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ELECTIONS

(As revised May 26, 2020)

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5-201 Eligible voters. Any recognized member of the Winnebago Tribe eighteen years of age and over and who has maintained residence within the reservation for a period of six months prior to the date of the regular election shall be a qualified voter. This ordinance further provides that the voter shall register in accordance with Section 5-202(3) of this Article. [TCR 04-07]

1. Residence, for the purpose of this Article, shall be defined as physical presence within the reservation for six consecutive months immediately preceding the date of election, except that temporary absences from the reservation for purpose of:
 - A. Temporary employment.
 - B. Military service.
 - C. Attending a meeting, conference, training session or workshop.
 - D. Illness or physical disability.
 - E. Vacation.
 - F. Attending school, college or a university shall be considered as physical presence. Employment absences of more than twelve months shall not be considered as temporary.
 - G. Any recognized member of the Winnebago Tribe of Nebraska who is elderly and confined to a nursing or convalescent home but who maintained residence within the reservation for a period of six consecutive months immediately prior to being placed in a nursing or convalescent home shall be considered to have maintained residence on the reservation.
 - H. Any recognized member of the Winnebago Tribe who is incarcerated for a period of less than twelve months but who maintained residence within the reservation for a period of six consecutive months immediately prior to being incarcerated shall be considered to have maintained residence on the reservation.
2. Recognized member, for the purpose of this Article, shall be defined as any person who is an enrolled member of the Winnebago Tribe of Nebraska. [TCR 04-07]

5-202 Election board.

1. Election board members. A seven-member reservation election board shall be appointed by the Tribal Council not less than ten days prior to the primary election for the purpose of supervising

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elections to be held under this Article. All reservation election board members shall be administered the oath of office. (Exhibit #1.) All election board officials shall be sent a copy of this Article.

2. The reservation election board offices shall be:
 - A. Two judges.
 - B. Three clerks.
 - C. Two sergeant-at-arms.
3. Duties of the reservation election board:
 - A. The election board officials are required to read this Article before election day.
 - B. Registration of voters. The reservation election board shall permit any eligible voter whose name appears on the "Eligible Voter List" of the Winnebago Tribe of Nebraska to register at the polls to vote once in the election. Each person desiring to register and vote at the polls shall sign the register (Exhibit #2) with his/her name, address, date of birth, period of latest residence, and if temporarily absent from the reservation, the reason for such temporary absence.
 - C. The eligible voter list shall be approved by the Tribal Council at a duly called meeting, which shall be held on the second Monday in June. The eligible voter list from the previous year's election shall be updated by the Tribal Council at this meeting. The eligible voter list shall contain an appendix of those persons who will turn 18 years of age between the dates of the Primary and Regular Elections. Said persons shall be considered eligible voters for the Regular Election but shall not be considered eligible voters for the Primary Election, nor shall their names be counted toward the fifty (50) signatures required for a petition in 5-217(d). The inclusion or omission of a voter's name may be challenged by any physical resident member of the reservation within five days following posting. Challenges shall be in writing and presented to the Tribal Council. The Tribal Council shall make the final decision on the voting list challenge. A final and irrevocable eligible voters list shall be posted by the Tribal Council no later than the last Friday in June.
 - D. Except as provided in (C), only those qualified voters whose names appear on the eligible voting list of the reservation shall be entitled to vote in the election.
 - E. The Office of the General Counsel shall conduct training for the Election Board to insure they receive adequate knowledge of their duties under this Article. [TCR 01-105]

5-203 Notice of election. The Tribal Council shall prepare a notice (Exhibit #3) of the dates of elections and give such notice as is appropriate to inform the eligible voters of the date, time, and polling place, including, but not limited to posting of the notice in the Tribal office, the Bureau of Indian Affairs, the local United States Post Office and other places throughout the reservation. In addition, newspaper, radio and television may also be used. The notice of election shall be posted in those places provided for herein not less than ten days prior to the election.

5-204 Qualification of candidates.

1. A candidate for the Tribal Council shall:
 - A. Be twenty-five years of age or over and a qualified voter.
 - B. Be a bona fide resident of the Winnebago Reservation of Nebraska. A bona fide resident shall be defined as an enrolled member with a physical presence within the boundaries of the Winnebago Reservation for a minimum of six consecutive months immediately preceding a Tribal election and as further defined in Section 5-201 of this Article.
 - C. Be an enrolled member of the Winnebago Tribe of Nebraska.
 - D. Not have been convicted, terminated, removed or resigned from any tribal position for reasons of theft, stealing, misappropriation of funds, embezzlement, conversion or any related offense from the Winnebago Tribe of Nebraska.

