

**CITIZEN POTAWATOMI NATION
ELECTION CODE
TITLE 4**

CHAPTER

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CHAPTER ONE ELECTION CODE

Section 4-1-101 Citation

This enactment may be cited as the Election Ordinance of the Citizen Potawatomi Nation.

Section 4-1-102 Purpose

The purpose of this ordinance is to establish the rules and procedures for conducting elections authorized in the Revised Constitution of the Citizen Potawatomi Nation as adopted August 16, 2007.

Section 4-1-103 Definitions

The following definitions shall control the meanings of the following terms:

- (A) “Tribal Court” shall mean the Citizen Potawatomi Nation Tribal Courts.
- (B) “Legislative Ordinance” and “Legislative Resolution” shall mean the official document, and its adoption by the Legislature, by which the Legislature acts on behalf of the Nation under the authority granted to it by the Revised Constitution.
- (C) “Nation” and all derivatives thereof shall mean the Citizen Potawatomi Nation.
- (D) “Tribe” and all derivatives thereof shall mean the Citizen Potawatomi Nation.
- (E) “Legislative District” shall mean the geographical area from which a Legislator or Executive Officer may be elected.
- (F) “Revised Constitution” shall mean the Revised Constitution of the Citizen Potawatomi Nation as adopted by the Nation on August 16, 2007.
- (G) “Elective Office” shall mean an elected office of the Citizen Potawatomi Nation.

Section 4-1-104 Time Periods

Unless otherwise provided herein, all of the time periods established herein for filing, challenges, contests, or appeals are jurisdictional and cannot be waived.

Section 4-1-105 Creation

An Election Committee is hereby created and established having the duties and powers hereinafter set forth. The Election Committee shall conduct all elections and referendum votes in accordance with the Tribal Constitution and with this ordinance.

Section 4-1-106 Composition

The Election Committee shall consist of five persons: Chairman, Vice-Chairman, Secretary, Assistant Secretary, and a Marshal.

Section 4-1-107 Appointment

Subject to confirmation by the Legislature, the Chairman of the Citizen Potawatomi Nation shall appoint the members of the Election Committee and designate the Chairman of the Committee:

- (A) On or before the first Wednesday in October.
- (B) By resolution in substantially as set forth in Appendix Form 1. (Resolution Format)
- (C) If a vacancy occurs on the Election Committee, the Chairman shall fill the vacancy within thirty (30) days.

Section 4-1-108 Oath

Prior to entering into the duties of office, each Election Committee member shall take the following oath of office to be administered by a member of the Executive Committee or a Tribal Court Judge:

“I, _____, do hereby solemnly swear, or affirm, that I will support, protect and defend the Constitution and Laws of the Citizen Potawatomi Nation, and will cause the elections of the Citizen Potawatomi Nation to be conducted fairly, impartially, and in accordance with the laws of the Citizen Potawatomi Nation, so help me God.”

Section 4-1-109 Officer Selection

The Chairman of the Citizen Potawatomi Nation shall select a Committee Chairman from among the Election Committee members. A Vice-Chairman, Secretary, Assistant Secretary, and a Marshal shall be selected by the Election Committee, who shall certify in writing to the Business Committee the names of the persons so selected.

Section 4-1-110 Sub-Appointments

The Election Committee may appoint such observers, clerks, counters, marshals, and alternates, as necessary to conduct the election and shall certify such appointments in writing to the Chairman of the Citizen Potawatomi Nation.

Section 4-1-111 Filing Certifications

Copies of all certified appointments and sub-appointments shall be filed with the Secretary of the Citizen Potawatomi Nation and be open for public inspection at the Nation's headquarters in Shawnee, Oklahoma.

Section 4-1-112 Eligibility

No person may be appointed to the Election Committee unless eligible and qualified.

(A) A person is eligible if:

1. A member of the Tribe.
2. 21 years of age or older

(B) A person is not qualified for appointment if:

1. Under any court-ordered guardianship due to mental incapacity,
2. The natural or adopted brother, sister, parent, child, or spouse to a current candidate,
3. A current candidate for election to any tribal office to be decided by that election,
4. Ever convicted of a felony,
5. Ever found civilly or criminally liable of issuing a false publication in connection with a tribal election or criminal guilt of a non-felonious crime involving the election laws of the Tribe, or
6. Ever found civilly or criminally liable for breaching a fiduciary or contractual duty to the Tribe.

Section 4-1-113 Term

Each Election Committee member shall serve from appointment until the election results for all offices have been certified.

Section 4-1-114 Compensation

Members of the Election Committee are to receive only such compensation, traveling expenses, or stipend, as may be authorized by the Legislature.

Section 4-1-115 Records

The Election Committee shall maintain complete and accurate minutes of meetings and retain all documents pertaining to an election. These records shall be filed with the Secretary of the Citizen Potawatomi Nation within forty-eight (48) hours after the conclusion of each meeting and shall be open for public inspection during normal office hours at the Nation's headquarters in Shawnee, Oklahoma.

