

POKAGON BAND OF POTAWATOMI INDIANS

ELECTION CODE

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Section 1. General Provisions and Definitions.

A. Statement of Purpose.

The purpose of the Election Code is:

1. To facilitate full participation by the Citizens in the electoral process through the enactment of standards and procedures for conducting fair, legal, and impartial tribal elections that are consistent with the requirements of applicable law;
2. To advance the Pokagon Band's compelling interest in protecting and promoting the Pokagon Band's tradition and culture free from political interference; and
3. To advance the Pokagon Band's compelling interest in preserving fair, legal and impartial tribal elections.

This Code shall be liberally interpreted and construed to fulfill the above purposes.

B. Authority. Pursuant to the duties and powers of the Tribal Council in Article IX, subsections 1 (a), 1 (c), 2 (a), and 2 (i) of the Constitution, the constitutional mandate in Article VI (d), Article XIII, Sections 1 and 2, of the Constitution, and the inherent authority of the Band as a sovereign tribal nation to provide for the health, safety, and welfare of the Pokagon Band, the Tribal Council hereby enacts this Election Code.

C. Scope.

1. Elections. This Code shall govern the conduct of the following Pokagon Band elections:
 - a. Elections for seats on the Tribal Council, the Elders Council, and the Salary Commission, including any special elections and run-off elections;
 - b. Elections on initiatives and referendums;
 - c. Elections on amendments to the Constitution, whether proposed by the Tribal Council or by the Citizens; and
 - d. All other elections the Tribal Council designates shall be conducted by the Election Board.
2. Petitions. This Code shall also govern the process for reviewing and validating Citizen petitions regarding initiatives, proposed amendments to the Constitution, and the calling of meetings of the Tribal Council or of the Citizens.

D. **Disputes.** In case of disputes as to compliance with this Code, substantial, rather than complete, compliance shall be deemed adequate.

E. **Definitions.** The following terms, whenever used or referred to in this Code, shall have the respective meanings stated below, which shall apply regardless of whether such terms are used in their singular or plural form:

1. **"Absentee Ballot":** A type of Official Ballot issued by the Election Board to a Registered Voter upon a request timely filed by the Registered Voter.
2. **"Alternate Member" or "Alternate":** A Citizen appointed to the Election Board by the Tribal Council to fulfill the duties of an Election Board member in the absence of a Board member, only after being recognized and seated by the Chairperson of the Election Board. Alternates may also be designated as Poll Workers for purposes of assisting the Election Board on Election Day.
3. **"Applicant":** An Applicant is a Citizen who submits proposed language for a Petition to the Election Board and returns a completed Petition to the Election Board for review.
4. **"Ballot" or "Official Ballot":** A document or card prepared by the Election Board in accordance with law or an electronic process or other device officially approved by the Election Board as an authorized means for recording the vote of a single voter in an election.
5. **"Band Land":** Any land held in trust for the Pokagon Band or owned by the Pokagon Band or any entity that is wholly-owned by the Pokagon Band.
6. **"Business Day":** Any day tribal government offices are open for business.
7. **"Candidate":** Any Declarant whose name appears on the Certified List of Candidates.
8. **"Candidate Statement":** The written, statement from a Candidate in an election regarding the Candidate's background, qualifications, and views.
9. **"Cast Ballot":** Any ballot that is cast by a voter in an election, whether or not it is cast in the prescribed manner or time.
10. **"Certified Voter Registry":** The list of voters certified by the Election Board as the final list of all registered voters allowed to vote in an election.

11. "**Circulator**": A Circulator is a Citizen who presents the Petition to Citizens eighteen (18) years of age and older for their signatures.
12. "**Citizen**": A duly enrolled member of the Pokagon Band of Potawatomi Indians. The term Citizen shall have the same meaning as the term "member" as used in the Band's Constitution
13. "**Citizen Meeting**": A meeting of the Band's Citizens as described in Article VIII of the Band's Constitution. The term Citizen Meeting shall have the same meaning as term "Membership Meeting" as used in the Band's Constitution.
14. "**Constitution**": The Constitution of the Pokagon Band of Potawatomi Indians adopted by the Citizens in a Secretarial Election conducted on November 1, 2005 and deemed approved by the Secretary of the Interior by operation of law on December 16, 2005.
15. "**Day**" or "**Days**": Calendar days, except as expressly defined otherwise in this Code.
16. "**Declarant**": Any Citizen seeking elective office whose candidate declaration form has been received by the Election Board prior to the filing deadline established by the Election Board.
17. "**Elected Official**": Any Pokagon Band governmental position required by the Constitution to be filled by election.
18. "**Election Day**": Election Day is typically the second Saturday in July of each year, except for Special Elections or Run-Off Elections. Election Day is either the day that polls open for voting on candidates for Pokagon Band elective office, or for initiatives or referendums.
19. "**Election Notice**": The written notice distributed to Eligible Voters regarding an upcoming Pokagon Band election that includes information regarding significant dates and forms necessary for participating in the election process.
20. "**Election Official**": Any Election Board member, Poll Workers, and the Election Clerk.
21. "**Eligible Voter**": A Citizen who meets all qualifications to vote in a given election, but has not completed voter registration requirements. Eligible Voters do not appear on the Certified Voter Registry.

22. **“Employee Of The Band”**: An employee of the Pokagon Band of Potawatomi Indians, including employees of any entity that is wholly-owned by the Pokagon Band.
23. **“Immediate Family”**: Means the term as defined in Chapter 3 of the Band’s Ethics Code.
24. **“Initiative”**: The electoral process by which at least five percent of the Band’s Citizens who are at least eighteen years of age can propose through a petition to recall an elected Pokagon Band official from office, adopt, repeal or amend a tribal law, excluding codes making appropriations, establishing the Pokagon Band budget, or impairing contracts.
25. **“Invalid Ballot”**: A Cast Ballot that is not an Official Ballot or an Absentee Ballot that was not cast within the prescribed time. An Invalid Ballot will not be counted.
26. **“Nominee”**: A prospective candidate proposed by the Elder’s Council for the office of Elders Council Representative to the Tribal Council.
27. **“Official Ballot”**: A form prescribed by the Election Board by which a voter whose name appears on the Certified Voter Registry can cast a vote in a Pokagon Band election.
28. **“Petition” and “Petition form”**: Petition is a Petition form issued by the Election Board to an Applicant for circulation to Citizens eighteen (18) years of age and older, seeking signatures to compel an action pursuant to Article XIV and Article XV of the Constitution.
29. **“Petitioner”**: A Petitioner is a Citizen eighteen (18) years of age and older who signs a Petition.
30. **“Polling Place”**: A place designated by the Election Board, where tribal voters go to cast their ballot(s) in an election. The polling place consists of the building where an election is being conducted, including 100 yards in any direction from the building.
31. **“Poll Observer”**: A Citizen whose name appears on the Certified Registry of Voters and is not a candidate for office in the election that is designated by a Candidate to serve as an informal monitor of the election process.
32. **“Poll Worker”**: Any person authorized by the Election Board and permitted by this Code to assist the Election Board in conducting an election.

33. **“Public Forum”** Any of the following:
- a. Public streets, sidewalks and parks located on Band Land, excluding all Band Land utilized by the Pokagon Gaming Authority or Mno Bmadsen or any entity wholly owned by Mno Bmadsen;
 - b. The rented or assigned portion of Band facilities utilized by Citizens for non-Band sponsored events, but only for the specified time period of such rental or assignment; and
 - c. Any other area designated as a Public Forum by resolution of the Tribal Council, subject to all limitations set forth in such resolution.
34. **“Recall”**: A process whereby a Pokagon Band Elected Official, after holding office for at least one (1) year during such official’s current term of office and without having been the subject of a recall petition during the previous twelve-month period, may be recalled from office by the Citizens through an initiative.
35. **“Referendum”**: A procedure whereby the Tribal Council can submit a proposed or previously enacted tribal law for a referendum election following review by the Election Board in accordance with the procedures in Article XIV, subsection 1(a) of the Constitution.
36. **“Referendum Proposal”**: A formal request by the Tribal Council to the Election Board to compel a Referendum election.
37. **“Registered Voter”**: A Citizen whose name appears on the Certified Voter Registry by means of completing voter registration requirements.
38. **“Signature”**: Includes a mark, made by a person who cannot write, with his or her name written near it, and witnessed by a person who writes his/her own name as witness.
39. **“Spoiled Ballot”**: A spoiled ballot shall not be counted. A spoiled ballot is one of the following:

- a. An Official Ballot issued to a voter at a poll on Election Day that is not a Cast Ballot and is returned by the same voter at the poll for replacement by another Official Ballot;
 - b. An Official Ballot that was not cast in the prescribed manner, including ballots with write-in candidates;
 - c. A Cast Ballot on which the intent of the voter cannot be determined;
 - d. An Absentee Ballot cast within the prescribed time but not in the prescribed manner.
- F. **Filing Requirements.** Unless specifically provided otherwise in this Code, wherever in this Code a form or other document may or shall be filed with the Election Board, such document shall be delivered to the Election Board Office at the physical address, fax number or electronic mail address indicated in the Election Notice and such form or document may only be delivered to the Election Board by one of the following methods:
1. U.S. Mail, postage pre-paid;
 2. Private courier service;
 3. Hand delivery;
 4. Fax; or
 5. Electronic mail, provided such documents are in a PDF format.
- G. **Computation of Time.** Except where stated otherwise in this Code, in computing any period of time prescribed or allowed by this Code, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a Tribal holiday, or, when the act to be done is the filing of a form with the Election Board, a day on which weather or other conditions have made the Election Office Board inaccessible (not including by fax or electronic mail), in which event the period shall run until the end of the next day which is not one of the aforementioned days.

Section 2. Election Board.

A. Establishment of the Election Board. In accordance with Article VI, subsection (d), and Article XIII, subsection 2 (a), of the Constitution, the Tribal Council establishes an Election Board composed of five (5) Pokagon Band Citizens appointed by the Tribal Council.

B. Alternate Members. The Tribal Council shall appoint two (2) Alternate Members to the Election Board.

C. Election Board Qualifications. To be eligible for appointment and service to the Election Board, as a member of the Election Board or as an Alternate Member, one shall meet the following criteria:

1. Be an Eligible Voter of the Band in accordance with the Election Code and Election Board procedures;
2. Be at least twenty-five (25) years of age;
3. Not be incarcerated for any criminal conviction;
4. Not be presently a member of or candidate for Tribal Council, the Tribal Judiciary, the Ethics Board, or the Salary Commission; and
5. Not have been convicted within the last ten (10) years of a crime subject to imprisonment for a term of one (1) year or longer, excepting those crimes determined by the Election Board to relate to the furtherance of the Band's tribal sovereignty rights.

D. Eligibility Determinations. Before any Citizen is appointed to serve on the Election Board, as either a Board member or an Alternate Member, the Tribal Council shall make the following determinations regarding such Citizen:

1. The Tribal Council shall determine the Citizen's age and status as a Citizen of the Pokagon Band based on a written verification from official tribal records provided to the Tribal Council by the Enrollment Office.
2. The Tribal Council shall determine if the Citizen is incarcerated for any criminal conviction or has been convicted within the last ten (10) years of a crime subject to

- imprisonment for a term of one (1) year or longer based on a written report provided to the Tribal Council by the Pokagon Band Tribal Police.
3. Each such Citizen shall cooperate fully with the process to determine compliance with the requirements to serve as a member of the Election Board or Alternate Member.
 4. The Tribal Council shall make a final determination regarding the eligibility of each such Citizen. Citizens not meeting the eligibility requirements shall not be considered for appointment to the Election Board.

E. Alternate Members

1. Once recognized and seated by the Chairperson of the Board at any Board meeting, the votes and actions of the Alternate Members during such meeting shall have the same authority as if they had been made by an Election Board member.
2. If an Election Board member arrives at any meeting after an Alternate Member has been recognized and seated, the Board member shall not replace the Alternate Member for that meeting.
3. All actions regarding recognition and seating of Alternate Members shall be noted in the Election Board's meeting minutes.
4. Alternate Members shall have the right to attend Board meetings and to receive information to the same extent as Election Board members, and shall be bound by all requirements applicable to Election Board members.

F. Election Board Officers. The Election Board shall select from among its members a Chairperson, a Vice Chairperson, and a Secretary. The Chairperson shall preside over all meetings of the Election Board. The Vice-Chairperson shall assume the duties of the Chairperson in the Chairperson's absence. The Secretary shall maintain an official record of all Election Board meetings, elections, and other of matters within the scope of the Board's responsibilities. The Election Board shall provide the Tribal Council with written notice regarding its selection of officers.

