



**HO-CHUNK NATION CODE (HCC)
TITLE 2 – GOVERNMENT CODE
SECTION 6 – ELECTION ORDINANCE**

ENACTED BY LEGISLATURE: NOVEMBER 19, 2002

CITE AS: 2 HCC § 6

This Ordinance supersedes the Ho-Chunk Nation Election Ordinance enacted February 10, 1995 by the Legislature and most recently amended and restated by Ho-Chunk Nation Legislative Resolution 1/19/99A.

This Ordinance also supersedes the Recall Petition and Recall Meeting Procedures adopted by the Legislature on April 8, 1997.

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1. Authority.

- a. Article VIII, Section 3 of the Constitution requires the Legislature to enact an

Election Code governing all necessary election procedures at least one hundred and twenty (120) days before the election.

b. Article VIII, Section 4 of the Constitution requires the Legislature to enact a law creating an Election Board.

c. Article V, Section 6 of the Constitution requires that members of the Legislature shall be elected by a majority vote of the eligible voters from their respective Districts.

d. Article VI, Section 5 of the Constitution requires that the President shall be elected by a majority vote of eligible voters of the Ho-Chunk Nation.

e. Article VII, Section 10 of the Constitution requires that Supreme Court Justices shall be elected by a majority vote of the eligible voters of the Ho-Chunk Nation, in accordance with General Election provisions in Article VIII, Section 1, unless otherwise provided.

2. Purpose and Construction. This Ordinance is enacted to provide basic rules and establish election procedures to ensure that all elections are conducted in a fair and proper manner. This Ordinance shall be interpreted liberally in order accomplish this purpose. Substantial compliance shall satisfy this Ordinance. Technicalities shall not be used to interfere with, delay, or block elections or cause confusion or a loss of voter confidence in the election system.

3. Elections. The Constitution prescribes two (2) types of elections: General Elections and Special Elections. When three (3) or more candidates run for a seat in a General or Special Election, there shall be a Primary Election and, if required, a Runoff Election as described in paragraph c, below.

a. General Elections. General Elections shall be held in accordance with Article VIII, Section 1 of the Constitution, which states:

Section 1. General Elections. General Elections shall be held on the first Tuesday in June of odd numbered years. Offices of the Legislature, Executive, and Judiciary shall be filled at General Elections.

b. Special Elections. Special Elections shall refer to all elections other than the General Election including, but not limited to Redistricting/Reapportionment Elections, Recall Elections, and elections to fill vacancies in the Legislature, Judiciary, and the Office of President. Special Elections shall be held in accordance with Article VIII, Section 2 of the Constitution, which states:

Section 2. Special Elections. Special Elections shall be held when called for by the General Council, the Legislature, or by this Constitution or appropriate ordinances. In all Special Elections, notice shall be provided to the voters.

c. Primary Elections and Runoff Elections.

(1) Primary Elections shall be held prior to an Election with three (3) or more candidates in order to ensure compliance with the majority vote requirement as provided for in paragraphs 1c through 1e, above.

(2) If no candidate in any Primary Election receives more than 50% of the votes cast in such Election, the two candidates with the highest vote totals from the Primary Election (and any candidate(s) tied with the lower of such totals) shall appear on the ballot in the Runoff Election. When there are two (2) seats vacant in a district, the top two (2) vote getters for any vacant seats, if no candidate has received 50% +1 vote, shall be on the ballot for the General Election or Runoff Election.

(3) Primary Elections shall be conducted in the manner prescribed by this Ordinance and in accordance with the timetable adopted by the Election Board.

4. Election Board.

a. Appointment of Election Board. As required by Article VIII, Section 4 of the Constitution, there is hereby created an Election Board. Article VIII, Section 4 of the Constitution further states:

The Election Board shall conduct all General and Special Elections. At least sixty (60) days before the election, the Election Board may adopt rules and regulations governing elections. Election Board members shall serve for two (2) years. Election Board members may serve more than one term. The Legislature may remove Election Board members for good cause.

(1) The Election Board shall consist of ten (10) Members and an Election Board Chairperson (“Chairperson”).

(2) The Election Board shall select by vote of at least six (6) Members the Chairperson from the Nation’s membership to serve for a two (2) year term and until the Chairperson’s replacement is selected and commences their service, provided that if the Election Board shall be unable to select a Chairperson by vote of at least six (6) Members within thirty (30) calendar days of the end of the term of the Chairperson or within thirty (30) calendar days after a vacancy in the office of Chairperson occurs, the Legislature shall select a Chairperson for a two (2) year term in the case of the expiration of the prior term or for the remainder of the existing term in the case of a vacancy.

(3) The Chairperson shall set a deadline for the nomination of ten (10) additional Election Board Members and ten (10) Alternate Election Board Members (“Alternate Members”). The Chairperson shall post the deadline for the nomination of Election Board Members and Alternate Members in each District.

(4) The ten (10) Election Board Members and the ten (10) Alternate Election Board Members shall be nominated by each District as follows:

<u>District</u>	<u>Location</u>	Number of Election Board	
		<u>Members</u>	<u>Alternates</u>
1	Black River Falls	1	1
2	Tomah	1	1
	La Crosse	1	1
3	Wittenberg	1	1
4	Wisconsin Dells	1	1
	Wisconsin Rapids	1	1
	Milwaukee	1	1
	Madison	1	1
5	Chicago	1	1
	Minneapolis/St. Paul	<u>1</u>	<u>1</u>
Totals:		10	10

(5) The ten (10) Election Board Members and the ten (10) Alternate Election Board Members shall be nominated by each District as follows:

(a) Each District shall select the appropriate number of Election Board Members and Alternate Election Board Members. If a District fails to select Election Board Member(s) or Alternate Election Board Member(s), or if a dispute arises as to the final choice(s) made by a District, then the Legislature shall make the final selection of an Election Board Member(s) and Alternate Election Board Member(s) from the respective District.

