

HANNAHVILLE INDIAN COMMUNITY

ELECTION ORDINANCE

TITLE VI, CHAPTER 2

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**HANNAHVILLE INDIAN COMMUNITY
ELECTION ORDINANCE
TITLE VI, CHAPTER 2**

6.2.100 Short Title.

This ordinance may be cited as “the Hannahville Election Ordinance” or “the Election Ordinance” and is codified as 6.2.100 et seq.

6.2.101 Authority; Purpose; Scope; Severability.

- (1) **Authority.** This election ordinance is established under the rule making authority of the Hannahville Indian Community Tribal Council (the Tribal Council) pursuant to Article IV sec. 8 of the Constitution of the Hannahville Indian Community of July 23, 1936 which reads: "After the first election, all election rules shall be made by the Council elected under this Constitution."
- (2) **Purpose.** The intent and purpose of the Council in promulgating this ordinance is to establish procedures for fair elections, to insure the secrecy and sanctity of the ballot and to establish in written form those portions of the oral tradition which constitute the current law of the Hannahville Indian Community (or the Tribe).
- (3) **Scope.** This Chapter along with applicable federal law shall govern the administration of all tribal and Secretarial elections.
- (4) **Severability.** Each of the numbered sections and subsections of this Chapter shall be deemed to be discrete and severable. If any provision of this Chapter shall be held to violate the Constitution and/or Bylaws of the Tribe or applicable federal law, the validity of each and every other provision shall be unaffected thereby and all such other provisions shall remain in full force and effect.

6.2.102 General Definitions.

- (1) **Absentee Voter** - An absentee voter is a duly registered, certified voter, who, on account of physical disability, travel on Tribal business, active military, confinement to Delta or Menominee County Jails, or attendance at an institute of higher education cannot attend the polls on Election Day. Physical disability does not include an illness which is of one or two-day duration or of a temporary nature.
- (2) **Ballot** - The official form issued by the Election Committee upon approval of the Tribal Council which, when cast at a duly authorized election, results in a vote being cast for a candidate.
- (3) **Certified Candidate** – A tribal member who has declared his or her desire to run for elective position on one of the tribal boards or the Council by the appropriate date and who has been certified by the Tribal Council as being qualified to run for that particular position

under this Election Ordinance.

- (4) **Certified Voter** – A tribal member who has registered to vote with the Election Committee who has been certified by the Tribal Council as meeting the qualifications to vote under this Election Ordinance.
- (5) **Election Committee** - The governing body over tribal elections which derives its duties and responsibilities from this Chapter subject to Tribal Council approval.
- (6) **General May Election or General Election** - The term “general election”, “election day”, or “general May election” as used in this ordinance, shall mean the election provided by the Constitution, Article IV sec. 3, to be held on the first Monday in May.
- (7) **Secretarial Election** - An election held pursuant to 25 USC § 476; 25 CFR Part 81 et seq. and Article VII of the Tribal Constitution upon request by the Council to the Secretary of the Interior the purpose of which is to submit to the tribal membership proposed amendments to the Tribal Constitution or By-Laws.
- (8) **Registered Voter** – a tribal member who has registered to vote with the Election Committee who is awaiting a determination by Tribal Council of whether or not he or she meets the qualifications under this Election Ordinance to become a certified voter.
- (9) **Registrar** - A person or persons designated by the Election Committee to accept registration of voters.
- (10) **Residence** - The address at which a certified voter or candidate has his or her true, fixed home and principal establishment, and to which he or she has the intention of returning whenever absent. Residency requires two elements: (a) physical presence in a Unit for at least 90 days prior to election day and (b) the intent to make that Unit home. For the purposes of this Election Code, a member has only one residency, regardless of the number of houses maintained. In determining which of a member’s houses is their true residence, attention must be given to the member’s intent, which requires an examination of the entire course of the member’s conduct to determine where the member resides the greater part of the time, including but not limited to where the members sleeps each night, where his or her bills are sent, where his or her utilities are maintained, where rent is paid, where he or she keeps personal effects, among other things.
- (11) **Hannahville Trust Lands** – are all of Hannahville’s lands held in trust by the United States and all Hannahville’s lands for which the Hannahville Indian Community has submitted applications to the Bureau of Indian Affairs or intends to submit applications to the Bureau of Indian Affairs.
- (12) **Tribal Boards** - are the governing elected boards of the specific departments or agencies of the Hannahville Indian Community that have powers delegated to them by the Tribal

Council.

