

Nottawaseppi Huron Band of the Potawatomi Election Code

SECTION 1 - Title and Purpose

Section 1.1 - Title

1. The following law shall be known as the Nottawaseppi Huron Band of the Potawatomi (Band's) Tribal Election Code.

Section 1.2 - Purpose

1. The purpose of this Code is to ensure that procedures used in the Nottawaseppi Huron Band of the Potawatomi Tribal Elections are conducted in a manner that is in accordance with Constitutional requirements and in a consistent, fair and efficient manner.
2. Elections that are for purposes other than Tribal Council elections shall be subject to the same rules stated in this code with the exception of those sections that apply to Tribal Council elections only.

SECTION 2 - Eligible Voters and Candidates

Section 2.1 - Eligible Voters

1. All persons 18 years or older who are duly enrolled Members of the Band as of the date of a Tribal Election shall be eligible to vote in Elections governed by this Code.

Section 2.2 - Candidates Ineligibility

1. A Huron Band Tribal Member is ineligible to be a candidate for the Tribal Council if he/she:
 - a) Has been convicted of a felony or a crime of theft, fraud or dishonesty within seven (7) years of declaring his or her candidacy;
 - b) Has been convicted of any crime against children or any criminal sexual offenses within seven (7) years of declaring his or her candidacy;
 - c) Has been convicted of any other felony or other crime for which the person was sentenced to a prison term of one (1) year or longer;
 - d) Makes any material misrepresentation of fact on his or her application for candidacy and/or biography which the candidate knows to be false;

Section 2.3 - Nominations

Nomination forms shall be mailed and postmarked to all qualified voters of the Band sixty (60) days prior to the election. Qualified voters of the Band may nominate any qualified voter of the band, including themselves. The nomination form must be received by the election board no later than the date indicated on the nomination form.

Section 2.4 - Certificate of Candidacy

1. The Election Board shall review all nominations to determine if the nominee meets all the requirements of in this code and as prescribed in the Band's Constitution.
2. The Election Board shall consult with the Band's Enrollment Office to verify the enrollment status of nominees and to confirm that nominees are not disqualified from holding elected office under Article III of the Constitution. The Election Board may also contract with a third party for the purpose of conducting background investigations to verify that each nominee meets the requirements to be a candidate for a seat on the Tribal Council. 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 confirmation that the nominee meets all of the Constitutional/Election Code requirements.
3. Any nominee who is found to be ineligible to be a candidate for a seat on the Tribal Council shall be notified of the facts and legal grounds for his/her ineligibility. The decision of the Election Board as to whether a candidate is eligible shall be final.

Section 2.5 - Candidates and Campaigning:

1. Eligible candidates and/or supporters of candidates who wish to distribute campaign materials to the eligible voters must submit their materials to the Election Board no later than fourteen (14) working days prior to the Election.
2. All campaign materials must be approved by the Election Board prior to distribution.
3. Candidates and/or their supporters are barred from mailing campaign materials to eligible voters independent of the Election Board and are in violation of this Code and may be subject to civil and/or criminal penalties.
4. Candidates are required to pay all costs associated with the mailing of campaign materials which shall include, but not be limited to, copies, envelopes, labels and postage.
5. The Tribal Enrollment office shall supply address labels with the current mailing address of all eligible voting Tribal Members to the Election Board when requested to do so by the Election Board.

SECTION 3 - Election Board

Section 3.1 - Appointment and Term

1. The Tribal Council shall appoint an Election Board every three (3)-years. The appointments shall be made in September of the year that Elections are not being held. The board shall consist of five Election Board Members and two alternates who must be Nottawaseppi Huron Band Tribal Members and eligible voters of the Band.
2. Election Board Members shall serve for a term of three (3) years or until a successor is selected and appointed by the Tribal Council. Board Members may be appointed for successive terms.
3. Any Board Member who resigns, is removed or is unable to serve will be replaced. Alternate Board Members will be given the opportunity to take the vacated seat(s). Should the Alternate(s) refuse, the Tribal Council shall designate a replacement(s).
4. Any Election Board member who becomes a candidate for Tribal Council shall resign immediately from the Election Board.

