

Brothertown Indian Nation Election Ordinance

Approved and Adopted on: 02-16-2025

Section 1 – Authority

- A. The Brothertown Indian Nation Council shall be the governing body of the Nation, consistent with the authority vested in the Tribal Council by the Brothertown Indian Nation Constitution. Constitution, Article IV.
- B. The Brothertown Indian Nation Council has many powers and responsibilities, as relates to governance of the Nation and promulgation of Ordinances. Constitution, Article V, including by not limited to:
 - i. To promote and protect the general welfare of the Nation’s members, pursuant to Constitution, Article V, 1.
 - ii. To provide for the maintenance of law and order and the administration of justice; to establish law enforcement agencies; to enact civil and criminal laws governing the conduct of any person within the Nation consistent with federal law, pursuant to Constitution, Article V, 2.
 - iii. To create and enforce all Nation legislative actions, pursuant to Constitution, Article V, 11.
 - iv. All Nation powers not expressly denied by the United States government shall be reserved for the Nation membership through their duly elected Nation Council, pursuant to Constitution, Article V, 12.
- C. The Brothertown Indian Nation, through the duly elected Tribal Council and pursuant to the Constitution of the Brothertown Indian Nation, has the authority and responsibility to establish an Election Committee at the February meeting. Constitution, Article IV, Section 2.a.
- D. The purpose and policy of this Election Ordinance is to codify relevant laws, policy and practice to govern and implement a fair, impartial and efficient Election for all elected positions within the Brothertown Indian Nation.
- E. This Election Ordinance shall apply to all elected positions within the Brothertown Indian Nation.
- F. The Election Committee, with the advice and consent of the Council, shall be authorized to issue such rules and procedures as may be necessary to carry out elections. Constitution, Article IV, Section 2.d.

Section 2 – Election Committee Qualifications

- A. The Election Committee shall be comprised of three (3) voting-qualified Nation members. Constitution, Article IV, 2.a.
- B. The Election Committee shall be appointed at the February meeting. Constitution, Article IV, 2.a.

- C. The Election Committee appointment shall be for a term of one (1) year. Constitution, Article IV, 2.d.
- D. Committee members shall live within reasonable driving distance of the Tribal Headquarters/Fond du Lac, Wisconsin.
- E. Election Committee members shall be a minimum of 25 years of age at the time serving on the committee.

Section 3 – Election Committee Duties and Procedures

- A. The Election Committee shall be present at the March Tribal Council Meeting.
- B. The Election Committee shall receive and report the names of the nominees, including nominees from the floor, for all elected positions at the March Tribal Council meeting.
- C. The Election Committee is responsible for determining if a nominee is eligible to run for an elected position within the Brothertown Indian Nation and if the nominee meets the Candidate Qualifications for office.
- D. All nominees shall fill out a Candidate Questionnaire. Attached Form A.
- E. The Election Committee shall review the Candidate Questionnaire to determine whether or not the nominee is in fact eligible and qualified to be a candidate.
- F. The Election Committee shall certify and attest to the Council, in writing, within two (2) weeks of the closure of nominations, the names of the nominees who are eligible and qualified to be candidates for the vacant positions.
- G. The Election Committee shall establish and implement a process to ensure that the candidates have a general understanding of the responsibilities associated with the position for which they seek office and to facilitate the election in compliance with the Brothertown Indian Nation Constitution and this Election Ordinance.
- H. In furtherance of these duties, the Election Committee shall, within 72 hours of providing the names of the eligible and qualified Candidates to the Tribal Council:
 - i. Distribute copies of the Brothertown Indian Nation Constitution and the Election Ordinance to the candidates including such other information and forms necessary to conduct the election in accordance with the laws of the Tribe.
 - ii. Candidates shall verify written receipt of the BIN Constitution and the Election Ordinance, and this written verification shall be provided to the Election Committee with their Candidate packet.
 - iii. Collect, coordinate and review Candidate Statement for accuracy of the information for inclusion in the election materials to be distributed to eligible Brothertown Indian Nation voters. This document shall also be included in the Candidate packet.
 - iv. Facilitate a Candidate Forum to be held at the Brothertown Indian Nation Community Center in April. Candidates are not required to participate in the Candidate Forum. If the Candidate chooses to participate in the Candidate Forum, the expectation is for Candidates to make a good faith effort to be present in person.
 - v. Prepare an Election Schedule, announcements and ballots for in-person secret voting to be held the third Saturday of May.
 - vi. Prepare, process and distribute absentee ballots upon request from individual eligible Brothertown Indian Nation voters, including securing an independent Post

