



**MENOMINEE NATION
THE MENOMINEE TRIBAL LEGISLATURE
AMENDMENT TO ORDINANCE 07-17
LEGISLATURE ELECTIONS**

FINAL APPROVAL:

BE IT ORDAINED BY THE LEGISLATURE OF THE MENOMINEE INDIAN TRIBE OF WISCONSIN:

Tribal Ordinance No. 07-17, "Legislature Elections" is amended in its entirety pursuant to the following attachment attached hereto and incorporated herein as if fully reproduced here.

CERTIFICATION

We, the undersigned Officers of the Menominee Tribal Legislature, do hereby certify that the foregoing Tribal Ordinance No.07-17, entitled "Legislature Elections", was **adopted** at a regular meeting of the Menominee Tribal Legislature held on **August 5**, 2010, at which a quorum was present, by a vote of **4** for, **3** opposed, **0** abstentions, and **1** absent.

The undersigned also certify that the foregoing Ordinance has been posted in accordance with the Menominee Constitution and Bylaws.

Handwritten signature of Laurie Boivin in cursive script.

**LAURIE BOIVIN, CHAIRWOMAN
MENOMINEE INDIAN TRIBE OF WISCONSIN**

Handwritten signature of Lynnette Miller in cursive script.

**LYNNETTE MILLER, SECRETARY
MENOMINEE INDIAN TRIBE OF WISCONSIN**

DATE: August 5, 2010

MENOMINEE NATION
MENOMINEE TRIBAL LEGISLATURE

ORDINANCE NO. 07-17

LEGISLATURE ELECTIONS

1. **TITLE.** This ordinance shall be entitled "Legislature Elections".
2. **PURPOSE.** The purpose of this ordinance is to set the dates for regular and special Legislature elections, set the open and close times for election polls, and to establish the process by which the Commission will tally election results, and for other purposes.
3. **AUTHORITY.** This ordinance is established by the Legislature pursuant to the authority granted to it by Article VI, Section 8 of the Menominee Constitution and Bylaws.
4. **DEFINITIONS.** For the purpose of this ordinance, the following words and terms shall have the following meanings:
 - 4.01 "Absentee Ballot" means a ballot cast by an elector who is unable to cast a regular ballot at an election poll on the date and at the time specified in this ordinance.
 - 4.02 "Absentee Elector" means an elector who is deemed eligible by the Commission to file an absentee ballot.
 - 4.03 "Commission" means the Election Commission, which is a three member body established by Article VI, Section 5 of the Constitution and is responsible for enforcing election laws adopted by the Legislature.
 - 4.04 "Constitution" means the Constitution and Bylaws of the Tribe.
 - 4.05 "Election poll" means any one of the locations where members cast their official ballots in the presence of the Commission."
 - 4.06 "Elector" means a member who will be eighteen (18) years of age or older at the time of a primary, main, or special election.
 - 4.07 "Legislator" means a member of the Menominee Tribal Legislature.
 - 4.08 "Legislature" means the Menominee Tribal Legislature.
 - 4.09 "Major crime" means any crime included in 18 U.S.C. §1153, and any equivalent crime defined under any state law.
 - 4.10 "Tribal member" means a person whose name appears on the official Tribal Roll of the Tribe.
 - 4.11 "Tribe" means the Menominee Indian Tribe of Wisconsin.

5. COMMISSION ROLE AND RESPONSIBILITY

- 5.01 **Membership.** As provided for by Article VI, Section 5 of the Constitution, the Commission is composed of three voters of the Tribe who have been appointed and are supervised by the Tribal Judiciary.
- 5.02 **Responsibility.** As provided for by Article VI, Section 5 of the Constitution, the Commission shall be responsible for enforcing tribal election laws. The duties of the Commission include, but are not limited to, the following:
- A. Posting notices of elections;
 - B. Maintaining a current list of eligible voters of the Tribe;
 - C. Conducting tribal elections;
 - D. Certifying the results of tribal elections;
 - E. Conducting federal and state background checks on prospective candidates to ensure that no prospective candidate who has been convicted of a major crime and has not received a certificate of rehabilitation from the Tribal Judiciary is certified as a candidate;
 - F. Maintaining a website and such other informational materials as it deems necessary to keep Tribal members informed on the election process and results thereof; and
 - G. Performing such other duties as may be delegated to the Commission by the Constitution, by ordinance, or by the Tribal Judiciary.
- 5.03 **Authority.** As provided for by Article VI, Section 5 of the Constitution, the Commission is authorized to issue such rules as may be necessary to carry out tribal election ordinances.
- 5.04 **Terms of Commission Membership.** Although the appointment and supervision of commissioners is provided by the Tribal Judiciary, the Tribal Judiciary is encouraged to appoint or reappoint members to the Commission every three years on a staggered basis using a solicitation process that affords maximum opportunity to the Tribal membership to serve on the Commission.

6. ELECTION NOTICE

- 6.01 **Announcement.** At least sixty (60) calendar days prior to the election, the Commission shall post a Notice of Election. The notice shall specify:
- A. Whether the election is a regular election or special election;
 - B. The dates of the primary, main, or special election;
 - C. Candidate filing deadline, if applicable;
 - D. Issues to be decided on in the election, if applicable;

- E. Location of polling places;
 - F. A summary of absentee voting procedures and deadlines; and
 - G. Any other information the Commission deems necessary.
 - H. The sixty (60) calendar day notice provision above, shall be modified in regard to elections pursuant to Article VII and Article VIII of the Constitution and the Commission shall post a Notice of Election regarding such issues in conformance with the Constitutional requirements.
- 6.02 **Primary Election.** If, in any election to fill an office or offices, the number of candidates running exceeds three (3) per office, the Commission shall hold a primary election. The number of candidates to be selected in such primary election shall be determined by multiplying the number of offices to be filled by two (2). The dates of the primary election are specified in Section 17 of this ordinance.
- 6.03 **Main Election.** The dates of the main election are specified in Section 17 of this ordinance.
- 6.04 **Special Election.** The dates of any special election are specified in Section 17 of this ordinance.

