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ELECTIONS AND RECALL
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TITLE 13A
TRIBAL ELECTIONS

CHAPTER 13.01
General Purpose Statement

13.0101 Purpose.

The purpose of this Title is to establish the laws for the election of the Tribal and Judicial officials and representatives in a fair and impartial manner consistent with the democratic principle of allowing the people to vote for the person who will represent their rights and interests and those of the Tribe in government and in the judicial system and in compliance with the Constitution and Bylaws of the Turtle Mountain Band of Chippewa Indians.

Chapter 13.02
Definitions

13.0201 In this Title, the following terms shall be defined as follows:

1. **"DOMICILE"** shall mean a person's permanent residence (Article III, Section 3, Constitution and Bylaws of the Turtle Mountain Band of Chippewa Indians.
2. **"FILING"** shall mean actual delivery or postmark for delivery by deadline date to the appropriate Election Board official.
3. **"LEGAL RELATIONSHIP"** shall mean a relationship by virtue of legally recognized document for the purpose of marriage, guardianship, adoption, or foster care.
4. **"NOTICE OF INTENT"** shall mean written notification by a candidate of that person's intent to run for office.
5. **"RESIDENT"** shall mean an enrolled Turtle Mountain Chippewa person or persons physically living in a particular place within the boundaries of Rolette County.
6. **"OFFICIAL/OFFICER"** shall mean a person vested with the authority of a Tribal or judicial elected or appointed office.
7. **"REFERENDUM"** shall mean an action by the tribal governing body to refer any enacted or proposed Tribal Council resolution, ordinance or constitutional amendment to the voters for their approval or rejection.
8. **"VOTERS"** shall mean all voters entitled to vote in the Tribal Elections, based on Amendments 1 & 2 of the Turtle Mountain Constitution and Bylaws approved by the Secretary of the Interior.
9. **"ENROLLED MEMBER"** shall mean any member of the Turtle Mountain Band of Chippewa Indians listed on the membership roll maintained by the Secretary of Interior, or designated representatives.
10. **"SPOILED BALLOT"** shall mean a ballot which is not stamped and/or initialed by the Election Judge or Inspector, contains any stickers, write-ins or other markings which are not required in order to cast a vote, or is mutilated, torn, or otherwise damaged in such a manner as to render it impossible to determine how or for whom the voter cast his or her vote.
11. **"RECALL"** shall mean an election to vote on whether a particular elected official should be removed from office.
12. A **"QUALIFIED VOTER"** shall mean an enrolled member of the Turtle Mountain Band of Chippewa Indians who meets the qualifications set out in Section 13.0301 of this Title and in Article V, Section 2 (a) and (b) of the Turtle Mountain Tribal Constitution and Bylaws.
13. **"TALLYING"** shall mean by hand or electronic equipment.

CHAPTER 13.03
Voter Qualification

13.0301 **Voter qualification.**

Pursuant to Article V, Section 2(a) and (b) of the Constitution, a person must meet the following qualifications in order to vote in all duly called elections of the Tribe:

1. Any enrolled member of the Tribe, eighteen (18) years of age or over, shall be entitled to vote in any tribal election.
2. All eligible resident voters shall register in the district of their residence as provided by tribal ordinance. All eligible nonresident voters shall register with the district of their former residence or affiliation.

CHAPTER 13.04
Election Officials

13.0401 **Election board.**

(a) A five (5) member Election Board shall be appointed for a term of two (2) years by the Tribal Council not less than sixty (60) days before the general election. The Election Board shall consist of one (1) member at large, who will be designated as the Chairperson of the Election Board, selected by the Chairperson of the Tribal Council. Two weeks after the appointment herein, the Tribal Council shall convene a meeting of the Election Board for purposes of orientation. In the event that no successors to the Election Board are appointed at the expiration of its term such Election Board shall continue to serve in that capacity.

(b) The Election Board shall have the authority to appoint a Vice-Chairperson from its membership, to act in the absence or disability of the Chairperson; to appoint a Recording Clerk from its membership, to keep minutes of all meetings. On the end of his/her term, shall submit the recorded minutes to the principal office within the Election Board binder to the Election Board chairperson. The Election Board Chairperson shall submit this binder to the Tribal Council secretary. If an Election Board Member is absent or disabled, the Board will contact the Tribal Council to fill an Election Board position.

13.0402 **Election committee.**

An Election Committee, appointed by the Election Board, shall be comprised of at least one (1) election clerk and two (2) election judges from and for each district. The Election Committee members have no authority to vote on contested election issues which are within the province of the Election Board.

13.0403 **Qualifications for election board and election committee.**

1. Each member of the Election Board and Election Committee must be eligible to vote at the polling place of the district to which the member is assigned.
2. A person shall not serve as a member of the Election Board or Election Committee if he/she:
 - a. is a candidate in the present election or an employee;
 - b. is the husband, wife, father, mother, son, daughter, brother, sister, father-in-law, mother-in-law, son-in-law, daughter-in-law, whether by birth or legal relationship, of the whole or the half-blood, of any candidate in the present election; or
 - c. Is an employer or employee of a candidate in the present election or an

employee of the Tribe. For purposes of this section, "employee of the tribe" is defined as a person whose paycheck comes directly from a tribal account.

13.0404 Removal and replacement of election board.

1. Any members of the Election Board or Election Committee may be removed by vote of the Tribal Council for any reason and must be removed if the member is no longer eligible to serve on the Board or Committee pursuant to section 13.0403. Such removal and replacement shall be deemed a protected personnel privacy issue in accordance with Article VII, Section 1 of the Turtle Mountain Band of Chippewa Indians Constitution and Bylaws.
2. Any vacancy occurring under this section or otherwise shall be filled in accordance with Section 13.0401 or 13.0402 of this Title.