(b) All District nominations for Election Board Members and Alternate Election Board Members shall be subject to confirmation by the Legislature.

(6) All Election Board Members shall serve terms of two (2) years or until their successors have been chosen. Election Board Members may serve more than one term.

b. Duties and Obligations of Election Board.

(1) Duties. The Election Board shall:

(a) Conduct all General and Special Elections in a fair and impartial manner.

(b) Select polling places that are safe and accessible to the voters, and shall notify the voters of the polling places not less than fifteen (15) calendar days before the election.

(c) Ensure that all candidates meet the qualifications for office.

(d) Ensure that each voter is permitted to mark his or her ballot in privacy.

(e) Ensure that a 50-foot limit against electioneering is maintained.

(f) Ensure that the election runs smoothly and that order is maintained at all times, including at Election Board Meetings and at all other Election Board activities.

(g) Ensure the safe keeping of all Official Ballots including Absentee Ballots.

(h) Prepare and approve all Official Ballots including Absentee Ballots.

(2) Obligations.

(a) No Member of the Election Board may be a candidate for elective office.

(b) No Election Board Member may actively campaign for the nomination, election, or recall of any elected official.

(c) The Election Board shall seek to maintain a neutral and impartial position on all election activities in order to ensure a fair and proper election.

(d) The Election Board shall uphold and adhere to the terms of this Election Ordinance.

(e) Two consecutive unexcused absences from duly called Election Board Meetings shall result in automatic removal from the Election Board unless the absent Election Board Member establishes, to the satisfaction of the Election Board, good cause for his or her absence.

d. Improper Conduct by the Election Board.

(1) The Election Board shall strictly adhere to the duties and obligations set forth above. The Election Board Chairperson shall report to the Legislature any and all acts and circumstances, which come to the attention of the Chairperson regarding the conduct of Election Board Members that, in the Chairperson's judgment, may be reasonably construed as a violation of this Ordinance, whether or not the Chairperson recommends removal under paragraph (2), below.

(2) If the Election Board or the Election Board Chairperson finds that an Election Board Member(s) has violated any provision of this Ordinance or that an Election Board Member(s) has engaged in any activity which constitutes good cause for removal, the Election Board and/or Election Board Chairperson may recommend to the Legislature that the Election Board Member(s) in question be removed.

(3) Subject to and consistent with the terms of the Constitution, including without limitation, Article VIII, Section 4, the Legislature may remove an Election Board

Member with or without a recommendation from the Election Board or the Election Board Chairperson.

(4) Any Election Board Member subject to removal shall be informed of the charges at least ten (10) calendar days before a legislative hearing to consider the charges and shall be given an opportunity to respond to the charges.

(5) The Legislature may, in addition to or in lieu of removal, take such action or make such referral to any designated authority with respect to the conduct of an Election Board Member as may be permitted or required under the Nation's *Code of Ethics Act* (2 HCC § 1).

e. Internal Operating Rules. The Election Board shall adopt rules and regulations governing Election Board Meetings, conduct of Election Board Members, and other functions related to election activities consistent with this Ordinance and Article VIII, Section 4 of the Constitution, which states in pertinent part:

At least sixty (60) days before the election, the Election Board may adopt rules and regulations governing elections.

f. Election Board Duties on Election Day.

(1) Election Board Members and poll workers shall be present at the polling places on Election Day and serve in an official capacity at the polls beginning at 7:00 a.m. until 8:00 p.m., or until completed.

(2) The Election Board shall acquire a list of eligible voters and shall prepare a list of eligible voters by District.

(3) The Election Board shall develop a voter registration procedure, provided that any voter registration procedure developed shall not be used to unreasonably deny any eligible voter the right to vote on Election Day.

(4) The Election Board Members shall appoint poll workers at their respective Polling Places. A poll worker shall be available at each Polling Place to offer interpretive services to voters who speak the Ho-Chunk language.

(5) When a voter arrives at a polling place on Election Day, the poll worker shall check off the voter's name on the list of eligible voters. Each voter shall place their signature next to their name on the list of eligible voters.

(6) A poll worker shall initial the outside of each Official Ballot before giving an Official Ballot to an eligible voter. A poll worker may also use an official stamp on the outside of each Official Ballot in addition to their initials.

(7) A poll worker may assist a voter in voting by any reasonable means necessary, however, the voter must request such assistance. Under no circumstances should any Election Board Member attempt to persuade or otherwise influence the voter's choices.

g. Compensation of the Election Board. Members of the Election Board shall be compensated at a rate comparable to the rate of compensation received by other Board and Committee members of the Ho-Chunk Nation.

h. Compensation of Poll Workers. Poll workers shall be paid reasonable compensation.

5. Elective Offices and Terms.

a. Legislature.

(1) Legislative Districts.

(a) The Legislature shall be composed of the eleven (11) Representatives elected from the following Districts that were established by the January 12, 2002 Special Election for Redistricting and Reapportionment.

