 4.1. (B) to change the wording from “fifteen days” to “forty-five days” pertaining to the time a voting member shall have to submit a write-in nomination.
3. On November 29, 2006 the Tribal Council voted at a special meeting to revise Section 2.2 to remove “fifteen days” and insert “sixty days”; and, Section 4.1. (B) to remove “forty-five days” and insert with “sixty days” pertaining to the time a voting member shall have to submit a write-in nomination.