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2. The Tribal Council shall be the sole judge of the qualifications of its own members, as defined in the By-Laws, Article II, Section 1. The decision of the Tribal Council on the eligibility of candidates shall be final and candidates must be approved through the Eligible Voter List.
3. The Tribal Council shall provide a certified listing of qualified candidates for office on the Tribal Council. The secretary of the Tribal Council shall post a list of candidates in respective locations as defined in Section 5-203 of this Article at least seven days prior to the election. A copy of this Article shall also be posted in the polling place at least seven days prior to the election. [TCR 20-132]

5-205 Ballots.

1. The Tribal Council shall provide the reservation election board with official printed ballots (Exhibit #4). The names of qualified candidates shall appear on the official printed election ballots in alphabetical order. A person may vote for up to three candidates. A voter may vote for a person or persons (up to three) not appearing on the published ballot by writing the name of said person or persons legibly on the ballot.
2. Any ballot on which erasures have been made or on which more names have been marked than the number of vacancies for office, or which do not have the initials of the two judges and the three clerks shall be considered spoiled ballots and shall not be counted. No ballot shall be considered spoiled solely because less than three names have been marked. The election board shall certify to the number of votes cast, and the number of spoiled ballots and the final results of the election (Exhibit #5).

5-206 Absentee ballots.

1. Qualified voters for the purpose of this Article as defined in Section 5-201 of this Article, who are temporarily absent or otherwise unable to cast their ballots at the polling place on the reservation for any reason shall be entitled to vote by absentee ballot. Requests for such ballots must be in writing and filed with the secretary of the Tribal Council at least ten days prior to the date of election.
2. The Tribal Council shall determine the person's eligibility to vote immediately and shall give or mail an absentee ballot to the eligible voter in sufficient time to permit the eligible voter to execute and return it on or before 8:00 p.m. on the date of election. Together with the ballot, there shall be an inner envelope bearing on the outside the words, "Absentee Ballot," an envelope pre-addressed to the reservation election board, c/o the Secretary of the Winnebago Tribal Council, Winnebago, Nebraska, and an affidavit in the following form:

I, _____ do solemnly affirm that I am an enrolled member of the Winnebago Tribe of Nebraska; and I shall be eighteen years of age or over on the election date. I have resided on the Winnebago Reservation in Nebraska for the six consecutive months immediately preceding the election and am entitled to vote in the election to be held _____ and that I cannot appear at the polling place on the reservation on the date of Election because I expect to be absent from my reservation.

(Voter)

Subscribed and sworn to me before this ____ day of _____, and I hereby certify that the affiant exhibited the ballot to me unmarked; that he/she then in my presence and in the presence of no other person, and in such manner that I could not see his/her vote, marked such ballot and enclosed and sealed the same

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in the envelope marked "Absentee Ballot."

(Notary Public)

3. Upon receipt, by the secretary of the Tribal Council, of the absentee ballot in the special pre-addressed envelope, the secretary shall immediately secure the unopened envelope which shall be given to the reservation election board on the day of election.
4. The eligible voter shall make and subscribe to the affidavit before any officer authorized by law to administer oaths, and thereupon in the presence of such officer and of no other person, make such absentee ballot, but in such a manner that the officer shall not know how the ballot was marked. After marking the absentee ballot, it shall, in the presence of the officer, be placed in the envelope marked "Absentee Ballot" and the envelope sealed. The "Absentee Ballot" envelope shall then be placed in the larger envelope together with the affidavit and mailed or delivered to the secretary of the Tribal Council. Absentee ballots must be received by the secretary of the Tribal Council who shall furnish them unopened to the reservation election board not later than the closing of the polls at 8:00 p.m. on election day to be counted. The secretary of the Tribal Council shall maintain a record (Exhibit #6) of absentee ballots mailed or delivered, to whom mailed or delivered, the date of mailing or delivering, the address on the envelope or the address to where delivered, the date of the return of the absentee ballot and from whom delivered, to whom ballot given, if other than the absentee voter and a copy of this record shall be given to the reservation election board at the time the absentee ballots are turned over to them by the secretary of the Tribal Council and they shall certify the absentee ballots were received unopened (Exhibit #7). The reservation election board shall count and register all such votes after all other ballots have been counted and include them in the results of the election.