(13) Tribal Council - is the governing elected body of the Hannahville Indian Community pursuant to Article IV of the Tribal Constitution which oversees all operations of the Hannahville Indian Community.

(14) Campaigning - attempting to influence a vote by either direct or indirect conduct.

6.2.103 Election Committee; Establishment; Duties and Responsibilities; Equipment and Materials.

(1) Establishment: An Election Committee consisting of volunteer members from the tribal membership of eligible voters is hereby established. The Committee shall consist of a maximum of seven (7) members but additional persons may be selected to assist the committee members in the performance of their duties from time to time, as needed. The Election Committee members shall be appointed by the Tribal Council. Committee members shall be twenty-one (21) years of age or older.

(2) Duties and Responsibilities. The Election Committee shall have overall responsibility for the conduct of all general elections subject to Tribal Council supervisory control and shall comply with all the terms of this ordinance in the performance of its duties which shall include, but not be limited to the following:

(a) Publication of all notices given or required to be given in relation to the election process.

(b) Registration of voters, compilation of voter list, and presentation of voter list to the Tribal Council for certification/approval.

(c) Presentation to the Council for certification of the list of candidates running for all Tribal Boards and the Council.

(d) Preparation of ballots, and their maintenance and safe-keeping during the whole of the election process.

(e) Maintain security of the polling place.

(f) Oversee the casting and counting of ballots.

(g) Oversee nomination and election of officers to the Tribal Council.

(h) Post election results certified by the Tribal Council.

(i) The Election Committee shall select a registrar and may designate additional persons to receive registration of voters and candidates as needed and may further delegate special duties to its various members and assistants as needed.

- (j) Verifying that candidates meet the qualifications for candidacy under this Ordinance.
 - (k) Mailing absentee ballots and accepting or rejecting absentee ballots.
 - (l) Conducting recounts of election results.
 - (m) Ensuring that tribal members or third parties do not campaign at the polling place on election day.
 - (n) Election Committee shall have such other powers, not reserved to the Council, which are necessary to effectuate the election process.
- (3) **Equipment and Materials; Payment of Expenses:** The Committee may procure equipment, supplies, materials, books, papers, and records of every kind, and may provide training in conducting elections, as the committee considers necessary to facilitate and assist in administering this Ordinance, according to a budget approved by the Tribal Council.
 - (4) **No Campaigning During the Discharge of Election Committee Duties:** Members of the Election Committee who are also candidates for Tribal Council or Tribal Boards are prohibited from campaigning during the discharge of their Election Committee duties.

6.2.104 Qualifications for Voter Registration.

- (1) An eligible voter is an enrolled Hannahville Indian Community tribal member who has attained the age of 21 years or older on or before election day and has been certified by the Tribal Council as residing on Hannahville trust land as that definition is used in § 6.2.102(9), or with regard to Secretarial Elections only, an age deemed legal as a matter of federal law which is currently 18 years of age, who has been certified as residing on Hannahville tribal trust land. Every eligible voter shall be registered to vote by complying with the requirements of this ordinance.
- (2) Only voters who have been certified by the Tribal Council shall vote in the subsequent election for which the voter has been certified by the Tribal Council.
- (3) It shall be the responsibility of the person (not the Tribe) to prove the fact that he or she is a qualified to vote, and if challenged, show that he or she remains qualified to vote under this Election Ordinance.
- (4) Each tribal member who desires to vote in an election must have on file with the committee the completed Voter Registration Application. Upon submission of a completed Voter Registration Application, the committee shall instruct the Tribe's Enrollment Officer or Tribal Secretary to verify that the tribal member is eligible to vote in the election. Upon confirmation of eligibility, the appropriate committee member shall add this voter to the compiled list of voters to be submitted to the Tribal Council for

certification.