13.0405 Oath of election board and election committee.

1. Prior to assuming their duties, all members of the Election Board and Election Committee, individually, shall take and subscribe an oath in the following form:
I, _____, do solemnly swear (or affirm) that I will support the Constitution of the Turtle Mountain Band of Chippewa and will faithfully discharge the duties of my office as an (election board member and/or election inspector, judge, or clerk) according to law and to the best of my ability, and that I will diligently endeavor to prevent fraud, deceit, and abuse in conducting the same.
2. Such oath may be taken before any officer authorized by law to administer oaths, and in case no such officer is present at the opening of the polls, the inspector or election judges shall administer the oath to each other and to the election clerks. The person administering the oath shall cause an entry thereof to be made and subscribed by him and affixed to the poll book.

**CHAPTER 13.05
Duties of Election Officials**

13.0501 Election board duties before the election.

It shall be the responsibility of the Election Board to:

1. Receive and review all notices of intent and determine whether the candidate is qualified for office according to qualifications listed in Chapter 13.07 and determine that such notice is filed by the posted deadline;
2. Prepare and publish any Notice of Election as described in sections 13.1002 and 13.1206 of this Title;
3. Determine the order for placement of the candidates' names on the ballot in accordance with section 13.0801;
4. Prepare and post a list of eligible candidates at least fourteen (14) days before the primary election in each voting district and seven (7) days before the General election in each voting district;
5. Prepare and provide each polling site with ballots listing:
 - a. The names of qualified candidates for elective office in accordance with Article V, section 4(B) of the Constitution; and
 - b. Any proposed constitutional amendments or referendum issues;
6. Make arrangements for the polling places, obtain all materials such as ballots, pencils, ballot boxes and establish such records as are required by this Chapter;
7. Distribute absentee ballots as provided in Chapter 13.09 of this Title;
8. Maintain a record of absentee ballots mailed, to whom mailed, the date of mailing, the date of the return of the ballot and name and address from whom received;

9. Select two election judges from and for each district;
10. Select an election clerk or clerks from and for each district; and
11. Distribute rules governing campaigning and election day conduct to all candidates at the time the candidate files his or her notice of intent.

13.0502 Election board duties during the election.

It shall be the duty of the Election Board during hours the polls are open to:

1. Determine the eligibility of voters in accordance with Chapter 13.03 of this Title;
2. Supervise and maintain order at the polling site of the election; and
3. Serve as Election Inspector at an election polling site assigned by the Election Board Chairperson.

13.0503 Election board duties after the election.

1. On the next business day following the election, it shall be the duty of the Election Board to review all affidavits filed by voters:
 - a. To determine the outcome of all challenged votes and include the ballots of qualified voters in the results of the election for each respective district;
 - b. Register all absentee votes in the appropriate district and include such ballots in the results of the election for each respective district.
2. Within thirty-six (36) hours after the election, it shall be the duty of the Election Board to tally the results by hand or electronic equipment at an area designated by the Election Board in order to allow for the tallying of ballots by hand or electronic equipment in each district polling site and report such election results to the Chairperson of the Election Board and deliver to the Chairperson of the Election Board all election records (including all ballots) in a locked box.
3. Notify appropriate authorities of suspected election tampering as provided under Section 26.1106 of this code.
4. At any time during its appointed term to verify any recall petitions accepted by the Tribal Council Chairperson or his/her duly authorized representative in accordance with § 13.1205.

13.0504 Duties of election board chairperson.

It shall be the duty of the Election Board Chairperson to:

1. Call meetings of the Election Board and preside over such meetings;
2. Receive all absentee ballots pursuant to section 13.0901(4) and deposit the same in the Bureau of Indian Affairs locked vault until the Election Board convenes after the election to tally by hand or electronic equipment `election results at which time the Chairperson shall retrieve all absentee ballots and provide them to the Election Board for tallying with the other votes cast in the election;
3. Receive the locked ballot boxes from the Election Judges under Section 13.0506(6) and place the same with the Bureau of Indian Affairs to be placed in a locked vault along with the absentee ballots until such time as the Election Board convenes to tally the votes;
4. Report and verify the election results from each district polling site as provided by the Election Board to the Secretary-Treasurer of the Tribal Council;
5. After receipt from the Election Board, secure and maintain all election records by depositing the same with the Bureau of Indian Affairs for placement in a locked vault, for a period of sixty (60) days following the election unless there is a contested election in which case the records shall be retained until there is a final adjudication of the matter. Thereafter all records shall be destroyed; and

6. Accept recall petitions on behalf of the Election Board from the Tribal Council or Tribal Chairperson or appoint a representative from the Election Board to accept such petitions.

13.0505 Duties of the election inspector.

It shall be the duty of the Election Inspector to:

1. Confirm in the presence of an Election Board member that the ballot box is empty of all ballots prior to the opening of the polls and padlock the ballot box after such inspection;
2. Stamp all ballots with district number and initial all ballots;
3. Open and close the polls at the prescribed time;
4. Authorize a replacement ballot to a qualified voter upon his or her determination that the previous ballot has been spoiled, keep all spoiled ballots separate from other ballots and deliver such spoiled ballots to the Election Board along with the ballot box;
5. Unlock each ballot box after the close of polls in the presence of the Election Judge(s);
6. Assist the Election Judge(s) in the tally of the ballots; and
7. Transport the locked ballot boxes received from the Election Judge(s) containing all ballots and election records of each polling site to the Chairperson of the Election Board.