7. **NOMINATION PROCESS TO BECOME A CERTIFIED CANDIDATE**

- 7.01 **Eligibility.** Any Tribal member meeting the requirements of Article IV, Section 4(a) of the Constitution may become a certified candidate for the Legislature upon his or her successful filing of a nomination petition. Article IV, Section 4(a) of the Constitution reads in its entirety as follows:

“To be eligible to be a candidate for election to the Tribal Legislature, a person must be a member of the Tribe, at least twenty-five years of age as of the date on which the election is held. No person shall be eligible to be a candidate for election to the Tribal Legislature who has been convicted of a major crime as defined in Bylaw V of this Constitution and Bylaws, unless the Tribal Judiciary, in accordance with such rules as it may establish, certifies that the person in question is rehabilitated. Such certificate of rehabilitation shall be based upon the person's record of behavior since the conviction.”

- 7.02 **Eligibility Period.** A Tribal member seeking to become a certified candidate shall adhere to the nomination timeframes specified in Section 17 of this ordinance.
- 7.03 **Certified Candidates; Ballots, Use of Tribal News; Poll Monitors and Recounts.** Certified candidates for the Legislature shall:

- A. Have their names printed on official election ballots, absentee ballots, and all other official election notices;
- B. Be entitled to submit for free an autobiographical statement and election campaign profile to the Menominee Nation News for inclusion in a special Menominee Nation News newspaper edition devoted to election coverage, subject to any publication deadlines and reasonable content restrictions established by the Menominee Nation News;
- C. Designate poll monitors; and
- D. Be entitled to request a recount consistent with the requirements of this ordinance.

7.04 Procedure for Becoming a Certified Candidate

- A. Tribal members seeking to become a certified candidate for the Legislature shall obtain nomination petitions from, and on the forms prescribed by, the Commission.
- B. The Commission shall not issue nomination petitions to any person other than an individual seeking to become a certified candidate for the Legislature.
- C. The nomination petition issued by the Commission shall include the following information:
 - 1. Name of the Tribal member seeking to become a certified candidate for the Legislature;
 - 2. Whether the Tribal member will be running as an on-Reservation or off-Reservation candidate;
 - 3. Year of the regular or special election;
 - 4. Signature and date lines for no fewer than 100 tribal members who are 18 years of age or older willing to nominate the individual as a candidate;
 - 5. The deadline date and time specified in Section 17 of this ordinance for the individual seeking to become a certified candidate to return the nomination petition to the Commission;
 - 6. The following certification statement at the bottom of each petition:

I, the undersigned, hereby certify that I meet the requirements of Article IV, Section 4(a) of the Menominee Constitution and By-laws, have read and will abide by the Legislature Election ordinance (Ordinance No. 07-17), and that I have personally circulated and obtained the original

signatures of the enrolled tribal members who are 18 years of age or older appearing above.

7. And such other information as the Commission may deem necessary and appropriate.
- D. A Tribal member seeking to become a candidate for the Legislature shall personally circulate and obtain original signatures on nomination petitions issued to him or her by the Commission. A minimum of 100 original signatures from Tribal members who are 18 years of age or older shall be obtained before the nomination petition can be returned to the Commission for certification.
- E. The Commission shall certify a person as an on-Reservation or off-Reservation candidate and cause the candidate's name to be printed on the official election ballot, absentee ballot, and all other official election notices upon the Commission's verification and certification of the following:
1. That the nomination petition was filed by the deadline date and time stated in Section 17 of this ordinance;
 2. That the requisite number of original signatures on the nomination petition exist and are those of tribal members who are 18 years of age or older;
 3. That adequate proof has been provided of on or off-Reservation residency, as evidenced by a signed affidavit, driver's license, or signed agreement assuring that the Tribal member will become an on or off-Reservation candidate by the date and time the candidate is sworn into office;
 4. That the candidate will maintain his or her on-Reservation residency, as required by Article IV, Section 4(c) of the Constitution, as evidenced by a signed affidavit;
 5. That the Tribal member seeking to become a certified candidate for the Legislature has signed the certification statement contained in Section 7.04 C. 6. above; and
 6. That the Tribal member seeking to become a certified candidate for the Legislature does, in fact, meet the requirements of Article IV, Section 4(a) of the Constitution to become a candidate for the Legislature.

7.05 **Commission Report on Certified Candidates**

- A. The Commission shall issue a report to the Chairperson's Office and the Chief Justice of the Tribal Judiciary within five working days following the Commission's certification of candidates. The report shall include the following information:
 - 1. A list of all candidates the Commission has certified, and which among them will be running as on-Reservation candidates or as off-Reservation candidates;
 - 2. A list of Tribal members the Commission has not certified and the reasons for not certifying them; and
 - 3. Such other information as the Commission may deem necessary.
- B. The report so issued shall be promptly posted by the Chairperson's Office in accordance with the Posting Ordinance, Ordinance No. 80-6, and in the Menominee Nation News.

8. WRITE-IN CANDIDATES

- 8.01 **Eligibility.** Any Tribal member meeting the requirements of Article IV, Section 4(a) of the Constitution may become a write-in candidate for the Legislature.
- 8.02 **Eligibility Period.** A Tribal member seeking to become a write-in candidate shall adhere to the write-in timeframe specified in Section 17 of this ordinance.
- 8.03 **Disadvantages.** Write-in candidates are not eligible for the following:
 - A. To have their names printed on official election ballots, absentee ballots, and all other official election notices;
 - B. To submit for free an autobiographical statement and election campaign profile to the Menominee Nation News for inclusion in a special Menominee Nation News newspaper edition devoted to election coverage;
 - C. To designate election poll monitors; and
 - D. To file a request for a recount.
- 8.04 **Procedure for Becoming a Write-In Candidate**
 - A. Tribal members seeking to become a write-in candidate for the Legislature shall provide the Commission with a signed, written notice of his or her intention to run as a write-in candidate.
 - B. A Tribal member who has not provided the Commission with this written notice shall not be deemed a candidate for the Legislature.

