

WINNEBAGO TRIBAL CODE
TITLE 5

TITLE 5
TRIBAL GOVERNMENT

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(As amended and restated August 22, 2012)

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As amended and restated August 22, 2012
[TCR #10-114; 11-125; 12-127]

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5-100 Definitions.

1. “Applicant” is any person who submits an application for membership in the Winnebago Tribe of Nebraska, prior to approval or denial of the application.
2. “Base Roll” is the 1934 official census roll of the Winnebago Tribe of Nebraska, or the January 1, 1935 supplement thereto.
3. “Burden of Proof” is the responsibility of the applicant to provide all required documentation and sufficient evidence proving eligibility for enrollment in the Winnebago Tribe of Nebraska.
4. “Certificate of Degree of Indian Blood” (CDIB) is the official document issued by a Tribal Enrollment Department or Bureau of Indian Affairs (BIA) stating a tribal member’s degree of Indian blood.
5. “Descendant” is a person who directly descends from a person listed on the Base Roll of the Winnebago Tribe.

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6. “Disenroll” or “Disenrollment” is the official act of removing a member’s name from the Membership Rolls of the Winnebago Tribe of Nebraska by Tribal Council action and without a voluntary request from the member.
7. “Dual Enrollment” is a person enrolled in two (2) or more federally recognized tribes or nations. The Winnebago Tribe of Nebraska prohibits dual enrollment.
8. “Enrollment Department” is the agency of the Winnebago Tribe of Nebraska responsible for the duties set forth in this Article unless this Article specifically provides otherwise.
9. “Enrollment Resolution” is an official Tribal Council resolution granting tribal membership to a person who is eligible for tribal membership and approved for enrollment by the Tribal Council.
10. “Enrollment Staff” is any employee of the Enrollment Department.
11. “Enrollment Specialist” is the person designated by the Tribe to direct the operations of the Enrollment Department.
12. “Financial Benefit” is any monetary or tangible property benefit received by a person as a member of a federally recognized Indian tribe, not including inheritances.
13. “Membership Roll” is the official alphabetical listing of the names of individuals enrolled in the Winnebago Tribe of Nebraska as that listing is maintained by the Enrollment Department.
14. “Relinquish” or “relinquishment” is the official act of removing a member’s name from the Membership Roll of the Winnebago Tribe of Nebraska upon the voluntary request of the member.
15. “Tribal Enrollment Committee” or “TEC” is the official body designated by the Tribal Council to provide oversight of all enrollment affairs of the Tribe as set forth in the Tribal Enrollment Code.
16. “Tribal Member” is a person formally recognized as a member of the Winnebago Tribe of Nebraska who possesses at least one-fourth (1/4) degree Indian blood, including Winnebago Indian blood and blood of another federally recognized Indian tribe. [TCR 10-114, 12-127]

5-101 Tribal Enrollment Committee. The Tribal Council shall appoint an enrollment committee consisting of five members and shall establish terms of office for the committee members. The Tribe may hire an Enrollment Specialist or such other persons or employees as necessary to assist with the duties of the Enrollment Department. The TEC shall be responsible for:

1. Establishing enrollment procedures pursuant to this Article, which shall be recorded in a document entitled “Winnebago Tribal Enrollment Department Policies & Procedures.”
2. Receiving and evaluating enrollment applications, and submitting recommendations for enrollment action to the Tribal Council.
3. Certifying documents attesting to the eligibility and ineligibility of applicants.
4. Presenting eligible applicants to the Tribal Council for approval of membership and/or adoption.
5. Recommending policy changes to the Tribal Council when necessary.
6. Ensuring the public trust by maintaining confidentiality of enrollment records and guaranteeing equal treatment and due process to all applicants.
7. Maintaining a current and accurate Membership Roll that reflects the addition of new members, the death of all deceased persons with date of death, and the disenrollment or relinquishment of membership with the effective date of such event.

