

TITLE 8. ELECTIONS

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TITLE 8. ELECTIONS AND PETITIONS

ARTICLE I

GENERAL PROVISIONS

[NOTE: Except as otherwise noted, the provisions of Article I, Title 8 were enacted on December 15, 2004 by Res. No. 23-2004.]

CHAPTER 1. DEFINITIONS AND CONSTRUCTION

Sec. 8-1101. Definitions.

Unless the context requires otherwise, as used in this Title:

- (a) “Adult” means an individual who is twenty-one years of age or older.
- (b) “Chairperson” means the individual who is selected to fill the office of Chairperson of the Election Committee.
- (c) “Committee” or “Election Committee” means the Sac & Fox Tribe of the Mississippi in Iowa Election Committee established in this Article.
- (d) “Committee member” means a member of the Sac & Fox Tribe of the Mississippi in Iowa Election Committee established in this Article.
- (e) “Court of Appeals” means the Court of Appeals of the Sac & Fox Tribe of the Mississippi in Iowa Tribal Court.
- (f) “Eligible voter” means a voter qualified to vote in an election conducted by the Tribe, other than an election to amend the Tribe’s Constitution or Bylaws.
- (g) “Executive Director” means the Executive Director of the Tribe.
- (h) “General election” means an election held pursuant to Article V, Section 2 of the Constitution.
- (i) “Member of the Tribe” means an individual who is duly enrolled in the Sac & Fox Tribe of the Mississippi in Iowa in accordance with the laws of the Tribe governing enrollment.
- (j) “Primary election” means an election held prior to a general election pursuant to Article V, Section 3 of the Constitution or similar election held prior to a special election at which candidates for public office are to be elected.

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(k) “Recall election” means a special election to recall an officer of the Tribe who is subject to recall under the laws of the Tribe.

(l) “Referendum” means a special election to ratify or reject any action by the Tribal Council.

(m) “Settlement” means the lands owned by the Tribe, whether held in trust for the Tribe or otherwise.

(n) “Special election” means an election to determine a tie vote pursuant to Article VII, Section 4 of the Constitution, to fill a vacancy on the Tribal Council pursuant to Article IX, Section 1 of the Constitution, to recall a Tribal Council member pursuant to Article XII, Section 1 of the Constitution, for a referendum pursuant to Article XII, Section 1 of the Constitution, or for any other purpose permitted by the laws of the Tribe, but does not include a primary election or general election.

(o) “Trial Court” means the Trial Court of the Sac & Fox Tribe of the Mississippi in Iowa Tribal Court.

Sec. 8-1102. Construction.

Nothing in this Title shall be construed as a waiver or diminution of or limitation upon the sovereignty of the Tribe or the jurisdiction of the Tribe.

CHAPTER 2. MISCELLANEOUS

Sec. 8-1201. Sovereign Immunity.

Except where expressly provided otherwise in this Title, nothing in this Title shall be construed as limiting, waiving or abrogating the sovereign immunity of the Sac & Fox Tribe of the Mississippi in Iowa or any of its agencies, departments, enterprises, agents, officials or employees.

Sec. 8-1202. Severability.

If any article, chapter, section or provision of this Title or amendment made by this Title is held invalid, the remaining articles, chapters, sections or provisions of this Title and amendments made by this Title shall continue in full force and effect.

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ARTICLE II

VOTERS

[NOTE: Except as otherwise noted, the provisions of Article II, Title 8 were enacted on December 15, 2004 by Res. No. 23-2004.]

CHAPTER 1. IN GENERAL

Sec. 8-2101. Eligible Voter.

Except for an election to amend the Constitution or Bylaws of the Tribe, no individual shall be qualified to vote in any election unless the individual:

- (a) Is a member of the Tribe;
- (b) Is an adult on or before the date of the election;
- (c) Was a resident of the Settlement for at least six months prior to the current or any previous election; and
- (d) Is currently a resident of the State of Iowa.

Sec. 8-2102. Qualifications to Vote to Amend Constitution or Bylaws.