8.05 **Commission Report on Write-In Candidates**

- A. The Commission shall issue a report to the Chairperson's Office and the Chief Justice of the Tribal Judiciary within five working days following the deadline date for providing written notice of a Tribal member's intention to run as a write-in candidate. The report shall include the following information:
 1. A list of all candidates that will be running as a write-in candidate, and which among them will be running as on-Reservation candidates and off-Reservation candidates; and
 2. Such other information as the Commission may determine.
- B. The report so issued shall be promptly posted by the Chairperson's Office in accordance with the Posting Ordinance, Ordinance No. 80-6, and in the Menominee Nation News.

9. **PREPARATION OF BALLOTS**

9.01 **Printing of Ballots**

- A. The Commission shall have printed all necessary ballots for use in the primary, main, and special election no later than twenty-one (21) calendar days prior to the election.
- B. The Commission shall ensure that ballots are only printed by a reputable printer capable of securely processing the order and able to provide a certificate as to the number of ballots actually printed.
- C. The number of ballots specifically ordered shall be recorded by the Commission.

9.02 **Safeguarding of Ballots**

- A. The Commission shall inventory, secure and safely store all ballots to ensure that each ballot is carefully accounted for, inaccessible except as required by this ordinance, and not prone to any form of contamination (e.g. wear, damage, etc.).
- B. No ballot shall be pre-endorsed by a Commission official or agent until it is ready to be issued to an elector.

9.03 **Record of Ballots Printed.** The Commission shall keep a careful record of all ballots that includes, at a minimum, the following:

- A. Total printed;
- B. Total issued to absentee electors;
- C. Total issued to electors at election polls;
- D. The total number of ballots lost, damaged, or stolen, including a detailed description (e.g. date of occurrence, witnesses, cause, etc.) of the loss, damage, or theft; and

E. Total remaining at the end of the election.

10. CONDUCT OF INDIVIDUALS, CANDIDATES, AND CONTRIBUTORS

10.01 General Prohibitions

- A. No certified candidate, write-in candidate, person, or group shall offer or provide an elector any money, any alcoholic beverage, nor any good or service valued in excess of \$1.00, in exchange for the tribal member's vote prior to the day of an election.
- B. No certified candidate, write-in candidate, person, or group shall offer or provide an elector any money, any alcoholic beverage, or any good or service, including transportation services, in exchange for the tribal member's vote on the day of an election.
- C. No certified candidate, write-in candidate, person, or group shall screw, nail, staple, or otherwise affix a poster, sign, banner, or other campaign notice to any standing green timber.
- D. No certified candidate, write-in candidate, person or group shall mutilate, deface, or destroy another candidate's signs, posters, banners, or billboards.
- E. No certified candidate or write-in candidate shall accept more than \$100.00 from any one person, partnership, corporation or business entity supporting the write-in or certified candidate's candidacy in any one election.
- F. No person shall copy or in any way tamper with an official ballot in order to alter the outcome of an election.
- G. No person shall picket or engage in any passive or active effort to persuade an elector to vote in a certain way, for a certain candidate, or for a certain political party, within one-hundred (100) yards of an election poll on the date and at the time election polls are open.
- H. No person shall loiter inside a facility where election polling is taking place, or within twenty-five (25) feet of an election polling facility on the date and at the time election polls are open, unless such person is a certified candidate, write-in candidate, or election poll monitor.
- I. No person shall harass, influence, or intimidate a Commission official or agent regarding the election in general, the candidacy of a Tribal member, or the conduct of the Commission.
- J. No person shall distribute any tribal election campaign literature, brochures, fliers or other type of propaganda to, from or on an intranet, website, or e-mail server owned or operated by the Tribe or one of its chartered entities.

10.02 Campaign Contribution Limits and Disclosure

- A. Within thirty (30) calendar days following the end of a primary election, main election, or special election, certified candidates and write-in candidates shall:
1. Report to the Commission, on a form prescribed by the Commission, whether the candidate has received or been promised any campaign contributions equal to or greater than \$50.00 in the aggregate from any one person, partnership, corporation, or business entity—
 - (a) In the twelve months preceding the day after a primary election; or
 - (b) If no primary election is held, in the twelve months preceding the day after a main election; or
 - (c) If a primary election is held, in the period beginning the day after the primary election and ending on the last day of the main election; or
 - (d) In the twelve months preceding the day after a special election.
 2. The report shall include the full name of any contributors, the amounts promised or contributed, the dates the funds were promised or contributed, and the names of the person, partnership, corporation, or business entity the contributor may be affiliated with.
- B. No person, partnership, corporation, or business entity shall provide more than \$100.00 in material support (e.g. purchase of supplies, billboards, fliers, posters, printing services, etc.) towards an individual or political party's campaign unless said person, partnership, corporation, or business entity reports the value of that contribution to the Commission on a form prescribed by the Commission. However, under no circumstance may a person, partnership, corporation, or business entity provide more than \$200.00 in material support in the primary, main, or special election combined.
- C. The Commission shall issue a report to the Chairperson's Office and the Chief Justice of the Tribal Judiciary within forty-five (45) days following the end of an election. The report shall include the following information:
1. The dollar amount of all financial campaign contributions received by all candidates;
 2. The value of all material support provided to all candidates;

3. The dollar amount and the names of all persons, partnerships, corporations, or business entities that have contributed to individual candidates;
 4. The value of material support and the names of all persons, partnerships, corporations, or business entities that have contributed to individual candidates; and
 5. Such other information as the Commission deems necessary.
- D. The report so issued shall be promptly posted by the Chairperson's Office in accordance with the Posting Ordinance, Ordinance No. 80-6, and in the Menominee Nation News.

10.03 Enforcement

- A. A Commission official or agent is authorized to remove, or direct a Menominee Tribal Police Officer to remove, any signs, posters, billboards, or other campaign notifications appearing within one-hundred (100) yards of an election poll on the date and at the time election polls are open.
- B. A Commission official or agent may ask any person who the Commission official or agent believes is loitering in violation of this ordinance to leave the prescribed area, or may contact the Menominee Tribal Police to ask that the person so loitering be escorted from the area.
- C. The Menominee Tribal Police shall investigate any suspected violations of this section and remove or abate any suspected violations in accordance with this ordinance or other applicable Tribal law.

11. PROXY AND CUMULATIVE VOTING. Proxy and cumulative voting is not permitted in any Tribal election pursuant to Article VI, Section 2 of the Constitution.