6.2.105 Registration Applications; Time; Procedures; Contents.

- (1) To register to vote, an eligible voter shall submit to the Election Committee, or to a person designated by the Election Committee, all of the following information on or before the posted date and time:
 - (a) Legal name and any nicknames by which the applicant is commonly known; date of birth; tribal enrollment number; home address; length of time at home address; mailing address if different from home address; and, a signed declaration.
- (2) It shall be the sole responsibility of the applicant voter to provide the above required information to the Election Committee or its designate by the date and time posted by the Election Committee. There is no appeal for failure to do so.
- (3) If the applicant for registration is unable to write, he or she may make a mark or cause another person not a member of the Election Committee to perform the submissions for him or her necessary to complete the registration process.
- (4) It is the responsibility of all eligible voters who wish to vote in an election to ensure that he or she has submitted a Voter Registration Application. An individual voter (not the Tribe) has the burden of proof to establish eligibility when challenged by the Election Committee or Tribal Council.

6.2.106 Registration of Voters; Polling Officials Not to Receive Vote of Persons Not Registered.

Polling officials at the General Election shall not receive the vote of a person who is not duly registered and certified to vote as evidenced by his or her name appearing on the list of certified voters certified by the Tribal Council. The failure of the Election Committee or Enrollment Office to follow the procedures set out in this Ordinance shall not be cause to allow a tribal member's vote to be counted if no Voter Registration Application is on file.

6.2.107 Registration of Voters; Eligible Voters who are Students, Active Military, Confined to Menominee or Delta County Jails, or Housed in a Medical Facility.

Eligible voters who are students in higher education institutions, are in active military, are confined to Menominee or Delta County jails, who would be otherwise eligible to vote, shall be deemed to have their residence at the address they had prior to their registration at the institution at which they became a student, admission as a patient, deployment or confinement so long as they have met the 90-day residency requirement at their prior residence. It shall be the responsibility of the individual voter to provide a current address, to request an Application to register to vote from the Election Committee, and to apply for absentee voting ballot in a timely manner. There is no affirmative duty on the part of the Election Committee to ensure registration of absentee voters.

6.2.108 Registration of Voters; Internal Procedures of the Election Committee.

- (1) By April of every election year, but before registration closes, the Election Committee shall publically post notice and state in the Tribal Newsletter the information required by §§ (1) (a) through (d) of this section.
 - (a) The place where, and the times and date by which an eligible voter must register in order to become a certified voter in the upcoming election.
 - (b) The names of all persons with whom the eligible voter may register.
 - (c) The place where and the time and date on which prospective voter may challenge his or her exclusion from the list of certified voters.
 - (d) The place where, the time and date by which, and the person with whom an eligible candidate must declare his or her intent to run for elective office and the place where and the time and date on which a prospective candidate may challenge his or her exclusion from the list of certified candidates.
- (2) The Election Committee shall simultaneously post the above required notice in all public tribal buildings in places reasonably calculated to give actual notice of the required information.
- (3) After registration closes, but prior to election, the Election Committee shall submit to the tribal council for certification a list of voters and of candidates for the Council and tribal boards.

6.2.109 Candidates; Tribal Council; Eligibility.

Subject to the residency requirement, the Drug and Alcohol Policy and successful background adjudication, every enrolled member of the Hannahville Indian Community who has attained or will have attained the age of 25 years by Election Day shall be eligible to announce his or her candidacy for the Tribal Council. In order to become a certified candidate, the eligible candidate must comply with the requirements of this ordinance.

6.2.110 Council Officers; Method of Election; Eligibility.

- (1) The Tribal Council consists of twelve regular members and two alternates who reside on the Hannahville tribal trust lands as that term is used in § 6.2.102(9) and have been certified as meeting the applicable background investigation standard and Drug and Alcohol policy prior to the General Election.
- (2) Among the twelve regular members, there shall be four executive officers (Chairperson, Vice-Chairperson, Secretary, and Treasurer).