G. Quorum. Three members of the Election Board shall constitute a quorum.

H. Terms of Election Board Members. Each Election Board member, once appointed, shall serve a four (4) year term of office, following a staggered pattern as provided Article XIII, Subsection 2 (d) of the constitution. Additionally, Alternate Members shall serve a four (4) year term of office, following a staggered pattern, provided, however, that for the initial appointment of Alternate Members, the Council may vary the initial term in order to achieve staggered terms.

I. Responsibilities of the Election Board.

1. The Election Board shall maintain a permanent and current list of registered voters, which the Election Board shall regularly review and revise for accuracy.
2. The Election Board shall conduct and certify the results of the Pokagon Band elections described in subsection 1.C.1 of this Code and in accordance with the requirements of the Constitution, this Code, and such rules and procedures the Board may establish in writing.
3. The Election Board shall review and determine the validity of Citizen petitions regarding initiatives and calls for Citizen Meetings or meetings of the Tribal Council.
4. The Election Board shall call and preside over Citizen Meetings when required by Article VIII, Section 2 of the Constitution.
5. The Election Board shall conduct, administer, and broadcast electronically forums at which Pokagon Band Citizens are able to meet the Candidates and the Candidates are able to state their qualifications, their platform, and answer questions, subject to rules and procedures the Board may establish in writing.

J. Legal Assistance. The Election Board may request assistance from the General Counsel's Office regarding legal questions and tasks related to the responsibilities of the Election Board.

K. Authority of the Election Board. The Election Board is authorized and empowered under this Election Code to:

1. Conduct, administer and oversee the Pokagon Band elections identified in subsection 1.C.1 of this Code;
2. Establish election rules and procedures consistent with this Code and the Constitution in order to further the purpose of this Code and provide notice regarding the availability of such rules and procedures to the Tribal Council and the Citizens;
3. Conduct, administer, and broadcast electronically forums at which Pokagon Band Citizens are able to meet the Candidates and the Candidates are able to state their qualifications, their platform, and answer questions, subject to rules and procedures the Board may establish in writing; and
4. Make determinations and render decisions regarding matters subject to the authority of the Election Board. All such decisions shall be final and conclusive except as provided in Article XIII, subsection 3 (d), and Article XIV, subsection 1(a) of the Constitution, this Code, or other Pokagon Band law.

L. Rulemaking Process. The Election Board shall give notice of its intent to adopt rules by posting a copy of the notice within the tribal community, including but not necessarily limited to the Election Board offices, the designated or customary meeting location of the Tribal Council, and the Elders Council, and by delivering a copy of the notice by U.S. mail or other appropriate means to the Tribal Council Secretary and the Band's General Counsel. The notice shall include a copy of the rule and a description of the nature and effect of the proposed rule. In addition, the notice shall include the following:

1. Comment Submission. Comments on the proposed rule may be submitted no later than sixty (60) days from the date of the notice; and
2. Comment Review. The Election Board shall review all comments received during the comment period and, based on such comments, shall make such changes to the proposed rule as the Election Board deems necessary or appropriate.

The Election Board shall fully consider and address all comments recommending changes to the proposed rule that are based on sound analysis or are supported by reliable data and information. The Election Board shall approve the rule by resolution and shall, by official action, set the effective date of the rule and publish and post copies of a notice of adoption of the rule in the same manner as for the notice of intent to adopt the rule.

The notice of adoption shall summarize the final rule and the changes to the proposed rule. To the extent practicable, the notice of adoption shall include written responses to all substantive comments, provided that the Election Board may offer a single response to substantially similar comments. The notice of adoption shall state the effective date of the rule and shall announce that copies of the rule are available from the Election Board. Copies of the notice and the final rule shall be delivered to all persons who were sent a copy of the notice of intent.

M. Prohibited Activities. To the extent not inconsistent with any ethics code applicable to the Election Board enacted into Pokagon Band law pursuant to Article XVII, subsection 3 (e), of the Constitution, no member of the Election Board or Alternate Members, shall:

1. Violate any standards applicable to the Election Board in an ethics code enacted into Pokagon Band law pursuant to Article XVII, subsection 3 (e) of the Constitution;
2. Serve as a member of the Election Board or Alternate if such person files a declaration of candidacy for any elective Pokagon Band office. An Election Board member or Alternate Member shall notify the Election Board without delay of his or her intent to file a declaration of candidacy for elective office. All Election Board members and Alternate Members shall file his or her declaration of candidacy not later than ninety-four (94) days prior to Election Day. Upon filing a declaration of candidacy, the Election Board member or Alternate Member shall be temporarily relieved of his or her responsibilities pending a determination regarding his or her eligibility to be a candidate. Upon a determination that the Board member or Alternate is eligible to be a candidate, such Board member or Alternate immediately ceases to be a member of or Alternate of the Election Board;
3. Serve as a member of or Alternate of the Election Board if the Immediate Family Member of such person files a declaration of candidacy for any Pokagon Band elective office or is the subject of a petition seeking the Immediate Family Member's recall from office. In such circumstances, the Election Board member or Alternate shall be temporarily relieved of his or her responsibilities pending a determination regarding the Immediate Family Member's eligibility to be a candidate or the validity of the recall petition. Upon a determination that the Immediate Family Member is not

- eligible to be a candidate, a determination that the recall petition is invalid, or upon conclusion of the election process, such member or Alternate may resume his or her duties and responsibilities as an Election Board member or Alternate;
4. Seek to bring influence on any Pokagon Band employee, representative, or official that induces or tends to induce such person to give consideration or to act regarding a Pokagon government decision or action on any basis other than the merits of the matter; or
 5. Serve as a member of or Alternate to the Election Board when his or her personal or financial interests compromise or, in the view of a reasonable person, appear to compromise the ability of the member to fairly and objectively carry out his or her duties. A member of the Election Board or Alternate Member who is also a Pokagon Band employee under the direct supervision of the Tribal Council shall not be considered to be in violation of this provision solely based on the circumstances of his or her employment.

N. Removal, Resignation and Vacancies.

1. **Removal.** The Election Board, on a majority vote, may request that the Tribal Council initiate a procedure for the removal of an Election Board member or an Alternate Member, and the Tribal Council may call for the removal of any member of the Election Board or Alternate Member, by an affirmative vote of at least eight (8) members of Tribal Council for any of the following reasons:
 - a. Persistent failure to perform the duties of office;
 - b. Misconduct in office consisting of any knowing violation of this Election Code;
 - c. Physical or mental disability which prevents the performance of duties;
 - d. Ineligibility under the qualifications for Election Board members; or
 - e. Failure to attend three (3) consecutive meetings of the Election Board without a valid excuse.

Election Board members may only be removed through procedures that comply with the requirements of Article XV, Section 2, of the Constitution.

2. Resignations.

- a. Voluntary Resignation. Election Board members and Alternates may resign from the Board by submitting, in writing, a signed and dated letter of resignation to the Election Board Secretary or Chairperson. Resignation shall be deemed effective as of the date tendered unless otherwise stated in the resignation letter. A copy of the resignation letter will be forwarded to Tribal Council Secretary.
- b. Deemed Resignation. The office of any Election Board member or Alternate who becomes certified by the Election Board as a candidate for an elective tribal office not presently held by such person shall be deemed to be vacant as of the first Regular Meeting of the Tribal Council next following the General or Special Election involved or forty-five (45) days following the General or Special Election involved, whichever comes first. The office of any Election Board member or Alternate Member who becomes a member of the Tribal Judiciary or the Ethics Board shall be deemed to be vacant and he or she shall be deemed to have resigned from office as of the date his or her appointment as a member of the Tribal Judiciary or Ethics Board becomes effective.

3. Vacancies.

- a. Vacancies in the Election Board shall be filled by Tribal Council appointment for the balance of the unexpired term.
- b. The Tribal Council shall endeavor to fill every vacancy on the Election Board with an Alternate, to the extent an Alternate is available and is willing, able and qualified to serve as a member of the Election Board.
- c. In the event that an Alternate is not available to fill the vacancy, the Tribal Council shall provide notice of the vacancy to the Citizens and an opportunity to respond prior to filling the vacancy.
- d. Qualified Citizens willing to be considered for appointment to fill the vacancy on the Election Board shall submit written statements of interest to the Tribal Council within seven (7) days prior to the date the vacancy may be filled.

- e. The Tribal Council shall make a final determination regarding the eligibility of each prospective member of the Election Board in accordance with the standards and procedures set forth in subsections C and D of this Section.
- f. The Tribal Council shall fill an Election Board vacancy within forty-five (45) days of the vacancy, or as soon thereafter as possible, in a manner prescribed by Tribal Council Procedures.

O. Election Clerk. For purposes of this Code, the term Election Clerk includes any Election Clerks and the Election Office Supervisor. At its discretion, the Election Board may be assisted by an Election Clerk regarding the clerical, ministerial, and other duties and responsibilities of the Board. The Election Clerk shall be an employee of the Pokagon Band and shall be under the exclusive supervision of the Election Board, provided that the Government Manager may exercise administrative supervision over the Election Clerk in coordination with the Election Board when neither the Board nor any of its officers are available. In the event that the Election Clerk's duties and responsibilities do not, in the determination of the Election Board, require all of the Election Clerk's work time, the Election Board may enter into an arrangement with the Tribal Council to make the Election Clerk available to the Pokagon Band for other employment duties provided that such arrangements protect the independence of the Election Board and will not compromise the Election Clerk's ability to perform his or her duties as Election Clerk. The Election Clerk may not participate in any candidate eligibility determinations, decisions regarding election challenges, or other deliberative activities of the Election Board. Upon filing a declaration of candidacy, the Election Clerk shall be temporarily relieved of his or her duties and responsibilities as the Election Clerk. The Election Clerk shall notify the Election Board without delay of his or her intent to file a declaration of candidacy. The Election Clerk shall file his or her declaration of candidacy not later than ninety-four (94) days prior to Election Day. Upon the conclusion of the election process, if the Election Clerk was not elected to office, he or she may resume his or her duties and responsibilities as Election Clerk. If a member of the Election Clerk's Immediate Family files a declaration of candidacy for any Pokagon Band elective office or is the subject of a petition seeking the Immediate Family member's removal from

office, such Election Clerk shall be temporarily relieved of his or her duties as Election Clerk pending a determination regarding the Immediate Family member's eligibility to be a candidate or the validity of the recall petition. Upon a determination that the Immediate Family member is not eligible to be a candidate, a determination that the recall petition is invalid, or upon conclusion of the election process, the Election Clerk may resume his or her duties and responsibilities as an Election Clerk.

P. Contractors and Consultants. The Election Board may, subject to budget limitations, engage contractors as needed to assist the Board in conducting elections and carrying out its duties under this Code. The Election Board may engage consultants to provide training for Board members, the Election Clerk, poll workers, and other persons as the Election Board deems appropriate.

Q. Poll Workers. The Election Board may appoint up to three (3) Citizens whose names are on the Certified Voter Registry to assist the Election Board and the Election Clerk in conducting an election on Election Day. A Poll Worker who has an Immediate Family member that is a Candidate or an Applicant, Circulator, or Petitioner with regard to a petitioning process that compelled the election shall not be eligible to serve as a Poll Worker. In appointing Poll Workers, the Election Board shall give preference to the appointment of Alternates and to Citizens who are not Immediate Family members of any other Poll Worker, an Election Board member, or an Alternate Member.

R. Funding the Election Board. The Tribal Council shall provide continuous funding to the Election Board in an amount adequate for the Board to carry out its duties and responsibilities under the Constitution and this Code.

S. Expenses and Compensation. Members of the Election Board and Alternate Members shall be entitled to reimbursement for actual and reasonable expenses incurred in the discharge of their duties, provided that such reimbursement shall be in accordance with the expense reimbursement policies and procedures established by the Tribal Council. Members of the Election Board may be compensated for service on the Election Board

pursuant to a plan of compensation approved by the Tribal Council. The Council may, in its discretion require the Salary Commission to evaluate the Election Board positions and recommend a compensation plan to the Council for approval. The Tribal Council shall review the rates of compensation for members of the Election Board at least every three years and shall make adjustments to such rates as the Tribal Council determines to be appropriate.

T. Election Board Office. During the election process, the Election Board shall ensure that to the greatest extent possible, the Election Board Office is open during regular business hours, excluding weekends and holidays. The Election Board shall ensure that any telephone number, fax number, and electronic mail address indicated in the Election Notice is valid.

Section 3. General Elections.