Section 4-1-116 Duties

Each Election Committee member has the duty to become thoroughly familiar with this ordinance and the Tribal Constitution and by-laws to see that these laws are rigorously followed, and to immediately document and report any violations to the marshal or other law enforcement personnel. In addition:

- (A) Chairman: The Chairman shall be the presiding member and responsible for the overall activities of the Election Committee, including safekeeping of the ballots and ballot box(s).
- (B) Vice-Chairman: The Vice-Chairman shall assist the Chairman, preside in his absence and assist in the conduct of the election.
- (C) Secretary: The Secretary shall record and maintain accurate minutes of meetings and records pertaining to an election. The Secretary shall verify the authenticity of these records and be responsible for providing all Election Committee certifications except where otherwise provided herein after each Election Committee meeting. All records shall be filed with the Secretary-Treasurer of the Tribe within two (2) working days after each meeting.
- (D) Assistant Secretary: The Assistant Secretary shall assist the Secretary and serve in the Secretary's absence, and assist in the conduct of the elections.
- (E) Marshal: The Marshal shall maintain order at the polls, and enforce the election laws. The Marshal shall have these powers from the time the polls open until declaration of all election results is final.
- (F) Clerks: Appointed Clerks shall assist in the conduct of the elections, and shall check off the voters on the list of qualified voters. Each Clerk shall keep a separate record of the members voting which shall be cross-checked frequently by the Chairman or his designate, to insure accuracy.

Section 4-1-117 Procedure

The Election Committee acts only by majority vote of a quorum at a properly called and noticed meeting.

- (A) Quorum. A quorum of the Election Committee shall consist of any three (3) members.
- (B) Meetings. Meetings may be called at any time by the Chairman, or by request of a majority of the Election Committee. In the event the Chairman fails to call a meeting as requested, the other members of the Election Committee who request a meeting may convene upon prior registered mail notification to all members of the Election Committee and the Secretary - Treasurer.
- (C) Where. All meetings shall be at the tribal office unless notice of the place and time of the meeting is conspicuously posted in the tribal office at least forty-eight (48) hours prior to the meeting.

Section 4-1-118 Rules

Upon the conclusion of each election, the Election Committee shall have the authority to recommend such rules, not inconsistent with this Ordinance, as may be necessary and proper for the conduct of tribal elections. Such rules shall be approved by the Legislature. Copies should also be posted in prominent places in the tribal offices and such other places as the Election Committee may deem advisable. A copy of the rules should be promptly delivered to the tribal newsletter for publication.

Section 4-1-119 Election Days

All tribal elections and referendum votes, unless otherwise specifically provided by law, shall be on a Saturday. Regular elections of members of the Legislature and Executive Officers shall be held on the last Saturday in June of each election year. All other required Citizen Potawatomi elections or constitutionally mandated elections shall be held upon call of the Legislature or the Election Committee as provided by the Tribal Constitution and by-laws.

Section 4-1-120 Forms

The forms contained in the Appendix of Forms are sufficient under this ordinance and are intended to indicate the simplicity and brevity of statement which this ordinance contemplates. Except as provided herein, all forms needed for Citizen Potawatomi elections and referendum votes shall be prescribed and provided by the Election Committee. The Citizen Potawatomi Nation shall be responsible for the cost of producing all forms.

Section 4-1-121 Instructions to Voters

Instructions to voters describing the manner of casting one's vote shall be posted at the polling place and issued upon request to all eligible voters with a ballot.

Section 4-1-122 Public Information

The Election Committee shall widely disseminate to the tribe information about the dates and times of election, locations of polling places and other election-related data. The Election Committee is authorized to publish in the tribal newsletter and in other newsprint media names of candidates, election dates, polling places, election results, and other information as necessary to discharge its duties.

Section 4-1-123 Polling Place

The polling place of all Citizen Potawatomi elections shall be the Nation's headquarters in Shawnee, Oklahoma and the mailing address for the submission of all absentee ballots shall be as designated by the Election Committee.

Section 4-1-124 Ballot Box

Locked empty ballot boxes shall be provided and shown at the polling place prior to voting. Each ballot box shall be constructed of substantial material and shall be equipped with a lock so that the keys of one lock will not unlock others. Each box shall be equipped with a slot or opening in the top through which a ballot may be inserted, but so the box must be unlocked before the ballots can be removed.

Section 4-1-125 Access to Ballots

The Election Committee Chairman and Election Committee Secretary shall retain ballot box keys in their custody until all election results are finally certified. Only those authorized by this ordinance shall have access to the ballot boxes at specific times designated by the Election Committee.

Section 4-1-126 Voting Booths

At least two voting booths shall be provided at the polling place. The booths shall be constructed with a counter shelf so that:

- (A) No more than one person is in the booth, and
- (B) Voters can mark their ballots in secrecy.

Section 4-1-127 Poll Watchers

Each candidate may designate, in writing, one person who is not a candidate, to watch the activities at the polls.

- (A) A Poll Watcher is eligible if:
 - 1. A member of the Tribe.
 - 2. 21 years of age or older.

(B) A Poll Watcher is not qualified for appointment if:

1. Under any court-ordered guardianship due to mental incapacity.
2. Ever convicted of a felony.
3. Ever convicted of non-felonious crime involving the election laws of the Tribe, or
4. Ever found civilly or criminally liable for breaching a fiduciary or contractual duty to the Tribe.

Such designation must be presented to Election Committee Officials in writing one week prior to the election. Poll Watchers may not interfere in any way with the conduct of the election, but may observe only. Any poll watcher interfering with the election or attempting to electioneer in any way may be ejected from the poll area by a marshal or law enforcement officer.

