

Gaå äling Ziibi Daåwa Anßhinaåbek

Little River Band of Ottawa Indians

Election Board Regulations



Amended September 9, 2022

## TABLE OF CONTENTS

|   |    |
|---|----|
| PART I. GENERAL INFORMATION .....                                     | 1  |
| CHAPTER 1. GOVERNING PROVISIONS AND DEFINITIONS .....                 | 1  |
| Section 1. Governing Provisions .....                                 | 1  |
| Section 2. Definitions. ....  | 1  |
| Section 3. Computation of Time .....                                  | 6  |
| PART II. VOTING & ELECTIONS .....                                     | 7  |
| CHAPTER 2. VOTER INFORMATION.....                                     | 7  |
| Section 1. Automatic Voter Registration by Enrollment Department..... | 7  |
| Section 2. Registered Voter Responsibility .....                      | 7  |
| CHAPTER 3. CONDUCTING ELECTIONS .....                                 | 7  |
| Section 1. Timing of Elections .....                                  | 7  |
| Section 2. Announcement of Elections.....                             | 8  |
| Section 3. Voting Districts .....                                     | 8  |
| Section 4. Ballots.....   | 9  |
| Section 5. Voting by Mail .....                                       | 9  |
| Section 6. Voting in Person .....                                     | 10 |
| Section 7. Counting Mail-In Ballots.....                              | 11 |
| Section 8. Election Results .....                                     | 13 |
| Section 9. Announcement of Unofficial Election Results .....          | 14 |
| Section 10. Withdrawal by Winning Candidate .....                     | 15 |
| Section 11. Reporting Election Results .....                          | 15 |
| Section 12. Run-Off Elections .....                                   | 16 |
| PART III. CANDIDATE INFORMATION .....                                 | 19 |
| CHAPTER 4. ELIGIBILITY TO RUN FOR ELECTED OFFICE .....                | 19 |

|   |    |
|---|----|
| Section 1. Eligibility to Run for Elected Office .....                | 19 |
| Section 2. Prohibition against Running for Two (2) Offices .....      | 21 |
| Section 3. Declaration of Candidacy .....                             | 21 |
| Section 4. Receipt of Declaration of Candidacy Packet .....           | 23 |
| Section 5. Background Checks .....                                    | 23 |
| Section 6. Disclosure .....   | 24 |
| Section 7. Certification of Candidates .....                          | 24 |
| CHAPTER 5. CAMPAIGNING .....  | 25 |
| Section 1. Posting Campaign Signs .....                               | 25 |
| Section 2. Timing of Campaign Signs .....                             | 26 |
| Section 3. Campaigning and Canvassing in Tribal-Owned Buildings ..... | 26 |
| Section 4. Enforcement.....   | 27 |
| CHAPTER 6. CAMPAIGN FINANCING .....                                   | 27 |
| Section 1. Allowable Contributions.....                               | 27 |
| Section 2. Endorsements .....   | 28 |
| Section 3. Campaign Spending and Contribution Rules .....             | 28 |
| Section 4. Reporting Requirements.....                                | 29 |
| Section 5. Penalties.....   | 30 |
| Section 6. Investigations and Hearings.....                           | 30 |
| PART IV. MEMBERSHIP ACTIVITIES .....                                  | 32 |
| CHAPTER 7. RECALLS .....  | 32 |
| Section 1. Recalls.....   | 32 |
| Section 2. Request for Recall Petition.....                           | 32 |
| Section 3. Clarity Determination.....                                 | 32 |
| Section 4. Action on Request for Recall Petitions.....                | 32 |
| Section 5. Petition Form .....  | 33 |
| Section 6. Petition Process.....                                      | 34 |

|   |    |
|---|----|
| Section 7. Filing Completed Petition.....   | 35 |
| Section 8. Review of Signatures.....  | 35 |
| Section 9. Sufficiency of Petition .....  | 37 |
| Section 10. Recall Election .....   | 37 |
| Section 11. Recall Election Disputes and Challenges.....                                | 37 |
| Section 12. Results .....   | 37 |
| CHAPTER 8. MEMBERSHIP MEETINGS.....   | 38 |
| Section 1. Verification of Registered Voters.....                                       | 38 |
| Section 2. Process for Verification of Registered Voters in Attendance .....            | 38 |
| Section 3. Certification of Registered Voters in Attendance .....                       | 39 |
| Section 4. Secret Ballot Voting.....  | 40 |
| Section 5. Certification of Results.....  | 42 |
| Section 6. Security and Destruction of Membership Meeting Materials from Election ..... | 42 |
| CHAPTER 9. INITIATIVES.....   | 43 |
| Section 1. Request for Initiative Petition .....  | 43 |
| Section 2. Preparation of Initiative Petition .....                                     | 43 |
| Section 3. Initiative Petition Process .....  | 44 |
| Section 4. Review of Signatures.....  | 44 |
| Section 5. Sufficiency of Petition .....  | 45 |
| Section 6. Initiative Election.....   | 45 |
| Section 7. Initiative Election Disputes and Challenges .....                            | 45 |
| Section 8. Results .....  | 45 |
| CHAPTER 10. REFERENDUMS.....  | 46 |
| Section 1. Referendum Election .....  | 46 |
| Section 2. Conducting Referendum Election .....   | 46 |
| Section 3. Referendum Election Disputes and Challenges .....                            | 47 |
| Section 4. Results .....  | 47 |

|  |    |
|--|----|
| CHAPTER 11. PETITIONS FOR CONSTITUTIONAL AMENDMENTS .....                              | 47 |
| Section 1. Scope .....   | 47 |
| Section 2. Local Bureau Official-Bureau of Indian Affairs, Department of Interior..... | 48 |
| CHAPTER 12. DISPUTES AND CHALLENGES.....   | 48 |
| Section 1. Election Disputes.....  | 48 |
| Section 2. Election Challenges .....   | 49 |
| Section 3. Election Board Decisions.....   | 50 |
| Section 4. Review of Election Board Decisions .....                                    | 50 |
| Section 5. Rights of Action under the Tribal Constitution .....                        | 51 |
| PART V. ELECTION BOARD .....   | 52 |
| CHAPTER 13. HEARINGS.....  | 52 |
| Section 1. Complaints .....  | 52 |
| Section 2. Request for Hearing .....   | 52 |
| Section 3. Notice .....  | 53 |
| Section 4. Hearings .....  | 53 |
| Section 5. Hearing Decisions.....  | 54 |
| CHAPTER 14. ETHICAL STANDARDS .....  | 55 |
| Section 1. Ethical Standards.....  | 55 |
| Section 2. Allegations of Impropriety .....  | 55 |
| Section 3. Removal from Office .....   | 56 |
| CHAPTER 15. BY-LAWS.....   | 56 |
| Section 1. Authority; Purpose .....  | 56 |
| Section 2. Election Board Members .....  | 56 |
| Section 3. Meetings .....  | 57 |
| Section 4. Travel time for Training.....   | 58 |
| Section 5. Monetary Compensation .....   | 58 |

## PART 1. GENERAL INFORMATION

### CHAPTER 1. GOVERNING PROVISIONS AND DEFINITIONS

#### Section 1. Governing Provisions.

- A. Authority. The Constitution of the Little River Band of Ottawa Indians, Article IX Elections, Section I(d) and Section 4(e) authorizes the Election Board to issue such rules, regulations, and procedures as may be necessary to administer and implement Tribal Elections and to provide for voter registration. Accordingly, the Election Board adopts and issues these Regulations under the authority of the Tribal Constitution.
- B. Purpose. The Election Board adopts and issues these Regulations in order to administer and implement its responsibilities under the Tribal Constitution and in order to serve the best interests of the Tribe and its members.
- C. Severability. If a court of competent jurisdiction determines that any portion of these Regulations is invalid for any reason, the remainder of these Regulations shall continue to be effect.
- D. Previous Regulations. All Election Board Regulations in effect prior to these Regulations are hereby repealed and replaced by these Regulations.
- E. Timing of Application. If these Regulations are enacted or amended while any procedure covered by these Regulations is in progress, these Regulations will be applied prospectively to those steps of the process which have not occurred at the time of enactment.
- F. Retaining Election Records. Election records shall be retained, maintained, and destroyed in the manner prescribed in these Regulations. In general:
  - 1. Where a time for retention is not identified, the Election Board shall keep records for not less than four (4) years.
  - 2. All records may be maintained as an electronic file.
  - 3. The Election Board shall schedule destruction of files in a manner cost effective for the Tribe.
  - 4. Litigation records of the Election Board may be retained indefinitely.

#### Section 2. Definitions.

The following terms shall have these definitions wherever they are used in these Regulations.

- A. "Absentee Voting" means casting a vote by Mail-In Ballot in lieu of casting a vote by In Person Ballot.

- B. "At-Large District" means the geographic area representing all of the Registered Voters of the Tribe.
- C. "Ballot" means the piece of paper issued by the Election Board or its designated representative upon which votes are cast in any Tribal Election. Ballot includes both Mail-In Ballots and In-Person Ballots.
- D. "Burden of proof" for purposes of complaints submitted to the Election Board, means the individual filing the complaint, dispute or challenge must provide sufficient evidence in support of the allegation to prove his or her complaint, dispute or challenge by a preponderance of the evidence.
- E. "Candidate" means an individual who is deemed eligible and/or qualified to seek an Elected Office during the course of any Tribal Election.
- F. "Complaint" means an Election Challenge, an Election Dispute, a Recount, or any other form of contest or grievance related to any Tribal Election.
- G. "Complainant" means a Tribal Member who submits a Complaint to the Election Board.
- H. "Contribution" means the donation of money, goods, and/or services in support of a Candidate. Contribution does not include volunteer services of a Tribal Member or a non-tribal member in support of a Candidate or any other indication of support or endorsement of a Candidate.
- I. "Date of Disclosure" means the deadlines set by the Election Board for a given Election by which an individual seeking elected office shall have taken affirmative act or affirmative acts to Disclose to the Membership a prosecution, conviction, or registration.
- J. "Disclose to the Membership" means the act by which an individual seeking elected office or nomination for Tribal Ogema or Tribal Council notifies and informs the Tribe's membership as a whole by posting on the Election Board's website and the Tribe's Official website, that;
1. He or she has any conviction or pending prosecution for any crime involving fraud or misrepresentation; and/or
  2. He or she has any conviction within the past 10 years or pending prosecution for any crime listed in the Major Crimes Act (U.S. Stat. Vol 23 Chapter 341) (murder, manslaughter, rape, assault with intent to murder, arson, burglary or larceny); and/or
  3. He or she has any conviction within the past 10 years, or pending prosecution for any offense, the victim of which was the Tribe, or any Tribal business, enterprise, department or program; and/or
  4. He or she has any conviction or pending prosecution for any offense related to sexual crimes or criminal sexual conduct where the perpetrator was convicted as an adult at the time the crime was committed; or is registered on the list of sex offenders in any jurisdiction.

For purposes of the disclosure requirements, the term of 10 years is calculated as the ten (10) year period of time immediately preceding the date of the election, or in the event of a vacancy under Article X of the Constitution, Section 4(a), his/her appointment. The candidates' duty to disclose continues throughout the election process.

- K. "Election Challenge" means a direct challenge to the results or outcome of an Election, the object of which is to affect the results of an Election.
- L. "Election Cycle" means the period of time which starts with the announcement of the election by the Election Board until the first Elected Official has been sworn into office.
- M. "Election Day" sometimes referred to as the Date of Election means the date on which ballots are cast and counted in any Tribal Election.
- N. "Election Dispute" means any election dispute, other than that which challenges the direct outcome of an Election, the object of an Election Dispute is to affect how the Tribal election is conducted as the election process moves forward.
- O. "Elected Official" means any of the following: a member of Tribal Council, the Tribal Ogema, a member of the Tribal Court, or a member of the Election Board.
- P. "Eligible Voter" means any Tribal Member who is at least eighteen (18) years old, shall be eligible to vote in any given Tribal Election.
- Q. "Gross Misconduct or Malfeasance" means intentional conduct by the Election Board or a Member of the Election Board, which is wrongful or unlawful. Specifically, the action must be committed by an official while in office, be willful in nature, and must be exercising targeted malice or excessive use of the power of the office.
- R. "Hearing" means a recorded proceeding over which the Election Board presides to make findings of fact and law and to issue a decision relating to Election Challenges and Election Disputes. Election Hearings are conducted at the discretion of the Election Board.
- S. "Impropriety" means willful conduct or behavior which violates the ethical standards set forth for Members of the Election Board under these Regulations and which affects the outcome of a Tribal Election. Impropriety does not include disagreements with decisions of the Election Board.
- T. "Indigence" means an individual who has income that does not exceed the Federal Poverty Level.
- U. "Initiative" means the process by which a Tribal Member may petition for creation of a Tribal ordinance or for repeal or amendment of an existing Tribal ordinance.



- v. "In-Person Ballot" means a ballot cast by a Registered Voter in person at a designated polling place at an Election.
- w. "Mail-In Ballot" means a ballot mailed by a Registered Voter to the Election Board.
- x. "Mailing Address" means the current mailing address of a Tribal Member on file in the Enrollment Department database.
- y. "Nine-County District" means the area consisting of Kent County, Lake County, Manistee County, Mason County, Muskegon County, Newaygo County, Oceana County, Ottawa County, and Wexford County, in the State of Michigan.
- z. "Official Election Envelope" means the self-addressed envelope with postage paid that is provided to every Registered Voter receiving a Mail-In Ballot.
- AA. "Outlying District" means the geographic area representing Registered Voters residing outside of the Nine-County District.
- BB. "Physical Address" means the current address at which a Tribal Member resides and is on file in the Enrollment Department Data Base.
- CC. "*Partially Spoiled Ballot*" means a paper ballot that is partially invalid because the person voting has not clearly identified their intention to vote on part of the ballot. Only that portion of the Ballot which does not indicate a sufficiently clear intention of the voter is invalid.
- DD. "Preponderance of Evidence" means that the Complainant must offer evidence which demonstrates his or her claims have a greater than 50% likelihood to be true, in other words, their claim must be more likely to be true than not true.
- EE. "Post" means the act of placing, whether by the Election Board or its designated representative, information related to the Election Board and Tribal Elections at designated locations, including but not limited to the Little River Band Community Center (Aki), Little River Band Government Building, Little River Band Health Center, Election Board office door, the LRBOI Election Board official website and Tribal Justice Center.
- FF. "Primary Election" means the process by which Registered Voters can indicate their preference for a Candidate in an upcoming Regular Election thus narrowing the field of Candidates.
- GG. "Quorum" means the Election Board members identified to create a quorum in the Election Board By-Laws as adopted/approved by the Election Board.

