THE MINNESOTA CHIPPEWA TRIBE

ELECTION ORDINANCE

(Amended 12/11/23)

Election Ordinance Amendments
12/11/2023

Page	**Section**	**Changes (added language)**
7	1.3(C)(8)	grammatical change
9	1.3(D)(5)	Clarifying scope of criminal background checks Conducting Criminal History Check. Each Band governing body shall designate the entity responsible for conducting the criminal history check. Criminal history checks shall commence immediately upon filing and execution of the required forms by persons seeking to be candidates and be completed prior to the date the notice of certification of candidates is due, provided that a late response shall not preclude a later determination of non-eligibility. ~~The scope of e~~Each criminal history check must include a comprehensive search of federal, state, and readily available tribal records for each candidate's entire adult life and shall be sufficient to reasonably verify the eligibility of each candidate under this section.
15	1.11	Correct cross reference
*	throughout	references to Executive Director changed to gender neutral terms

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ELECTION ORDINANCE
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MINNESOTA CHIPPEWA TRIBE
ELECTION ORDINANCE
As Amended on December 11, 2023

CHAPTER I: CANDIDATES AND VOTING

Section 1.1 Primary Elections.

1.1(A). In the event only two candidates are certified for an office, there will be no Primary Election for that position. If more than two persons are certified under this Ordinance as candidates for any one office in either a Regular or Special Election, there must be a Primary Election ("Primary") prior to the Regular or Special Election. The General Reservation Election Board must certify the two candidates with the most votes in the Primary for the office at issue as the only candidates in the Regular or Special Election. The candidate with the most votes in the Regular or Special Election will be the winning candidate and will be entitled to assume the duties of office.

1.1(B). The purpose of Primaries will be to determine two candidates for the Regular or Special Election, unless a candidate receives more than one-half (1/2) of the votes counted for that position in the Primary Election in which case that candidate will be the winning candidate. If two candidates tie with the greatest number of votes in a Primary Election, they will advance as the only two candidates in the Regular or Special Election. If two candidates tie with the second greatest number of votes in a Primary, the General Reservation Election Board must conduct a Recount within twenty-four (24) hours. If the Recount results in a tie, the candidate advancing to the General or Special election (as contestant with the candidate receiving the highest number of votes) will be determined by lot. The General Reservation Election Board must draw the lots within twenty-four (24) hours after the Recount in a forum accessible to Reservation voters.

Section 1.2 Elections: Scheduling and Announcements.

1.2(A). Regular Elections.

1.2(A)(1). The Tribal Executive Committee must set the second Tuesday in June of even numbered years for Regular Elections.

1.2(A)(2). The Tribal Executive Committee must set the tenth Tuesday prior to the Regular Election date as the date for Primary Elections, if a Primary is required under this Ordinance. The Tribal Executive Committee shall approve an Election Calendar establishing the dates of events required by this Ordinance.

1.2(A)(3). Not less than one-hundred and thirty-four (134) days prior to the date of Regular Elections the Tribal Executive Committee must prepare the Election Announcement of each Regular Election and its associated Primary. Each Band governing body* must post the Announcements at locations designated by such Band on its respective Reservation on the day of, or following, receipt of the Announcement.

*"Band governing body" means a Reservation Business Committee, Reservation Tribal Council, or other entity recognized by the Tribal Executive Committee as the lawful governing body of a constituent Band of the Minnesota Chippewa Tribe.

1.2(B). Special Elections.

1.2(B)(1). If a vacancy due to death, removal, or resignation occurs on the Band governing body more than 365 days before the next scheduled Primary Election, the Band governing body must call a Special Election to fill such vacancy. The Special Election will be held within one-hundred and forty-one (141) days after the date the vacancy occurs. A Primary Election, if required under this Ordinance, will be held at least sixty (60) days before the date of the Special Election.

1.2(B)(2). If a vacancy due to death, removal, or resignation occurs on the Band governing body less than 365 days, but more than 180 days, before the next scheduled Primary Election, the Band governing body may call a Special Election, or appoint a person who is qualified to serve under Section 1.3 to fill the vacancy and serve until the next Regular Election is held and the successful candidate is seated. If a Special Election is called, it will be held within one-hundred and forty-one (141) days after the date the vacancy occurs. A Primary Election, if required under this Ordinance, will be held at least sixty (60) days before the date of the Special Election.

1.2(B)(3). If a vacancy due to death, removal, or resignation occurs on the Band governing body less than 180 days before the next scheduled Primary Election, the Band governing body may appoint a person who is qualified to serve under Section 1.3 to fill the vacancy, or leave the vacancy unfilled until the next scheduled Primary Election.

1.2(B)(4). Whenever a Special Election is called the Band governing body shall, within ten (10) days after the date the vacancy occurs, prepare an Election Announcement and Election Calendar and post it at locations designated by it.

1.2(C). "Run-Off" Elections

In case of a tie vote in a Regular or Special Election the General Reservation Election Board must perform a Recount within 24 hours. If the Recount results in a tie, a "Run-Off" election will be held within sixty (60) days following the deadline for determining contests and appeals of such elections.

1.2(D). Postponing Elections.

1.2(D)(1) The Tribal Executive Committee may postpone a previously scheduled election for a natural event that results in or is likely to result in an emergency or disaster declaration by the Band, State, or Federal government or a pandemic, outbreak, or other public health emergency that results in or is likely to result in a public health state of emergency from the Band, State, or Federal government.

1.2(D)(2) If the Tribal Executive Committee postpones a previously scheduled election, the Tribal Executive Committee shall adjust the applicable election calendar to conduct the election at the earliest date possible.

1.2(D)(3) A Band governing body may, after considering its unique circumstances, opt to conduct elections according to the original election calendar provided that adequate notice is provided to its Band members and the Minnesota Chippewa Tribe.

1.2(D)(4) If a qualifying event as defined in Section 1.2(D)(1) occurs that impacts a specific Band, that Band may request a waiver from the election calendar from the Tribal Executive Committee to conduct the election according to a different election calendar.

Section 1.3. Candidates for Office.

1.3(A). Eligibility.

