



**NOTTAWASEPPI HURON
BAND OF THE POTAWATOMI**

A FEDERALLY RECOGNIZED TRIBAL GOVERNMENT

**NOTTAWASEPPI HURON BAND OF THE POTAWATOMI
RESOLUTION NO. 12-14-23-11**

Adoption of Revised NHBP Election Code

WHEREAS: On December 21, 1995, the Department of the Interior recognized the Nottawaseppi Huron Band of the Potawatomi, as a federally recognized Indian Tribe pursuant to the Federal Acknowledgment Process (60 Fed. Reg. 66315);

WHEREAS: Article III, Section 3.13 (A)(14) of the Tribe's Constitution empowers the Election Board to make recommendations to Tribal Council to modify, change, or alter the existing election code as to better suit the needs of the tribal members, ensure the democratic process, and adhere to the 7 Grand Father Teachings;

WHEREAS: The Election Board acknowledges and respects the Constitutional authority Tribal Council possesses to accept and, if deemed appropriate, make any additional modifications to these revisions;

WHEREAS: The Election Board is authorized, under Section 3.1-13(B) to contract with an independent third party to assist the Board in carrying out any of its duties under the Election Code; to wit, the Election Board utilized the services of the Jacobson Law Firm. The Election Board and Jacobson Law has collaborated to review, modify, and edit numerous sections the existing NHBP Election Code that were found to be deficient, lacked clarity and lacked objectiveness in the election process; 5

WHEREAS: To solicit comments from the tribal membership, the Election Board hosted three separate listening sessions held in August 2023 at the Pine Creek Reservation, the community center in Grand Rapids, and also in Grand Haven;

WHEREAS: To further solicit tribal member comments, several election code drafts were posted on the NHBP Members Only webpage, each with consecutive 30-day comment periods. Additionally, the initial draft was mailed to the homes of tribal members to solicit comment and a special letter was sent to the homes of tribal elders, all to solicit comments on these proposed changes. In all, the NHBP had more than 60 days to comment on these proposed revisions;

NOW THEREFORE IT IS RESOLVED THAT: The Tribal Council accepts this finalized recommendation to the NHBP Election Code (attached as Exhibit 1), and the Tribal Council hereby exercises their authority to accept all or part of these recommendations to produce an final instrument that demonstrates the tribe's sovereignty through the electoral process in Indian Country.

THEREFORE BE IT RESOLVED that the Tribal Council hereby adopts the amendment to the Gaming Code as presented in Exhibit A.

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CERTIFICATION

On December 14, 2023, this resolution was approved at a duly called regular meeting of the Tribal Council, a quorum being present, by an affirmative vote of 3 members, 0 opposing, 2 absent, and 0 abstaining, this 14th day of December 2023.



Nancy Smit, Secretary



Jamie P. Stuck, Chairperson

Distribution: Government Records
Finance Department
Election Board

*NHBP Government Records Certified Copy
True Certified Copy Shall Be Embossed
Signed by J. Stuck
Date 12/15/23*

The following Code does not display images or complicated formatting. Codes should be viewed online. This tool is only meant for editing.

Chapter 3.1

Elections

[HISTORY: Adopted by the Tribal Council of the Nottawaseppi Huron Band of the Potawatomi 9-20-2012 by Res. No. 09-20-12-02 (Title III, Ch. 1, of the Tribal Code); amended in its entirety 1-31-2019 by Res. No. 01-31-19-01. Subsequent amendments noted where applicable.]

Article I

Title; Purpose; Authority; Definitions

§ 3.1-1 Title.

The following law shall be known as the "Nottawaseppi Huron Band of the Potawatomi (NHBP) Tribal Election Code" (code).

§ 3.1-2 Purpose.

- A. The purpose of this code is to ensure that NHBP Elections are:
- (1) Consistent, fair, efficient, conducted in harmony with Bodéwadmi, and guided by the Seven Grandfather Teachings; and
 - (2) Conducted in accord with Constitutional requirements.
- B. Unless otherwise specified, all NHBP Elections are subject to the same rules as Tribal Council Elections.
- C. In carrying out its Constitutional authority to govern NHBP Elections, the Election Board shall be guided by the Seven Grandfather Teachings:
- (1) Wisdom.
 - (2) Love.
 - (3) Respect.
 - (4) Bravery.
 - (5) Honesty.
 - (6) Humility.
 - (7) Truth.
- D. The NHBP Membership, including current elected officials, Candidates, voters, and other persons

participating in the Election process, shall also be guided by the Seven Grandfather Teachings and Bodéwadmi in performing any activities.

§ 3.1-3 Authority.

The Tribal Council hereby promulgates this code under the authority delegated to it by Article V, Section 2(b), of the NHBP Constitution. The code sets forth the rules and regulations the Election Board deems necessary to properly conduct both regularly scheduled and Special Elections pursuant to the NHBP Constitution.

§ 3.1-4 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ABSENTEE BALLOT

A ballot used by an Eligible Voter to cast a vote in a NHBP Election from a location other than at the officially established polling location or locations on Election day. This document is mailed to all Eligible Voters at each voter's address on record with the NHBP Enrollment Office, and must be returned by the Eligible Voter and must be received by the Election Board no later than 5:00 p.m. one (1) Business Day before the Election day.

BAND, TRIBE, or NHBP

The Nottawaseppi Huron Band of the Potawatomi.

BUSINESS DAY

Monday, Tuesday, Wednesday, Thursday, and Friday, excluding recognized federal or NHBP holidays on which the NHBP government is closed or days in which the NHBP government is closed due to inclement weather or unforeseen circumstances.

CALENDAR DAY

Every day in a month, including weekends and United States and NHBP holidays. When the term "day" is used without specifying calendar or Business Day, it shall mean "Calendar Day."

CAMPAIGN

A concerted, organized effort or group of activities in support of, or opposition to, a Candidate or prospective Candidate for Election, a Referendum, an Initiative, a Constitutional amendment, or a recall.

CAMPAIGN MATERIAL

Any literature, publication, or material that is disseminated for the purpose of influencing voting in an Election, a Referendum, an Initiative, a Constitutional amendment, or a recall.

CAMPAIGNING

Organized, concerted, or other activities taken for the primary purpose of persuading voters to vote for or against a particular result in an Election. Campaigning includes activities such as canvassing voters, giving speeches or presentations to groups of voters, and all other activities which may reasonably be considered as being designed to bring about a particular result in an Election.

Campaigning shall not mean a Member exercising their free speech to address or respond to

governmental grievances during a public comment segment available for Members during Tribal Council or General Membership meetings, subject to appropriate time, place, and manner restrictions established by Tribal Council.

CANDIDATE

A Member shall be deemed a candidate within the meaning of this code, on the date that the Election Board receives the Member's Declaration of Candidacy with the Election Board pursuant to § 3.1-7. A Member shall continue to be deemed a candidate within the meaning of this code until the sooner of: a determination of ineligibility by the Election Board or the Election Hearing Officer, a written notice of withdrawal of candidacy is received by the Election Board, or the Election is completed, including all available appeals.

COMPLAINT

An Election Board document that describes the facts and legal reasons supporting an Election Dispute or Election Challenge against the party or parties alleged to have committed a civil or criminal violation of this code or other violation of NHBP law related to a Campaign, and that is investigated and prosecuted at a hearing before the Election Board.

CONSTITUTION or CONSTITUTIONAL

The NHBP Constitution.

CONTRIBUTION

A monetary or In-Kind Donation to a Campaign.

DEFAMATORY STATEMENT

A materially false statement, made with knowledge of its falsity or reckless disregard for its truth, which causes reputational damage to another person.

ELECTION

An NHBP General or Special Election.

ELECTION BOARD OR BOARD

Comprises five Eligible Voters who are not Tribal Council members and who are appointed by the Tribal Council pursuant to Article V, Section 2(a), of the Constitution.

ELECTION CHALLENGE

A dispute that directly challenges the integrity or accuracy of the outcome of an Election, based on a violation of this code or NHBP law, and seeks a new Election.

ELECTION DISPUTE

A dispute, other than an Election Challenge, that involves an alleged or proven civil or criminal violation of this code or other violation of NHBP law related to a Campaign.

ELIGIBLE VOTER LIST

A list of all Eligible Voters furnished to the Election Board by the Enrollment Office and maintained by the Election Board.

ELIGIBLE VOTER

An individual who is a duly enrolled Member who has or will have attained the age of 18 years on the date of an Election.

ENROLLMENT OFFICE

The functional department within the NHBP government with administrative responsibility for maintaining the records relating to enrollment.

FINAL DISCLOSURE STATEMENT

A form disclosing final Campaign Contribution numbers that is filed with the Election Board within five (5) Business Days after the date of an Election.

GENERAL ELECTION

A regularly scheduled Election, held once every two (2) years in the month of April in conjunction with the annual meeting of the general Membership, to fill vacant or expiring Tribal Council seats.

IN-KIND DONATION

A Contribution that includes any item or personal service donated in support of a particular Candidate or slate of Candidates, including, without limitation, paper or stamps for mailing, hosting space or food charges for a fund-raising event, or public relations and Campaign consulting advice.

INITIATIVE

A process by which voters may petition Tribal Council for enactment of a proposed resolution, statute, or other action permitted under the NHBP Constitution.

INITIATIVE PETITION

A petition that contains signatures and attaches a proposed resolution, statute, or other action that a Member submits to the Election Board for Tribal Council or Membership consideration.

MALFEASANCE

Includes:

- A. A conviction or a plea of guilty or nolo contendere regarding any felony criminal offense or any other criminal offense involving dishonesty or moral turpitude;
- B. A substantial violation of the code of ethics;
- C. Failure to uphold or violation of the oath taken under § 3.1-52 of this code; or
- D. Misconduct in office that threatens the integrity or public image of the Board.

MEMBER

A person meeting the requirements of the Enrollment Code and named on the Membership roll pursuant to Article III of the NHBP Constitution.

