

**TITLE XVIII
CHAPTER 1800
ELECTION**

This Title shall also be known as the Election Ordinance
GENERAL PROVISIONS

1800.01 Purpose and Severability of Provisions

This title serving as the Tribal Election Ordinance, is adopted for the purpose of conducting all Red Lake Band of Chippewa Indians Tribal elections for Chairman, Secretary, Treasurer, District Representatives, Constitutional amendments and referenda of the Red Lake Band of Chippewa Indians. This Act supersedes and repeals all prior laws and regulations of the Red Lake Band of Chippewa Indians relating to the conduct of the Red Lake Band of Chippewa Indians elections.

(Provision on severability stricken per Resolution 23-2002, dated February 12, 2002.)

1800.02 Authority

Pursuant to authority granted by the Revised Constitution and By-Laws, Art. V, Sec. 4, this title is enacted consistent with the policy of the Red Lake Band of Chippewa Indians to establish fair elections by enacting codified laws pursuant to the Revised Constitution and By-Laws of the Red Lake Band of Chippewa Indians regarding the General Election Board, candidate qualifications and procedures, elections procedures including election contest procedures and appeals.

1800.03 Tenure of Elected Officials

An Officer or District Representative shall hold office for a term of four (4) years or other length of term as determined, to fill an unexpected vacancy, or until their successors are duly elected. The incumbent shall serve on the Tribal Council until the successor is determined.

1800.04 Representation by District

All four (4) Districts shall have two (2) District Representatives. The Reservation districts and boundary lines for the districts are those defined in Article V, Section 6c of the Revised Constitution and By-Laws.

1800.05 Voting by District

Eligible Red Lake Reservation resident members shall register and vote within the District they reside for the District Representative in their respective Districts.

1800.06 At Large Representation

Officers of the Red Lake Band of Chippewa shall hold at-large positions with such representation being reservation wide.

CHAPTER 1801 SUPERVISORY BODIES

1801.01 General Election Board and District Election Board, General

Subdivision 1. No person running as a candidate in any election shall be an appointee on an Election Board. No person related to a candidate shall serve on any Election Board. Appointment to General and District Election Boards shall be limited to Red Lake members only.

Subdivision 2. If a member of any Election Board desires to be relieved from duty, for cause, he/she shall notify the Tribal Council in writing and the Tribal Council will designate the alternate to serve as a member of the Board. If the alternate is not available to serve, the Council may appoint a new board member.

Subdivision 3. Compensation of District and General Election Board members and other costs of any election shall be set by the Tribal Council for each election.

Subdivision 4. The Election Boards may be discharged by the Tribal Council at any time following ninety (90) days after the election.

(Section 1801.01 Subd. 1 amended to Tribal Code by Resolution No. 107-06 dated June 13, 2006)

(Section 1801.01, Subd. 1 amended by Resolution No. 121-2021, dated May 11, 2021)

1801.02 General Election Board

The General Election Board shall be composed of the Supervisors of the District Election Boards and the Chairperson of the Absentee Ballot Committee who shall elect a Chairman from their group. It shall be the duty of the General Election Board to certify the results of the election.

(Revised per Resolution 23-2002, dated February 12, 2002)

1801.03 Rules and Regulations of the General Election Board

Subdivision 1. The Tribal Council has created specific rules and regulations for the General Election Board to conduct Tribal elections. These rules and regulations shall be published or posted three (3) months before the election.

Subdivision 2. In times of pandemic, the Tribal Council may create additional rules and regulations for the General Election Board to conduct Tribal elections for the safety of the community. These regulations may be posted up to 30 days before the election.

(Section 1801.03 amended to Tribal Code by Resolution No. 107-06 dated June 13, 2006)
(Section 1801.03 added Subd. 2, Subd. 1 renumbered by Resolution No. 92-2020, dated April 14, 2020)

1801.04 District Election Board

Subdivision 1. At least thirty (30) days prior to the election, the Tribal Council shall appoint a District Election Board for each of the four Reservation Districts and each shall be composed of four members and two (2) alternates, one of whom shall be able to speak the Chippewa as well as the English language. A Supervisor, one Judge, one Clerk, one Recorder and two alternates shall be designated.

Subdivision 2. It will be the duty of the District Election Board to maintain orderly conduct within the polling places.