Section 4-1-128 Electioneering and Loitering

No person shall be allowed to electioneer inside or within one hundred (100) feet of the polling place where and when the election is in progress. Neither will any loitering be permitted in the polling places during voting hours. Election officials at the polling place have the duty to obtain such assistance as may be required to maintain order about the building during the progress of the election.

Section 4-1-129 Voter Conduct

No intoxicated person will be permitted in the polling place. No person will be permitted to conduct himself in such a manner which may interfere with the election progress. No person shall engage in any activity which serves as a detriment to the election progress or which inhibits the rights of another to vote.

Section 4-1-130 Anonymous Election Material

It shall be unlawful for any person, firm, corporation, partnership, organization, or association to write, print, post, or distribute or cause to be written, printed, posted or distributed a statement, circular, poster or advertisement which is designed to influence the voters on the nomination or election of a candidate or to influence the voters on any constitutional or statutory amendment or on any other issue in a Potawatomi tribal election, or to influence the vote of any member of the Business Committee or Tribal Council, unless there appears in a conspicuous place upon such circular, poster, or advertisement, either the name and address of the person, if an individual, or the name and address of the president, chairman, or secretary, or of two (2) officers of the organization, if an organization. Persons violating this act shall be guilty of a crime punishable by the maximum incarceration and fine allowed by law.

Section 4-1-131 Application

The provisions of Section 130 shall not apply to any matter published in any newspaper, magazine, or journal recognized and circulating as such, which matter is published upon its own responsibility and for which it shall not charge or receive any compensation whatsoever, nor shall the provisions of this Chapter apply to any publication issued by any legally-constituted election officials in the performance of their duties. For purposes of this provision only, a newspaper, magazine or journal is a publication which is published at intervals of either one (1) month or less, on a continuous basis, and has been so published on said continuous basis for the six (6) months prior to the date when ballots can first be requested by tribal members for elections of Business Committee members at the General Council. The newspaper, magazine or journal must also bear the address of the business office where the publication or legal representative is located.

Section 4-1-132 Public Disclosure of Campaign Contributions

Each candidate for elective offices in the Citizen Potawatomi Nation shall file a public disclosure statement that identifies all persons, corporations, groups, etc., contributing in excess of Fifty Dollars (\$50.00) to that individual's campaign. This disclosure must be made to the Secretary-Treasurer of the Tribe no later than four (4) weeks after the day of the election. If no contribution has been received, a statement must be filed stating so. Failure to file public disclosure under this Chapter is punishable by a fine of Five Hundred Dollars (\$500.00) and possible disqualification from the election if the individual falsifies or refuses to file the required reports.

Section 4-1-133 No Posting of Tribal Campaign Election Literature or Signs on Tribal Property

It shall be unlawful for any person, firm, corporation, partnership, organization or association to post election literature, material or signs on Tribal property. Posting of literature, signs or other partisan political advertisement is strictly prohibited. The distribution of tribal campaign literature will be allowed on Election Day at the tribal polling place, subject to specifications in Section 4-1-128.

Nothing in this Chapter shall be interpreted as a general prohibition against the placement of advertisements in the tribal newspaper.

Section 4-1-134 Candidates Employed by the Tribe

Candidates who are employed with the Citizen Potawatomi Nation must comply with the Citizen Potawatomi Nation Employee Handbook in regard to campaigning or candidacy for office.

Section 4-1-135 Eligibility

Every tribal member 18 years of age or older is eligible to vote in accordance with the Revised Constitution.

Section 4-1-136 Voters Lists

The Secretary of the Citizen Potawatomi Nation shall have the duty to compile from the tribal membership rolls, a voter list of all persons who will be eligible voters on the date scheduled for the election and shall certify the voter list and:

- (A) Present a certified copy to the Election Committee no later than the first business day in January prior to the election, except for unforeseen circumstances.
- (B) Maintain at least one certified copy of the names of the eligible voters of each Legislative District at the Nation's headquarters in Shawnee, Oklahoma for public inspection during regular business hours no later than the second Monday in December.
- (C) Maintain at least one (1) certified copy of the names of the eligible voters of each Legislative District at each polling place on Election Day to verify the eligibility of those presenting themselves to vote.

Section 4-1-137 Who May Challenge

Any person may challenge the eligibility of anyone whose name appears on the voter list, or may apply to have his name added to the voter list.

Section 4-1-138 How To Challenge

A voter list challenge is initiated by filing a written petition with the Election Committee. No special form of petition shall be required although the petition shall:

- (A) Clearly indicate the substance of the challenge,
- (B) Specify the name, or names challenged
- (C) Set forth the relief requested,
 - 1. To add a name, or
 - 2. To delete a name, and
- (D) Include supporting evidence.

Section 4-1-139 Time for Challenge

A challenge must be initiated no later than ten (10) days after the Tribal Secretary deposits the certified voter list in the tribal office.

Section 4-1-140 Decision

The Election Committee should render a decision on a challenge within ten (10) days of filing. Failure to timely act will be considered a denial of challenge.

Section 4-1-141 Appeal

Any party aggrieved by the action or inaction of the Election Committee may thereafter appeal to Tribal Court.

Section 4-1-142 Appeal Time

An appeal must be filed within five (5) working days of the publication of the decision by the Election Committee.