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8. Correcting typographical and other clerical errors to maintain the roll as accurately as possible, including but not limited to dates of birth and changes of names and family relationships, provided such corrections are supported by irrefutable proof and further that the Bureau of Indian Affairs shall be notified of such corrections. Any corrections which affect a person's membership status must be submitted to the TEC for review and recommendation to the Tribal Council and shall further be subject to the appeal provisions authorized by this Article.
9. Adding to the Membership Roll the names of any persons whose name appears on the Base Roll. [TCR 10-114, 12-127]

5-102 Determination of membership, enrollment. Pursuant to Article II of the Winnebago Tribal Constitution, the membership of the Winnebago Tribe of Nebraska shall consist of the following:

1. All persons of Indian blood whose names appear, or are entitled to appear, on the April 1, 1934 official census roll of the Winnebago Tribe of Nebraska, or the January 1, 1935, supplement thereto: provided that those persons who possess Winnebago Indian blood and blood of another tribe have not elected to be enrolled with the other tribe; and provided further that those persons of Indian blood of tribes other than Nebraska Winnebago, whose names appear on the basic roll as "N. E." shall not be considered as members of the Winnebago Tribe of Nebraska; and provided further that persons of Winnebago Indian blood after the date of the basic roll and prior to the date of this amendment, may be enrolled if by January 1, 1967, they submit to the Tribal Council a request, in writing, accompanied by such evidence as is necessary to determine their qualifications for enrollment; and provided further that any Indian who may be eligible for membership in the Winnebago Tribe of Nebraska, who has received an allotment of land, or received financial benefits as a member of another tribe, shall not be enrolled. *[As changed by Amendment No. I, effective April 18, 1963]*
2. All persons who have been validly adopted as members of the Winnebago Tribe of Nebraska prior to the date of this amendment is approved by the Secretary of the Interior. *[As changed by Amendment No. I, effective April 18, 1963]*
3. All children born to a member of the Winnebago Tribe of Nebraska, provided such children possess at least one-fourth (1/4) degree Indian blood, including both Winnebago Indian blood and blood of another federally recognized Indian tribe. *[As changed by Amendment, effective March 10, 2009 and replacing the prior Subsection (c) modified by Amendment No. I, effective April 18, 1963]*
4. All persons who are descendants of an enrolled Winnebago tribal member and who have one-fourth (1/4) or more degree Indian blood, including both Winnebago Indian blood and blood of another federally recognized Indian tribe who have been enrolled in tribal membership upon approval by majority vote of the tribal membership. *[As changed by Amendment, effective March 10, 2009 and replacing prior Subsection (d) added by Amendment No. VIII, effective April 11, 1968]* [TCR 10-114, 12-127]

5-103 Application for membership by member of another tribe. Any person who applies for membership who otherwise qualifies for membership but who has been enrolled as a member of another Indian tribe may be enrolled as a member of the Winnebago Tribe, provided he/she has not received a Financial Benefit as a member of another tribe (inherited interests of land or money shall not be considered financial benefits); and provided further that he/she relinquishes in writing his/her membership in the other Indian tribe; and provided further that such applicant is admitted to membership by Tribal Council resolution. Any person who repays or returns the full value of any Financial Benefit may be deemed by the TEC to have received no Financial Benefit for enrollment purposes. Any member of the Winnebago Tribe who subsequently becomes a member of another tribe and who shares in any benefits of land or money as a member of such tribe shall be disenrolled. However, any member of the Winnebago Tribe who subsequently becomes a member of another tribe but has not shared in any benefits from that

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tribe shall be given an opportunity to relinquish such other membership in order to prevent disenrollment. [TCR 10-114, 12-127]

5-104 Enrollment application; who must submit. All persons requesting membership in the Winnebago Tribe of Nebraska must file an enrollment application. [TCR 10-114, 12-127]

5-105 Filing of enrollment application. All enrollment applications must be filed with the Enrollment Department of the Winnebago Tribe of Nebraska. Application forms may be obtained by written request to the Enrollment Department. There is no deadline established for filing an enrollment application except when an enrollment deadline is authorized by the Tribal Council for specific distribution of Tribal funds or for other purposes. The enrollment eligibility and enrollment application filing deadline for a new enrollee to share in such distribution and/or other purposes will be set forth in specific rulings issued by the Tribal Council. [TCR 10-114, 12-127]

5-106 Enrollment application for minors, incompetent persons, some United States Armed Forces members. If the applicant is a minor, incompetent person, or member of the Armed Services of the United States who is stationed outside the continental United States, an application for enrollment may be completed, filed and executed by a parent, recognized legal guardian, next of kin, spouse or other person responsible for the applicant's care as the sponsor of the applicant. [TCR 10-114, 12-127]

5-107 Enrollment application; information and supporting documentation requirements; burden of proof.