An individual shall be qualified to vote in an election to amend the Constitution or Bylaws of the Tribe if the individual:

- (a) Is a member of the Tribe;
- (b) Is an adult on or before the date of the election;
- (c) Has complied with any other applicable requirements to vote.

Sec. 8-2103. Resident of Settlement.

(a) For purposes of this Title, “resident of the Settlement” means an individual whose address of record, as provided by the individual to the Tribe for tribal purposes, is on the Settlement.

(b) A person who is temporarily living away from the Settlement remains a resident of the Settlement. A person is temporarily living away only if the person has an intent to return to the Settlement following an absence which is due to:

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- (1) active duty in the military service of the United States;
- (2) attendance as a student at a duly accredited institution of learning, provided such student has provided proof to the Election Committee, prior to or contemporaneous with the request for an absentee ballot, of enrollment in an institution of learning;
- (3) incarceration;
- (4) a stay at a nursing care or other medical facility, provided that intent to return to the Settlement after such care may be conditioned upon improvement in health, even if such improvement is unlikely or deemed medically impossible; or
- (5) providing care to a parent or close relative who is either ill or infirm.

Sec. 8-2104. List of Eligible Voters.

(a) The Executive Director or his designee shall prepare a list of all eligible voters prior to any election and shall post the list of eligible voters at all polling places on the day of the election.

(b) The Executive Director or his designee shall maintain the list of eligible voters after each general election, which shall officially constitute the eligible voters enumerated at the last general election for all purposes necessary under the law.

TITLE 8. ELECTIONS

ARTICLE III

PETITIONS

[NOTE: Except as otherwise noted, the provisions of Article III, Title 8 were enacted on December 15, 2004 by Res. No. 23-2004.]

CHAPTER 1. GENERAL PROVISIONS

Sec. 8-3101. Applicability.

Except where otherwise expressly provided by the laws of the Tribe, this Article shall apply to the circulation, filing, and certification of any petition for recall of an officer of the Tribe, for referendum, to call a meeting of the Tribe, and any other purpose for which formal petitioning of the government is permitted or authorized under the laws of the Tribe.

Sec. 8-3102. Exclusiveness.

Except where otherwise expressly provided by the laws of the Tribe, the provisions of this Article shall be the exclusive procedures for circulating, filing, and certifying petitions for recall of an officer of the Tribe, for referendum, to call a meeting of the Tribe, and any other purpose for which formal petitioning of the government is permitted or authorized under the laws of the Tribe.

Sec. 8-3103. Definitions.

Unless the context requires otherwise, as used in this Article:

- (a) The “lead petitioner” shall mean the person to whom the receipt for the petition is issued by the Chairperson.
- (b) “Petition sheet” means a single sheet of a petition in the form required by this Article and containing signatures.

Sec. 8-3104. Right to Petition.

- (a) Every eligible voter of the Tribe shall have the right to circulate and file petitions in accordance with the provisions of this Article or other law of the Tribe without interference from any officer, employee, or agent of the Tribe.
- (b) Every eligible voter of the Tribe shall have the right to sign or not sign a petition circulated pursuant to this Article or other law of the Tribe without interference from any officer, employee, or agent of the Tribe.
- (c) No person who is not an eligible voter of the Tribe shall be permitted to circulate or file a petition pursuant to this Article.

(d) There is no limit on the number of petitions which may be simultaneously circulated, presented to the Tribe, or set for election, and the existence of multiple petitions shall not alter or stay any period of time provided for in this Title.

Sec. 8-3105. Change in Law.

Notwithstanding any other law, any change in the law or procedure with respect to circulation or filing of a petition made after the petition is filed pursuant to this Article does not apply to the petition.

CHAPTER 2. FORM OF PETITIONS

Sec. 8-3201. Requirements for a Petition.