MEMBERSHIP

All of the NHBP Members.

MISFEASANCE

Includes any substantial or repeated failure to exercise authority or discharge responsibilities in conformity with this code or the NHBP Constitution.

NHBP EMPLOYEES

Employees of the NHBP government or other NHBP Tribal Enterprises, including the FireKeepers Hotel and Casino.

NHBP NEWSLETTER

The Turtle Press or other NHBP newsletter of general circulation.

NHBP SUPREME COURT

The NHBP court of appellate jurisdiction, as established in the NHBP Constitution, Article XI.

NONFEASANCE

Includes the persistent failure to perform the duties of the office, including failure to attend a significant number of meetings.

PRELIMINARY DISCLOSURE STATEMENT

A form filed with the Election Board no later than fourteen (14) Business Days before the date of an Election disclosing all Campaign Contributions received up to twenty-one (21) Business Days before the date of an Election.

PRIMARY ELECTION

A formal Election held by the Election Board in anticipation of a General or Special Election, in which all or some Eligible Voters take part that narrows down a field of Candidates for Tribal Council.

REFERENDUM

A process by which the Tribal Council may present to the Membership any proposed statute or resolution for enactment by majority vote of the Eligible Voters.

RESIDENTIAL UNIT or RESIDENTIAL LOT

A unit or lot leased or assigned to NHBP Members, such as apartment units (including common areas) and/or lots leased or assigned to NHBP Members under a NHBP-administrated rental or homeownership program.

SEVEN GRANDFATHER TEACHINGS

The custom and traditional teachings of the NHBP people that are to guide individual Members, the Election Board and the NHBP government as a whole: Wisdom, Love, Respect, Bravery, Honesty, Humility, and Truth.

SPECIAL ELECTION

An Election, other than a regularly scheduled General Election, to vote on:

- A. A vacant Tribal Council seat;
- B. A Referendum;
- C. An Initiative;
- D. A Constitutional amendment;
- E. A recall petition; or
- F. Some combination of these.

SPOILED BALLOT

Any ballot that is torn, damaged, mismarked, unreadable, invalid, or that is otherwise deemed to violate the ballot instructions or NHBP law.

TALLY SHEET

A record, including a record in electronic form, that reflects the number of votes cast in each Election.

TRIBAL COURT

The NHBP court of general jurisdiction as established in the NHBP Constitution, Article XI.

TRIBAL ENTERPRISE

A building or other real property owned by the NHBP or a NHBP-chartered business entity (owned now or in the future), including the FireKeepers Hotel and Casino.

TRIBAL GOVERNMENT BUILDING

Any building or structure housing the office of any NHBP Employee, or at which NHBP government or community meetings are held, NHBP government program activities are conducted, or NHBP Member services are delivered.

WORK EXPERIENCE

Paid or unpaid work activity performed on a part-time or full-time basis that affords the opportunity to develop work habits, and vocational and other employment-related skills.

Article II

Voter and Candidate Eligibility

§ 3.1-5 Voter eligibility.

All duly enrolled Members of the NHBP who have or will have attained the age of 18 years by the date of an Election shall be eligible to vote in Elections governed by this code.

§ 3.1-6 Candidate eligibility for Tribal Council.

A. Under Article IV, Section 4, and Article III, Section 4, of the NHBP Constitution, a Member is eligible to be a Candidate in a Tribal Council Election if he or she:

- (1) Is twenty-one (21) years of age or older;
- (2) Possesses a high school diploma or its equivalent;
- (3) Possesses an associate's degree or higher or, in the alternative, has three (3) years of combined Work Experience or military experience;
- (4) Has not been convicted of, or pleaded guilty or no contest to, any felony, or any crime involving theft or fraud, violence against persons, or a sex offense within the last eight (8) years;
- (5) Has not been sentenced to a prison term of one (1) year or longer within the last eight (8) years;
- (6) Has not been removed or recalled from any salaried, elected, or appointed office within the last ten (10) years, where such conduct does not result in a conviction or plea in a court of competent jurisdiction;
- (7) Has not become a Member of NHBP through the adoption procedure set forth in Article III, Section 4, of the Constitution; and
- (8) Does not have a spouse, parent, legal guardian, legal ward, child, or sibling on the Tribal Council for any portion of the time they would serve on Tribal Council.

B. The burden of establishing the qualifications for Candidate eligibility is on the Candidate or prospective Candidate.

§ 3.1-7 Candidate declaration process for Tribal Council.

- A. Any Member who wishes to declare his or her candidacy, or his/her designee, shall pick up a candidacy declaration packet, prepared by the Election Board, at a NHBP government office (Pine Creek Administration Building or northern office in Grand Rapids).
- B. If a designee picks up a packet on behalf of the Member who wishes to declare candidacy, a designee is required to have a notarized letter from the Member authorizing the designee to pick up the packet on the Member's behalf.
- C. Candidacy declaration packets shall include, and each Member who wishes to declare candidacy shall complete, the following forms:
- (1) A Constitutional certification form which shall contain a written certification that the Member meets all of the Constitutional candidacy requirements set forth in § 3.1-6;

- (2) A declaration of candidacy form which shall contain a statement that the Member is formally declaring candidacy;
 - (3) Background information forms; and
 - (4) Any form the Election Board in its discretion deems necessary to carry out the Election Board's duties under this code or the Constitution.
- D. Candidacy declaration packets shall be available thirty (30) days before the deadline to declare candidacy.
- E. A Member declares candidacy when the Member completes and turns in all forms required under § 3.1-7(C) to the Election Board by the deadline to declare candidacy.
- F. The deadline for declaring candidacy shall be 5:00 p.m. on the first full Business Day of November before the next General Election.
- (1) In the event a Special Election is to be held within one hundred eighty (180) days from a vacancy on Tribal Council in accordance with § 3.1-23, the Election Board shall set a deadline for declaring candidacy and shall provide Members notice of such deadline at least thirty (30) days prior to the deadline.
- G. Any Member who fails to complete all forms required under § 3.1-7(C) by the deadline for declaring candidacy shall be ineligible for the next scheduled Election.
- (1) The Election Board's requests for additional evidence or forms under § 3.1-8(A) shall not make any Member's declaration of candidacy untimely.
- H. A Member is prohibited from using NHBP equipment or e-mail addresses for completing and submitting the required forms.

§ 3.1-8 Certificate of candidacy.

- A. The Election Board shall review all candidacy declaration packets and may request additional evidence or request the Candidate complete additional forms.
- (1) If the Election Board requests additional evidence or forms, the Member shall provide the Election Board with the evidence or completed forms within seven (7) Business Days of receiving such request.
- B. The Election Board shall conduct background investigations to verify that each Candidate meets the requirements in this code and the Constitution for candidacy.
- C. The Election Board shall consult with the NHBP Enrollment Office to verify the enrollment status of Candidates and to confirm that the Candidates are qualified to hold elected office under Articles III and IV of the Constitution.

- D. If the Election Board determines that the Candidate is qualified, it shall issue a signed certificate of candidacy to the Candidate within ten (10) days of making that determination.
- E. If the Election Board determines that the Candidate is not qualified, it shall notify the Candidate within ten (10) days of its receipt of the facts or legal grounds for his or her ineligibility.
- F. The decision of the Election Board as to whether a Candidate is eligible shall be final.
 - (1) Notwithstanding § 3.1-8(F), if a Candidate makes a false statement in connection with their application for candidacy that materially affects the Candidate's certification, the Candidate may be removed from the ballot after a hearing and final decision is rendered in accordance with Article VIII of this code.

§ 3.1-9 Candidates and Campaigning.

- A. Before each General Election, the Election Board shall publish a list of Candidates in the January edition of the NHBP Newsletter that includes each Candidates':
 - (1) Contact information;
 - (2) Biographical information; and
 - (3) If the Candidate chooses, a personal statement.
- B. The Election Board shall schedule a "Meet the Candidates Forum" to be held in the Community Center on the Pine Creek Reservation and such other locations as the Election Board may designate. The Election Board shall announce the date and location of any "Meet the Candidates Forum" by the deadline for Candidates to declare their candidacy. All certified Candidates shall appear at that forum and be given an equal amount of time to make statements and to answer questions from the NHBP Membership. The Election Board shall also provide an adequate opportunity, either as part of the "Meet the Candidates Forum" or at a separate event, for Tribal Members to ask questions directed at individual Candidates and to allow the Candidates to respond.
- C. The Election Board may receive questions from Members prior to a "Meet the Candidates Forum." The Election Board may review the submissions to ensure obscene language or confidential information about other individuals is not contained in the question. However, the Election Board may not otherwise remove any questions from the pool of submissions that will be available for the "Meet the Candidates Forum." The Election Board is also prohibited from preselecting any questions to present to the Candidates during the "Meet the Candidates Forum." All questions must be compiled and randomly selected during the "Meet the Candidates Forum."
- D. The Election Board may hold the "Meet the Candidates Forum" in the NHBP Community Center, if held after regular business hours and with the approval of the Election Board and Chief Executive Officer. Campaign Materials may be posted and may be available for NHBP Members to pick up in the room during the Candidate forum, provided that all such materials are removed within one hour after the conclusion of the forum.

- E. Candidates may distribute Campaign Materials to a mailing list of all Eligible Voters by submitting their materials to the Election Board for mailing no later than fourteen (14) Business Days prior to an Election. Candidates are required to pay all costs associated with the mailing of Campaign Materials, including the costs of copies, envelopes, labels, and postage. A Candidate may use a specific printing vendor of their choice if they notify the Election Board of the printing vendor upon submission of Campaign Materials. The NHBP Enrollment Office shall supply address labels with the current mailing address of all Eligible Voters to the Election Board when requested to do so by the Election Board. This Subsection does not prohibit Candidates from mailing Campaign Materials to NHBP Members on their own.
- F. This § 3.1-9 does not prohibit Members from mailing Campaign Materials to NHBP Members on their own.
- G. All other forms of Campaigning shall be the sole responsibility of the Candidates. No form of Campaigning is prohibited unless specifically prohibited by this code or NHBP law.