13.0506 Duties of election judges.

It shall be the duty of the Election Judges to:

1. Count the unmarked ballots provided by the Election Board and record the number of ballots received before the opening of the polls;
2. Assist the Election Inspector in stamping all ballots with district number and initialing all ballots;
3. Assure that none other than official election ballots are deposited in the ballot box;
4. Assist voters requesting help pursuant to Section 13.1010;
5. Assure the proper tally of all votes cast in the assigned district polling site and immediately notify the Election Board of the same; and
6. Place and lock in the ballot box, all properly cast ballots, all spoiled or mutilated ballots, all unused ballots and all election records of the polling site, and deliver the locked ballot box to the Election Inspector after the tally of the ballots has been completed.

13.0507 Duties of election clerk(s).

The Election Clerk(s) shall:

1. Assist the Election Judges in carrying out their responsibilities;
2. Perform all record-keeping duties not otherwise assigned;
3. Record the name and current address of each voter given a ballot;
4. Provide qualified voters with a properly stamped and initialed ballot;
5. Assist the Election Judges and Election Board in the tally of the ballots, if necessary.

13.0508 Conduct of election officials.

Members of the Election Board and their appointees shall be responsible for the conduct of elections in Rolette County for the Turtle Mountain Band of Chippewa Indians and shall conduct themselves in a lawful manner befitting the status of their office. An election official must be present at the polls at all times during the election. In addition, election officials shall not express any preference for any candidate during the execution of their statutory duties. Any election official who fails to perform the duties prescribed in this chapter shall be subject to immediate removal by the Tribal Council.

13.0701

Qualifications. Tribal Council.

To become a candidate for an elected position, a person must:

1. Be an enrolled member of the Turtle Mountain Band of Chippewa Indians; and
2. Be twenty-five (25) years of age or older; and
3. Have not been convicted of a felony; and
4. Have not been convicted of a misdemeanor of fraud, embezzlement, forgery or theft of monies entrusted to the Tribal Government; and
5. Must reside within Rolette County; and
6. Shall furnish written proof for all requirements. In addition, candidates for District Representatives must reside in the district they seek to represent.

13.0702

Establishment of qualifications for judicial office.

Pursuant to Article XIV Section 4, qualifications for Chief Judge, Associate Judge, and Chief Clerk of Court shall be developed by the Judicial Board and approved by the Tribal Council.

13.0703

Qualifications. Chief Clerk of Court.

To become a candidate for an elected position, a person must:

1. Be an enrolled member of the Turtle Mountain Band of Chippewa Indians; and
2. Be twenty-five (25) years of age or older; and
3. Have not been convicted of a felony; and
4. Have not been convicted of a misdemeanor of fraud, embezzlement, forgery or thefts of monies entrusted to the Tribal Government; and
5. Must reside within Rolette County; and
6. Have a minimum of a two (2) year college degree or minimum of two (2) years experience as court clerk; and
7. Have not been recalled from judicial office for a period of five (5) years prior to the election; and
8. Furnish written proof for all requirements.

13.0704

Qualifications. Associate Judge.

To become a candidate for an elected position, a person must:

1. Be an enrolled member of the Turtle Mountain Band of Chippewa Indians; and
2. Be twenty-five years of age or older; and
3. Have not been convicted of a felony; and
4. Have not been convicted of a misdemeanor of fraud, embezzlement, forgery or thefts of monies entrusted to the Tribal Government; and
5. Must reside within Rolette County; and
6. Must have a minimum of a two (2) year college degree or minimum of two (2) years of experience as tribal judge; and
7. Must not have been impeached from judicial office for a period of five (5) years prior to the election; and
8. Furnish written proof for all requirements.

13.0705

Qualifications. Chief Judge.

To become a candidate for an elected position, a person must:

1. Be an enrolled member of the Turtle Mountain Band of Chippewa Indians; and
2. Be twenty-five years of age or older; and
3. Have not been convicted of a felony; and
4. Have not been convicted of a misdemeanor of fraud, embezzlement, forgery or thefts of monies entrusted to the Tribal Government; and
5. Must reside within Rolette County; and
6. Must have a minimum of a 4-year degree in legal studies or 4 years experience as a Tribal Judge; and
7. Must not have been impeached from judicial office for a period of five (5) years prior to the election; and
8. Furnish written proof for all requirements.

CHAPTER 13.08

Ballots

13.0801 Names on ballot.

The names of the incumbents shall be placed on the ballot first, with the incumbent who received the highest number of votes in the previous election to be first. All other candidates' names shall be placed on the ballot in the order in which their Notice of Intent is filed.

13.0802 Secret ballots.

Ballots shall be marked in secret and shall be cast by dropping into locked ballot boxes.

13.0803 Votes in district; Votes at large.

Votes for Tribal Chairperson, District Representatives, Chief Tribal Judge, Associate Tribal Judge, and Chief Clerk of Court shall be cast at large in all districts. Votes for candidates for the Judicial Board shall be cast only by voters of the candidate's district.