- (3) For purposes of Article IV Section 1 of the Hannahville Constitution, the Wilson residency requirement has been interpreted by the Tribal Council to mean that “at least one [tribal council member] shall be a resident of Wilson, Michigan” is satisfied pursuant to this Section.
- (4) On the day of the General Election after the polls have closed the votes for candidates for positions on the Tribal Council shall be counted and public announcement made of the winning candidates.
- (5) Nominations for the officers of the Council as provided for in the Constitution, Article IV sections 1 & 2 shall be taken from the floor during a three-minute period following rules of parliamentary procedure from among the successful candidates elected to the Council who are listed by the Election Committee as having successfully passed the applicable background investigation and drug and alcohol policies.
- (6) Candidates voted as alternate Tribal Council members are not eligible to be nominated as Tribal Council executive officers.
- (7) Votes shall not be cast or considered for candidates who do not meet these background and drug and alcohol policy standards. If nominated, an ineligible candidate shall withdraw his or her name from consideration. If the ineligible candidate abstains from withdrawing his or her name, the Election Committee must announce that the candidate is ineligible.
- (8) The Tribal Council executive officers shall be selected from the candidates nominated by secret ballot cast by the certified voters present at the polling place at that time.

6.2.111 Health; Housing and School Boards; Child Welfare Committee; Tribal Gaming Commission; Eligibility and Qualifications.

Every enrolled member who is a resident of the Hannahville Indian Community as that term is used in § 6.2.102(9), and who has attained or will have attained the age of 21 years by Election Day shall be eligible to declare his or her candidacy to be elected to the tribal boards designated in this section. In order to become a certified candidate capable of being elected to the board or boards for which he or she desires to be elected, he or she must comply with § 6.2.112 of this Ordinance. The Boards’ terms shall be staggered as designated by their Bylaws approved by the Tribal Council.

6.2.112 Registration of Candidates for Elective Office - Tribal Boards and the Council.

- (1) An eligible candidate for elective office shall be registered by submitting evidence to the Election Committee that he or she is eligible to be a candidate for the position(s) for which he or she desires to run and also, if challenged after certified, that he or she remains qualified to run as a candidate.
- (2) A certified candidate must meet the residency requirement, background investigation standard and drug testing requirements prior to the general election by the deadline set by

the Election Committee to be a certified candidate by the Tribal Council.

- (3) With regard to Tribal Boards, a certified candidate may not run for a Tribal Board if the certified candidate currently works for the agency or department that the board oversees.
- (4) Tribal Council members shall not be members of Tribal Boards during their terms.
- (5) Tribal Board members may not serve on more than two Tribal Boards at the same time.
- (6) An eligible candidate desiring to run for elective office shall submit to the Election Committee, or to a person designated by the Election Committee **all** of the following information on or before posted date and time: legal name by which the applicant is commonly known; date of birth; tribal enrollment; address; and duration that the individual has been living at that address.
- (7) It shall be the sole responsibility of the applicant candidate to provide the above required information to the Election Committee or its designee by the above date. There is no appeal for failure to do so.

6.2.113 Notice of Election; Time; Place; Method & Number.

Notices of the date and time of the election and the location polling place where the election is to be held shall be posted in locations reasonably calculated to give actual notice to the voting public.

6.2.114 Polling Places; Location; Selection; Number.

The Election Committee shall select the polling place where the election is to take place giving due consideration that the size of and access to the facility shall be sufficient to accommodate the voting process so as to reasonably ensure the security and secrecy of the ballot and to allow for selection and voting for Council and board positions to proceed in an orderly and effective manner.

6.2.115 Polls; Opening and Closing; Hours.

On the day of any election the polls shall be opened at 9:00 a.m. and shall be continuously open until 5:00 p.m. The polls may be reopened for the limited purposes of nomination and election of the Tribal Council executives and the runoff elections by those certified voters physically present at the time of nomination and election. Unless otherwise specified the hours for opening and closing of the polls shall be governed by Eastern Daylight Time.

6.2.116 Campaigning on Election Day.

Tribal members, candidates, and third parties are prohibited from campaigning on Election Day at or near the polling place.