§ 3.1-10 Campaigning Regulations and Prohibitions.

- A. Candidates, supporters of Candidates, and other persons acting on a Candidate's behalf should conduct their activities in a positive manner and in accordance with the Seven Grandfather Teachings of Wisdom, Love, Respect, Bravery, Honesty, Humility, and Truth.
- B. No person shall make a Defamatory Statement about a Candidate in connection with a Campaign for Election.
- C. All Campaign Materials must conspicuously include the name of the Candidate or other person(s) or entities who sponsored, paid for, or is otherwise responsible for the materials, as part of the following endorsement:

“[Name] endorses this message.”

- D. No Campaigning of any kind may be conducted in, nor may Campaign Materials be posted in, any NHBP government building or Tribal Enterprise, or in the parking lots (including on parked vehicles) or in other common areas (including entrances, sidewalks, and yards) of such buildings.
- E. No Campaigning may take place within 100 feet of any building serving as a NHBP polling place on Election day.
- F. NHBP Members and Candidates may engage in Campaign activities, which are not otherwise prohibited by these regulations, on property owned by the NHBP, if the Campaign activities occur within:
 - (1) Residential Units or Residential Lots leased or assigned to NHBP Members, such as apartment units (including common areas);
 - (2) On lots leased or assigned to NHBP Members under a NHBP-administered rental or homeownership program; or

(3) On any commercial lots leased or assigned by NHBP, such as school or church property, as permitted by the lessee.

- G. Candidates who are NHBP Employees may not engage in any Campaign activities during their assigned working hours. Candidates who are NHBP Employees may, however, Campaign while on vacation or personal time. Scheduled paid breaks are considered working hours for purposes of this restriction. Scheduled unpaid breaks, such as lunch breaks, are not considered working hours provided that no NHBP Employee shall conduct Campaign activities in the workplace or on property otherwise prohibited under this § 3.1-10. Candidates, NHBP Employees, and all other persons are prohibited from using any NHBP government or Tribal Enterprise property, including phones, facsimile machines, the NHBP website, NHBP government e-mail, and office supplies for Campaign activities. Except as otherwise provided in this Section, no Campaign-related material will be accepted for publication in the NHBP Newsletter.
- H. NHBP Employees and elected representatives are prohibited from using their official positions or access to obtain mailing addresses and e-mail addresses of NHBP Members for the purpose of distributing Campaign Materials. No Candidate or Candidate supporter may knowingly distribute Campaign Materials in physical or electronic form to addresses that have been obtained in violation of this Subsection.
- I. Tribal Council Members are prohibited from Campaigning for or against any Candidate or ballot Initiative while engaging in official NHBP business, while appearing in an official capacity, or in the NHBP Newsletter or other mailing subsidized by NHBP funds. This Subsection is not intended to prevent a Tribal Council Member from Campaigning on the Tribal Council Member's personal time and using the Tribal Council Member's personal funds.
- J. Members and Candidates may engage in Campaigning that is not otherwise prohibited by this code, including but not limited to, Campaigning for or against an Initiative, a Referendum, a Constitutional Amendment, or a Candidate.
- K. Candidates or other persons with questions about Campaigning may seek a determination from the Election Board regarding the permissibility of such activities by submitting a written request to the Election Board. The Election Board or its designee shall respond to such requests within fourteen (14) days of the request.

§ 3.1-11 Campaign finances.

- A. In keeping with the Seven Grandfather Teachings, Bodéwadmí, and the notion that the Anishinaabe people should live a balanced life within the community, certain restrictions on Campaign donations and contributors are necessary in order to protect and maintain the integrity of the Election process and prevent undue outside influence from nonmembers.
- B. Candidates may solicit and accept Campaign Contributions from Members, provided they are fully and timely disclosed on an appropriate Preliminary or Final Disclosure Statement.
- C. Candidates may not solicit or accept Contributions from nonmembers, unless those individuals are related by blood or marriage to the Candidate, provided they are fully and timely disclosed on an

appropriate Preliminary or Final Disclosure Statement.

- D. No person who is not a Member of the NHBP, or related by blood or marriage to the Candidate, may make a Contribution or donation of money, in-kind services, or other thing of value to a Candidate, or make an express or implied promise to make such a Contribution or donation, in connection with an Election.
- E. Candidates shall file both a Preliminary and a Final Disclosure Statement. Both forms will be provided by the Election Board.
 - (1) For any monetary Contribution from a Member, the Preliminary or Final Disclosure Statement shall state the Contribution amount and the name of the donor.
 - (2) For any monetary Contribution from a nonmember, the Preliminary or Final Disclosure Statement shall state the Contribution amount, the name of the donor, and the donor's relationship to the Candidate.
 - (3) For any In-Kind Donation from a Member, the Preliminary or Final Disclosure Statement shall state the estimated value of the In-Kind Donation, the name of the donor, and a description of the service.
 - (4) For any In-Kind Donation from a nonmember who is related by blood or marriage to the Candidate, the Preliminary or Final Disclosure Statement shall state the estimated value of the In-Kind Donation, the name of the donor, the donor's relationship to the Candidate, and a description of the service.
- F. A Candidate's Preliminary Disclosure Statement, disclosing all Contributions received up until twenty-one (21) Business Days before the Election, shall be filed with the Election Board no later than fourteen (14) Business Days before the Election.
- G. A Candidate's Final Disclosure Statement, disclosing all Contributions received in connection with the Campaign, shall be filed with the Election Board within five (5) Business Days after the date of the Election.
- H. If a Candidate did not receive any Contributions, his or her Preliminary or Final Disclosure Statement may state, "No Campaign Contributions received."
- I. Any Candidate who fails to file the Preliminary or Final Disclosure Statement within the time period set forth in this Section shall be assessed a fine of \$25 per day for each day the statement is late. In addition:
 - (1) Any Candidate who fails to file a timely Preliminary Disclosure Statement within five (5) Business Days of the Election may be subject to further penalty upon the filing of a Complaint in accordance with the procedures set forth in Article VIII of this code.
 - (2) Any prevailing Candidate who fails to file a timely Final Disclosure Statement shall be

prohibited from taking the oath of office until the required report is filed with the Election Board.

- J. Any alleged violations of Campaign finance requirements shall be resolved in accordance with the procedure established by this code to resolve Election Disputes.

Article III Election Board

§ 3.1-12 Appointment and term.

- A. The Tribal Council shall appoint an Election Board every three (3) years; provided that appointments to the Board shall be made in a manner that staggers the term of office for any position on the Election Board so that the terms of no more than two (2) Election Board members, not including alternates, terminate in any single calendar year. The appointments shall be made in years that Elections are not being held. Members of the Election Board may only be removed by the Tribal Council for cause.
- B. The Election Board shall consist of five (5) Election Board members and two (2) alternates, all of whom must be Members and Eligible Voters.
- C. The Election Board shall prepare an annual budget proposal for approval by the Tribal Council. The budget shall include amounts needed to cover all costs and expenses associated with the activities of the Election Board. Election Board members and alternates shall each receive a stipend at a monthly rate that is commensurate with duties and responsibilities of the Election Board.
- D. The Election Board members shall select a Chairperson, Vice Chairperson, and a Secretary amongst themselves.
- E. Except as provided in Subsection A above, Election Board members shall serve for a term of three (3) years or until a successor is selected and appointed by the Tribal Council. Board members may be appointed for successive terms.
- F. Any Board member who resigns, is removed, or is unable to serve will be replaced by the Tribal Council. The alternate Board members shall be given the first opportunity to take the vacated seats. Should the alternates decline, the Tribal Council shall attempt to recruit or designate a replacement within thirty (30) days after the vacancy occurs. If, however, a quorum is needed to take action on any matter that requires action or approval by the Election Board before a vacancy can be filled, one (1) or both alternate Election Board members shall automatically be "deemed appointed" to temporarily serve as a voting member of the Election Board until an individual is formally appointed by the Tribal Council to fill the vacant seat.
- G. If there is only one vacancy requiring "deemed appointed" status or one vacancy requiring appointment by the Tribal Council, the Election Board alternate who meets one of the following criteria, whichever is met first, will serve or be given the first opportunity to serve:
- (1) Has the senior most status, as defined by appointment date, if the alternates were appointed

at different times;

- (2) Has a greater length of total service for consecutive appointments; or
- (3) Has greater attendance at Election Board meetings in the last twelve-month period.

H. Any Election Board member who becomes a Candidate for Tribal Council shall immediately resign from the Election Board.

§ 3.1-13 Officers and duties.

A. Chairperson. The Chairperson of the Election Board shall:

- (1) Schedule all meetings of the Election Board as needed;
- (2) Provide notice of all meetings to all Election Board members and alternates;
- (3) Preside at all Election Board meetings;
- (4) Supervise the publication of the initial notice of Election and final notice of Election;
- (5) Maintain a list of the Absentee Ballot information;
- (6) Prepare a Tally Sheet to be used at the Election; and
- (7) Along with the Secretary, cosign the certification of the Election results.

B. Vice Chairperson. The Vice Chairperson shall:

- (1) Assist the Chairperson as called upon;
- (2) Preside over Election Board meetings in the absence of the Chairperson; and
- (3) Act temporarily in the role of Chairperson whenever the Chairperson is absent or unavailable.

C. Secretary. The Secretary shall:

- (1) Assist the Chairperson as called upon;
- (2) Keep minutes of all Election Board meetings;
- (3) Develop the agenda of the Election Board;
- (4) Maintain all records of the Election Board; and
- (5) Along with the Chairperson, cosign the certification of the Election results.

D. Alternates. The alternates shall:

- (1) Serve as a replacement for any Election Board member who resigns, is removed, or is otherwise unable to serve.
- (2) Assist the Election Board, as needed, with Election day and pre-Election day activities.

§ 3.1-14 Board duties and Board member removal.