CHAPTER 13.09

Absentee Ballots

13.0901 Request of absentee ballot.

1. Qualified voters who are unable to cast their ballots at their designated polling sites due to circumstances beyond their control, including, but not limited to service in the military, funeral service, medical emergency, medical treatment, physical or mental disability, and educational commitments may request an absentee ballot from the Election Board who shall determine the appropriateness of such request and approve or disapprove the issuance of an absentee ballot hereunder. Any non-resident member may vote non-absentee in the district of their former residence or affiliation.
2. Request for such ballots must be by telephone, in person, orally or in writing for the sick or handicapped and filed with the Election Board prior to the date of the election. The Election Board will give or mail a ballot to any approved voter in sufficient time to permit the voter to execute and return it on or before the date of the election.
3. Together with the ballot, there will be an inner envelope bearing on the outside, the words Absentee Ballot, a pre-addressed outer envelope and an affidavit in the following form:

Absentee Voter Affidavit

"I, _____ do solemnly affirm that I am an enrolled member of the Turtle Mountain Band of Chippewa Indians and that I will be eighteen (18) years of age or over on date of the election, I have maintained residence in or am affiliated with District __, that I am entitled to vote in the election to be held on (date) _____, and that I cannot appear at the polling site on the reservation or in my district on the date of the election because _____ . I further swear that I marked the enclosed ballot in secret.

 (Voter's signature)

Subscribed and sworn before me this ____ day of _____, 20 ____.
 I hereby certify that the affiant exhibited the ballot to me unmarked; that the voter then in my presence and in the presence of no other person, and in

such manner that I could not see the vote, marked such ballot, enclosed and sealed the same in the envelope marked "Absentee Ballot."

(Notary Public/Administrative Secretary/Election Judge/Election Board Member

4. The voter shall make and subscribe the affidavit before any officer authorized by law to administer oaths, and thereupon in the presence of such officer and of no other person, mark the ballot in such manner that the officer does not observe the marking thereon. After marking the ballot, in the presence of the officer, the voter shall place the ballot in the envelope marked "Absentee Ballot" then seal the envelope. The "Absentee Ballot" envelope shall then be placed in the larger, pre-addressed envelope together with the affidavit and mailed or delivered to the Tribal Administrative Secretary who shall stamp the date received and deliver all unopened absentee ballots to the Chairperson of the Election Board not later than the close of the polls on election day.

13.0902 Falsification of absentee voter affidavit.

Any person who knowingly falsifies an absentee voter affidavit shall be guilty of a Class 1 misdemeanor offense.

13.0903 Records.

The Election Board shall maintain a record of all absentee ballots distributed, to whom they were distributed, the date of mailing, the date of the return of the ballot and the name and address from whom received, and shall count and register all such votes after all other ballots have been counted and include them in the results of the election.

**CHAPTER 13.10
Notice and Conduct of Elections**

13.1001 General election date; Primary election dates.

1. Primary Election shall be held three (3) weeks prior to the general election in accordance with Amendment XXII of the Constitution of the Turtle Mountain Band of Chippewa Indians;
2. General elections will be held on the first Tuesday in November in even numbered years. If the election is to fall on a holiday, the general election shall coincide with national, state and county election dates.

13.1002 Notice of primary and general election.

1. The notice of the Primary and General Election shall include:
 - a. The date of the election;
 - b. The location of polling places;
 - c. The times the polls shall be open;
 - d. A list of the issues and candidates which will appear on the ballot; and
 - e. Any other deadlines required under this Title.
2. Not less than fourteen (14) days prior to the Primary Election, and five (5) days prior to the General Election, the notice of election shall be published. Notice of all other elections shall be published as required in this Title.

13.1003 Void elections.

The number of valid and invalid ballots cast should correspond with the number of voters recorded. Discrepancies in the number of votes cast and number recorded should be documented and evaluated by the Election Board. If a discrepancy between the two cast serious doubt on the validity of the election result in any district, the election results for that district shall

be considered void and a new election called by the Election Board for that district only.

13.1004 Watchers.

Each of the candidates shall be entitled to have one (1) watcher at each polling site during voting and tallying of the ballots, but such watchers shall in no way interfere with the conduct of the election. If an election judge determines that a watcher is unduly interfering with the conduct of the election, he may eject the watcher from the polling site.

13.1005 Challenges.

1. If the eligibility of a voter shall be questioned by a member of the Election Board, Election Committee, or a watcher, the ballot of that voter shall be enclosed in an envelope which shall be endorsed with the name of the voter, the reason for the challenge and the name of the challenger.
2. At the time of the challenge, the challenged voter must sign an affidavit denying the allegation against him in the following form:

Affidavit Form

I, _____ do solemnly swear that I am an enrolled member of the Turtle Mountain Band of Chippewa Indians, I am eighteen (18) years of age or over, and that I reside(d) in District __.

Signature

Telephone Number

Mailing Address

City, State, Zip

For Election Board Use Only:

Challenger: () Election Board member
 () Other, list name _____

Reason for Reason for challenge:

- () Not listed on BIA enrollment book
- () Non-resident
- () Other - REASON: _____

The signed affidavit shall be enclosed in the envelope with the ballot.

If the voter refuses to sign the affidavit, the person is prohibited from casting a vote.

13.1006 Falsification of voter qualification affidavit.

Any person who knowingly falsifies a voter qualification affidavit shall be guilty of a Class 1 misdemeanor offense.

13.1007 Campaigning.

1. Campaigning on Election Day is prohibited within one hundred feet (100') of any building containing a polling site. "Campaigning" includes, but is not limited to, the posting, handing out, or other distribution of publicly viewed campaign materials or signs and speech-making. A violation of this provision constitutes election tampering pursuant to Section 26.1106 of this code.
2. All publicly viewed campaign materials and signs must be removed within five (5) days following the General Election. Candidates will be charged a \$100 deposit by the Tribe at the time they sign their Notice of Intent to Run for Office. \$50 is a Tribal administrative fee & \$50 may be

reimbursed. Should a candidate fail to remove such campaign materials five (5) days after the General Election, they will lose their deposit.