A candidate for office must: (1) be an enrolled member of the Tribe; (2) be enrolled with the Reservation of his/her candidacy; (3) reside on the Reservation of his/her candidacy and enrollment; and (4) meet the requirements of Article IV, Section 4 of the Constitution, as set forth in Section 1.3(D). A candidate for Committeeperson to represent a district established pursuant to Section 1.4(A), below, must reside in the district of his/her candidacy and enrollment. Requirements (1), (2), and (3) must be met for at least the twelve-month period immediately preceding the date established for the Primary election. No member of the Tribe will be eligible to hold office, either as a Committeeperson or Officer, unless he or she will reach his/her twenty-first (21st) birthday on or before the date of the Primary or Special Election. A candidate may file for only one (1) position.

1.3(B). Reservation Definition.

A Reservation is defined as all lands within the exterior boundaries of the reservation. A Band governing body, by official action, may define "reservation" to include specified lands outside the boundaries of the reservation, as may be defined by treaty, statute, executive order, or other document considered sufficient authority by the Band governing body, including all lands considered Indian Country under the governmental authority of that Reservation.

1.3(C). Filing of Notice of Candidacy.

1.3(C)(1). For Regular Elections, eligible candidates must file their notice of candidacy for Chairperson, Secretary/Treasurer, or Committeeperson, with the Secretary/Treasurer of the Band governing body or his/her designee beginning on the next business day after the Tribal Executive Committee prepares the election announcement. The filing period shall end not less than ten (10) days after it begins.

1.3(C)(2). For Special elections, eligible candidates must file their notice of candidacy for such offices beginning the next business day after the Band governing body prepares and posts the election announcement. The filing period shall end not less than ten (10) days after it begins.

1.3(C)(3). The Notice of Candidacy must be in writing, include the Candidate's physical (residence) address, the Candidate's name as they wish it to appear on the ballot, have the original signature of the candidate, comply with the requirements of Section 1.3(D), below, and be filed by the candidate in person. The Candidate's name may include a nickname or maiden name in parentheses on the ballot, provided that the Band governing body certifies that such nickname is widely known and appropriate for listing on the ballot. A filing fee must accompany each notice of candidacy. The amount of the fee will be Thirty Dollars ($30.00) for Officers (Chairperson, Secretary/Treasurer) and Fifteen Dollars ($15.00) for Committeeperson. An incomplete Notice of Candidacy shall be rejected by the Secretary/Treasurer of the Band governing body or his/her designee.

1.3(C)(4). Each Band governing body must certify eligible candidates for office in accordance with the Minnesota Chippewa Tribe Constitution, the Minnesota Chippewa Tribe Election Ordinance, and the dates and guidelines established for Minnesota Chippewa Tribe elections. Each Band governing body must certify the names of eligible candidates as they shall appear on the ballot. Within twenty-one (21) days after the filing deadline the Band governing body must notify the Tribal Executive Committee of the eligible and ineligible candidates and the position for which they have filed. Certification decisions must adhere to the requirements of the Constitution and this Ordinance. The Band governing body shall make its certification decision based on all information available at the time for determination including information provided by the person who filed the Notice of Candidacy.

1.3(C)(5) If a candidate fails to submit a complete Notice of Candidacy, Certification of Eligibility, or Authorization and Consent to Disclosure during the filing period, the Band governing body shall not certify the candidate as eligible for office.

1.3(C)(6) Any person who has filed a complete Notice of Candidacy has standing to challenge the certification or non-certification of a person who has filed a Notice of Candidacy for the same position. Any challenge of such a decision must be filed with the Executive Director of the Minnesota Chippewa Tribe or a person designated in

writing by the Executive Director by 4:30 p.m. on the second business day following receipt by the Tribal Executive Committee of the notice of certification or non-certification. Any challenge must state with specificity the reason(s) why the decision of the Band governing body did not comply with the requirements of the Constitution and may include supporting documentation. Immediately upon receipt of a challenge, the Executive Director or a designee shall: (1) notify the Band governing body of the challenge and advise it that a complete record of all documents related to the challenge determination must be submitted to the Executive Director by 4:30 p.m. on the second business day following receipt of the challenge; (2) provide a copy of the challenge and documentation to the person whose certification is being challenged and advise the person that any answer to the challenge must be filed with the Executive Director by 4:30 p.m. on the second business day following receipt of the challenge; and (3) notify the Tribal Election Court of Appeals that a challenge has been filed. The Executive Director or a designee shall submit the following materials to the Tribal Election Court of Appeals at the expiration of the aforementioned deadlines: the challenge and supporting documentation; the record compiled by the Band governing body; and any timely filed answer to the challenge. Notwithstanding any provision of this Ordinance, the Tribal Election Court of Appeals shall convene and within forty-eight (48) hours of receiving the challenge, record, and answer, decide the issue of certification or non-certification based on the materials described above. The Tribal Election Court of Appeals may convene by telephone conference. The decision of the Tribal Election Court of Appeals must be in writing and signed by the Chief Judge. The decision of the Tribal Election Court of Appeals shall be final.

1.3(C)(7). If a member serving in any position on an existing Band governing body, and whose term does not end with the current election, desires to file for a different office on that Committee, he/she may do so. However, at least fifteen (15) days prior to the day that the Election Announcement is posted pursuant to Section 1.2(A)(3), such member must file with the Band governing body or its designee and serve upon each of its other members a notice of resignation from that member's current position. Said resignation shall be irrevocable upon certification of the tribal member who has resigned as a candidate and will be effective upon the

successful candidate's assumption of authority of the position for which such member has filed.

1.3(C)(8). In the event another incumbent member desires to file for the office for which a notice of resignation has been filed and served, he/she must file and serve a notice of resignation at least three (3) days prior to the date that the Election Announcement is prepared.

1.3(C)(9). Each office for which a notice of resignation has been filed and served in accordance with this section will be included in the Election Announcement, and a Special Election for those positions will be held contemporaneously with the Regular Election.

1.3(D). Ineligibility by Reason of Criminal Conviction

1.3(D)(1). General. No member of the Tribe shall be eligible as a candidate or be able to hold office if he or she has ever been convicted of any felony of any kind or if he or she has ever been convicted of a lesser crime if that crime involved the theft, misappropriation or embezzlement of money, funds, assets or property belonging to an Indian tribe or a tribal organization.