1. Each enrollment application must be completed in its entirety and must contain sufficient personal information to properly determine the applicant's eligibility for enrollment.
2. Applications must provide the following information:
 - a) All names by which the applicant is known;
 - b) The address of the applicant;
 - c) The name of all Winnebago ancestors whose names appear on the Base Roll, together with the names of ancestors (if applicable) of the Ho-Chunk Nation of Wisconsin;
 - d) The name of the tribe(s) and degree(s) of Indian blood of any federally recognized tribe(s) other than Winnebago if applicable;
 - e) The signature of the applicant or sponsor; and
 - f) The date of the filing of the application.
3. The application must be accompanied by all supporting documentation necessary to establish eligibility for membership, which may include the following:
 - a) Applicant's original State-issued birth certificate, which shall be retained in the applicant's individual folder until a final enrollment decision is made;
 - b) A copy of the applicant's social security card;
 - c) A certificate of Indian blood from each federally recognized Indian Tribe claimed by applicant;
 - d) A notarized paternity affidavit, if applicable;
 - e) A court-issued judgment of paternity, if applicable;
 - f) Probate records from the U.S. Department of Interior, Bureau of Indian Affairs showing the name of a relative through whom eligibility for membership is claimed, if applicable.
4. DNA testing may be required by the TEC and such testing must be done at a certified laboratory approved by the TEC, with the cost borne by the applicant.
5. In the event a State-certified birth certificate does not exist, the TEC may review the documentary evidence on a case by case basis to determine whether enrollment requirements are met.
6. If the father's name does not appear on the applicant's State-issued birth certificate and the father possesses Winnebago Indian blood or blood of another federally recognized Indian Tribe, the

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TEC may consider, in its discretion on a case by case basis, a notarized paternity affidavit signed by the father as an acknowledgement of paternity.

7. The burden of proving eligibility for enrollment with the Winnebago Tribe of Nebraska shall be upon the applicant. The Base Roll or official documentation of enrollment by January 1, 1967, shall be authoritative in establishing blood quantum, provided that errors in blood quantum as shown on the roll may be corrected upon submission of substantiating evidence pursuant to this Article. The words “substantiating evidence” as used in this Section shall mean such evidence that a reasonable person might accept as adequate to support a conclusion. [TCR 10-114, 12-127]

5-108 Actions required of the Enrollment Staff. All applications shall be received or routed to the Enrollment Department. Upon receipt of an application, the Enrollment Staff shall take the following actions:

1. Stamp the application form with the date on which it is received and acknowledge receipt of the form in writing to the applicant.
2. Create a folder for the application and supporting documents (hereinafter referred to as the “individual folder”).
3. Ensure the application is complete. If the application is not complete, the Enrollment Department shall notify the applicant as to what is required for completion.
4. After all supporting documentation is received by the Enrollment Department, Enrollment Staff shall make a determination of blood quantum specifically by calculating Winnebago Indian blood, Indian blood from any other federally recognized Tribe, and total Indian blood.
5. Mark the application with the word “complete” and the date on which it is completed.
6. If the applicant possesses blood of any other federally recognized Indian tribe, determine possible dual enrollment.
7. Assign an application number to ensure confidentiality.
8. Record all relevant information regarding the applicant on the TEC’s ancestry review spreadsheet form.
9. Complete actions required by subsection (6), (7) and (8) of this Section 5-108 within ninety (90) days from the day the application is marked “complete.”
10. In emergency situations, expedite the processing of an enrollment application. Such applications may bypass review by the TEC and be submitted by the Enrollment Staff directly to the Tribal Council along with a written recommendation. Emergency situations are limited to cases involving the applicability of the Indian Child Welfare Act (“ICWA”) or eligibility for tribal death benefits. In the alternative, emergencies involving ICWA may be processed according to Section 5-128 of this Article and corresponding provisions in the department’s Policies & Procedures. [TCR 10-114, 11-125, 12-127]

5-109 Actions required of the TEC. Upon receipt of a completed application from the Enrollment Staff, the TEC shall take the following actions within thirty (30) days of its receipt of the applicant material from the Enrollment Staff:

1. Examines the ancestry review spreadsheet of the applicant.
2. Determine the accuracy and sufficiency of research, and identify additional action required by the Enrollment Staff or applicant.
3. Accept or reject applications in the form of a motion by the TEC.
4. Direct the Enrollment Staff to notify a rejected applicant of his/her right to request a formal review by the Tribal Council and appeal the decision to the Secretary of the Interior.
5. Direct the Enrollment Staff to submit a memorandum to the Tribal Council recommending final approval of membership for the applicants that the TEC found to be eligible for membership.