Section 4-1-143 Appeal Parties

The individual members of the Election Committee and Legislature shall not be named as defendants in an appeal. The tribal attorney or the Tribal Chairman's appointee shall represent the Election Committee, Legislature and/or Executive Officers, under the direction of the Tribal Chairman, and the Court shall expedite such case so as to reach a final decision prior to Election Day. No election shall be postponed because of pending voter list challenge.

Section 4-1-144 Eligibility to File

In order to file for any office, a candidate must be eligible and qualified:

(A) A person is eligible to be a candidate for a Legislative Office if:

1. Eighteen (18) years of age or older,
2. A member of the Tribe, and
3. Physically residing within the respective Legislative District continuously for a period of not less than six (6) months prior to the election.

(B) A person is eligible to be a candidate for an Executive Office if:

1. Thirty-five (35) years of age or older,
2. A member of the Tribe, and

3. Physically residing within the State of Oklahoma continuously for a period of not less than six (6) months prior to the election.

(C) A person is not qualified for an elected office if:

1. Ever convicted of a felony, or other offense involving dishonesty while holding an elected tribal office,
2. Ever found civilly or criminally liable for a breach of fiduciary duty to the Nation or misconduct in elected office, or
3. Ever impeached or recalled from an elected tribal office.
4. Holds membership in any other Indian Tribe or Nation and/or accepted land or monetary benefits from another Tribe after August 16, 2007.

Each successful candidate for an Executive Office in the Citizen Potawatomi Nation must submit a completed personal information form containing their personal financial information to the Comptroller of the Currency as required under the Standard Change of Control application form for National Banks no later than seven (7) days after the election results are certified. This statement will be incorporated into the candidates filing form.

Section 4-1-145 Ballot Eligibility

To be eligible to seek election and be placed on the ballot, a person must timely file for that office.

Section 4-1-146 Filed Candidate

To be a filed candidate, one must:

- (A) Be eligible to file,
- (B) Timely file a declaration of candidacy on the appropriate form with the Secretary-Treasurer of the Citizen Potawatomi Nation or his designee or the Election Committee or their designee.
- (C) Timely pay a filing fee of one hundred-fifty dollars (\$150.00) upon filing by guaranteed check (such as cashier's or official bank check.)

Section 4-1-147 Filing Period

A candidate must file by United States Mail, received no later than the end of the filing period, or 5:00 p.m. of the second Wednesday of January, or as designated by the Legislature.

Section 4-1-148 Form of Declaration

On the approved form, the declaration of candidacy must be by affidavit and contain sufficient information for the Election Committee to determine that the candidate is eligible to file, is seeking a particular office, and has complied with this ordinance. The declaration should be as shown in Appendix Form 2. Any reasonable copy of the form may be used.

Section 4-1-149 Names of Candidates

Candidates must file as legally named on the tribal rolls. Each candidate may specify one (1) nickname to be placed on the ballot alongside the candidate's true name. No nicknames may be used if identical or substantially similar to the name or nickname of another candidate. Should a dispute over the use of a name arise, the Election Committee's decision shall be final and such decision shall not be subject to appeal. To specify a nickname, a candidate must affirm in the declaration of candidacy that:

- (A) The candidate is known by the nickname, and
- (B) The nickname is not being used for any other purpose than to accurately identify the candidate.

Section 4-1-150 Acceptance

The Election Committee shall accept any filing on the approved form by a person which, on its face, appears valid. That is, shows the candidate filing is eligible, qualified, and has timely filed, and tendered the filing fee. Acceptance shall entitle the candidate to have his name appear on the ballot unless the candidate withdraws as hereinafter set forth or unless a contest to his candidacy is sustained in the manner hereinafter described.

Section 4-1-151 Certification of Slate

As soon as practical after the filing period closes, the Election Committee shall file a written certification of the slate of candidates for the election with the Tribal Secretary. The certification shall also indicate all filings not accepted and the reasons for non-acceptance.

Section 4-1-152 Use of Tribal Newspaper

After filing closes, the tribal newspaper will provide an equal amount of free space in the next edition for all candidates appearing on the certified slate. The purpose of allowing the free space is to allow the candidates to identify themselves to the voters. All other space in the tribal newspaper shall be available to candidates on a set-fee.

The contents of free and paid advertisements shall be reviewed to insure that they do not contain libelous, slanderous, false, or misleading statements. Deadlines for receiving advertisement copy shall be set by the editor and published in the newspaper.

Section 4-1-153 Filing for More Than One Office Prohibited

No person shall be a candidate for more than one (1) office during any one (1) election, nor may a tribal office holder seek another office except when the office holder's term expires contemporaneously with the election. Each candidate must specify which office is being sought.

Section 4-1-154 Withdrawals

Any candidate for office may withdraw a Declaration of Candidacy by filing a written Notice of Withdrawal with the Election Committee at any time prior to the election. The withdrawal notice shall contain the candidate's name, the office sought, and shall be notarized or sworn to before a person authorized to administer oaths. A timely withdrawal is final. Notice shall be by certified mail.

Section 4-1-155 Procedure on Withdrawal

If a candidate withdraws, the Election Committee shall post notices to that effect at all polling places and within the voting booths, and may line-through or otherwise obliterate the candidate's name from the ballot. Any votes cast for a withdrawn candidate shall be rejected.