A. The Election Board shall carry out its duties in compliance with Article V of the NHBP Constitution, this code, and any additional duties prescribed by the Tribal Council. These duties shall include the following, without limitation:

- (1) To publish and post notice of all General and Special Elections for seats on the Tribal Council, Referendum or Initiative proposals, recalls, and Constitutional amendments;
- (2) To prepare both regular and Absentee Ballots;
- (3) To compile a list of Eligible Voters before the polls open from the Enrollment Office;
- (4) To supervise activity at the polls;
- (5) To certify the eligibility of Candidates for Tribal Council in General and Special Elections and appointments in the event of vacancies;
- (6) To verify the eligibility of every person who wishes to vote and to supervise the distribution of one ballot to each Eligible Voter at the polls;
- (7) To keep records of persons who vote and of the number of ballots distributed and cast at an Election;
- (8) To resolve any disputes that may arise at the polls regarding a person's eligibility to vote or balloting procedure;
- (9) To count and validate ballots and record the number of votes cast for each Candidate or for each option on the ballot;
- (10) To announce the preliminary results of an Election;
- (11) To receive Election Dispute and Election Challenge Complaints and select Election Hearing Officers;
- (12) To investigate and submit Complaints for violation of this code;
- (13) To certify the results of all Elections; and
- (14) To recommend to the Tribal Council any supplemental policies, procedures, rules, or changes in this code, which the Board believes are necessary to achieve the purpose of this

code. Any proposed Election Board policy or procedure requires Tribal Council approval. Any policies, procedures, or rules adopted by the Election Board are void and have no legal effect unless expressly adopted by Tribal Council.

- B. The Election Board may use the services of an independent third party, such as a certified public accounting firm or Election-services contractor, to assist the Election Board in carrying out any of the duties assigned to the Board.
- C. Election Board meetings shall generally be made open to the public. The Election Board may conduct closed meetings only for the limited purposes of:
 - (1) Conducting private personnel matters;
 - (2) Preventing damage to the Election Board's negotiating or bargaining position with respect to ongoing contract or business negotiations;
 - (3) To consult with its attorney regarding trial or settlement strategy in connection with specific pending litigation, but only if an open meeting would have a detrimental or financial effect on the litigation or settlement position of the Election Board;
 - (4) To review or discuss background investigation information of Candidates; or
 - (5) To consider any other material exempt from disclosure by the NHBP Tribal Government Records and Public Access Code.
- D. The Election Board may, by majority vote, request that the Tribal Council initiate a procedure for the removal of a Board member, and the Tribal Council may, on its own Initiative, initiate a removal procedure for any member of the Board by voting to initiate removal proceedings by simple majority of the Tribal Council for any of the following reasons:
 - (1) Nonfeasance;
 - (2) Misfeasance;
 - (3) Malfeasance; or
 - (4) Physical or mental disability which prevents the performance of duties.
- E. Tribal Council shall vote on whether to initiate a removal proceeding as soon as feasible after the Tribal Council is notified that the conduct or circumstance contained in § 3.1-14(D)(1)-(4) has occurred.
- F. If Tribal Council votes to initiate a removal proceeding, a hearing in the matter shall be held before the Tribal Council.
- G. Tribal Council shall serve a notice of hearing on the Board member subject to removal within three

- (3) Business Days of voting to initiate removal proceedings.
- H. The notice shall state the place and time of the hearing before the Tribal Council and shall fully describe the purpose for the hearing and all claims and allegations to be addressed at the hearing.
- I. The hearing shall be conducted within fourteen (14) Business Days after the notice of hearing has been served on the Board member subject to removal.
- J. The Board member subject to removal proceedings shall be entitled to:
- (1) Present evidence;
 - (2) Examine and cross-examine all witnesses under oath; and
 - (3) Counsel of their choice, who shall be paid for at their own expense.
- K. After the hearing, the Tribal Council may remove a member of the Election Board only after the Tribal Council determines, by majority vote, that the member is no longer fit to continue serving on the Election Board.
- L. The Tribal Council shall issue a final decision no later than seven (7) Calendar Days following the hearing. The decision shall be in writing and shall specifically identify the findings of fact and conclusions of law the Tribal Council relied on in making its decision.
- M. The Board member may seek judicial review of Tribal Council's final decision in Tribal Court.

Article IV Tribal Council Elections

§ 3.1-15 Initial notice of General and Special Elections.

- A. Unless another provision of this code provides for a different time, an initial notice of Election for General and Special Elections shall be mailed to all Eligible Voters by 5:00 p.m. on the first full Business Day in October before the Election date. The initial notice of Election may also be sent by inclusion on the NHBP website and in a NHBP Newsletter, or by a separate mailing or newsletter.
- B. The notice shall be sent to each Eligible Voter's last known address as it appears in the records of the NHBP's Enrollment Office.
- C. Once the notice has been sent to the Membership, anyone who is subsequently granted Membership must request Election notices in writing directly from the Election Board.
- D. The notice shall include the following information:
- (1) The date, time, and place of the Election;
 - (2) The number of seats on the Tribal Council to be filled;

- (3) Any other important Election-related deadlines; and
- (4) Instructions for applying for candidacy.

§ 3.1-16 Final notice of General and Special Elections.

- A. A final notice of Election for General and Special Elections shall be mailed to all Eligible Voters between twenty (20) and thirty (30) days prior to the date of the Election. The final notice of Election may be sent by inclusion in the NHBP Newsletter, or by a separate mailing or newsletter.
- B. The notice shall be sent to each Eligible Voter's last known address as it appears in the records of the NHBP's Enrollment Office.
- C. The final notice shall include:
 - (1) The date, time, and place of the Election;
 - (2) The number of seats on the Tribal Council to be filled;
 - (3) The names of all persons duly certified as eligible Candidates;
 - (4) Instructions for completing and submitting Absentee Ballots and the deadline for submitting Absentee Ballots; and
 - (5) A reminder to voters to bring photo identification if the person wishes to vote in person at the polls.

§ 3.1-17 Authority to schedule Elections.

- A. The Election Board has sole and exclusive authority under Article V, Section 2(d), of the Constitution to establish the schedule for all Elections.
- B. A full and fair Election, in which all voters come together for an equal opportunity to vote for every eligible Candidate, is most consistent with the Seven Grandfather Teachings. In order to comport with the Bodéwadmi standard of fundamental fairness as a matter of Potawatomi custom and tradition, Primary Elections are therefore prohibited.
- C. No official Election for Tribal Council, other than one duly scheduled by the Election Board pursuant to its Constitutional authority, is permitted by NHBP law.
- D. Nothing in this Section is intended to prevent Members from meeting to discuss or decide who should run for office or who Members should vote for.

Article V Ballots

§ 3.1-18 Ballots.

- A. Candidates for seats on the Tribal Council shall be listed on the ballot alphabetically by last name. Write-in votes for Candidates not listed on the ballot are not valid and will not be counted.
- B. The Election Board may, at its discretion, utilize a variety of options for voting, including electronic voting, online voting, etc., to best serve the needs of the NHBP community.
- C. All ballots, regardless of the type of ballot, shall include instructions on how to properly cast the ballot and a statement warning that improper voting or extraneous markings may spoil the ballot.
- D. A voter may cast one vote per open Tribal Council seat. If a voter votes for more Candidates than there are seats open, or casts more than one vote for the same Candidate, that ballot shall be considered spoiled and shall not be counted.
- E. Voters who require assistance to mark their ballots because of special circumstances such as physical disability or illiteracy may be assisted in voting by an Election Board member, an Election Volunteer, or by a person of the voter's choice.

§ 3.1-19 Spoiled ballots.

- A. A ballot is spoiled when, through extraneous marks or improper voting, the Election Board cannot conclude that a person voted in accordance with the instructions on the ballot and this code.
- B. Any voter who spoils a ballot shall be entitled to a new ballot upon surrender of the Spoiled Ballot to the Election Board or its designee before the polls are closed. No voter shall receive more than one additional ballot. All ballots voluntarily surrendered due to spoliation shall be secured separately.
- C. All Spoiled Ballots shall be retained until all Election Challenges have been concluded, the time period for Election Challenges has expired, and the Election results have been certified.

§ 3.1-20 Absentee Ballots.

- A. All Eligible Voters, as identified by the list provided by the Enrollment Office, will be mailed an Absentee Ballot at each address on record with the NHBP Enrollment Office by the first full Business Day in February before the General or Special Election to which the ballot applies. This mailing shall also include instructions for completing and mailing Absentee Ballots and the deadline for submitting Absentee Ballots.
- B. Absentee Ballots may be hand delivered to an Absentee Ballot drop box in a NHBP government location or locations designated and installed by the Election Board or mailed to an address as designated by the Election Board.
- C. An Absentee Ballot drop box must meet all of the following requirements:
 - (1) Be clearly labeled as an Absentee Ballot drop box.

- (2) Be securely locked and designed to prevent the removal of Absentee Ballots when locked.
 - (3) If located in an area not continually staffed, be secured to prevent the removal of the Absentee Ballot drop box from its location.
- D. If an Absentee Ballot drop box is located outdoors, it must meet the requirements of Subsection (C) and all of the following:
- (1) Be securely locked and bolted to the ground or to another stationary object.
 - (2) Be equipped with a single slot or mailbox-style lever to allow Absentee Ballot return envelopes to be placed in the drop box, and all other openings on the drop box must be securely locked.
 - (3) The Election Board must use video monitoring of the drop box to ensure effective monitoring and report to the NHBP Police Department any vandalism involving the drop box or suspicious activity occurring in the immediate vicinity of the drop box.
 - (4) The drop box must be in a public, well-lit area with good visibility.
- E. Only an Election Board member, or its designee, is authorized to collect Absentee Ballots from an Absentee Ballot drop box.
- F. Whenever an Absentee Ballot drop box is collected or an Absentee Ballot is collected from a postal service, there must be two (2) Election Board members, or their designees, present.
- G. Absentee Ballots shall be kept in a secure box separate from in-person ballots. The Election Board shall be responsible for maintaining Absentee Ballots in a secure location so as to ensure the integrity of the Absentee Ballots.
- H. No Absentee Ballot shall be counted unless received by the Election Board or its designee by 5:00 p.m. on the last Business Day before the polls open for the Election.
- I. No Absentee Ballot shall be counted if the Eligible Voter who casted the ballot shall have died prior to Election day.
- J. The Election Board, or its designee, shall make and keep a record of Absentee Ballots mailed to each voter and returned to the Election Board or its designee. This record must contain the name of the absentee voter, the address of the absentee voter, the date the ballot was issued, and the date the ballot was returned.
- K. Any person who returned an Absentee Ballot, who appears at the poll to vote in person, may do so, and their Absentee Ballot will be deemed invalid and not counted.