A. The Date and Timetable for General Elections for Elective Office. General Elections for the Tribal Council shall occur on the second Saturday of July, also referred to as Election Day provided, however, that the Election Board shall have all discretion and authority allowed under the Constitution to determine the length of the initial terms of office for the Initial Council elected under the Constitution. General Elections for the Elders Council shall occur on the second Saturday of November; provided, however, that the Election Board, may, in its sole discretion, conduct the election on the first or third Saturday of November. The election process for General Elections shall follow a timetable that allows for adequate public notice of the election and an opportunity for the Pokagon Band electorate to participate in the election to the fullest extent.

B. Event Calendar. The Election Board shall establish an Event Calendar in their initial meeting for each election, a copy of which shall be provided to the Tribal Council. The Event Calendar shall, at a minimum, set calendar dates for each of the following events, in accordance with the following requirements:

EVENT	Minimum Days Before Election
1. Date for the election (second Saturday in July for General Elections);	
2. Post and distribute notice of the deadline for Elected Officials to file candidate declarations if their office is not already scheduled to be filled in the election and are they are seeking a different elective office.....	99
3. Deadline for Election Board members, the Election Clerk, and Alternates to file for elective office	94
4. Deadline to file candidate declarations for Elected Officials whose office is not already scheduled to be filled in the election and are seeking a different elective office.....	89
5. Post and distribute the Election Notice.....	84
6. Deadline to file candidate declarations, authorization to conduct criminal background check, and candidate statements	64
7. Post and distribute to Declarants the Uncertified Candidates List	56
8. Deadline to file a challenge to a Declarant eligibility determination (not later than three (3) business days from the date the Uncertified Candidates List is posted)	53
9. Certify the List of Candidates and Post the List	44
10. Distribute the Candidate Statements.....	43
11. Deadline to register to vote.....	30
12. Absentee Ballots become available.....	29
13. Certify the Registry of Voters.....	25
14. Deadline to file a request for an absentee ballot by U.S. mail, fax, or electronic mail.....(business days).....	5
15. Deadline to file a request for an absentee ballot by hand delivery to Election Board Office.....(one business day, by 2:00 pm).....	1
16. Deadline for Election Board to receive Absentee Ballots (business day)	1

EVENT

Maximum Days

- 1. Deadline to file ballot recount request (days after uncertified results posted)3
- 2. Date to complete the ballot recount (days after recount request received).....3
- 3. Deadline to file an election challenge (Business days after Election Day)3
- 4. Date to respond to election challenges (Business days after election challenge may be filed).....5
- 5. Certify and Post election results (days after responding to all challenges)1

C. Commencement of Election Process. An initial meeting of the Election Board shall occur approximately four (4) months prior to Election Day. The primary purpose for the initial meeting shall be to establish the Event Calendar for the election and to prepare an Election Notice.

D. Notice to Elected Officials. Elected Officials whose current office is not already scheduled to be filled in the election and intend to seek a different elective office, must file candidate declarations prior to the required posting of the Election Notice, in order to permit the Election Board to include such office in the election. The Election Board shall, not less than ninety-nine (99) days prior to Election Day, post and mail a notice to all Elected Officials informing them of the specific date by which they must file candidate declarations if his or her current term of office is not already scheduled to be filled in the election and they intend to seek a different elective office.

E. Election Notice. The Election Board shall distribute an Election Notice to all Citizens eighteen (18) years of age and older as of Election Day by U.S. Mail that conforms to the requirements of this subsection.

- 1. The Pokagon Band Enrollment Office shall promptly, but not later than eighty-nine (89) days prior to Election Day, provide to the Election Board upon the Board’s request information the Board deems necessary to determine which Citizens are

- Eligible Voters and to distribute the Election Notice, including the names, addresses, and ages of Citizens, to the Election Board.
2. The Election Notice shall include the following information and forms:
 - a. Date of Election
 - b. Event Timetable (regarding voter and candidate activities)
 - c. Candidate Declaration Form
 - d. Voter Registration Form
 - e. Absentee Ballot Request Form
 - f. Polling Place Location(s) and Polling Hours
 - g. Authorization to Conduct Criminal Background Check
 - h. Other information deemed appropriate by the Election Board
 3. In addition to the requirements stated in subsection 2, if any of the conditions described below are met, the information indicated for the particular condition(s) shall be included in the Election Notice:
 - a. If the election involves a vacancy on the Tribal Council for the Chairperson, the Election Notice shall state in substantially similar language: “The office of Tribal Council Chairperson is a full time position. Any Pokagon Band citizen that is not willing and able to fulfill the full-time duties of the Chairperson is strongly discouraged from filing a declaration of candidacy for the position.”
 - b. If the election involves a vacancy on the Tribal Council for the Treasurer, the Election Notice shall state in substantially similar language: “Pursuant to Article X, subsection 5 (e)(vi) of the Constitution, the Treasurer shall, at the Band’s expense, acquire a surety bond covering administration of the Band's fiscal affairs. No Pokagon Band citizen elected to the office of Treasurer will be permitted to assume office until such person has acquired a surety bond in an amount and with a surety company that is satisfactory to the Tribal Council.”
 - c. If the election involves positions for elective office that appear together in a pool on the ballot and one or more positions are to fill a vacancy for a remaining term of office, then the Election Notice shall state in substantially similar language: “The candidates who are elected to the available positions in the pool shall be listed from highest vote total to the lowest vote total. The Election Board shall

use this list to assign the available positions to such candidates based on the vote total. Specifically, the candidate with the highest vote total will be assigned the position with the longest term of office and the candidate with the lowest vote total will be assigned the position with the shortest remaining unexpired term of office.”

F. **Designation of Elder’s Council Representative Seat.** If the Elders Council makes one or more nominations for a seat on the Tribal Council, the Election Board shall designate one of the open Council seats as the “Elders Council Representative”.

G. **Posting.** Any notice or other document required by the Event Calendar or other provisions of this Code to be posted, shall be posted conspicuously within the tribal community, including but not necessarily limited to the Election Board office, the designated or customary meeting location of the Tribal Council and the Elders Council. A copy of the notice or other document may also be posted on the official website of the Pokagon Band.

Section 4. Voter Registration.

A. **Voter Eligibility Criteria.** Eligible Voters must register to vote and have their names placed in the Certified Voters Registry in order to vote in any election conducted by the Election Board.

B. **Voter Registration Period.** Voter registration shall open, beginning the day after Election Day of each election and continuing until 30 days prior to the Election Day of the next election.

C. **Voter Registration Requirement.**

1. Eligible Voters shall complete a voter registration form and submit it to the Election Board for approval. Once approved, the Election Board shall include the Eligible Voter’s name on the list of registered voters and such voter is thereafter registered to vote in any Election conducted by the Election Board. Registration for voting is

considered permanent and a voter need not re-register for each election, unless the voter has legally changed his or her name.

2. It is the responsibility of the registered voter to keep the Election Board advised of any name changes.

D. Voter Registration Form. The Election Board shall, upon official announcement of an election, mail an official voter registration form to each eligible unregistered Citizen at his/her most recent address shown on tribal records. A completed voter registration form shall include the following information:

1. Printed name of eligible Citizen.
2. Indication of name change from previous registration, including name used on previous registration, if applicable.
3. Current physical address and mailing address.
4. Enrollment number.
5. Citizen signature.
6. Date of signature.

E. Access to Enrollment Office Records. Information from official Pokagon Band records needed to determine which Citizens are Eligible Voters, and which Citizens are at least eighteen (18) years of age and older, and for distributing the Election Notice, including the names, addresses, and ages of Citizens, shall be provided to the Election Board by the Pokagon Band Enrollment Office.

F. Certified Registry of Voters. Upon the closing of the registration period, the Election Board shall establish and certify a list of all registered voters eligible to participate in the election, which shall be the Certified Registry of Voters for the election.

G. List of Registered Voters. The Election Board shall maintain a permanent list of registered voters.

1. A current list of the names of registered voters shall: (a) be made available to Citizens only; (b) for the purpose of inspection only; and (c) be inspected only by appointment with the Election Clerk.

2. At least annually, the Election Board shall periodically examine the registered voters list and add or remove the names of individuals as may be necessary to make the list accurate.

Section 5. Declarations and Nominations.

A. Qualifications for Candidates for Elective Office. In order to be a candidate for elective office, a Citizen must:

1. Be at least twenty-five (25) years of age by the beginning of the term of office for which he or she seeks;
2. Not be incarcerated for any criminal conviction;
3. Not have been convicted within the last ten (10) years of a crime subject to imprisonment for a term of one (1) year or longer, excepting those crimes determined by the Election Board to relate to the furtherance of the Band's tribal sovereignty rights; and
4. Not hold a Pokagon Band elective office other than the one for which a seat is being sought or be a member of the Election Board, the Ethics Board, or any Personnel Committee the Tribal Council may establish, or be a sitting judge on the Pokagon Band Tribal Court or Court of Appeals. Any person who holds an elective tribal office or is a sitting judge on the Pokagon Band Tribal Court and Court of Appeals and becomes a certified candidate for another elective tribal office shall be deemed to have resigned from his or her current elective office or judgeship, which resignation shall be effective as provided in Article XV, Subsection 3(c) of the Constitution.

B. Qualifications for Elected Officials. In addition to the qualifications for candidates set forth in subsection A of this section, no Citizen may be an Employee Of The Band and serve as a Pokagon Band Elected Official.

C. Qualifications for Nominees for Elders Council Representative. To be eligible for the Elders Council Representative seat, a nominee must meet all the qualifications specified for Tribal Council members outlined in subsections 5.A and 5.B, and must also meet the

age qualifications for Elders Council membership, as provided in the Elders Council Code.

D. Candidate Declarations.

1. Each candidate may only declare for one (1) elective office for each election.
2. All candidates for elective office must file an official candidate declaration form prior to the filing deadline and in accordance with procedures for filing candidate declarations described in this Election Code.
3. Each candidate must file an authorization to conduct criminal background check prior to the filing deadline and in accordance with the procedures for filing candidate declarations described in this Election Code.

E. Candidate Declaration Procedure.

1. Official candidate declaration forms and authorization to conduct criminal background check forms may be obtained from the Election Board office. Declaration forms and authorization to conduct criminal background check forms shall be filed with the Election Board on or before the published deadline for the election.
2. Each declaration form and authorization to conduct criminal background check form received by the Election Board office shall be date-stamped and recorded as received by the Election Board.
3. Election Board members, Alternates, and the Election Clerk must file their candidate declarations and authorizations to conduct criminal background check a minimum of ninety-four (94) days before Election Day.
4. Elected Officials whose office is not already scheduled to be filled in the election and are seeking a different elective office must file their candidate declarations and authorizations to conduct criminal background check a minimum of eighty-nine (89) days before Election Day.
5. Any declaration form or authorization to conduct criminal background check form received after the deadline shall be invalid and the Declarant shall be ineligible to run for elective office in the current election.

6. The Election Board shall notify by U.S. Mail all Citizens that file official candidate declaration forms and authorization to conduct criminal background check forms that the Election Board received their forms and whether or not the forms were received prior to the filing deadline. Because Citizens may file candidate declaration forms and authorization to conduct criminal background check forms close to or after the filing deadline, each Citizen seeking to be a candidate for elective office shall remain personally responsible for verifying that their declaration form and authorization form was received by the Election Board prior to the filing deadline.
7. The Election Board shall maintain the confidentiality of the names of Declarants until the Election Board posts the Uncertified List of Candidates.
8. No later than two (2) business day following the deadline for filing candidate declaration forms, the Enrollment Office shall provide written verification to the Election Board regarding the enrollment status and birthdate of all Declarants.
9. Not later than two (2) business days following the deadline for filing candidate declaration forms, the Department of Human Resources of the Pokagon Band and any instrumentality thereof shall provide written verification to the Election Board regarding whether or not each Declarant is an Employee Of The Band.
10. Not later than five (5) business day following the deadline for filing candidate declaration forms, the Pokagon Band Tribal Police shall provide written verification to the Election Board regarding whether or not each Declarant is incarcerated for any criminal conviction or has been convicted within the last ten (10) years of a crime subject to imprisonment for a term of one (1) year or longer.
11. The Election Board shall make a final determination regarding the eligibility of each Declarant. Declarants not meeting all eligibility requirements shall not be eligible to be a candidate.
12. The Election Board shall notify all Declarants the Board determines do not meet the eligibility requirements by registered mail not less than fifty-five (55) days before Election Day that they are not eligible to run for office.