District 1: Wisconsin Counties of Barron, Buffalo, Chippewa, Clark, Dunn, Eau Claire, Jackson, Pepin, Pierce, Polk, Rusk, St. Croix, and Trempealeau.

District 2: Wisconsin Counties of Crawford, Grant, Iowa, La Crosse, Lafayette, Monroe, Richland, and Vernon.

District 3: Wisconsin Counties of Ashland, Bayfield, Brown, Burnett, Calumet, Door, Douglas, Florence, Fond du Lac, Forest, Iron, Kewaunee, Langlade, Lincoln, Manitowoc, Marathon, Marinette, Menominee, Oconto, Oneida, Outagamie, Portage, Price, Sawyer, Shawano, Sheboygan, Taylor, Washburn, Waupaca, Waushara, Winnebago, and Vilas.

District 4: Wisconsin Counties of Adams, Columbia, Dane, Dodge, Green, Green Lake, Jefferson, Juneau, Kenosha, Marquette, Milwaukee, Ozaukee, Racine, Rock, Sauk, Walworth, Washington, Waukesha, and Wood.

District 5: Outside the State of Wisconsin.

(b) Until modified in accordance with Article V, Section 4 of the Constitution, the Districts shall be:

<u>District</u>	<u>Number of Legislators</u>	<u>Seat Number</u>
District 1:	3	1, 2, 3
District 2:	1	1

District 3:	1	1
District 4:	3	1, 2, 3
District 5:	3	1, 2, 3

(2) Legislator Terms of Office. The terms of office for Legislators shall be set forth in accordance with Article V, Section 6 of the Constitution, which states:

Section 6. Terms of Office. Members of the Legislature shall serve four (4) year terms which shall be staggered. Legislators shall represent their respective Districts until their successors have been sworn into office except if the Legislator has been successfully removed or recalled in accordance with this Constitution. Members of the Legislature shall be elected by a majority vote of the eligible voters from their respective Districts.

b. Executive.

(1) Office of the President. The Executive power of the Ho-Chunk Nation shall be vested in the President in accordance with Article VI, Section 1(a) of the Constitution, which states:

(a) The Executive power of the Ho-Chunk Nation shall be vested in the President of the Ho-Chunk Nation.

(2) Term of Office for President. The term of office for President shall be set in accordance with Article VI, Section 5 of the Constitution, which states:

Section 5. Term of Office. The President shall serve four (4) year terms. The President shall serve until a successor has been sworn into office. The President shall be elected by a majority vote of eligible voters of the Ho-Chunk Nation.

c. Judiciary.

(1) Composition of the Judiciary. The Judiciary shall be composed of a Supreme Court and a Trial Court in accordance with Article VII, Sections 1, 2, and 3 of the Constitution, which state:

Section 1. Composition of the Judiciary. There shall be a Supreme Court of the Ho-Chunk Nation, a Trial Court of the Ho-Chunk Nation, such lower courts of special jurisdiction as deemed necessary by the Legislature, and other forums of special jurisdiction for traditional dispute resolution as deemed necessary by the Legislature.

Section 2. Composition of the Supreme Court. There shall be one Chief Justice and two Associate Justices of the Supreme Court.

Section 3. Composition of the Trial Court. There shall be one Chief Judge of the Trial Court and other Associate Judges as deemed necessary by the Legislature.

(2) Terms of Office for Justices and Judges. The terms of office for Justices and Judges shall be set in accordance with Article VII, Sections 9 and 10 of the Constitution, which state:

Section 9. Terms of Office. The Chief Justice of the Supreme Court shall be elected to serve for six (6) years and until such time as an election is held and a successor has been sworn into office. At the first election for positions on the Supreme Court, the candidate receiving the highest number of votes for the position of Associate Justice shall serve a four year term; the candidate receiving the second highest number of votes shall serve a two year term. Thereafter, Associate Justices shall serve for four (4) year staggered terms. A Supreme Court Justice shall serve until a successor has been sworn into office. The Chief Judge and any Associate Judge of the Trial Court shall be appointed by the Legislature to serve for three (3) year staggered terms and until their successors have been sworn into office.

Section 10. Election of Supreme Court Justices. Supreme Court Justices shall be elected by a majority vote of the eligible voters of the Ho-Chunk Nation, in accordance with the General Election provisions of Article VIII, Section 1, unless otherwise provided.

6. Qualifications.

a. Qualifications of Legislators.

(1) All candidates for a position on the Legislature shall meet the qualifications listed in Article V, Section 7 of the Constitution, which states:

Section 7. Qualifications. Members of the Legislature shall be at least twenty five (25) years old and eligible to vote. No person shall become a member of the Ho-Chunk Nation legislature if otherwise employed by the Ho-Chunk Nation. No person convicted of a felony shall serve as a Legislator unless pardoned.

(2) Pardon shall be made by the jurisdiction that issued the felony conviction.

b. Qualifications of the President.

(1) All candidates for the position of President shall meet the qualifications listed in Article VI, Section 3 of the Constitution, which states:

Section 3. Qualifications. The President shall be at least thirty-five (35) years old and eligible to vote. No person convicted of a felony shall serve as President unless pardoned.

(2) Pardon shall be made by the jurisdiction that issued the felony conviction.

c. Qualifications of Supreme Court Justices.