§ 3.1-21 Counting ballots.

- A. The counting of ballots, including the determination as to whether ballots are spoiled, shall be

conducted by the Election Board or its designee.

- B. Ballots shall be counted by the Election Board or its designee in a manner to ensure an accurate vote tally.
- C. All ballots will be destroyed after any and all Election Challenges have been concluded, the time period for Election Challenges has expired, and the Election results have been certified.

Article VI Polling Places, Timing and Regulations

§ 3.1-22 Eligible Voter List.

- A. Prior to every Election, the Enrollment Office shall furnish the Election Board with a list of Eligible Voters. The Election Board shall maintain such list and ensure the list is update prior to every Election.

§ 3.1-23 Polling places and times.

- A. Tribal Council member Election shall be held on the last Saturday in April at the annual Membership meeting for those Tribal Council seats whose term has expired.
- B. All Special Elections to fill seats on the Tribal Council for the unexpired term of office shall be held at the next scheduled annual Membership meeting, as long as the vacancy occurs by 5:00 p.m. on the first Business Day in October before the meeting is held. In all other circumstances, the Special Election to fill seats on Tribal Council shall be scheduled at least one hundred eighty (180) days from the vacancy.
- C. Polls shall be open for at least five (5) hours on the Election date between the hours of 9:00 a.m. and 5:00 p.m. The actual hours the polls will be open on the Election date shall be identified in the final notice of Election. Anyone who is standing in line at the time the polls close shall be permitted to vote.
- D. The polling places shall be the NHBP Administration Building located on the Pine Creek Reservation, and such other polling places as the Election Board shall designate in its discretion. In designating polling places, the Election Board shall seek to ensure access to the polls, promote widespread voter participation, preserve secrecy, and maintain the integrity of the Election process. The final notice of Election shall name all of the designated polling places.

§ 3.1-24 Election Volunteers.

- A. The Election Board shall have the authority to appoint Election Volunteers to assist the Election Board in carrying out its responsibilities on Election day.
- B. Election Volunteers must meet the following requirements:
 - (1) Be an enrolled Member;
 - (2) Be at least eighteen (18) years of age; and

(3) Must not be a spouse, parent, child or sibling of any Candidate.

- C. The Election Board must certify each Election Volunteer meets the criteria in § 3.1-24(B) and make a list of Election Volunteers and certifications available to Members seven (7) days prior to an Election.
- D. Each certified Election Volunteer shall execute a written oath in accordance with § 3.1-52(B).

§ 3.1-25 Voting Procedures.

- A. On each Election day, Members must present identification at the polling place, such as a tribal enrollment card or other form of identification that verifies the Member is an Eligible Voter.
- B. Each Eligible Voter shall complete a voter sign-in card.
- C. Upon completion of the sign-in card, the Eligible Voter shall present the sign-in card and identification to the Election Board or its designee. The Election Board or its designee shall then check to ensure the voter is listed upon the Eligible Voter List.
- D. If the voter's name is on the Eligible Voter List, the Election Board or its designee shall check the Eligible Voter's name off the list, initial the check mark and initial the top right of the voter's sign-in card.
- E. Upon verification that the voter is an Eligible Voter, the Eligible Voter will be given a ballot or otherwise permitted to vote.

§ 3.1-26 Polling regulations.

- A. Except as otherwise permitted by this code, no person shall Campaign or otherwise attempt to influence voters within 100 feet of any building serving as a polling place or the parking lot used to serve the polling location during hours when the polls are open.
 - (1) On Election day, the Election Board, or its designee, shall measure and mark 100 feet from any building where polling is to be held.
- B. Any person who speaks at the annual membership meeting during hours when the polls are open shall refrain from Campaigning for or against any individual or group of Candidates or ballot Initiatives.
- C. Consumption of alcoholic beverages, marijuana, narcotics, or other intoxicants at the polls and on the NHBP government campus on Election day is prohibited.
- D. All NHBP Elections shall be conducted by secret ballot. The Election Board may, in its discretion, hold a Special Election to vote on a Referendum, Initiative, recall, or Constitutional amendment by use of a mail-only balloting process.

§ 3.1-27 Deadlines.

- A. Before every General Election, the Election Board shall prominently publish a list of the following deadlines:

(1) The deadline for mailing the initial notice of Election will be 5:00 p.m. on the first full

Business Day in October before the next Election;

- (2) The deadline for declaring for candidacy will be 5:00 p.m. on the first full Business Day of November before the next Election;
- (3) The deadline for mailing Absentee Ballots to Eligible Voters will be 5:00 p.m. on the first full Business Day in February before the next Election;
- (4) The deadline for mailing the final notice of Election will be twenty (20) days before the Election; and
- (5) The deadline for the Election Board's receipt of a valid Absentee Ballot is 5:00 p.m. on the last Business Day prior to the Election.

Article VII Prohibited Conduct

§ 3.1-28 Criminal violations; fines.

A. Buying votes.

- (1) A person shall not, either directly or indirectly, give, lend, or promise money or other valuable consideration to a person as an inducement to encourage him or her to vote for or against a Candidate, or as a reward to refrain from voting.
- (2) Any person who is found guilty of violating this provision shall be subject to a fine not to exceed \$5,000.

B. Undue employer influence during a Campaign.

- (1) A person shall not, either directly or indirectly, discharge or threaten to discharge an employee of the person or the person's employer for the purpose of influencing the employee's vote at an Election.
- (2) Any person who is found guilty of violating this provision shall be subject to a fine not to exceed \$5,000.

C. Campaign defamation.

- (1) A person shall not make a Defamatory Statement about a Candidate in connection with a Campaign for Election.
- (2) Any person who is found guilty of violating this provision shall be subject to a fine not to exceed \$5,000.

D. Campaign bribery.

- (1) A person shall not attempt, by means of bribery, menace, or other corrupt means or device,

either directly or indirectly, to influence a voter's free act of voting for Candidates of the voter's own choice, or to deter a voter from voting.

- (2) Any person who is found guilty of violating this provision shall be subject to a fine not to exceed \$5,000.

E. Illegal voting.

- (1) A person shall not, in connection with an Election, falsely impersonate another person, or vote or attempt to vote under the name of another person, or attempt to induce another person to impersonate another person or attempt to vote under the name of another.
- (2) Any person who is found guilty of violating this provision shall be subject to a fine not to exceed \$5,000.

F. Making false statements in connection with voting.

- (1) A person shall not knowingly and willingly give false information to establish his or her eligibility to vote, or give false information in connection with an application for voter registration, an application for absentee voting, a candidacy declaration, or a Campaign finance disclosure.
- (2) Any person who is found guilty of violating this provision shall be subject to a fine not to exceed \$5,000.

G. Illegal absentee voting.

- (1) A person shall not, directly or indirectly, request or fill out an Absentee Ballot on behalf of another person, without that other person's signed and notarized authorization.
- (2) Any person who is found guilty of violating this provision shall be subject to a fine not to exceed \$5,000.

H. Inducement of Campaign violations.

- (1) A person shall not knowingly induce another person to violate any provision of this code with the specific intention of interfering with, or casting doubt upon the integrity of, an Election or a Candidate's Election Campaign.
- (2) Any person who is found guilty of violating this provision shall be subject to a fine not to exceed \$5,000.

I. Ballot tampering.

- (1) Aside from an authorized Member of the Election Board involved in the counting of ballots, no person who has possession of an Absentee Ballot mailed or delivered to another person

shall do any of the following:

- (a) Open the envelope containing the ballot;
 - (b) Make any marking on the ballot;
 - (c) Alter the ballot in any way;
 - (d) Destroy or dispose of the ballot; or
 - (e) Substitute another ballot for the Absentee Ballot.
- (2) Any person who is found guilty of violating this provision shall be subject to a fine not to exceed \$5,000.

J. Voter intimidation.

- (1) A person shall not directly or indirectly use or threaten force, coercion, violence, restraint, damage, harm, loss, or undue influence against an individual to compel the individual to vote for a particular result.
- (2) Any person who is found guilty of violating this provision shall be subject to a fine not to exceed \$5,000.

§ 3.1-29 Election Board authority.

If the Election Board believes that a person has violated any of the provisions in this Article VII, or any other criminal law, it may refer the matter to the NHBP police, NHBP Prosecutor, or other appropriate authority for criminal investigation and potential prosecution, investigate the matter as a civil Election Dispute under Article VIII of this chapter, or both.

Article VIII Election Disputes and Election Challenges

§ 3.1-30 Grounds for Complaints and Complaint Requirements.

A. Election Disputes

- (1) An Election Dispute may only be brought if the complainant alleges that a violation of the this code or other violation of Tribal law related to a Campaign has occurred. The complainant shall have the burden of proving, by substantial evidence, that a violation of law has occurred.
- (2) An Election Dispute Complaint must:
 - (a) State the name of the complainant;

- (b) State the name of the person or entity the Complaint is being filed against;
- (c) Specify on what grounds the Election Dispute is being made, including factual allegations of the specific conduct being complained of, citations to relevant portions of the law allegedly violated, and approximate dates the conduct took place; and
- (d) Attach any evidence that supports the allegations made in the Complaint.