Section 4-1-156 Kinds

The certified slate may be challenged either because a candidacy was allegedly wrongfully certified or because a person's attempted filing was allegedly wrongfully rejected. Any challenge of a candidate or to the certified slate must be made within five (5) working days after the slate has been certified and posted to be a valid challenge.

Section 4-1-157 Who May Challenge

Any candidate may challenge the eligibility of any other candidate for the same office. If only one (1) candidate has filed for an office, any person on the voter list may challenge the eligibility of that candidate. Only the person whose filing is not accepted may challenge the non-acceptance.

Section 4-1-158 How To Challenge

A challenge must be initiated by filing a written petition with the Election Committee. Each petition shall state with particularity the reasons for the challenge.

Section 4-1-159 Hearing

Upon receiving a candidacy challenge, the Election Committee shall immediately deliver copies to the challenged candidate and all other candidates for that office. A hearing on the challenge must be held within five (5) days of receipt of challenge. The Election Committee must render a decision on the challenge within seventy-two (72) hours of commencing a hearing.

No formal pleadings are required. The Election Committee may subpoena witnesses and take testimony under oath. The challenger has the burden of proof.

Section 4-1-160 Appeal

Any proper party to a candidacy challenge aggrieved by the Election Committee decision may appeal to the Tribal Court.

Section 4-1-161 Appeal Time

An appeal must be filed with the Tribal Court on or before the expiration of two (2) business days following announcement of the Election Committee decision.

Section 4-1-162 Relief

The appellant shall have the burden of proof. The Tribal Court shall either:

- (A) Affirm the Election Committee decision.
- (B) Reverse the Election Committee decision and depending upon which is appropriate, add or strike a candidate's name from the slate certification.

Section 4-1-163 Time for Declaration

The Tribal Court has ten (10) days to act on the appeal proceeding Election Day. Failure of the Tribal Court to render a decision within twenty (20) days is an affirmation of the Election Committee's decision.

Section 4-1-164 Candidate's Names

The name of any candidate for office shall be printed on the official ballot as set forth in the declaration of candidacy without any prefix, suffix, or title. A nickname may be included if properly requested. Positions on the ballot will be determined by incumbency first with the remaining candidates for a particular office being placed on the ballot in alphabetical order. As soon as the candidates filing period closes and period challenges expire without a timely challenge, the Election Committee will prepare a ballot. If candidacy challenge is filed, the ballot will be prepared as soon as the challenge is resolved.

Section 4-1-165 Unopposed Candidates

Any candidate who is unopposed for an office shall:

- (A) Appear on the ballot with the designation "unopposed" printed next to his name, and

- (B) On Election Day be deemed elected to that office.

Section 4-1-166 Ballot Care

- (A) Specific instructions to the voter may be printed at the top of the ballot. Ballots shall not be numbered or show any other lettering or identifiable markings, unless such markings be on a perforated “tear-off” slip to be removed prior to placing the ballot in the ballot box.
- (B) Only one (1) ballot shall be cast by each eligible voter.
- (C) A ballot shall be cast only after the voter has signed the poll register unless voting by absentee ballot.
- (D) Election Committee officials shall account for all “ballots.”
- (E) A ballot shall be issued to each eligible voter by mail or through distribution at the tribal offices by the Election Committee.

Section 4-1-167 Eligibility

Any voter can vote by absentee ballot.

Section 4-1-168 Application

Requests for absentee ballots may be written, printed or typed and must include the correct mailing address, roll number, date of birth, and legal signature of the person making the request. These requests must be mailed to the Post Office Box designated by the Election Committee.

Section 4-1-169 When To Apply

Requests to vote an absentee ballot must be post-marked not less than twenty (20) days prior to the election.

Section 4-1-170 Receiving Ballot and Absentee Voter List

After the final certification of the slate of candidates has been made, the Election Committee will have until March 1st or as soon as practicable thereafter to print the ballots. Ballots will then be mailed to the voters no earlier than May 1st or later than June 20th upon receipt of an appropriate and timely request.

The Election Committee shall maintain an accurate written record (“Absentee Ballot List”) of all ballots so issued (including the name, address, roll number, and legal signature of the voter to whom each absentee ballot was issued, and the date of the issue).

Section 4-1-171 Voting

Those voting by absentee ballot shall mark their ballots, seal them in an inner envelope, and see that the absentee ballot is timely delivered. Only the outer envelope shall have the voter's name, return address, roll number and legal signature written upon it. A written reminder of the requirement of the specified information to be placed on the outer envelope shall be conspicuously printed on the outer envelope and on the ballot. Ballots will not be counted unless legal signature and role number is provided.

Section 4-1-172 Delivering Completed Ballot

Those wishing to vote by absentee ballot must see that their outer envelope with enclosed inner envelope and absentee ballot are delivered to the designated post office box not later than 10:00 a.m. of the last Saturday in June unless otherwise provided for by the Legislature.

Section 4-1-173 Handling

All absentee ballots received by the Election Committee shall remain in the Post Office or sealed locked ballot boxes provided for that purpose until 8:00 a.m. of Election Day, at which time the Chairman of the Election Committee, or an election official designated by the Chairman of the Election Committee, and at least one other election official shall:

- (A) Receive the ballots from the post office,
- (B) Personally transport the ballots to the polling place,
- (C) Deliver the ballots immediately, still sealed, to the remaining members of the Election Committee,
- (D) Deposit the ballots unopened in a special locked ballot box, and,
- (E) Tabulate the ballots by election officials in the presence of candidate poll watchers.