Section 3.2 - Officers and Duties

1. Chair. The Chair of the Election Board shall:
 - a) Schedule all meetings of the Election Board as needed;
 - b) Provide notice of all meetings to all Election Board Members and alternates;
 - c) Preside at all Election Board meetings;
 - d) Supervise the publication of the Initial Notice of Election and Final Notice of Election;
 - e) Maintain a list of the absentee ballot requests;
 - f) Prepare a tally sheet to be used at the Election;
 - g) Sign the certification of the Election results.
2. Secretary. The duties of the recording Secretary shall include:
 - a) Assisting the Chair as called upon;

- b) Maintaining and keeping minutes and all records of the Tribal Election Board.

Section 3.3 - Board Duties

1. The Election Board shall carry out their duties in compliance with Article V of the Band's Constitution, this Code and any additional duties prescribed by the Tribal 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 supervise the distribution of one ballot to each eligible voter at the polls;
 - f. To keep records 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 or 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 and initiative;
 - j. To hear and decide any Election challenges;
 - k. To recommend to the Tribal Council any supplemental rules or changes in this Code which the Board believes are necessary to achieve the purpose of this Code.
2. The Election Board may utilize the services of an independent third party (i.e. certified public accounting firm or Election service contractor) to assist the Election Board in carrying out any of the duties assigned to the Board.

SECTION 4 - Notice of Regular and Special Elections

Section 4.1 - Initial Notice of Election

1. An Initial Notice of Election will be mailed and postmarked to all eligible voters at least sixty (60) days prior to the Election Date. The Initial Notice of Election may also be sent by inclusion in a Tribal Newsletter, or by a separate mailing or Newsletter, which is sent to each eligible voter's last known address as it appears in the records of the Tribe's Enrollment Office.
2. Once the notices have been sent to the Membership, anyone who is granted Membership after the mailing of notices must request Election notices in writing directly from the Election Board.
3. The Notice shall include the following information:
 - a) Announcement of place, date, and time for the Election;
 - b) The number of seats on the Tribal Council to be filled;
 - c) The deadlines for all Election issues.
4. A write-in nomination form, described in Section 2.3, will be sent with the Initial Notice of a Regular or Special Election. Each write-in nomination must contain the printed name, signature and date of the nomination.
5. An absentee ballot request form will be sent with the initial notice of a Regular or Special Election. All absentee ballot requests must contain the printed name, signature and date of the request.

Section 4.2 - Final Notice of Election

1. At least ten (10) days prior to the date of the Election, a Final Notice of Election will be sent to each eligible voter. The Final Notice of Election may be sent by inclusion in a Tribal Newsletter, or by a separate mailing or Newsletter, which is sent to each eligible voter's last known address as it appears in the records of the Tribe's Enrollment Office.
2. The Final Notice shall include:
 - a. Announcement of the date, time, and place of the Election;
 - b. Announcement of the number of seats on the Tribal Council to be filled;
 - c. The names of all persons duly certified as eligible candidates;
 - d. Instructions for completing and mailing absentee ballots and the deadline for submitting absentee ballots; which deadline shall be the date that is the business day before the polls open for the Election;
 - e. A reminder to voters to have some form of photo identification at the poll.

SECTION 5 - Ballots

Section 5.1 - Ballots

1. Candidates for seats on the Tribal Council shall be listed on the ballot alphabetically by their last names. A box shall appear next to each candidate's name so a vote may be marked in the box. Write-in votes for candidates not listed on the ballot are not valid and will not be counted.
2. 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

1. If a person votes for more candidates than there are positions open, that ballot shall be considered spoiled and none of votes cast will be counted.
2. Cumulative voting is not permitted and a voter may not cast more than one vote for the same candidate.

Section 5.3 - Spoiled Ballots

1. Any voter who spoils a ballot shall be entitled to a new ballot upon surrender of the spoiled ballot to the Election Board or its representative. No voter shall receive more than one additional ballot. All ballots voluntarily surrendered due to spoliation shall be secured separately.
2. All spoiled ballots shall be retained until the time period for Election Challenge has expired.