B. Election Challenges.

- (1) An Election Challenge may only be brought if the complainant alleges that a violation of this code or Tribal law has occurred, and that violation has affected the fairness and integrity of the Election process to the extent the violation changed the outcome of the Election.
- (2) In an Election Challenge, the complainant shall have the burden of proving, by clear and convincing evidence, that:
 - (a) The challenged conduct violates one or more provisions of this code or Tribal law; and
 - (b) That violation has affected the fairness and integrity of the Election process to such an extent that changed the outcome of the Election.
- (3) An Election Challenge may not be based on an Election Board determination to deny a certificate of candidacy.
- (4) An Election Challenge Complaint must:
 - (a) State the name of the complainant;
 - (b) State the name of the person or entity the challenge is being filed against;
 - (c) Specify on what grounds the Election Challenge is being made, including factual allegations of the specific conduct being complained of, citations to relevant portions of the law allegedly violated, and approximate dates the conduct took place;
 - (d) Specify how the alleged violation has affected the fairness and integrity of the Election process to such an extent that changed the outcome of the Election; and
 - (e) Attach any evidence that supports the allegations made in the Complaint.

C. All Complaints must be signed by the complainant, under penalty of perjury, affirming that everything the complainant has stated is true and correct to the best of the complainant's knowledge.

- D. A Complaint may contain multiple allegations; in the event a Complaint contains multiple allegations, each allegation shall be called a claim.

§ 3.1-31 Election Board Conflicts.

- A. No Election Board Member shall participate in, oversee, or otherwise be involved in any investigation, hearing, complaint proceeding, or appeal when the Candidate being investigated, or complained of is a spouse, parent, child, or sibling of the Election Board member.

§ 3.1-32 Appointment of an Election Hearing Officer.

- A. The Election Board shall appoint at minimum one (1) Election Hearing Officer to make prima facie determinations on Complaints, conduct hearings, and make findings of fact and final decisions on Election Challenge and Election Dispute Complaints.
- B. The Election Board shall submit the names of each Election Hearing Officer to Tribal Council. Tribal Council shall approve or reject the Election Hearing Officer.
- C. The Election Board shall be responsible for all actions and decisions of the Election Hearing Officer when an Election Hearing Officer is performing the duties set forth in this Article VIII.
- D. The Election Hearing Officer, must at minimum, meet the following requirements:
- (1) Be admitted to the NHBP Tribal Court Bar;
 - (2) Be a licensed attorney in good standing in any state;
 - (3) Be familiar with and knowledgeable in NHBP law and the Seven Grandfather Teachings;
 - (4) Have at least five years of administrative law experience or one year of experience as a sitting administrative law judge, judge, referee, or magistrate;
 - (5) Is not a member or running for a Tribal Council position or a NHBP employee;
 - (6) Has attained the age of thirty (30) years; and
 - (7) Has never been convicted of or entered a plea of guilty or no contest to a violent crime, a felony, or a crime of fraud.

§ 3.1-33 Commencement.

- A. Any Election Dispute or Election Challenge may only be commenced by an Eligible Voter, Candidate, or the Election Board by submitting a Complaint to the Election Board.
- B. The Election Board may only submit a Complaint if the Election Board:
- (1) Has reason to believe, based on reliable evidence, that a potential violation occurred; or
 - (2) Has not received a Candidate's Preliminary Disclosure Statement or Final Disclosure Statement within five (5) days after the deadline for filing.
- C. Any Election Dispute must be commenced within ten (10) Calendar Days of the date the alleged Election Code violation took place.

D. Any Election Challenge must be commenced within fourteen (14) Calendar Days following Election day.

E. After a Complaint is submitted, the Election Board shall:

- (1) Notify the complainant that the Board has received the Complaint;
- (2) Send a copy of the Complaint to the respondent via certified mail, return receipt requested and via electronic transmission, if an e-mail address is available; and
- (3) Immediately transmit a copy of the Complaint to the Election Hearing Officer.

F. No fee shall be required to submit a Complaint under this Article.

§ 3.1-34 Prima Facie Determination.

A. Within five (5) Business Days of receipt of a Complaint from the Election Board, the Election Hearing Officer shall review the Complaint and any documents attached and determine if each claim sets forth a prima facie violation of law.

- (1) A claim sets forth a prima facie violation when allegations state sufficient facts to show a violation of law has occurred.
- (2) For the purposes of a prima facie determination, the facts alleged must be taken as true, without independent substantiation, provided those facts are not false or inherently incredible.

B. If the Election Hearing Officer determines that a claim sets forth a prima facie violation of law, the Election Hearing Officer shall make a written factual findings to that extent, and the matter shall proceed to a hearing as set forth in § 3.1-37.

- (1) A determination finding a Complaint alleges prima facie violation shall be final and non-appealable.

C. If the Election Hearing Officer determines that a claim does not set forth a prima facie violation of law, the Election Hearing Officer shall issue a written decision, articulating the reasons the claim fails to set forth a prima facie violation and dismiss the claim.

- (1) If one claim in a Complaint is dismissed, but the other claims survive, the dismissal may be appealed together with the surviving claims after the Election Hearing Officer's final decision under § 3.1-38.
- (2) If the entire Complaint is dismissed, the dismissal is immediately appealable, and appeal may be taken in accordance with § 3.1-41.

D. The Election Hearing Officer shall serve upon all parties and make publicly available any prima facie determination made under this Section.

§ 3.1-35 Pre-Hearing Procedure.

- A. Within three (3) Business Days after a prima facie determination has been made in each claim in a Complaint, the Election Hearing Officer shall serve each party with a notice of hearing, informing the parties of the time and place a hearing is to be held.
 - (1) The Election Hearing Officer shall provide every opportunity to allow the parties to appear at the hearing and may consider the parties' availability when setting a hearing date.
- B. The Election Hearing Officer shall hold a hearing on an Election Dispute or Election Challenge Complaint within fourteen (14) Business Days after a prima facie determination has been made.
- C. If a party is unable or unwilling to appear in a timely manner, the Election Hearing Officer shall hold the hearing without the participation of a party.
- D. Each party shall file a pre-hearing summary with the Election Board at least three (3) Business Days prior to the hearing. The pre-hearing summary shall include:
 - (1) A proposed witness list; and
 - (2) A list of the evidence and a copy of any documentary evidence the party intends to introduce at the hearing.
- E. Witnesses or documents not provided in the pre-hearing summary will not be admissible or permitted to be introduced at the hearing.
- F. The Election Hearing Officer shall transmit a copy of each party's pre-hearing statement to the other party at least forty-eight (48) hours prior to the hearing.

§ 3.1-36 Subpoenas

- A. The Election Hearing Officer may, upon application of a party to a Complaint or the Election Board, issue subpoenas to compel the appearance of witnesses who have relevant and material knowledge of the facts contained in a Complaint.
- B. A party applying for the subpoena must provide on the face of the application all of the following:
 - (1) The name and addresses of the person to be subpoenaed;
 - (2) A compelling need for the subpoena;
 - (3) The nature and summary of the testimony to be sought; and
 - (4) That the information the person to be subpoenaed will provide is not available from any other source or by less burdensome means.
- C. The Election Board may also apply for a subpoena for documents or records related to Preliminary and Final Disclosure Statements upon showing the criteria contained in § 3.1-36(B)(1)-(4).

- D. The Election Hearing Officer may issue a subpoena if first determining all of the following:
- (1) The party requesting the subpoena has shown a compelling need for the subpoena;
 - (2) The testimony sought will provide relevant and material information regarding the facts of the Complaint;
 - (3) The testimony will not be redundant of other witnesses or documents;
 - (4) The subpoena does not impose an undue burden on the prospective witness; and
 - (5) The information in the testimony sought from the prospective witness is not available from any other source or by less burdensome means.
- E. The Election Hearing Officer's refusal to issue a subpoena shall be immediately appealable to the Tribal Court for abuse of discretion.
- F. The party requesting the subpoena shall be responsible for serving the subject of the subpoena within seven (7) Business Days prior to the hearing. Failure to timely serve the subpoena on the subject shall relieve the subject of the obligation to attend the hearing or provide testimony.
- G. The party requesting the subpoena shall be responsible for its enforcement against a non-compliant subject by applying to the Tribal Court for an enforcement order. The Tribal Court is hereby granted the authority to review and to determine applications for enforcement of subpoenas issued by Election Hearing Officers.

§ 3.1-37 Hearings Procedure

- A. The Election Hearing Officer shall preside over all hearings.
- B. If a Complainant fails to appear at a hearing, the Election Hearing Officer shall immediately dismiss the Complaint without a hearing.
- (1) Dismissal of a Complaint based on a Complainant's failure to appear at a hearing shall not be appealable.
- C. All hearings shall be on the record and shall be promptly transcribed by an official reporter.
- D. The Election Hearing Officer will conduct the proceeding and rule on evidentiary matters such as the admissibility of evidence.
- E. The Election Hearing Officer shall follow the rules of evidence as applied in NHBP Court so far as practicable, but the Election Hearing Officer may admit, and give probative value to, evidence of a type that is commonly relied upon by reasonably prudent persons in the conduct of their affairs.
- F. The Election Hearing Officer may exclude irrelevant, immaterial, unduly repetitious evidence, or witnesses and evidence that was not disclosed in a party's pre-hearing summary.

G. In all hearings, the parties shall be entitled to:

- (1) Present opening and closing statements not to exceed five (5) minutes for each statement for each party;
- (2) Present witnesses and produce evidence and arguments pertaining only to the issues involved in the hearing;
- (3) Be represented by counsel of their choice, who will be paid for at their own expense; and
- (4) Examine all witnesses under oath, including cross-examination of opposing witnesses.

H. If a person who has been subpoenaed under § 3.1-36 fails to appear in response to a validly issued and served subpoena, the Election Hearing Officer shall conduct the hearing without the person and may hold a subsequent hearing within five (5) Business Days, with all parties to the Complaint present, to hear the testimony of the person that was subpoenaed.