A petition shall be set for a vote of the Tribe if it meets the following requirements:

(a) The petition provides reasonable notice of its purpose, either by using the form prescribed by section 8-3202(a) or as determined applying the test stated in section 8-3202(b);

(b) The petition contained sufficient information to:

(1) to establish that the identify of signers was verified, as stated in section 8-3203;

(2) verify, without undue effort, whether or not signers are eligible voters, as stated in section 8-3204; and

(c) The petition contains the genuine signatures of not less than thirty per cent of the eligible voters of the Tribe, enumerated at the last general election.

Sec. 8-3202. Notice of Purpose of Petition.

(a) A petition may be in any form which provides reasonable notice of the purpose of the petition. Where a petition substantially follows a form provided in this subsection, it provides reasonable notice of the purpose of the petition.

(1) A petition for recall contains reasonable notice of its purpose if it states:

“PETITION TO RECALL TRIBAL COUNCIL MEMBER [or other recallable officer]

To the Tribal Council:

We, the undersigned eligible voters of the Tribe, respectfully demand recall of the following Tribal Council member [or other recallable officer]:”

(2) A petition to ratify or reject a decision of the Tribal Council contains reasonable notice of purpose if it states:

“PETITION TO RATIFY OR REJECT COUNCIL ACTION

To the Tribal Council:

We the undersigned eligible voters of the Tribe, respectfully demand a vote to ratify or reject Tribal Council resolution [or ordinance or code section] #_____, which is attached hereto and was attached hereto at the time that we each signed this petition.”

Where the Tribal Council action was not in the form of a resolution, the petition contains adequate notice if it describes the Council action using the language contained in the Tribal Council minutes or where it otherwise adequately describes the Tribal Council action at issue.

(3) A petition to hold a Tribal meeting contains adequate notice to signers if it states:

“PETITION FOR TRIBAL MEETING

To the Tribal Council:

We the undersigned eligible voters of the Tribe, respectfully demand a meeting of the Tribe.”

(b) Where a petitioner does not substantially follow the form recommended in subsection 8-3202(a), the following factors shall be considered to determine whether the petition provided reasonable notice, as measured by a tribal member of average intelligence, of the purpose of the petition: whether the petition contained a clearly worded and accurate title; whether the petition contained a clearly worded statement of its purpose; the contents of any document which was referenced in the petition and which was attached to the petition at the time it was signed; whether the petition requested relief upon more than one subject or regarding more than one person (a petition requesting relief on more than one subject or regarding more than one person may cause confusion); and any other factor deemed relevant.

Sec. 8-3203. Methods of Establishing that the Identity of Signers was Verified.

The identity of a signer must be verified by one of the following methods:

(a) The signature is notarized; or

(b) The petition or petition sheet containing the signature contains the notarized signature of an eligible voter declaring:

I, _____, swear (or affirm) under penalty of perjury of the Meskwaki Tribe, that I personally know each person who signed this petition [or petition sheet], and I saw each person sign his or her correct name on this petition [or petition sheet], and that to the best of my knowledge no signature was obtained by coercion, threat, intimidation, or in exchange for anything of value.

Sec. 8-3204. Information Required to Verify Signature.

The petition may be in any form which permits the Tribe, without undue effort, to verify that a signer is an eligible voter. Where a signer provides his or her signature, name legibly printed, address, and date of signing, the signer has provided sufficient information to permit the Tribe to verify, without undue effort, whether or not that signer is an eligible voter.

CHAPTER 3. FILING AND CERTIFICATION

Sec. 8-3301. Procedure for Filing.

(a) All petitions shall be filed with the Chairperson of the Election Committee or his designee by tendering to him or his designee all petition sheets of the petition.

(b) Upon filing of a petition, the Chairperson or his designee shall simultaneously issue a receipt to the lead petitioner. Such receipt shall be in letter form and shall include an estimate of the purported number of petition sheets and signatures filed. After the issuance of the receipt, no additional petition sheets may be accepted for filing.

(c) For purposes of this Article, a petition is filed when the petition sheets are tendered to the Chairperson of the Tribe and a receipt issued.

Sec. 8-3302. Time for Certification.

