# TITLE 5
# TRIBAL GOVERNMENT

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# TITLE 5
# TABLE OF REVISIONS

The following table is included in this title as a guide for determining whether each article properly reflects the current version. This table will be updated with the revision of each article.

Through usage and supplementation, pages in bound titles can be inserted and removed when sections are revised on an article-by-article basis. This table should be placed before the Table of Contents in the title.

The "Article" column lists each article, and the "Section" column lists any corresponding sections that have been revised, in sequence. The "Revised Date" column reflects the effective date of the revision (e.g., "6/20/15"). If an article is not listed in the table, it has not been revised since the December 2015 Winnebago Tribal Code update and distribution.

| **Article** | **Section** | **Revised Date** |
|---|---|---|
| 2 | 5-218 | 8/9/16 |
| 4 | 5-401 | 8/9/16 |
| 5 | comprehensive | 5/26/20 |
| 5 | 5-205, 5-222(4), 5-226, 5-227 | 1/19/2021 |
| 5 | 5-218 | 2/06/2021 |
| 2 | comprehensive | 3/20/2025 |

# TITLE 5
# TRIBAL GOVERNMENT

## ARTICLE 1
## ENROLLMENT
(As amended and restated August 22, 2012)


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# TITLE 5
# ARTICLE 1
# ENROLLMENT

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.

# TITLE 5
# ARTICLE 2
# ELECTIONS
(As revised March 20, 2025)


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**5-201 Eligible Voters.** Any recognized member of the Winnebago Tribe eighteen (18) years of age and over and who has maintained residence within the reservation for a period of six (6) consecutive months prior to the date of the General Election shall be a qualified voter.

1. Residence, for the purpose of this Article, shall be defined as physical presence within the reservation for six (6) consecutive months immediately preceding the date of election, except those 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 (12) 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 (6) 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 (12) months but who maintained residence within the reservation for a period of six (6) 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.
3. Any person who resides within the boundaries of the Winnebago Indian Reservation for six (6) consecutive months immediately prior to reaching eighteen (18) years of age, and who otherwise meets the qualifications to be an eligible voter, will be automatically registered to vote for the next scheduled election after the person reaches eighteen (18) years of age.

4. Any person who is not listed on the Eligible Voter List, and who otherwise meets the qualifications to be an eligible voter, may complete a Tribal Voter Registration with supporting documentation to the Chief Administrative Officer of the Tribe, or their designee. The Tribe shall be empowered to verify the information provided by any person registering to vote.
5. 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 eighteen (18) years of age between the dates of the Primary Election and General Election and otherwise meet the definition of an eligible voter. Said persons shall be considered eligible voters for the General Election but shall not be considered eligible voters for the Primary Election, nor shall their names be counted toward the seventy-five (75) signatures required for a petition in Section 5-214(4) of this Article.
6. The inclusion or omission of a voter's name on the Eligible Voter list may be challenged by any physical resident member of the reservation within five (5) business days following posting of the Eligible Voter List. Challenges shall be in writing. The Tribe shall be empowered to verify any information included in the challenge. The Chief Administrative Officer of the Tribe, or their designee, shall provide written notice to any individual whose inclusion or omission on the Eligible Voter List has been challenged by certified mail sent to the latest address provided to the Tribe. The challenged individual may, by request, dispute challenge before the Tribal Council at a duly called Tribal Council meeting. 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. [TCR 04-07, 25-130]

**5-202 Election Board.**

1. Election Board members. The Tribal Council shall appoint a seven (7) member Tribal Election Board annually by random draw among individuals on the most recently approved Eligible Voter List to hold Election Board offices, as designated by the Tribal Council, for the purpose of supervising elections to be held under this Article.
2. Each Election Board member shall serve on the Election Board until the Tribal Council appoints a successor, the Election Board member resigns, or the Election Board member is removed in accordance with this Article.
3. All Election Board members shall be administered an oath of office.
4. All Election Board Members must be qualified voters for Winnebago tribal elections and their name must appear on the Eligible Voter List.
5. The Tribal Election Board offices shall be:
   a. Two (2) judges.
   b. Two (2) clerks.
   c. One (1) sergeant-at-arms.
   d. Two (2) alternates.
6. Duties of the Tribal Election Board:
   a. The Office of the General Counsel shall conduct training for the Election Board to ensure they receive adequate knowledge of their duties under this Article and provide Election Board members a copy of this Article. All Election Board members are required to read this Article before Election Day.
   b. The Election Board shall permit any eligible voter whose name appears on the "Eligible Voter List" of the Winnebago Tribe of Nebraska to vote at the polls once in each election.
   c. Each person desiring to vote at the polls shall sign in 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.

d. Only those qualified voters whose names appear on the Eligible Voter List of the reservation shall be entitled to vote in the election.