13.1008 **Loitering.**

Loitering on the premises of a polling site is not permitted during voting hours.

13.1009 **Polling sites/polling place accessibility.**

Polling sites, as determined by the Election Board in coordination with County and State election officials, shall be used in all tribal elections and they shall be open from eight (8:00) a.m. to nine (9:00) p.m. Central Time, on the date established for the election. Alternate polling sites may be used provided the election notice identifies such polling site. All polling sites must be handicapped accessible.

13.1010 **Voter disability.**

1. Any voter who declares to the judges of the election that he or she cannot read the English language, or because of blindness or other disability is unable to mark his or her ballot, may upon request, receive the assistance of any person of the voter's choice and one election judge, in marking the voter's ballot. If the voter requests the assistance of a member of the Election Board, however, the voter shall receive the assistance of both election judges in the marking of the voter's ballot. No one assisting any voter in marking a ballot under this chapter may provide any information regarding the marked ballot to any other person.
2. No voter, other than one who is unable to read the English language or one who because of disability is unable to mark a ballot, may divulge to anyone within the polling site the name of any candidate for whom the voter intends to vote, nor ask, nor receive the assistance of any person within the polling site to mark the voters ballot except as provided herein.

CHAPTER 13.11
Determining Election Winner

13.1101 **Determination of election.**

The candidate or issue receiving the majority, which shall mean the greatest number of votes cast, shall prevail. In the event more than one (1) representative in a district is required to be elected, the positions shall be filled by the candidates receiving the most votes in descending order.

13.1102 **Recount.**

1. After the Election Board and Election Judges count all votes cast in the election, if the candidate(s) receiving the highest number of votes is separated from any other candidate(s) by ten (10) or less votes, the Election Board and Election Judges shall conduct a recount of the votes cast for that candidate's position.
2. If a candidate wishes a recount of the votes cast in the election, but he or she differs from the highest vote getter by a number of votes greater than ten (10), he or she may request a recount provided that such request be accompanied by a payment of \$500 in the form of cash, certified check or money order to cover the expense of the recount.

13.1103 **Primary election.**

In accordance with Article V, Section 5 of the Constitution, there shall be a primary election held three (3) weeks prior to general election. The general election shall be held on the first Tuesday in November, in even numbered

years commencing in 2016. If a holiday, the tribal election will coincide with National, State, and County election date. In descending order of votes, the top three (3) candidates receiving the majority, which shall mean the greatest number of votes cast, in the primary shall be included in the general election, and the top two (2) candidates for Chairman receiving the majority of votes in the primary elections shall be included in the general election corresponding to the number of vacancies in the district.

13.1104 **Certification of election results.**

1. The Election Board shall officially verify in writing to the Tribal Secretary/Treasurer the primary election results three (3) calendar days after the primary election. The Tribal Secretary/Treasurer must certify the election results three (3) calendar days after such verification.
2. The Election Board shall officially verify in writing, to the Tribal Secretary/Treasurer the general election results three (3) calendar days after the general election. The Tribal Secretary/Treasurer must certify the election results three (3) calendar days after such verification.
3. Notwithstanding other time provisions specified by the Turtle Mountain Administrative Procedures Act, (TAPA), Title 22 of this Code, a Notice of appeal of the election results must be filed with the Tribal Secretary within five (5) days of certification of the election results by the Tribal Secretary/Treasurer. Upon receipt of a Notice of Appeal, The Tribal Secretary/Treasurer shall immediately notify a TAPA hearing officer and transmit a copy of the Notice of Appeal to the hearing officer, who shall treat the Notice of Appeal as a TAPA petition in conformance with Section 22.1106 of this Code and schedule a hearing in accordance with Title 22.

13.1105 **Oath of office.**

The oath of office shall be administered by a judge of the Tribal Court, or such other person as may be designated by the Tribal Council.

13.1106 **Seating of office.**

In accordance with Article VII Section 5 of the Constitution, the newly elected Tribal and Judicial officers and district representatives shall be installed in office at the first regular monthly meeting of the Tribal Council, held pursuant to Article VII, section 1 of the Turtle Mountain Band of Chippewa Indians Constitution, after certification of the election results has been issued by the Tribal Secretary/Treasurer provided that such meeting must be held no later than thirty (30) days following the date of the General Election. If the outgoing officers and/or district representatives fail or refuse to conduct such meeting, their duly elected replacements hereunder may convene such meeting and commence their respective duties.

TITLE 13B
RECALL, REFERENDUM AND CONSTITUTIONAL AMENDMENTS

13.1201 **Purpose.**

The right of the enrolled members of the Turtle Mountain Band of Chippewa Indians to elect representatives to protect and promote the best interests of all Tribal members is an important right. Along with the right to elect, is the right to refer to the voters any enacted or proposed resolution or ordinance; propose constitutional amendments; and to recall any representative who has demonstrated the inability or unwillingness to carry out their elected responsibility. The following process is adopted to protect these rights. The following process is not designed to be used as a manner of harassing, vexing or annoying an elected official nor an elected government.

It shall be the right of any Qualified Voter to petition the Turtle Mountain Tribal Court any time they may believe that this process is being utilized for any reason not consistent with this section, for a determination of that issue. If the Turtle Mountain Tribal Court determines, after notice and hearing, that the process is being used for a purpose inconsistent with this section, it may enjoin the petitioners from further proceeding with such action.