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The memorandum shall attach the TEC's motion accepting the applications at issue. [TCR 10-114, 12-127]

5-110 Actions required of the Tribal Council. The Tribal Council, at a meeting duly convened, shall:

1. Approve or disapprove recommendations received from the TEC, or, in emergency cases, the Enrollment Staff. The names of new enrollees shall be stated and published in the formal Tribal Council action approving the applicants.
2. Direct the Enrollment Staff to assign enrollment numbers to approved applicants.
3. Conduct a formal review of the application and supporting materials upon request by a rejected applicant.
4. Document all decisions by Tribal Resolution. [TCR 10-114, 12-127]

5-111 Applicants determined ineligible by the TEC; formal review by Tribal Council.

1. If the TEC determines that an applicant is ineligible for membership, the Enrollment Staff shall notify the applicant of the determination of ineligibility in writing within thirty (30) days of the TEC's action. The notification shall be sent to the last known address of the applicant by certified mail, return receipt requested. The notice of ineligibility shall state the specific reasons given by the TEC for the determination of ineligibility.
2. The notice of ineligibility shall advise the applicant of the right to request a formal review of his/her application by the Tribal Council. The request for formal review must be submitted in writing within thirty (30) days from the date the applicant received the ineligibility notice. The notice shall also advise the applicant to submit with the request any supporting evidence not previously furnished.
3. Upon receipt of a written request for a formal review, the Tribal Council shall carefully review all documentary evidence presented with the application and the request. The Tribal Council shall render its decision based solely upon the evidence submitted and the qualifications for membership pursuant to the provisions of Article II of the Constitution of the Winnebago Tribe of Nebraska. The decision of the Tribal Council shall be documented by formal resolution. The Enrollment Staff shall send an official notice of rejection or approval for enrollment to the applicant based upon the decision of the Tribal Council. [TCR 10-114, 12-127]

5-112 Rejection of application by the Tribal Council; membership appeals. Upon a formal rejection decision by the Tribal Council, the applicant shall be advised by the Enrollment Staff of the decision and of his/her right to appeal the rejection decision to the Secretary of the Interior within thirty (30) days from the date written notice of the rejection is issued, except when the appeal is mailed from outside the United States in which case the appeal must be received within sixty (60) days, pursuant to the Code of Federal Regulations, 25 CFR Part 62. The decision of the Secretary of the Interior on the appeal shall be final. [TCR 10-114, 12-127]

5-113 Distribution of trust assets or other Financial Benefits; appeals. Applicants who are determined ineligible by the TEC when a roll is being prepared for distribution of Tribal trust assets or other Financial Benefits shall be notified of their right to make an appeal to the Tribal Council. The decision of the Tribal Council regarding eligibility for distribution of trust assets or other Financial Benefits shall be final. [TCR 10-114, 12-127]

5-114 Individual folders; contents of individual folder. An individual folder shall be established for each Tribal member. This folder shall contain the following items, where applicable:

1. Applicant form;

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2. Ancestry review spreadsheet form;
3. State-issued birth certificate;
4. Copy of social security card;
5. Certification of Indian blood from each federally recognized Indian Tribe;
6. Documentation of Paternity;
7. Copy of resolutions affecting enrollment;
8. Address verification forms;
9. Correspondence;
10. Death records; and
11. Documentation of all federally recognized Indian blood, including specific calculation of the following:
 - a. Winnebago Indian blood;
 - b. Non-Winnebago Indian blood; and
 - c. Total Indian blood. [TCR 10-114, 11-125, 12-127]

5-115 Access to records.