In the event of a large mail-in vote, the Election Committee has the option to verify (not count) the returned absentee ballots prior to Election Day. Prior to an official meeting of the Election Committee, the procedure will involve: 1) obtaining the envelopes from the post office; 2) bringing the envelopes to the court room; 3) certifying the identification of the voter on the outer envelope in the presence of a poll watcher (if appointed) and a tribal police officer; and 4) placing the envelopes in a sealed locked ballot box or returning them to the Post Office.

Section 4-1-174 Procedure Mandatory

No absentee ballot will be received at any time or by other means than provided herein.

Section 4-1-175 Voting Period

The polls shall be opened at each polling place from 7:00 a.m. until 2:00 p.m. Saturday the day of General Council meeting. Any voter in line at the polling place at 2:00 p.m. but unable to cast a ballot before 2:00 p.m. shall be allowed to cast a vote.

Section 4-1-176 Voting

All voting is by secret ballot. Upon being identified as an eligible voter by the presentation of a Citizen Potawatomi Enrollment Card containing the member's photograph, or the presentation of an older Citizen Potawatomi Enrollment Card without the member's photograph and a second form of photographic identification, and verification of the prospective voter being on the official voter's list and not having previously received a ballot, each prospective voter shall:

- (A) Sign his name on a voter register, kept for that purpose, to acknowledge receipt of the ballot,
- (B) Be handed an unused ballot by an election official,
- (C) Vote in privacy, in a voting booth, by marking the box opposite the name of the candidate supported by the voter.
- (D) Fold the ballot so the choice cannot be seen by others, and
- (E) Personally deposit the ballot in the ballot box.
- (F) If electronic machines are used to tabulate the vote, the voter shall insert the ballot into the machine or the ballot shall be secured in a locked box until such time as it may be inserted.

Members of the Election Committee may, at their discretion, require a second form of identification beyond the Citizen Potawatomi Enrollment Card.

Section 4-1-177 Voter Assistance

The election officials may allow a voter to obtain the assistance of any person in casting a vote if the voter is physically unable to cast a ballot and assistance, without previous suggestion, is requested. The Election Committee shall decide whether assistance may be rendered which decision shall be final and unappealable.

Section 4-1-178 Marking the Ballot

A ballot shall show only the marking of the voter's choice and shall not show more choices than the election calls for. A person may choose not to vote for any candidate for a particular office. However, if a voter marks a ballot so that the vote is apparently for more than one candidate for a single office or for a candidate not properly listed, or bearing any other such

material errors, the ballot will not be counted, but will be marked by an official, and retained as hereinafter provided. Voters voting in person, and not by absentee ballot, who mark a ballot improperly may ask for another ballot.

Section 4-1-179 Mutilated Ballots

If a voter mutilates a ballot or renders the ballot unusable another may be obtained, and the mutilated ballot shall be folded and marked “mutilated” in ink. Each member of the Election Committee on duty at the polling place shall sign below this marking and the mutilated ballot shall be placed in a large envelope marked “mutilated ballots.” The envelope containing all mutilated ballots shall be placed in the ballot box at the end of the voting.

Section 4-1-180 Unused Ballots

Ballots unused at the end of the voting shall be tied together, marked “unused” in ink, signed by at least two (2) election officials, and placed in the ballot box at the end of the voting.

Section 4-1-181 The Tally

All election material shall be transported to the counting room. Thereafter, the Election Committee shall:

- (A) Unlock the ballot box(s),
- (B) Remove the regular ballots, and
- (C) Tabulate the vote.
- (D) If electronic machines are used, tabulation of the vote is done as soon as the voter completes his ballot and inserts it into the machine or as soon as reasonable possible thereafter.

Section 4-1-182 Verifying the Absentee Ballots

The Election Committee shall verify the absentee ballots. Each outer envelope shall be opened, but the inner envelope shall remain unopened at that point. The Chairman shall then determine:

- (A) Whether the person whose name is signed to the outer envelope and affidavit is a qualified voter,
- (B) Whether the voter is on the absentee ballot list.

Section 4-1-183 Counting Ballots

The Election Committee shall count the absentee ballots manually or by electronic voting machines. If electronic machines are used the count shall be tabulated on the day of the election.

Section 4-1-184 Observing Tally

At least two (2) election officials shall view each ballot, and each counter shall keep a separate tally of the votes cast. Each candidate may select a watcher, not a candidate, who shall not interfere with the tally process, but can observe and keep a separate record of the tally of the ballots. If electronic machines are used to tabulate the vote, the tally shall be done electronically.

Section 4-1-185 Rejection Of Ballots

If, during the tallying of the votes, the members of the Election Committee are unable to determine from a ballot the choices of a voter, the ballot shall be rejected. A rejected ballot shall be marked "rejected" in ink. Each member of the Election Committee shall sign his name below this marking. Rejected ballots shall be kept together, and placed in the ballot box at the end of the tally.