(1) All candidates for a position on the Supreme Court shall meet the qualifications listed in Article VII, Sections 8(a) and 8(b) of the Constitution, which state:

(a) The Chief Justice of the Supreme Court shall be at least forty (40) years old, an attorney admitted to practice in any State and before the Ho-Chunk courts, and shall possess all qualifications required by enactment of the Legislature. No person convicted of a felony shall serve as Chief Justice of the Supreme Court unless pardoned.

(b) Associate Justices of the Supreme Court shall have been admitted to practice before the Ho-Chunk courts and shall possess all qualifications required by enactment of the Legislature. No person convicted of a felony shall serve as Associate Justice of the Supreme Court unless pardoned.

(2) Pardon shall be made by the jurisdiction that issued the felony conviction.

d. Disqualification Following Removal. Any person who has been removed from office by General Council or the Legislature under Article IX of the Constitution shall be disqualified from and ineligible to participate as a candidate in any Election, General or Special, occurring within four (4) years of the date of removal. This provision shall not limit any other action, which may be taken by General Council consistent with the Constitution with respect to any removal.

e. Residency Requirement for Legislators. A candidate for Legislature shall be eligible to run for office in the District in which the candidate has resided for at least one (1) year immediately prior to filing the petition declaring her or his candidacy. "Residency" is defined as the permanent physical address (not a P.O. Box) stated on the periodic Address Verification Forms solicited by the Nation's Office of Tribal Enrollment with respect to per capita distributions. Except that in the case of candidates in military service or full time registered students, "residency" shall be the last permanent physical address of such person before he or she entered military service or school.

f. Certification of Qualifications.

(1) The Election Board shall determine whether each candidate for elective office meets the appropriate qualifications listed in the Constitution and any other qualifications required under the laws of the Ho-Chunk Nation, including paragraph 6d, above, and the Ho-Chunk Nation *Code of Ethics Act* (2 HCC §1).

(2) The Election Board shall immediately notify a candidate if the candidate does not meet the qualifications of office. The candidate shall have five (5) calendar days to appeal the eligibility determination to the Election Board. The Election Board shall issue a decision within five (5) calendar days of receipt of the appeal. The candidate/appellant may appeal the decision of the Election Board to the Trial Court within five (5) calendar

days of the decision only upon the grounds that it is inconsistent with this Ordinance and/or the Constitution. The Trial Court shall consider the matter and issue a decision within five (5) calendar days.

7. Notice of Election.

a. The Election Board shall post an Official Notice of Election in the ten (10) Polling Places and any other appropriate locations at least ninety (90) calendar days before the election, except that a Notice of Special Election shall be published in the Hocak Worak Newsletter as early as practicable before a Special Election but not less than fifteen (15) calendar days before such Special Election.

b. The Election Board shall use an Official Notice of Election. The Notice shall include the following information.

(1) Type of Election (General or Special), and if a Special Election, the issue(s) to be decided in the Special Election.

(2) Date of Election.

(3) Candidate filing deadline.

(4) Locations of Polling Places.

(5) Absentee voting procedures and deadlines.

(6) Other important information as determined by the Election Board consistent with this Ordinance.

8. Nominations.

a. Official Nomination Petition. The Election Board shall provide an Official Nomination Petition Form (Election Board Form 1 at Appendix A) to any eligible person who wishes to be nominated for elective office. The candidate must make the request for the official nomination papers in writing, including facsimile and mail, or in person. An Official Nomination Petition Form may be circulated by or on behalf of a candidate after the posting of the Notice of Election.

b. Candidates Limited to One Office. A candidate may not run for more than one elective office or seat in any single General or Special Election.

c. Official Nomination Petition Form Signed by Eligible Voters. An Official Nomination Petition Form for a Legislator must be signed by ten (10) eligible voters from the candidate's respective District. An Official Nomination Petition Form for President or Supreme Court Justice must be signed by ten (10) eligible voters who may be from any

District. Only Ho-Chunk members who are age eighteen (18) years or older and who are eligible voters may sign an Official Nomination Petition Form.

d. Deadline for Return of Official Nomination Petition. A candidate for elective office shall submit an Official Nomination Petition Form to the Election Board at least sixty (60) calendar days before the date of the election. The Election Board shall specify the deadline for return of the Official Nomination Petition Form.

e. Late Nomination Petition. The Election Board shall verify all Official Nomination Petition Forms. An Official Nomination Petition Form received after the deadline shall be rejected by the Election Board and no additional time for completion of the Official Nomination Petition Form shall be granted.

f. Incomplete Nomination Petition. The Election Board Chairperson shall review all Official Nomination Petition Forms. An incomplete Official Nomination Petition Form shall be returned immediately for needed information. It shall be the responsibility of the petitioner to return her/his Official Nomination Petition Forms before the official deadline. The Election Board Chairperson will notify the petitioner of the deadline date.

g. Official Declaration of Candidacy. A candidate for elective office shall submit an Official Declaration of Candidacy Form (Election Board Form 2 at Appendix A) to the Election Board at least sixty (60) calendar days before the date of the election. A candidate shall include any applicable documentation with the Official Declaration of Candidacy Form. An Official Nomination Petition Form (Election Board Form 1 at Appendix A) shall not be valid unless accompanied by a completed Official Declaration of Candidacy Form and a cash filing fee of five dollars (\$5.00).

h. Final List of Candidates. The Election Board shall certify all valid Official Nomination Petition Forms and Official Declaration of Candidacy Forms. The Election Board shall post the final list of candidates for each elective office at the ten (10) Polling Places and in other appropriate locations at least thirty (30) calendar days before the date of the election. The Election Board shall use the Certificate of Nomination Form (Election Board Form 3 at Appendix A).