12. VOTING BY ABSENTEE BALLOT

12.01 Eligibility. Any elector may vote by absentee ballot if the elector submits a request for an absentee ballot and the Commission determines that he or she legitimately meets one or more of the following criteria:

- A. The elector is a person who, in the regular and orderly course of his or her business, profession, or occupation, or while on personal business or vacation, expects to be absent from the Menominee Indian Reservation on the day of the primary, main, or special election; or
- B. The elector suffers from a long-term illness or physical disability that will prevent him or her from going to the election polls on the day of the primary, main, or special election; or

- C. The elector takes care of another person who, by reason of a physical condition, cannot be left alone on the day of the primary, main, or special election; or
 - D. The elector is in the active service of the armed forces or in the merchant marine of the United States, or is the spouse of an individual in the active service of the armed forces or merchant marine of the United States; or
 - E. The elector is attending a school or institution of higher learning and will be unable to go to the election polls on the day of the primary, main, or special election; or
 - F. The elector will be incarcerated in a correctional facility or jail on the day of the primary, main, or special election; or
 - G. The elector is an elder who is 55 years of age or older; or
 - H. The elector resides outside of the Menominee Indian Reservation.
- 12.02 **Eligibility Period.** An elector seeking to vote by absentee ballot shall adhere to the timeframes specified in Section 17 of this ordinance.
- 12.03 **Procedure for Requesting an Absentee Ballot**
- A. An elector seeking to vote by absentee ballot must submit an absentee ballot request form prescribed by the Commission or a written request to the Commission that contains, at a minimum, the following:
 - 1. Full first name, middle name, last name, suffix, and maiden name (if applicable);
 - 2. Date of Birth;
 - 3. Enrollment number;
 - 4. Current mailing address;
 - 5. Reason for requesting an absentee ballot, supplemented by reasonable justification and any supporting documentation;
 - 6. Last four numbers of the individual's social security number;
 - 7. Original signature; and
 - 8. Date of request.
 - B. The Commission shall develop a convenient form containing the eight elements described in par. A. above for electors to use when they submit a request for an absentee ballot.
- 12.04 **Procedure for Issuing an Absentee Ballot**
- A. The Commission shall designate one or more of its members or agents to determine whether—

1. The absentee ballot request received contains all of the minimal information required; and
 2. The full name, enrollment number, and last four digits of the absentee elector's social security number match that which is contained in the abstract of the Official Tribal Roll.
- B. Upon making his or her determination, the Commission official or agent shall decide whether to endorse and issue an absentee ballot to the absentee elector or to deny the request.
- C. All endorsed absentee ballots issued shall be mailed or delivered as provided for below:
1. The endorsed absentee ballot shall be placed inside an unsealed envelope (to be sealed later by the absentee elector) bearing the following stamp or printed words on the exterior of the envelope: "Absentee Ballot"; and
 2. The absentee ballot envelope shall then be placed inside a return envelope (to be sealed later by the absentee elector) bearing the following information:
 - (a) The mailing address for the Commission;
 - (b) A sufficient amount of return address lines and spaces for the absentee elector to place his or her full first name, middle name, last name, suffix, maiden name (if applicable), mailing address, and last four numbers of his or her social security number;
 - (c) The following printed statement on the reverse-side of the mailing envelope:

"I, _____ (signature),
certify, subject to the penalties of the
Menominee Indian Tribe for misrepresenting
one's own identity, fraud and other crimes, that
I am a member of the Menominee Indian Tribe
of Wisconsin and am entitled to vote in the
election of _____ (date), as an
absentee voter, and that I am not voting at any
other location in this election."
 3. The return envelope shall then be sealed in a mailing envelope and appropriately addressed to the absentee elector; and
 4. The mailing envelope shall be promptly placed in a U.S. Postal Service mailbox with proper postage attached; or
 5. An absentee elector may pickup the mailing envelope in person, if so requested.

- D. If the Commission official or agent refuses to endorse and issue an absentee ballot to a person requesting an absentee ballot, the Commission official or agent shall, within five business days of denying such request, issue a letter to the person making the request specifically stating when the request was received, when the determination was made, and why the request was denied.

12.05 Procedure for Casting Absentee Ballots

- A. After an absentee elector has filled out his or her ballot, the absentee elector shall enclose and seal the completed ballot in the envelope bearing the stamp, "Absentee Ballot".
- B. The absentee elector shall place the properly sealed absentee ballot envelope in the pre-addressed envelope designed for mailing.
- C. The absentee elector shall carefully print his or her full first name, middle name, last name, suffix, maiden name (if applicable), mailing address, and last four numbers of his or her social security number on the return address portion of the envelope designed for mailing.
- D. The absentee elector shall sign and date the statement appearing on the reverse-side of the envelope designed for mailing.
- E. Unless the ballot is personally delivered to the Commission office by the absentee elector, the absentee elector shall mail the absentee ballot to the Commission office using one of the following public or private parcel carriers:
 - 1. United States Postal Service (USPS);
 - 2. United Parcel Service (UPS);
 - 3. Federal Express (FedEx); or
 - 4. DHL Express Services (DHL); or
 - 5. Any other available commercial delivery service.
- F. Any absentee ballots may be hand-delivered to the Commission Office if it has been submitted in conformance with the requirements of par. A. through D. above.

12.06 Receipt of Absentee Ballots

- A. A Commission official or agent designated by the Commission shall accept and receive any absentee ballot that—
 - 1. Is sealed in the mailing envelope issued by the Commission; and
 - 2. Bears the full first name, middle name, last name, maiden name, suffix, and last four numbers of the absentee elector's social security number on the return address portion of the

envelope provided by the Commission, and that information matches the information contained on the written request for an absentee ballot; and

3. Is properly signed and dated on the stamped portion of the envelope; and
 4. Has been received within the timeframes specified in Section 17 of this ordinance; and
 5. Bears an official postmark or such other legitimate delivery stamp, mark, or packaging of a public or private parcel carrier; or
 6. Has been personally delivered by an absentee elector.
- B. The accepted envelope containing the absentee ballot shall immediately be placed in a locked ballot box designated for absentee ballots. Under no circumstance shall a Commission official or agent open an absentee ballot, or open the ballot box designated for absentee ballots, until the day of the primary, main, or special election.
- C. Any absentee ballot that does not meet the requirements stated in par. A shall be immediately placed in a locked ballot box designated for nonconforming absentee ballots. Such ballot box shall not be opened unless ordered by the court, and shall not be tallied in any election unless ordered by the court.
- D. After one year from the date of the election, the ballot box designated for nonconforming absentee ballots may be opened by the Commission and the contents of it may be discarded or destroyed as the Commission deems fit.