1. The Membership Roll. Upon a request to review the Membership Roll from a Winnebago Tribal member, the Enrollment Department shall allow the Tribal member to view the Membership Roll onsite in the Enrollment Department's office. Neither the Membership Roll nor any portion thereof may be copied and/or distributed to any person or organization except upon permission of the Winnebago Tribal Council by formal action. The Tribal Council shall use discretion in using and/or releasing information from the Membership Roll for the benefit of Tribal members or Tribal programs.
2. Individual folders. Information in individual folders shall be considered confidential. It shall not be available to anyone except that individual member (or his/her legal guardian or custodial parent) and to Enrollment Staff, TEC members and Tribal Council members when such examination is necessary in considering enrollment decisions. A Tribal member may provide written authorization to the Enrollment Department allowing the department to provide a direct response to requests for information contained in his or her individual folder from entities outside of the department. The written authorization must be signed and dated by the individual member (or his/her legal guardian or custodial parent). The Enrollment Department shall respond to such requests within ten (10) days of receiving the written authorization or the request for information, whichever is received later in time. [TCR 10-114, 12-127]

5-116 Updating records. Upon receipt of appropriate documentation, the Enrollment Staff is authorized to update the Membership Roll and enrollment records. The following documentation is deemed adequate for such actions to be taken:

1. Name change — marriage license; divorce decree; court order changing name; or other government-issued document.
2. Address change — written statement signed by Tribal member or his/her guardian.
3. Death — death certificate; probate record; obituary or court order. [TCR 10-114, 12-127]

5-117 Determination of blood quantum. The degree of Winnebago Indian blood shown on the Base Roll of the Winnebago Tribe and the official base roll of the Ho-Chunk Nation shall be used in all cases for determining blood quantum of an applicant, in addition to certificates of Indian blood from other federally recognized Indian tribes and complete records of lineage. The determination of total Indian blood shall be for enrollment purposes only, and such other Indian blood shall not be characterized as Winnebago Indian blood prior to or following enrollment of the applicant. Nor shall such other Indian

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blood be characterized as Winnebago Indian blood by any descendants of the applicant. [TCR 10-114, 11-125, 12-127]

5-118 Blood quantum corrections; administrative actions; persons found to be ineligible.

1. A member may request that his/her blood quantum be corrected if he/she believes that his/her blood quantum was calculated in error or paternity was not established at the time of application, by submitting a written request to the Enrollment Department along with all supporting documentation. The request shall be processed in accordance with the department's Policies & Procedures.
2. The Enrollment Department is authorized to take administrative action to correct a blood quantum if there is reason to believe that an individual's blood quantum was calculated in error or is otherwise incorrect. The request shall be processed in accordance with the department's Policies & Procedures. Any person found to be ineligible for enrollment due to an error in blood quantum calculation at the time of enrollment, after proper notice, may be subject to disenrollment.
[TCR 10-114, 12-127]

5-119 Enrollment of persons without an enrolled parent. Persons without a biological parent enrolled in the Winnebago Tribe of Nebraska may be enrolled in the Winnebago Tribe of Nebraska in accordance with Article II Section 1(d) of the Constitution of the Winnebago Tribe of Nebraska.
[TCR 10-114, 12-127]

5-120 Relinquishment of an adult. An adult Tribal member may relinquish membership in the Winnebago Tribe of Nebraska by submitting a written, signed and notarized statement to the Enrollment Department requesting that his/her name be removed from the Winnebago Tribal Membership Roll.

1. A conditional relinquishment request may be submitted if such member is applying for membership in another federally recognized Indian tribe. Upon approval, a conditional relinquishment will be effective for a period of six (6) months or until such time as the member is accepted for enrollment in another federally recognized Indian tribe, whichever comes first. If the member is not accepted for enrollment in the other tribe within six (6) months, the conditional relinquishment shall expire and the member will be required to resubmit his/her request in order to be reconsidered for relinquishment.
2. Any member requesting relinquishment shall first satisfy any outstanding financial obligations to the Tribe, including credit loans, educational loans or any other such debts. Upon receipt of the relinquishment request, the Enrollment Staff shall confirm that all tribal debts have been satisfied.
3. Relinquishment requests shall be submitted to the TEC for review and recommendation to the Tribal Council.
4. The TEC recommendation shall be submitted in writing to the Tribal Council for final approval. The relinquishment will be effective upon Tribal Council approval.
5. An adult person who relinquishes his/her membership shall not be entitled to any individual or Tribal benefits accruing to members of the Winnebago Tribe of Nebraska on or after the date on which the Enrollment Department receives the request for relinquishment. If benefits or funds that accrued prior to the date of relinquishment exist for the benefit of the individual at the time of relinquishment, including minor trust funds, such benefits and funds are immediately forfeited beginning on the date on which the Enrollment Department receives the request for relinquishment. If a conditional relinquishment expires, the individual is entitled to benefits accruing after and including the date on which the expiration of the conditional relinquishment occurs. All forfeited benefits of any kind whatsoever shall revert to the Tribe. Such person shall