F. Candidate Certification Procedure.

1. Declarants who meet the eligibility requirements shall be notified by U.S. mail of the Election Board's determination regarding their eligibility and shall have their names placed on an Uncertified List of Candidates and posted in accordance with the requirements of this Code.
2. Written challenges to a Declarant's eligibility may be filed with the Election Board until 5 p.m. on the third business day following the date the Uncertified List of Candidates is posted. Only Declarants and registered voters may challenge an eligibility determination regarding a Declarant.
3. If the Election Board receives a written challenge regarding the determination of a Declarant's eligibility, the Election Board shall set a hearing and the Declarant affected and the challenger, if any, shall be notified immediately by certified mail or personal service of the basis for the challenge and the time and place for the hearing.
4. A hearing before the Election Board to address the merits of the challenge shall be conducted within three (3) business days of the date that notice of the challenge is delivered to the Declarant and any challenger. The Election Board shall render a decision on the challenge within forty-eight (48) hours of the date of the hearing.
5. The Election Board shall have the final authority to rule upon the qualifications of the Declarants.
6. Upon the disposal of all challenges to the eligibility of Declarants, the Election Board shall establish, certify, and post a Certified List of Candidates at the designated location(s) indicated in the Event Calendar.
7. If only one (1) candidate is certified for a particular elective office in an election, then the Election Board shall deem that candidate elected and no election shall be held for that particular elective office. Any candidate deemed elected under this subsection shall be seated at the same Council meeting in which any other winning candidate from that same election is or would be seated.

G. Candidate Name Appearing on Ballot.

1. For purposes of identification of a candidate's name on the ballot, subject to the requirements of this Section 5(G), a candidate's legal name must appear on the ballot.

2. A candidate shall designate on the candidate declaration form how the candidate's name shall appear on the ballot, which except as provided in Sections 5(G)(3) and (4) below, shall be limited to:
 - a. First name, middle name and last name;
 - b. First name and last name;
 - c. Middle name and last name; or
 - d. An initial or recognized diminutive for first or middle name, or both, with last name.
3. A candidate may also, if part of a candidate's legal name, utilize any of the following designations:
 - a. Sr.,
 - b. Jr.,
 - c. A numerical designation, such as II or III, etc.
4. In addition to the candidate's name as specified above, a candidate may also include a nickname, provided that the nickname:
 - a. Is a name by which the candidate is commonly known;
 - b. Is not a title or a degree; or
 - c. Does not imply a title or a degree.
5. Any such nickname appearing on the ballot under Section 5(G)(4) shall appear in parentheses.

H. Elder's Council Representative Nominations. Nominations for the Elder's Council Representative shall be filled in accordance with procedures established in the Elder's Council Code.

I. Candidate Statements.

1. The purpose of the Candidate Statement is to introduce the Candidate to the voters.
2. Candidates Statements must be filed with the Election Board. The Candidate Statement must be received by the Election Board no less than sixty-four (64) days before Election Day.

3. The Candidate Statement must be on white paper no larger than 8 ½” x 11”. The Candidate Statement may be on the front and back of one sheet of such paper or if the Candidate uses only the front page, the Candidate may use the front of two pages. The Candidate Statement may include contact information for the Candidate. The Candidate Statement may include a photograph of the Candidate of not more than 2” x 2” provided that the Candidate has reserved adequate space on the Candidate Statement for the photograph.
4. Candidate Statements shall not make reference to another Declarant seeking the same office as the Candidate. Candidate Statements shall contain accurate factual information and shall not contain any obscene, profane, or defamatory language. The Candidate Statement shall be accompanied by an acknowledgement signed by the Candidate that to the best of his or her knowledge, all information provided on the Candidate Statement is true and accurate.
5. The Election Board shall review the Candidate Statement solely for compliance with this Code. The Election Board shall not proofread Candidate Statements for errors in spelling, punctuation, or grammar.
6. If the Election Board, in its sole discretion, determines that the statement must be revised in order to comply with the requirements of this Code, then the Board shall attempt to contact the Candidate by telephone or electronic transmission. In revising the Candidate Statement, the Candidate may only make revisions that are necessary to comply with this Code. The Candidate must file the revised Candidate Statement with the Election Board by the deadline established by the Election Board in order to permit the Election Board to issue the Candidate Statements in accordance with the requirements of this Code.
7. If the Board is unable to contact the Candidate, the Candidate fails to file a revised Candidate Statement, or if the Board determines that the revised Candidate Statement fails to meet the requirements of this Section, the Candidate shall be deemed to have failed to submit a Candidate Statement. The Board’s determination shall be final.
8. The Election Board shall maintain the confidentiality of the contents of the Candidate Statements until the Election Board mails the Candidate Statements to the voters.

9. Nothing in this Code or any determination of the Board under this Code, shall provide the Candidate, or any other author of any Candidate Statement with any defense in any legal action because of any defamatory statements offered for publication in the Candidate Statements.
10. Mailing Candidate Statements to Citizens. The Election Board shall mail the Candidate Statements at least forty-three (43) days before Election Day to all Eligible Voters. When mailing the Candidate Statements, the Election Board shall note that the Candidate Statements are published in a random order and may note that the Candidate Statements were submitted by the Candidates and were not edited by the Election Board.
11. The Election Board may also provide the Candidate Statements to Citizens at a forum conducted by the Board pursuant to subsection 2(I)(5) of this Code, post the Candidate Statements on the Band's website, or make the Candidate Statements available to Citizens at the Election Board Office, provided that the Board:
 - a. has mailed the Candidate Statements to the voters, and
 - b. includes with the Candidate Statements, the notice provided in subsection 5(I)(10) of this Code.
12. The Election Board shall mail the Candidate Statements to the Eligible Voters prior to conducting a forum pursuant to subsection 2(I)(5) of this Code.

Section 6. Issuance and Return of Absentee Ballots.

- A. Absentee Voter. Any registered voter shall be entitled to vote by Absentee Ballot.
- B. All requests for absentee voting shall be made in writing by the voter, on a form provided by the Election Board. All completed absentee ballot request forms must be filed with the Election Board. Requests sent by U.S. mail, fax, or electronic mail must be received by the Election Board no less than five (5) business days prior to the Election Day. Requests that are hand delivered to the Election Board office must be received by the Election Board no later than 2:00 pm, one (1) business days prior to the Election Day.

- C. Forms for requesting an absentee ballot shall be mailed to voters at the time of the official notice of the election and shall also be available at the Election Board office.
- D. Only one absentee ballot, or set of absentee ballots, shall be issued to each voter for the election in progress.
- E. Absentee ballots shall be prepared and ready within fifteen (15) days following the Election Board's certification of the List of Candidates. The Election Board shall conduct a forum for the election pursuant to subsection 2(I)(5) of this Code prior to making the absentee ballots available.
- F. Because Citizens may file absentee ballot requests close to or after the filing deadline, each Citizen requesting an absentee ballot shall remain personally responsible for verifying that their absentee ballot request form was received by the Election Board prior to the filing deadline. Further, each Citizen is personally responsible for ensuring enough time exists for the voter to receive and return the absentee ballot prior to the deadline for returning absentee ballots.
- G. Each request for an absentee ballot shall be made individually by way of submitting an official absentee ballot request form. If a Registered Voter provides the Election Board with a valid and complete official absentee ballot request form by U.S. mail, fax, or electronic mail in accordance with the requirements of this Code, the Election Board shall mail to the voter, by U.S. mail, no less than two (2) business days following the receipt of such request, all necessary forms, ballots and instructions to be used in the pending election. If the ballots are not yet available at the time of receipt of the request, the Election Board shall mail, by U.S. mail, all necessary forms, ballots, and instructions as soon as they are available. If a Registered Voter returns to the Election Board office by hand delivery, a valid and complete official absentee ballot request form, in accordance with the requirements of this Code, he or she shall have the option of promptly receiving all necessary forms, ballots and instructions to be used in the pending election, directly from the Election Clerk at the Election Board office; provided, the absentee ballots are available and the voter has identification, such as a tribal enrollment card or other photo

identification. The Election Board shall notify all Registered Voters, to whom absentee ballots are delivered, of the option to vote at the Polling Place, subject to the requirements of Section 6(M) of this Code.

- H. The Election Board shall maintain a file of all official absentee ballot requests received with the date of receipt stamped thereon. Further, the file shall show the names and addresses of all persons to whom absentee ballots are delivered, including the date and method of delivery (by U.S. mail or in person). The Election Board shall also maintain a log of all absentee voting requests, which shall include the method such request was delivered to the Election Board, together with a record of the names and addresses to whom absentee voting ballots were delivered, including the method of delivery (by U.S. mail or in person) and the date of receipt of the returned absentee voting ballot.
- I. The Election Board shall deliver to each voter that filed a timely request for an absentee ballot an envelope containing an Official Ballot, an inner and outer envelope as described in this Section, instructions for properly completing and casting the absentee ballot.
- J. The absentee voter shall mark the ballot and enclose it in the inner security envelope supplied by the Election Board. The ballot shall be placed in the inner envelope marked "Absentee Ballot" and the envelope sealed. It shall then be inserted in the pre-addressed outer envelope, on which the voter must sign his/her name, and the outer envelope shall be sealed and mailed at the voter's expense. Any Absentee Ballot that is not cast in accordance with these requirements shall be considered a Spoiled Ballot.
- K. The outer envelope shall be pre-addressed as follows:

Pokagon Band Election Board
P.O. Box Number or Street Address
City, State and Zip Code.

- L. Completed Absentee Ballots must be received by the Election Board at its post office box by 4:30 p.m. (EST) one business day prior to the Election Day.
- M. A voter who requested and was sent, or given by hand delivery from the Election Clerk, an Absentee Ballot, may only vote in person at the Polling Place if the Election Board records confirm that the Election Board did not receive the voter's issued Absentee Ballot by mail and: (1) the voter hand-delivers to an Election Official at the Polling Place, during polling hours, the issued Absentee Ballot, or (2) the voter executes, in the presence of an Election Official, a written affirmation stating that the voter did not mail or cause to be mailed to the Election Board, the issued Absentee Ballot. An Absentee Ballot delivered at the Polling Place shall be considered an Invalid Ballot.
- N. Absentee voting envelopes received on or before the last business day preceding Election Day shall be placed in the locked absentee ballot box provided and maintained by the Election Board.
- O. The signature space of the Certified Voter Registry shall be marked indicating that the voter has been issued an absentee ballot and the date of issue.
- P. Any Absentee Ballot not properly prepared and cast in accordance with all requirements in this Code for absentee voting shall be designated either an Invalid Ballot or a Spoiled Ballot, as determined by the standards set forth in this Code, and shall not be counted.

Section 7. Ballots and Ballot Boxes.

- A. **Ballot Criteria.** All ballots used in elections conducted by the Election Board shall meet the following criteria:
 - 1. All ballots shall be printed in such a way as not to identify the voter.
 - 2. All ballots shall be printed in such a thickness as will render it impossible to look at the back and tell for whom it was marked.
 - 3. Polling Place ballots shall be marked by the words "Polling Place Ballot" to indicate the ballot is to be cast only at the polling place.

4. Absentee ballots shall be marked by the words “Absentee Ballot” to indicate the ballot is only to be used for absentee voting.
5. All ballots should include the date of the election the ballot is good for.
6. All ballots should indicate the election the ballot is good for. (i.e., Tribal Council General Election, Elders Council Election, etc.)
7. The order the names appear on the ballot shall be chosen by random process. Names on each ballot shall rotate so that a given name is not in the same place on consecutively issued ballots.
8. All ballots shall include instructions stating the number of candidates for each office for which a voter may lawfully vote.
9. If the Elders Council makes more than one (1) nomination for a Councilperson seat, the Election Board shall list the Elders Council nominees for that position separately on the election ballot from the pool of Councilperson candidates.
10. All ballots must be approved by the Election Board prior to mass reproduction for an election.
11. Ballots shall be supplied by the Election Board in sufficient quantity to assure that each voter whose name appears in the Certified Registry of Voters may receive a ballot. Additional ballots shall be available for replacing spoiled ballots.
12. Ballots shall be stored securely in a locked container prior to being issued.

B. Absentee Ballot Box. After the deadline for the return of absentee ballots an Election Clerk shall, in the presence of an officer of the Pokagon Band Police Department and the Election Board Secretary, or another Election Board member designated by the Election Board:

1. Inspect the absentee ballot box to ensure it is empty,
2. Collect the absentee ballots pursuant to the requirements of Subsection 7(D)(1), and
3. Lock the absentee ballot box and place a seal to ensure that the absentee ballot box is not tampered with.

The key to the lock shall be given to a member of the Election Board other than the Secretary. The number on the seal shall be noted for later verification purposes.