12.07 Inconsistencies in Absentee Ballot Requests

- A. If an elector submits a request for an absentee ballot and the Commission finds that a duplicate request has previously been issued in the name of the elector, the Commission shall:
1. Identify who the legitimate elector is, utilizing direct Commission investigation or the investigatory assistance of the Menominee Tribal Police; and
 2. If necessary, issue an absentee ballot to the legitimate elector by mailing such absentee ballot in an envelope containing the absentee ballot and a pre-addressed, stamped envelope that is specially marked in such way to signify that the ballot supersedes any others issued in the name of the elector; and
 3. Send notice to the illegitimate requestor that his or her request for an absentee ballot, along with the absentee ballot, if applicable, is being sent to the Menominee Tribal Police for possible criminal prosecution; and

4. Conduct all investigations within ten (10) working days of receiving the duplicate request.
- B. If the Commission finds that five or more absentee ballots have been issued to the same mailing address, the Commission shall conduct a direct investigation or utilize the assistance of the Menominee Tribal Police to determine whether any voting irregularities have taken place.

12.08 Commission Report on Absentee Ballots

- A. The Commission shall issue a report to the Chairperson's Office and Chief Justice of the Tribal Judiciary within ten (10) business days following the deadline date to request absentee ballots. The report shall include the following information:
1. Number, names, and addresses of absentee ballots requested and the proportional distribution of absentee ballots requested by each community;
 2. Number, names, and addresses of absentee ballots received and the proportional distribution of absentee ballots received;
 3. Names and addresses of individuals where duplicate requests for absentee ballots were made; and
 4. Names and addresses of individuals where five or more absentee ballots were sent to the same mailing address.
- B. The report so issued shall be promptly posted by the Chairperson's Office in accordance with the Posting Ordinance, Ordinance No. 80-6, and in the Menominee Nation News.
- C. A confidential version of the report shall be provided to Commission officials and agents at the election polls, which shall include the social security numbers and dates of birth of the absentee electors.

13. VOTING AT THE ELECTION POLLS

- 13.01 **Eligibility.** Any elector who has not cast an absentee ballot may vote at one of the election polls.
- 13.02 **Polling Locations.** The following polling locations shall be opened on the dates and at the times specified in Section 17 of this ordinance:
- A. Menominee Tribal Courts, or any other place in Keshena, Wisconsin to be determined by the Commission; and
 - B. A place in Neopit, Wisconsin to be determined by the Commission.

2. If the Commission official or agent determines that an absentee ballot has already been cast in the name of the elector, the Commission official or agent shall—
 - (a) Obtain the mailing envelope containing the absentee ballot submitted by the elector;
 - (b) Stamp and initial the envelope containing the absentee ballot as a nonconforming absentee ballot;
 - (c) Require the elector to sign next to the stamp;
 - (d) Place the envelope containing the absentee ballot in the ballot box designated for nonconforming absentee ballots;
 - (e) Append a note to the Record of Absentee Ballots briefly describing why the absentee ballot is nonconforming; and
 - (f) Issue a ballot to the elector.
3. The elector, upon receiving a ballot, shall be allowed to vote in a private booth or station setup by the Commission. The elector may ask for assistance from a Commission official or agent on how to vote if the elector does not understand the instructions made available, but assistance on who to vote for or what issue to vote on shall not be given.
4. An elector who has a bona fide physical impairment that makes it difficult for the elector to cast a vote may be provided such reasonable assistance as the Commission deems appropriate.

13.05 Election Poll Monitors

- A. A candidate shall be entitled to have one election poll monitor for each of the polling places. The candidate shall submit the names of his or her election poll monitor(s) in writing to the Commission no later than 4:00 p.m. the day before the election.
- B. Election poll monitors will not be entitled to receive any compensation from the Tribe, but may be compensated by a candidate.
- C. An election poll monitor is limited to observing the opening of the absentee ballot box, the election, and the tallying of ballots.
- D. An election poll monitor is not allowed to leave the polling place until the polls close. If the poll monitor does leave, he or she will not be allowed to return until after the polls are closed.
- E. No candidate shall be able to designate him or herself as an election poll monitor.

13.03 **Opening of the Absentee Ballot Box**

- A. One hour before the opening of the election poll, the Commission shall open the absentee ballot box, excluding the ballot box designated for nonconforming absentee ballots.
- B. The mailing envelopes containing the absentee ballots shall be arranged in alphabetical order by the absentee elector's last name.
- C. The envelopes containing the absentee ballots shall only be accessible by a Commission official or agent, and secured in such a way as to prevent an absentee ballot from being lost, misplaced, or stolen.
- D. At the end of the first day of polling, the absentee ballots shall be re-secured in such a way as to prevent disturbance, loss, or theft of a ballot.
- E. At the end of the second day of polling, the absentee ballots shall be re-secured in such a way as to prevent disturbance, loss, or theft of a ballot while the absentee ballots are being transferred to the designated tallying location.
- F. All absentee ballots shall be under the strict control of two or more Commission officials or agents while they are located at an election poll.

13.04 **Procedure for Casting a Ballot**

- A. An elector who has not cast an absentee ballot shall go to one of the specified polling locations and provide a Commission official or agent with the following:
 - 1. A government issued photo-identification card; or
 - 2. The following information:
 - (a) The elector's full first name, middle name, last name, maiden name, suffix, and last four numbers of his or her social security number, if applicable; and
 - (b) Enrollment number, if known; and
 - (c) Date of birth.
- B. The Commission official or agent shall determine whether the elector is qualified to cast a ballot at the election poll based upon his or her review of the information provided by the elector, the Official Tribal Roll, social security numbers contained in the Official Tribal Roll, and the Report of Absentee Electors.
 - 1. If the Commission official or agent determines that an elector has not already cast an absentee ballot, the Commission official or agent shall provide the elector with an official ballot for him or her to complete.