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also be permanently ineligible for membership with the Winnebago Tribe of Nebraska after relinquishment has been approved. [TCR 10-114, 12-127]

5-121 Prohibition on relinquishment of a minor. No person under the age of eighteen (18) may relinquish his/her enrollment in the Winnebago Tribe of Nebraska nor may any parent or guardian relinquish the enrollment of a minor on his or her behalf. Only upon reaching the age of majority may enrollees relinquish their membership in the Winnebago Tribe of Nebraska pursuant to procedures established by the Tribe. A person whose membership was relinquished as a minor by voluntary action of his/her parent or guardian (prior to the enactment of the prohibition on such relinquishment stated in this Section) may reapply for membership provided he/she meets current eligibility criteria. [TCR 10-114, 12-127]

5-122 False information; fraudulent acts; otherwise ineligible.

1. Any person who knowingly gives false information or otherwise engages in fraudulent acts for the purpose of gaining membership in the Winnebago Tribe of Nebraska, and, without such information or acts, is ineligible for Tribal membership pursuant to the Tribe's membership requirements at the time of enrollment shall be disenrolled.
2. Any person found to be ineligible for enrollment due to an error in blood quantum calculation at the time of enrollment may be subject to disenrollment.
3. Any person found to be dually enrolled and who, after proper notice, fails to relinquish membership in the other tribe, may be subject to disenrollment. [TCR 10-114, 12-127]

5-123 Disenrollment.

1. The Enrollment Department shall notify a person subject to disenrollment of the Tribe's intent to disenroll him/her. The notice shall state the date set for a hearing before the Tribal Council regarding the matter and shall be sent by certified mail, return receipt requested. The hearing shall be held within thirty (30) days of the notice of disenrollment. Following the hearing, whether or not the affected member makes an appearance or response, the Tribal Council shall determine if the member is to be disenrolled. The decision shall be documented in a Tribal resolution. The Enrollment Department shall notify the member of the action taken by certified mail, return receipt requested.
2. The notice shall inform the individual of the right to appeal to the Secretary of Interior within thirty days of the date of receipt of the notice, except when the appeal is mailed from outside the United States in which case the appeal must be received within sixty (60) days.
3. All benefits or funds payable by the Tribe for the benefit of the individual subject to disenrollment shall be suspended beginning on the date of the notice of disenrollment. In the event the individual is not disenrolled upon final decision by the Tribal Council, or upon conclusion of appeal proceedings, eligibility for such benefits or funds shall be restored.
4. All benefits or funds for the benefit of the individual that accrued prior to the date disenrollment shall be immediately forfeited upon the disenrollment of the individual. All forfeited benefits of any kind whatsoever shall revert to the Tribe. [TCR 10-114, 12-127]

5-124 Amendment procedures. The Winnebago Tribal Council may amend this statute by a super majority vote of all Tribal Council members at a duly convened meeting. [TCR 11-125, 12-127]

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5-125 Tribal Member Identification; Certification of Blood Quantum.

1. Tribal enrollment identification cards issued by the Tribe shall certify that the individual is an enrolled member of the Winnebago Tribe of Nebraska but shall not identify tribal blood quantum.
2. Individual tribal member blood quantum records shall be maintained by the Tribe pursuant to this Article, including calculation and documentation of Winnebago Indian blood, other federally recognized Indian blood and total Indian blood.
3. The identification of Winnebago Indian blood shall not include blood of other federally recognized Indian tribes.
4. Certification of blood quantum shall be available upon written request by a tribal member provided such certification shall specifically identify Winnebago Indian blood, other federally recognized Indian blood and total Indian blood. [TCR 12-127]

5-126 Use of Fingerprint Reader. The Enrollment Department may employ the use of a fingerprint reader to carry out its official business. The fingerprint reader shall be used only by the TEC or the Enrollment Staff for official business of the department relating to enrollment. Digital images or other replicas of or data relating to fingerprints of individuals obtained by the Enrollment Department shall be treated as confidential and shall be subject to the policy set forth in Section 5-115(2) above regarding access to records contained in individual folders. [TCR 12-127]