13.1202 Remedy for misuse of recall process.

It shall be the right of any Qualified voter to petition the Turtle Mountain Tribal Court, any time they believe that this process is being utilized for any reason not consistent with this section, for a determination of that issue. If the Turtle Mountain Tribal Court determined, after notice and hearing, that the process is being used for a purpose inconsistent with this section, it may enjoin the petitioners from further proceeding with such action.

13.1203 Recall of district official.

Recall of a representative elected by district vote shall be instituted by a petition signed by a number of qualified voters equal to twenty percent (20%) of the total votes cast in the last general election.

13.1204 Recall of at-large official.

Recall of an official who is elected by the voters at large, shall be instituted by a petition signed by a number of qualified voters equal to twenty percent (20%) of the total votes cast in the last general election.

13.1205 Recall, referendum and constitutional amendment.

1. Recall Petition. An election to vote on whether a particular official should be removed from office must be initiated by a recall petition in the following form:

RECALL PETITION

We, the undersigned qualified voters of the Turtle Mountain Chippewa Band of Chippewa Indians of North Dakota do hereby petition the Turtle Mountain Chippewa Tribal Council, pursuant to the Article VIII, Section 2, of the Constitution and Bylaws of the Turtle Mountain Band of Chippewa Indians of North Dakota, to call a recall election for the purpose of removing _____(Name)_____ from office. The reasons(s) for removal:_____

Instructions to signers:

Signers of this petition must individually sign their names in the form in which they are registered to vote.

Instructions to circulators:

Before the petition is filed, each circulator must ensure the petition includes: the district of the voter, the residence address and date of birth of the signer (if the signer does not have a designated street address, a post office box must be included), the date of signing, and must legibly print the name of the signer in the space provided. Abbreviations of common usage may be used. Ditto marks may not be used.

Failure to provide all information requested may invalidate the signature.

(Signature)

(Address)

(Date)

Print Name City or Town District Date of Birth

2. Referendum Petition. A referendum may be requested by one of the following means:

- a. Passage of a resolution showing an affirmative vote of five (5) members of the Tribal Council; or
- b. Submission of the following referendum petition form:

REFERENDUM PETITION

We, the undersigned members of the Turtle Mountain Band of Chippewa Indians do hereby demand that the Turtle Mountain Chippewa Tribal Council, pursuant to Article VIII Section 1, of the Constitution and Bylaws of the Turtle Mountain Band of Chippewa Indians of North Dakota, call a referendum election for the purposes of referring to a vote of the eligible voters of the Turtle Mountain Band of Chippewa Indians resolution or ordinance number [specify Resolution or Ordinance and number] passed or proposed by the Tribal Council on [Date], which was passed or proposed for the purpose of: [indicate purpose of resolution or ordinance].

Instructions to signers:

Signers of this petition must individually sign their names in the form in which they are registered to vote.

Instructions to circulators:

Before the petition is filed, each circulator must ensure the petition includes: the district of the voter, the residence address and date of birth of the signer (if the signer does not have a designated street address, a post office box must be included), the date of signing, and must legibly print the name of the signer in the space provided. Abbreviations of common usage may be used. Ditto marks may not be used.

Failure to provide all information requested may invalidate the signature.

(Signature)	(Address)	(Date)
Print Name	City or Town	District
		Date of Birth

Upon passage of such a resolution or notification of the Bureau of Indian Affairs Enrollment Officer under Section 13.1204(3) of this Title, the Tribal Council shall call for a referendum election. The Election Board shall hold the election within thirty (30) days.

3. Constitutional Amendment Petition. The following constitutional amendment petition format shall be used in all efforts of the people to request the tribal governing body to call an election for purposes of amending the Turtle Mountain Band of Chippewa Indians Constitution and Bylaws:

CONSTITUTIONAL AMENDMENT PETITION

We, the undersigned resident voters of the Turtle Mountain Band of Chippewa Indians do hereby demand the Turtle Mountain Chippewa Tribal Council, pursuant to Article XIII Section 2, of the Turtle Mountain Chippewa Tribal Constitution, call an election for the purposes of putting to a vote of the qualified voters of the Turtle Mountain Band of Chippewa Indians the following constitutional amendment:

[Insert text of proposed amendment]

Instructions to signers:

Signers of this petition must individually sign their names in the form in which they are registered to vote.

Instructions to circulators:

Before the petition is filed, each circulator must ensure the petition includes: the district of the voter, the residence address and date of birth of the signer (if the signer does not have a designated street address, a post office box must be included), the date of signing, and must legibly print the name of the signer in the space provided. Abbreviations of common usage may be used. Ditto marks may not be used.

Failure to provide all information requested may invalidate the signature.

(Signature)	(Address)	(Date)
Print Name	City or Town	District
		Date of Birth

13.1206

Presentation of petitions for recall, referendum and constitutional amendments.

Original petitions for recall, referendum and constitutional amendment shall be presented to the Tribal Council by a qualified voter at an open public meeting convened by the Chairperson, or in the absence of the Chairperson, by the Vice-Chairperson. The Council or the Chairperson shall accept the petitions, noting the acceptance of the petitions in the record. Photocopies of petitions shall not be accepted. If the Chairperson is the person being recalled, then the petitions shall be accepted by the Secretary-Treasurer of the Tribal Council.