Within ten working days of the date of filing of the petition, the Chairperson shall determine whether or not the petition meets the requirements of Chapter 2. If, during that review, the Chairperson determines that the petition does not establish identity of a material number of signers, the Chairperson shall provided the lead petitioner with written notice of the inadequacy, together with a copy of Section 8-3203 of this code. The lead petitioner shall then have ten working days to submit a declaration or declarations verifying the signatures, and the date for the Chairperson to verify the petition shall be extended by ten working days. As used in this section, a material number of signatures means a number which, if verified, would cause a petition to be accepted, but if unverified would cause rejection of a petition.

Sec. 8-3303. Grounds for Disqualifying signatures.

(a) A signature on a petition may be disqualified and found invalid only for the following reasons:

(1) The Chairperson cannot determine, using due effort and based upon the information provided on the petition, that a signer was an eligible voter of the Tribe on the date of signing the petition;

(2) The identity of the signer was not verified prior to the end of the ten day period provided in Section 3302.

(3) The Chairperson receives a notarized affidavit from the signer, prior to certification of the petition, which states under oath or affirmation that the signer's signature was obtained in violation of this Article and sets forth facts which demonstrate a violation of this Article.

(b) If an individual signed a petition more than once, all but one otherwise valid signature shall be disqualified.

(c) Where some signatures on a petition or petition sheet are verified but others are not, the verified signatures of eligible voters must be counted to determine whether the petition contains sufficient signatures.

(d) Where some signers on a petition or petition sheet provide adequate information, but others do not, the signatures of those eligible voters who provided adequate information must be counted to determine whether the petition contains sufficient signatures.

Sec. 8-3304. Notice of Certification.

(a) Within the time provided in Section 3302, the Chairperson shall either certify or deny certification of a petition by posting notice thereof in a public location of the Tribal government headquarters and mailing the same to the lead petitioner.

(b) The notice required under this Section shall include the following:

(1) The number of signatures required for the action subject of the petition;

(2) The number of signatures disqualified as provided herein;

(3) The number of valid signatures on the petition; and

(4) Notification that any eligible voter of the Tribe may view the results of counting and verifying the signatures on the petition.

(c) If the Chairperson does not certify the petition, the Chairperson shall return the original petition sheets to the lead petitioner after the time for any judicial review of the Chairperson's decision has expired.

(d) If the Chairperson certifies a petition, he shall forward the certification to the Election Committee members of the Tribal Council to act on the petition as provided in the laws of the Tribe.

CHAPTER 4. ACTIONS TO ENFORCE PETITION LAWS

Sec. 8-3401. Suit to Compel Chairperson to Decide – In General.

(a) If the Chairperson fails or refuses to allow an eligible voter to file a petition or to take action on the certification of a filed petition within the time provided in this Article, the eligible voter may bring an action against the Chairperson in the Trial Court to compel the Chairperson to accept the petition for filing or act on the certification.

(b) The Trial Court shall dismiss any action brought under this Section that is filed before the time limits provided in this Article for the Chairperson to act.

(c) In any suit brought pursuant to this Chapter, the Chairperson shall be the named respondent and the petitioner shall not be required or permitted to name the Tribe. If the Tribe is named as a party, the Court shall substitute the Chairperson of the Election Committee as a respondent.

Sec. 8-3402. Suit to Compel Chairperson to Decide – Court Jurisdiction.

(a) The Tribal Court shall have subject matter jurisdiction in accordance with the provisions of this Chapter over a suit to compel the Chairperson to accept a petition for filing or take action on the certification of filed petition.

(b) The Chairperson shall not be permitted to claim any official or sovereign immunity in any action brought in the Tribal Court pursuant to this Chapter, *provided* that nothing herein shall be read or construed to alter, affect, diminish, or waive any official or sovereign immunity of the Chairperson:

(1) Against any claim other than a claim to compel the Chairperson to accept a petition for filing or to take action on the certification of a petition;

(2) Against any claim for damages, costs, or other monetary relief; or

(3) Against any claim regardless of its nature that is brought in any other court or tribunal other than the Tribal Court.

Sec. 8-3403. Suit to Compel Chairperson to Decide – Service.