- HH. "Recall" means the process by which a Registered Voter may petition the recall and removal from office of the Tribal Ogema, any member of Tribal Council, a Tribal Court Judge or an Appellate Justice, or an Election Board Member.
- II. "Recount" means the process by which the Election Board counts the ballots an additional time as required by these Regulations or permitted at the discretion of the Election Board upon request of a Candidate.
- JJ. "Referendum" means the process by which Tribal Council refers questions relating to a proposed or existing Tribal ordinance to Tribal Members.
- KK. "Registered Voter" means an Eligible Voter who is certified as a Registered Voter upon the Member's 18<sup>th</sup> birthday by the Board and who may vote in Tribal Election.
- LL. "Regular Election" means an Election held during the month of April, every two years in odd number years.
- MM. "Rejected Ballot" means an unofficial ballot with more than one ballot placed into a Secrecy Envelope; more than one ballot placed into an Official Election Ballot Envelope.
- NN. "Run-off Election" means the process by which Registered Voters vote for one Candidate in the event of a tie in votes between one or more Candidates in a Special Election or the Regular Election. Run-off Elections shall not be held after a Primary Election.
- OO. "Secrecy Envelope" means the envelope or partial envelope labeled Secrecy Envelope, the purpose of which is to protect the identification of the Registered Voter's decision while the ballots are being opened. The secrecy envelope is submitted to Registered Voters for Tribal Elections and designed to be opened at one or more locations along the envelope.
- PP. "Secretarial Election" means a federal Election conducted by the Secretary of the Interior for federally recognized Tribes under a federal statute or tribal governing document (25 C.F.R. 81).
- QQ. "Special Election" means any Election other than a Regular or Primary Election including an Election conducted in accordance with Article IX Section 2(b) of the Constitution, to fill vacancies in office, to recall an Elected Official, and in order to submit initiatives and referendums to the Tribal membership.
- RR. "Spoiled Ballot" means a paper ballot that is invalid because the person voting has not clearly identified the intention of their vote. The inclusion of additional information, such as personally identifiable information, does not otherwise spoil a ballot as long as the intention of the voter can be clearly identified.

- ss. "Term of Office" means the period of time for during which the position for elected office is held or appointed and runs with the office.
- tt. "Tribal Constitution" means the Little River Band of Ottawa Indians Tribal Constitution.
- uu. "Tribal Election" means Primary Elections, Regular Elections, Special Elections, Run-off Elections, Recalls, Referendums, and Initiatives. Tribal Elections do not include Secretarial Elections.
- vv. "Tribal Member" means an individual who is a member of the Little River Band of Ottawa Indians.
- ww. "Tribe" means the Little River Band of Ottawa Indians.
- xx. "Withdrawal" means the process by which a Candidate or a winning Candidate voluntarily withdraws during or following a Primary Election, Regular Election, or a Special Election.

### Section 3. Computation of Time.

- A. General. The Election Board shall issue an announcement prior to the start of every Tribal Election which shall include relevant election information including but not limited to the required due dates and other relevant information.
- B. Days. All references to days in these Regulations shall be calculated as calendar days unless otherwise indicated by the use of the term "business days".

## PART II. VOTING & ELECTIONS

### CHAPTER 2. VOTER INFORMATION

#### Section 1. Automatic Voter Registration by Enrollment Department.

- A. Eligible Voters shall automatically be registered to vote by the Enrollment Department. For purposes of this Section, an Eligible Voter becomes a Registered Voter upon their eighteenth (18<sup>th</sup>) birthday. The Physical Address on file with the Enrollment Department determines which voting district you are eligible to vote in.

#### Section 2. Registered Voter Responsibility.

- A. Accuracy of Voter Registration. It shall be the responsibility of each Registered Voter to maintain their records with the Enrollment Department, this includes current name, mailing address, and physical address, such information is necessary for voting purposes.
- B. Inaccurate Mailing Address. Ballots shall not be sent to those Registered Voters who do not have a valid mailing address on file with the Enrollment Department. This does not affect the right of that Voter to vote in person or to make other arrangements to obtain their Ballot from the Election Board.
- C. Secretarial Election Exception. Registration of each Tribal Member for purposes of voting in a Secretarial Election, is the sole responsibility of that Tribal Member. The Election Board does not control the registration process for Secretarial Elections, rather, that process is managed through the Bureau of Indian Affairs.

### CHAPTER 3. CONDUCTING ELECTIONS

#### Section 1. Timing of Elections.

- A. Primary Election. A Primary Election is designed to reduce the overall pool of Candidates for the Regular Election to a more manageable number for the Membership. The Primary Election is not designed to limit the number of Candidates for any one seat or position to a **specific** number. Primary Elections shall take place in advance of the Regular Election under the following circumstances:
1. For Tribal Ogema: If there are only two (2) verified Candidates they will proceed to the Regular Election. If the Election Board verifies more than two Candidates for Ogema, then a primary shall be held to narrow the field, preferably to the top two vote receiving candidates.
  2. For all other offices: If the Election Board verifies more than three Candidates for any open seat, then a primary shall be held to narrow the field to the top three vote receiving candidates for any open seat.

3. Nothing in sections 1 or 2 above mandate a specific number of Candidates may be placed on the Regular Election Ballot. In the event of a Primary Election tie, all tied Candidates that rank within the above-described top vote receiving positions for any office shall proceed to the Regular Election, thus, the results of a Primary Election may require that more that the desired number of candidates appear on the Regular Election Ballot
- B. Regular Elections. There shall be a Regular Election every two (2) years on the last Friday of April in each odd numbered year, unless otherwise scheduled by the Election Board.
  - C. Special Elections. Special Elections shall be called by the Election Board when required under the Constitution or by these Regulations to remove, recall, and fill vacancies of elected officials, to conduct Run-Off Elections, and to submit initiatives and referendums to the Tribal Membership.

## Section 2. Announcement of Elections.

- A. Announcement of a Regular Election. The Election Board shall prepare and post an announcement of a Regular Election at least six (6) months before the Primary Election or six (6) months before the Election Day, whichever is earlier.
- B. Announcement of a Special Election. The Election Board shall prepare and post an announcement of a Special Election after receiving written notification or determining that such an Election must be held. The Special Election shall occur within no later than 90 calendar days or three (3) months as required by the Tribal Constitution.
- c. Contents of Election Announcement. An Election announcement shall include:
  1. The date of the Election,
  2. Type of Election,
  3. The offices or vacancies to be elected,
  4. The location of any polling place for voting in person if applicable, and the hours the polling place or places will be open,
  5. The time limits and deadlines set for each stage of the Election process i.e. candidacy packet submission deadline and date of Primary Election (if necessary), and
  6. Any other information pertinent to an Election.

## Section 3. Voting Districts.

The following Tribal Members are eligible to vote for Candidates for the following Tribal Council seats.

- A. Nine-County District Voters. Voters in the Nine-County District will be able to cast one vote for each Tribal Council vacancy in the Nine County District; one vote for the At-Large vacancy

on Tribal Council, one vote for the Tribal Ogema vacancy, one vote for each vacancy on the Tribal Court and one vote for each vacancy on the Election Board.

- B. Outlying District Voters. Voters in the Outlying District will be able to cast one vote for each Tribal Council vacancy in the Outlying District; one vote for the At-Large vacancy on Tribal Council, one vote for the Tribal Ogema vacancy, one vote for each vacancy on the Tribal Court; and one vote for each vacancy on the Election Board.
- C. At-Large District Voters. All eligible Voters can vote for one At-Large Candidate.

## Section 4. Ballots.

- A. Voting by Mail or In-Person. Primary Elections and Special Elections shall be conducted solely by Mail-In Ballots. For a Regular Election, the Election Board shall provide voting by Mail-In Ballot or In-Person Ballot. The Election Board shall utilize the Mailing Address on file in the Enrollment Department's database to prepare and mail Ballots to each Registered Voter who has a valid Mailing Address on file.
- B. Prevention of Duplicate Voting. The Election Board will use bar codes or other appropriate technology recommended, after consultation with the election services contractor, to prevent a Registered Voter from voting twice in the same Election.
- C. Completing Ballot. Each Registered Voter shall complete his or her Ballot by carefully following the instructions enclosed with the Ballot. A Voter may not select more Candidates for any office than what is allowed as shown under the title of each office. In the event a Voter selects more Candidates for an office than is allowed, such votes will not be counted for that office.

## Section 5. Voting by Mail.

- A. Polls. For purposes of voting by mail, the homes of Registered Voters shall be considered polling places.
- B. Timing of Mail-In Ballots.
  - 1. Mailing of Ballots. Ballots shall be mailed to all Registered Voters on a date to be determined by the Election Board, but no later than thirty (30) business days before Election Day for any given Election. It is the responsibility of the Registered Voter to notify the Election Board through the Election Board email or by calling and leaving a voice message on the official Election Board phone number, when the Registered Voter has lost or is missing their Ballot and, subject to approval by the Election Board, to obtain replacement ballots.
  - 2. Receiving ballots. In order for a Registered Voter's votes to be counted in a given Election, completed Mail-In Ballots must be received by the Election Board at its mailing address before noon on Election Day. It is the responsibility of the Registered

Voter to verify that his or her ballot is mailed in a timely fashion to meet the established voting deadlines.

- C. Completing Mail-In Ballot. With regard to an Election, a Registered Voter shall receive by mail an envelope labeled "Official Election Envelope," an envelope labeled "Secrecy Envelope," one Mail-In Ballot, and instructions for completing the Ballot.
- D. Replacement Ballots for Good Cause. A Registered Voter may upon a showing of good cause, request a replacement Ballot. The Voter must notify the Election Board of their need for a replacement Ballot not less than fifteen (15) business days before the Election Day. The Election Board may, in its discretion and based upon good cause shown, issue a replacement Ballot to the Voter. The Election Board shall keep a list of Registered Voters to whom replacement Ballots are issued and use appropriate technology to prevent a Registered Voter from voting twice in the same Election.

## Section 6. Voting in Person.

- A. Time and Place. For purposes of Regular Elections, In-Person Ballots shall be cast on Election Day at a polling place(s) designated by the Election Board. The Election Board shall establish the hours during which the polling place(s) will be open.
- B. Election Board Supervision. At least two (2) members of the Election Board shall be present at the polling place(s) where In-Person Ballots are cast.
- C. Sign-in. The Election Board shall have a list of Registered Voters at the polling place(s). A Registered Voter wishing to cast an In-Person Ballot shall present a valid Tribal Member Identification to the Election Board Member, sign his or her name on a sign-in sheet and an Election Board Member shall verify that the individual's name appears on the list of Registered Voters. A
- D. Voting. After signing in, each Registered Voter will be issued an In-Person Ballot. The Voter may request and receive assistance with completing an In-Person Ballot from an Election Board Member. The Election Board shall use appropriate technology to prevent a Registered Voter from voting twice in the same Election.
- E. Issuing New Ballots. If a Registered Voter makes a mistake or mutilates his or her Ballot, the Election Board may issue a new Ballot to the Voter. Ballots with Mistakes or errors shall be destroyed. The Election Board may issue a new Ballot if a Registered Voter makes an error on his or her Ballot or if an automated ballot tabulator rejects all or part of a Ballot. If a Registered Voter brings his or her Mail-In Ballot to a polling place for purposes of voting in person, the Election Board will issue an In-Person Ballot to the Voter and the Mail-In Ballot shall be collected by the Election Board. The Election Board shall keep a running list of Registered Voters to whom new Ballots are issued. The old Ballot, including any Mail-In

Ballots collected in accordance with this section, will be treated as a Spoiled Ballot under Section 7(G) of this Chapter.

- F. Privacy of In-Person Voting. The Election Board will provide screening or other methods to provide privacy for Registered Voters while casting In-Person Ballots. In the event In-Person Ballots are being cast at the same time that Mail-In Ballots are being processed or counted, the activities shall be physically separated.

## Section 7. Counting Mail-In Ballots.

- A. Pickup of Mail-In Ballot Box. An Election Board Member and an Officer of the Little River Band of Ottawa Indians Police Department shall meet at 12:00 p.m. at a designated Tribal Building on Election Day to retrieve Mail-In Ballots from the post office and transport them to a ballot counting location designated by the Election Board. Ballots shall be secured and locked in a ballot box.
- B. Opening the Ballot Box. The Little River Police Officer will unlock the ballot box. Before the Election Board counts the Mail-In Ballots, the contents will be divided into categories with the help of the Election Board contractor.
1. Any mail other than ballot envelopes that was placed in the ballot box by the Post Office.
  2. Official Election Ballot Envelopes that have been noted by the Post Office as undeliverable.
  3. Envelopes that contain Ballots that are not in the Official Ballot Envelope.
  4. Envelopes containing Ballots that may be under review as initiated by the voter through an Election Dispute.
- C. Public Observation of Counting Ballots. For purposes of counting Mail-In Ballots, the Election Board shall be located in an area that can be viewed by the public. The Election Board or their designee may, but is not required to, photograph, videotape, or stream the ballot counting and tabulating. No other person may photograph, videotape, or stream the ballot counting and tabulating. The ballot tabulating and counting procedures shall be witnessed by a Little River Band of Ottawa Indians Public Safety Officer, who shall remain until the count of ballots is completed, certified, and announced. Any person causing a disturbance, for any reason, shall be removed from the viewing of the Election process. The determination of whether a person is causing a disturbance shall be at the sole discretion of the Election Board.
- D. Review of Contents of Official Election Ballot Envelopes. The purpose of the review shall be to determine if the returned envelopes contain more than one Secrecy Envelope or Ballot. The review may be conducted with the assistance of the representative of the election services contractor and volunteers arranged and vetted by the Election Board.
1. The Official Election Ballot Envelope may be opened with an automatic letter opener. Ballot envelopes that cannot be opened automatically will be manually opened.