- Office Box in Fond du Lac, Wisconsin; check the box frequently to ensure any absentee ballots are collected and preserved for verification of status as a qualified voter; and preserved for counting on Election Day.
- vii. Verify each person as being legally eligible and qualified to vote for the Brothertown Election. Constitution, Article IV, Section 3.b. If the member is eligible to vote via absentee ballot, that ballot shall also be independently verified upon receipt, in addition to verifying when the ballot is distributed.
 - viii. Be physically present at the Brothertown Indian Nation Community Center, the Cultural Center or such other location as BIN Tribal Council may determine for a polling place the third Saturday of May, during the posted voting hours set by the Tribal Council.
 - ix. The Election Committee shall provide a process for voters to register at the polls on voting day.
 - x. The Election Committee shall meet in private immediately following the posted hours for voting are closed to count the votes.
 - xi. The Election Committee shall inform the Tribal Council immediately of the Election Results. This information shall be maintained between the Election Committee and Tribal Council for a period up to 72 hours to allow the Tribal Chair or Tribal Vice Chair to notify each candidate of the results.
 - xii. The Tribal Council shall declare the candidates elected by the membership to fulfill the position, within three (3) business days, consistent with the criteria set forth in the Constitution and this Ordinance. Constitution Article IV, Section 3.b. Information provided to the Tribal Council shall include:
 - a. Total number of persons voting
 - b. Total votes cast for each candidate
 - c. List of candidates elected and position elected to; and
 - d. Number of spoiled ballots.
 - xiii. The Election Committee shall prepare and submit a confidential final report for the Council, no later than 21 days after the election, to include any procedural recommendations for the Tribal Council to consider for future elections.
 - xiv. The Election Committee shall maintain confidentiality as all elections shall be conducted by secret ballot. Constitution, Article IV, Section 3.a.
 - xv. Confidential and protected information includes but is not limited to identifying information for individuals; names; contact information; genealogical information; enrollment status; enrollment numbers; dates of birth, marriage, death, adoption information; mail and email addresses; phone numbers, marital status, whether an individual voted, who a person voted for, and similar information.

Section 4 – Qualified Eligible Voters

- A. Qualified Eligible voters must:
 - i. Be a duly enrolled member of the Brothertown Indian Nation, pursuant to Article IV, Section 3;
 - ii. Be at least 18 years of age on the date of the election; pursuant to Article IV, Section 3; and

- iii. Have previously filed with the Tribal Council a valid and current mailing address. If the mailing address on file is not current, the Tribal member shall provide the address and proof of residence prior to casting a ballot.

Section 5 – Qualified Eligible Candidates and Candidate Conduct

- A. All Tribal Council members must be at least 21 years of age on the date of election and must be duly enrolled members of the Nation. Constitution Article IV, Section 1.a.
- B. All Peacemakers must be at least 55 years of age on the date of election and must be duly enrolled members of the Nation. Constitution Article VI, Section 1.b.
- C. Any Nation-elected official (Tribal Council or Peacemaker), or those running for a Nation-elected position, are not eligible to serve on the Election Committee. Constitution Article IV, Section 1.b.
- D. Any member currently serving on the Election Committee or as a Peacemaker who is seeking a position on the Tribal Council must resign from their committee position prior to running for a position on the Tribal Council. Constitution Article IV, Section 1.c.
- E. A candidate can seek election to only one (1) position on the Tribal Council per election. Constitution Article IV, Section 1.d.
- F. Candidates running for Tribal Council are required to physically attend at least three Tribal Council meetings in the twelve (12) months prior to the March meeting in which the Candidate seeks to be elected to a position.¹
- G. The residence (the place where they physically live) of Candidates running for Tribal Council must be within one of the following five (5) states: Wisconsin, Minnesota, Iowa, Illinois or Michigan; and whose residence within one of those five states is physically located within 300 miles, as the crow flies, from the Tribal headquarters in Fond du Lac, Wisconsin.
- H. Maintaining a home where you do not reside, is not within the 300 mile Circle.
- I. Candidate's residence within a three hundred (300) mile Circle (radius) as defined in this Ordinance must be verified by one of the following for proof of physical residency:
 - a. Valid state or federal issued identification verifying actual residence and name;
 - b. Pay stub showing name and physical address of the candidate from the prior or current month; or
 - c. Electricity, Garbage, or Water Bill showing name and physical address of the candidate from the prior or current month.
- J. The Candidate must meet the residency requirement for at least 3 consecutive months prior to seeking to be a candidate for an elected position.
- K. The Election Committee shall review all Candidate Statements for accuracy and that they meet all the above-stated criteria prior to printing the election materials and must approve the Candidate Statement to be used in the election campaign.
- I. Current elected officials that were elected prior to this Ordinance taking effect who reside beyond the 300 mile Circle, shall remain in compliance with the Constitution and laws in effect at the time they were sworn in and may complete the balance of their term; however, said individuals must qualify for any subsequent election by meeting the criteria set forth in the law in effect at the time the individual seeks an elected position.