1.3(D)(2). Definitions. As used in this subsection:

1.3(D)(2)(a). "Lesser crime" means a misdemeanor, gross misdemeanor or other equivalent offenses under applicable law, but shall not include petty offenses or misdemeanors punishable only by a fine under applicable law.

1.3(D)(2)(b). "Felony" means a crime defined as a felony by applicable law.

1.3(D)(2)(c). "Applicable law" means the law of the jurisdiction in which a crime was prosecuted. In regard to "lesser crimes," the offense must be evaluated in conjunction with the law at either the time of the prosecution or presently, whichever version identifies a lower level offense in the event of a subsequent statutory reclassification.

1.3(D)(2)(d). "Indian tribe" means any federally-recognized Indian tribe, band, group or community.

1.3(D)(2)(e). "Tribal organization" means the recognized governing body of any Indian tribe and any legally established organization or subordinate entity which is owned or controlled by an Indian tribe or tribes.

1.3(D)(2)(f). "Theft", for purposes of illustration, means taking of another's personal property with the intent of depriving the true owner of it.

1.3(D)(2)(g). "Misappropriation", for purposes of illustration, means the application or conversion of another's personal property dishonestly to one's own use.

1.3(D)(2)(h). "Embezzlement", for purposes of illustration, means the fraudulent taking of personal property with which one has been entrusted.

1.3(D)(3). Certification of Eligibility. Each person filing for office shall at the time of filing execute before a notary a representation that he or she is eligible to be a candidate and has not been convicted of a crime which would disqualify him or her under Section 1.3(D)(1). The Tribal Executive Committee shall prescribe the form of the certification. An incomplete Certification of Eligibility shall be rejected by the Secretary/Treasurer of the Band governing body or his/her designee.

1.3(D)(4). Authorization and Consent to Disclosure. Each person filing for office shall at the time of filing execute before a notary an authorization to release and consent to disclosure in favor of the Band governing body for the purpose of conducting a criminal history check. The authorization shall be on a form prescribed by the TEC (or on a form that is required by the responding jurisdiction) and shall require such information as may be reasonably necessary to conduct the criminal history check, including all jurisdictions in which the person has resided or has been convicted of a felony or lesser crime and all names the person has used. An incomplete Authorization and Consent to Disclosure shall be rejected by the

Secretary/Treasurer of the Band governing body or his/her designee.

1.3(D)(5). Conducting Criminal History Check. Each Band governing body shall designate the entity responsible for conducting the criminal history check. Criminal history checks shall commence immediately upon filing and execution of the required forms by persons seeking to be candidates and be completed prior to the date the notice of certification of candidates is due, provided that a late response shall not preclude a later determination of non-eligibility. Each criminal history check must include a comprehensive search of federal, state, and readily available tribal records for each candidate's entire adult life and shall be sufficient to reasonably verify the eligibility of each candidate under this section.

1.3(E). Write-In Candidates.

No write-in candidate will be recognized.

1.3(F). Order on Ballot.

Each Band governing body shall prepare a list of duly certified candidates for each position. The list shall include the names as they shall appear on the ballot pursuant to Section 1.3(C)(4). The order of placement on the ballot shall be determined by lottery. A separate lottery shall be conducted for the Primary and General Elections. The lottery shall be performed in a public setting with notice provided to the candidates and posted at the locations designated by the Band governing body at least twenty-four (24) hours prior to lottery. If a candidate is the incumbent for the position, the word ("Incumbent") shall appear on the ballot after the candidate's name. The list of duly certified candidates and the order of placement on the ballot shall then be submitted to the Tribal Executive Committee.

Section 1.4. Districts and Polling Places.

1.4(A). Each Band governing body by official action may divide its reservation and surrounding areas into districts for the purpose of electing members to the positions of Committeeperson on the Band governing body.

1.4(B). Each Band governing body by official action must designate polling places for its respective reservation and, on the day when the Tribal Executive Committee is notified of eligible candidates under Section 1.3(C)(4), must notify the Tribal Executive Committee of the districts and designated polling places.

1.4(C). Each Band governing body may, by official action, establish voting precincts in off-reservation areas where it deems it has sufficient eligible voters to warrant a voting polling place.

1.4(D). Each Band governing body may establish alternative polling places in the event an emergency makes a polling place established under Section 1.4(B) unavailable. Notice shall be provided of such emergency relocation by posting at the original polling place and by any other means reasonably calculated to give notice to voters.

Section 1.5. Election Notice.

1.5(A). Regular Elections without an Associated Primary.

At least sixty-four (64) days before the day of the Regular Elections the Tribal Executive Committee must prepare for each Band governing body a Notice of Regular election. This notice must contain: the date of the Regular Election; a list of duly certified candidates for positions on the Band governing body; the designated polling places; the time for opening and closing of polling places; and, the voting requirements. Each Band governing body must post the Notice no later than the day following receipt of the Notice at locations designated by the Band governing body on its respective Reservation.

1.5(B). Regular Elections with an Associated Primary.

At least thirty (30) days before the day of the Primary Elections, but not before the Band governing body certifies the candidates, the Tribal Executive Committee must prepare for each Band governing body a Notice of Primary Election. This notice must contain: the date of the Primary Election; a list of duly certified candidates for positions on the Band governing body; the designated polling places; the time for opening and closing of polling places; and the voting requirements. Each Band governing body must post the Notice no later than the day following receipt of the Notice at locations designated by the Band governing body on its respective Reservation. At least thirty (30) days before the Regular Election, but not before the expiration of the contest period in the associated Primary Election, the Tribal Executive Committee must prepare for each Band governing body a Notice of Regular Election. This notice must contain: the date of the Regular Election; a list of the candidates for positions on the Band governing body resulting from the associated Primary Election; the designated polling places, the time for opening and closing of the polling places; and the voting requirements.

1.5(C). Special Elections.

Within five (5) days after the deadline for filing notice of candidacy, the Band governing body calling the Special Election must prepare and post a Notice of Special Election, giving the dates of the Special Election and any associated Primary Election; a list of the duly certified candidates for vacant positions on the Band governing body; the designated polling places; the time for opening and closing of the polling places; and the voting requirements. The Band governing body must post the Notice at locations designated by the Band governing body on its Reservation. Within five (5) days after the deadline for the decision on the contest of the Primary Election associated with a Special Election, the Band governing body must prepare and post another Special Election Notice containing: the date of the Special Election; a list of the candidates for positions on the Band governing body resulting from the associated Primary Election; the designated polling places; the time for opening and closing of the polling places; and the voting requirements.