2. The Secrecy Envelope shall be removed from the Official Election Ballot Envelope.
  3. It shall be determined whether more than one Secrecy envelope has been placed in each Official Election Envelope. If more than one Secrecy Envelope is enclosed, the Official Election Envelope and the enclosed Secrecy Envelopes shall be rejected.
  4. If a Ballot is in the Official Election Envelope but not in a Secrecy envelope, the Voter's right to secrecy in the selection of candidates will be considered to be waived, but the Election Board will not reject the Ballot. The Election Board will take whatever steps it deems prudent to protect the secrecy of that Voter's selection of candidates.
- E. Review of Contents of Secrecy Envelopes.
1. Secrecy Envelopes may be opened with the automatic letter opener. Secrecy Envelopes not opened automatically shall be manually opened.
  2. If more than one Ballot is enclosed, all Ballots in that Secrecy Envelope shall be rejected.
- F. Rejected Ballots. The Election Board shall place all completely Rejected Ballots into a separate envelope marked "Rejected Ballots," and shall seal the envelope. The Election Board shall retain and secure the Rejected Ballots envelope. Ballots may have been partially rejected. A record of such Partially Rejected Ballots shall be created and retained by the Election Board.
- G. Spoiled Ballots. The Election Board shall place all Spoiled Ballots in a separate envelope marked "Spoiled Ballots," and shall seal the envelope. The Election Board shall retain and secure the Spoiled Ballots envelope. Ballots may have been partially spoiled. A record of such Partially Spoiled Ballots shall be created and retained by the Election Board.
- H. Machine Count of Mail-In Ballots. After review of the envelopes, each Ballot shall be removed from the Secrecy Envelope. The Election Board or its election service representative shall count the Ballots, using the technology available, using the following procedure:
1. Utilizing the technology or machines of the election services representative, if available, all accepted ballots shall be tabulated.
  2. When this process is finished, the electronic totals shall be completed.
  3. All Ballots not accepted by the automated ballot tabulator will be set aside until the electronic tallying process is complete
  4. If the automated ballot tabulator(s) do not function and cannot be repaired, the Election Board will count the votes by hand.
- I. Machine Count of In-Person Ballots. All In-Person Ballots will be counted by an automated ballot tabulator. No tallies of any machine-counted ballots will be revealed to the Election Board until after the hand count of the Mail-In Ballots are complete. Unless the automated ballot tabulators malfunction, no hand count of In-Person Ballots will be necessary because any Ballots rejected by the automated ballot tabulator will be replaced and re-voted as outlined in Section 6(D) of this Chapter.

- J. Hand Count of Mail-In Ballots. Once the electronic tallying of Mail-In Ballots is complete, the Mail-In Ballots that were not accepted by the automated ballot tabulator will be reviewed by the Election Board. For each vote on each Ballot, the Election Board will determine whether the intent of the Voter can be clearly determined, and if so, the Election Board will give credit to that vote.
1. If the intent of the Voter can be determined for one or more vacancies on an individual Ballot but not others, the Election Board may credit the votes for only those vacancies. The purpose of this sub-section is to give effect to the intent of a Voter wherever possible, even if other votes on that person's Ballot must be rejected in a hand-count.
  2. All decisions of the Election Board during a hand-count shall be announced to those in attendance. The Ballots shall be made available for review to those in attendance if desired. No public comment shall be made or accepted during the hand-count process.
  3. All Election Board decisions during a hand-count shall be final, except for allegations of impropriety, which may be reviewed by the Tribal Court per the Constitution.
- K. Totaling the votes. Once the Election Board has reviewed the Ballots, it will determine the hand-count tally and provide those numbers to the Election services contractor. The Election services contractor will add the electronic tally of mail-in votes, the electronic tally of in-person votes, and the hand-count tally to obtain a complete tally.

## Section 8. Election Results.

- A. Tribal Ogema. The Tribal Ogema shall be the Candidate seeking the elected office who receives a majority of the votes cast for that position. If no one Candidate receives a majority of the votes cast, a run-off Election shall be held between the two Candidates who received the greatest number of votes.
- B. Tribal Council. For each voting district, the Tribal Council Candidate(s) receiving the greatest number of votes shall be elected to fill each vacancy according to the rank order of votes received.
- C. Election Board. The Election Board Candidate(s) receiving the greatest number of votes shall be elected to fill each vacancy according to the rank order of votes received.
- D. Tribal Court. The Tribal Court Candidate(s) receiving the greatest number of votes shall be elected to fill each vacancy according to the rank order of votes received. However, when there are additional eligibility requirements for a Tribal Court of Appeals vacancy under Tribal Court Section I(c) of Chapter 4 of these Regulations, the Candidate receiving the most votes for that particular eligibility category shall be elected to fill that vacancy.
- E. Ties in Special and Regular Elections. If the votes for the vacancy are still tied after the recount, a Run-Off Election will be held between the tying Candidates in accordance with the

rules for Special Elections. Ties in Primary Elections shall be decided in accordance with Section I(A)(3) of this Chapter as there are no Run-Off Elections held after a Primary Election.

F. Recount required. The Election Board shall conduct a recount as follows:

1. Automatic Recount. As a matter of procedure, the Election Board will conduct an automatic recount. If, after the automatic recount, the unofficial results reflect that a Candidate for any office was defeated or eliminated by 1% or less of the votes counted for that office.
2. A losing Candidate for that office may file a request for a recount of the votes for that office by filling out and submitting a form provided by the Election Board. The recount form shall be available online and must be received by the Election Board within five (5) business days of the announcement of the unofficial Election results. The Election Board shall review the request for a recount and, if it appears likely that error or fraud has occurred, the Election Board will conduct a recount. If it does not appear likely that an error or fraud has occurred, no recount will be held.
3. Notice of Recount. For a recount other than an automatic recount, the Election Board shall notify the Candidates for an elected office that is being recounted of the date, time and location of a recount at least seventy-two (72) hours before the recount. The Election Board shall post the date, time and location of the recount.
4. Method for Recount. The method of conducting a Candidate requested recount after Election Day shall be by hand. The sealed security box shall be returned by the Tribal Police on the date and to the place designated for the recount. Ballots shall be removed from the security box and recounted. The recount process shall be open to the public in the same way the ballot counting process is open to the public for an Election. There shall be no video recording or streaming of the recount.

## Section 9. Announcement of Unofficial Election Result.

- A. Announcement and Posting. The Election Board shall announce the unofficial results of a Primary, Regular, or Special Election within Seventy-Two (72) hours of the final tabulation of the counts.
- B. Contents of Primary, Regular, or Special Election Announcement. The announcement of the unofficial election results shall contain the following statements:
  1. The Election results posted here are unofficial results. Unofficial Election results shall be forwarded by email with read receipt acknowledgement by the Election Board to the Tribal Ogema, the Tribal Council, and the Tribal Court.
  2. The Official results will be issued after the scheduled time for recount requests and Election challenges has lapsed, or after all challenges or recounts have been completed, whichever is later.
3. The Election Board shall post the announcement of the unofficial election results.

## Section 10. Withdrawal by Winning Candidate.

- A. Withdrawal after Primary Election. A Candidate who advances as a result of a Primary Election may withdraw within two (2) business days after the Primary Election. If a Candidate withdraws, the Candidate for that elected office with the highest vote total who did not advance will advance in place of the Candidate who withdrew. In the event that the next highest vote is tied, both Candidates will advance to the Regular Election.
- B. Withdrawal after Regular Election. A Candidate who prevails in a Regular Election may withdraw within two (2) business days after the Regular Election. If a Candidate withdraws, the Candidate with the highest vote total for that elected office who did not win Election to the office will be deemed to be elected.
- C. Ties among runner-up Candidates after a Regular or Special Election. If there is a tie between the Candidates for the elected office with the next-highest vote total after a withdrawal, the tie will be broken using a Run-off Election, This will be held between the tying Candidates in accordance with the rules for Special Elections.

## Section 11. Reporting Election Results.

- A. Primary Election. The Election Board shall report results of the Primary Election once the time for Election Disputes or Challenges has elapsed. The Election Board shall announce the official election results using the same procedure that is used for the announcement of unofficial Election results of Regular or Special Elections. If a dispute or challenge to an Election is pending, the Election Board may announce partial results or the Election Board may, in its discretion, suspend the remainder of the Election schedule until such matters are resolved.
- B. Regular or Special Election. The Election Board shall prepare a Partial Election Report if the results of one or more office remains in dispute, or the Election Report. Any Partial Election Report prepared by the Election Board is complete as to the offices it is then able to finalize in such report. In the event that more than one Election Report is necessary, the Election Board will **not** thereafter prepare a separate final Election Report which is repetitive or cumulative of any other Partial Election Reports. Each Election Report shall be comprised of the following information:
  - 1. Total number of registered Voters;
  - 2. Number of ballots issued;
  - 3. Number of ballots received;
  - 4. Number of "undeliverable" Official Election Ballot Envelopes;
  - 5. Number of spoiled ballots and rejected ballots;
  - 6. Total votes cast for each Candidate;
  - 7. List of ties and final results of the tie; and
  - 8. List of Candidates elected and position elected to.

- C. Certification. The Election Board shall vote on whether to certify the election results and prepare the Election Report or submit a Partial Election Report after the scheduled time for withdrawals, recount requests and election challenges has lapsed, or after all recounts or challenges have been completed, whichever is later.
- D. Forwarding and Posting. After Certification, the Election Board shall forward the Election Report, by electronic mail, to the Tribal Ogema, the Tribal Council, and the Tribal Court all with read receipt acknowledgement. The Election Board shall also post the Election Report at the Election Board office and may request the Office of Public Affairs to post the report on the Tribal website. The Report will indicate that it is being provided as required pursuant to these Regulations.

## Section 12. Run-Off Elections.

### A. Run-Off Elections General.

1. Run-Off Elections are only to be conducted when the votes for two or more candidates for an office are tied in the initial count, verification, and the recount after the conclusion of a Special or Regular Election. A Run-Off Election may also be held as described in Section 10 of this Chapter when there is a tie after a withdrawal of a Candidate in a Regular or Special Election. Run-Off Elections are not held for Primary Elections.
2. No new Declaration of Candidacy is required to be submitted, Only the Candidates who were tied in the original Election are entitled to run in the Run-Off Election and will be placed on the ballot automatically, so long as they have timely filed their campaign finance report for the Election.
3. A Candidate must file their campaign finance report for the Election within five (5) business days of that Election or they will not be permitted to take part in the Run-Off Election. This may result in a declaration of the remaining Candidate as the winner.

- B. Announcement of Run-Off Election. The Election Board will prepare and post an announcement of a Run-Off Election promptly after determining that such an Election must be held.

- C. Contents Of Run-Off Election Announcement. A Run-Off Election announcement will include:

1. The date of the Run-Off Election;
2. The location of any polling place for voting in person, if applicable, and the hours the polling place or places will be open;
3. The time limits and deadlines set for each stage of the Election process; and
4. Any other information the Election Board, in its discretion, believes to be pertinent.

- D. Voting. The Election Board will provide for runoff ballots to be cast by mail and may, in its discretion, also allow for voting in person. Voting will otherwise occur as described in this Chapter above.
- E. Timing of ballots:
1. Mailing ballots. Ballots will be mailed to all Registered Voters who are entitled to vote in the Run-Off Election on a date that will be determined by the Election Board, but no later than twenty-one (21) days before Election Day. It is the responsibility of the Registered Voter to contact the Election Board to obtain a replacement ballot.
  2. Receiving ballots. To be counted, completed mail ballots must be received by the Election Board at its post office address before noon on Run-Off Election Day. It is the responsibility of the Registered Voter to verify that ballots are mailed in a timely fashion to meet the deadlines.
- F. Counting Ballots. The procedure for counting Run-Off Election Ballots is the same as the procedure described above for Primary, Regular, and Special Elections.
- G. Ties. In the event of a tie in the number of votes for a Run-Off Election, the Election Board shall conduct an automatic recount as described above. If the votes are still tied after the recount, a drawing will be held to determine the winner. The drawing will be conducted as follows:
1. A Tribal Police Officer will verify and witness that six (6) pieces of paper of equal size, shape, and color, of which five (5) will be blank and one (1) will contain the word "winner", shall be folded and placed in a container.
  2. In alphabetical order, by the last name of the Candidate as listed on the Ballot, Candidates will pick one piece of paper each in turn, until the piece with "winner" is selected.
  3. The Candidate that selects "winner" shall be declared the winner.
- H. Announcement. The Election Board shall announce the unofficial results of the Run-Off Election within seventy-two (72) hours of the final tabulation of the counts. The announcement shall contain the following statement:
- "The Election results posted here are unofficial results. Final Run-Off Election results shall be forwarded by the Election Board to the Tribal Ogema, the Tribal Council, and the Tribal Court in a Report after the scheduled time for recount requests and Election challenges has lapsed, or after all challenges or recounts have been completed, whichever is later."
- I. Posting. The Election Board shall post the announcement in the designated locations, and when possible, in the Tribal newspaper and website.
- J. Report. The Election Board shall forward a Report for the Run-Off Election, by electronic mail to the Tribal Council, the Tribal Ogema, and the Tribal Court all with read receipt acknowledgement. The Election Board shall forward the Report after the scheduled time

for recount requests and Election Challenges has elapsed, or after all recounts or challenges have been completed.

## PART III. CANDIDATE INFORMATION

### CHAPTER 4. ELIGIBILITY TO RUN FOR ELECTED OFFICE

#### Section 1. Eligibility to Run for Elected Office.

A. Tribal Ogema. A Tribal Member must meet the following qualifications to be a Candidate or nominee for Ogema or to retain his or her seat as Ogema:

1. He or she must be at least Twenty-five (25) years of age or older and a resident of the State of Michigan for at least six (6) months prior to the date of the next scheduled Election.
2. He or she must make an affirmative disclosure to the Membership of any of the following apply:
  - a. He or she has a conviction or a or pending prosecution for a crime involving fraud or misrepresentation; or
  - b. He or she has a conviction within the last ten (10) years or a pending prosecution for any crime listed in the Major Crimes Act. (U.S. Stat. Vol 23, Chapter 341) (murder, manslaughter, rape, assault with intent to murder, arson, burglary, or larceny); or
  - c. He or she has a conviction within the last ten (10) years or a or pending prosecution for any offense, the victim of which offense was the Tribe or any Tribal business, enterprise, department or program; or
  - d. He or she has a conviction or a pending prosecution for any offense related to sexual crimes or criminal sexual conduct where the perpetrator was convicted as an adult at the time the crime was committed; or is registered in any jurisdiction's list of sexual offenders.
3. Upon Election he or she must establish a permanent physical residence meaning that he or she must reside in that residence continuously for no less than eighty percent (80%) of his or her time while holding the office of Ogema to allow the Ogema to be regularly available within the Nine-County District described in subsection 2(b) (1) of Article IV within sixty (60) days of his or her swearing in ceremony.
4. All Candidates for Tribal Ogema must also consent to and pay a fee for a criminal background check conducted by the Election Board and dating back ten (10) years from the Date of Disclosure.