- F. An election poll monitor may not attempt to influence any eligible voter or Commission official or agent. An election poll monitor who interferes with or attempts to influence a voter or Commission official or agent shall be removed from the polling location.
- G. An election poll monitor will be required to sign an election poll monitor registry and wear a badge or other appropriate identification designating him or her as an election poll monitor.
- H. In order to alleviate any overcrowding at the election polls, the Commission may limit the number of election poll monitors to three monitors at an election poll at any one time by establishing a schedule for all election poll monitors.
- I. Election Poll Monitors shall comply with all rules governing their conduct promulgated by the Elections Commission pursuant to Section 5.03 of this Ordinance and Article VI, Section 5 of the Constitution. An election poll monitor who violates such a rule shall be removed from the polling location.

14. TALLYING OF REGULAR AND ABSENTEE BALLOTS

14.01 **Official Tallying Location.** All ballots cast at the polls and cast absentee shall be tallied at the polling location that is the last to close pursuant to Section 17 of this Ordinance.

14.02 Tallying of Ballots Cast at the Election Polls

- A. The Commission shall begin tallying ballots cast at the election polls immediately following the closing of the polls on the last day of the election.
- B. All ballots cast at the polls shall be counted, except:
 - 1. Ballots containing votes that exceed the number of votes able to be cast in the election; or
 - 2. Ballots containing more than the number of votes able to be cast for an off-Reservation candidate; or
 - 3. Ballots that do not bear the endorsement of a Commission official or agent.
- C. The Commission shall record:
 - 1. The number of ballots that were cast at each polling location;
 - 2. The number of ballots that were cast and counted;
 - 3. The number of ballots that were cast but not counted, including a brief description as to why such ballots were not counted; and
 - 4. Such other information as the Commission may determine.

- D. The Commission shall tally the votes in a private setting free of distractions by the public, but election poll monitors shall be allowed to be present during the tally.
- E. The tally, tie breaker, and certification of results shall, to the maximum extent practical, be broadcast via webcast or utilizing some other multimedia means.

14.03 Tallying of Absentee Ballots Cast

- A. The Commission shall begin tallying absentee ballots cast immediately following the tallying of ballots cast at the polls.
- B. All absentee ballots cast shall be counted, except:
 - 1. Ballots containing votes that exceed the number of votes able to be cast in the election; or
 - 2. Ballots containing more than the number of votes able to be cast for an off-Reservation candidate; or
 - 3. Ballots that have been superseded by a specially marked ballot; or
 - 4. Ballots that do not bear the endorsement of a Commission official or agent; or
 - 5. Ballots that were contained in an envelope along with other absentee ballots; or
 - 6. Ballots contained in the absentee ballot box designated for nonconforming ballots.
- C. The Commission shall record:
 - 1. The number of ballots that were cast at each polling location;
 - 2. The number of ballots that were cast and counted;
 - 3. The number of ballots that were cast but not counted, including a brief description as to why such ballots were not counted; and
 - 4. Such other information as the Commission may determine.
- D. The Commission shall tally the absentee votes in a private setting free of distractions by the public, but election poll monitors shall be allowed to be present during the tally.
- E. The tally, tie breaker, and certification of results shall, to the maximum extent practical, be broadcast via webcast or utilizing some other multimedia means.

15. ELECTION RESULTS

15.01 Tally Results

- A. Upon completing the tallying of votes, the Commission shall announce the results of the tally.
- B. As provided for in Article VI, Section 6 of the Constitution, if the final tally reveals a tie between two or more candidates, the tie shall be broken by some means of chance agreed upon by the candidates involved.
- C. As provided for in Article IV, Section 3 of the Constitution, “[w]ith candidates placed in order of number of votes received from the highest to the lowest, offices shall be filled beginning with the candidate who received the highest number of votes, and proceeding down the order, provided that, no more than two (2) offices of the Legislature shall be filled by non-resident tribal members.
- D. The vote of a majority of the eligible tribal voters voting in a tribal election shall constitute action by the Tribe, including tribal approval or disapproval, and tribal consent or rejection.
- E. The Commission shall certify the results of the tally, and, if applicable, the results of any tie breaker. The certification shall include the endorsement of all three Commissioners.

15.02 Commission Report on Election Results

- A. The Commission shall issue a brief report to the Chairperson’s Office and the Chief Justice of the Tribal Judiciary within one working day following the election that provides a summary of the election results.
- B. The Commission shall issue a detailed report to the Chairperson’s Office and the Chief Justice of the Tribal Judiciary within five working days following the election. The detailed report shall include the following information:
 - 1. A detailed breakdown of votes cast in the election; and
 - 2. A comparison of the votes cast at the election polls to votes cast by absentee ballot;
 - 3. A comparison of the votes cast from on-Reservation votes to off-Reservation votes;
 - 4. A comparison of the votes cast among the major communities on and off the Reservation;
 - 5. A summary of the total number of absentee ballots requested, total number of absentee ballots actually cast, and total number of absentee ballots rejected;

6. A summary of the number of ballots printed, issued, lost or destroyed, and remaining at the end of the election;
 7. Any notable irregularities that occurred during the election; and
 8. Such other information as the Commission may deem necessary.
- C. The report so issued shall be promptly posted by the Chairperson's Office in accordance with the Posting Ordinance, Ordinance No. 80-6, and in the Menominee Nation News.

16. RECOUNTS

- 16.01 **Commission Necessity.** The Commission shall be authorized to recount the ballots as many times as it deems necessary to insure an accurate count of votes.
- 16.02 **In the Event of a Tie.** The Commission shall recount all ballots in the event the initial tally reveals a tie among candidates.
- 16.03 **Candidate Requested**
- A. The Commission shall be authorized to recount the ballots as many times as it deems necessary to insure an accurate count of votes.
 - B. No certified candidate may request a re-count of the ballots except a certified candidate who lost a position by a margin of less than 5% of the votes cast for that position. The request must be made by 4:00 p.m. on the day following the certification of election results and must be accompanied by a personal check, or cash, in the amount of one hundred dollars (\$100.00). The request must be made in writing and delivered to a Commission official or agent.
 - C. Upon receiving a valid request for a recount, the Commission shall conduct a recount immediately.
 - D. No certified candidate can request a second recount.
 - E. No write-in candidate can request a recount.