9. Eligible Voters.

a. Age Requirement. The voting age in all elections shall be set in accordance with Article VIII, Section 5 of the Constitution, which states:

Section 5. Eligible Voters. Any member of the Ho-Chunk Nation who is at least eighteen (18) years old and who meets all other requirements established by the Ho-Chunk Nation shall be eligible to vote.

b. Residency Requirement. A voter shall be eligible to vote in the District in which the voter has resided for at least three (3) months. “Residency” is defined as the permanent physical address (not a P.O. Box) stated on the periodic Address Verification

Forms solicited by the Nation’s Office of Tribal Enrollment with respect to per capita distributions. Except that in the case of voters in military service or full time registered students, “residency” shall be the last permanent physical address of such person before he or she entered military service or school.

c. List of Eligible Voters.

(1) The Office of Tribal Enrollment shall prepare and maintain a master list of all Tribal members age eighteen (18) and over by District based upon the permanent physical address appearing in Enrollment Records. The Election Board shall compile a list of eligible voters from each District based upon Enrollment Records. The Enrollment Office and Election Board shall add the names of eligible persons who have reached or who will reach the age of eighteen (18) by Election Day to the list of eligible voters.

(2) The Election Board shall post the list of eligible voters at the Polling Places at least thirty (30) calendar days before the election. The Election Board shall accept written challenges to the list of eligible voters until twenty (20) calendar days before the election. The Election Board shall rule on all written challenges to the list of eligible voters immediately after the close of the challenge period.

(3) The Election Board shall prepare the list of all registered voters. Registration may occur at the Polling Places on Election Day. Each person seeking to vote must register at the Polling Places before receiving an Official Ballot. If a person cannot write, they may sign their name with a mark before two (2) witnesses.

10. Official Ballots.

a. The Election Board shall approve an Official Ballot, including an Absentee Ballot.

b. All Official Ballots and Absentee Ballots shall list the name(s) of the candidate(s) alphabetically by last name, and shall describe the issue(s) to be decided in the Election.

c. Voters shall be permitted to write-in candidates on Primary Election Ballots only, including Absentee Ballots for a Primary Election. Write-in candidates shall not be allowed on any Runoff Election Ballot.

11. Absentee Voting.

a. Absentee Voting Permitted. Absentee voting shall be permitted in all elections.

(1) Any eligible voter shall be entitled to vote by Absentee Ballot by submitting a written request to the Election Board by 4:00 p.m. Central Time of the third day before the day of the election. Requests by facsimile (FAX) shall be allowed. The Election Board shall not accept a completed Absentee Ballot from any person who has not submitted a written request for an Absentee Ballot by the above deadline.

(2) The Election Board shall use diligent efforts to send out Absentee Ballots in a timely manner to each eligible voter who has requested an Absentee Ballot. Since the Election Board cannot control the timing of requests or the sending and receipt of Absentee Ballots, the Election Board shall not be held responsible for Absentee Ballots, which are received beyond the deadline for receipt of Absentee Ballots.

(3) Deadline. All Absentee Ballots must be received by the Election Board no later than the close of polls on Election Day.

b. Voting Procedures.

(1) The Election Board shall mail out an Absentee Ballot Packet to each eligible voter who has properly requested an Absentee Ballot. The Election Board shall use an approved Absentee Ballot Packet, which shall contain the following items:

(a) An Official Absentee Ballot.

(b) An inner enveloped marked “ABSENTEE BALLOT.”

(c) An outer envelope addressed to the Election Board, and containing a certificate for the absentee voter to print and sign their name.

(d) An instruction page for completing the Absentee Ballot.

(2) The voter shall vote by marking the Absentee Ballot. The voter shall seal the ballot in the envelope marked “ABSENTEE BALLOT” which, in turn, must be sealed in the outer envelope. The voter shall print and sign the certificate on the outer envelope. The voter’s signature on the outer envelope must be notarized to be valid.

(3) The voter may return a completed Absentee Ballot to the Election Board by causing the Ballot to be delivered in-person or through the U.S. Mail. If mailed, the Absentee Ballot must be actually received at the Election Board Office no later than the close of polls on Election Day.

(4) When the Election Board Office receives a completed Absentee Ballot, the Election Board shall record the name of the voter and keep the completed Absentee Ballot in a secure location.

(5) The Election Board shall keep a list of persons who have voted by Absentee Ballot to ensure that an absentee voter does not vote a second time in-person on Election Day.

(6) If a voter loses the Absentee Ballot, or fails to properly return an Absentee Ballot, the voter may still vote on Election Day. In such cases, the Election Board shall check the list of persons who have voted by Absentee Ballot to ensure that the person has

not already voted by Absentee Ballot. The Election Board shall provide an Official Ballot in lieu of an Absentee Ballot to the voter.

(7) The Election Board shall issue another Absentee Ballot to an individual who has lost, spoiled, or mutilated his or her Absentee Ballot.

12. Election Procedures.

a. Polling Places. There shall be ten (10) Polling Places as follows:

<u>District</u>	<u>Location</u>	<u>Polling Place</u>
1	Black River Falls	1
2	Tomah	1
	La Crosse	1
3	Wittenberg	1
4	Wisconsin Dells	1
	Wisconsin Rapids	1
	Milwaukee	1
	Madison	1
5	Chicago	1
	Minneapolis/St. Paul	<u>1</u>
		10

b. Voting Procedures. An eligible voter may vote as follows:

(1) At the local Polling Place in the District in which they reside.