B. Tribal Council. A Tribal Member must meet the following qualifications to be a Candidate or nominee for Tribal Council or to retain his or her seat as Tribal Council:

1. He or she must be at least twenty-one (21) years of age or older and a resident of the State of Michigan for at least six (6) months prior to the date of the next scheduled Election.
2. He or she must make an affirmative disclosure to the Membership if any of the following apply:



- a. He or she has any conviction or pending prosecution for any crime involving fraud or misrepresentation; and/or
  - b. He or she has any conviction within the past 10 years or pending prosecution for any crime listed in the Major Crimes Act. (U.S. Stat. Vol 23, Chapter 341) (murder, manslaughter, rape assault with intent to murder, arson, burglary, or larceny); and/or
  - c. He or she has any conviction within the past 10 years or pending prosecution or has any conviction for any offense, the victim of which was the Tribe, or any Tribal business, enterprise, department or program; and/or
  - d. He or she has any conviction or pending prosecution for any offense related to sexual crimes or criminal sexual conduct where the perpetrator was convicted as an adult at the time the crime was committed, or is registered in any jurisdiction's list of sexual offenders.
3. All Candidates for Tribal Council must also consent to and pay a fee for a criminal background check conducted by the Election Board and dating back ten (10) years from the Date of Disclosure.

c. Tribal Court. An Individual must meet the following qualifications to be a Candidate or nominee for Tribal Court or to retain his or her seat as Tribal Judiciary:

1. Member of the Tribe. Any member of the Tribe may serve as a Tribal Judge provided he/she is twenty-five (25) years of age or older, is not a member of the Tribal Council or the Ogema; or running for a seat on the Tribal Council or for the Office of the Ogema and has not been convicted of any crime of dishonesty, or moral turpitude, or been convicted of a felony under Tribal or State law within the ten (10) year period immediately preceding the date of the Election, or in the event of a vacancy under Article X Section 4(a), his/ her appointment.
2. Non-members Qualifications. A non-member of the Tribe may be appointed to or elected to serve as a Tribal Judge is such individual possesses a Law Degree and has practiced in Federal Indian Law or as a Tribal judge, and has not been convicted of any crime involving dishonesty, moral turpitude, or been convicted of a felony under Federal, Tribal or State Law within the ten (10) year period immediately preceding the date of the Election or in the event of a vacancy under Article X, Section 4(a), his /her appointment.
3. Additional eligibility requirements for Tribal Court of Appeals. Requirements for the composition of the Tribal Court of Appeals under Article VI Section 3(b) of the Tribal Constitution (The Tribal Court of Appeals shall consist of three (3) judges. One (1) shall be an Elder (age 55 years of older) in the tribe, one (1) shall be an attorney licensed to practice before the courts of a state in the United States) the following additional eligibility criteria for Candidates to the Tribal Court of Appeals shall apply in particular Elections.

If there is no Tribal Elder among the judges of the Tribal Court of Appeals who, at the time of an Election for a Tribal Court of Appeals seat, are currently holding office and not required to run for re-Election to continue holding office, any Candidate for Tribal Court of Appeals during that Election must be a Tribal Elder.

- a. If there is no licensed attorney among the judges of the Tribal Court of Appeals who, at the time of Election for a Tribal Court of Appeals seat, are currently holding office and not required to run for re- Election to continue holding office, any Candidate for Tribal Court of Appeals during that Election must be a licensed attorney.
  - b. If one member of the Court of Appeals is both a Tribal Elder and a licensed attorney, then another member must also be either a Tribal Elder or a licensed attorney. One person cannot meet both compositional requirements at the same time. However, being in both an elder and a licensed attorney would certainly not disqualify a person from being elected to, or serve on, the Tribal Court of Appeals in that situation.
- 4. All Candidates for Tribal Court must also consent to and pay a fee for a criminal background check conducted by the Election Board and dating back ten (10) years from the Date of Disclosure.
- D. Election Board. Election Board Members who and are not running for any other office, shall be eligible to run and serve as an Election Board Member. Election Board Members who choose to run for a different Elected Office must resign from the Election Board no later than the date Candidacy Packets are available.

## Section 2. Prohibition against Running for Two (2) Offices.

- A. No one may be a Candidate for more than one elected office in any election.

## Section 3. Declaration of Candidacy.

- A. Declaration of Candidacy Packet. A Tribal Member or an individual running for Elected Office must file a completed Declaration of Candidacy Packet provided by the Election Board. The Official Declaration of Candidacy Packet may be obtained during the Election Board scheduled office hours, through e-mail request to the Election Board or can be downloaded from the Election Board website.
- B. Mailing address. All correspondence relating to any Declaration of Candidacy Packet information shall be sent to the Tribal Member at his or her mailing address as provided in the Enrollment Department database,
- c. Deadline for filing Declaration of Candidacy Packet. The deadline for filing a Declaration of Candidacy Packet for an Election shall be set by the Election Board in its written announcement of that particular Regular or Special Election.
- D. Contents of the Declaration of Candidacy Packet shall include, but not limited to:
  - 1. The name of the Tribal Member or Individual as it will appear on the Official Ballot.
  - 2. A sworn statement by the Candidate certifying that he or she meets the qualifications set forth in this Chapter. This shall include:
    - a. Acknowledgment that the Candidate has received these Regulations.

- b. An affirmative statement that the individual resides in the State of Michigan and if necessary, the required District.
  - c. Affirmation that the Candidate has made the Disclosure required by Tribal Constitution. Disclosure to the membership means the act by an individual seeking Candidacy or nomination for the Tribal Ogema or Tribal Council of publishing to inform the Tribe" membership of the following:
    - i. He or she has any conviction or pending prosecution for a crime involving fraud or misrepresentation; or
    - ii. He or she has any conviction within the past ten (10) years or pending prosecution for any crime listed in the Major Crimes Act (U.S. Stat. Vol.23, Chapter 341) (murder, manslaughter, rape, assault with intent to murder, arson, burglary or larceny); or
    - iii. He or she has any conviction within the past ten (10) years or pending prosecution for any offense, the victim of which was the Tribe, or any Tribal business, enterprise, department or program; or
    - iv. He or she has any conviction or pending prosecution for any offense related to sexual crimes or criminal sexual conduct where the perpetrator was convicted as an adult at the time the crime was committed, or is registered in any jurisdiction's list of sexual offenders.
  - d. Acknowledgment that he or she may be removed as a Candidate, or from any elected position and prosecuted for fraud or Election fraud (or both) in the event his or her Declaration of Candidacy or Disclosures contain a false statement.
  - e. Acknowledgment that if he or she violates the Campaign Finance Rules that he or she can be removed from the Ballot, prohibited from being sworn in and or prosecuted for fraud or Election fraud (or both).
  - f. Acknowledgment that if he or she fails to turn in a campaign finance report by the due date, that he or she can be prohibited from running for office in future Elections; and
  - f. Affirmation for Candidates for Tribal Ogema, Tribal Council, and Tribal Court that the Candidate consents to a background check and to providing all information necessary for that background check, including social security number.
3. Driver's License and Verification of Contact Information. Any potential candidate must provide the following: a current and valid copy of his or her Tribal Identification Card, a copy of his or her current State issued driver's license or State issued Identification Card and shall provide current additional contact information including mailing address, contact number, home phone number (if applicable). A Tribal Member shall also provide proof that their residence address is the same as the Enrollment Department database mailing address by providing copies of two current utility, telecom or bank statements.
4. Photographs and Biography. If the Tribal Member or individual wishes to have their photograph and biography included in any Election Board or other Tribal Government sponsored informational materials concerning the Election, the Election Board

Website, and Election Board FaceBook page, then he or she must include the photograph and biography (not to exceed 250 words) in their Candidate packet. Anyone who does not submit a biography and photograph will have their name listed with an indication that the biography and photograph was not submitted.

5. Public record. With the exception of social security numbers and dates of birth required for criminal background checks and the results of the criminal background check itself, a Declaration of Candidacy Packet shall be a matter of Tribal record, and shall be kept on file with the Election Board, for four years. Any request to review the Tribal record must be submitted in writing to the Election Board, and any such review must be conducted at the Election Board office.

#### Section 4. Receipt of Declaration of Candidacy Packet.

- A. The Election Board shall date stamp all Declaration of Candidacy Packets upon receipt, whether via email or in person submission, and confirm receipt of the Candidacy packet to the potential Candidate via email using the email submitted by the candidate in his/her Declaration of Candidacy Packet.

#### Section 5. Background Checks.

- A. Background Checks Mandated by Tribal Constitution. To fulfill requirements of the Tribal Constitution, the Election Board shall have background checks conducted of all individuals seeking candidacy for Tribal Ogema, Tribal Council, and the Tribal Court.
- B. Purpose of Background Checks. The purpose of the background checks shall be to determine whether required Disclosures to the Membership have been made by Tribal Members seeking candidacy or nomination to the office of Tribal Ogema, Tribal Court or Tribal Council. Another purpose of the background checks shall be to confirm that Tribal Members seeking candidacy or nomination for Tribal Ogema and Tribal Court meet the Michigan residency requirement. The Background Check Report is not to be made public and is not considered to be an official record of the Election Board. Rather, it is to be held and used solely by the Election Board to verify the information provided by the Candidate.
- C. Fee for Background Checks. The Election Board shall charge a fee for the background check that shall be no greater than the direct, outside cost(s) of the vendor(s) or data source(s) providing the background check. The amount of the fee shall be stated in the Declaration of Candidacy Packet. Payment of the fee must be made using a money order only and shall be required at the time the individual submits their completed Declaration of Candidacy Packet, the Election Board does not accept fee waivers in lieu of fees, for any reason. A Packet is not deemed complete for purposes of certification of Candidates unless such fee is paid as provided above.
- D. Privacy of Personal Information. Candidates submitting a Declaration of Candidacy Packet shall be required to provide their social security number and date of birth for the background check on a separate form included in the Declaration of Candidacy Packet. The

form shall not be retained by the Election Board and the separate form shall be destroyed once the Election and any subsequent challenges, including any Tribal Court proceedings related to such challenges, are completed. Any report obtained from the Criminal background check is to be used by the Election Board to verify the Candidate's information but is otherwise considered private and confidential.

- E. Penalty for False Statements. If the background check indicates that any Candidate for Tribal Council or Ogema submitted false information in the disclosures required by Article IV, Section 2(b) or Article V, Section 3(b) of the Tribal Constitution, then in addition to referring the matter to Tribal law enforcement, the Election Board shall not certify that individual as a Candidate appearing on the Ballot for that Election.

## Section 6. Disclosure.

- A. "Disclose to the Membership" means the act by an individual seeking candidacy or nomination for Tribal Ogema or Tribal Council, publishes, notifies, and informs the Tribe's membership if any of the following circumstances exist.
1. He or she has any conviction or pending prosecution for a crime involving fraud or misrepresentation; and/or
  2. He or she has any conviction within the past ten (10) years or pending prosecution for any crime listed in the Major Crimes Act (U.S. Stat. Vol 23 Chapter 341) (murder, manslaughter, rape, assault with intent to murder, arson, burglary or larceny; and/or
  3. He or she has any conviction or pending prosecution for any offense, the victim of which was the Tribe, or any Tribal business, enterprise, department or program; and/or
  4. He or she has any conviction or pending prosecution related to sexual crimes or criminal sexual conduct where the perpetrator was convicted as an adult at the time the crime was committed; or is registration of that individual in any jurisdiction as a sexual offender.

For purposes of the disclosure requirements, the term of 10 years is calculated as the ten (10) year period of time immediately preceding the date of the election, or in the event of a vacancy under Article X of the Constitution, Section 4 (a), his/her appointment. The Candidates' duty to disclose continues throughout the election process.

## Section 7. Certification of Candidates.

- A. Timing of Certification. Within Thirty (30) business days of the close of the Declaration of Candidacy period, the Election Board will certify the slate of Candidates for the Election. The Election Board will promptly post the names of Candidates after certifying the slate.
- B. Verified Candidates. Only the names of verified, declared Candidates meeting all necessary qualifications for the elected office they seek will appear on the Election Ballots. No write-in Candidates will be allowed.

- C. Unopposed Candidates. In the event that only one (1) Candidate files for an elected office position, he or she will be placed on the ballot as an unopposed Candidate.
- D. Withdrawal by Candidate. So that ballots can be prepared in a timely manner, a Candidate who wishes to withdraw their candidacy, is required to provide notice of withdrawal to the Election Board in writing via email to the Election Board's official email address, and no later than 5:00 p.m. two (2) business days after the slate of Candidates is certified. While a Candidate may withdraw at a later time, late withdrawal may result in their name appearing on the Ballot.
- E. Authority of Election Board. All Candidates for office shall be subject to the jurisdiction of the Election Board and these Regulations, including but not limited to the Election Board's jurisdiction over Election disputes, Election challenges, and investigations. All Candidates for office shall be required to cooperate fully with Election Board investigations.

## CHAPTER 5. CAMPAIGNING

### Section 1. Posting Campaign Signs.

- A. Properties Where Prohibited. Campaign signs MAY NOT be posted at the following locations:

1. Government Center, 2608 Government Center Drive Manistee
2. Aki Community Center, 2953 Shaw Be Quo-Ung, Manistee
3. Little River Casino Resort, 2700 Orchard Highway, Manistee
4. Justice Center, 3031 Domres Road, Manistee
5. LRBOI Muskegon Office, 1111 West Hackley Avenue, Muskegon
6. Natural Resources Building, 310 Ninth Street, Manistee
7. Fruitport Property, 4800 S. Harvey Street, Muskegon
8. Bear Lake Highlands, 11685 Chippewa Highway, Bear Lake
9. Next Generation Learning Center, 2840 Orchard Highway, Manistee
10. Utilities Department Facility, 2539 Dontz Road, Manistee
11. Little River Trading Post, 2596 Loon, Manistee
12. Food Distribution Center, 2700 Orchard Highway, Manistee
13. Gaming Commission Office, 2840 Orchard Highway Suite A, Manistee
14. LRBOI Health Services Center in Muskegon, Ellis & Harvey Street Buildings

- B. Property Where Allowed. Campaign signs MAY BE posted on other Tribal property, if the following conditions are met:
1. The Candidate has the permission of the lessee or site manager of the property, both to post the sign and for its location.
  2. For Tribal-owned properties that are operated by the Tribe or a Tribal enterprise, the decisions of whether to allow signs on the property and where signs may be posted are up to the manager of the site. However, the site manager may not discriminate between Candidates. If signs are allowed for one Candidate, all other declared Candidates must have the same opportunity.
  3. For houses leased at Aki, the decision to post campaign signs for Candidates is at the discretion of the lessee. These lessees are not under the same neutrality requirement as the managers of other Tribal property.
  4. Placement of signs must not create a traffic hazard or other safety hazard.
  5. Signs shall not be placed in such a way as to obstruct campaign signs or other signs previously placed at the same location.
  6. Candidates must include their name and address on each sign. If a sign is sponsored by someone other than the Candidate, then the name and address of the sponsor must be included on the sign as well.

## Section 2. Timing of Campaign Signs.

- A. Campaign signs may not be posted prior to the Election Board's announcement of an Election.
- B. All campaign signs must be removed no later than five (5) business days after Election Day.
- C. Signs that are not removed within five (5) business days will be removed and disposed of by the Tribe, and the cost will be assessed to the Candidate.