5-127 Claiming financial or other benefits on behalf of another tribal member. From time to time, the Tribal Council may authorize a distribution of funds or benefits having monetary value to tribal members or a subset thereof, including but not limited to stimulus payments or gift cards. If the recipient of such benefits is a minor child or an adult that has been found legally incompetent, and distribution is to be made directly to the individual and not into a minor's trust fund, then a custodial parent, legal guardian or conservator shall take possession of the benefit on behalf of the tribal member. Non-parent custodians, guardians and conservators of tribal members must provide proof of their relationship to the individual receiving the benefit in the form of a copy of a court order, a letter of appointment, or a letter from Child & Family Services or another social services agency. Such proof shall be placed in the individual folder of the minor or legally incompetent adult. [TCR 12-127]

5-128 Indian Child Welfare Act ("ICWA") cases.

1. Upon receipt of a request from the Tribal ICWA Department or its attorney, the Enrollment Department is authorized to provide membership or eligibility for membership information regarding persons who may be subject to such proceedings or investigations under the federal Indian Child Welfare Act (ICWA) or substantially similar law. A third party authorization for release of information is not required.
2. In the event such a request is received by the Enrollment Department from entities or agencies outside of the Tribe, including but not limited to courts and human services departments, the Enrollment Department shall forward it to the Tribal ICWA Department as soon as possible but in no case later than within two (2) business days of receipt. The Enrollment Department shall not provide enrollment or eligibility information directly to any outside agency in ICWA matters, but should only respond directly to the Tribal ICWA Department or its attorney.
3. The Enrollment Department is authorized to work with the Tribe's ICWA Department to establish such policies, procedures and forms necessary to facilitate efficient communication and exchange of information between the Departments.
4. Notwithstanding the limitation set forth in sub-section (2) above, the Enrollment Department is authorized to respond to requests for membership or eligibility information related to ICWA proceedings from other federally-recognized Indian tribes.

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5. The Tribe's ICWA Department shall make reasonable efforts to file applications for enrollment on behalf of children whose ICWA cases are transferred to Tribal Court jurisdiction. The Tribe, acting through an ICWA or other Child & Family Services caseworker, shall be authorized to submit such application on behalf of such minor child consistent with Section 5-106 herein. [TCR 12-127]

5-129 Notices issued to last known address. The Enrollment Department shall use an individual's last known address for any mailings or notices required by this Article or the Enrollment Department's Policies & Procedures. [TCR 12-127]

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TITLE 5
ARTICLE 2
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

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Tribal Council not less than ten days prior to the primary election for the purpose of supervising 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 one candidate for the number of vacancies. A voter may vote for a person or persons (up to the number of vacancies) 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 in the

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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 election

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- 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 requirements 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 does not meet the requirements set forth in this Article, he/she shall so state in writing, specifically

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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.

1. There shall be a Primary Election to determine the candidates to be placed on the ballot in the Regular Election.
2. The Tribe shall conduct a Primary Election on the first Tuesday of September. Said election shall be conducted in accordance with this Article.
3. The number of vacancies in the Regular Election shall determine the number of candidates placed on the Regular Election ballot. The number of candidates on the Regular Election ballot shall be equal to twice the number of vacancies on the Regular Election ballot.
4. The candidates receiving the highest number of votes in the Primary Election shall be placed on the ballot for the Regular Election whereby the number of candidates is twice the number of vacancies.
5. In the event of a tie for the last vacancy, all such persons tying for the last vacant spot on the ballot shall be placed upon the ballot for the Regular Election.
6. If the number of candidates for the Primary Election is equal to or less than twice the number of vacancies, then a Primary Election is not required to be held and all candidates shall automatically advance to the Regular Election. TCR #21-69

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.

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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.

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

2. 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.
3. Unexpired terms to fill all vacancies on the Tribal Council shall be filled as set forth herein.
4. Each Tribal Council member's term of office expires on the date of the election (immediately following his/her tenure in office.)

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]

5-226 Unexpired Seats on Ballots

1. Pursuant to Article VI, Section 3 of the Constitution and the Bylaws of the Winnebago Tribe, when a councilmember is removed from office, dies, or resigns, the Tribal Council, by a 2/3rds vote declares the position vacant and, by a 2/3rds affirmative vote, appoints a qualified individual to fill the position until the next general election.