Section 1.6. Voter Eligibility.

1.6(A). Judging Qualifications.

Each Band governing body will be the sole judge of the constitutional qualifications of its voters and may, by official action, delegate this responsibility to its General Reservation Election Board.

1.6(B). Eligibility to Vote: Generally.

Eligible voters are enrolled members of the Tribe, 18 years of age or over. All eligible voters shall vote by secret ballot. To be eligible to cast a ballot a voter must meet all constitutional requirements. In addition, to be eligible to cast a vote for Committeeperson, a voter must have resided within that district for at least thirty (30) days immediately preceding the election, unless the voter casts an absentee ballot as permitted by this Ordinance.

1.6(C). Eligibility to Vote: Absentee.

Whenever, due to absence from the reservation, illness or physical disability, an eligible voter is not able to vote at the polls and notifies the General Election Board consistent with this Ordinance, he/she will be entitled to vote by absentee ballot in the manner and under the procedures as provided by Section 2.2(B). To cast an absentee ballot for Committeeperson, an eligible voter must have resided within that district for a period of at least thirty (30) days as his/her last reservation residence. In the event an eligible voter has never resided on the reservation of

his/her enrollment, he/she may declare in his/her request which district has been selected in which to cast the ballot for Committeeperson. If an eligible voter does not and has not previously designated a district, that eligible voter may cast an absentee ballot that includes only the at-large positions up for election. Once a voter has resided in or declared a district, the voter may not thereafter change his/her district for absentee voting purposes without actually residing within a different district on his/her reservation of enrollment for at least thirty (30) consecutive days immediately preceding the election.

Section 1.7. Reservation Election Boards and Election Contest Judges.

1.7(A). General Reservation Election Board.

Within three (3) business days following the notice of certification of candidates for either a Regular Election or Special Election, the Band governing body must appoint at least four (4) eligible voters of the reservation as the General Reservation Election Board. One member of the Board must be appointed the Chair. The appointments must be made either directly by the Band governing body or through another process established by the Band governing body. Each appointee to the Board must have a thorough understanding of this Ordinance. The General Reservation Election Board will also be the District Election Board if the Reservation has no Districts. The General Reservation Election Board will be responsible for the overall conduct of the election. In addition, it must perform, in a nonpartisan fashion, all duties assigned to it by this Ordinance, including the processing and counting of absentee ballots, the certification of election results, the posting of election results, the safekeeping of election materials, and the consideration of recount requests. The Reservation Election Board shall keep and maintain a mailing address for the purpose of receiving election related materials. The Band governing body shall post and publish the mailing address of the Reservation Election Board in advance of upcoming elections. The Band governing body shall establish a work schedule sufficient for the Board to fulfill its duties.

1.7(B). District Election Board.

1.7(B)(1). Within three (3) business days following the notice of certification of candidates for either a Regular Election or Special Election, the Band governing body must appoint a District Election Board of at least three eligible voters from each voting district, and at least one alternate from that district. The appointments must be made either directly by the Band governing body, or through another process established by the Band governing body. One member of

the District Election Board must be designated as the Chair, one as Clerk, and one as Teller. The Band governing body may also appoint one or more additional eligible voters from the reservation to serve as alternates in case any of the original appointees become unable or unwilling to serve. Each appointee as a board member or alternate must have training in this Ordinance. The General Reservation Election Board must attend training from the MCT in the application of this Ordinance. District Board members may also attend.

1.7(C). Vacancy on Election Boards.

Vacancies must be filled by appointed alternates to the Board, provided that in the event no alternate remains available, the Band governing body shall appoint qualified replacements at any time prior to the election. In the event a Band Governing body is unable to convene prior to election day to fill a vacancy, the vacancy shall be filled by a qualified replacement appointed by the Chair of the General Election Board.

1.7(D). Reservation Election Contest Judge.

Within three (3) business days following the notice of certification of candidates for either a Regular Election or Special Election, the Band governing body must designate an Election Contest Judge and an Alternate Election Contest Judge and notify the MCT and the Judges of such designation. If the Election Contest Judge becomes unable or unwilling to serve, the Alternate Election Contest Judge must take his/her place. The Election Contest Judge and Alternate Election Contest Judge must have a thorough understanding of this Ordinance. The qualifications of the Election Contest Judge and Alternate Election Contest Judge shall be determined by the Band governing body. The Election Contest Judge must perform the duties described in this Ordinance for the election that is the subject of the Announcement. The term of such judge will be determined by the Band governing body, provided that the term shall be for the duration of the election cycle. Before assuming duties described in this Ordinance, Election Contest Judges must take an oath in substantially the following form: I do hereby solemnly swear that I shall preserve, support, and protect the Constitution of the United States, the Constitution of the Minnesota Chippewa Tribe, and the Election Ordinance of the Minnesota Chippewa Tribe and execute my duties to the best of my abilities.

1.7(E). Restrictions and Removal

No candidate for election, no member of a Candidate's immediate family, not any member of the Band governing body will be appointed to serve on any election board or as an Election Contest Judge or Alternate Election Contest Judge. The term "immediate family" as used herein will be determined by the Band governing body.

Election Board Members shall not disclose by any means information about requests for, mailing of, or return of absentee ballots to any person, except (1) to the voter to whom the request or ballot pertains or (2) in accordance with an order issued pursuant to Section 3.2(A)(2). Requests by voters for information must be in writing and maintained by the Election Board along with a summary of the information disclosed pursuant to the request. Unauthorized disclosure is grounds for removal. Election Board Members are also subject to standards of conduct applicable to other Band employees that are included in Band law or policy.

Section 1.8. Cost of Election.

Compensation of election board members and all costs of administering all elections, including contests, challenges, and appeals, must be borne by the Band governing body of the reservation holding the election.

Section 1.9. Counting of Days.