## Section 3. Campaigning and Canvassing in Tribal-Owned Buildings.

- A. Campaigning for office, collecting signatures, and soliciting votes are allowed within the main entrances and meeting room entrance areas of Tribal-owned buildings, and outside those buildings, unless the facility manager specifically prohibits these activities.
- B. Campaigning for office, collecting signatures, and soliciting votes must be done in a manner that does not obstruct people from freely entering and exiting the buildings or meeting rooms, harassment.
- C. Signs, posters, and flyers MAY NOT be placed on the windshields of cars parked at Tribal owned buildings.
- D. Campaigning for office, collecting signatures, and soliciting votes is permitted in other areas within Tribal-owned buildings at special events, unless these activities are specifically prohibited by the person who is conducting or facilitating the meeting.

- E. The wearing of campaign hats, shirts, and buttons in Tribal-owned buildings is prohibited by these regulations.
- F. The making of policy-related comments by persons running for office, their supporters, and persons supporting or opposing petition drives during the public comment portions of public meetings is not prohibited by these regulations, but is subject to the rules governing those meetings.
- G. For Tribal employees, if there is a restriction in an employee handbook or other employment policy that is more restrictive than these regulations, then the employee handbook or employment policy controls. The Election Board has no authority pursuant to these regulations, to enforce or address the employment policy of Tribal employees.
- H. No person shall campaign, including but not limited to the posting or holding of signs, within 100 feet of an In-person polling place on any Election Day. For the purpose of this subrule only, "campaign" shall mean the display of campaign posters, signs, or other campaign materials; distribution of campaign materials; or solicitation of votes for or against any person or ballot question. For the purpose of this sub-rule only, "campaign" shall not mean wearing a button, cap, hat, pin, shirt, or other article of clothing that supports a Candidate or advocates a position on a ballot question.

#### Section 4. Enforcement.

- A. These rules may be enforced by the Election Board acting in cooperation with the Tribal Law Enforcement. Campaign signs placed in violation of these rules may be removed by the Tribal Law Enforcement and confiscated or destroyed. A person engaged in an activity that violates a rule in this Chapter will be asked to cease and, if they refuse to comply, may be removed from the area by the Tribal Law Enforcement.

## CHAPTER 6. CAMPAIGN FINANCING

#### Section 1. Allowable Contributions.

- A. A Candidate, the principal sponsor of a petition drive, Initiative, Recall, or Referendum Election, or the target of a Recall petition or Election may solicit and accept funds or other contributions for an Election campaign under these conditions:
  - 1. Only Tribal Members, members of a Candidate's family, or members of the family of the target of a recall petition or Election may make contributions to Election campaigns.
  - 2. This includes in-kind contributions except as specified below.
  - 3. Funds received from family members may not be derived from other individuals or organizations. For purposes of Campaign Contributions in this Chapter, a Candidate's



Family Member is restricted to parents, siblings, children, grandchildren, and grandparents, either by birth or legal adoption recognized by the State of Michigan.

## Section 2. Endorsements.

- A. A Candidate, the principal sponsor of a petition drive, Initiative, Recall, or Referendum Election, or the target of a Recall petition or Election may obtain written or verbal endorsements from any person.

## Section 3. Campaign Spending and Contribution Rules.

- A. Spending limits for Candidates in a Regular or Special Election. The maximum amount that may be spent by or on behalf of any Candidate in an Election for any office is \$5,000. For the purposes of campaign spending, any spending during the Primary portion of a Regular Election is included in the Regular Election total.
- B. Spending limits for Recall efforts. A principal sponsor, or a group of principal sponsors if there is more than one, shall spend no more than \$5,000 on the Recall of any one elected official, including both the petition drive and any Election. An elected official may spend no more than \$5,000 on his or her defense of a recall, including both the petition drive and Election.
- C. Spending limits for Initiatives. A principal sponsor, or a group of principal sponsors if there is more than one, shall spend no more than \$5,000 on any Initiative, including both the petition drive and Election. An individual, or any identifiable group, shall spend no more than \$5,000 in resisting any initiative, including both the petition drive and Election.
- D. Spending limits for Referendums. A principal sponsor, or a group of principal sponsors if there is more than one, shall spend no more than \$5,000 on any referendum. An individual, or any identifiable group, shall spend no more than \$5,000 to oppose any Referendum.
- E. In-Kind Contributions. Any In-Kind Contributions shall be counted toward that campaign spending limit at the equivalent cash value of the In-Kind Contribution. The following items do count toward the campaign spending limit and must be reported:
  - 1. Volunteer time provided by other Tribal members or members of Candidate's family.
  - 2. Necessary personal travel expenses of a Candidate or principal sponsor or petition circulator provided by that Candidate.
  - 3. Radio, television or public forum time that is donated or offered on equal basis to all Candidates for any particular office.
- F. Limits on individual contributions. Shall not exceed \$1000. These limits include contributions, In-Kind Contributions, and combinations of the two, in accordance with Section I(A) of this Chapter. Candidate endorsements or other indications of support are not considered to be contributions as defined by this Section.

- G. Limits on volunteer time by persons other than Tribal Members or members of a Candidate's family. No Candidate, elected official, or principal sponsor may accept more than 20 total hours of volunteer time from any person or combination of persons who are not members of that person's family as defined in this chapter.
- H. Ban on certain kinds of campaign contributions;
1. No person who has any matter pending before the Tribal Court or Tribal Court of Appeals may give any contribution or In-Kind Contribution to any Candidate running for Election or re-election to the Tribal Court, and no person may receive any such contribution. No Candidate for any Elected Office may give any contribution or In-Kind Contribution to any Candidate running for Election or re-Election to the Tribal Court, and no person may receive any such contribution.
  2. No person who holds Elected Office, who is running for Elected Office, or who is sponsoring a Recall or circulating Recall petitions may give any contribution or In-Kind Contribution to any Candidate running for Election or re-election to the Election Board. And no person may receive any such contribution. No member of the Election Board, or Candidate running for the Election Board, may give any contribution or InKind Contribution to any Candidate for any office.
- I. Responsibility of Candidates. To the extent possible, every Candidate is responsible for ensuring that each person acting on the Candidate's behalf complies with all the requirements of this chapter.

## Section 4. Reporting Requirements.

- A. Campaign Finance Report Requirement. The following persons shall file a campaign finance report with the Election Board within five (5) business days of the date of Election:
1. Each Candidate whose name appears upon the official ballot in any Election;
  2. Each principal sponsor or group of principal sponsors in a Recall, Referendum or Initiative effort;
  3. Each elected official who is the target of a Recall attempt;
  4. Each person or group who spends money for or against an Initiative or Referendum question. There is no requirement to file a campaign finance report for an Initiative or Referendum issue unless an Election is actually held.
- All Primary Election related activities shall be reported on the campaign finance report with the Regular Election activities. No separate report is required in the event of a Primary Election.
- B. Campaign Finance Report Form. The campaign finance report shall be on a form provided by the Election Board, and shall require the person filing it to sign a sworn statement that all of the information in the Campaign Finance Report is true. Sanctions for failing to comply with the report requirements are addressed in Section 5 of this Chapter. The Campaign Finance Report is a Tribal Record for purposes of public availability.

- c. Contents. The campaign finance report shall include the following information:
1. For each contribution, the name of the person who made the contribution, the date of the contribution, and the amount;
  2. Copies of receipts or equivalent documentation for each contribution; and
  3. A list of each In-Kind Contribution, including the name of the person who made the In-Kind Contribution, the type of In-Kind contribution, the date it was made, and the equivalent value.

## Section 5. Penalties.

- A. Failure to File a Campaign Finance Report.
1. No Candidate will be eligible to be sworn in and will not be sworn in to elected office until he or she has submitted a completed and accurate campaign finance report. This report is due within five (5) business days after Election.
  2. Any person who does not file a complete and accurate campaign finance report within thirty (30) days from the date of Election, will be contacted in writing by the Election Board. The Election Board will accept late campaign finance reports up to ninety (90) days following Election Day however, in no case will a candidate be sworn into office prior to receipt of a complete and accurate Campaign Finance Report By the Election Board
  3. After ninety (90) days, reports will be accepted but those Candidates will be out of compliance with these Regulations. **Any Candidate, who does not comply with the reporting requirement will not be permitted to submit a Declaration of Candidacy or be certified as a Candidate in the next Regular or Special Election. This restriction will continue until reports are submitted.**
- B. Exceeding Campaign Spending Expenditure Limit. **A Candidate who exceeds a campaign spending limit shall be disqualified from elected office.**
- C. Accepting Banned Campaign Contributions. **A Candidate who accepts any type of banned campaign contribution prohibited by Section 3(h) of this Chapter, shall be disqualified from elected office.**
- D. False information or fraud. **A Candidate who submits false information on a campaign finance report shall be disqualified from elected office.** The Election Board will refer all credible allegations of Election fraud to Tribal Law Enforcement.

## Section 6. Investigations and Hearings.

- A. Investigations. The Election Board may investigate possible violations of the requirements of this Chapter, Any person investigated under this Chapter shall cooperate with any requests made by the Election Board that are related to such an investigation, including but not limited to answering questions verbally or in writing or providing receipts or other documentation.

- B. Hearings. Hearings held by the Election Board related to campaign financing will be conducted using the hearing procedures found in Chapter 13 of these regulations.
- C. The Election Board may, but is not required to, publish a list of persons who did not file Campaign Finance Reports in a timely manner.

## PART IV. MEMBERSHIP ACTIVITIES

### CHAPTER 7. RECALLS

#### Section 1. Recalls.

- A. Recall. The Registered Voters of the Tribe shall have the right to recall the Tribal Ogema, any member of the Tribal Council an Election Board Member or a Tribal Court Judge or a Justice of the Appellate Court by filing a recall petition with the Election Board. The petition must be signed by at least twenty-five percent (25%) of the Registered Voters of the Tribe. The Election Board shall verify and approved or deny the petition within (30) days of receipt. At least fifty percent (50%) of the verified signatures on the petition must be Registered Voters who are eligible to vote in the Election of the Tribal Council member now subject to recall.
- B. The Election Board shall conduct a recall Election within ninety (90) days of the Election Board's verification and approval of the petition and its signatures in accordance with Article X, Section 2 of the Constitution.

#### Section 2. Request for Recall Petition.

- A. Request for Recall Petition. A Tribal Member at least 18 years of age may initiate a recall petition by filling out and submitting a written request. The request shall be on a form provided by the Election Board. The request shall:
  - 1. Be legible or typewritten;
  - 2. State factually and clearly the reasons for recall in not more than 200 words;
  - 3. Identify the principal sponsor(s) of the request;
  - 4. Contain the signature of the principal sponsor(s) swearing or affirming that the charge or charges to be true to the best of their knowledge.
- B. Identifying the Principal Sponsor(s). The Principal Sponsor(s) is the person who is initiating the recall petition. There may be no more than two principal sponsors.

#### Section 3. Clarity Determination.

- A. Consultation Meeting. If the Election Board requires more information, it may hold a meeting with the Principal Sponsors requesting the recall petition.
- B. Standard. All requests for recall shall be articulated in a manner that is factual and of sufficient clarity to enable the Elected Official whose recall is sought and the voters to identify the conduct that is the basis for the recall. This may include reference to supporting documents if necessary'.

#### Section 4. Action on Request for Recall Petitions.

- A. Denial of Request for Recall Petitions. If the reasons contained in the request for recall petition do not meet the standard set forth above, the Election Board shall deny the

request for recall petition by motion at the Election Board's next meeting. The denial of the request shall not prevent a Tribal Member from re-submitting a request for recall petition with the reasons revised.

- B. Granting of Request for Recall Petitions. If the Election Board determines that the reasons in the Request for Recall Petitions meet the standard set forth above, the Election Board shall approve the request by motion at the consultation meeting or at the Election Board's next meeting.
- C. Determination Notification. Within ten (10) business days after submission of a request for recall petition to the Election Board, the Election Board shall determine by majority vote if the petition is granted or denied. The Election Board will send notice of the determination to the principal sponsor(s).
- D. Preparation of Recall Petitions. The Election Board will prepare the recall petitions within ten (10) business days of when it notifies the principal sponsor(s) that the request for recall petitions has been granted.

## Section 5. Petition Form.

- A. Contents of Recall Petition Form. The recall petition form prepared by the Election Board shall be prepared in way to reduce unnecessary paperwork, which shall include:
  - 1. The name of the Elected Official and his or her elected office;
  - 2. The statement of reasons for the recall from the request form;
  - 3. Recall petition;
  - 4. A place for the name, Tribal ID, Mailing Address, of the principal sponsor(s);
  - 5. A place for the Tribal ID ,Name, Signature, Mailing Address, of the circulator on each petition page;
  - 6. A statement to be signed by the circulator of each petition certifying that the signatures on the petition were collected in compliance with these rules; and
  - 7. A place for the printed name, signature, Tribal ID, mailing and physical address, and signature date of each Registered Voter who signs the petition.
  - 8. No electronic or digital signatures are permitted.
- B. One Elected Official per petition. A recall petition shall address the recall of only one Elected Official. A separate recall petition shall be required for each Elected Official who is the subject of a recall attempt.
- C. Amendments. The Recall Petition Form shall not be amended once the Election Board has notified the principal sponsor(s).

## Section 6. Petition Process.

- A. Notification of principal sponsor. The Election Board will send notification with delivery confirmation to the principal sponsor(s) when a petition has been prepared and is available for pick-up.
- B. Deadline for signatures. The principal sponsor(s) of the petition shall have ninety (90) days to submit completed petitions from the date the Election Board notifies him or her that the petitions have been prepared and are ready for pickup.
- C. List of Registered Voters. The Election Board will request a list from the Enrollment Department of Registered Tribal Voters. On receiving the list, the Election Board shall determine the number of verified petition signatures required to proceed with a Recall Election. The Election Board shall provide the principal sponsor with the list and the total number of required signatures (25%) if the principal sponsor requests it. Copying of the list is not allowed and misuse of this list may be punishable under Tribal law.
- D. Duties of principal sponsor. The principal sponsor(s) shall be responsible to oversee the circulation and the collection of signatures on the petitions, and to submit the completed petitions to the Election Board.
- E. Authorizing circulators. The principal sponsor(s) shall submit a list of petition circulators to the Election Board before collecting any signatures. All petition circulators are required to be Tribal Members at least eighteen (18) years of age. A circulator may circulate more than one petition page.
- F. Petition Pages. Signatures may only be collected on the petition forms prepared by the Election Board. A principal sponsor(s) may make copies of the blank forms if needed.
- G. Rules for signing petitions.
  - 1. A Registered Voter may sign each petition only once.
  - 2. A Registered Voter who signs a petition must fill out all the information requested on that portion of the petition form.
  - 3. A Registered Voter who cannot sign his or her own name to the petition for any reason may have his or her name signed by a person with a legal power of attorney or equivalent authorization, a copy of which must be attached.
  - 4. Any Registered Voter who signs a petition must do so in the presence of the circulator.
  - 5. No signature may be obtained through fraud, deceit, or misrepresentation;
  - 6. A circulator may sign a petition if he or she is a Registered Voter.
  - 7. Certification. The circulator shall sign and date the certification statement on each petition page only after all signatures appearing on that petition page have been obtained.
  - 8. If you are not registered to vote, your signature will not be counted when the Election Board verifies the petition.