Section 4-1-186 Certified Abstract

At the close of the tally, the Election Committee members shall:

- (A) Open the ballot boxes and display the empty box to all persons present to insure that no ballots are contained therein,
- (B) Determine the total vote cast including the absentee ballots for each candidate for each office,
- (C) Write down these totals, together with the number of rejected ballots, spoiled ballots, unused ballots and total ballots printed,
- (D) Sign the written totals as a certified abstract of the election results,
- (E) Read the certified abstract aloud to the public,
- (F) Deliver copies of the certified abstract to:
 - 1. The Business Committee
 - 2. The Tribal Court Clerk, and
 - 3. The Election Committee files in the tribal Secretary's Office.

Section 4-1-187 Recounts

If the votes cast for two (2) or more candidates (with the highest vote) is tied, or if the highest vote is larger than the next highest vote by less than 10% of the total vote cast for that office, the Election Committee shall recount the vote for that office on all the unmutated unrejected ballots, rejecting any which it is unable to determine the choice of the voter. The recounts shall continue until two (2) consecutive counts agree, and a new abstract shall then be prepared and read aloud to the public.

Section 4-1-188 Request For Recount

Since the Election Ordinance provides for automatic recount of ballots, any request for recount of ballots must list the reasons therefore in writing and be submitted to the Election Committee Chairman or his designated representative within two (2) working days after the election.

Such request must be accompanied by a non-refundable cashier or official check of Two Hundred Fifty Dollars (\$250.00) and made payable to the Citizen Potawatomi Nation. Said check shall be forwarded to the tribal Secretary-Treasurer to be credited against the cost of the recount. The Election Committee shall meet and decide within five (5) days of receipt of the notice whether or not such reasons listed in the request are sufficient to cause a recount of ballots. If no recount is made, the Two Hundred Fifty Dollars (\$250.00) is refunded.

Section 4-1-189 Run-Off Elections

A candidate must receive a majority of the votes in order to be elected. If the abstract shows that the highest number of votes cast for any one (1) candidate is less than a majority of the votes cast, a run-off election shall be held within sixty (60) days between the two candidates receiving the highest number of votes cast in the general election. In the event of a tie vote between the candidates with the second highest number votes cast, three (3) names shall be on the run-off election ballot. The Election Committee shall supervise the run-off election using the same rules and procedures followed in the general election. As soon as some candidate has received a majority of votes in the run-off election, no further run-off elections will be held.

Section 4-1-190 Retention of Ballots

Upon completion of the election and announcement of the certified abstract, the Election Committee shall lock all ballots and records in the ballot box and deposit the ballot box in the vault of the designated bank, post office, or other secure area as approved by the Election Committee, to be held for safekeeping until final certification of the election results and installation of all officers. Only the Chairman of the Election Committee and Secretary of the Election Committee shall have access to these records. After installation of all officers, the Election Committee shall return all ballots and election records to the Tribal Secretary to be placed in permanent confidential tribal records for a period of five (5) years. The documents will not be available for public viewing in order to preserve the confidentiality of the persons voting in the election. From and after the date of final installation of all elected officials and after the five-year period is completed, the Tribal Secretary may remove the election ballots and records, except the final certification of successful candidates and destroy them. The final certification of

election results entered by the Election Committee shall not be removed but shall be retained as a permanent public record.

Section 4-1-191 Election Certification

The Election Committee shall certify the election results for all uncontested offices immediately after the two (2) working day period for filing an election contest expires. If an election office is timely contested, then no certificate of election for contested office shall be issued until, if appropriate, after the election contest is finally decided.

Section 4-1-192 Finality

The Election Committee's certification of uncontested election results or the Election Committee's certification of the election results following an election contest provided for herein shall be final unappealable.

Section 4-1-193 Installment

In order to provide for an orderly transition of power, all newly-elected officers shown on the certificate of election shall be installed immediately following the election by taking the Oath of Office before any member of the Citizen Potawatomi Judiciary or the Chairman of the Citizen Potawatomi Nation or Vice-Chairman when authorized in writing by the Chairman. The Oath of Office is as follows:

I, _____, do solemnly swear that I will support, protect and defend the Constitution and laws of the Citizen Potawatomi Nation, that I will faithfully and impartially carry out the duties of my office and represent the interest of the Potawatomi people. These things I will do to the best of my ability so help me God.

Section 4-1-194 Effect of Installment

Once an officer is installed, removal is only by impeachment, recall or some other procedure authorized by the tribal constitution or recount certification.

Section 4-1-195 Incumbents

Consistent with Article 12 of the Tribal Constitution, the term of an incumbent office holder shall not expire until installation of his successor.

Section 4-1-196 Who Can Contest

Only a candidate for the disputed office may contest the election results for that office.

Section 4-1-197 Grounds

Only two (2) grounds may be asserted for contesting an election. The grounds are that the Election Committee erroneously counted or failed to count ballots, which failures were of such a magnitude that:

- (A) Either the contestant is entitled to be elected to the office, or
- (B) It is impossible to determine with mathematical certainty which candidate is entitled to be elected to the office.

Section 4-1-198 When to Contest

Any candidate desiring to contest a tribal election for an office must do so within two (2) business days after announcement of the certified abstract of election results.

Section 4-1-199 How To Contest

A contest can only be initiated by:

- (A) Timely filing with the Election Committee a verified statement setting forth the particular grounds for the contest, and
- (B) Depositing Two Hundred Fifty Dollars (\$250.00) in a guaranteed cashier's check or an official check with the Election Committee to cover costs of the hearing (if the contest is successful, the deposit shall be refunded).