1801.05 Absentee Ballot Committee

Subdivision 1. The Tribal Council shall appoint no more than twenty (20) members and two (2) alternates to the Absentee Ballot Committee.

Subdivision 2. It shall be the duty of the Absentee Ballot Committee member to mail absentee ballots, receive and log them in, and be present at approved off Reservation sites for the casting of votes by absentee ballots and to turn such ballots over to the General Election Board in a timely fashion.

(Section 1801.05 Subd. 1 amended to Tribal Code by Resolution No. 107-06 dated June 13, 2006)
(Section 1801.05, Subd. 1 amended by Resolution No. 121-2021, dated May 11, 2021)

CHAPTER 1802 QUALIFICATIONS AND REGISTRATION OF VOTERS

1802.01 Eligibility to Vote Generally

Any enrolled member of the Band eighteen (18) years of age or over on election day shall be entitled to vote.

1802.02 Registration of Voters

Subdivision 1. All eligible resident voters shall register prior to 75 days of the election in the district of their residence with Enrollment. Eligible voters must use the name listed on the Eligible Voters List.

Subdivision 2. For the purpose for determining a resident or nonresident voter for the Red Lake Band, the place of residence shall be the determining factor. No change in residence for voting shall be recognized during the seventy-five (75) day period preceding the next election date. No changing voting district in between General Election and Runoff.

If their father was not a member of the Band, then district residence of the mother shall determine residence of the voter. If the father was a member, then the father's residence district shall determine the residence of the voter. In the instance of an eligible voter maintaining two homes in two different districts, the first home maintained shall be the residence determining his or her voting district.

(Section 1802.02 Subd. 1 amended to Tribal Code by Resolution No. 107-06 dated June 13, 2006)

(Section 1802.02, Subdivisions 1 and 2, amended by Resolution 121.-2021, dated May 11, 2021)

1802.03 Preparation of List of Qualified Voters

The Council shall prepare a list of eligible resident and nonresident voters and cause such list to be posted throughout the reservation at least seventy-five (75) days before the election.

Opportunity to amend the list will be allowed up until fifteen (15) days prior to the election, at which time a final list will be posted with voter's name and district only.

(Section 1802.03 amended by Resolution 19-98, dated February 10, 1998)

(Section 1802.03 amended to Tribal Code by Resolution No. 107-06 dated June 13, 2006)

(Section 1802.03 amended by Resolution No. 121.-2021, dated May 11, 2021)

CHAPTER 1803
QUALIFICATIONS OF AND FILING BY CANDIDATES

1803.01 Qualifications of Candidates for Elective office—General

Subdivision 1. Each candidate who desires to run for an elective Tribal office within the Red Lake Band of Chippewa Indians shall meet the general qualifications provided in the Revised Constitution and By-Laws and its Amendments as well as the specific qualifications provided in this chapter and the tribal elections laws or ordinances.

Subdivision 2. Notice of Election rules and regulations contained herein which provide for a filing period, filing fee, certification of eligibility, etc., shall be posted in a manner as to give notice of qualifications of candidates for elective office.

Subdivision 3. Write-in candidates shall be ineligible and each District and the General Election Board are hereby instructed not to consider, list or count votes for write-in candidates.

Subdivision 4. It shall be the duty of the candidate to provide all supporting documentation for the requirements of candidacy when filing the Notice of Candidacy.

Subdivision 5. Any current Council Member with an unexpired term who chooses to seek another Council position must resign their current position so that a successor can be elected. The resignation must be tendered prior to the Notice of Election posting dates so that the position can be announced in accordance with the election timetable and said signature shall be effective when the successor is determined, or the candidate is sworn in for the new position whichever comes first.

(Subdivision 5 added to 1803.01 by Resolution 35-04, dated February 10, 2004)

1803.02 Qualifications of Candidate for Officer—Tribal Chairman, Tribal Secretary, Tribal Treasurer

Any eligible voter of the Red Lake Band of Chippewa Indians, twenty-five years of age or over on election day shall be eligible to become a candidate as an Officer, provided such person is a bona fide resident of the diminished Reservation and has been for one year preceding the date of election, except that anyone who has been convicted or is under indictment for a criminal felony offense and that anyone removed for any reason from the Tribal Council, shall be ineligible to become a candidate in any Tribal Election.