- H. Public information. All information on a petition shall be public and shall be available for review by all members of the Tribe. Each person signing a petition agrees to this information being public.
- I. Informed signing. Each Registered Voter signing a petition is considered to know the purpose and reasons for the petition, No Registered Voter may withdraw his or her signature from a petition after it is signed.

## Section 7. Filing Completed Petition.

- A. Filing. A Principal Sponsor(s) shall present the completed petitions to the Election Board Member in person. The Principal Sponsor(s) shall sign a statement that the signatures collected on the petitions were collected in compliance with this Regulation.
- B. Receipt. The Election Board Member will provide the Principal Sponsor(s) and the Elected Official subject to recall with a copy of the petitions. The Election Board Member will date stamp on top of the petition that they were delivered; and the number of petition pages delivered. The copy of the petitions with these notations will serve as the principal sponsor's receipt.
- C. No additions. After completed petitions are delivered to the Election Board, no additional signatures or petition pages shall be submitted.

## Section 8. Review of Signatures.

- A. Meeting to review petition. The Election Board shall send notice to the principal sponsor(s) and the Elected Official who is the subject of the recall attempt of the time and place of the meeting where Election Board will review the petition. The notice shall be sent no later than ten (10) business days before the meeting is to be held.
- B. Elected Official objection. The Elected Official who is the subject of the recall petition may object to the validity of any petition page or signatures on a recall petition by filing an Election Dispute. Any such objection shall be in writing, specifying the reasons for the objection, and shall be delivered to the Election Board at least one (1) business day before the scheduled meeting to review the petition. The objection(s) to the validity of the petition pages or signatures shall be limited to the reasons listed in parts (D) and (E) of this Section. Failure to timely file waives the Elected Official's right to file any future dispute to the validity of the petition.
- C. Review of petition. Only signatures of Registered Voters on certified petition pages shall be counted toward the number of signatures necessary to set a Recall Election.
- D. Invalidation of petition page. A petition page shall be invalid where:
  - 1. The page is not the form prepared by the Election Board;
  - 2. The form prepared by the Election Board has been altered in any way;



3. The circulator of the petition page was not a Tribal Member at least 18 years of age;
  4. The circulator statement is not signed, completed and dated, or the date appears to have been materially altered after signing; or
  5. Any other irregularity on a petition page that calls into question its truthfulness or accuracy.
- E. Invalidation of petition signatures. A signature on a petition page shall be invalid where:
1. There is no printed name with the signature;
  2. There is no Tribal ID number with the signature;
  3. There is no Mailing address with the signature;
  4. The Mailing address entered does not match the Mailing address on file with the Enrollment Department;
  5. There is no date with the signature, or the date is illegible or has been materially altered;
  6. The person signing the petition is not a Registered Voter of the Tribe;
  7. The date with the signature is later than the date on the circulator statement; or
  8. The signature is by another person on behalf of the Registered Voter, and there is no power of attorney or equivalent authorization attached.
- F. Multiple Signatures. In the event a Registered Voter's signature appears on a petition more than once, all but one of the multiple signatures shall be stricken as invalid.
- G. Residence Requirement. A signature shall not qualify for the residence requirement, where their physical address is not in the required voting district.
- H. Effect of Invalidating One Signature. The effect of invalidating one signature is limited to the invalidated signature only and has no impact on the validity of the other signatures on the petition page.
- I. Effect of Invalidating Page. If a petition page is found to be invalid, then none of the signatures on that page shall be counted towards meeting the total number of signatures required.
- J. Motions. The Election Board shall invalidate petition signatures or petition pages only upon motion of the Election Board. The motion shall contain a notation of the reason for invalidation.
- K. Final decision. The approved minutes of the meeting where the Election Board reviewed the petition shall be considered the final decision of the Election Board on the validity of the petition.

- L. Allegations of fraud. Allegations of fraud related to the recall process shall be referred to Tribal Law Enforcement.

## Section 9. Sufficiency of Petition.

- A. Valid Petition. If the petition is determined by motion of the Election Board to be valid, the Election Board shall set a Recall Election within ninety (90) days of the approval.
- B. Invalid petition. If the petition is determined by motion of the Election Board to be invalid, the recall attempt will be concluded. A petition declared invalid by the Election Board shall not be used in whole or in part in any later recall attempt.

## Section 10. Recall Election.

- A. Recall Election Process. The Election Board shall conduct a Recall Election using the same procedures for ballot mailing, voting and vote counting that are used for conducting Regular Elections.
- B. Timing of Election. The Election Board shall announce the Recall Election within twenty (20) days of determining the recall petitions are valid. All recall elections will be conducted within ninety (90) days in accordance with the Tribal Constitution.
- C. Ballot language.
  - 1. The reasons for recall shall be printed on each ballot.
  - 2. No part of the reasons for recall shall be emphasized by bold print, italics, underscoring, or other means of emphasis.
  - 3. The sole question for vote on the recall Election ballot shall read as follows:  
"(name of elected official) shall be recalled from the office of (title of the office)"
  - 4. Printed below the question on separate lines, and in easily readable type, shall be the words: "Yes" or "No"

## Section 11. Recall Election Disputes and Challenges.

- A. Recall Election Disputes and Challenges shall be handled under Chapter 12 of these Regulations.

## Section 12. Results.

- A. Unofficial Results. The Election Board shall announce unofficial results for Recall Elections consistent with Regular and Special Elections.

- B. Recounts. Recounts in Recall Elections shall be conducted in accordance with Chapter 3, Section 8(F).
- C. Report. The Election Board shall present the report for the Recall Election to the Tribal Ogema, the Tribal Council, and the Tribal Judiciary.
- D. Vacancies. An elected office shall be deemed vacant upon the issuing of a report determining that the majority of the votes were cast in favor of recall. The vacancy shall then be filled as specified by the Tribal Constitution Article X, Section 4.

## CHAPTER 8. MEMBERSHIP MEETINGS

### Section 1. Verification of Registered Voters.

- A. Date of Verification. All verification of Registered Voters shall take place on the date of the scheduled Regular Membership Meeting.
- B. Verification Process. The Tribal Enrollment Department shall provide to the Election Board a list of all Registered Tribal Voters prior to the scheduled Regular Membership Meeting.
- C. Ability to Vote. To be able to vote on any potential Tribal business conducted at the Regular Membership Meeting, a Tribal Member must be physically present and a Registered Voter on the date of the membership meeting.
- D. Tribal Identification Card Required. A Tribal Member must have a current Tribal Identification Card in order to be counted as part of the Quorum. In the event a Tribal Member does not have a current Tribal Identification Card, a Tribal Member must obtain a Tribal Identification Card from the Enrollment Department, and may be required to pay a replacement card fee, but in any event may attend the Membership Meeting but cannot vote or be counted in the Quorum without his/her current Tribal Identification Card.

### Section 2. Process for Verification of Registered Voters in Attendance.

- A. Count to Confirm Registered Voters Present. In order to assure that an accurate count of the Registered Voters present within the meeting room where the Regular Membership Meeting is to take place, the Election Board shall identify each Registered Voter and keep an accurate tally by requiring that each Member electronically swipe their Tribal Identification Card upon entering and exiting the meeting room so that the Election Board may be able to accurately determine whether a quorum is present.
- B. Entering and exiting the meeting room shall be restricted to specific points in order to assure that a true and accurate tally of Registered Voters is maintained.

- C. The Tribal Ogema shall establish a time for the quorum count from the Election Board, at that time, if 30% of Registered Voters are in attendance, the general membership may propose and vote upon any Ordinance or Motion. If there is not a quorum, or if there is less than 30% of Registered Voters in attendance, then the Election Board's business is concluded.

### Section 3. Certification of Registered Voters in Attendance.

- A. Determination of Registered Voters Present. The Election Board shall review the number of Registered Voters confirmed as present at the Membership Meeting at the time of quorum count. The Tribal Government IT Department will present the count information to the Election Board through use of the electronically generated report of Registered Voters present.
  - 1. Election Board Members shall complete three (3) written certifications of the count.
  - 2. Each certification shall include:
    - a. The total number of Registered Voters provided by the Enrollment Department.
    - b. The total number of Registered Voters constitutionally required, which is at least thirty percent (30%) of Registered Voters present at the Membership Meeting in order to act upon a Motion and/or Ordinance put before the Membership.
    - c. The total number of verified Registered Voters in attendance at the time of the quorum count called by the Tribal Ogema.
    - d. The Election Board votes on the motion confirming the count of Registered Voters in attendance at the time of the quorum count.
    - e. Signature of Election Board Members present for the vote on the motion.
  - 3. The certifications shall be distributed as follows:
    - a. To the Tribal Ogema for Membership Meeting purposes.
    - b. To the Enrollment Department for Tribal Records.
    - c. One original shall be kept and filed by the Election Board.
  - 4. If the certifications show a total count of less than thirty percent (30%) of the Tribe's Registered Voters in attendance at the Regular Membership Meeting at the time of the quorum count, the Election Board's business shall be concluded.
  - 5. If there is a verified count of at least thirty percent (30%) of the Tribe's Registered Voters in attendance at the time of quorum count, then a quorum of the Election Board shall remain until the close of Tribal business to conduct any voting procedures on matters brought forward for action by the Membership.
- B. Persons Removed from the Meeting. If a Registered Voter is removed from the meeting for any reason but permitted to remain on the property, he or she will still be counted

towards a quorum if he or she chooses to remain present on the property in an area designated for this purpose by the Election Board.

#### Section 4. Secret Ballot Voting.

- A. Voting Procedures. A quorum of the Election Board shall conduct secret ballot voting procedures and shall establish polls if a Motion or Ordinance question is developed during the General Membership Meeting.
1. At least one (1) Tribal Police Officer shall be present throughout the voting, counting, and tally processes as an observer. An Officer(s) shall remain until the count and tally of the ballots is completed, certified, and announced.
  2. The Election Board shall issue ballots only if the Election Board certifies that at least thirty percent (30%) of Registered Voters are in attendance at the General Membership Meeting, and a Motion or Ordinance question is brought to vote at the meeting.
  3. The Election Board shall arrange to have two (2) portable voting booths brought into the meeting room and shall establish them as polls.
  4. The Election Board shall have a ballot box brought into the meeting room and placed in as close proximity to the two (2) polls as possible.
    - a. With the assistance of a Tribal Police Officer, an Election Board Member shall open the ballot box and confirm, before the membership present that the box is empty before the starting of voting.
    - b. The ballot box thereafter shall be locked.
  5. The Election Board shall have available for viewing the final language of the Motion or Ordinance question near the established polls/voting booth.
  6. Subject to the limitations of the Tribal Constitution, only one Motion or Ordinance question shall be brought to a vote at a time.
    - a. Each Motion or Ordinance question shall require a separate vote.
    - b. The purpose for limiting actions to a single question at one time is to avoid confusion among the Membership as to what issue is before the Membership for consideration.
  7. Prepared ballots for voting shall be brought into the meeting room.
  8. If the prepared ballots are not pre-numbered, the Election Board shall hand-number each ballot to be issued.
  9. According to our traditional ways, Tribal Elders and Tribal handicapped Voters shall be given priority to vote first.
  10. An Election Board Member shall issue ballots to verified Registered Voters upon swiping their Tribal Identification Card.
    - a. The Election Board Member issuing the ballots shall verify that the Voter is confirmed to be present on the attendance report for the Membership Meeting. The Election Board Member then shall issue a ballot to the Voter.
  - II. The Election Board Members may help Voters in entering or exiting the voting booths or in placing finished ballots in the ballot box.

B. Ballots and Voting.

1. The ballot shall read YES or NO with associated check boxes next to each answer.
2. To vote, the Voter must fill in the box or place an "X" or check mark in the box immediately to the right of the Voter's choice. The following list of examples of improper voting that will cause a ballot to be rejected by the Election Board for noncompliance is not intended to be exclusive:
  - a. A Voter that circles a checkbox,
  - b. Any marks inside the checkbox other than those listed.
  - c. Double voting more than one (1) checked box marked
3. Each Registered Voter present shall be entitled to cast one vote for each Motion or Ordinance question put to a vote. Any Registered Voter who was removed from the meeting but chooses to remain on the property in the designated area will be given the opportunity to vote on each Motion or Ordinance question from that area, using procedures the Election Board determines suitable based on the circumstances at that time.
4. A Voter may request a replacement or a new ballot by returning a spoiled ballot to an Election Board Member.
  - a. Spoiled ballots shall be placed in a separate envelope marked. "Spoiled".
  - b. The Election Board shall mark a new ballot as "Replacement".
5. After a Voter has marked their ballot, the Voter shall place the ballot in the ballot box.
6. When the voting is completed, the Election Board shall announce the close of the voting process and shall proceed to count and tally the votes.
7. The tally sheet shall contain the final language of the motion or ordinance.

C. Counting and tallying the votes. The Election Board shall move the ballot box into the meeting room to permit public viewing of the ballot and vote count.

1. The Election Board shall have a tally sheet with separate columns noting Yes, No, Rejected or Spoiled.
2. A Tribal Police Officer shall unlock the ballot box, and the Election Board shall remove and assemble the ballots.
3. An Election Board Member shall call out the vote and hold ballot in view of Voters and two (2) of the Election Board Members will be writing on the tally sheet.
4. Each spoiled ballot shall be announced to the membership and an entry made into the SPOILED BALLOT column on the tally sheet.
5. Any ballot that is removed from the ballot box, and that has more than one (1) box marked, or any other defect, as confirmed by a majority vote of the Election Board Members present, shall be deemed a rejected ballot.
  - a. Any ballot deemed rejected shall be announced to membership as a rejected ballot, with an explanation as to the reasons for the rejection, and a notation entered under the REJECTED BALLOT column on the tally sheet.
  - b. Rejected ballots shall be placed in a separate envelope marked "Rejected."
6. When the counting of the votes is completed, two (2) Election Board Members independently shall tally the votes in view of the membership in attendance.

- a. The tally of the two (2) Election Board Members must agree.
  - b. If the tally does not agree, the Election Board Members shall recount the votes until there is agreement on the tally.
7. An Election Board member shall announce the result.