- C. **Polling Place Ballot Box.** In front of the Election Board, on the day of the election and prior to the opening of the polls, the polling place ballot box shall be inspected by an Election Clerk. The polling place ballot box must be emptied completely, locked, and a seal placed to ensure that the polling place ballot box is not tampered with during polling hours. The key to the lock shall be given to a member of the Election Board other than the Secretary. The number on the seal shall be noted for later verification purposes.
- D. **Receiving Absentee Ballots by Mail.** An Election Clerk, in the presence of an officer of the Pokagon Band Police Department, and the Election Board Secretary or other member designated by the Board, shall inspect the Election Board post office box after 4:30 p.m. on the day of the deadline for the Election Board to receive absentee ballots. Absentee ballots received by mail shall be handled in the following manner:
1. The official envelope containing the absentee ballot(s) shall be placed into the absentee ballot box.
 2. An officer of the Pokagon Band Police Department, in the presence of and accompanied by an Election Clerk and the Election Board Secretary or other member designated by the Board, shall transport the absentee ballot box to the polling place.
 3. Sometime after 5:00 p.m. on the day before the Election Day, but before the opening of the polls on the Election Day, the Election Board shall, in the presence of an officer of the Pokagon Band Police Department, unseal the absentee ballot box containing the absentee ballots. Upon opening the absentee ballot box, the Election Board shall remove all envelopes and ensure the certifications on the outer envelopes have been properly completed. Once certifications are checked, the Election Board shall then open the outer envelopes of envelopes containing valid certifications and place the sealed inner envelopes marked "Absentee Ballot" in the absentee ballot box. Any envelopes not containing valid certifications shall be labeled "Spoiled" and left unopened. Any absentee ballots not sealed properly in the inner envelope labeled "Absentee Ballot" shall be considered Spoiled Ballots and shall be folded and placed in the outer envelope they were contained in. The outer envelope shall then be marked "Spoiled." The outer envelopes containing valid certifications shall be bound together, all envelopes marked "Spoiled" shall be bound together, and all valid

envelopes labeled “Absentee Ballot” shall be bound together. All bundles shall be placed in the absentee ballot box. The absentee ballot box shall be locked, sealed, and not be opened again until the closing of the polls on Election Day. The number on the seal shall be noted later for verification purposes.

Section 8. Polling Place.

A. Polling Place Setup.

1. One or more Polling Places shall be designated by the Election Board for each election.
2. The polling place shall be open a minimum of eight (8) hours on the Election Day;
3. The Election Board may appoint Poll Workers as authorized under this Code to assist the Board in conducting the election and shall certify such appointments in writing. A Poll Worker who has an Immediate Family member that is a Candidate in the election shall not be eligible to serve as a Poll Worker. In appointing Poll Workers, the Election Board shall give preference to the appointment of Alternates to the Election Board and to Citizens who are not Immediate Family members of any other Poll Worker, an Election Board member, or an Alternate.
4. Copies of all certified appointments and sub-appointments shall be filed in the Board’s records and be open for Citizen inspection.
5. Should any Election Official of the polling place become ill or have an unforeseen emergency arise, the Chairperson of the Board shall be notified immediately so that an Alternate may be prepared to assume the responsibilities of the vacated position.
6. At least two (2) members of the Election Board shall be present at all times at the designated polling place on Election Day.
7. In arranging the polling place for voting, the ballot box shall be positioned so that it is within the view of the Election Officials at all times. Attention shall be given to the orderly flow of individuals coming in to vote, those who have signed in and are awaiting their turn in a voting booth and those who are departing.

8. Each election worker present at the polling place at the start of polling hours shall inspect the ballot box prior to opening the polls to verify that it is empty. Then the ballot box must remain locked and sealed through the hours the polls are open.
9. The designated poll workers should be at the polling place with all materials unpacked and in order, ready to receive the first voter at the time designated for opening the polls in the election notice.
10. An appointed clerk shall be present during polling hours to make available all forms and information pertaining to Band election procedures. The Election Board shall clearly post election procedures at the polling place on the day of the election. In addition, the Election Board shall post voting instructions and a sample ballot that accurately shows, as it appears on an actual ballot, the arrangement of the offices, candidates, and questions on which the voters are to vote. The voting instructions and sample ballot shall be located at a place which voters must pass to reach a voting booth.

B. Candidate's Poll Observers.

1. Each candidate may designate as a Poll Observer a Citizen whose name appears on the Certified Registry of Voters, provided that the Citizen is not a candidate for office in the election.
2. A Poll Observer shall serve as an informal monitor of the election process.
3. In order to designate a Poll Observer, a candidate must present to the Election Board no less than thirty (30) minutes prior to the opening of the polls a signed statement that identifies the candidate's designated Poll Observer.
4. Each Poll Observer shall be identified by a badge, armband, or other appropriate identification issued by the Election Board.
5. Poll Observers shall be seated or placed such that they are not able to see or hear the way a voter casts his/her vote(s).
6. Poll Observers shall refrain from all activities or verbal expressions that, in the view of an Election Official, hinder, obstruct, interfere, or influence the election process, including any alleged dispute.

7. The Election Board may eject from the Polling Place any Poll Observer that seeks to or in any way hinders, obstructs, interferes or influences the voting process during polling hours.
8. Any Poll Observer dispute shall be handled as a formal challenge to the Election. All challenges must be in writing, in accordance with Section 14 of this Code.

C. Rules Regarding Campaigning and Interference with Elections.

1. No person shall use tribal assets or resources to solicit, persuade or endeavor to persuade any person to vote for or against any candidate.
2. No person shall:
 - a. Post, display, or distribute on Band Land any material, including without limitation, any sign, poster, pamphlet, clothing, button or other printed matter, that directly or indirectly makes any reference to any election, candidate, or ballot question within 100 yards of any traditional or cultural event, including without limitation: (i) any ceremony; (ii) any building occupied by the Pokagon Band Department of Language and Culture; or (iii) any pow wow grounds, provided that this subsection 8(C)(2)(a) shall not apply to: (a) land leased for residential use; or (b) the portion of any building that is rented from or assigned by the Band for an election related event, but only for the specified time period of such rental or assignment;
 - b. Post, display, or distribute on Band Land any material, including without limitation, any sign, poster, pamphlet, clothing, button or other printed matter, that directly or indirectly makes any reference to any election, candidate, or ballot question, provided that this subsection 8(C)(2)(b) shall not apply to: (i) land leased for residential use; or (ii) any Public Forum.
 - c. Intimidate or threaten a person to vote for or against any particular candidate or for or against any ballot question that is being voted on at the election;
 - d. Either directly or indirectly, for the person's own benefit or on behalf of any other person, receive, agree, or contract for valuable consideration for voting or agreeing to vote, or inducing or attempting to induce another to vote, or for

- refraining or agreeing to refrain, or inducing or attempting to induce another to refrain, from voting;
- e. Either directly or indirectly, give, lend, or promise valuable consideration, to or for any person, as an inducement to influence the vote of a person relative to a candidate or ballot question, or as a reward for refraining from voting;
 - f. On Election Day, post, display, or distribute any material, including without limitation, any sign, poster, pamphlet, clothing, button or other printed matter, that directly or indirectly makes any reference to any election, candidate, or ballot question within 100 yards of any building where a polling place is located;
 - g. On Election Day, solicit, persuade or endeavor to persuade any person to vote for or against any candidate or ballot question or to sign any Petition within any building where a polling a polling place is located or any parking areas adjacent to such building or within 100 yards of any such building;
 - h. On Election Day, loiter within any building where a polling place is located or any parking areas adjacent to such building or within 100 yards of any such building; or
 - i. Directly or indirectly utter or address any threat or intimidation to an Election Official or other person authorized to administer or enforce election laws, or to conduct, oversee or monitor an election, or to assist in the carrying out of such duties, with the intent to induce such person to do any act not authorized by law or to refrain or delay in the performance of any duty imposed by law.
3. Subsections 8(C)(2)(a) and (b) and (f) shall not apply to: (a) official material that is required by law to be posted, displayed, or distributed; (b) material the sole purpose of which is to provide directions to the location of the polling place; or(c) material the sole purpose of which is to encourage voter registration or participation, provided that the material does not reference any individual, candidate, position or ballot question.
 4. Subsection 8(C)(2)(b) shall not apply to material prepared by the Band to explain or advocate for or against a ballot question.
 5. It shall be the duty of the Election Board at the polling place to obtain such assistance as may be required to maintain order about the building during the progress of the election.

D. Polling Place Voting.

1. A Citizen must present identification at the polling place, such as tribal enrollment card or other photo identification.
2. A Citizen presenting him/herself to vote who is not on the certified Registered Voter List shall not be allowed to vote. It is ultimately the responsibility of each voter to make certain he/she is registered to vote and listed on the certified Registered Voter List.
3. Each voter shall complete a voter sign-in card. Any voter who signs with an “X” shall have this mark witnessed and signed by two (2) poll workers.
4. Upon completion of the sign-in card, the voter shall present the card and identification to the appropriate poll worker. That poll worker shall then check to ensure the voter is listed upon the Certified Registry of Voters.
5. If the voter’s name is on the Certified Voter Registry, a poll worker shall check the voter’s name off the list, initial the check mark and initial the top right of the voter’s sign-in card.
6. Before the voter is handed the ballot(s), two (2) poll workers shall inspect the ballots to make sure they are proper in form and number.
7. Upon receipt of the ballots, the voter shall retire to one of the private voting booths and therein mark his/her ballot(s) in secrecy. Only one person shall occupy a voting booth at one time. The voter shall mark his ballot(s) using the instrument provided. The mark, to be valid, must be identifiable with the appropriate square or place on the ballot for which it is intended. After the ballots are so marked, the voter shall deposit the ballots in the ballot box.
8. When any voter presents himself for a ballot and states that he/she, because of physical disability or infirmity, is unable to mark his ballot, one (1) of the members of the Election Board shall cause such voter to be sworn after the following:

Do you swear or affirm that you are unable to sign and prepare your ballot for voting because of physical disability or infirmity?

9. Should the voter qualify himself/herself, it shall be the duty of two (2) poll workers to give the voter such assistance as he needs, but in all such instances the voter must without suggestions from the officials state the way he/she wishes to vote. Such assistance shall be given at the voting booth, and all other voters shall be kept sufficiently distant so that they will not hear or know how such infirm voter voted.
10. Should any voter spoil a ballot, the voter shall fold and return the spoiled ballot in the presence of the poll workers. Such voter shall then seal said ballot in an envelope marked "spoiled ballot". The poll workers shall then provide the voter another ballot in the same manner that the first one was provided. The poll workers shall retain the spoiled ballot for the election record.
11. Once the voters have cast their ballots, voters must then immediately leave the polling place (area) to enable other voters to cast their ballots.
12. All voters who are in line to vote at the time designated for the closing of the polls shall be permitted to vote.

E. Closing of the Polling Place.

1. All unused and spoiled ballots must be accounted for by the polling place officials. The unused ballots are to be preserved along with all polling place materials and promptly returned to the Election Board with the locked ballot box.
2. After the polls have closed, the Chairperson of the Election Board, in the presence of the Election Board and any poll workers, shall unlock the locked ballot box containing the executed ballots. The number of executed polling place ballots per seat shall not exceed the number of those signing in to vote.

Section 9. Ballot Counting and Results.

A. Ballot Counting.

1. Only Election Officials, Poll Observers, candidates, and any contractors that the Board determines are necessary to assist the Board in carrying out its responsibilities, may be present to observe the ballot count. Poll Observers and candidates present must remain quiet during the counting process and must not hinder, obstruct, interfere, or influence the counting process in any way.

- a. Any infraction of this policy shall result in the Poll Observer or candidate being asked to leave the counting area.
 - b. If a violation occurs, the Chairperson shall call for a suspension in the count until the individual or individuals responsible for the hindrance, obstruction, interference, or influence is removed from the counting area.
 - c. Duplicate count by candidates will not be allowed. Candidates and Poll Observers must remain a distance of at least ten (10) feet from the ballot box.
2. A Board member selected by the drawing of straws (that member drawing the longest straw), shall be tasked with verbally announcing the choice or choices indicated on the ballots. Another Election Official shall visually verify the announcement, as called, to ensure accuracy, stating any discrepancies immediately.
3. Before counting ballots, the Chairperson of the Election Board shall announce that no person shall be authorized to leave and re-enter the ballot counting area while counting is in progress.
4. All duly cast ballots are to be accounted for.
5. Decisions regarding the intent of the voter on questionable ballots should be made by majority vote of the Election Board, with a quorum present.
 - a. Any ballot which has been determined to be “spoiled” will not be counted. All spoiled ballots shall be kept in a separate envelope as election records.
 - b. Any ballot on which the intent of the voter cannot be determined shall be preserved for safekeeping with the notation placed on the face of the ballot indicating it was not counted.
 - c. If an “invalid ballot” (one discovered at the time the votes are counted which does not comply with the requirements for voting or is not an official ballot) is found in the ballot boxes, it is not to be counted.
6. Write-in votes on the ballot shall not be counted. Such ballots shall be deemed spoiled.
7. The Election Officials shall count the polling place ballots cast in the following manner.
 - a. Two (2) Election Officials shall tally votes on official tally sheets provided for such purpose. Each official tallying votes shall be supervised to ensure tally count is accurate.