Whenever this Ordinance provides for a certain time period to be counted in days, such days will be calendar days, and if the last day when so counted falls on a Saturday or Sunday or legal holiday, the Ordinance will be construed so that then the last day will be the next business day following such Saturday or Sunday or the first day following the legal holiday that is not a Saturday or Sunday.

Section 1.10 Independent Investigations.

Each Band governing body may establish a process for conducting independent investigations related to allegations of the improper conduct of election board members, electioneering, or other violations of this Election Ordinance. If the Band governing body determines that electioneering or any other violation of this Election Ordinance occurred, the Band governing body may require a notice to be posted concerning the activity that gave rise to the electioneering in question.

Section 1.11. Beginning of New Terms.

1.11(A). Action by a Band governing body.

A Band governing body by official action may establish the time and process for newly elected candidates to assume the authority of their positions, however, such time and process must provide that all newly elected candidates will assume the authority of their positions at or before the times set out in Section 1.11(B), provided that if an election for a particular position is contested and the contest has not been finally ruled upon in accordance with this Ordinance the incumbent will remain in office pending a final decision, and until a new person takes office.

1.11(B). In the Absence of Action by a Band governing body.

1.11(B)(1). In the absence of official action by a Band governing body pursuant to Section 1. (A), the winning candidates in Regular Elections will take office and assume all the authority of their positions at 12:01 a.m. on the second Tuesday in July following the elections; provided that if an election for a particular position is contested and the contest has not been completed in accordance with this Ordinance, the incumbent will remain in office pending a final decision and until a new person takes office. The contest of the election for any one position will not affect the beginning of the new terms of other winning candidates. If the final decision on the contest upholds the election, the winning candidate will take office and assume all the authority of the position at 12:01 a.m. on the day following the day the final order upholding the election is filed. If the final decision orders a new election, the winning candidate of the ensuing special election will take office and assume all the authority of the position in accordance with the following paragraph.

1.11(B)(2). For special elections, the winning candidate will take office and assume all the authority of the position at 12:01 a.m. on the tenth day following the day of the election provided that there is a vacant position and the provisions of Section 1.3(C)(7) of this Ordinance are not triggered. If a special election is contested, and the contest has not been finally ruled upon by such time, the winning candidate will take office and assume all the authority of the position at 12:01 a.m. on the day following the final order upholding the election.

CHAPTER II: CONDUCT OF ELECTIONS

The General Reservation Election Board will be responsible for the overall conduct of the election and must perform all duties assigned to it by this Ordinance in an unbiased fashion, including the safekeeping of election materials, the processing and counting of absentee ballots, the certification and posting of election results, and the consideration of recount requests. The failure to act in an unbiased fashion may be grounds for removal from the Reservation Election Board. Election Board Members shall be subject to the standards of conduct applicable to other Band employees.

Section 2.1. Election Security Measures.

Except as specifically provided herein, the General Reservation Election Board is responsible for implementation of the election security measures listed below. In the event that the Tribal Executive Committee designates an outside organization to provide technical assistance and/or election related services, the General Reservation Election Board will be responsible for monitoring the performance of said organization to ensure compliance with the provisions of this Ordinance.

2.1(A). Storage and Distribution of Voting Materials.

2.1(A)(1). Elections for Band governing body positions may be conducted by using an automated ballot tabulating system that meets the standards in Section 2.2. When a Band governing body chooses not to use an automated ballot tabulating system, the Tribal Executive Committee will be responsible for preparing ballots for all elections for Band governing body positions and for making them available to the General Reservation election Boards at least thirty (30) days prior to the election. The Tribal Executive Committee must take reasonable steps to ensure that all ballots are kept securely prior to delivery to the General Reservation Election Boards. When an automated system is used the supplier shall also be responsible for ballot security and other measures related to the integrity of the election process. All members of the District Election Board at each polling place must certify that any electronic vote tabulator has been tested, correctly reads cast ballots, and has been returned to zero prior to opening of the polls.

2.1(A)(2). The General Reservation Election Board must take reasonable steps to ensure that all election materials, including computers and any electronic memory devices used in the election process are at all times kept in a secure location prior to, during and after the election. The General

Election Reservation Board must also ensure that security measures are in place for the commencement and finish of voting that allow for public verification of the sealing and unsealing of ballot boxes.

2.1(A)(3). The General Reservation Election Board must keep all election records and correspondences, including electronic memory devices used in the election process and the following additional items, under lock and key for at least ninety (90) days following election day or until all contests and appeals have been completed: ballots, whether used, unused, or spoiled, information on each request for an absentee ballot, a record of the date on which each request for an absentee ballot was received, the date on which the absentee ballot was mailed out, the date on which the absentee ballot was received and from whom it was received; any reports from the General Reservation Election Board or a District Election Board; challenge and complaint records; count totals and results, as well as decisions on the validity of ballots. Absentee ballots received by the General Reservation Election Board by mail after the cut-off date and time as specified in Section 2.2(B)(4), must be kept separate from all of the other ballots. The General Reservation Election Board shall maintain a permanent record indicating the District in which each voter cast a ballot.

2.1(A)(4). The ninety (90) day requirement notwithstanding, such materials must be made available at the discretion of the court for contests and/or appeals, if so, authorized by the relevant provisions of Chapter III of this Ordinance. Any materials so released must only be released in accordance with, and for the express purpose(s) set forth in this Ordinance.

2.1(B). Security in Voting Areas.

2.1(B)(1). The District Election Board must ensure that ballot boxes are continuously monitored by at least two members of the Board from the time the polls open on election day to the time the polls close.

2.1(B)(2). It is the duty of the District Election Board to maintain orderly conduct within or near the polling place and prohibit any person from electioneering in a public place within a direct line of 200 feet in any direction from the

primary entrance used by voters at the polling place. The District Election Board must also take reasonable steps to ensure that voters have barrier-free and easy access to the polling station.

2.1(B)(3). Any person who engages in electioneering or behavior that distracts, interrupts, or interferes with the Election or the work of the Board must be removed and excluded from the premises.

2.1(B)(4). As used in this Ordinance, the term "electioneering" shall mean to work actively on behalf of a specific candidate on the ballot at that election, and includes posting signs or banners, passing out pamphlets, flyers or other literature, and verbally urging, advocating or exhorting others to vote for a specific candidate.