Section 5.4 - Absentee Ballots

1. 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

1. Each absentee ballot to be 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 its designee, and a second envelope, which shall be marked on the front "BALLOT" or "ABSENTEE VOTER BALLOT" and which shall, at a minimum, have a place on the back of the pre-addressed envelope for the absentee voter to print and sign his/her name and date.

Section 5.6 - Cut-Off Date for Return of Absentee Ballots

1. No absentee ballot shall be counted unless received in hand by the Election Board's designee one business day before the polls open for the Election.

Section 5.7 - Record of Absentee Ballots

1. The Election Board, or its designee, 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/her ballot by absentee ballot may cast a vote in person.

Section 5.8 - Absentee Voter who Seeks to Vote in Person

1. Any person who received an absentee ballot, who appears at the poll to vote in person, may do so as long as the Election Board or its designee confirms that the voter in question did not already cast his/her vote by absentee ballot. A record of any voter receiving an absentee ballot, who is permitted to vote at the poll in person, shall be maintained.

Section 5.9 - Handling Absentee Ballots

1. 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

1. The absentee ballots will be counted according to the normal counting 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

1. The counting of ballots shall be conducted by the Election Board or its designee in a location that is open to all Tribal Members in attendance on the date of the Election. Ballots shall be counted a minimum of three times. The totals must agree at least twice to be valid.

Section 5.12 – Destruction of Ballots

1. All ballots will be destroyed after any and all challenges have been concluded and the Election results have been certified.

SECTION 6. Polling Places, Times and Regulations

Section 6.1 - Polling Places and Times

1. Elections of Tribal Council Members shall be held at the Annual Membership Meeting for those Tribal Council seats whose term has expired. All Special Elections to fill seats on the Tribal Council for the unexpired term of office shall be held at the next scheduled Annual Membership Meeting.
2. Polls shall be open for at least 5 hours on the Election date between the hours of 9:00 a.m. and 5:00 p.m. The actual hours the polls will be open on the Election date shall be identified in the Final Notice of Election.
3. The polling places at which ballots may be cast in all Elections shall be located at the Tribe's Administration Building located on the Pine Creek Reservation, unless otherwise specified in the Final Notice of Election.

Section 6.2 - Polling Regulations

1. Except as provided in paragraph b) of this section, no person shall campaign or otherwise attempt to influence voters or shall loiter on the Tribal Government campus located on the Pine Creek Reservation for the purpose of attempting to influence voters on the date of the Election or at the polling place during hours when the polls are open. Persons wishing to comment on Tribal Government business at the annual Membership meeting must, if making public comments during hours when the polls are open, do so in a manner that does not advocate for or against any individual or group of candidates, including the speaker.
2. Campaign Activities.
 - a) Candidate Forum. The Election Board will schedule a "Meet the Candidates Forum" to be held in the Community Center on the Pine Creek Reservation and such other locations as the Election Board may designate. All certified candidates will appear at that forum and be given an equal amount of time to make statements and to answer questions from the Tribal Membership. The Election Board may adopt additional procedures that may be required to assure that the conduct of the candidate forums are fair to all candidates in the Election.
 - b) Nothing in this section shall prohibit lessees or legal occupants of residential units on the Pine Creek Reservation from placing or permitting the placement of campaign signs in windows of their homes and the maintained portion of the front or side yard a minimum of 10 feet from the paved portion of any road or paved sidewalk/path.
 - c) No campaign activities will be permitted in any Tribal Government building or office location at any time.

3. 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.
4. Consumption of alcoholic beverages, marijuana, narcotics or other intoxicants at the polls and on the Tribal government campus on Election Day 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

1. 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.

1. When the Election Board or its designee has completed the official count of all ballots cast and determined the preliminary results, the Election Board Chair shall issue a preliminary certification of results, pending expiration of the challenge period and/or resolution of any Election challenge, which identifies the presumptive winning candidates. The preliminary certification of the Election results shall be posted in a conspicuous place within Tribal Government Offices and in the Community Center located on the Pine Creek Reservation.