- b. Upon completion of the tally, the Board shall note on their tally sheets the number of votes cast by those voting in person.
 - c. A recount of ballots shall be initiated if tally by both officials does not match.
 - d. If both tally counts agree, the tally sheet shall be signed by the tally official and supervising official.
8. The Election Officials shall count the absentee ballots cast in the following manner.
- a. Two (2) Election Officials shall tally votes on official tally sheets provided for such purpose. Each official tallying votes shall be supervised to ensure tally count is accurate.
 - b. Upon completion of the tally, the Board shall note on their tally sheets the number of absentee votes cast.
 - c. A recount of absentee ballots shall be initiated if tally by both officials does not match.
 - d. If both tally counts agree, the tally sheet shall be signed by the tally official and supervising official.
9. When canvass of election results has been completed, all cast and unissued ballots will be turned over to the Chairperson of the Election Board, who, with the assistance of the other members of the Election Board, will have the marked ballots and tally sheets sealed and kept in a locked container. Unissued ballots will be destroyed at this time.

B. Tie Votes (Run-off Election). If on the canvass of the votes polled at any election two or more persons who are candidates for the same elective office receive an equal number of votes, the Election Board shall announce that a tie has occurred and shall schedule a run-off election for the purpose of breaking the tie. The Run-Off Election shall be scheduled to occur within thirty (30) days from the election. The Election Board shall provide prompt notice of the Run-Off Election to the registered voters of the election. The Election Board shall, to the extent practicable, conduct the Run-Off Election pursuant to the requirements of this Code. Only voters whose names appear on the Certified Voter Registry shall be permitted to vote in the Run-Off election.

C. Position Pools. If the election involves positions for elective office that appear together in a pool on the ballot and one or more positions are to fill a vacancy for a remaining term of office, then the candidates who are elected to the available positions in the pool shall be listed from highest vote total to lowest vote total. The Election Board shall use this list to assign the available positions to such candidates based on the vote total. Specifically, the candidate with the highest vote total will be assigned the position with the longest term of office and the candidate with the lowest vote total will be assigned the position with the shortest remaining unexpired term of office.

D. Announcing Election Results.

1. The statement of election results is an uncertified announcement issued by the Election Board to show the number of votes cast. The statement of election results shall be posted at the polling place immediately following the completion of the canvass of the election. The Election Board shall also endeavor to promptly have the uncertified election results available to Citizens through the internet.
2. The election results shall be certified only after any official challenges are resolved under the provisions of these procedures.
3. Within three (3) business days following the certification of the election results, the Election Board shall provide written notice to each person elected in the election of the following:
 - a. Their successful election to office;
 - b. The length of their term of office;
 - c. When the oath of office will be administered and they will be sworn in to office, including the time, date, and location; and
 - d. All candidates must take the oath of office and be sworn in prior to conducting official tribal business or exercising the authority of any tribal office.

E. Retention of Election Records. The Election Board shall maintain all unused ballots, spoiled ballots, and duly cast ballots as election records for not less than one year from the date of the election. After one year, the unused ballots, spoiled ballots, and duly cast

ballots may be destroyed.

Section 10. Electronic Voting Systems; Ballot Card Voting System.

- A. **Enabling Provision.** The Election Board may, in its sole discretion, utilize, an Electronic Voting System (EVS), a Ballot Card Voting System (BCVS), or both, which may be used in whole or in part, for any or all of the following purposes in the conduct of an election: recording, counting, and tabulating votes.
- B. The provisions of this Section 10 apply to the conduct of an election in which the Election Board utilizes an EVS, a BCVS, or both; provided, however, that so far as practicable, the procedures for ballots and ballot boxes, the polling place, ballot counting and results, as prescribed in Sections 7, 8 and 9 of this Code, shall apply to procedures followed pursuant to this Section 10. This Section 10 shall govern in the event of a conflict between any other provision of this Code relating to the conduct of elections where an EVS or BCVS is utilized.
- C. No EVS or BCVS shall be used unless, in addition to the requirements of this Section 10, it has been constructed so that it:
1. Can be used in a manner that provides for voting in secret;
 2. Permits each voter to vote at any election for all persons for whom he or she is lawfully entitled to vote; to vote for as many persons for an office as he or she is entitled to vote for; and to vote for or against any question upon which he or she is entitled to vote;
 3. Prevents a voter from voting for the same person more than once for the same office;
 4. Records correctly and accurately each vote that is properly cast; and
 5. Provides an audit trail. For the purposes of this section, an audit trail is a record of the votes cast by each voter that can be printed, recorded or visually reviewed after the polls are closed. However, the audit trail shall not allow for the identification of actual voters.

D. Confirmation.

1. The vendor supplying the EVS or BCVS shall provide the Election Board with written confirmation that the EVS or BCVS complies with the requirements of subsection 10.C.
2. The Election Board shall examine each EVS or BCVS and confirm that it complies with the requirements of subsection 10.C.

E. Testing.

1. Prior to opening the polls on Election Day, the Election Board shall test the EVS/BCVS to ascertain that it will correctly count the votes cast for all offices and on all questions.
2. The test shall be conducted by processing a pre-audited group of ballots which are marked to record a predetermined number of valid votes for each candidate and each question and shall include for each office one or more ballots which have votes in excess of the number allowed by law in order to test the ability of the EVS/BCVS to reject such votes. If any error is detected, the cause shall be ascertained and corrected. An errorless count shall be made before the EVS/BCVS system is approved for use in the election by the Election Board.
3. Because this test occurs prior to the opening of the polls, the test shall not be open to the public, provided, however, that Poll Observers shall be allowed to observe the test.
4. The Election Board shall certify the accuracy of the test. The Election Board shall retain the test ballots, the vote count, the results, and any other test materials, as election records. The Election Board shall also record the serial number or other unique identifier of the EVS/BCVS.
5. After the polls are closed and immediately following the official ballot count, the test shall be repeated. Because this test occurs following the closing of the polls, this test shall be open only to the Candidates.

- F. **Equipment Failure.** The Election Board shall have paper ballots and a ballot box in its possession at the polling place to utilize for the conduct of the election, in the event that an EVS or BCVS fails to work properly during an election.

G. Voting and Processing EVS Ballots.

1. The ballots used for the EVS may vary from the requirements for ballots provided in subsection 7.A to the extent necessary for the EVS to process the ballot; however, any ballot used shall first be approved by the Election Board.
2. Prior to the opening of the polls, the Election Board shall ensure that each EVS has zero (0) votes for each candidate and public question and is otherwise in working order.
3. The voter shall register his or her vote in secret by touching a device on or in an area immediately adjacent to the candidates' names and for each public question by touching a device on or in an area adjacent to the word "yes" or "no" next to the question.
4. The voter casting a ballot on an EVS must be permitted to verify and change, if desired, in a private and independent manner, the votes he or she made before the ballot is cast and counted. If the voter is unable to change the ballot or correct an error before it is cast or counted, the voter shall be permitted to vote a replacement ballot.
5. The EVS must notify the voter before the ballot is cast regarding the effect of casting multiple votes for an office and provide the voter an opportunity to correct the ballot before the ballot is cast and counted.
6. The vote totals of each Candidate or question shall not be revealed before the close of the polls.
7. As soon as the polls are closed, the Election Board shall immediately secure each EVS against voting and obtain at least one (1) paper printout of the total votes cast for each Candidate and on each public question. Once the printout of the vote count is obtained, the Election Board shall close the EVS.
8. The Election Board shall maintain a copy of the paper printout or if possible, a copy or the original of the memory pack of the EVS as election records.
9. As a means of assuring accuracy in conducting an election with an EVS, the unit must incorporate multiple memories in the machine itself and in the unit's programmable memory devices. To attain a measure of integrity over the process, an EVS must also

maintain images of each ballot that is cast so that records of individual ballots are maintained by a subsystem independent and distinct from the main vote detection, diagnostic, processing, and reporting path.

H. Voting and Processing BCVS Ballots.

1. The ballots used for the BCVS may vary from the requirements for ballots provided in subsection 7.A to the extent necessary for the BCVS to process the ballot; however, any ballot used shall first be approved by the Election Board.
2. Prior to counting the ballots, the Election Board shall ensure that the vote counter is set at zero (0).
3. After marking the ballot in secret, the voter shall place the ballot into the BCVS in a manner that maintains the secrecy of his or her ballot from those around him or her.
4. If the voter places the ballot into a BCVS and the device rejects the voter's ballot because it is unable to read or accept the ballot, the ballot shall be treated as a spoiled ballot and the voter shall be issued a new ballot.
5. If the BCVS malfunctions, the voters shall deposit their ballots in a polling place ballot box, which shall be maintained pursuant to Section 7. The polls shall remain open as scheduled and the Election Board shall attempt to repair or replace the BCVS.
6. If the BCVS cannot be repaired or replaced in a timely manner, the ballots shall be counted by hand following Section 9 of this Code, as far as practicable.
7. The vote totals of each Candidate or question shall not be revealed before the close of the polls.
8. Ballots and the audit trail from the BCVS shall be retained as election records.

I. Processing Absentee Ballots with a BCVS.

1. A BCVS may be used to count absentee ballots.
2. If the BCVS rejects an absentee ballot and the Election Board determines the rejection is not due to a malfunction of the BCVS, then the Election Board shall examine the ballot to discern the intent of the voter.

3. If the Election Board is unable to discern the intent of the voter, the ballot shall be deemed a spoiled ballot and shall not be counted.

J. Interfering or Injuring Equipment. A person shall not willfully injure, interfere, or attempt to interfere with the correct operation of an EVS or BCVS.

Section 11. Challenges.

A. Challenging the Accuracy of the Ballot Count.

1. Any challenge to the ballot count must be filed in writing with the Election Board and received by the Election Board within three (3) days of posting of the uncertified election results.
2. Only candidates may file challenges under this provision. The Election Board shall promptly provide notice, by telephone or electronic mail, to all candidates for the subject office that a challenge to the ballot count has been filed. Such notice shall, at a minimum, include the time, date, and location of the recount. Any candidate who filed a challenge to a ballot count must be present during the recount. The following may be present during the recount: those candidates for the subject office, any such candidate's Poll Observers previously designated pursuant to Subsection 8(B), and any contractors that the Board determines are necessary to assist the Board in carrying out its responsibilities.
3. The Election Board must complete any recount for the subject office or for the particular measure within three (3) days of the challenge. The Election Board shall promptly provide notice of the results of the recount, by written or electronic mail, to the all candidates for the subject office.
4. Decisions of the Election Board regarding challenges shall be final, subject to allegations of impropriety appealed to the Tribal Judiciary.

B. Challenges Not Related To The Ballot Count. All Challenges other than Ballot Recount requests shall be addressed pursuant to Section 14.

Section 12. Installation of Elected Officials.

- A. **Terms of Office.** Unless a different term is stated in the Constitution, the term of office for the Tribal Council and the Salary Commission, having a fixed term of years begins at 10:00 a.m., eastern time on the date of the first Regular Meeting of the Tribal Council in August next following the General Election, and ends at 10:00 a.m., eastern time on the date of the first Regular Meeting of the Tribal Council in August after the prescribed number of years. No Elected Official, however, may conduct official tribal business or exercise the authority of any tribal office until he or she is duly installed in office.
- B. **Appointment to Serve In Acting Capacity.** No alteration in the time for commencement of the term of a Tribal Council member or Salary Commissioner provided in Subsection 12.A of this Code shall occur, notwithstanding the circumstance that such office may unavoidably be vacant at the commencement of the term. In the event of a vacancy for any reason in an elective tribal office at the time prescribed for the commencement of the term of office, the Tribal Council shall provide by law for another elected tribal official to serve in an acting capacity to carry out the powers and duties of the vacant office until such time as a duly elected and qualified person is willing and able to be installed into such office.
- C. **Oath of Office.**
1. Every person before assuming the powers and duties of an elective tribal office shall take the oath of office set forth below at subsection 3 and shall be sworn in and installed into office by any member of the Election Board, provided that the preference is that such duties are performed by the Chairperson.
 2. The oath of office shall not be administered to a candidate-elect who is an Employee Of The Band and such person shall not permitted to assume office until the candidate-elect has resigned his or her employment with the Band.
 3. The oath of office shall not be administered to the Tribal Council Treasurer and the Treasurer shall not be permitted to assume office until the Treasurer has complied with Article X, subsection 5 (e)(vi) of the Constitution and, at the Band's expense,

acquired a surety bond, in an amount and with a surety company satisfactory to the Tribal Council, covering administration of the Band's fiscal affairs. The Election Board Chairperson shall verify that the Treasurer-elect has acquired a surety bond in compliance with the preceding requirements.