¹ This provision shall take effect June 2025.

- J. A candidate found to be violating any portion of this Ordinance shall be disqualified from running or holding office. Candidates, or those successfully voted in but later found to have violated any of the following will be disqualified or removed:
- a. Found to be misleading voters by lying, mischaracterizing, mistaking or by omission in their Candidate Statement shall be disqualified and not able to run for a position.
 - b. No Candidate for office shall access or use the Tribal Rolls, including accessing and or using information from any Tribal member information list or database maintained by the Brothertown Indian Nation, electronic or otherwise, including but not limited to Tribal data, documentation, records, contracts or grants in connection with or in furtherance of their election campaign. Any such conduct would provide unfair balance and access to one candidate.

Section 6 – Election Disputes

- A. The Peacemakers shall hear and resolve allegations of impropriety involving the Election Committee, or allegations of impropriety in the Election process. Constitution, IV, Section 2, e.
- B. Disputes shall be filed pursuant to the Constitution and the Election Ordinance.

Section 7 – Swearing in

- A. Elected persons shall be sworn in, in person, by the Tribal Chair at the June meeting. If the candidate is not physically present at the June meeting, the candidate shall be sworn in within 60 days of the date of the election. If the candidate is not properly and timely sworn in, the Tribal Council shall declare the position vacant and follow the procedure set forth in the Constitution, Article IV, Section 6; and the Constitution of the United States of America.
- B. The newly elected official shall assume authority and responsibility of that office only after being duly elected and sworn in.
- C. When being sworn in for any elected position, the candidate shall administer the following Oath of Office, pursuant to the Constitution, Article IX:
 - a. “I, _____, do solemnly affirm that I shall uphold and defend the Tribal Constitution, the sovereignty of the Brothertown Indian Nation and that I will carry out faithfully and impartially the duties of my office to the best of my ability.”

Section 8 – Terms of Office

- A. The Council terms shall be three (3) years in duration, with three (3) positions open each year for staggered terms.
- B. The Peacemaker terms shall be five (5) years each in duration, with one (1) position open each year for staggered terms.
- C. Council terms shall be defined as the period of time a qualified person is elected to serve on the Council; or the period of time that a qualified person is appointed to serve out a vacancy. Constitution, Article IV, Section 4.a.

- D. The persons holding the positions of Chairperson, Vice-Chairperson, Secretary, and Treasurer shall be elected for a term of three (3) years and shall not serve more than (3) consecutive elected terms in the same office, unless the Tribal Council determines that extraordinary circumstances warrant extension of the term limits. The remaining five (5) Council members shall be elected for a term of three (3) years.
- E. The term of office will begin and end on the third Saturday of June.