6.2.117 Ballots.

- (1) **Regular Preparation; Printing; Security.** The Election Committee shall, within 4 days of the receipt from the Council of the list of certified candidates after appeal, cause ballots to be printed which shall contain all of the following information:
 - (a) The words "Hannahville Indian Community Official Ballot"
 - (b) The day, month and year of the election.
 - (c) The names of all the candidates for tribal offices that have been certified and the offices for which they are running including the length of term of that office.
 - (d) There shall be a clear statement provided with the ballot or on its face, as space permits, telling the voter how to mark the ballot and what he must do in order to have it properly cast.
 - (e) The Election Committee shall use the utmost care at all times to safeguard the integrity of the ballots.
- (2) **Ballots; Public Inspection.** Before the election a sample of an official ballot on plain paper shall be made available for public inspection.
- (3) **Ballot Boxes; Examination; Locking.** Before opening the polls, each ballot box to be used at the election held shall be examined by persons designated as inspectors and the boxes shall then be locked or otherwise made secure and shall not be opened until after the election.
- (4) **Casting of Ballots; Procedure in the Event There Is No Polling Machine.**
 - (a) When a certified voter, having satisfied any challenge, applies for a ballot, the inspector or polling official having charge of the ballots shall deliver to him or her a ballot, and shall check the certified voter's name on the list of certified voters as having presented himself or herself to vote.
 - (b) The certified voter upon receiving his or her ballot shall vote by marking his or her ballot in such manner as he is instructed on the ballot or in such other manner as will indicate what his or her true vote is. After marking, the voter shall fold the ballot so that no part of the face shall be exposed and shall take it to the polling official to be cast.
 - (c) No voter who has obtained an official ballot shall leave the polling place without either voting the ballot or returning it to the inspector from whom he received it.
- (6) **Spoiled and Unused Ballots.**

- (a) If any voter inadvertently spoils a ballot, he or she shall return all of the ballots given him or her to the Election Committee or polling official and that person shall deliver to him or her another ballot or ballots. The polling official shall note on the list of certified voters the number of spoiled ballots and the number of new ballots given to the voter.
- (b) The polling officials shall preserve both unusual and spoiled ballots and shall deliver them to the registrar of the Election Committee who shall give them a receipt for them stating the number of ballots given and their identifying numbers.

6.2.118 Voting Machine.

- (1) The Committee may purchase, obtain or rent voting machines for use in elections. No voting machine shall be used in any election unless it secures to the voter secrecy in casting his or her ballot.
- (2) If a voting machine becomes inoperative, the Committee shall repair the voting machine at once or substitute another voting machine. If no other voting machine can be procured and the inoperative voting machine cannot be repaired in time for further use in the election, or when in the discretion of the majority of the Election Committee it is impracticable to use the voting machine, the Committee shall resort to the use of paper ballots as outlined above, and to the counting of same by the Committee or any election administrator under the supervision of the Committee.

6.2.119 Preservation of Election Results; Procedure.

At the conclusion of the election, the election materials, including the list of certified voters, the unused and spoiled ballots, the ballots cast and any other records reasonably necessary to a determination of the election results shall be placed in a locked box and a key or given to the Hannahville Police Department for safekeeping.

6.2.120 Tie Votes.

In the event of a tie vote between two or more candidates, a runoff election shall be held until the tie is broken.

6.2.121 Absentee Voting.

Absentee voting for non-Tribal Council executive positions which requires physical presence to vote shall be permitted in all tribal elections subject to these rules and procedures.

6.2.122 Absentee Voter's Ballots.

The Election Committee shall prepare the required number of absentee voter's ballots to be determined by the Election Committee.

6.2.123 Absent Voters Ballots; Qualification Procedures; Delivery.

- (1) An absentee voter, shall notify the Election Committee registrar or his or her designate and arrange to obtain an absentee ballot. The applicant is responsible for providing all information to the Election Committee sufficient to show that he or she qualifies as an absentee voter by the deadline request date set by the Election Committee. Therefore, early application is encouraged.
- (2) Absentee ballots must be received by the Election Committee no later than 5:00 p.m. Eastern Daylight Time on the day of the election.

6.2.124 Certified Voters and Candidates.

(1) Appeals; Duty of Council.