Section 2.2. Voting Procedures.

The procedures of this section shall apply when the Band governing body either chooses to use an automated ballot tabulation system or traditional ballot box system. When an automated ballot tabulation system is used the Election Board shall apply the controls and procedures prescribed by the vendor to ensure the integrity of the process of casting and counting all valid ballots. An electronic tabulation system must meet the standards set out in Appendix I or be certified pursuant to voting systems standards adopted either by the Federal Election Commission (FEC) or the Election Assistance Commission (EAC).

2.2(A). Voting at Polling Place.

2.2(A)(1). Instructions to voters describing the manner of casting one's vote must be posted at the polling place and issued upon request to all eligible voters with a ballot.

2.2(A)(2). The polls will remain open at each polling place from 8 a.m. until 8 p.m. on Election Day.

2.2(A)(3). When all else is in readiness for the opening of the polls, the District Election Board Chair in each district must open the ballot box in view of the other District Election Board members, and also in view of any members of the general public then in attendance, must turn same top down to show that no ballots are contained therein, and must lock the box and retain the key in his/her possession until after the polls are closed and until the count of the ballots is

started. In the event that the Tribal Executive Committee designates an outside organization to provide election assistance, such as the provision of ballot boxes, an official from said company may be allowed to retain the key in his/her possession. The Ballot boxes must remain locked from the commencement of voting through the close of voting, when they are opened for removal of the ballots for counting.

2.2(A)(4). The Clerk must make a record of each eligible voter presenting himself/herself at the polls. The voter must sign the register or make his or her mark. The Clerk, with the concurrence of the General or District Election Board, may require proof of identity.

2.2(A)(5). All voting is by secret ballot. The voter must vote in privacy, by indicating with a mark in the place provided adjacent to the name of the candidate(s) supported by the voter. The voter must then hold the ballot so the choice(s) cannot be seen by others and place it in the ballot box provided. It will be the duty of the Chair, or the Chair's designee, when requested by a voter, to have such voter assisted in casting a ballot.

2.2(A)(6). If a voter mutilates a ballot or renders the ballot unusable, another ballot may be obtained. Upon surrender of the mutilated ballot, the Judge must write the word "Disqualified" across the ballot and sign his/her name beneath it, have another ballot issued in lieu thereof and must place the spoiled ballot in a large envelope marked "mutilated ballots." The envelope containing all mutilated ballots must be placed in the ballot box at the end of the voting. All such spoiled ballots must be retained along with the other election materials as specified in this Chapter.

2.2(A)(7). Ballots unused at the end of the voting must be bundled together, and the bundle must be marked "unused" in ink, signed by at least two members of the District Election Board, and placed in the ballot box at the end of voting. All unused ballots must be retained along with the other election materials as specified in this Chapter.

2.2(B). Absentee Ballot Voting Procedures.

2.2(B)(1). The General Reservation Election Board must give or mail ballots for absentee voting to eligible voters upon receipt of a signed written request from such voters. If an eligible voter does not and has not previously designated a district, that eligible voter shall receive an absentee ballot that includes only the at-large positions up for election. The General Reservation Election Board may accept physically signed written requests by hand delivery, by mail, or by fax or other electronic means, such as electronic mail. The Reservation Election Board shall keep and maintain a mailing address for the purpose of receiving election related materials. The Band governing body shall post and publish the mailing address of the Reservation Election Board in advance of upcoming elections. Under no circumstances shall the General Reservation Election Board hand-deliver absentee ballots off-site. The General Reservation Election Board must give immediate attention to all such requests and must process the requests to permit voters reasonable time to execute and return their absentee ballots within the time allowed by this Ordinance; provided that any eligible voter who requests and receives an absentee ballot in person must be required to cast the ballot with the General Reservation Election Board on the same day. Documents which must be given or mailed to the voter requesting an absentee ballot under this section must include: a) the absentee ballot; b) an inner envelope, bearing on the outside the words "Absentee Ballot" and; c) a pre-addressed outer envelope which, on the reverse side of which there must appear an affidavit as described in Appendix II of this Ordinance.

2.2(B)(2). In no case may a candidate or member of a candidate's immediate family be the notary public who administers the oath.

2.2(B)(3). Those voting by absentee ballot must execute the required affidavit, mark the ballot to indicate candidate preference(s), acquire witness of a notary public, place the ballot in the envelope marked "Absentee Ballot", seal the envelope, place the sealed envelope marked "Absentee Ballot" in the outer pre-addressed envelope, and mail it or deliver it in person.

2.2(B)(4). Those wishing to vote by absentee ballot must ensure that their outer pre-addressed envelope with enclosed inner envelope and absentee ballot are delivered to the designated post office box one half hour before closing of the relevant post office on Election Day. Any absentee ballots received by mail thereafter must be declared invalid and must be kept separate from the other ballots.

2.2(B)(5). Absentee Ballots that are returned by hand-delivery must be received by the General Reservation Election Board no later than the close of the polls on Election Day. Any ballot that is hand-delivered must be delivered by the absentee voter himself/herself. Any voter who walks into the polling place on Election Day with an unmarked absentee ballot may choose to have the ballot voided, recorded as void, and proceed to vote as a regular voter.

Section 2.3. Counting of Votes.

2.3(A). The Tally.

At the close of the polls, all election materials must be transported to the counting room, if the counting is to take place in a location other than the polling place. Thereafter, the District Election Board must unlock the ballot box(es); remove the regular ballots; and tabulate the votes according to the procedures established in this Ordinance, or by such other process as may be required by an automated election system.

The District Election Chair and at least two other members of the District Election Board must remain continuously in the room until all the ballots are finally counted.

2.3(B). Observing the Tally.

At least two members of the District Election Board must view each ballot, and each counter must keep a separate tally of the votes cast. Any eligible voter may be present at the tally so long as the voter behaves in a manner consistent with the requirements of this Ordinance.

2.3(C). Rejection of Ballots.

If, during the tallying of the votes, the members of the District Election Board are unable to determine from a ballot the choice(s) of the voter, the ballot must be rejected. A rejected ballot must be marked "rejected" in ink. Each member of the Reservation Election Board must sign their

name below this marking. Rejected ballots must be kept together and placed in the Ballot Box at the end of the tally.