## Section 5. Certification of Results.

- A. Completed-tally. When the tally is completed, the Election Board shall take a vote to confirm the final tally of the vote.
  1. An Election Board Member shall make a paper count and tally sheet and shall certify that the paper tally is a true and correct copy of the tally.
  2. The Election Board Members who are present shall sign the count and tally sheet.
- B. Written certification. Within five (5) business days of the General Membership Meeting, the Election Board shall provide to the Tribal Ogema and to the Tribal Council Speaker a written certification of the final vote tally on each Motion or Ordinance.
- C. Contents of certification. The Board's certification shall contain the following:
  1. The total number of registered Voters for the Tribe;
  2. The total number of registered Voters required for 30%;
  3. The total number registered Voters attending the Membership Meeting;
  4. The total number of registered Voters casting ballots for the motion or ordinance question;
  5. The wording of the motion or ordinance as voted on;
  6. The total number YES votes;
  7. The total number NO votes;
  8. The vote of the Election Board;
  9. The signatures of Election Board members in attendance;

## Section 6. Security and Destruction of Membership Meeting Materials from Election.

- A. Process completion. Upon completion of the ballot tabulation and count process, the Election Board shall seal all ballots, verification receipts, papers, and tally sheets in a Ballot Box, and the Ballot Box shall be locked in a secured area at the Tribal Police Department.
  1. The sealed Ballot Box shall be opened only in the presence of a quorum of the Election Board.
  2. The ballots and envelopes shall be destroyed after four (4) years, providing no challenges exist for this Membership Meeting, or after the Election Board certifies

the Report of Election results, whichever is longer, and only upon Resolution by the Election Board.

## CHAPTER 9. INITIATIVES

### Section 1. Request for Initiative Petition.

- A. Request for Initiative Petition. A Registered Voter may start an Initiative process by filling out and submitting a written request for an Initiative Petition. The request shall be on a form provided by the Election Board. The request shall:
  - 1. Be legible or typewritten;
  - 2. Attach a copy of the proposed ordinance sought to be enacted, or the existing ordinance sought to be amended or repealed, through the initiative process; and
  - 3. Identify the Principal Sponsor(s) of the request. The Principal Sponsor(s) is the person requesting the Initiative Petition. There may be no more than two principal sponsors.
- B. Denial. Any request that does not use the provided form or does not include the required elements on the form shall not be reviewed or considered. Notification of denial will be sent to the Principal Sponsor(s).

### Section 2. Preparation of Initiative Petition.

- A. The Election Board will prepare Initiative Petitions within thirty (30) days of receiving a written request.
- B. Contents of petition form. The initiative petition forms prepared by the Election Board will include:
  - 1. The question. The phrasing of the question on the petition will be determined by the Election Board. Generally, and without restricting the discretion of the Election Board, the question will be phrased as:  
"Shall the [Title of proposed ordinance] be enacted?" or  
"Shall the [Title of existing ordinance], also known as Ordinance # [Number of existing ordinance], be amended or repealed?"
  - 2. A copy of the ordinance which is proposed to be enacted, amended or repealed will be printed on the back of the petition forms if possible, or if not possible, will be attached to the petition forms.
  - 3. A place for the printed name, signature, Tribal ID, and date of each Registered Voter who signs the petition.
  - 4. A place for the printed name, signature, Tribal ID, mailing address, and telephone number of the principal sponsor(s);
  - 5. A place for the printed name, signature, Tribal ID, mailing address, and telephone number of the circulator of each petition page;



6. A statement to be signed by the circulator of each petition certifying that the signatures on the petition were collected in compliance with these rules;
- C. One ordinance per petition. There will be one petition form prepared for each ordinance that is proposed to be enacted or repealed. If the petition is for amending an ordinance, the proposed amendments may be separated or combined for clarity by the Election Board.

### Section 3. Initiative Petition Process.

- A. An Initiative Petition will be conducted with the same process as a Recall Petition as described in Chapter 7, Section 6 of these Regulations.
- B. Filing Completed Petition. Filing and Receipt of an Initiative Petition will be conducted with the same process as filing completed Recall Petition as described in Chapter 7, Section 7 of these Regulations.

### Section 4. Review of Signatures.

- A. Meeting to review petition. The Election Board shall notify the principal sponsor(s) of the petition of the time and place of the meeting where Election Board will review the petition. The notice shall be sent no later than ten (10) business days before the meeting is to be held.
- B. Review of petition. Only completed signatures of Registered Voters on certified petition pages shall be counted toward the number of signatures necessary' to set an Initiative Election.
- C. Invalidation of petition page and signatures. Evaluation of pages and signatures will be conducted with the same process as evaluating a completed Recall Petition as described in Chapter 7, Section 8, sub-sections (D)-(F) and (H)-(I) of these Regulations.
- D. Motions. The Election Board shall invalidate petition signatures or petition pages only upon proper motion of the Board, which motion shall contain a notation of the reason for invalidation. Any decision to accept a signature or petition page questionable for any reason shall be made by proper motion of the Election Board.
- E. Final decision. The approved minutes of the meeting where the Election Board reviewed the petitions shall be considered the final decision of the Election Board on the validity of the petitions.
- F. Allegations of fraud. Credible allegations of fraud related to the petition circulating and signing processes shall be referred to the office of the Tribal Prosecutor.

### Section 5. Sufficiency of Petition.

- A. Valid petition. To be valid, a petition must be signed by twenty-five (25%) of the registered Voters of the Tribe, as verified by the Election Board. If the petitions are determined by motion of the Election Board to be valid, the Board shall present them to the Tribal Council for action under Article VII, Section 2 of the Tribal Constitution.
- B. Invalid petition. If the petitions are determined by motion of the Election Board to be invalid, the initiative drive will be concluded. A petition declared invalid by the Election Board shall not be used in any later initiative drive. However, nothing shall prevent the principal sponsor(s) of the initiative drive from attempting another drive on the same ordinance.

## Section 6. Initiative Election.

- A. Conducting Initiative Election. If the Tribal Council does not adopt the measure after presentation as specified in the Constitution, the Election Board will announce a Special Election.
- B. Initiative Election Process. The Election Board shall conduct an Initiative Election using the same procedures for ballot mailing, voting and vote counting that are used for conducting Regular and Special Elections.
- C. Timing of Election. The Election Board shall announce the Initiative Election within thirty (30) calendar days of determining the petitions are sufficient, subject to the ninety (90) calendar day time limit in the Tribal Constitution.
- D. Ballot. The question on the ballot shall be phrased as it was on the petition. A copy of the ordinance that is proposed to be enacted or repealed will be printed on or included with mail ballots and available for review at any polling place, if applicable.

## Section 7. Initiative Election Disputes and Challenges.

- A. Initiative Election Disputes and Challenges shall be handled under Chapter 12 of these Regulations.

## Section 8. Results.

- A. Determination of Voter turn-out. On Election Day, the Election Board will use a list of Registered Voters provided by the Enrollment Department and the normal ballot counting process to determine whether 30% of the Registered Voters cast ballots. If fewer than 30% of the Registered Voters cast ballots, the Initiative(s) will be deemed defeated under the Constitution. If less than 30% of the Registered Voters cast ballots, the Election Board may, at its discretion, post the results of the count for informational purposes only.
- B. Recounts. Recounts in Initiative Elections shall be conducted in accordance with Chapter 3, Section 8(F).
- C. Unofficial Results. The Election Board shall announce unofficial results for Initiative Elections in the same way as for Regular and Special Elections.

- D. Report. The Election Board shall present the report for the Initiative Election to the Tribal Ogema, the Tribal Council and the Tribal Judiciary.

## CHAPTER 10. REFERENDUMS

### Section 1. Referendum Election.

- A. Referendum Election. The Tribal Council shall, upon an affirmative vote of seven (7) Council members, schedule a Referendum Election on any previously enacted ordinance by the Membership.
- B. The Referendum Election shall be held no sooner than thirty (30) days and no later than ninety (90) days from the date the proposed or existing ordinance is referred to the Voters in accordance with applicable provisions of this Constitution, any applicable tribal ordinance any rules and regulations issued by the Election Board. The date of the Referendum Election shall be set by Tribal Council.
- C. A majority vote of those cast shall be binding upon the Tribal Council, provided at least thirty percent (30%) of the Registered Voters of the Tribe cast ballots in the Referendum Election.

### Section 2. Conducting Referendum Election.

- A. Conducting Referendum Election. If the Tribal Council votes to submit a question to the Tribal Membership for Referendum Election as specified in the Constitution, the Election Board will announce a Special Election.
- B. Referendum Election process. The Election Board shall conduct a Referendum Election using the same procedures for ballot mailing, voting and vote counting that are used for conducting Regular and Special Elections.
- C. Timing of Election. The Tribal Council shall determine the date of the Referendum Election, subject to the time limits in the Tribal Constitution.
- D. Ballot. The question on the ballot shall be phrased as it was by the Tribal Council in its vote to hold a Referendum Election.

### Section 3. Referendum Election Disputes and Challenges.

- A. Referendum Election Disputes and Challenges shall be handled under Chapter 12 of these regulations.

## Section 4. Results.

- A. Determination of Voter turn-out. On Election Day, the Election Board will use a list of Registered Voters provided by the Enrollment Department and the normal ballot- counting process to determine whether 30% of the registered Voters cast ballots. The list will be requested forty-eight (48) hours prior to Election Day.
- B. Recounts. Recounts in Referendum Elections shall be conducted in accordance with Chapter 3, Section 8(F).
- C. Unofficial results. The Election Board will announce unofficial results for Referendum Elections in the same way as for Regular and Special Elections per the constitution they shall take effect ten (10) days after certification of vote by the Election Board.
- D. Report. The Election Board shall present the report for the Referendum Election to the Tribal Ogema, the Tribal Council and the Tribal Judiciary.

# CHAPTER 11. PETITIONS FOR CONSTITUTIONAL AMENDMENTS

## Section 1. Scope.

- A. This Chapter provides the procedures for petition drives for the calling of Elections by the Secretary of Interior ("Secretary"), Bureau of Indian Affairs ("BIA"), on proposed amendments to the Tribal Constitution.
- B. It is the intent of this Chapter to meet the Election Board's duties under Article IX, Section 4(e) and Article XIV of the Constitution. Secretarial Elections are governed by BIA rules found at 25 CFR Part 81 and are conducted by the BIA with the Election Board acting in assistance to that agency.

## Section 2. Local Bureau Official-Bureau of Indian Affairs, Department of Interior.

- A. Request, Preparations and Process for Constitutional Amendment Petition. Tribal Members who would like to circulate a petition to amend the Tribal Constitution may follow the procedure described in 25 CFR Part 81, Subpart F.

- B. Election Board Role. The Election Board shall verify that any petition is signed by at least thirty percent (30%) of the eligible voters of the Tribe. If the petitions are determined by motion of the Election Board to be verified, the Election Board shall present them to the Secretary or the Secretary's representative and request the calling of an Election on the proposed amendment(s) under 25 CFR Part 81.
- C. Elections and all post-Election proceedings on proposed constitutional amendments shall be conducted by the Secretary, as prescribed by 25 CFR Part 81.

## CHAPTER 12. DISPUTES AND CHALLENGES

An Election Dispute and an Election Challenge are two separate and distinct processes that should not be confused. As further detailed herein, an Election Dispute questions the process by which an election is conducted, while an election Challenge questions the actual results of the election itself.

These two processes are separate and distinct.

### Section 1. Election Disputes.

- A. Election Dispute means a complaint the object of which is to affect how the Tribal election is conducted as the Election process moves forward. An Election Dispute can question the candidate eligibility, the voter eligibility, the ballot, and the vote count process. An Election Dispute is decided by the Election Board under the authority of the Tribal Constitution.
- B. Filing an Election Dispute. Any Registered Voter or Candidate may file an Election dispute by filling out and submitting the form provided by the Election Board. The form may be requested from the Election Board in person or by mail or is available online.
- C. Timing of Election Disputes. For purposes of submitting a timely Election Dispute, the period of time runs from the date that the Tribal Member had actual or constructive knowledge of the act or event giving rise to the dispute. The date that the Tribal Member had actual or constructive knowledge of the act or event giving rise to the dispute is not included. The Tribal Member thereafter has five (5) business days to file an Election Dispute but in any case, no Election Dispute may be filed fewer than ten (10) business days prior to the Election.
- D. Date of Filing. An Election Dispute is deemed submitted on the date on which it is received and date-stamped by the Election Board.
- E. Procedure for Election Disputes. The Election Dispute submission must include sufficient evidence and information in support of the allegation such that the Complainant can prove

his or her dispute by a preponderance of the evidence. The Election Board will thereafter review the information and decide Election Disputes, or need for a hearing, using the procedures in these Regulations.

- F. Burden of Proof of Filing. In the event a question arises as to the date an Election Dispute was submitted, the Tribal Member submitting the Election Dispute shall have the burden to prove it was timely submitted.

## Section 2. Election Challenges.

- A. Election Challenge means a direct challenge to the results or outcome of an Election the object of which is to affect the results of the Election. An Election Challenge is decided by the Election Board under the authority of the Tribal Constitution.
- B. Filing an Election Challenge.
1. Any Registered Voter may file an Election Challenge to the results of a Referendum or an Initiative vote by filling out and submitting the form provided by the Election Board. The form may be requested in person or by mail or is available online.
  2. Only a Candidate that was not elected in the current Election may file an Election Challenge by filling out and submitting the form provided by the Election Board. The form may be requested in person or by mail or is available online.
- C. Timing of Election Challenges. For purposes of submitting a timely Election Challenge, the Date of Election is not included.
1. The Registered Voter must file the Challenge within five (5) business days from the announcement of the unofficial results of the Referendum or Initiative.
  2. An unelected Candidate must file the Challenge within five (5) business days from the announcement of the unofficial Election results.
- D. Date of Filing. An Election Challenge is deemed submitted on the date on which it is received and date-stamped by the Election Board.
- E. Procedure for Election Challenges. The written Election Challenge must include sufficient evidence and information in support of the allegation such that the Complainant can prove his or her challenge by a preponderance of the evidence. The Election Board will thereafter review the information and decide Election Challenges, or need for a hearing, using the procedures of these regulations.
- F. Burden of Proof of Filing. In the event a question arises as to the date an Election Challenge was submitted, the Tribal Member submitting the Election Challenge shall have the burden to prove it was timely submitted.

## Section 3. Election Board Decisions.

- A. Final Decisions. The Election Board shall investigate and decide Election Challenges and Disputes and will issue its final decision in accordance with the following procedure and timeline:
1. Disputes and Challenges shall be reviewed for completeness. Any incomplete Dispute or Challenge shall be returned to the submitter for corrections.
  2. Properly filed Disputes or Challenges shall undergo a preliminary review by the Election Board within five (5) business days to determine if a hearing is requested and necessary.
  3. If a hearing is requested and granted, the Election Board shall provide a minimum of ten (10) business days' notice of the hearing.
  4. If a hearing is not requested or if the Election Board has determined that a hearing is not necessary and therefore denies the hearing, the Election Board will issue a final decision which will include a statement of facts and law relied on for its decision no later than ten (10) business days after receipt of the Dispute or Challenge.
  5. If a hearing takes place, the Election Board has five (5) business days after the hearing date to issue its final decision which will include a statement of facts and law relied on for its decision.
  6. The minutes reflecting the vote of the Election Board's decision shall be part of the record.
  7. No further review by the Election Board is available.
- B. Waiver. Failure to timely file a Complaint within the time limits as provided by these Regulations constitutes a waiver. Untimely Complaints shall only be reviewable for error in computation of time. Untimely Complaints do not satisfy an exhaustion of remedies.