1803.03 Qualifications of Candidate for District Representative

Any eligible voter of the Red Lake Band of Chippewa Indians, (provided such person is a bona fide resident of the diminished Reservation) twenty-five (25) years of age or over on election day shall be eligible to become a candidate as a District Representative provided such person is a bona fide resident of the district to be represented, and has been a resident of the district for one year preceding the date of beginning of the filing period, except that anyone who have been convicted or is under indictment for a criminal felony offense and that anyone removed for any reason from the Tribal Council, shall be ineligible to become a candidate in any Tribal Election.

1803.04 Filing Fees

Subdivision 1. A filing fee shall accompany each notice of candidacy, the amount of such filing fee shall be set by the Tribal Council for each election.

1803.05 Deadline for Filing of Candidacy

Subdivision 1. Eligible candidates shall file their notice of candidacy as an Officer or a District Representative with the Secretary of the Tribal Council by first Wednesday in February and close on the 3rd Wednesday in February. Such notice of candidacy shall be in writing and shall include the candidates name, age, residence and voting district and a declaration that he or she has never been convicted of or is not currently under indictment for a criminal felony offense and that he or she has never been removed for any reason from the Red Lake Tribal Council, and shall be signed and sworn to before a Notary of the Public on the Red Lake Reservation.

Subdivision 2. The declaration listed in Subdivision 1 above shall follow reasonably the following form:

“I wish to be considered a candidate in the upcoming Tribal election. I hereby swear and attest that I have never been convicted, pled guilty to, or found guilty of a felony level criminal offense in any jurisdiction. I also swear and attest that I am not currently under indictment for such an offense.”

“In making this declaration, I understand that there are criminal penalties that may be imposed against me should any portion of my declaration found to be untrue. Further, I consent and authorize any federal, state, or Tribal agency or court to disclose to the Red Lake Tribal Council any and all documents, data and information necessary to verify the requirements of candidacy, including the record, or lack thereof, of any felony convictions or indictments. I agree that such record will be subject to public scrutiny.”

(Section 1803.05, Subd. 1 amended by Resolution No. 121.-2021, dated May 11, 2021)

1803.06 Residency Requirements

Subdivision 1. Qualified district candidates shall have established a bona fide permanent residence within their respective districts for no less than one (1) year immediately preceding the election date of that particular election year. Proof of residency shall be consistent with this chapter.

Subdivision 2. Qualified officer candidates shall have established a bona fide permanent residence on the Reservation for no less than one (1) year immediately preceding the election date of that particular election year. Proof of residency shall be consistent with this chapter.

1803.07 Establishment of Residency

Proof of a bona fide permanent residence, necessary to qualify as a candidate shall be established by the following test:

- A. Residence means a place where the candidate has a true, fixed, and permanent home.
- B. Verification of residence may be fortified by one or more of the following documents, provided always that such documents show an address in excess of one (1) year:
 - 1. Current driver's license.
 - 2. Utility bill(s).
 - 3. Income tax return for the preceding year.
 - 4. State or county voter's registration.

1803.08 Certification of Candidacy—Withdrawal of Candidacy---Refund of Filing Fee—Disqualification of a Candidate for Misconduct and Penalty for Misconduct

Subdivision 1. Following the filing deadline, the Tribal Council shall review the eligibility of the candidates and shall certify by Tribal Council Resolution their eligibility as a candidate for the office for which they have filed. The Secretary of the Tribal Council shall post a list of duly filed and eligible candidates for Officers and Representatives who have been certified by the Tribal Council, at least sixty (60) days before the election date.

Subdivision 2. Any candidate who wishes to withdraw from the election shall have the opportunity to do so by providing a formal written notice to the Secretary up to by the first Wednesday in March. No refund of filing fee shall be permitted for any reason even if the candidate withdraws voluntarily or is disqualified under the provision of this title.

Subdivision 3. Any candidate who intentionally provides false information on the notice of candidacy shall be disqualified as an eligible candidate and may be subject to the criminal penalties of perjury under the Red Lake Tribal Code.

(Subdivision 2 30 to 35 days corrected by Resolution 22-04, dated February 10, 2004.)
(Section 1803.08, Subdivisions 1 and 2 amended by Resolution No. 121.-2021, dated May 11, 2021)

CHAPTER 1804
CONDUCT OF ELECTIONS
GENERAL PROVISIONS

1804.01 Notice of Official Election

Subdivision 1. The Tribal Council shall set an election date in May, in even numbered years, beginning with the election in 1960.