1. In the case of recall petitions:
 - a. The Chairperson shall turn the petitions over to the Chairperson of the Election Board, or, in the absence of the Election Board Chairperson, his or her duly authorized representative from the Election Board who shall secure such recall petitions by placing them in the custody of the Bureau of Indian Affairs safe.
 - b. The Election Board shall meet within seven (7) days to review any recall petitions submitted in accordance with §13.1205. Such review shall include verifying whether signatures contained on the petition are those of qualified voters and determining the total number of qualified voters' signatures contained on the petition.
 - c. If the recall petition satisfies the requirements set out in this Title, the Election Board shall immediately publish notice of a recall election to be held no sooner than fifteen (15) days after such notice, but no later than thirty (30) days after such notice.
 - d. After receipt and verification of the original Recall petitions, the Election Chairperson or his/her duly authorized representative of the Election Board shall, secure, and maintain all records, by depositing the same with the Bureau of Indian Affairs for placement in a locked vault for sixty (60) days in case there is a contested matter in which case the records shall be retained until there is a final adjudication of the matter. Thereafter, all records shall be destroyed.
2. In the case of referendum or constitutional amendment petitions:
 - a. The Chairperson shall accept the original petitions, noting the acceptance of the petitions in the record. Photocopies of petitions shall not be accepted. After accepting the petitions, the Council or Chairperson, acting on behalf of the Council, shall turn such petitions over to the Chairperson of the Election Board or, in the absence of the Election Board Chairperson, his or duly authorized representative from the Election Board who shall secure such recall petitions by placing them in the custody of the Bureau of Indian

Affairs safe. The Enrollment Officer shall secure such petitions and determine the number of qualified voters' signatures contained therein. The Enrollment Officer shall immediately notify the Council as to whether the petitions contain a sufficient number of qualified voters' signatures to call a referendum or constitutional amendment election as required under this Title and/or the Constitution.

- b. The Election Board shall hold the election within thirty (30) days and shall publish a notice of the same at least fifteen (15) days prior to such election.
 - c. The Election Board shall meet within seven (7) days to review any referendum or constitutional amendment petitions submitted in accordance with §13.1205. Such review shall include verifying whether signatures contained on the petition are those of qualified voters and determining the total number of qualified voters' signatures contained on the petition.
 - d. If the referendum or constitutional amendment petition satisfies the requirements set out in this Title, the Election Board shall immediately publish notice of a recall election to be held no sooner than fifteen (15) days after such notice, but no later than thirty (30) days after such notice.
 - (1) Determining Referendum Election. The majority of the votes cast in a referendum election shall be conclusive and binding on the Tribal Council. If the resolution or ordinance is rejected by such vote, such resolution or ordinance shall be null and void as of the date of the referendum and shall not be reconsidered for a period of at least six (6) months.
 - (2) Determining Constitutional Amendment Election. The majority of the votes cast in a constitutional amendment election shall be conclusive and binding, and the amendment shall take effect immediately or as otherwise specified on the election ballot, provided that at least twenty percent (20%) of the resident voters of the Tribe entitled to vote shall vote in such election and that the amendment is approved in accordance with Article XIII of the Constitution.
3. All original petitions shall be, after verification, delivered to the Election Board Chairperson who shall deposit the same with the Bureau of Indian Affairs for placement in a locked vault until sixty (60) days after any election called based upon such petitions unless there is a contested election in which case the records shall be retained until there is a final adjudication of the matter. Thereafter the original petitions shall be destroyed.

13.1207 Notice of recall, referendum or constitutional amendment election.

1. A notice of a recall, referendum or constitutional amendment election shall include:
 - a. the date of the election;
 - b. location of the polling places;
 - c. time the polls shall be open; and
 - d. the name(s) of the officer(s) to be recalled, the issue to be referred, or the proposed constitutional amendment.
2. A recall ballot shall be in the following form:

RECALL BALLOT

A petition for recall of _____
(Officer's Name)
Who holds the office of _____
(Office/Title)

Had been received by the Tribal Council and validated by the Election Board.

_____ Yes A "YES" vote is "IN FAVOR" of removing _____
(Name)

_____ No A "NO" vote is "AGAINST" removing _____
(Name)

3. The referendum ballot shall be in the following form:

REFERENDUM BALLOT

Resolution/Ordinance number [specify Resolution or Ordinance and number] proposed to be passed by the Tribal Council or passed by the Tribal Council or [specify date passed], for the purpose of: [indicate purpose of resolution or ordinance] has been referred to a vote of the qualified voters of the Turtle Mountain Band of Chippewa Indians.

_____ Yes A "YES" vote is "IN FAVOR" of keeping the Tribal Council resolution or ordinance (Number) in effect.

_____ No A "NO" vote is "AGAINST" keeping the Tribal Council resolution or ordinance (number) and prohibiting the Tribal Council from enacting or reconsidering the legislation for a period of six (6) months.

4. A constitutional amendment ballot shall be in the following form:

CONSTITUTIONAL AMENDMENT BALLOT

[Article ___ Section ___] of the Turtle Mountain Band of Chippewa Indians Constitution and Bylaws currently reads:

[insert text of current constitutional provision at issue] By a petition received by the Tribal Council and validated by the Bureau of Indian Affairs it has been proposed that [Article ___ Section ___] be amended to read as follows:

[insert proposed amended text]

_____ Yes A "YES" vote is "IN FAVOR" of amending Article _____ Section _____.

_____ No A "NO" vote is "AGAINST" amending Article _____ Section _____.

13.1208

Vacancy in office.