Section 4-1-200 Election Committee Hearing

The Election Committee shall set a hearing of the contest no later than fourteen (14) days after the contest is filed. Written notice of such hearing shall be mailed or delivered to each candidate for the office contested. Any party to the election protest and the Election Committee shall have the right to view the election ballots and records in the presence of the Election Committee Chairman in the tribal offices. Any party to the protest or a tribal member shall be entitled to copies of the ballots from the Court Clerk upon payment to said clerk of normal and customary charges. Said certified copies shall be received as evidence by the Election Committee in like manner as an original. Alternatively, the Election Committee, upon request of a party or on its own motion, may convene a hearing for any protested election at the Tribal Courthouse, Shawnee Indian Agency, for the purpose of reviewing the election materials. After hearing the proofs and allegations of the contestants, the Election Committee shall make factual findings and one of the following conclusions:

- (A) That the contested election should be confirmed, or
- (B) The contestant should be declared the winner of the election, or
- (C) The contested election should be set aside and a new election held.

Section 4-1-201 Appeal

Any proper party to an election contest aggrieved by the findings and decisions of the Election Committee may appeal to the Tribal Court by the proper filing of a Quo Warranto action within the time periods established by this Ordinance.

Section 4-1-202 Time

An appeal must be filed within five (5) days of receipt of notification of the decision of the Election Committee.

Section 4-1-203 Parties

The Election Committee and the person whose election is challenged are indispensable parties to the appeal. Any other candidate for that office may intervene. The individual Election Committee members are not necessary or proper parties to such action. The tribal attorney or the designee of the Chairman of the Citizen Potawatomi Nation shall represent the Election Committee, Legislature and/or Executive Officers, under the direction of the Tribal Chairman, and the Court shall expedite such case so as to reach a final decision as soon as is practicable under the circumstances.

Section 4-1-204 Relief

The Tribal Court, whose decision is final, may only:

- (A) Confirm with Election Committee decision,
- (B) Order a new election for the contested office, or
- (C) Reverse the Election Committee decision and order the Election Committee to certify the election of the contestant to the office.

Section 4-1-205 Standard

Neither the Election Committee nor the Tribal Court shall invalidate any certified abstract of election results and order a new election for an office unless clear and convincing evidence shows that the person receiving the most votes for the contested office as shown on the certified abstract cannot be mathematically determined to be the clear winner.

Section 4-1-206 General Council Resolutions

All actions taken with respect to the authority reserved to the Council by the Revised Constitution shall be made by General Council Resolutions and shall not be final until they are voted on in a referendum election conducted pursuant to Article 13 of the Revised Constitution.

The reserved powers of the Council is the authority to approve all actions of the Legislature that result in (a) the appropriation and budgeting of all moneys of the Council held in trust by the Tribe as the proceeds of any claim against the United States, (b) the sale, purchase, mortgaging, or encumbrance of trust lands or interest therein, and (c) the approval of any settlement of treaty claim of the Citizen Potawatomi Nation against the United States.

Section 4-1-207 Absentee Votes

All absentee votes shall be handled by the Committee in the same manner as that prescribed for casting tribal election ballots. All absentee ballots must be distributed at least twenty (20) days prior to any General Council Meeting and received by the Election Committee by 10:00 a.m. on the day of any General Council Meeting. These ballots will be received for counting and counted on the day of the General Council Meeting and the results certified to the Business Committee. The issues to be voted on must receive a majority vote for adoption. Results of the vote will be published in the tribal newspaper.

Section 4-1-208 Resolution Preparation

Preparation of Resolutions for referendum vote shall be by the Legislature or Executive Committee or by provisions provided for under Article X of the Tribal Constitution.

Section 4-1-209 Election Board

When a special election is properly called, the Business Committee, by resolution, shall establish an independent election board to conduct the special election.

Section 4-1-210 Composition

The independent election board shall have the same composition as that of the Election Committee provided herein.

Section 4-1-211 Powers of the Election Board

The independent election board shall have the same powers and duties as set forth herein for the Election Committee and shall have such further powers as are necessary to carry out the duties imposed by the Tribal Constitution and by-laws. Further, the independent election board will have the power to establish different time periods for filing, challenges, contests and appeals, but shall not have power to change the other substantive and procedural rules provided for herein including, by way of example only, the eligibility to vote and the eligibility and qualifications of a candidate.

Section 4-1-212 Misdemeanor

In addition to any other penalties (civil or criminal) provided by law, any person willfully violating the duties and obligations imposed by this ordinance is guilty of a misdemeanor and, upon conviction, may be punished up to the maximum allowed for misdemeanors.

Section 4-1-213 Venue and Jurisdiction

The venue and jurisdiction for all violations of this Ordinance is placed exclusively in the Citizen Potawatomi Nation Tribal Courts.

Section 4-1-214 What Is Quo Warranto

Quo warranto is the name of the writ by which title to an office is resolved. It is not a substitute for or an alternate to the election challenges or appeals provided herein before.

Section 4-1-215 Who May Seek

Only a person claiming a better right to the office may bring a quo warranto action.

Section 4-1-216: Who Is The Proper Party Defendant

The only proper party defendant is the person who holds title to the office.