17. **ELECTION TIMELINES.** The election milestones in this ordinance shall take place on the dates and at the times specified in the following tabular summary:

Type/ #	Milestone	Date & Hours of Operation/Deadlines	
		Start/Opening	Stop/Deadline
17.01	Nominations	8:00 a.m. on the second Monday in September	4:00 p.m. on the fourth Monday of September
17.02 PRIMARY ELECTIONS	A. Requests for Absentee Ballots for the Primary Election	8:00 a.m. on the second Monday in September	<ul style="list-style-type: none"> - For Mailing: 4:00 p.m. fourteen (14) calendar days prior to the first day of the election - For Pickup: 4:00 p.m. the day before the first day of the election
	B. Notice of Write-In Candidacy: Primary Election	8:00 a.m. on the fourth Tuesday of September	4:00 p.m. on the first Friday in November
	C. Printing of Ballots	Once ballots are printed after certification	No later than twenty-one (21) calendar days before the election
	D. Issuance of Absentee Ballots for the Primary Election	Once ballots are available for issuance, within two business days following receipt of a valid request	<ul style="list-style-type: none"> - For Mailing: 4:00 p.m. twelve (12) calendar days before the first day of the election - For Pickup: 4:00 p.m. the day before the first day of the election
	E. Return of Absentee Ballots for the Primary Election	Upon receipt of an absentee ballot	By the closing of the election polls on the last day of the election
	F. Primary Election: Neopit	9:30 a.m. on Wednesday in the second full week of November	7:30 p.m. on Wednesday in the second full week of November
	G. Primary Election: Keshena	9:30 a.m. on Thursday in the second full week of November	7:30 p.m. on Thursday in the second full week of November
17.03 MAIN ELECTION	A. Requests for Absentee Ballots for the Main Election	8:00 a.m. on the third Monday in November	<ul style="list-style-type: none"> - For Mailing: 4:00 p.m. fourteen (14) calendar days prior to the first day of the election - For Pickup: 4:00 p.m. the day before the first day of the election
	B. Notice of Write-In Candidacy: Main Election	8:00 a.m. on the Monday in the third full week in November	4:00 p.m. on the Friday in the first full week of January
	C. Printing of Ballots	Once ballots are printed after certification	No later than twenty-one (21) calendar days before the election
	D. Issuance of Absentee Ballots for the Main Election	Once ballots are available for issuance, within two business days following receipt of a valid request	<ul style="list-style-type: none"> - For Mailing: 4:00 p.m. twelve (12) calendar days before the first day of the election - For Pickup: 4:00 p.m. the day before the first day of the election
	E. Return of Absentee Ballots for the Main Election	Upon receipt of an absentee ballot	By the closing of the election polls on the last day of the election
	F. Main Election: Neopit	9:30 a.m. on Wednesday in the second full week of January	7:30 p.m. on Wednesday in the second full week of January
	G. Main Election: Keshena	9:30 a.m. on Thursday in the second full week of January	7:30 p.m. on Thursday in the second full week of January

17.04 SPECIAL	N / A	Nominations, Write-in Candidacy, Printing of Ballots, Requests for Absentee Ballots, Issuance of Absentee Ballots, Return of Absentee Ballots, Primary Election, and Main Election	On such dates and at such times established by the Legislature by Resolution	On such dates and at such times established by the Legislature by Resolution
	17.05	Induction Ceremony: Swearing in of New Legislators	February 9 th at 10:00 a.m.	N/A

18. OATH OF OFFICE. In accordance with Bylaw IV of the Constitution, every newly elected Legislator shall take the following Oath of Office on the date and at the time provided for in Section 17 of this ordinance:

I, _____, do hereby solemnly swear that I will support and defend the Constitution and Bylaws of the Menominee Indian Tribe of Wisconsin, that I will carry out faithfully and impartially the duties of my office to the best of my ability; and that I will promote and protect the best interests of the people of the Menominee Indian Tribe of Wisconsin.

19. TERMS OF OFFICE

19.01 **Commencement.** The term of office for a Legislator elected to office pursuant to this ordinance shall commence immediately upon his or her receiving the Oath of Office at the Induction Ceremony scheduled pursuant to Section 17 of this ordinance.

19.02 **Conclusion.** The term of office for a Legislator elected to office pursuant to this ordinance shall conclude on whichever of the following occurs **first**:

- A. On the date and at the time his or her successor to the same office receives the Oath of Office; or
- B. On the date and at the time ordered by the Tribal Judiciary if the legislator's term was fixed by the Tribal Judiciary pursuant to a court order; or
- C. Three years after the Legislator received the Oath of Office at the Induction Ceremony scheduled pursuant to Section 17 of this ordinance.

20. DISPUTED ELECTIONS

20.01 **Constitutional Requirement on Disputed Elections.** Article VI, Section 7 of the Constitution provides for the following in the event of a disputed election:

- A. Any eligible voter or group of eligible voters of the Menominee Indian Tribe may challenge the validity of the results of any tribal election on the ground that such election was conducted in violation of this Constitution and Bylaws, or of tribal ordinance or

of any provision of the Indian Civil Rights Act (25 U.S.C. §1301 1302).