I. If the Election Board is a named party in the Complaint, the Election Board may designate one or more individuals to act on behalf of the Election Board to prosecute the Complaint at the hearing, or appear in defense of the Election Board.

J. An Eligible Voter or Candidate who submitted the Election Dispute or Challenge will ordinarily be expected to appear as a witness. Election Board members may be called to testify.

§ 3.1-38 Procedure for Decisions after Hearings.

A. Upon conclusion of the hearing, the Election Hearing Officer shall not collect or consider any additional evidence.

B. Within fourteen (14) Business Days after a hearing on an Election Dispute or Election Challenge Complaint, the Election Hearing Officer shall issue a written final decision in the matter, which shall include a findings of fact on each claim in the Complaint, an analysis of the applicable law, and, if a violation is found, the relief issued in the matter.

§ 3.1-39 Relief in Election Disputes and Election Challenges

A. Election Disputes.

- (1) If a violation of this code or a violation of NHBP law related to a Campaign occurred, the Election Hearing Officer may order the appropriate relief. In ordering relief, the Election Hearing Officer shall consider the following factors:
 - (a) The nature of the infraction;
 - (b) Whether the subject of the Complaint has been sanctioned for similar conduct or violations;
 - (c) Whether the conduct is proscribed by NHBP criminal law;

- (d) Whether the conduct was intentional or knowing;
 - (e) The extent to which the violation impacts the integrity of the Election; and
 - (f) Any other relevant considerations.
- (2) Any penalty imposed must be no more onerous than reasonably required to remedy the harm resulting from the violation or deter future similar conduct. Potential penalties may include any of the following:
- (a) Public censure of the offending person;
 - (b) An order requiring removal of all Campaign Materials posted or distributed in violation of this code;
 - (c) A civil penalty of not less than \$25 nor more than \$250 per violation; or
 - (d) Removal of a Candidate's name from the ballot, but only if the violation involved an intentional or knowing violation of this code by the Candidate themselves that caused irreparable harm to the integrity of the Election process.

B. Election Challenges.

- (1) Should an Election Challenge be upheld, a reelection will take place within sixty (60) days after the period for appeals has expired or sixty (60) days after the NHBP Supreme Court has issued a ruling in the matter. The slate of Candidates shall be the same as the original Election, except that any Candidates who were duly elected in the original Election shall be considered elected and need not stand for reelection.
- (2) Candidates will be considered duly elected if:
 - (a) They were not named in the upheld portions of an Election Challenge;
 - (b) The issues upheld in the Election Challenge do not relate to voter turnout or illegal votes, if those illegal votes cannot be excluded and the results of the legal votes determined; and
 - (c) They received the greatest number of all legal votes cast.

C. Where there is ambiguity in proscribed NHBP law, Bodéwadmí principles of Potawatomi customary law shall also inform the Election Hearing Officer and the NHBP Supreme Court's analysis and resolution of the Election Dispute or Election Challenge.

§ 3.1-40 Records Published for Public Review.

A. All decisions, findings, and orders of the Election Hearing Officer shall be published for public review. Transcripts of hearings shall be made available upon request.

B. The person or entity requesting the transcript shall pay any applicable fees.

§ 3.1-41 Appeals.

- A. A party to the Complaint proceeding aggrieved by the Election Hearing Officer's final decision issued under § 3.1-38 or a prima facie dismissal under § 3.1-34(C), may file a notice of appeal, which summarizes the grounds for appeal, with the NHBP Supreme Court within five (5) Business Days after the final decision or prima facie dismissal.
- B. In the case of an Election Challenge, a party to the Complaint or the winning candidate of the Election voided by the Election Hearing Officer's decision may appeal the decisions in accordance with the limitations set forth in § 3.1-41(A)
- C. The appealing party shall pay any applicable filing fees as required by the NHBP Supreme Court for the filing of appeals.
- D. The NHBP Supreme Court shall immediately serve the notice of appeal to the parties.
- E. The appealing party shall file a written brief within seven (7) Business Days of filing the notice of appeal.
- F. The responding party may file a written brief within seven (7) Business Days from the date the appellant's brief is filed.
- G. The NHBP shall not hold an oral hearing in the matter and shall consider all evidence in the record and rule upon the matter.
- H. The NHBP Supreme Court shall hold unlawful and set aside any final decision that the Court finds, based on clear and convincing evidence, to be:
- (1) Arbitrary, capricious, or an abuse of discretion;
 - (2) Contrary to a Constitutional or statutory right or privilege;
 - (3) Without observance of procedure required by law;
 - (4) Unsupported by substantial evidence; or
 - (5) Lacking in fundamental fairness.
- I. The appealing party shall bear the burden of showing that the final decision must be set aside.
- J. The NHBP Supreme Court shall render a decision within fourteen (14) Business Days from the date the responding party's brief was filed. The NHBP Court shall take all reasonable efforts to ensure that the decision be issued before the Election, if any, to which the final decision relates.

- K. Any scheduled Election or reelection shall be stayed pending the outcome of the appeal.
- L. The NHBP Supreme Court's decision shall be final and non-appealable.

Article XI Vote Counting

§ 3.1-42 Election to office.

- A. Offices for which Elections are held shall be filled in the following way: If one position is open, it shall be filled by the person who receives the highest number of votes; if two positions are open, they shall be filled by the two persons who received the highest and second highest number of votes; and so forth.
- B. If one open position has a longer term than another, the person who receives the higher number of votes shall serve the longer term.
- C. Pursuant to Article IV, Section 2, of the Constitution, Tribal Council members shall continue in office until their successors are duly elected and installed in office, or until their resignation, removal, recall or death.

§ 3.1-43 Ties.

- A. In the event of a tie, and where the breaking of a tie is necessary to determine the outcome of an Election, the Election Board shall schedule a runoff Election within sixty (60) days between those Candidates who tied.
- B. If a runoff Election produces another tie, the Tribal Council shall select the winner by majority vote of the Tribal Council. If one or both of the Candidates is an incumbent, he or she must abstain from the vote.

§ 3.1-44 Certification of votes.

- A. When the Election Board or its designee has completed the official count of all ballots cast and determined the preliminary results, the Election Board Chairperson shall issue a preliminary certification of results, cosigned by the Election Board Secretary, identifying the presumptive winning Candidate or Candidates, pending expiration of the Election Challenge period and resolution of any Election Challenge. In keeping with the customs and traditions of transparency and fairness, the preliminary certification of the Election results shall be posted in a conspicuous place within NHBP government offices and in the Community Center located on the Pine Creek Reservation.
- B. The Election Board's final certification of the results will be issued to the Tribal Council and the Bureau of Indian Affairs. The Election Board Chairperson and Secretary shall cosign the final certification.
- C. The certification issued by the Election Board after expiration of the Election Challenge period and resolution of any Election Challenge shall be final.

Article XII

Initiatives and Referendums

§ 3.1-45 Initiatives.

- A. Subject to Subsection (B), an eligible voter may propose a resolution, statute, or other action permitted under the Constitution by presenting an Initiative Petition, signed by a minimum of 30% of the qualified voters, to the Election Board.
- B. Any proposed resolution, statute, or other action involving or affecting the jurisdiction of the NHBP, the approval of the budget, appropriations for NHBP government institutions, or the approval of leases, contracts, or commercial transactions, along with any Tribal Council statute or resolution involving the same subjects, are excluded from this Section and not subject to Initiative.
- C. Any proposed resolution, statute, or other action that is prohibited by the NHBP Constitution is excluded from this Section and not subject to Initiative.
- D. A valid Initiative Petition must include the following information:
 - (1) A clear and concise statement describing the proposed resolution, statute, or other action;
 - (2) A copy of the proposed statute sought to be enacted, or the existing statute sought to be repealed, through the Initiative process, if applicable;
 - (3) A separate signature line for each signatory, containing the printed name, signature, address, Tribal ID number, and date of signature;
 - (4) The printed name, signature, address, Tribal ID number, and date of signature of the circulator of the Petition; and
 - (5) A statement to be signed by the circulator of the Petition certifying that the signatures on the Petition were collected in compliance with these rules.
- E. The Election Board shall determine the validity of the Petition within fourteen (14) Calendar Days of receipt. Only properly completed signatures will be counted.
- F. Upon a determination of validity, the Election Board shall present the Petition to the Tribal Council. The Tribal Council may revise the Petition for clarity and to conform with proper formatting, but may not alter the substance of the resolution, statute, or other action.
- G. If the Tribal Council fails to pass the Initiative Petition within thirty (30) days of receipt, it shall return the Petition to the Election Board for consideration by the Eligible Voters at a Special Election.

§ 3.1-46 Referendums.

- A. The Tribal Council, by majority vote, may submit a proposed resolution, statute, or other action permitted under the Constitution to the NHBP Membership for Referendum Election as specified in the Constitution.
- B. The Tribal Council shall provide a clear and concise statement summarizing the proposed resolution,

statute, or other action.

- C. Following Tribal Council approval, the Tribal Council shall submit the proposed resolution, statute, or other action to the Election Board for consideration by the Eligible Voters at a Special Election.

§ 3.1-47 Referendum and Initiative Election procedures.