5-207 Conduct of elections.

1. The reservation election board shall supervise the general conduct of elections. The Tribal Council shall provide an alphabetical list of eligible voters to the reservation election board. The reservation election board shall resolve all questions as to eligibility of voters, resolve all disputes arising from the tabulation of ballots cast in the polling place, compile the total votes cast at the election poll and the absentee ballots, certify the votes cast (Exhibit #5) and notify the Chairman and the secretary of the existing Tribal Council of those persons certified as elected to the Tribal Council immediately.
2. It shall be the responsibility of the Tribal Council to make arrangements for the polling place, obtain all materials such as ballots, voting booths or other facilities, which will assure a secret ballot, pencils, ballot boxes, and to establish such records as are required by this Article.
3. It shall be the responsibility of the judges of the reservation election board to verify, in the presence of the other members of the reservation election board, that the ballot box is empty of all ballots prior to the opening of the polls and the ballot box shall be padlocked.
4. The judges shall:
 - A. Count the ballots provided by the Tribal Council.
 - B. Record the number of ballots received.
 - C. Open the polls at 8:00 a.m. at the prescribed location and close at 8:00 p.m. on the date of the election.
 - D. Authorize additional ballots for voters only if others have been spoiled.
 - E. Keep a record of all spoiled ballots.
 - F. Keep all spoiled ballots separated from other ballots and deliver such ballots to the Tribal Council along with the ballot box.
 - G. Assure that no other ballot other than official election ballots are deposited in the ballot box. (Any person depositing an unauthorized ballot in the ballot box shall be reported to the Tribal Council or other designated party who shall file a complaint in Court for

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- election tampering.)
- H. Assure the proper tally of all votes cast in the election on the tally sheet (Exhibit #8).
 - I. Assure all ballots cast bear the initials of the two judges and the three clerks.
 - J. Prepare and deliver in the locked ballot box all properly cast ballots, all spoiled or mutilated ballots, all unused ballots and all records pertaining to the election on the reservation shall be given to the superintendent of the Bureau of Indian Affairs at the Winnebago Agency, who shall retain them for a period of ten years in a vault and thereafter shall have them destroyed.
5. The clerks shall:
- A. Assist the judges in carrying out the responsibilities of the reservation election board.
 - B. Be assigned all record keeping duties.
 - C. Assist the voters by determining whether they are qualified to vote by:
 - i. Providing eligible voters with a ballot.
 - ii. By obtaining the signature and other required data, as defined in Section 5-202, of each eligible voter on a register and of those persons given ballots.
 - iii. By assisting those voters indicating a need for help. In the event a voter indicates a need for help in casting his/her ballot, two (2) election clerks shall assist that individual in marking and/or reading his/her ballot.
 - iv. Assist in the tally of votes cast.
6. Sergeant-at-arms:
- A. The sergeant-at-arms shall be responsible for maintaining the orderly conduct of the election and for enforcing the provisions of the ordinance.
 - B. The sergeant-at-arms shall have the authority to remove disorderly, disruptive persons or persons deemed under the influence of alcohol as defined under Section 5-213.
 - C. The sergeant-at-arms shall have the prerogative to call the proper law enforcement officers and shall have the prerogative to refer the case to the Winnebago Tribal Court for prosecution.
 - D. Prior to the opening of the polls, the sergeant-at-arms shall ensure all election materials are removed within 100 feet of the polling place. [TCR 20-132]

5-208 Polling place.

- 1. The following polling place shall be used in all Tribal elections and they shall be open from eight (8:00) in the morning until eight (8:00) in the evening, Central Standard Time, on the date established for the election in accordance with the Constitution, Article V, Section 3. Alternate polling places may be used provided the election notice identifies the new polling place: Blackhawk Community Center, Winnebago, Nebraska.
- 2. The reservation election board shall be responsible for secrecy of voting.

5-209 Conduct of election officials.