The Tribal Council by an affirmative vote of the majority shall appoint a replacement to fill any vacancy of a district representative or other elected officer, caused by removal, recall, death, or resignation, provided the term of the replacement shall not extend beyond the next regular election regardless of the length of the unexpired term.

TITLE 13C

REMOVAL OF TRIBAL OFFICERS AND REPRESENTATIVES

13.1301

Purpose.

The right of the enrolled members of the Turtle Mountain Band of Chippewa Indians to elect representatives to protect and promote the best interests of all Tribal members is an important right. Along with the right to elect, is the right to remove any representative who has demonstrated the inability or unwillingness to carry out their elected responsibility. The following process is adopted to protect these rights. The process is not

designed to be used as a manner of harassing, vexing or annoying an elected official nor an elected government. In order to ensure an orderly hearing and to ensure that the individual subject to the removal proceeding receives their due process rights, pursuant to Article VIII, Section 2, of the Tribal Constitution and in accordance with this section of the Tribal Code, the following procedures that will be employed at the Tribal Council meeting assembled for removal purposes.

13.1302 Grounds for removal.

The following offenses may be grounds for removal. Removal may be instigated by a majority of the Tribal Council assembled for removal purposes.

1. Any Tribal Council officer or Tribal Council representative who has been convicted of a felony.
2. Any officer or representative who is required to furnish bond for the protection of tribal property and funds as required by the Constitution, and said person cannot secure bonded protection for the benefit of the Tribe.
3. Any Tribal Council officer or Tribal Council representative who willfully is absent without just cause, such as prolonged or serious illness, from two (2) or more consecutive regular meetings.
4. A representative who moves his or her residence beyond the boundary of Rolette County, North Dakota, shall vacate his office on the date of the move.
5. An officer who moves residence beyond the boundary of Rolette County, North Dakota, shall vacate the office on the date of the move.
6. Any officer or representative who shall be guilty of omission of duty or who shall willfully and corruptly be guilty of oppression, misconduct or misfeasance in the discharge of the duties of his office.

13.1303 Procedure to be employed at removal hearing.

1. The Tribal Chairman shall, preside at the removal hearing. If the Tribal Chairman is the individual subject to the removal, then the Vice-Chair shall preside at the removal hearing unless by a majority vote of the council at the beginning of the hearing, another member of the Tribal Council is selected by majority vote to preside at the removal hearing.
2. The only issue before the Tribal Council at a removal hearing shall be the adoption or rejection of a resolution removing the individual subject to the removal proceedings.
3. The formal rules of evidence shall not apply at the removal hearing. The presiding officer shall have full discretion as to the receipt of each piece of evidence; provided, however, that any particular ruling of the presiding officer may be overruled by a majority vote of the council.
4. The individual subject to the removal proceedings, at least three (3) days prior to the removal hearing, shall be provided a written listing of charges.
5. The individual subject to the removal proceedings may appear at the hearing with or without counsel.
6. The removal hearing procedure shall consist of the following:
 - a. the presiding officer shall call the hearing to order;
 - b. the charges shall be read out loud unless waived by the individual subject to the removal proceedings;
 - c. the Tribal Council shall receive evidence through witness testimony or through written documents as to each of the charges listed in the charging document; the evidence received at the removal hearing shall be limited to the evidence relating to the charges listed in the charging document; the presiding officer shall have full discretion in declaring any matter outside the scope of the charging document as improper;

- d. any witness who testifies shall be required to take an oath or affirmance to tell the truth;
 - e. the Tribal Council may appoint a person to assist in the presentation of evidence;
 - f. the Tribal Council and the individual subject to the removal proceedings shall have the right to compel the attendance of witness(es) through the use of subpoena in the same manner and under the same requirements as used for judicial subpoenas;
 - g. the Tribal Council shall proceed first in the presentation of evidence relating to the removal, with such evidence being specifically limited to evidence relating to the charges listed in the charging document;
 - h. the individual subject to the removal proceedings shall be allowed to object to the receipt of any documentary evidence and shall be provided the right to cross examine any witness called by the Tribal Council;
 - i. following the conclusion of the Tribal Council's case in support of removal, the individual subject to the removal proceedings shall be allowed to present documentary evidence and to call witnesses relating to the removal, with such evidence being specifically limited to evidence relating to the charges listed in the charging document;
 - j. the Tribal Council shall be allowed to object to the receipt of any documentary evidence presented by the individual subject to removal and shall be provided the right to cross examine any witness called by the individual subject to removal;
 - k. following the conclusion of the case presented by the individual subject to the removal, the Tribal Council may offer any rebuttal evidence;
 - l. at the conclusion of the evidence, any member of the Tribal Council may present information or testify relating to the charges contained in the charging document;
 - m. following any presentation by the Tribal Council itself, the individual subject to removal shall be allowed an opportunity to be heard;
 - n. following the presentation of any petitions to the Tribal Council (if any), the presiding officer shall by roll call determine that a quorum exists, and then shall entertain a motion for approving the removal of the individual subject to removal;
 - o. following any discussion on the motion, the entire Tribal Council (including the individual subject to the removal) shall by roll call vote, approve or reject the resolution for the removal.
7. Upon the passage of a resolution removing the individual subject to removal, that individual is immediately removed from office and has no further powers as a member of the Tribal Council or as an officer of the Tribe; if the person being removed is the Tribal Chairman, upon adoption of the removal resolution the Tribal Chairman loses all powers as Tribal Chairman, including the power of veto.

13.0304

Vacancy in office.

Shall be in the manner prescribed in Chapter 13.1208 of this Title.