Section 8.2 Results – Certifying the Election Results:

1. The Election Board's final certification of the results will be issued to the Tribal Council and the BIA. The decision of the Election Board is final.

SECTION 9 – Election Challenges

Section 9.1 Challenges:

1. "Election Challenge" Defined. An "election challenge" shall mean any dispute which directly challenges the integrity or accuracy of the results or outcome of an election. Election challenges, by definition, must allege error, mistake, fraud, or other irregularities in the election process of a magnitude that has affected the

integrity of the election process, voting, or the count to a degree that the fairness or accuracy of the outcome of the election is called into question.

2. Any eligible voter who believes that a candidate elect should not take his or her seat on the Tribal Council may challenge the results of the Election.
3. The challenge must be presented to the Band's Election Board via mail or hand delivery within five (5) business days following Election Day.
3. The burden of proof for any challenge rests with the challenger. In all cases, the person filing an election challenge shall have the burden of proving, by clear and convincing evidence, that the conduct alleged: (i) violates one (1) or more election law or other law relating to the election; (ii) has affected the integrity of the election process, and (iii) has affected both the outcome and the results of the election or is of a magnitude that the outcome of the election should be called into question. The Election Board will not make assumptions or any decisions based on hearsay alone.
4. The Election Board has the authority to investigate any challenge presented to it that it deems necessary

Section 9.2 Decision

1. The Election Board shall render a decision by a majority vote of the Election Board at a meeting at which a quorum is present, within fifteen (15) business days of receipt of the challenge of an 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 considered denied.

Section 9.3 Impartiality

1. 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 an Election Board Member.

Section 9.4 Finality

1. The decision of the Election Board shall be final.

Section 9.5 Upheld Challenges

1. Should the challenge be upheld, a re-Election will take place within sixty (60) 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 affected by, or subject to, the challenge shall be removed from the ballot.

SECTION 10 - Initiatives and Referendums

Section 10.1 - Initiatives

1. Initiatives 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.
2. Valid petitions shall have at the top of each signature page the exact language of the intent of the petition, and the date of the petition.
3. In order to be deemed valid, each signature must be accompanied by the printed name and address of the signer.

Section 10.2 Referendum and/or Initiative Procedures

1. 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/Initiative, including the date, time, and place of the Referendum/Initiative Election, which must be held within ninety (90) days of the receipt of a valid petition or the date of the vote of Council. The notice shall identify the ballot procedures to be utilized in the Referendum/Initiative Election, including absentee ballot procedures and deadlines (if applicable). The absentee ballot provisions of this Code shall apply to Referendum/Initiative Elections. The Referendum/Initiative shall pass if it is supported by a majority of the persons voting on the Referendum/Initiative and if at least fifty (50%) percent of the eligible voters of the Band vote in the Referendum/Initiative. Otherwise, it shall be rejected. The determination of the Election Board as to whether the Referendum/Initiative passed or was rejected shall be final.

SECTION 11. Ties:

1. In the event of a tie, unless one candidate withdraws, an additional Election will be scheduled within sixty (60) days, between the candidates that tied.
2. In the event that a run-off Election produces another tie, the Tribal Council shall select the winner by majority vote of the Tribal Council. Should one or both of the candidates be an incumbent, he or she must abstain from the vote.
3. The Tribal Council shall appoint an eligible voter of the Band in the interim between the tie and the certification of the runoff Election.

SECTION 12. Transfer of Property:

1. The outgoing Tribal Council Members shall be responsible for delivering an accounting for all Tribal documents and equipment in their possession to the Tribal Council Chair within thirty (30) days following their departure from office.

SECTION 13 Election Oath

1. 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 conduct which could prevent a fair Election.

SECTION 14. Severability:

1. In the event any sentence, paragraph or section of this ordinance is held to be unconstitutional or otherwise invalid, the remaining sentences, paragraphs or sections shall remain valid and be presumed consistent with the Constitution and all other governing documents.