7. The Chief Administrative Officer of the Tribe shall maintain a Standby Election Board List made up of all prior Election Board members. The Tribal Council shall have the right to appoint any individual from the Standby Election Board List, who is otherwise eligible to serve on the Election Board, to serve as a substitute for any or all Election Board members who are unable to serve or carry out the duties of their offices, and when there is no alternate available, on the day of any election.

8. If an Election Board member becomes ineligible to serve on the Election Board or otherwise fails to carry out their Election Board duties, the Tribal Council may remove such Election Board member.
   a. In the event an Election Board member resigns or is removed, an alternate shall fill the vacant position until such time as the Tribal Council appoints a new Election Board member to the vacant position, at which time the alternate will return to the office of alternate. [TCR 86-116, 01-105, 20-132, 25-130]

**5-203 Notice of Election.** The Chief Administrative Officer of the Tribe, or their designee, shall prepare a notice 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, social media, and television may also be used. The notice of election shall be posted in those places provided for herein not less than ten (10) days prior to the election. [TCR 25-130]

**5-204 Qualification of Candidates.**

1. A candidate for the Tribal Council shall:
   a. Be twenty-five (25) 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 residence within the boundaries of the Winnebago Reservation for a minimum of six (6) 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 position for reasons of theft, stealing, misappropriation of funds, embezzlement, conversion or any related offense from the Winnebago Tribe of Nebraska and its entities.
   e. Not have been convicted of the following felony crimes under 18 U.S. Code §1153, or an equivalent crime under the laws of any state:
      i. Murder; or
      ii. Manslaughter; or
      iii. Kidnapping; or
      iv. Maiming; or
      v. Sexual abuse under 18 U.S. Code §109A; or
      vi. Incest; or
      vii. Assault under 18 U.S. Code §113; or
      viii. Assault against an individual who has not attained 16 years: or
      ix. Felony child abuse or neglect; or
      x. Arson; or
      xi. Burglary; or
      xii. Robbery; or

xiii. Larceny under 18 U.S. Code §661.

f. Provided, however, any person who has received a pardon for conviction of a crime listed in Section 5-204(1))(e) of this Article shall not be prohibited from being a candidate based on such conviction.

g. Be a registered voter on the Eligible Voter List prior to any election.

h. Submit the results of a 10-panel drug test and paid for by the Tribe, taken within twenty-four (24) hours prior to the date of submission.

i. Consent to a release of information allowing the Tribe to verify that the person is an eligible candidate under this Article, which may include but is not limited to a criminal background check and contacting previous employers.

2. The Tribal Council shall provide a certified listing of qualified candidates for office on the Tribal Council. The Chief Administrative Officer of the Tribe, or their designee, shall ensure a list of candidates is posted in respective locations as defined in Section 5-203 of this Article at least seven (7) days prior to the election. A copy of this Article shall also be posted in the polling place at least seven (7) days prior to the election. [TCR 04-07, 15-106, 20-132, 25-130]

**5-205 Ballots.**

1. The Chief Administrative Officer of the Tribe shall provide the Election Board with official printed ballots. The names of qualified candidates shall appear on the official printed election ballots in alphabetical order by last name. A person may vote for up to one candidate per the number of vacancies.
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 on which stickers have been used as a method of voting for a candidate shall be considered spoiled ballots and shall not be counted. No ballot shall be considered spoiled solely because less than three (3) names have been marked.
3. The Election Board shall certify the number of votes cast, the number of spoiled ballots, and the final results of the election. [TCR 21-56, 25-130]

**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 Chief Administrative Officer of the Tribe, or their designee, at least ten (10) days prior to the date of the election.
2. The Chief Administrative Officer of the Tribe 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 Tribal Election Board, c/o Chief Administrative Officer of the Tribe, 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 envelope marked "Absentee Ballot."