Subdivision 2. The Council shall prepare and post throughout the reservation an election announcement which shall give the date of election, the Officers and District Representatives to be elected, the procedure for the filing of candidate, the designated polling places, and the voting requirements for the election. They shall also provide information on the election to eligible nonresident voters by means of letter or adequate announcement through the press.

1804.02 Official Election Dates

Subdivision 1. Declaration of residency given at the last election will continue unless a change of residence was duly filed with the Secretary seventy-five (75) days preceding the next election.

Subdivision 2. Filing of candidates. Eligible candidate shall file their notice of candidacy as an Officer or a District Representative with the Secretary of the Tribal Council first Wednesday in February to the third Wednesday in February before the election date.

Subdivision 3. Run-off election. General Election Board shall order a re-election be held within sixty-five (65) days, exclusive of a five (5) day contest period, once results are posted and the reasonable period of up to ten (10) days for consideration of any contest when the candidate did not receive a majority of the votes. Such run-off election will include only the candidates receiving the most votes.

Subdivision 4. Swearing in of elected officials. The newly elected District Representatives and Officers shall be installed in office at the first regular meeting of the Tribal Council after certificates of their election have been issued.

(Section 1804.02, Subd. 1, amended by Resolution No. 1-12, dated January 10, 2012)
(Section 1804.02, Subdivisions 1 -3 amended by Resolution No. 121.-2021, dated May 11, 2021)

1804.03 Electioneering

No person, candidate or their representative shall be allowed to electioneer within 100 feet of the voting place on election day. This includes postering, signage, buttons, t-shirts, etc, and any form of media campaigning for a candidate. Driving voters to the polls is not electioneering.

(Section 1804.03 amended to Tribal Code by Resolution No. 107-06 dated June 13, 2006)
(Section 1804.03 amended by Resolution No. 121.-2021, dated May 11, 2021)

CHAPTER 1805 VOTING GENERALLY

1805.01 Reservation Voting District Places and Hours—Notice

Reservation district voting places will be open between 8:00 a.m. and 8:00 p.m. and at the specified locations as follows:

Red Lake	Community Center
Redby	Community Center
Little Rock	Community Center
Ponemah	Community Center

Tribal members may cast their absentee ballots at the Red Lake Government Center between 8:00 a.m. and 8:00 p.m. in accordance with 1806.11, subd. 2.

(Section 1805.01 amended to Tribal Code by Resolution No. 107-06 dated June 13, 2006)
(Section 1805.01 amended by Resolution No. 121.-2021, dated May 11, 2021)

1805.02 Manner of Voting Generally

Subdivision 1. Voting shall be held by secret ballot. Use of electronic voting shall be allowed in any election.

Subdivision 2. All resident voters must personally vote at the designated polling quarters except as provided under Absentee Voting Section of this Code.

Subdivision 3. The Clerk and Recorder shall make a record of and register of each eligible voter presenting themselves at the polls. The ballots shall be handed out by the Judge to the electors as they present themselves to vote after being identified by and registered by the Clerk and Recorder. Each Ballot handed out to the electors shall be marked with an official stamp of the voting district. The Judge shall not handle the ballots after the voter has voted but shall witness the depositing of the ballot after the voter has marked the ballot.

Subdivision 4. Subdivision 4. In times of pandemic, curbside voting will be offered to every voter and but if in-person voting is chosen, only three voters will be allowed to cast their votes at one time at the polls. Social distancing and hygiene practices will be strictly followed at the polls.

(Revised per Resolution 23-2002, dated February 12, 2002.)
(Section 1805.02, Subd. 4 revised by Resolution No. 92-2020, dated April 14, 2020)

1805.03 Voting by Person with Physical Disabilities or Language Barriers

Subdivision 1. Incapacitated voters may be assisted in voting when they appear on the premises of the polling places.

Subdivision 2. It shall be the duty of the members of the District Election Board who speak the Chippewa and English languages to read and translate, when requested to do so by the voter, and also to assist voters who are unable, through illiteracy or physical incapacity, to cast their ballots.

1805.04 Mutilation or Spoiling of Ballots

In event of mutilation of a ballot, on application of the voter for another, the District Supervisor shall, upon surrender of the mutilated ballot, have another issued in lieu thereof and such mutilated ballot shall be retained with other records pertaining to said election.