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2. In the event there is an unexpired Tribal Council seat on the ballot for the Regular Election, such seat(s) shall be included on the ballot as one of the vacancies.
3. Voters may vote for all of the regular expired seats as well as all of the unexpired seats.
4. The next highest vote getter(s) following the vacant expired seats shall be declared elected for the unexpired seat for the remainder of the unexpired term.
5. In the event of a tie, a runoff election shall be held pursuant to Section 5-222.

5-227 Special Vote to Determine Qualified Individual to Fill a Vacancy

1. In the event a councilmember is removed from office, dies, or resigns, and the Tribal Council, by a 2/3rds affirmative vote, declares the position vacant, then a Special Vote shall be held within twenty-one (21) calendar days to determine a "qualified individual" to fill the vacancy until the next general election.
2. The Tribal Council shall establish the candidate list, provided that all such persons must meet the criteria for Tribal Council candidates set forth in Section 5-204(1).
3. The Tribal Council shall provide a certified list of candidates for the vacant position. 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 Special Vote.
4. The Tribal Council shall appoint a seven-member election board not less than ten days prior to the Special Vote. The election board shall be comprised of those offices set forth in Section 5-202(2), shall have those duties set forth in Section 5-207, and shall be compensated at the same rate provided for in Section 5-209. If practicable, the election board shall be the same persons from the most recent Regular Election unless a new election board has been appointed for the upcoming Regular Election. In such case, the election board shall be the newly appointed election board.
5. All persons on the Eligible Voter List from the most recent Regular Election shall be entitled to vote in the Special Vote.
6. A person may vote for one candidate per vacancy. Spoiled ballots shall not be counted.
7. There shall be no write-in candidates in the Special Vote.
8. The person with the highest number of votes shall be declared to be a "qualified individual" to fill the position until the next general election.
9. The Tribal Council shall vote to appoint the "qualified individual" to fill the vacant position until the next general election.
10. In the event there is a tie, the Tribal Council shall vote on the top vote getters to determine the "qualified individual." Once the "qualified individual" is determined, the Tribal Council shall vote to appoint that person to fill the vacant position until the next general election.
11. No person shall be seated unless there is an affirmative 2/3rds vote of the Tribal Council to appoint that person to fill the vacant seat.
12. Unless otherwise stated in this Section 5-227, the other provisions of Title 5, Article 2 shall apply

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[Reserved]

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5-402	Filing.		

5-400 Definitions.

1. "Candidate for Election" shall mean any person having duly filed a Notice of Intent as set forth in 5-402, and said Notice of Intent having been accepted by the Chief Administrative Officer of the Tribe.
2. "Notice of Intent" shall mean the document set forth in 5-402. Said document shall be on a form promulgated by the Tribal Council containing the following language and signed by the person seeking to become a candidate for election:

I, _____, pursuant to Title V, Article 4 hereby declare my intent to be a candidate for election to the Winnebago Tribal Council. I certify that I meet the qualifications to be a candidate as set forth in 5-204 of the Winnebago Tribal Code. I further tender with this Notice of Intent a filing fee/petition (circle one) as required by Sections 5-403 & 5-404 of the Winnebago Tribal Code. [TCR 98-19]

5-401 Repealed [TCR 98-19, 16-122]

5-402 Filing.

1. Any person meeting the qualifications for office may seek to be placed upon the Primary Election ballot by filing a Notice of Intent with the Chief Administrative Officer no later than the first day of August in the year the person seeks to be placed on the ballot, and not earlier than the first day of July of said year.
2. The Chief Administrative Officer, or his designee, shall ensure that the Notice of Intent, along with any applicable fee as set forth in 5-403, or a petition as provided in 5-404, meets the requirements 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. If the Chief Administrative Officer determines that the Notice of Intent does not meet the requirements set forth in this Article, he 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. 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 such defects. Provided, such person shall not be allowed to cure any defects after the last day by which a Notice of Intent may be filed. [TCR 98-19]

5-403 Fees. (Declare Fees are non-refundable). Any person filing a Notice of Intent to be a candidate must accompany the Notice of Intent with a fee of seventy-five dollars (\$75.00). Said fees shall be used to defray the costs of holding the primary and regular elections. [TCR 98-19]

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5-404 Petition in lieu of fees. Any person filing a Notice of Intent to be placed upon the primary election ballot, in lieu of the fee set out in 5-403, may file a petition setting forth at least seventy-five (75) signatures from persons eligible to vote in the upcoming Regular 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. [TCR 98-19]