2.3(D). Close of Tally.

At the close of the tally, the District Election Board must open the ballot boxes and display the empty box to all persons present to ensure that no ballots are contained therein; determine the total votes cast for each candidate for each office; write down these totals, together with the number of rejected ballots, spoiled ballots, unused ballots and total ballots printed; return the ballots to the boxes, lock and mark the boxes, and turn over the certified election returns of the District, along with the ballot boxes, and the list of those registered and voting to the General Reservation Election Board.

2.3(E). Counting the Absentee Ballots.

2.3(E)(1). Upon arrival at the polling place, the Chairperson immediately must deliver the still sealed ballots to the remaining members of the General Reservation Election Board, who must deposit them in a special locked ballot box.

2.3(E)(2). Prior to counting the absentee ballots, the General Reservation Election Board must determine whether the person whose name is on the outer envelope and affidavit is a qualified voter, and whether the qualified voter is on the absentee ballot list. The General Reservation Election Board must then count and register absentee votes after all other ballots have been counted and must include such votes in the results of the election. The provisions of Section 2.3(B) and Section 2.3(C) must apply to the counting of the absentee ballots, except that the General Reservation Election Board must perform the listed duties with regard to absentee ballots, instead of the District Election Board.

Section 2.4. Certification and Posting of the Election Results.

2.4(A). It will be the responsibility of the General Reservation Election Board to certify the results of each election. The General Reservation Election Board must convene in a place selected by them and at a time prior to 8:00 p.m. on the day following the election day to receive the certification of the results of the election from each District and must certify the return of the absentee votes.

2.4(B). The General Reservation Election Board must publish and post within two (2) days after the day of the election the results of such election, in the voting Districts, and in other public places throughout the Reservation for the information of the tribal members. The results must also be forwarded to the Minnesota Chippewa Tribe within the same time period.

Section 2.5 Election Signage.

Each Band governing body may adopt generally applicable rules or regulations relating to campaign signage, include when such signs may be posted and when such signs must be taken down.

CHAPTER III: RECOUNTS, CONTESTS, AND APPEALS

Section 3.1. Recounts of Ballots.

3.1(A). A recount of ballots may be sought in any Regular or Special Election and must be mandatory in case of tie votes in such elections. If two candidates tie with the second highest number of votes in a Primary, a recount must be mandatory.

3.1(B). Only a candidate for a Band governing body position may seek a recount of ballots, and the recount may only involve the position for which he/she was a candidate. A candidate seeking a recount must prepare a written Request for Recount stating specific reasons for the need for a recount and must file the Request with the General Reservation Election Board at its office by 5:00 p.m. on the third day following the day of the election. The General Reservation Election Board must consider the Request for Recount of the contesting candidate and must make a decision on the Request within five (5) days following the day the Request is filed with the Board. A recount may be ordered only if the General Reservation Election Board determines that the closeness of the vote makes a recount desirable, or that a material question exists as to whether the initial vote count was accurate. The decision of the General Reservation Election Board will be final without appeal as to the recount request.

3.1(C). All recounts shall include a hand count.

Section 3.2. Election Contest to Reservation Election Contest Judge.

3.2(A). Contest of Primary, Regular or Special Elections.

3.2(A)(1) Only a candidate on the ballot in an election may contest that election, and the contest may only involve the position for which he/she was a candidate. A candidate contesting an election must prepare a written Notice of Contest stating

specific reasons for his/her contest, and shall file by regular mail, electronic mail, personal delivery, or facsimile the Notice of Contest with both the Reservation Election Contest Judge at the judge's office and the Executive Director or his/her designee at the offices of the MCT by 4:30 p.m. of the seventh day following the day of the election. A Notice of Contest must be electronically time and date stamped upon receipt at each office or its receipt must be verified in writing by two (2) persons at each office. The Executive Director or his/her designee must verify that the Notice of Contest was received prior to the deadline. If the entire Notice of Contest is not received by the deadline, it shall be void.

3.2(A)(2). Upon the proper filing of a Notice of Contest, the Reservation Election Contest Judge shall review the claims made in the Notice of Contest as soon as practicable after the Notice is filed. In his or her sole discretion, the judge, either *sua sponte* or upon request of the contestor, may order certain discovery of materials held by the General Reservation Election Board if the Contest Judge believes that information will materially assist in making a decision on the Contest. Absent the prior written consent of the person to whom a record pertains, the Contest Judge shall take such steps as are reasonably necessary to ensure that personal information is not disclosed. The Reservation Election Contest Judge may order such a hearing and such submissions as the judge deems necessary, including the testimony of persons on any Election Board, and must make a decision on the Contest within ten (10) days of the deadline for filing a Notice of Contest.

3.2(B). Rules and Procedures for Contests to the Reservation Election Contest Judge.

The following additional rules and procedures will govern the determination of election contests heard by the Reservation Election Contest Judge pursuant to this Ordinance:

3.2(B)(1). The burden of proof rests with the contester who must show by clear and convincing evidence the alleged violations of this Ordinance. There shall be a presumption of correctness in favor of the General Reservation Election Board and the election results until the contester has met his or her burden of proof.

3.2(B)(2). The contester must proceed first in any hearing and must present relevant and material evidence demonstrating how any violations of the Ordinance, alleged and proven, affected the outcome of the election. Evidence may be received on violations of the Ordinance alleged to have taken place in the contested election. The General Reservation Election Board must respond to the case presented by the contester, if it deems it necessary, and may present any exhibits and offer any relevant testimony and/or oral arguments. With an offer of proof and with the permission of the Judge, another candidate may respond to the allegations in the Notice of Contest.

3.2(B)(3). Legal counsel may assist and accompany the contester but must abide by all rules and regulations applicable to the proceeding.

3.2(B)(4). The contester must be limited to presenting testimony and evidence in support of the allegations contained in the written Notice of Contest. No new allegations will be considered.

3.2(B)(5). Witnesses must be sworn and only one may testify at a time. The judge will have full authority to maintain order and decorum throughout the proceeding.

3.2(B)(6). All evidence offered, whether written or oral, must be relevant to the matters alleged as the basis of the contest, and must be recorded by a court reporter or if a court reporter is not available by video or audio.