(2) By Absentee Ballot.

(3) At any Polling Place, provided the Affidavit of Non-Resident Voter Form (Election Board Form 4 at Appendix A) is completed by the voter at the time of voting.

c. Hours of Voting. Each Polling Place shall be open from 8:00 a.m. to 7:00 p.m. Central Time. Any voter in line at a Polling Place by 7:00 p.m. Central Time shall be allowed to finish voting.

d. Method of Voting.

(1) Each prospective voter, upon being identified as an eligible voter, shall sign the list of eligible voters and shall be handed an Official Ballot.

(2) Each voter shall vote in privacy by placing a mark in ink opposite the name of the candidate or candidates whom the voter selects. Upon completion, the voter shall deposit the Official Ballot in the ballot box.

(3) A voter may not cast more than one vote for a single candidate for office and may only vote for candidates from the District where the voter is registered to vote.

e. Electioneering Prohibited.

(1) Electioneering shall be prohibited within fifty (50) feet of the Polling Places.

(2) Each candidate shall be entitled to have one (1) watcher at the Polling Places and at the tallying, but such watchers shall in no way interfere with the conduct of the election.

d. Challenge of Voter. If the eligibility of a voter shall be questioned by a poll worker, watcher, or an Election Board Member, the ballot of that voter shall be enclosed in an envelope which shall be endorsed with the voter's name, the reason for the challenge, and any refutation of the challenge. The Election Board shall determine the eligibility of the voter in the election and shall count the votes of those determined to be eligible.

e. Spoiled Ballots. If a voter spoils an Official Ballot, the Election Board Member may issue another Official Ballot to the voter. The Election Board shall retain all spoiled ballots.

f. Counting Ballots.

(1) After the Polling Places close, a poll worker shall tally the Official Ballots. All votes shall be counted as long as the Election Board Member can determine a voter's choice(s).

(2) Absentee Ballots shall be tallied by the Election Board on the day following the election.

(3) The Election Board shall post the unofficial results of the election for each Polling Place on the Unofficial Election District Tally Sheet Form (Election Board Form 5 at Appendix A).

(4) The official tallying of the votes shall be open for public observation. The public must remain quiet and in no way interfere with the orderly tallying of the ballots.

g. Rejected Ballots.

(1) The Election Board shall count only the choice(s) which can be determined.

(2) The Election Board shall keep and retain all partially or completely rejected ballots for a period of at least two (2) years.

h. Election Results.

(1) The Election Board shall determine the official results of the election and shall use the Official Ballot Accounting Form (Election Board Form 6 at Appendix A).

(2) The Election Board shall post the official results on the Official Certificate of Election Results Form (Election Board Form 7 at Appendix A). The Official Certificate of Election Results Forms shall be signed by each Member of the Election Board. The Election Board shall post the Certificate at the Polling Places within three (3) calendar days after the date of election.

(3) After the Election Board has certified the official election results, the Election Board shall retain the election records. These records shall include the counted ballots, the unused ballots, and the spoiled or rejected ballots, if any. The Election Board shall retain the election records for at least one (1) year.

i. Recounts.

(1) A recount of ballots shall automatically occur whenever there is a one percent (1%) or less difference between the votes received by the candidates affecting the determination of the winner or who will proceed to the Runoff Election.

(2) A request for a recount from a candidate or eligible voter shall be granted upon a showing of good cause for the recount.

13. Election Fraud.

a. Violations.

(1) It shall be an offense for any person to intentionally tamper with the voting process including, but not limited to: voting more than once in the same election, posing as another person for the purpose of voting at an election, altering a poll, and forging or falsifying documents relating to the election.

(2) It shall be an offense for any person to recklessly tamper with the voting process including, but not limited to, the acts listed in paragraph (1), above.

(3) Suspected violations of this section shall be brought in the Ho-Chunk Nation Trial Court, the burden of proof being clear and convincing evidence of a violation.

b. Penalties.

(1) Whoever violates paragraph 13a may be assessed any or more of the following by the Trial Court:

(a) A fine.

1 Fines for violations under paragraph 13a(1) are not to exceed \$1,000.00.

2 Fines for violations under paragraph 13a(2) are assessed at \$50.00 per offense.

(b) Additional costs to the Nation resulting from the violation as determined by the Court.

(2) Ballots received under violation of this section shall be declared void by the Election Board.

(3) Any person found guilty under paragraph 13a(1) shall be disqualified from running for any elective office for a period of four (4) years. The commencement date of this period shall coincide with the date of the Court's decision.

14. Tie Votes. A Runoff Election shall be held in the case of a tie.

15. Challenges to the Election Results.

a. The results of an election may be challenged in accordance with Article VIII, Section 7 of the Constitution, which states:

Section 7. Challenge of Election Results. Any member of the Ho-Chunk Nation may challenge the results of any election by filing suit in the Trial Court within ten (10) days after the Election Board certifies the election results. The Trial Court shall hear and decide a challenge to any election within twenty (20) days after the challenge is filed in the Trial Court.

b. The person challenging the election results shall prove by clear and convincing evidence that the Election Board violated this Election Ordinance or otherwise conducted an unfair election, and that the outcome of the election would have been different but for the violation. If the Court finds the challenge is frivolous and/or wholly without merit, the party challenging shall be assessed costs of the action in an amount to equal five hundred dollars (\$500.00).

c. If the Trial Court invalidates the election results, a new election shall be held as soon as possible.