- 1. Election officials shall not be absent from the duties of their positions from the opening of the polls until all ballots have been counted and secured in the ballot box and delivered to the superintendent of the Bureau of Indian Affairs, at the Winnebago Agency, Winnebago, Nebraska.
- 2. The Tribal Council shall be responsible for providing all meals and snacks, which shall be delivered to the polling place, for the Tribal Election Board members and any support staff assisting with the Tribal elections. The Tribal Council shall pay two hundred fifty dollars and no cents (\$250.00) to each of the Election Board officials and any support staff assisting on the day of the Tribal election, for their services at the polling place. Such payment shall be made within two days after the date of the Tribal election.
- 3. Election officials shall not express any preference for any candidate. [TCR 20-132]

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5-210 Stickers.

1. Ballots shall be secret and shall be cast by dropping into a locked ballot box.
2. The use of stickers shall not be recognized as a legal method of voting for any Tribal election and shall disqualify the ballot.

5-211 Campaigning. Campaigning within one hundred feet of the polling place is prohibited.

5-212 Alcohol. Any member under the influence of alcohol or controlled substance shall not be eligible to vote. The members of the reservation election board shall make all determinations under this Section and their majority decision shall be final. A person who cannot legibly register his/her name on an official registration form is deemed under the influence of alcohol or controlled substance. [TCR 86-116]

5-213 Loitering. No loitering on the premises of the polling place shall be permitted during voting hours or during the official tallying of the results.

5-214 Election tampering.

1. It shall be an offense, defined as “election tampering,” for:
 - A. Any voter to vote more than once at our election;
 - B. To place more than one ballot in the ballot box for the same candidate; or
 - C. Issue, or to campaign within one hundred feet of the polling place.
2. The person shall be charged with a misdemeanor, and the sergeant-at-arms shall have the prerogative to call the appropriate law enforcement officers and file charges against the individual on behalf of the Tribal Council.
3. In the event election tampering has indeed taken place, the Tribal Council shall declare the election invalid, and shall hold another election which shall be held within ten days after the date of the invalidation.
 - A. The rules and regulations as set forth in this Section shall govern any subsequent election held because of election tampering.
 - B. No Primary Election shall be necessary; the names of the candidates on the ballots of the invalidated election shall appear on the ballot. [TCR 86-116]

5-215 Alternates or substitution. The Tribal Council shall have the right to appoint a substitute or an alternate for any or all reservation election board members who are unable to serve or to carry out the duties of their offices as prescribed in this Article.

5-216 Placement on Primary Election Ballot.

1. Any person meeting the qualifications for office may seek to be placed on the Primary Election ballot by filing a Notice of Intent with the Chief Administrative Officer no later than the first Monday in August nor earlier than the first Monday in July. The Notice of Intent shall be on a form promulgated by the Tribal Council and shall state that the person filing seeks to be placed upon the ballot for the Primary Election.
2. The Chief Administrative Officer, or his designee, shall ensure that the Notice of Intent, along with any applicable fee as set forth in (c), or a petition as provided in (d), meets the of this Article. If the requirements of this Article are met, the Chief Administrative Officer shall accept the Notice of Intent and the person filing said notice shall be declared a candidate for election and shall be so notified. This determination shall be made within ten days of receipt of the Notice of Intent. A determination that a Notice of Intent meets the requirements of this Article shall be final and may not be reversed. If the Chief Administrative Officer determines that the Notice of Intent

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does not meet the requirements set forth in this Article, he/she shall so state in writing, specifically setting forth the reasons the notice cannot be accepted, and shall so inform the person filing the Notice of Intent via United States mail within ten days of receipt of the Notice of Intent. In the event the Chief Administrative Officer determines that said Notice of Intent or required submission is defective, the person filing the Notice of Intent shall be given the opportunity to cure any defects. Provided, such person shall not be allowed to cure any defects after the last day in which a Notice of Intent may be filed. Any such determination that a Notice of Intent is defective may be appealed to the Winnebago Tribal Council within five days after the determination is made. The decision of the Winnebago Tribal Council shall be final.