3.2(B)(7). The decision of the judge as to the relevancy and weight of any and all exhibits and evidence will be subject to review on appeal only pursuant to this Ordinance.

3.2(B)(8). With regard to a contest of the final vote in an Election, the judge may affirm the results of the election or order that the results of the election are invalid and order that a new election will be held under conditions specified in the judge's order. In no case will the judge order that a new election be held unless the contester has demonstrated violations of this Ordinance which changed who was the winning candidate (or candidates in a Primary) for an office.

3.2(B)(9). The form of the Opinion of the Reservation Election Contest Judge must include a Findings of Fact, Conclusions of Law, and Final Decision.

3.2(B)(10). The judge will not have jurisdiction to rule on questions relating to interpretation of the Revised Constitution and Bylaws of the Minnesota Chippewa Tribe.

Section 3.3. Appeal of Reservation Election Contest Judge Decision.

The decision of the Reservation Election Contest Judge, or such other equivalent decision as designated by Band law, may be appealed to either: (1) the Tribal Election Court of Appeals if the Band governing body has, by official action, conferred jurisdiction on that Court; (2) to a Band appellate court with jurisdiction. The Appeal must be limited to the record below subject to the limited exception set forth in Section 3.4 (B)(3). The decision of the Reservation Election Contest Judge shall be reviewed de novo with no deference given to the Election Judge's determinations of either the facts or the law.

Section 3.4. Tribal Election Court of Appeals

3.4(A). Organization of the Court

3.4(A)(1). The MCT Tribal Election Court of Appeals ("Court") will be comprised of a person named by each of the six Bands ("Judge"), chosen as determined by the Band. The Judge representing the Band from which the appeal is taken must be recused from sitting on that matter. In all cases, there shall be five (5) voting members of the Court.

3.4(A)(2). The Executive Director of the MCT or his/her designee will serve as Clerk of Court.

3.4(B). Jurisdictional Limitations; Band Decision; No New Trial

3.4(B)(1). Jurisdiction of the Court is limited to matters arising under this Election Ordinance.

3.4(B)(2). Each Band governing body may, by official action, opt to confer final jurisdiction on the Court. The Band governing body must notify the Tribe of a decision to use the Court before the date of a scheduled primary election. If no such notice is given, appeals shall be to the Band's appellate court.

3.4(B)(3). The Court may only take appeal from the decision of the Reservation Election Contest Judge, and may not undertake separate fact-finding upon new evidence, unless the Reservation Election Contest Judge clearly refused to accept relevant evidence or failed to consider evidence that could not reasonably have been discovered prior to the underlying hearing. Regardless, the Court cannot consider any claim that could have been presented at the Reservation Contest level.

3.4(C). Procedure

3.4(C)(1). A candidate who is adversely affected or the General Reservation Election Board may file a Notice of Appeal with the Executive Director of the MCT or his designee within three (3) days of the decision of the Election Contest, at the offices of the MCT. A copy of the Notice of Appeal must also be served on the office of the Reservation Contest Judge who made the decision being appealed. The Notice must state the basis for the appeal, including a statement of how the alleged violation of the Election Ordinance was both serious and material and how it affected the outcome of the election.

3.4(C)(2). Upon receipt of the Notice of Appeal by the Reservation tribunal, the record must be prepared and forwarded to the Court at least two (2) days prior to the hearing date. The record must include all documentary evidence presented, a transcript of the proceedings or video or audio recordings, and a copy of the decision of the Reservation Contest Judge.

3.4(C)(3). Upon receipt of the Notice of Appeal by the Executive Director or his/her designee, a copy of the Notice of Appeal must be forwarded to the Court of Appeals by regular mail, electronic mail or facsimile. The Executive Director must schedule a hearing date within one week from the date of receipt of the Notice of Appeal.

3.4(C)(4). The Court must permit oral argument and written submissions and may establish time or page limits, as the case may be.

3.4(C)(5). The Court may order the issues briefed by counsel but must in any event render a decision on the Appeal within ten

(10) days of hearing. The decision must be in writing and address each issue raised on appeal.

3.4(C)(6). The decision of the Court is final and unappealable.

APPENDIX I
MCT ELECTION ORDINANCE

- The electronic voting machine shall be a computer (microprocessor) controlled direct electronic tabulation system. The operating software shall be stored in a non-volatile memory "firmware" and shall include internal quality checks, such as purity or error detection and/or correction codes. The firmware shall include comprehensive diagnostics to ensure that failures do not go undetected. The voting system shall be a battery back-up system that will, as a minimum, retain voter information and be capable of retaining and restoring processor operating parameters in the event of power failures. The voting system shall provide alpha/numeric printouts of the vote totals at the closing of the polls. Subsistence, i.e. printer, power sources, microprocessor, switch and indicator matrices, etc., shall be modular and pluggable. Electronic components shall be mounted on printed circuit boards. The unit shall be supplied with dust and moisture-proof cover for transportation and storage purposes.

- Specifications:
    1. Operating temperature - 50°F to 90°F.
    2. Storage temperature - 0°F to 120°F.
    3. Humidity – 30% to 80% non-condensing.
    4. Line voltage – 115 VAC +/- 10%, 60 HZ.

  The memory pack is able to accept over 1,500 voting positions and tabulate over 65,000 votes for each position. The machine shall accept a ballot inserting in any orientation. The tabulator must recognize all errors and be able to reject or return the erred ballot. The tabulator must automatically be able to detect an over-voted ballot. The vote tabulator must contain a public display counter to record number of ballots processed.

APPENDIX II
MCT ELECTION ORDINANCE

AFFIDAVIT

State of _____

County of _____

I, _____, do solemnly swear that I am an enrolled member of the Minnesota Chippewa Tribe, that I will be at least eighteen years of age on the election date and am entitled to vote in the election to be held on _____, 20___.

I have marked the ballot that I requested and received from the Election Board and enclosed and sealed the same in the envelope marked "ABSENTEE BALLOT." It is enclosed in this envelope.

Signed:_____
(Voter)

Subscribed and sworn to before me this ____ day of _____, 20___. I hereby certify that the affiant properly identified himself/herself to me and signed this Affidavit in my presence.

[SEAL]

_____
Notary Public