1805.05 Voting Observers

No more than two voting observers may be at the polling places or location of absentee voting in Minneapolis. Any tribal member may declare their interest in being an observer to the election by filing a written notification to the General Election Board Chair, no later than 5 days before the election. An observer must not converse with any voter or interfere with the voting process in any way. Such a violation will result in the immediate removal of such person.

(Section 1805.05 add to Tribal Code by Resolution No. 107-06 dated June 13, 2006)

1805.06 Vouching

Vouching for the identity of any individual may be permitted when identity is in question. An election official may ask for identification or a tribal member may vouch for the person in question. Any person vouching shall provide a written statement attesting to the identity of any individual.

(Section 1805.06 added to Tribal Code by Resolution No. 107-06 dated June 13, 2006)

CHAPTER 1806 ABSENTEE VOTING

1806.01 Allowance of absentee voting

Subdivision 1. Absentee voting shall be allowed upon written request by a registered voter of the Red Lake Band of Chippewa Indians. Such request shall be made to the Secretary's representative in the method stated in this title.

Subdivision 2. In times of pandemic, Absentee voting will be the preferred method of voting to prevent illness and stop contagion. Voters are strongly encouraged to use Absentee voting whether reservation residents or otherwise.

(Section 1806.01, Subd. 1 revised by Resolution No. 26-2020, dated February 11, 2020)

1806.02 Requests for absentee ballots generally

Subdivision 1. The Secretary's representative of the Tribal Council will send a form to be used in requesting a ballot to each nonresident whose address is known with an election announcement.

Subdivision 2. An official blank form will be furnished to any eligible voter upon request for use in requesting absentee ballots. The form must be signed and completed by the absentee voter, and contain the former residence of the voter and will serve as his registration if qualified for voting within a district.

Subdivision 3. In times of pandemic, the Secretary's representative of the Tribal Council will send a form to be used in requesting a ballot to each voter whose address is known with an election announcement.

(Section 1806.02, Subd. 1 amended by Resolution No. 26-2020, dated February 11, 2020)
(Section 1806.02, Subd. 3 added by Resolution No. 92-2020, dated April 14, 2020)

1806.03 Time For Filing of Requests for Absentee Ballots—Furnishing of Ballots Generally

Subdivision 1. Absentee ballots shall be furnished to all eligible nonresident voters upon request to the Secretary of the Tribal Council, or his authorized Representative, provided such request is signed by the voter to whom the ballot is issued. The absentee ballot must be received on or before 8:00 p.m. on the election date.

Subdivision 2. In times of pandemic, absentee ballots shall be furnished to all eligible voters upon request to the Secretary of the Tribal Council, or his authorized Representative, provided such request is signed by the voter to whom the ballot is issued. The absentee ballot must be received on or before 8:00 p.m. on the election date.

(Section 1806.03 Subd. 1 amended to Tribal Code by Resolution No. 107-06 dated June 13, 2006)

(Section 1806.03, Subd 2 added by Resolution No. 92-2020, dated April 14, 2020)

1806.04 Procedure Upon Rejection of Application For Absentee Ballot

In the event a voter's application for an absentee ballot is rejected for any reason, the Secretary's representative shall immediately notify said voter in writing of the rejection and the reason thereof.

1806.05 Transmittal of Ballots to Voters Generally—Preparation of Record of Ballots Issued

Subdivision 1. The Secretary, or his or her authorized Representative, upon receipt of a signed request bearing the current address of the voter, shall ascertain the correctness of the voter's former residence and the validity of the signature and then shall provide or mail to such voter an absentee ballot.

Subdivision 2. Proper record shall be kept of all absentee ballots, including to whom mailed, date of mailing, address of voter, date returned, time and from whom received, which record shall not be divulged to any person other than the General Election Board upon personal request by the full General Election Board.

1806.06 Material to Accompany Ballots Generally

Subdivision 1. All nonresident ballots shall be mailed and provided in consecutively numbered envelopes or bar coded for electronic voting. All nonresident ballots shall use some sort of mail tracking service.

Subdivision 2. In times of pandemic, all ballots shall be mailed and provided in consecutively numbered envelopes or bar coded for electronic voting. All ballots shall use some sort of mail tracking service.

(Amended by Resolution 23-2002, dated February 12, 2002.)