- B. Such challenge shall be commenced within ten (10) days after the Tribal Election Commission certifies the results of the election by a written complaint filed in a Trial Court of the Tribe.
- C. The complaint shall—
 - 1. Specifically charge the person or persons alleged to have violated the law with having committed an offense against this Constitution and Bylaws, or tribal ordinance or a provision of the Indian Civil Rights Act (25 U.S.C. §1301 and 1302); and
 - 2. Specify the constitutional provision or provisions, or the tribal ordinance, or the provision of the Indian Civil Rights Act alleged to have been violated; and
 - 3. State the facts alleged to have been violated; and
 - 4. State the facts alleged to support such charge or charges.
- D. Upon filing of such complaint, the Tribal Court shall promptly hold an initial hearing at which evidence is received from the complainant or complainants in support of the charges in the complaint.
- E. Any person or persons charged in the complaint shall have full opportunity to respond at the hearing to the charges and evidence offered in support of the complaint.
- F. At the conclusion of the initial hearing the Court may make a final decision in the case either dismissing the complaint or granting the relief sought; or the Court may order interim relief pending further investigation and hearings in the case.
- G. If the disputed election involves the filling of a tribal office, and the Court decides that further investigation and hearings are necessary, the Court shall, at the conclusion of the initial hearing, specifically grant or deny permission to fill the office pursuant to the election results pending further investigation and hearing and a final decision on the charges.
- H. The Court may at the conclusion of the initial hearing and in the interests of justice, appoint an unbiased commission to investigate the charges further and to present any evidence gathered to the Court at a hearing at which both sides in the case have opportunity to be heard, to present evidence and to question the commission.
- I. At the conclusion of all hearings, the Court shall decide whether the charges have been proven. If the Court determines one or more of the charges have been proven, the Court shall provide such relief as is appropriate, which may include invalidating the tribal election in question and ordering a new election to be held.

20.02 **Frivolous Challenges.** If the Court finds the challenge is frivolous and/or wholly without merit, the challenging party may be assessed costs of the action in an amount equal to actual court costs plus attorneys fees.

20.03 **Commission Representation.** In any dispute where the Commission is alleged to have violated this ordinance or any constitutional requirement in the conduct of an election, the Commission shall be represented by an outside law firm licensed to practice law in the State of Wisconsin.

21. **RECORDS RETENTION.** The Commission shall organize and store all ballots, requests for ballots, reports, correspondence, notices, and any other information received or submitted on an election for a period of one year from the date of the election. After this period, all records shall be discarded or destroyed in whatever manner the Commission deems necessary.

22. **VIOLATIONS, PENALTIES AND ENFORCEMENT.** It shall be a violation of this ordinance, punishable as provided herein, for any person subject to the jurisdiction of the Tribe to commit the following acts:

22.01 **Failure to Personally Circulate Nomination Petition.** Any person who fails to personally circulate his or her own nomination petition shall, upon conviction, forfeit \$50.00 for each violation.

22.02 **Unlawful Campaign Postings.**

A. Any person who screws, nails, staples, or otherwise affixes a poster, sign, banner, or other campaign notice to any standing green timber shall, upon conviction, forfeit \$50.00 for each violation.

B. Any person who fails to remove his/her poster, sign, banner, or other campaign notice within four (4) months of the Main Election in January shall, upon conviction, forfeit \$50.00 for each such poster, sign, banner, or other campaign notice that is not removed.

22.03 **Destruction of Certain Campaign Advertisements.** Any person who mutilates, defaces, or destroys another candidate's signs, posters, banners, or billboards shall, upon conviction, forfeit \$50.00 for each violation.

22.04 **Unlawful Soliciting of Votes Before Election Day.** Any person who, prior to the day of an election, provides an elector any money, an alcoholic beverage, or any good or service in excess of \$10.00, in exchange for the elector's vote shall, upon conviction, forfeit \$50.00 for each violation.

22.05 **Unlawful Soliciting of Votes on Election Day.** Any person who, on the day of an election, provides an elector any money, an alcoholic beverage, or any good or service, including transportation services, in

exchange for the elector's vote shall, upon conviction, forfeit \$50.00 for each violation.

- 22.06 **Unlawful Distribution of Campaign Propaganda.** Any person who distributes any tribal election campaign literature, brochures, fliers or other type of propaganda to, from or on an intranet, website, or e-mail server owned or operated by the Tribe or one of its chartered entities shall, upon conviction, forfeit not less than \$500.00, nor more than \$1000.00 for each violation.
- 22.07 **Unlawful Electioneering.** Any person who attempts to persuade electors to vote in a certain way, either passively or actively, within 100 yards of a polling place on the date and during the time of an election shall, upon conviction, forfeit \$50.00.
- 22.08 **Failure to Disclose Campaign Funds.** Any person who fails to disclose to the Commission any funds he or she received that are required to be disclosed to the Commission, or who fails to make such disclosure within the disclosure timeframe, shall, upon conviction, forfeit \$300.00.
- 22.09 **Copying or Altering an Official Ballot.** Any person who copies or in any way tampers with an official ballot in order to alter the outcome of an election shall, upon conviction, be fined \$500.00 and sentenced to thirty (30) days in jail.
- 22.10 **Misrepresenting One's Own Identity to Obtain an Absentee Ballot.** Any person who misrepresents his or her own identity in order to obtain an absentee ballot shall, upon conviction, be fined \$1,000.00 and be sentenced to ninety (90) days in jail.
- 22.11 **Misrepresenting One's Own Identity at the Election Polls.** Any person who misrepresents his or her own identity at the election polls in order to cast a vote at the election poll shall, upon conviction, be fined not less than \$1,000.00 nor more than \$5,000.00, and be sentenced to not less than three months in jail nor more than one (1) year in jail.
- 22.12 **Ballot Theft.** Any person who steals another person's ballot shall, upon conviction, be fined \$5,000 and sentenced to one year in jail.
23. **ENFORCEMENT.** This ordinance and this section shall be enforced by the Commission and the Menominee Tribal Police Department. The Menominee Tribal Police Department shall notify the Commission of any charges filed for violation of this Ordinance and the disposition of those charges.
24. **REPEALING EFFECT.** Ordinance No. 79-20, entitled "Legislature Elections," is hereby repealed in its entirety. Any reference in any law, regulation, or other document of the Tribe to Ordinance No. 79-20 is hereby deemed to be a reference to this document.

25. **SEVERABILITY.** If any section, subsection, paragraph, or word of this ordinance shall be held to be invalid, either on its face or as applied, the invalidity of such provision shall not affect the other sections, subsections, paragraphs, sentences or words of this ordinance, and the applications thereof; and to that end, the sections, subsections, paragraphs, sentences and words of this ordinance shall be deemed to be severable.

26. **EFFECTIVE DATE.** This ordinance shall become effective immediately upon final approval by the Legislature.