16. Oath of Office.

a. The Election Board shall administer the Oath of Office in accordance with Article VIII, Section 8 of the Constitution, which states:

Section 8. Oath of Office. The Election Board shall administer the oath for the offices of President, Legislature, and Judiciary on the 4th Wednesday following the election after the Election Board certifies the Election results.

b. The Election Board shall administer the Oath of Office to all duly elected officials of the Ho-Chunk Nation as follows:

I, _____, do solemnly swear that I will support and defend the Constitution of the Ho-Chunk Nation; that I will secure our rights, advance the general welfare, safeguard our interests, sustain our culture, promote our traditions and perpetuate our existence and secure the natural and self-evident right to govern ourselves, as I perform the duties of my office on behalf of the Ho-Chunk Nation with honor, dignity and sincerity.

17. Resignations of Elected Officials.

a. All resignations from the Legislature, President, or Judiciary shall be done in writing. A voluntary resignation, once accepted, cannot be withdrawn.

b. The person resigning may remain in office until her or his successor is chosen and sworn in as provided in Article V, Section 6; Article VI, Section 5; and Article VII, Section 9 of the Constitution, or if he or she so elects may refuse to continue to serve in office and leave his or her seat vacant. Notwithstanding delivery of a resignation, a person remains subject to a hearing before a body constitutionally empowered with removal authority. The body can determine whether sufficient grounds for removal existed prior to the resignation. If the body confirms the existence of sufficient grounds for removal, the person shall be disqualified from running for other offices in accordance with the terms in paragraph 6d.

18. Recall Elections.

a. The General Council may initiate a Recall Election against Legislators, the President and members of the Judiciary in accordance with Article IX, Section 5 of the Constitution, which states:

Section 5. Recall by General Council. The President, Legislators, and Members of the Judiciary shall be removable by recall vote at a Special Election requested by the General Council. At the request of the General Council, the Election Board shall hold a Special Election not less than thirty (30) days and not more than ninety (90) days from the date of the General Council request. If the Election Board fails to hold such Special Election within ninety (90) days, any eligible voter of the Nation may request the Trial Court to order such Special Election. In any Special Election, no more than three (3) persons shall be subject to recall vote.

b. An eligible voter(s) from a District may initiate a Recall Election against a Legislator(s) in accordance with Article IX, Section 6 of the Constitution, which states:

Section 6. District Recall of Legislators. A member of the Legislature shall be removable by a recall vote called by a petition of thirty (30) percent of an [all]

eligible voters of the District which elected such member of the Legislature. A petition shall be submitted to the Election Board, which shall hold a Special Election not less than thirty (30) days and not more than ninety (90) days from the date a petition is duly submitted. If the Election Board fails to hold such Special Election within ninety (90) days, any eligible voter of the Nation may request the Trial Court to order such Special Election.

19. Recall Election Procedures.

a. All Recall Elections shall be administered by the Election Board.

b. An eligible voter(s) initiating a recall shall submit a written request for Official Recall Petition Forms to the Election Board. A written request for each person to be recalled is required.

c. A separate Official Recall Petition Form shall be circulated for each person who is subject to recall.

d. Official Recall Petition. The Election Board shall issue an Official Recall Petition Form (Election Board Form 8 at Appendix A) to the person(s) initiating the recall.

(1) The number of Official Recall Petition Forms issued will be the number requested or, at a minimum, a number sufficient to enable the petitioner to obtain the signatures of thirty percent (30%) of the eligible district voters.

(2) The Election Board Chairperson or designee shall issue the requested Official Recall Petition Forms without unreasonable delay and sign each Official Recall Petition Form on the date of issuance. The petitions shall be numbered in sequence and shall include the District number.

(3) The petitioner(s) shall have forty-five (45) calendar days to collect the required number of signatures.

(4) The Official Recall Petition Forms shall be submitted to the Election Board Chairperson or designee before the expiration of the forty-five (45) calendar day deadline. Forms will not be copied; only original forms will be accepted. The Official Recall Petition Forms may be returned by certified mail, return receipt requested. Envelopes must be postmarked no later than the last day to submit the Official Recall Petition Forms. The Election Board shall provide a receipt to person(s) hand delivering Official Recall Petition Forms.

(5) The Chairperson or designee will stamp and initial the Official Recall Petition Forms to verify the date of receipt.

(6) The Election Board shall verify the signatures on the Official Recall Petition Forms within ten (10) calendar days of receipt of Official Recall Petition Forms. For

purposes of signature verification, the Election Board shall obtain and use a current master list of eligible voters in the District. The list shall contain the names of those voters who meet the residency requirements on the date that the Official Recall Petition Forms were issued. The Election Board will attempt to contact any voter whose signature or residency appears questionable to verify their signature.

(7) The Election Board shall publish a Notice at the Polling Places in the affected District, informing the voters whether or not an Official Recall Petition Form has been determined valid and the reasons for that decision. Eligible voters shall have five (5) calendar days following the posting of the Notice to challenge the decision of the Election Board. The Election Board shall issue a final decision after consideration of a challenge.

e. Each eligible voter shall have the right to freely and without constraint or coercion of any kind, to sign an Official Recall Petition Form.