Section 9 – Duties and Responsibilities

- A. Attendance Policy and Use of Electronic/Virtual Media
 - i. Attendance means physically present, not virtual appearance, unless specifically permitted. Virtual appearance includes phone or video appearance and is not the same as attending in person.
 - ii. Council members are expected to be physically present at all Tribal Council meetings and to physically attend such other events and meetings in person, not virtually, as necessary to perform the duties of their office. Constitution Article IV, Section h.
 - iii. Virtual appearance on phone, Zoom or similar platform does not constitute physical attendance.
 - iv. Council members must be physically present at a minimum of nine (9) Tribal Council meetings per year.
 - v. If required due to health, weather or work, Council Members may appear virtually or miss up to three (3) times per year.
 - vi. The year begins and ends on the third Saturday in June.
 - vii. The Tribal Secretary shall record if a Council member attends the meeting (meaning the Council member is present in person); if the Council member is absent from the meeting, or if the Council member is appearing remotely over phone, video or similar remote manner. In addition, the Council member may ask to have the reason for the absence recorded by the Tribal Secretary.
 - viii. Council Work Sessions may be conducted in person or remotely as determined by the Tribal Council.
 - ix. Tribal Council, in extraordinary circumstances, shall retain discretion and authority to determine if an extension of the three absence, phone or video appearances per year may be extended to four meetings in one year for an individual Tribal Council member on a case by case basis. A vote shall be taken among Tribal Council members. If a majority of Tribal Council favors extending the total absences/appearances from three to four, then that determination shall stand. If the majority vote favors removal, then the Council Member shall be removed.
- B. Duties
 - x. Tribal Council Duties and Responsibilities are set forth in the Constitution.
 - xi. All Tribal Council Members have a duty to preserve and enhance the Tribe's identity as a distinct political, cultural and historic Indian Community in Wisconsin.
 - xii. Peacemaker Duties and responsibilities of the Peacemakers are set forth in the Brothertown Indian Nation Constitution.

- xiii. Tribal Council Members and Peacemakers shall conduct themselves in a manner that is respectful, honorable, in good faith and commensurate with the duties of the position elected. If the issue of conduct unbecoming the office is raised regarding the actions or inactions of a person holding an elected position – either Tribal Council or Peacemakers - a vote shall be taken among Tribal Council members. If the majority vote is in favor of remaining in the office, then the individual shall remain in office. If the majority vote in favor of removal, then the individual shall be removed.

Section 10 - Removal

- A. Any Council member who misses three (3) consecutive meetings shall be subject to removal from the Council unless there is a bona fide reason, as determined by the Council. Constitution Article IV, Section 5.
- B. The Council, by affirmative vote of seven (7) members of the Council, including the Chairperson, remove any member of the Council for neglect of duty or gross misconduct, including but not limited to convictions of any offense involving moral turpitude; conviction of a felony; or dereliction of duties. Prior to a vote to remove the Council member, the accused shall be given an opportunity to answer any and all charges at a designated Council meeting. Constitution Article IV, Section 5.
- C. Any Council member, who is discovered to have lied, mischaracterized, mis-stated or by omission has misled voters before, during or after the election in which they were a candidate and elected to Council shall be immediately disqualified or removed from Tribal Council by majority vote of the Tribal Council.
- D. A Tribal Council member who has missed more than three (3) non-consecutive meetings as set forth herein, whether due to absence or appearing by alternate means, shall be subject to removal from Council and the position shall be declared vacant, unless the Tribal Council has determined that extraordinary circumstances exist, as stated above.

Section 11 – Vacancy

- A. In the event of the death, resignation, or removal of a Council member or Peacemaker, the Council shall declare a vacancy. Constitution Article IV, Section 6.
- B. The Chairperson shall accept and review recommendations of individuals seeking appointment to the vacant position. Constitution Article IV, Section 6.
- C. The Chairperson shall then provide recommendations to the Council, which shall include but not be limited to, the person receiving the next highest vote count at the prior election, if such exists. Constitution Article IV, Section 6.
- D. The Council shall make the determination as to the appointment of the vacant position and such appointment shall remain in effect until the original term of the vacant position expires. Constitution Article IV, Section 6.

Section 12 – Effective Date

- A. This Election Ordinance shall be effective on the date approved by the Brothertown Indian Nation Tribal Council and shall supersede all prior Election Ordinances, Procedures and Rules.
- B. The Leadership Resolution of 2024, including the Amendment, shall be repealed effectively with passage of this Ordinance.

Section 13 - Severability

- A. If any portion of this Ordinance is found invalid, the remaining provisions shall remain in effect.