- A. Within twenty-one (21) days of receipt from the Tribal Council of either a valid Initiative Petition or a valid Referendum, the Election Board shall provide notice to all Eligible Voters of a Special Election to consider the Referendum or Initiative, including the date, time, and place of the Referendum/Initiative Special Election.
 - (1) In addition to the notice required under this § 3.1-47(A), the Election Board shall distribute to all Eligible Voters the clear and concise statement required under § 3.1-45(D)(1) or § 3.1-46(B).
- B. If a General or Special Election is already scheduled within one hundred fifty (150) days of receipt from the Tribal Council, the Referendum/Initiative Special Election shall be held on the same day as the scheduled Election. In all other circumstances, the Referendum/Initiative Special Election must be held within ninety (90) days from receipt.
- C. The notice shall identify the ballot procedures to be utilized in the Special Election, including Absentee Ballot procedures and deadlines (if applicable).
- D. Unless otherwise noted, Special Election Disputes, recounts, Election Challenges, Absentee Ballots, and the like shall be handled in the same way as in General Elections.
- E. The Special Election ballot must include or attach the full language of the resolution, statute, or other action. The Election Board may, for clarity or for other purposes, include a short summary of the ballot proposal. The summary shall not advocate for or against the proposal.
- F. On Election day, the Election Board shall determine whether at least 30% of the eligible voters cast ballots.
- G. The Election Board will announce tentative results and issue a final report for the Special Election in the same way as for General Elections. The final report will include a statement as to whether 30% of the eligible voters cast ballots.
- H. The Referendum or Initiative shall pass if it is supported by a majority of the persons voting in the Special Election and if at least 30% of the Eligible Voters voted. Otherwise, it shall be rejected.
- I. The determination of the Election Board as to whether the Referendum or Initiative passed or was rejected after expiration of the Election Challenge period and resolution of any Election Challenge shall be final.
- J. Any statute or resolution enacted by Initiative or Referendum under this article shall take effect ten (10) days after certification of the Election by the Election Board. Such an Initiative or Referendum

is binding until it expires by its own terms or is amended by further action of the voters.

Article XIII Recall

§ 3.1-48 **Recall procedures.**

- A. A petition to recall a sitting Tribal Council member may only be initiated after the Tribal Council member has held office for at least one (1) year from the date of the most recent Election where the Tribal Council member was elected.
- B. A recall petition must be on the form approved by the Election Board.
- C. A recall petition may only be circulated by a Member and shall be signed by a minimum of 20% of the Eligible Voters.
- D. All required signatures must be obtained on the petition within forty-five (45) Calendar Days of the date the recall petition form is picked up or the petition becomes void.
- E. The petition shall be presented to the Election Board for signature verification.
- F. To provide for continuity of governance, no more than two Tribal Council members shall be subject to a recall Election at any one time.
- G. A recall petition shall include the following information:
 - (1) A clear and concise statement describing the grounds for the recall;
 - (2) The name of the Tribal Council member subject to recall;
 - (3) A separate signature line for each signatory, containing the printed name, signature, address, Tribal ID number, and date of signature; and
 - (4) The name, address, Tribal ID number and signature of the circulator of the petition.
- H. Within ten (10) Business Days of receipt of a recall petition, the Election Board shall certify the validity of the signatures or return it to the circulator of the petition with an explanation of the defects or deficiencies.

§ 3.1-49 **Recall Elections.**

- A. A recall Election shall be scheduled by the Election Board to be held within ninety (90) days after the date signatures are verified as meeting the requirements of this article.
- B. The Tribal Council member shall be recalled by a majority vote of the Eligible Voters, provided that at least 30% of the Eligible Voters voted in the recall Election.
- C. No Tribal Council member may be subject to more than one recall Election per calendar year.

Article XIV
Constitutional Amendments

§ 3.1-50 Amendment procedures.

- A. The Constitution may be amended by a majority of the Eligible Voters at a Special Election called for that purpose.
- B. A Constitutional amendment petition may only be circulated by a Member and shall be signed by a minimum of 30% of the Eligible Voters.
- C. A Constitutional amendment petition shall include the following information:
 - (1) A clear and concise statement describing the amendment;
 - (2) A separate signature line for each signatory, containing the printed name, signature, address, Tribal ID number, and date of signature; and
 - (3) The name, address, Tribal ID number and signature of the circulator of the petition.
- F. Within ten (10) Business Days of receipt of a recall petition, the Election Board shall certify the validity of the signatures or return it to the circulator of the petition with an explanation of the defects or deficiencies. If the Election Board determines that the Constitutional amendment petition is valid, the Tribal Council shall call an Election for the amendment of the Constitution.
- G. In the absence of a petition, the Tribal Council may call an Election for the amendment of the Constitution by a majority vote of the entire Council.
- H. Within twenty-one (21) days of receipt of Tribal Council calling for an Election for the amendment of the Constitution, the Election Board shall provide notice to all Eligible Voters of a Special Election to consider the amendment, including the date, time, and place of the Special Election.
 - (1) In addition to the notice required under this § 3.1-50(H), the Election Board shall distribute to all Eligible Voters the clear and concise statement required under § 3.1-50(C)(1).
- I. If a General or Special Election is already scheduled within one hundred fifty (150) days, the Constitutional amendment Special Election shall be held on the same day as the scheduled Election. In all other circumstances, the Constitutional amendment Special Election must be held within ninety (90) days from receipt of the Tribal Council authorization.
- J. The notice shall identify the ballot procedures to be utilized in the Special Election, including Absentee Ballot procedures and deadlines (if applicable).
- K. Unless otherwise noted, Special Election Disputes, recounts, Election Challenges, Absentee Ballots, and the like shall be handled in the same way as in General Elections.
- L. The Special Election ballot must include or attach the full language of the Constitutional amendment as it was received by the Tribal Council. The Election Board may, for clarity or for other purposes, include a short summary of the amendment. The summary shall not advocate for or against the

amendment.

§ 3.1-51 Constitutional amendment Elections.

- A. On Election day, the Election Board shall determine whether at least 30% of the eligible voters cast ballots.
- B. The Election Board will announce tentative results and issue a final report for the Constitutional amendment Special Election in the same way as for General Elections. The final report will include a statement as to whether 30% of the eligible voters voted.
- C. The Constitutional amendment shall pass if it is supported by a majority of the persons voting in the Special Election and if at least 30% of the Eligible Voters voted. Otherwise, it shall be rejected.
- D. The determination of the Election Board as to whether the Constitutional amendment passed or was rejected after expiration of the Election challenge period and resolution of any Election Challenge shall be final.

**Article XV
Election Oaths**

§ 3.1-52 Oaths by Election Board members and designees.

- A. In keeping with the Seven Grandfather Teachings to live a good life and to live in balance, all Election Board members shall take an oath of office and, to the best of their ability, carry out their duties faithfully, not let their preferences in an Election influence their actions as Board members, recuse themselves from acting in any situation in which their impartiality might reasonably be questioned, and not engage in, sanction, or permit conduct which might prevent a fair Election.
- B. If the Election Board designates an individual to perform or assist in the performance of the Election Board's duties, that designee shall execute a written oath to carry out their designated duties faithfully, not let their preferences in an Election influence their actions as trusted designees, recuse themselves from acting in any situation in which their impartiality might reasonably be questioned, and not engage in, sanction, or permit conduct which might prevent a fair Election. If a designee will handle confidential or sensitive information, such as ballot handling, they must agree to appropriate terms of confidentiality as determined by the Election Board. Designees shall include volunteers, personnel, and vendors.

**Article XVII
Request for Records**

§ 3.1-53 Procedure; records exempt from public disclosure.

- A. Subject to § 3.1-40, if a Member wishes to view public records related to Elections, such as Eligible Voter Lists, Tally Sheets, or Preliminary or Final Disclosure Statements, the Member shall submit the records request through the Government Records Office as set forth in Chapter 1.2, Government Records; Public Access, of the NHBP Code.
- B. The NHBP Government Records and Public Access to Government Records Code (Chapter 1.2,

Government Records; Public Access, of the NHBP Code) governs Tribal records maintained by the Election Board and encompassed within the NHBP Election Code. Consistent with § 1.2-16, Records exempt from public disclosure, certain NHBP records are exempt from public access and disclosure, including the following:

- (1) Information specifically protected from disclosure by federal or NHBP law, including common law privileges of confidentiality;
 - (2) Records pertaining to individual employees, NHBP Members or clients, including personnel, medical, housing assistance applications/files and other similar information that, if disclosed, would constitute a clear and unwarranted invasion of personal privacy, unless the disclosure is consented to in writing by the individual subject(s) of the information. The disclosure of information that bears on the duties of employment with the NHBP shall not be considered an invasion of personal privacy;
 - (3) The identity of any individual who in good faith makes a complaint or otherwise discloses information that alleges a violation or potential violation of law or regulation by the NHBP or NHBP officials; provided, that if the complaint or information is used in a civil or criminal proceeding, this provision shall not diminish the defendant's due process rights to confront and examine the complainant and witnesses;
 - (4) Information belonging to a third party that is submitted to the NHBP upon a promise of confidentiality by the NHBP pursuant to any contractual obligation of the NHBP;
 - (5) Information that is protected by attorney-client privilege, the attorney work product doctrine or compiled in reasonable anticipation of a civil action or court proceeding; and
 - (6) Enrollment records of the NHBP, except to the extent disclosure is authorized or required by the Enrollment Code.
- C. The Government Records Office and the Election Board shall endeavor to respond to records requests related to an upcoming Election as quickly as reasonably possible.
- D. If the disclosure of Eligible Voters Lists is permitted under this § 3.1-53, such disclosure must be made in compliance with the NHBP Government Records and Public Access to Government Records Code, and other applicable Tribal law. Disclosed Eligible Voter Lists shall include only addresses with the addressee identified as "NHBP Eligible Voter," and shall not include, Members' names, Tribal identification numbers, dates of birth, or other information that, if disclosed, would constitute a clear and unwarranted invasion of personal privacy.
- E. The Election Board will provide a copy of any policies, rules, or procedures governing Election Disputes and Election Challenges.

Article XVIII
Severability, Repeal and Amendment

§ 3.1-54 Severability; repealer; amendments.

- A. In the event any sentence, paragraph, or section of this code is held to be unconstitutional or otherwise invalid, the remaining sentences, paragraphs, and sections shall remain valid and presumed consistent with the Constitution and all other governing documents.
- B. Any prior versions of the Election Code and/or Election laws adopted by Tribal Council are hereby repealed; provided that the validity of any action taken by the Tribal Council under prior versions of this code shall continue in full force and effect.
- C. This code may be amended by the Tribal Council in accordance with the Constitution and any rules set forth governing amendment of laws which may be adopted by the Tribal Council.