20. Conduct of Recall Elections. The Constitution requires that a Recall Election be held not less than thirty (30) days and not more than ninety (90) days from the date an Official Recall Petition Form is duly submitted.

a. A Recall Election shall be conducted in accordance with the provisions of this Ordinance except as provided:

(1) The Election Board Chairperson or designee shall prepare the Notice of Recall Election and ensure it is posted in prominent locations within the affected District at least thirty (30) calendar days before the date of the election. The Notice shall inform the voters of the purpose of the election, the location of the polls, and the hours of voting. The Notice shall also provide instructions for absentee voting.

(2) The Official Recall Ballot shall ask the question whether the person subject to the recall should be removed from office.

b. Upon certification by the Election Board, the person subject to recall shall be removed from office if the votes cast in favor of recall total 50% + 1 vote. In the event of a tie vote, the person subject to recall shall remain in office. There shall not be a Runoff Election.

21. Vacancies.

a. Vacancies in the Judiciary shall be filled in accordance with Article IX, Section 8 of the Constitution, which states:

Section 8. Vacancies in the Judiciary. If a vacancy occurs in an office of the Supreme Court because of death, mental or physical incapacity, removal or recall vote, resignation, felony conviction, or any other reason, such vacancy shall be filled in the following manner:

(a) If twelve (12) months or more remain before the next General Election, the Election Board shall call a Special Election in accordance with Article VIII.

(b) If less than twelve (12) months remains before the next General Election, the Legislature shall fill the office by appointment.

b. Vacancy of the office of President shall be filled in accordance with Article IX, Section 9 of the Constitution, which states:

Section 9. Vacancy of the Office of President. If the office of the President becomes vacant by reason of death, mental or physical incapacity, removal or recall vote, resignation, felony conviction, or for any other reason, such vacancy shall be filled in the following manner:

(a) If twelve (12) months or more remain before the next General Election, the Vice President shall serve as President pro tempore and the Election Board shall call a Special Election in accordance with Article VIII. Upon election of a President at a Special Election, the Vice President shall reassume his seat on the Legislature for the remainder of his term, if any.

(b) If less than twelve (12) months remain before the next General Election, the Vice President shall serve as President pro tempore. If less than twelve (12) months but more than three (3) months remain before the next General Election, the Election Board shall call a Special Election in the appropriate District within thirty (30) days to fill the seat vacated by the Vice President. Upon election of a President at the next General Election, the Vice President shall reassume his seat on the Legislature for the remainder of his term, if any.

(c) If less than three (3) months remain before the next General Election, the office shall remain vacant.

(d) A Vice President serving in the capacity of President pro tempore shall not vote in the Legislature except to cast the deciding vote in case of a tie.

c. Vacancies in the Legislature shall be filled in accordance with Article IX, Section 10 of the Constitution, which states:

Section 10. Vacancies in the Legislature. If a vacancy occurs in the Legislature because of death, mental or physical incapacity, removal or recall vote, resignation, felony conviction, or for any other reason, such vacancy shall be filled in the following manner:

(a) If three (3) months or more remain before the next General Election, the Election Board shall call a Special Election in the appropriate District to be held within thirty (30) days.

(b) If less than three (3) months remain before the next General Election, the seat shall remain vacant, except when the Vice President assumes the office of the President pursuant to Section 9(b) of this Article, an election to fill that vacancy shall be held within thirty (30) days.

d. Terms for Vacancies. The terms for vacancies shall be set in accordance with Article IX, Section 11 of the Constitution, which states:

Section 11. Terms for Vacancies. Persons elected or appointed to fill a vacancy in the Judiciary, the Office of the President, or the Legislature shall serve out the term of the person whom they are replacing.

22. Interpretation and Application of Ordinance by Election Board. The Election Board shall not possess any substantive rule making authority, but shall retain the ability to interpret and apply the Ordinance unless such interpretation or application is found by the Trial Court to be contrary to the Constitution and laws of the Nation.

Appendix A (Election Board Forms) (To Be Published by Election Board)

- Election Board Form 1 (Official Nomination Petition Form)
- Election Board Form 2 (Official Declaration of Candidacy Form)
- Election Board Form 3 (Certificate of Nomination Form)
- Election Board Form 4 (Affidavit of Non-Resident Voter Form)
- Election Board Form 5 (Unofficial Election District Tally Sheet Form)
- Election Board Form 6 (Official Ballot Accounting Form)
- Election Board Form 7 (Official Certificate of Election Results Form)
- Election Board Form 8 (Official Recall Petition Form)

Legislative History:

- 2/08/95 Tabled by full Legislature.
- 2/10/95 Adopted by Resolution 2/10/95-A.
- 1/13/97 Amendments referred by Administrative Rules/Elections Committee to the full Legislature.
- 1/14/97 Legislature adopts amendments affecting Secs 2.01(c); 5.05(a); 9.01(c) and 10.01(b).
- 4/8/97 Legislature adopts Recall Petition and Recall Meeting Procedures.
- 9/01/98 Legislature adopts by Resolution 9/01/98A the Amended and Restated Ho-Chunk Nation Election Ordinance (HCC 95-002).
- 1/19/99 Amended by Legislative Resolution 1/19/99A.
- 11/19/02 Enacted as 2 HCC § 6 by Legislative Resolution 11/19/02A amending language as to Districts that were established by the January 12, 2002 Special Election for Redistricting and Reapportionment and incorporating amending language from the Recall Petition and Recall Meeting Procedures.