3. Any person filing to be a candidate for an open Tribal Council position must file a Notice of Intent along with a fee of fifty dollars (\$50.00). This fee shall be used to defray the costs of the Tribe holding the Primary and Regular Tribal Elections.
4. In lieu of the fee set forth in (c), a person may accompany a Notice of Intent with a petition setting forth at least fifty (50) signatures from persons eligible to vote in the Primary Election. Said petition shall be on a form promulgated by the Tribal Council and shall state that those persons signing support the candidacy of the person filing the Notice of Intent. Said petition must be filed with the Notice of Intent.
5. Any person filing a Notice of Intent must include the results of a ten-panel drug test, paid for by the Tribe, taken prior to submitting the Notice of Intent. [TCR 20-132]

5-217 Absentee ballots for Primary Election. Absentee ballots for the Primary Election shall be mailed out no later than the last Monday in August.

5-218 Primary election. Caucuses shall no longer be employed as the method by which the Tribe chooses who will be placed on the ballot as its candidates for election to the Winnebago Tribal Council. Instead there is hereby implemented a Primary Election to determine the candidates to be placed on the ballot in the Regular Election. The Tribe shall conduct a Primary Election on the first Tuesday of September. Said election shall be conducted in accordance with this Article. The six candidates for election receiving the highest number of votes in the Primary Election shall be placed on the ballot for the Regular Election. In the event of a tie for the sixth highest number of votes, all such persons tying for the sixth spot on the ballot shall be placed upon the ballot for the Regular Election.

5-219 Absentee ballots for Regular Election. Absentee ballots for the Regular Election shall be mailed out no later than the last Monday in September.

5-220 Regular Election. The Regular Election shall be held on the first Tuesday after the first Monday in October in accordance with this Article.

5-221 Term of office. The three candidates receiving the highest number of votes in the Regular Election shall be declared elected for a term of three years. In the event a tie vote is received by more than three candidates on the ballot and this causes a question as to whom shall be seated, Section 5-223 of this Article shall apply.

5-222 Runoff election.

1. If candidates should receive an equal amount of votes cast in the Regular Election, which would be the determining factor as to who shall be seated, a runoff election shall be held not more than ten days after the date of the election.
2. In the event a tie is still received after the second runoff election, the candidates shall draw lots to determine who shall be seated on the Tribal Council; this shall be done under the supervision of the Tribal Council. The words "Tribal Council" for the purpose of this Section shall be defined as those members whose term of office had not expired at the date of the election and those who had

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successfully won a seat on the Tribal Council at the just-held election who have taken the oath of office.

3. The Tribal Council as defined in this Section 5-223(2), and the reservation election board members who supervised the just-held Tribal Council election shall also establish and supervise the runoff election or elections, as the case may be, following the same rules and regulations as set forth in this Section.
4. Unexpired terms to fill all vacancies on the Tribal Council shall be filled at the discretion of the members of which will, within thirty days, appoint a replacement for said vacancy.
5. Each Tribal Council member's term of office expires on the date of the election (immediately) following his/her tenure in office.
6. In the event of a tie for the third and fourth seats on the Tribal Council, there being a fourth seat vacant due to the death, resignation or removal of a Tribal Council member during his/her first or second year of office, the Tribal Council shall supervise the drawing of lots between the two parties to determine which member shall serve the full three-year term, and which member shall serve the remaining year(s) of the vacant seat. [TCR 86-116]

5-223 Certification and Oath of Office.

1. The reservation election board shall certify to each newly elected member of the Tribal Council of his/her election by mailing a certified, registered, return receipt requested letter (Exhibit #9) to each newly elected Tribal Council member. This shall be done within twenty-four hours from the date of the election.
2. The oath of office (Exhibit #10) shall be administered within forty-eight hours after the return of the registered letter is received by the Tribal Council or the Tribal office. The oath of office shall be administered by any officer qualified to administer an oath.
 - A. The newly elected Tribal Council members shall meet within ten days of the receipt of such certification and shall proceed to organize as provided in the Constitution, Article III, Section 3.
 - B. A majority of the Tribal Council as constituted after the election shall set the date, time and place to organize by notifying all Tribal Council members by an announcement which shall be certified with a return receipt requested (Exhibit #11). The letters shall be signed by a majority of the Tribal Council members.

5-224 Election Code Amendments. There shall be no amendments to this Article 2, Title 5, 90 days prior to the Primary Tribal Election by resolution or any other method of amendment. [TCR 20-132]

5-225 Emergencies. In the event of an emergency, as defined by this Article, the Tribal Council may adjust the election process with the commitment to execute fair and transparent elections. The Tribal Council must take all precautions to protect the right to vote in the Tribal election process and ensure the due process of the candidates. [TCR 20-132]