4. The following oath of office shall be administered to each person elected to office:

“I do solemnly swear that I will support and defend the Constitution of the Pokagon Band of Potawatomi Indians; I pledge my honor to perform the duties of my office honestly, faithfully, and to the best of my ability; and that I will refrain from alcohol while on active duty for the Pokagon Band and will abstain from all illegal substances throughout the term of my office, so may the Great Spirit help me.”

5. Within ten (10) business days of administering the oath of office to an Elected Official, the Chairperson of the Election Board or in the Chairperson's absence, the Vice Chairperson, shall provide written certification of such action to the Tribal Council Secretary.

D. Failure to Assume Office.

1. Any person elected to office and certified by the Election Board as a winning candidate or any person appointed to elected office shall take the oath of office and be sworn in to office within twenty-one (21) days of the scheduled start of his or her term of office. Any person who fails or refuses to take the oath of office within the time allowed shall be deemed to have declined to serve in the office which such person was elected or appointed.
2. If any person elected to office and certified by the Election Board as a winning candidate or any person appointed to elected office fails or refuses to appear at the specified time on the date of the Regular Meeting of the Tribal Council and take the oath of office and be sworn in, the Election Board shall provide written notice to such person, no later than two (2) business days following the date of the Regular Meeting, that he or she:

- a. Failed or refused to appear to take the oath of office and be sworn in;
- b. Must contact the Election Board Office to arrange to take the oath of office and be sworn in at another Council meeting, or if he or she is not able to be sworn in at another Council meeting, then he or she may be sworn in at the Election Board Offices; provided, however, that it is preferred that the swearing in occur at a Council meeting;
- c. Failure to take the oath of office and be sworn in within twenty-one (21) days of the scheduled start of his or her term of office shall be deemed a declination to serve; and
- d. Upon a deemed or actual declination to serve another person may occupy the office to which her or she was elected or appointed.

A copy of the written notice shall be provided to the Tribal Council.

3. Upon a deemed declination to serve, the Election Board shall:
 - a. Provide written notice to such person that he or she is deemed to have declined to serve; and
 - b. Provide a copy of such notice to the Tribal Council.
4. Upon receipt of a notice from the Election Board of a declination to serve, the Tribal Council shall proceed to fill the vacancy resulting from the deemed declination to serve in a manner prescribed by applicable law.

Section 13. Initiatives, Referendums, and Recalls.

A. Requirements for All Petitions.

1. Each Petition signature page must contain a statement setting forth the purpose of the Petition. If the purpose is to submit to initiative election an enacted or proposed law, the Petition must clearly identify the specific enacted or proposed law that the petitioners wish submitted for initiative. If the Petition seeks the recall of an Elected Official, the Petition shall set forth specific facts regarding the acts or omissions of the Elected Official who is the subject of the recall that form the basis for the initiative.

2. All information required on the Petition form shall be complete, accurate and legible.
3. A proposed Petition must be submitted to the Election Board for review. Within five (5) days of its receipt of the proposed Petition, the Election Board may suggest revisions to the submitted language which identify or make clear the specific issue or issues to be presented. The petitioners may or may not accept the suggested revisions. The Election Board shall declare that the proposed Petition is approved for gathering signatures of Citizens if it determines that the proposal, if approved, would not be inconsistent with the Constitution or with applicable federal law.
4. The Election Board must issue its declaration regarding the proposed Petition within fifteen (15) days of receiving the proposed Petition. If the Petition is approved for gathering signatures, the Election Board shall, within eight days after the approval, notify the Petitioner of its declaration and make available Petitions with the Petition language on the proper forms to be used for gathering the signatures of Citizens.
5. If the Election Board declares that the Petition would not be inconsistent with the Constitution or with applicable federal law, following notification of the Petitioner of the Election Board's declaration, the Election Board shall post a copy of the Petition form with the approved language at the designated or customary meeting location of Tribal Council and at Elder's Hall.
6. Only signatures of Citizens who are at least eighteen (18) years of age on the date such Citizen signs the Petition will be counted as a valid signature in satisfaction of the requirements of Article XIV of the Constitution.
7. A Petition that is not in compliance with all of the requirements set forth above will be considered invalid.
8. A Petition must be signed by at least five percent (5%) of the Citizens eighteen (18) years of age and older, which determination shall be made as of the date the Petition is received by the Election Board for review.
9. A Petition may not seek to recall more than one member of the Tribal Council. An Elected Official shall be subject to only one (1) recall election per twelve-month period and only after holding office for at least one (1) year.

10. If an initiative is defeated in an election, the same matter cannot again be the subject of an initiative election for at least two (2) years, excepting the recall of Elected Officials.
11. A Petition shall contain the following information handwritten in ink by each Petitioner: (i) the Petitioner's printed name; (ii) the Petitioner's signature; (iii) the date the Petitioner signed the Petition; (iv) the Petitioner's enrollment number; and (v) the Petitioner's current residential address. Each Petitioner may sign only their own name and must write the date at the time of signing on the line next to the Petitioner's signature. All signatures must be in ink.
12. The name, signature and all other information provided by each Petitioner must be consistent with the information contained in the Pokagon Band records as of the date of the Petitioner's signature.
13. A Petition must include a certification by the Circulator on each page of the Petition.
14. Petition forms shall only be valid for a period of sixty (60) days from the date the Election Board notifies the Applicant that the petition forms are available to the Petitioners. The Election Board shall date stamp each form on the date issued and indicate on the form in the designated space the final date the form must be returned to the Election Board.
15. A Petition must be returned to the Election Board by the Applicant who first obtained the Petition form from the Election Board. Only the original Petition form issued to the Applicant by the Election Board will be accepted for review by the Election Board.
16. Inquiries regarding the number of registered voters, Eligible Voters, or the number of Citizens eighteen (18) years of age and older required for purposes of Petitions, Referendums, Initiatives, or amendments to the Constitution, shall be directed to the Election Clerk.

B. Form Of Petition.

1. Petitions must be on a form issued by the Election Board. The Election Board shall prepare a Petition form that meets all requirements of Pokagon Band law. The

Petition form shall contain such number of pages as will accommodate the signatures of at least five percent (5%) of the Citizens eighteen (18) years of age and older.

2. Each page of the Petition form shall be consecutively numbered and shall include a place for two date stamps by the Election Board, one for the date of issuance of the Petition form and one for the date of receipt upon return of the Petition form to the Election Board. The Petition form shall also include on the first page a space to indicate the date the Petition form must be received by the Election Board.
3. Each Petition form shall include designated spaces for all information required by tribal law and if the Petition seeks the Recall of an Elected Official, the following statement shall appear at the top of each page of the Petition form:

PETITION FOR RECALL OF AN ELECTED OFFICIAL

We, the undersigned Citizens of the Pokagon Band of Potawatomi Indians eighteen (18) years of age and older, petition for the recall of

_____ pursuant to Article ___ of the Pokagon Band Constitution. The specific act(s) or omission(s) of said Elected Official that provide the cause for recall is stated as follows:

NOTICE: You must be at least eighteen (18) years of age on the date you sign this petition. If you fail to provide complete, accurate and legible information for each of the five categories of required information, your signature will be invalid and will not be counted. By signing this Petition, you certify that you meet all the requirements under tribal law for signing a Recall Petition. If you sign this Petition and it is later determined that you are not qualified to sign this Petition, your signature will be invalid.

4. Each Petition form shall include on the bottom of each page the following statement:

The undersigned Circulator of this petition certifies that each Petitioner named on this page signed this Petition in his/her presence on the date indicated next to each signature and that to his/her knowledge and belief each Petitioner was at least eighteen (18) years of age on the date of each such Petitioner's signature. The undersigned Circulator further

certifies that that he or she did not receive any financial assistance from any non-Citizen of the Band for his or her efforts in obtaining the signatures provided herein.

Signature of Circulator: _____

Printed Name: _____

Address: _____

Enrollment No.: _____ Date: _____

C. Review Of The Petition By The Election Board.

1. The Petition must be submitted to the Election Board within sixty (60) days after notice that the Petition forms are available to the Petitioners.
2. Upon submission of a Petition by an Applicant to the Election Board for review, the Election Board shall provide one complete copy of the Petition to the Applicant. After a Petition is returned to the Election Board for review, no person, including members of the Tribal Council, the Election Board, the Circulator, the Petitioners and Citizens, shall have any right to make any changes, alterations, deletions or additions to the Petition, including removing Petitioner's names from the Petition or adding Petitioner's names to the Petition. The rights of the Applicant, the Circulator and the Petitioners regarding the Petition are limited to those rights expressly stated in tribal law.
3. Once submitted to the Election Board for review, Petitions shall be the property of the Pokagon Band of Potawatomi Indians. Petitions shall be considered confidential documents and the information contained in the Petition shall be considered confidential until the Election Board makes a final determination regarding the validity of the Petition. No person, including the Tribal Council shall be entitled to a copy of the Petition, to examine the Petition or a copy of the Petition, or to obtain information contained in the Petition before the Election Board makes a final determination as to the validity of the Petition. After the Election Board makes a final determination as to the validity of a Petition, the valid Petition shall be considered a public document and shall be posted conspicuously within the tribal community, including but not necessarily limited to the Election Board offices, the designated or customary meeting location of the Tribal Council, and the Elders Council.

4. If the Petition seeks the recall of a Tribal Council Member, and such number of Petitions submitted to the Election Board for review are determined to be valid by the Election Board and create the possibility of six or more Tribal Council members being recalled through simultaneous or consecutive recall elections, thereby depriving the Tribal Council of a quorum of members necessary to conduct business, the recall elections shall be staggered in order to prevent the possibility of a loss of a quorum of members on the Tribal Council. Recall elections shall not be staggered more than thirty (30) days apart.
5. The Election Board shall review a Petition submitted within the required time by an Applicant and shall issue a final written determination regarding the validity of such Petition to the Tribal Council and the Applicant within fifteen (15) days from the date the Election Board receives the Petition.
6. The Election Board shall review the validity of Petitioner signatures through a comparison of the names and information of Petitioners on the Petition with the names and information of Citizens in the current records. A Petitioner's signature will be considered invalid if, as of the date the Petitioner signed the Petition, the Petitioner is not identified in the current Pokagon Band records as a Citizen or if the Petitioner was not eighteen (18) years of age.
7. A declaration that a proposed Petition is not approved for gathering signatures and a determination regarding the validity or invalidity of a Petition by the Election Board shall be a final and conclusive decision on the Pokagon Band subject only to the exclusive review of the Pokagon Band Tribal Court.

D. Referendum Proposals.

1. Each Referendum Proposal must contain a statement setting forth the purpose of the Referendum. The Referendum Proposal must clearly identify the specific enacted or proposed law that the Tribal Council wishes submitted for a Referendum election.
2. The Referendum Proposal may be on a form issued by the Election Board, or it may be on a form provided by the Tribal Council, provided it meets the requirements set forth in this subsection 13.D. Any Referendum Proposal not in compliance with the requirements set forth in this subsection 13.D will be considered invalid.

3. Any Referendum Proposal must be accompanied by a duly signed resolution of the Tribal Council approving the Referendum Proposal.
4. The Referendum Proposal must have the support of at least seven (7) Council members.
5. All information required on the Referendum Proposal shall be complete, accurate and legible.
6. A Referendum Proposal must be submitted to the Election Board for review. Within five (5) days of its receipt of the Referendum Proposal, the Election Board may suggest revisions to the submitted language that more clearly identify the specific issue or issues to be presented. The Tribal Council shall have discretion whether or not to accept the suggested revisions. The Election Board shall declare that the Referendum Proposal is approved for election if it determines that the proposal, if approved, would not be inconsistent with the Constitution or with applicable federal law.
7. The Election Board must issue its decision regarding the Referendum Proposal, in writing, within fifteen (15) days of receiving the Referendum Proposal.
8. If the Election Board determines that the Referendum Proposal, if approved, would not be inconsistent with the Constitution or with applicable federal law, following notification of the Tribal Council of the Election Board's declaration, the Election Board shall post a copy of the Referendum Proposal with the approved language in accordance with the requirements of subsection 3.G of this Code.
9. A determination that a Referendum Proposal is not approved for a Referendum election is a final decision of the Election Board subject only to the review of the Pokagon Band Tribal Court.