- (a) The Election Committee shall review the evidence of appealing voters and candidates in regard to their registration and inclusion on the list of certified voters and on the list of certified candidates.
- (b) An appealing voter or candidate must file a written notice of appeal with the Election Committee or present himself or herself to the Council at the noticed time and place to have the appeal heard, or in the alternative, may submit such evidence as he or she wishes the Council to consider by mailing or delivering it to an executive officer of the Tribal Council. All appeals must occur at the meeting at which the voters list is certified by the Tribal Council.
- (c) The Council shall certify and submit the list of **certified voters after appeal** and the list of **certified candidates after appeal** to the Election Committee for public posting. The manner of submission shall be by personal delivery to the registrar or his or her designate.

6.2.125 Recount; Time; Number of Challenges.

- (1) Within 10 business days after the election, any certified candidate may, for any reason, demand a recount. Such demand for recount shall be made in writing, signed and dated by the certified candidate and state specifically what position the recount is being demanded in relation to and shall be directed to the registrar of the Election Committee with notice to the Tribal Chairperson and the person in who's keeping the election materials have been placed.
- (2) Upon request being made in a timely manner, the Election Committee shall, within 7 business days, unless waived by the certified candidate, arrange for a recount, ensuring that sufficient safeguards are in place to maintain the security of the election materials and the accuracy of the recount process. The certified candidate or his or her designated representative shall be given the opportunity to be present at the recount and also the

person or persons whose positions are being challenged or their designated representative(s).

- (3) The challenger may not bring any challenges for the purpose of harassment or other illegitimate purpose.
- (4) Once a recount has been concluded the representative parties and all persons present shall sign a paper stating whether or not they are satisfied as to the accuracy of the recount process. If any person has an objection to the accuracy of the recount he or she shall state with specificity his or her objections. If any party is not present during the recount, they will be deemed as having waived any further rights to challenge that final recount.
- (5) Between recounts and during the term of office of any elected person the election materials shall be kept secure by the Hannahville Police Department and shall be only released according to the directives of this section.
- (6) After the period on which the recount process has concluded, the Election Committee shall post in all public buildings the certified list of election results certified by the Tribal Council and shall hold for public inspection a list which may be copied by persons requesting a copy of same.

6.2.126 Newly Elected Tribal Council Members.

The Oath of Office for newly elected Tribal Council members shall be administered by the Tribal Judge or his or her authorized representative not more than ten (10) business days after the election results are certified by the Tribal Council. All elected Council members shall use the Tribal Election Affidavit when being sworn into office before being seated to serve the People.

6.2.127 Oath.

I, (full legal name), duly elected member of the Hannahville Indian Community Tribal Council do solemnly swear to uphold the Constitution and By-Law of the Hannahville Indian Community and of the United States of American and that I will fully and impartially carry out the duties of this Council to the best of my ability; That I will cooperate, promote and protect the best interest of our Community in accordance with the Constitution and By-Law of the Hannahville Indian Community.

6.2.128 Resignation.

All resignation from Tribal Council or elected Boards shall be done in writing. A volunteer resignation submitted in writing cannot be withdrawn.

6.2.129 Removal.

The Tribal Council can remove a Tribal Council member or Board member for good

cause upon motion and majority vote of the full Council. Similarly, Tribal Boards can remove their Board Members subject to their own policies approved by the Tribal Council and subject to appeal to the Tribal Council. Good cause shall not be construed to mean simple disagreement with an economic decision which priorities one business decision over another but rather, shall be found only where malfeasance, misfeasance, or other deliberate or negligent acts result in damage to the tribal membership or cause significant loss to the tribe. However, violations of the Hannahville Indian Community Drug and Alcohol Policy and failure to maintain the established Background Investigation standard for the position shall be grounds for automatic removal of a Tribal Council or Tribal Board Member.

6.2.130 Vacancies in Elective Positions After Removal or Because Otherwise Unable to Serve.

- (1) In the event that a person is removed from office or for any other reason is unable to serve, the alternate board or council member with the next highest votes shall take their place and a replacement alternate(s) shall be seated based on numbers of votes received.

Enacted for immediate effect on October 1, 2017, by a vote of 7 yes, 1 against, 2 abstaining; First Amended on July 12, 2019, by a vote of 11 yes, 0 against, and 0 abstaining.