_____
(Notary Public)

3. Upon receipt, by the Chief Administrative Officer of the Tribe or their designee, of the absentee ballot in the special pre-addressed envelope, the Chief Administrative Officer of the Tribe, or their designee, shall immediately secure the unopened envelope which shall be given to the 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 Chief Administrative Officer of the Tribe. Absentee ballots must be received by the Chief Administrative Officer of the Tribe, or their designee, who shall furnish them unopened to the Election Board not later than the closing of the polls at 8:00 p.m. on Election Day to be counted. The Chief Administrative Officer of the Tribe, or their designee, shall maintain a record of absentee ballots mailed or delivered, to whom mailed or delivered, the date of mailing or delivery, 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 Election Board at the time the absentee ballots are turned over to them by the Chief Administrative Officer of the Tribe, or their designee, and they shall certify the absentee ballots were received unopened. The 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. [TCR 25-130]

**5-207 Conduct of Elections.**

1. The Election Board shall supervise the general conduct of elections. The Chief Administrative Officer of the Tribe shall provide an alphabetical list of approved eligible voters by last name to the Election Board. The 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 and notify 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 Election Board to verify, in the presence of the other members of the Election Board, that the ballot box is empty of all ballots prior to the opening of the polls and the ballot box shall be locked.
4. The Election Board shall be responsible for the secrecy of voting and shall ensure that ballots be kept secret and are cast by inserting into the locked ballot box.

5. The judges shall:
   a. Count the ballots provided by the Chief Administrative Officer of the Tribe.
   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 Chief Administrative Officer of the Tribe 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 to be filed in Court for election tampering.
   h. Assure the proper tally of all votes cast in the election on the tally sheet.
   i. 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 Chief Administrative Officer of the Tribe or their designee, who shall retain them for a period of ten (10) years in a secured storage area and thereafter shall have them destroyed.
6. The clerks shall:
   a. Assist the judges in carrying out the responsibilities of the Election Board.
   b. Be assigned all record-keeping duties.
   c. Assist the voters by:
      i. Confirming each voter is on the approved Eligible Voter List.
      ii. Providing eligible voters with a ballot.
      ii. By obtaining the signature and other required data, of each eligible voter on a register.
      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.
   d. Assist in the tally of votes cast.
7. The sergeant-at-arms shall:
   a. Be responsible for maintaining the orderly conduct of the election and for enforcing the provisions of this Article.
   b. Have the authority to remove disorderly, disruptive persons or persons deemed intoxicated as defined under Section 5-211 of this Article.
   c. Have the prerogative to call the proper law enforcement officers and, if necessary, refer the case to the Winnebago Tribal Court for prosecution.
   d. Prior to the opening of the polls, ensure all candidate campaign materials are removed within one hundred (100) feet of the polling place.
8. The alternates shall:
   a. Be responsible for temporarily carrying out the duties of any office or any Election Board member who is unable to complete their duties on the day of an election.
   b. Attend any trainings or meetings as required by the Election Board.
   c. Be available to report to the polling place within one (1) hours' notice on any election day as needed. [TCR 86-116, 20-132, 25-130]

**5-208 Polling Place.** The Whirling Thunder Wellness Center Gym, Winnebago, Nebraska, shall be used as the polling place in all Tribal elections, and it shall be open from 8:00 a.m. until 8:00 p.m., 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. [TCR 25-130]

**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 Chief Administrative Officer of the Tribe or their designee.
2. The Tribal Council shall be responsible for ensuring all meals and snacks are provided, 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 a stipend, in an amount determined by the Tribal Council, to each of the Election Board officials and any support staff assisting on the day of the Tribal election or any Special Election, for their services at the polling place. Such payment shall be made within two (2) days after the date of the Tribal election.
3. Election officials shall not express any preference for any candidate. [TCR 17-112, 20-132, 25-130]

**5-210 Campaigning.** Campaigning within one hundred (100) feet of the polling place is prohibited.

**5-211 Intoxication.** Any member under the influence of alcohol or controlled substances shall not be eligible to vote. The members of the Election Board shall make all determinations under this Section and their majority decision shall be final. [TCR 86-116, 25-130]

**5-212 Loitering.** No loitering on the premises of the polling place shall be permitted during voting hours or during the official tallying of the results.