#### Section 4. Review of Election Board Decisions.

- A. A Tribal Member that has received an adverse decision by the Election Board may request review of the Election Board's Final Decision by filing a complaint with the Tribal Court within five (5) business days of the decision being issued.
- B. Burden of Proof. The burden of proof to reverse the decision of the Election Board shall be upon the party filing the complaint, dispute or challenge.
- C. Review Standard. All appeals related to Final Election Board Decisions before the Tribal Court, must be reviewed on a clear error standard. In making its determination, the Tribal Court shall be bound by the Election Board's findings of fact unless clearly erroneous. There shall be deference given to the Election Board's determination as the government officials charged with the responsibility for interpreting their own regulations. The Tribal Court review of the Election Board's determinations is limited to interpretation and application of law or regulation unless clearly erroneous. Specifically, The Election Board's decision will not be overturned by the Tribal Court unless the Court is definitely and firmly convinced that a mistake has been made. Under no circumstances will new or additional evidence in support of, or in opposition to, the Election Board's decision be introduced to the Tribal Court. The decision of the Tribal Court shall be final.

## Section 5. Rights of Action under the Tribal Constitution.

- A. The Election Board Regulations are in no way a limitation on rights enumerated in the Tribal Constitution, however any party filing an action against the Election Board must first seek to exhaust all remedies available under these Regulations.



## PART V. ELECTION BOARD

### CHAPTER 13. HEARINGS

#### Section 1. Complaints.

This chapter applies to Election Challenges and Election Disputes that the Election Board is authorized or required to review. This chapter shall not apply to allegations of impropriety.

- A. Complaints. Complaints, including but not limited to Election Disputes or Election Challenges, shall be reviewed by the Election Board if they are filed within the time limits as provided by these Regulations. All complaints shall be submitted with the required forms completed.
- B. Allegations of Impropriety. Allegations of Impropriety against an Election Board Member are settled by the Tribal Court under Tribal Constitution, Article Section 4(c).

#### Section 2. Request for Hearing.

- A. Request for Hearing on a Referendum or Initiative Challenge. Any Tribal Member may request a hearing if they file a Challenge/Dispute to a Referendum or Initiative by filling out and submitting a request on a form provided by the Election Board. The form may be requested from the Election Board in person or by mail. The Election Board will conduct a hearing, subject to subsection D herein, as long as the request has been properly made and the Election Board has not determined that as a matter of law a hearing is not relevant or necessary. Regardless of whether a Request for Hearing has been filed, the Election Board may, at its discretion, make a ruling based solely on the written complaint.
- B. Request for Hearing on a Candidate Challenge. Any Candidate for elected office may request a hearing if they were defeated in the current election and they file a Challenge to the election results by filling out and submitting a request on a form provided by the Election Board. The form may be requested from the Election Board. The Election Board may conduct a hearing, subject to subsection D herein, as long as the request has been properly made and the Election Board has not determined that as a matter of law a hearing is not relevant or necessary. Regardless of whether a Request for Hearing has been filed, the Election Board may, at its discretion, make a ruling based solely on the written complaint.
- C. Request for Hearing on Disputes. Any Registered Voter may request a hearing for an Election Dispute by filling out and submitting a request on a form provided by the Election Board. The form may be requested from the Election Board. The Election Board may conduct a hearing, subject to the subsection D herein, as long as the request has been properly made and the Election Board has not determined that as a matter of law a hearing is not relevant or necessary. Regardless of whether a Request for Hearing has been filed,

the Election Board may, at its discretion, make a ruling based solely on the written complaint.

- D. Closed Hearings. The requestor may ask the Election Board to conduct a closed hearing or the Election Board, in its sole discretion, may determine that the hearing should be closed. Reasons for a closed hearing include but are not limited to, the review or discussion of confidential and/or sensitive information.
- E. Review of Hearing Request. Circumstances may arise wherein the Election Board may review a request for a hearing, and based upon its review determine that a Hearing is not appropriate under the circumstances. In the event that the Election Board declines to hold a hearing, it may thereafter issue a written decision without a hearing.

### Section 3. Notice.

- A. Notice of a Hearing. In the event of a Hearing, the Election Board shall provide written notice to the individual requesting the Hearing setting forth the date, time and location for the Hearing. The Complainant shall be given a minimum of five (5) business days-notice of the Hearing date.
- B. Contents of Hearing Notice. The notice of Hearing shall contain:
  - 1. The date, time and location of the Hearing; and
  - 2. The procedures to be used for the Hearing as described below.
  - 3. A list of any witnesses or evidence the Election Board intends to present.

### Section 4. Hearings.

- A. Procedure. The Election Board shall provide a forum to review timely filed Complaints as required by these Regulations and in the spirit of due process. The procedure for the Hearing is as follows:
  - 1. Opening statement.
  - 2. Presentation of evidence or witnesses in support of the Complaint by the Complainant or their representative.
  - 3. Questions allowed by Election Board Members, the Election Board Attorney, or the Complainant or their representative.
  - 4. Presentation by the Election Board Attorney of any additional evidence or witnesses as determined necessary by the Election Board.
  - 5. Questions allowed by Election Board Members, the Election Board Attorney, or the Complainant or their representative.
  - 6. Closing statements.

- B. Failure to Appear. If the Complainant who requested the Hearing fails to appear for the Hearing at the date, time and location provided on the notice of Hearing, he or she is deemed to have defaulted and his or her Complaint may be dismissed with prejudice.
- C. Record. A record shall be compiled during the Hearing and retained by the Election Board. The Complainant requesting the Hearing shall be entitled to receive a copy of the record. The record will consist of all documents submitted in connection with the Hearing and all other documents determined by the Election Board to be relevant to the subject of the hearing but does not include a recording of the hearing. The Election Board shall only consider the record when issuing a decision.
- D. Witnesses. If the Election Board has determined that it is appropriate to include the testimony of witnesses, both the Complainant or their representative and the Election Board Attorney may present witnesses as necessary. Witnesses shall take an oath of truthfulness under the penalty of perjury. No witness may be subpoenaed or forced to testify, but instead may testify under his or her own free will. Witnesses may choose to refuse to answer any question for any reason. A witness who refuses to answer questions or becomes disorderly may be asked to leave the hearing.
- E. Evidence. The Election Board will follow the rules of evidence of the Tribal Court of the Little River Band of Ottawa Indians. Any issues of admissibility shall be brought to the Election Board's attention immediately or they will be considered waived for future review.
- F. Decision The Election Board shall issue a written decision setting out the findings of fact within five (5) business days of the Hearing. The decision shall grant or deny the Complainant's requested relief. The decision will be ruled on by a roll-call vote of the Election Board.
- G. Recording the Hearing. The Election Board shall record the hearing. If a timely appeal of the decision is filed with Tribal Court, the Complainant may have the hearing transcribed at his or her own expense. If a timely appeal is not filed, the Complainant waives all right to thereafter obtain a transcript of the hearing for any purposes.

## Section 5. Hearing Decisions.

- A. Final Decision. The Election Board's decision issued as a result of a hearing shall be the final decision of the Election Board. The vote on the decision shall be part of the record.
- B. Tribal Court Review. Tribal Court review shall be available to timely filed complaints. The review shall be in accordance with Chapter 12, Sections 3-5 of these Regulations.

## CHAPTER 14. ETHICAL STANDARDS

### Section 1. Ethical Standards.

- A. General duty. Members of the Election Board shall seek to uphold the integrity and fairness of Election processes, and shall seek to uphold due process and civility during Hearings.
- B. While acting in official capacity as an Election Board they shall not engage in the following activities:
  - 1. Shall not endorse any Candidate.
  - 2. Announce views in support of or against any Candidate for Elected Office,
  - 3. Participant in any Recall petition drive or Election.
  - 4. Expressing views on behalf of the Election Board during a Membership Meeting
  - 5. Endorsing a particular Candidate over another
  - 6. Campaign for a particular Candidate.
  - 7. Shall not except gifts or favors from any Candidate.
  - 8. Serve as a Principal Sponsor for any petition.
  - 9. Shall not solicit funds for any Candidate.
  - 10. Shall recuse themselves from deliberations or voting on Election Matters:
    - a. Where such involvement may result in personal gain;
    - b. Where a personal bias or prejudice may exist; and
    - c. Where there is a reasonably close family relationship to the individual requesting action by the Election Board.
- C. Members of the Election Board shall engage in the following:
  - 1. Campaign on their own behalf.
  - 2. Solicit funds for themselves.

### Section 2. Allegations of Impropriety.

- A. Complaints. Allegations of Impropriety against any Election Board Member shall be settled by the Tribal Court as required under Tribal Constitution, Article IX, Section 4(c).
- B. Time Limit for Complaints. Allegations of Impropriety against any Election Board Member shall be filed with the Tribal Court within thirty (30) days of the date on which the Complainant has knowledge.
- C. Service on Election Board. Service of a Complaint alleging Impropriety against any Election Board Member shall be made upon the Election Board in conformity with Tribal Court Rule 4.100.

### Section 3. Removal from Office.

- A. A Member of the Election Board shall be removed from his or her office for one or more of the following reasons:
  - 1. Willful violation of the ethical standards for Members of the Election Board as set forth under these Regulations;
  - 2. Gross misconduct or malfeasance while in office other than Impropropriety;
  - 3. Conviction, while in office, of a felony under Federal, State or Tribal law, or conviction of a crime involving dishonesty or moral turpitude; or
  - 4. Inability to fulfill the duties of the office due to mental or physical disability or hardship, to the extent that he or she is incapable of exercising reasonable judgment while attending to the business of the Election Board.
- B. A unanimous vote of the Election Board, excluding the Election Board Member whose removal is sought, shall be required to initiate an action for removal by the Election Board.
- C. An Election Board Member who is voted for removal by the Election Board shall have ten (10) business days to respond to removal.
- D. Following the Hearing, the Election Board shall issue a determination. A decision by the Election Board to accept a Proposed Decision that calls for the removal of an Election Board Member is final and the Election Board Member shall be removed from Office forthwith.
- E. In the event of removal of an Election Board Member by the Election Board, a Special Election shall be held for purposes of filling the vacancy.

## CHAPTER 15. BY-LAWS

### Section 1. Authority; Purpose.

- A. Authority. The Election Board was created by Article IX, Elections, Section 4(a) of the Constitution.
- B. Purpose. The following By-laws are adopted by the Little River Band Election Board to assist and guide the Election Board in performing its duties under the Tribal Constitution and these Regulations.

### Section 2. Election Board Members.

- A. Membership. The Election Board shall consist of five Board Members elected by the Little River Band of Ottawa Indians Registered Voters in accordance with the Constitution Article IX, Section 4(a).

- B. Term of Office. The term of office for an Election Board Member shall be four (4) years and staggered.
- C. Officers & Duties. The Election Board, every two (2) years, shall select from its members, a Chairperson and a Secretary. All members are eligible for re-election every two years.
  - 1. Chairperson. The Chairperson shall be responsible for presiding at all meetings, set special meetings, work with the Secretary to draft agendas, communicate with vendors on behalf of the Election Board, communicate with other branches of the Tribal government on behalf of the Election Board, execute documents in the name of the Election Board, and perform other duties as may be ordered by the Election Board.
  - 2. Secretary. The Secretary will keep minutes for each meeting showing the date, time, place, members present, members absent, any decisions made, and held. The minutes will include all roll call votes taken at the meeting. The Secretary shall also act as custodian for the Election Board's files and records. The Secretary will conduct a meeting, if the Chairperson is unable to attend. The Secretary along with the Chairperson will have signing powers over all documents.
  - 3. Resignation. A member may resign their office at any time by giving written notice to the Election Board. The Election Board shall elect a replacement to complete the remainder of the member's term.
- D. Causes for Removal of an Election Board Member. Chapter 14 of these Regulations states the reason for removal at Section 3(A).

### Section 3. Meetings.

- A. Election Board Meetings will be called by the Chairperson for both Open and Closed Sessions.
  - 1. Regular Meeting. With the exception of closed sessions, the Election Board's meetings are public. Notice of all Public Information Meetings will be posted in the following time and manner. All Tribal Buildings, Rapid River News, and Tribal Newspaper. With the exception of closed sessions, the minutes of meetings are public documents.
  - 2. Closed Meeting/Special Meeting. The Election Board may vote by motion to go into closed session to discuss matters involving litigation, sensitive financial information, matters where a confidential personal nature or other matters where confidentially is in the best interest of the Tribe. The Secretary will keep separate minutes of closed sessions.
  - 3. Hearings. The Election Board will conduct Hearings in accordance with these Regulations.
- B. Quorum. At least one officer and two other members constitute a quorum for transacting business and taking official action, with the following conditions and exceptions:
  - 1. Election year for majority of Election Board. In the event of an Election where three (3) members are running for open seats, a quorum may be constituted by the two remaining board member for those decisions in which all other members are required to recuse themselves.

2. Remote participation. A quorum for meetings may be established through remote participation.
  3. Lack of quorum. Whenever a quorum is not present, those present may adjourn the meeting to another day, or hold the meeting to consider items on the agenda but not take official action on them.
- H. Motions. The motion brought forward at meetings will be recorded. The name of the member who makes a motion and who seconds the motion will be recorded. A motion will be considered successful with an affirmative vote of the majority of the quorum in attendance.
- I. Voting. Voting shall be by voice and shall be recorded by "yes" or "no". Roll call vote may be called by the Chairperson.
- J. Meeting Records of the Election Board. The Election Board shall maintain permanent record of all meetings, including open and closed sessions when appropriate.

#### Section 4. Travel time for Training.

- A. Tribal Government Employees. Tribal Government Employees who are authorized to travel on behalf of the Election Board for training during his/her regular shift of employment are subject to the requirements of the Tribe's regulations on travel. Employees shall not receive more than five (5) days wages in lieu of stipend for such travel in any fiscal year.
- B. Non-Government Employees. Non-Government Employees who travel on behalf of the Election Board for training shall receive a stipend for no more than five (5) days for such travel in a fiscal year.

#### Section 5. Monetary Compensation.

- A. Each Election Board will be compensated as set by Tribal Council Resolution. Compensation will not be diminished during the term of office.