(Amended by Resolution 22-04, dated February 10, 2004)

(Section 1806.06 amended by Resolution No. 107-06 dated June 13, 2006)

(Section 1806.06 amended by Resolution No. 26-2020, dated February 11, 2020)

(Section 1806.06, Subd. 2 added, Subd. 1 renumbered by Resolution No. 92-2020, dated April 14, 2020)

1806.07 Furnishing of Instructions for Voting

The Secretary shall notify or publish instructions for voting by absentee ballots.

1806.08 Form of Absentee Ballots

In order to safeguard the genuineness of the returned absentee ballot, each ballot shall be stamped:

“Official Ballot

(facsimile signature)

Secretary, Tribal Council

or authorized Representative”

or marked “official” when utilizing the electronic voting system.

(Add per Resolution 23-2002, dated February 12, 2002.)

1806.09 Return of Ballots

Subdivision 1. The absentee ballot must be returned to the Secretary, Tribal Council, or authorized Representative, P.O. Box 544, Red Lake, Minnesota 56671, in a numbered envelope provided for the purpose and shall also bear the stamped inscription “NONRESIDENT BALLOT.”

Subdivision 2. All such ballots must be received by the Secretary’s representative at Minneapolis, Duluth, or Bemidji pursuant to Section 1809.11. Ballots delivered by other than the voter are unacceptable and shall be impounded by the Absentee Ballot Committee.

Subdivision 3. In times of pandemic, all absentee ballots must be returned to the Secretary, Tribal Council, or authorized Representative, P.O. Box 544, Red Lake, Minnesota 56671, in a numbered envelope provided for the purpose and shall also bear the stamped inscription “ABSENTEE BALLOT.”

(Section 1806.09 Subd. 2 amended to Tribal Code by Resolution No. 107-06 dated June 13, 2006)

(Section 1806.09, Subd. 3 added by Resolution No. 92-2020, dated April 14, 2020)

(Section 1806.09 Subd. 2 amended to Tribal Code by Resolution No. 107-06 dated June 13, 2006)

(Section 1806.09, Subd. 2 amended by Resolution No. 121.-2021, dated May 11, 2021)

1806.10 Handling of Returned Absentee Ballots Generally

The Secretary, or authorized Representative, shall not open the numbered ballot envelope and shall hold the same for the General Election Board.

1806.11 Absentee Voting in Person

Subdivision 1. After at least five (5) days following the posting of preliminary eligible candidates, members on the resident voter list who have requested for any reason, and affected change from resident to absentee voter list with the Secretary of the Tribal Council, who personally appear with the Absentee Ballot Committee, may vote by signing for and casting their ballots then and there. Monday through Friday, 9:00 a.m. to 3:00 p.m. In addition, the absentee ballot committee shall make itself available on the weekend days of Saturday and Sunday from 9 a.m. to 3 p.m., during the last two (2) weekends prior to the election, to distribute and receive, in person absentee ballots in the Red Lake Government Center, Red Lake, Minnesota.

Subdivision 2. The Absentee Ballot Committee shall make itself available two (2) days before the election in Minneapolis, Duluth, and Bemidji, Minnesota for the purpose of distributing and accepting absentee ballots from nonresident voters who are unable to mail or submit, in person, their absentee ballots for whatever reason.

Subdivision 3. Resident invalids and incapacitated voters, and those who so request, may vote by absentee ballot in the presence of two (2) or more members of the Absentee Ballot Committee.

Subdivision 4. In times of pandemic, after at least five (5) days following the posting of certified, duly filed and eligible candidates, voters may request to vote absentee, who personally appear with the Absentee Ballot Committee location, may vote by signing for and casting their ballots then and there, Monday through Friday, 9:00 a.m. to 3:00 p.m. Voting in this manner does not change their resident status.

(Subdivision 1 revised by Resolution 8-2008, dated January 25, 2008)

(Section 1806.11, Subd. 1 amended by Resolution No. 26-2020, dated February 11, 2020)

(Section 1806.11, Subd. 1 revised, Subd. 4 added by Resolution No. 92-2020, dated April 14, 2020)

(Section 1806.11, Subdivisions 1 and 2 amended by Resolution No. 121.-2021, dated May 11, 2021)

1806.12 Counting of Absentee Ballots

Absentee Ballots shall be canvassed by the Absentee Ballot Committee. No person other than members of the Absentee Ballot Committee and the electronic voting technicians (s) shall be present in the room when the ballots are being counted. A delegation of two Hereditary Chiefs, so chosen by the Chiefs shall be present to observe the counting of the absentee ballots.