**5-213 Election Tampering.**

1. It shall be an offense, defined as "election tampering," for:
   a. Any voter to vote more than once at the election;
   b. To place more than one ballot in the ballot box for the same candidate or Issue; or
   c. To campaign within one hundred (100) 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 (10) days after the date of the invalidation.
   a. The provisions set forth in this Article 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, 25-130]

**5-214 Placement on Primary Election Ballot.**

1. Any person who meets 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 of the Tribe or their designee 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 on the ballot for the Primary Election.

2. The Chief Administrative Officer of Tribe or their designee shall accept the Notice of Intent. The Chief Administrative Officer of the Tribe shall ensure that the Notice of Intent, along with any applicable fee as set forth in 5-214(3), or a petition as provided in 5-214(4), meets the requirements of this Article. If the requirements of this Article are met, the Chief Administrative Officer of the Tribe shall declare the person filing as a candidate for election and that person shall be so notified. A determination that a Notice of Intent meets the requirements of this Article shall be made within ten (10) days of receipt of Notice of Intent and shall be final and may not be reversed. If the Chief Administrative Officer of the Tribe determines that the Notice of Intent 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 (10) days of receipt of the Notice of Intent. In the event, the Chief Administrative Officer of the Tribe 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 (5) 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 non-refundable fee of seventy-five dollars ($75.00). This non-refundable fee shall be used to defray the costs of the Tribe holding the Primary and General Tribal Elections.
4. In lieu of the fee set forth in Section 5-214(3) of this Article, a person may accompany a Notice of Intent with a petition setting forth at least seventy-five (75) 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. [TCR-20-132, 25-130]

**5-215 Absentee Ballots for Primary Election.** Absentee ballots for the Primary Election shall be mailed out no later than the last Monday in August.

**5-216 Primary Election.**

1. There shall be a Primary Election to determine the candidates to be placed on the ballot in the General Election.
2. The Tribe shall conduct a Primary Election on the first Tuesday in September. Said election shall be conducted in accordance with this Article.
3. In the Primary Election a voter may vote for a person or persons not appearing on the published ballot, also known as a write-in candidate, by writing the name of said person or person legibly on the ballot.
4. The candidates receiving the highest number of votes in the Primary Election shall, be placed on the ballot for the General Election whereby the number of candidates is twice the number of vacancies, except that any write-in candidate receiving sufficient votes to advance to the General Election will not be placed on the General Election ballot until the Tribal Council verifies the write-in candidate is a qualified candidate.
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 on the ballot for the General 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 General Election. [TCR 16-122, 21-69, 25-130]

**5-217 Write-In Candidates as Qualified Candidates.** To be considered a qualified candidate, any write-in candidate who received enough votes to be placed on the General Election ballot:

1. Must meet the requirements of Section 5-204 of this Article; and
2. Failure of a write-in candidate to complete the required drug test or release of information required under Section 5-204 of this Article within twenty-four (24) hours of the Primary Election will result in the write-in candidate not being verified as a qualified candidate; and
3. If it is determined by the Tribal Council that the write-in candidate does not meet the requirements of a qualified candidate under Section 5-204 of this Article, they shall not be considered a qualified candidate; and
4. In the event a write-in candidate receives enough votes to be placed on the General Election ballot but fails to be verified as a qualified candidate, the candidate in the Primary Election with the next highest votes will be placed on the General Election ballot, in accordance with the provisions of this Article. [TCR 25-130]

**5-218 Absentee Ballots for General Election.** Absentee ballots for the General Election shall be mailed out no later than the last Monday in September. [TCR 25-130]