E. Vote Required for Approval of Initiative and Referendum.

1. If the Petition or Referendum Proposal is approved by the Election Board to be put to vote, the Election Board shall conduct an election on the Initiative or Referendum no sooner than thirty (30) days and no later than sixty (60) days after such approval provided, however that the Election Board may reasonably shorten or lengthen this timeline to permit holding the Initiative or Referendum election at the same time as

- the Tribal Council election. If, in the judgment of the Election Board, sufficient time does not exist for the Citizens to become informed about the Initiative or Referendum, or for the Election Board to prepare for the election, the Initiative or Referendum election shall be held separately from the Tribal Council election.
2. Approval by the voters of an Initiative concerning the adoption of any proposed or previously enacted tribal law requires at least sixty percent (60%) majority support of those voting in the election with at least fifteen percent (15%) of the Band's Citizens eighteen (18) years of age and older casting ballots.
 3. Approval by the voters of a Referendum concerning the adoption of any proposed or previously enacted tribal law requires approval by a majority of those voting in the election with at least fifteen percent (15%) of the Band's Citizens eighteen (18) years of age and older casting ballots.
 4. If less than fifteen percent (15%) of the Band's Citizens eighteen (18) years of age and older cast ballots in an Initiative or Referendum election, the Initiative or Referendum is defeated.
 5. If an Initiative or Referendum is defeated in an election, the same matter cannot again be the subject of an Initiative or Referendum election for at least two (2) years, excepting Initiatives to recall Elected Officials.

F. Amendments to the Constitution.

1. **Proposed by the Citizens.** The process to amend the Constitution by petition of the Citizens shall occur in accordance with the Petition and Initiative requirements provided in Section 13 of this Code and Article XIV, Sections 1 and 2 of the Band's Constitution.
2. **Proposed by Tribal Council.** The process to amend the Constitution by resolution of the Tribal Council shall occur in accordance with the Referendum requirements provided in Section 13 of this Code and Article XIV, Section 3 of the Band's Constitution.
3. **Vote Required for Approval.** An amendment to the Constitution shall be effective upon the two-thirds (2/3) majority vote of the voters voting an election called for that

purpose; provided that at least one-third (1/3) of the Band's registered voters cast ballots.

4. **If Not Approved.** A proposal to amend the Constitution that is defeated or is not approved in an election called for that purpose is not subject to the two (2) year moratorium for Initiatives and Referendums provided in subsection 13.E.

G. Petition for Citizen Meeting or Special Council Meeting.

1. The Citizens may petition for Citizen Meetings and Special Meetings of the Tribal Council, pursuant to Article VIII, section 2 and Article V, section 1 respectively of the Constitution. To the extent the requirements regarding Petitions and proposed Petitions provided in subsection 13.A through 13.C of this Code do not conflict with the requirements in this subsection (G), they shall apply to all Petitions and proposed Petitions for Citizen Meetings and Special Meetings of the Tribal Council. In the event of a conflict, the requirements provided in this subsection (G) shall govern.
2. To qualify for circulation, a proposed Petition calling for a Citizen Meeting or a Special Meeting of the Tribal Council must:
 - a. Clearly identify one or more specific issues of tribal government to be discussed; and
 - b. Be signed by at least ten (10) Band Citizens eighteen (18) years of age or older.
3. A proposed Petition calling for a Citizen Meeting or a Special Meeting must be submitted to the Election Board for review. Within five (5) days of the Election Board's receipt of the proposed Petition, the Election Board may suggest revisions to the submitted language which identify or make clear the specific issue or issues to be presented. The petitioners may or may not accept the suggested revisions. If the proposed Petition is otherwise proper, the Election Board shall approve the proposed Petition for gathering signatures when the five (5) days expires or sooner if the language in the proposed Petition is mutually acceptable.
4. Upon approval of the proposed Petition, a Member of the Election Board or the Election Clerk shall personally serve a copy of the proposed Petition on an officer of the Tribal Council. If, after twelve (12) days following service on the Tribal Council

- officer, the Tribal Council hasn't scheduled the requested meeting to address the issues in the Petition, the Election Board shall provide written notice to the Applicant that the approved Petition forms are available to the Petitioners.
5. The approved Petition forms shall only be valid for a period of thirty (30) days from the date the Election Board notifies the Applicant that the Petition forms are available to the Petitioners.
 6. The Election Board shall review a Petition submitted within the time required by an Applicant and shall issue a final written determination regarding the validity of such Petition to the Tribal Council and the Applicant within five (5) days from the date the Election Board receives the Petition.
 7. If the Election Board verifies the Petition and the Petition called for a Citizen Meeting, the Election Board shall call and conduct a Citizen Meeting in accordance with the requirements of Article VIII, subsection 2(g) of the Constitution.
 8. If the Election Board verifies the Petition and the Petition called for a Special Meeting of the Tribal Council, the Special Meeting shall be called and conducted by the Tribal Council Chairperson within seven (7) calendar days of written notification by the Election Board that it verified the Petition.

Section 14. Election Challenges.

- A. Election Challenges.** Regular Elections, Special Elections, and Run-Off Elections may be challenged only by candidates for elective office or voters in the election being challenged. A candidate or voter in the election challenging an election shall prepare a written Notice of Challenge stating the specific reasons for the challenge and shall file the Notice of Challenge with the Tribal Court by 5:00 p.m. of the third business day following the day of the election. Except as provided in subsection C hereunder, the Tribal Court shall, except for reasonable cause, conduct a hearing regarding the challenge within five (5) business days following the last day an election Challenge may be filed. The hearing shall be open to all Pokagon Band Citizens.

B. Procedures For Election Protest Hearings. The following procedures shall apply to hearings regarding Election Challenges in addition to any rules established by the Tribal Court that are not inconsistent with this Section:

1. The Challenger shall file a Notice of Challenge, which shall be styled *In re. the Election held on [INSERT DATE OF ELECTION]*, with the Tribal Court. The Election Board shall be considered an interested and necessary party to the proceeding and may be assisted by legal counsel for the Band. The Challenger may be represented by legal counsel at the hearing. The Challenger shall serve a copy of the Notice of Challenge on the Election Board and all other parties to the proceeding at least two business days prior to the date of the hearing.
2. The right of the Challenger to obtain documents or other evidence shall be determined in the sole discretion of the Tribal Court following a showing by the Challenger that such documents support the reasons for the Challenge as stated in the Notice of Challenge, that the presentation of such evidence to the Tribal Court will materially assist in the rendering of a decision on the Challenge, and the rights of voters to the secrecy of their ballot are protected. The Tribal Court shall consider appropriate restrictions where confidential or privileged information is involved.
3. The Tribal Court may order the submission of evidence and further explanation of the reasons supporting the protest as the Court deems necessary or desirable.

C. Standards Regarding Election Challenges. Decisions of the Election Board may be challenged in Tribal Court only on the grounds that the Board's decision has been affected by a clear error in the application of Pokagon Band election law or federal law, if applicable, or by a conflict of interest or conduct violating the Code of Ethics. The Challenger bears the full burden of proof by clear and convincing evidence. Substantial, rather than complete, compliance with this Code shall be deemed adequate. The Court shall give deference to the reasonable interpretations of Pokagon Band law by the Election Board, which is designated under the Constitution and this Code to conduct Pokagon Band elections and to interpret and implement Pokagon Band election law.

D. Remedies. If the Challenger meets the burden of proof, the Tribal Court shall apply the following remedies in accordance with the stated preferences:

1. First, the Judge shall make every reasonable effort to apply remedies that would avoid the invalidation of an election result certified by the Election Board or overturning the Election Board's decision and shall give full consideration to remanding the matter back to the Election Board for reconsideration.
2. Second, the Judge may only declare the outcome of an election or the decision the Election Board should have reached if it can be determined with reasonable certainty what the outcome or decision should have been.
3. Third, the Judge may invalidate the election or Election Board decision only if no other remedy would eliminate the effects of irregularities on the election or decision.

E. Final Decision. The Tribal Court shall endeavor to render a final decision on the Challenge by 5:00 p.m. of the first business day following the date of the hearing. Such decision shall be in writing and shall include findings of fact and conclusions of law. The Tribal Court shall promptly notify the Challenger of the decision. The decision of the Tribal Court shall be final for the Band. This Section shall not be construed to be either a waiver of the Band's sovereign immunity from suit.

Section 15. Violation Of Election Laws.

A. Criminal Violations. Any Indian person who willfully violates or willfully fails to comply with any provision of this Code shall be guilty of a crime and shall be subject to a maximum fine of \$5,000 or 1 year imprisonment, or both. Each day during which such violation or failure to comply continues shall constitute a separate violation of this Code.

B. Civil Violations. Any person who willfully violates or willfully fails to comply with any provision of this Code shall be liable for a civil fine not to exceed \$5,000 for each such violation or failure to comply. The amount of any such civil fine may be recovered in a civil action in the Tribal Court. All civil fines accruing under this Code shall be

cumulative and a suit for the recovery of one fine shall not bar or affect the recovery of any other fine, judgment, penalty, forfeiture, or damages, nor bar the power of the Tribal Court to punish for contempt, nor bar any criminal prosecution. Each day during which such violation or failure to comply continues shall constitute a separate violation of this Code.

Section 16. Repeal of Conflicting Laws; Severability.

- A. All other laws, regulations, and policies that may be inconsistent with or in conflict with this Code are hereby repealed.
- B. If any section, subsection, paragraph, sentence, phrase or other portion of this Code is, for any reason, held invalid or unconstitutional by a court of competent jurisdiction, such portion of this Code shall be deemed to be separate, distinct, and independent from the remaining portion of this Code, which shall not be affected by the judicial decision and shall remain in effect.

LEGISLATIVE HISTORY

THE "ELECTION CODE" WAS ENACTED ON DECEMBER 19, 2005 BY TRIBAL COUNCIL RESOLUTION NO. 05-12-19-04; AND ON APRIL 6, 2009, BY ADOPTION OF RESOLUTION NO. 09-04-06-01, COMPREHENSIVE AMENDMENTS THROUGHOUT THE ELECTION CODE WERE ENACTED; AND ON APRIL 5, 2010, BY ADOPTION OF RESOLUTION NO. 10-04-05-02, AMENDMENTS WERE ENACTED TO SUBSECTIONS 3.B, 4.G, 5.H AND SECTION 6, AND A NEW SECTION 2.S WAS ENACTED; AND ON NOVEMBER 16, 2011, AT A DULY CONVENED LEGISLATIVE SESSION, BY ADOPTION OF RESOLUTION NO. 11-12-14-01, AMENDMENTS WERE ENACTED TO SUBSECTIONS 1.E.7, 2.L.1, 3.B.11, AND 5.H.2, AND A NEW SUBSECTION 2.G.5 WAS ADDED, A NEW SUBSECTION WAS ADDED AS SUBSECTION 2.I.3 AND THE REMAINDER OF SUBSECTION 2.I WAS RENUMBERED, AND A NEW SUBSECTION WAS ADDED AS SUBSECTION 5.E.9 AND THE REMAINDER OF SUBSECTION 5.E WAS RENUMBERED; AND ON FEBRUARY 17, 2014, BY ADOPTION OF RESOLUTION NO. 14-02-17-01 COMPREHENSIVE AMENDMENTS THROUGHOUT THE ELECTION CODE WERE ENACTED; AND ON OCTOBER 6, 2014, BY ADOPTION OF RESOLUTION NO. 14-10-06-02, AMENDMENTS WERE ENACTED TO SUBSECTION 2(O); AND ON MARCH 31, 2016, BY ADOPTION OF RESOLUTION NO. 16-03-30-01, AMENDMENTS WERE ENACTED, INCLUDING TO SECTION 8.C; AND ON JANUARY 30, 2017, BY ADOPTION OF RESOLUTION NO. 17-01-30-05, AMENDMENTS THROUGHOUT THE CODE WERE ENACTED; AND ON MARCH 19, 2019 BY ADOPTION OF RESOLUTION NO. 19-03-19-02, AMENDMENTS THROUGHOUT THE CODE WERE ENACTED.