(Add per Resolution 23-2002, dated February 12, 2002.)

(Section 1806.12 amended to Tribal Code by Resolution No. 107-06 dated June 13, 2006)

1806.13 Retention of Materials

Ballots and other election materials shall be kept under the supervision by the General Election Board under lock and key for at least ninety (90) days in the event of any protest or order for recount.

(Section 1806.13 amended by Resolution No. 121.-2021, dated May 11, 2021)

1806.14 Ballots in Transit

At least two members of the Absentee Ballot Committee shall transport all Absentee Ballots as soon as practicable back to the Government Center, or other secure location at the close of voting hours. A secured escort shall accompany the General Election Board and Absentee Ballot Committee.

(Section 1806.14 added to Tribal Code by Resolution No. 107-06 dated June 13, 2006)

(Section 1806.14 amended by Resolution No. 121.-2021, dated May 11, 2021)

CHAPTER 1807 COUNT AND RETURN OF VOTES—RECOUNTS AND RUNOFFS

1807.01 Ballots

Subdivision 1. The Tribal Council shall have ballots printed for each district showing the Officer and District Representative candidates. It will be a requirement that a minimum of two (2) members of the Absentee Ballot Committee shall be present to pick up printed ballots either at the location of the printer, or upon delivery from a common carrier.

(Add per Resolution 23-2002, dated February 12, 2002.)

1807.02 Preparation and Locking of Ballot Box

When all else is in readiness for the opening of the polls, the Supervisor in each district shall open the ballot box in view of the other Election Board members, shall turn same top down to show that no ballots are contained therein. The box shall then be locked and remain so until after the polls are closed and until the count of ballots is started.

1807.03 Counting of Ballots

Subdivision 1. Ballots shall be counted in accordance with the methods prescribed below. The use of "traditional" or "electronic" voting shall determine the process followed. In the event electronic balloting is used, counting of the electronic ballots shall be conducted in conformance with the applicable procedures in place necessary to insure an accurate and efficient tabulation of the ballots.

It shall be the duty of the District Election Boards and the Absentee Ballot Committee at the close of the polls to count the ballots, return them to the boxes, lock and mark the boxes, and when the count has been completed, turn over the certified election returns of the district, the ballot boxes, the list of those registered and the voting, and all unused and mutilated ballots to the Chairman of the General Election Board who shall see with at least two (2) witnesses, to their delivery to and safekeeping under lock and key at the Government Center, or other secure location and, that they are kept there for the full General Election Board. The District Supervisor and Chairperson of the Absentee Ballot Committee and not less than one (1) other member of the Election Board shall remain continuously in the room until all the ballots are finally counted. No person serving as a District Election Official shall give out any information as to the results of the votes cast in the resident election prior to the posting of election results, except that each Supervisor may give the results of the local unofficial count to the candidates only.

In the event of an election contest requiring a recount, a recount shall be done by both electronic means, as well as traditional hand count of the electronic ballots. Results posted by the General Election Board after such a recount shall be considered final.

Subdivision 2. Where there are more than two (2) candidates for any one office, the candidate in the election receiving a majority of votes, shall be elected.

(Subdivision 2 revised by Resolution 120-96, dated June 11, 1996)

(Subdivision 1 revised by Resolution 23-2002, dated February 12, 2002)

(Section 1807.03, Subd. 2, amended by Resolution No. 1-12, dated January 10, 2012)

1807.04 Ballot Counting Watchers

Subdivision 1. Each candidate on the ballot at a given district polling site may submit the name of one person to be a ballot counting watcher at that site. This submission shall be in writing to the general election board, at least seven (7) days prior to the election date. In the event there are more than five (5) submitted at any given polling site, the election board will draw five (5) names at random to determine ballot counting watchers. At least two (2) of those selected shall be nominated by candidates for the District Representatives office.

Subdivision 2. Ballot counting watchers shall observe ballot counting in such a manner that shall not impede the process of ballot counting. Ballot counting watchers do not participate in any ballot counting. Ballot counting watchers are to be seated a minimum of fifteen (15) feet from the actual ballot counting process.

Subdivision 3. Any ballot counting watcher who disturbs ballot counting shall be immediately removed.