**5-219 General Election.**

1. The General Election shall be held on the first Tuesday after the first Monday in October in accordance with this Article.
2. The number of Tribal Council vacancies to be filled in the General Election shall determine the number of candidates that will advance from the Primary Election to the General Election. The number of candidates on the General Election ballot shall be equal to twice the number of Tribal Council vacancies to be filled in the General Election.
3. A person may vote for up to one candidate for each vacancy. During the General Election, write-in candidates are prohibited; a person may not vote for anyone who does not appear on the ballot. [TCR 25-130]

**5-220 Term of Office.** The three (3) candidates receiving the highest number of votes in the General Election shall be declared elected for a term of three (3) years. In the event a tie vote is received by more than three (3) candidates on the ballot, and this causes a question as to whom shall be seated, Section 5-221 of this Article shall apply. [TCR 25-130]

**5-221 Runoff Election.**

1. If candidates should receive an equal number of votes cast in the General Election, which would be the determining factor as to who shall be seated, a runoff election shall be held not more than ten (10) 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 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 Section 5-221(2) of this Article, and the 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 requirements as set forth in this Section.

4. Unexpired terms to fill all vacancies on the Tribal Council shall be filled as set forth herein. Each Tribal Council member's term of office expires immediately on the date of the election following his/her tenure in office. [TCR 86-116, 21-55, 21-56, 25-130]

**5-222 Certification and Oath of Office.**

1. The Election Board shall certify to each newly elected member of the Tribal Council of his/her election by delivering a letter to each newly elected Tribal Council member. This shall be done within twenty-four (24) hours of the date of the election.
2. The oath of office shall be administered within forty-eight (48) hours after the delivery of the letter. 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 (10) 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 written notice. The notice shall be signed by a majority of the Election Board members. [TCR 25-130]

**5-223 Election Code Amendments.** There shall be no amendments to Article 2, Title 5, within ninety (90) days prior to the Primary Tribal Election by resolution or any other method of amendment. [TCR 20-132, 25-130]

**5-224 Emergencies.** In the event of an emergency, 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, 25-130]

**5-225 Unexpired Seats on the Ballot.**

1. Pursuant to Article VI, Section 3 of the Constitution and Bylaws of the Winnebago Tribe, when a council member is removed from office, dies, or resigns, the Tribal Council, by a two-thirds (2/3) affirmative vote, declares the position vacant and, by a two-thirds (2/3) affirmative vote, appoints a qualified individual to fill the position until the next General Election.
2. In the event there is an unexpired Tribal Council seat on the ballot for the General 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 candidate with next highest number of votes following the vacant expired seats shall be declared elected and shall be appointed 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 5-221 of this Article. [TCR 21-56, 25-130]

**5-226 Special Election to Determine Qualified Individual to Fill a Vacancy.**

1. In the event a council member is removed from office, dies, or resigns, and the Tribal Council, by a two-thirds (2/3) affirmative vote, declares the position vacant, then a Special Election 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 Chief Administrative Officer of the Tribe, or their designee, shall establish the candidate list, provided that all such persons must meet the criteria for Tribal Council candidates set forth in Section 5-204 of this Article.
3. The Chief Administrative Officer of the Tribe, or their designee, shall provide a certified list of candidates for the vacant position. The Chief Administrative Officer of the Tribe or their designee 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 Election.
4. The Chief Administrative Officer of the Tribe, or their designee, shall notify the Election Board not less than ten (10) days prior to the Special Election.
5. All persons on the Eligible Voter List from the most recent General Election shall be entitled to vote in the Special Election.
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 Election.
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 at a duly convened Tribal Council meeting to appoint the "qualified individual" to fill the vacant position until the next General Election. No person shall be seated unless there is an affirmative two-thirds (2/3) vote of the Tribal Council to appoint that person to fill the vacant seat.
10. In the event there is a tie for the vacant position, the Tribal Council shall vote to determine which of the individuals tied for the vacant position shall be 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. Unless otherwise stated in this Section 5-226, the other provisions of Title 5, Article 2 shall apply. [TCR 21-55, 25-130]

**5-227 Forms.** The Tribal Council, in coordination with the Chief Administrative Officer, shall promulgate all such forms as are necessary to carry out the intent of this Article. [TCR 25-130]

# TITLE 5
# ARTICLE 3

[Reserved]

# TITLE 5
# ARTICLE 4

[REPEALED]