1807.05 Certification of Results

Subdivision 1. The General Election Board shall convene in a place selected by them at 10:00 a.m. on the date following the election day to certify the results of the election.

Subdivision 2. The General Election Board shall publish and post the results of the election in each voting district, and in other public places throughout the reservation for the information of the Tribal members.

Subdivision 3. In the event of a Runoff, the appointed District Election Board shall certify the election results.

(Section 1807.05, Subd. 1, amended by Resolution No. 1-12, dated January 10, 2012)

1807.06 Challenges to Election Results

Subdivision 1. Who May Challenge an Election Result. Only a candidate, and no other person, may challenge the correctness of the certified results of an election in which that candidate ran for elected office and then only for the office that he or she sought. Any member who voted, and no other person, may challenge the correctness of the announced results of a referendum election. All challenges must strictly comply with all applicable provisions of this Chapter.

Subdivision 2. Grounds for Challenges

A. Allegations of Fraud. An election result may be challenged on the basis of an allegation of fraud if the candidate, whose right to the office is contested, has given to a voter, election judge or election clerk a bribe or reward, or has offered such bribe or reward for the purpose of procuring his or her election. The act complained of must have occurred at a polling location, or in the casting of an absentee vote. The complaint must identify the specific polling location or other location, or if in the casting of absentee ballots wherein such fraud occurred, the specific act constituting such alleged fraud and the names of the alleged perpetrators of such fraud.

B. Allegations of Irregularities other than Fraud. An election result may be challenged on the basis of an allegation of irregularities other than fraud if such challenge alleges a sufficient number of irregularities and of such a nature that:

- (1) the outcome of the election would have been contrary to the reported result; or
- (2) proves that it is impossible to determine with mathematical certainty which candidate is entitled to be certified as elected, or in an election concerning a referendum, that the outcome of the election is impossible to determine with mathematical certainty.

Subdivision 3. Procedures for Challenges

A. Challenges must be filed in writing under oath with the General Election Board within five (5) calendar days following the certification of the election. The challenge must provide the necessary information required by this section and be accompanied by a cash bond of five hundred dollars (\$500.00).

B. Upon receipt of a challenge the General Election Board shall review the challenge for complete compliance with this Section and if in compliance, shall forward the petition to the Tribal Court. The General Election Board shall file a response or answer on or before the hearing date set by the Court. The judge shall hear and determine said issue without delay or continuance of more than five (5) days. On the day of the hearing, the challenged candidate may file an answer to such petition or may file a cross-petition, setting forth in detail, as required of a petitioner herein, such cross claims of fraud. The decision of said judge shall be final as to any changes in the total votes, and a copy of such judgment and decision shall be furnished to the General Election Board.

C. If fraud is proven on the part of a candidate, such candidate shall be declared ineligible for the office for which he or she was a candidate by the Tribal Council. In all cases, where a petition is filed which alleges fraud, but after a hearing said allegations are not proven by clear and convincing evidence, the contestant shall be civilly liable in damages to the challenged candidate or General Election Board for all damages sustained, including reasonable attorney fees and all reasonable and proper costs of conducting such contest. The bond shall be forfeited to the extent necessary to pay attorney fees and costs.

D. If the challenger is able to prove a sufficient number of irregularities such that it is impossible to determine with mathematical certainty which candidate is entitled to be certified as a candidate or to have his or her name appear on the runoff ballot, or in an election concerning a proposed measure or issue, prove that the outcome of the election is impossible to determine with mathematical certainty, the judge shall notify the chairman of the General Election Board of same. It shall then be the duty of the General Election Board Chairman to notify the Tribal Council of said decision. The Council shall then order a new election as soon as is practical in the same manner as the contested election, with the identical candidates or issues; provided that any candidate upon whom fraud has been proven shall not be a candidate in the new election.

E. The person or persons challenging the election results must prove by clear and convincing evidence that the General Election Board violated the Election Ordinance or otherwise conducted an unfair election and that the outcome of the election would have been different.

(Section 1807.06, amended by Resolution No. 1-12, dated January 10, 2012)

1807.07 Automatic Recount

In the event a General Election Board certified results in which the candidate received a majority of votes but not by more than 2% the General Election Board shall declare an automatic recount. The General Election Board shall certify the results.

(Section 1807.07, added by Resolution No. 1-12, dated January 10, 2012)