(a) Except as otherwise expressly provided herein, the laws of the Tribe related to service of process in actions before the Tribal Court shall apply to actions brought pursuant to this Chapter.

(b) Service of process on the Chairperson shall be accomplished in the same manner as service of process on the Tribe in an action wherein the Tribe is named.

Sec. 8-3404. Suit to Compel Chairperson to Decide – Trial Court Order.

(a) If the Trial Court determines that the Chairperson has failed or refused to allow the filing of a petition or failed or refused to act on certification of a filed petition within the time provided in this Article, the Trial Court shall, within seven calendar days of the filing of the original petition, order the Chairperson to:

(1) In the case of a failure or refusal to permit a petition to be filed, immediately accept the petition for filing, issue a receipt as provided herein, and take action on the certification of the petition within seven calendar days of the entry of the Trial Court order;

(2) In the case of a failure or refusal to take action on the certification of a filed petition, order the Chairperson to take action on the certification within seven calendar days of the entry of the Trial Court order.

(b) In the event the Chairperson fails or refuses to comply with an order of the Trial Court issued pursuant to this Section, and the matter is not on appeal to the Court of Appeals, the Trial Court shall have the authority to review the petitions at issue, verify the signatures on the petition, and issue an order declaring whether the petitions are valid which shall have the same force and effect as though the Chairperson had acted on the certification himself.

Sec. 8-3405. Suit to Compel Chairperson to Decide – Appeals.

(a) The Chairperson may appeal any order of the Trial Court compelling the filing or certification of a petition pursuant to this Chapter to the Court of Appeals in the same manner as other appeals are made to the Court of Appeals.

(b) The petitioner may appeal any adverse decision of the Trial Court pursuant to this Chapter to the Court of Appeals in the same manner as other appeals are made to the Court of Appeals.

(c) The Court of Appeals shall determine all issues appealed to it pursuant to this Chapter within fifteen days of the filing of the appeal.

Sec. 8-3406. Judicial Review of Chairperson’s Decision.

(a) The Chairperson’s decision as to certification shall be final agency action subject to judicial review pursuant to Article IV of Title 2 of the Code.

(b) The provisions of Article IV of Title 2 of the Code shall govern judicial review of the Chairperson's decision as to certification, except that:

(1) Any petition for judicial review shall be filed within ten days of the date when the Chairperson posts notice of his decision regarding certification;

(2) The Trial Court shall issue a final order on the petition for judicial review within ten calendar days of the filing of the petition;

(3) An appeal of the Trial Court's order on the petition for judicial review shall be filed no later than five days after the date of the Trial Court's order and the Court of Appeals shall decide the appeal with ten calendar days of the filing of the notice of appeal;

(4) The Tribal Court shall not accept any affidavit or other evidence from any signer claiming that the signer's signature was obtained in violation of this Article unless such signer filed an affidavit with the Chairperson asserting that the signer's signature was obtained in violation of this Article as provided in this Chapter prior to the Chairperson's notice regarding certification;

(5) The Tribal Court may not find that any signature is disqualified except for the reasons set forth in this Article.

TITLE 8. ELECTIONS

ARTICLE IV

ELECTIONS

[NOTE: Except as otherwise noted, the provisions of Article IV, Title 8 were enacted on December 15, 2004 by Res. No. 23-2004.]

CHAPTER 1. IN GENERAL

Sec. 8-4101. Applicability.

Except where the laws of the Tribe expressly provide a different procedure, this Article shall apply to the conduct of all elections of the Tribe and any election not conducted pursuant to this Article shall be null and void.

CHAPTER 2. ELECTION COMMITTEE

Sec. 8-4201. Establishment.

There is hereby created the Sac & Fox Tribe of the Mississippi in Iowa Election Committee. The Committee shall consist of seven members and two alternates, all of whom shall be appointed by the Tribal Council for six year terms in non-election years, *provided* that the terms of three Committee members and one alternate appointed to the first Committee pursuant to this Article shall be for three years in order to establish staggered terms, and the appointment of four members and one alternate shall be for a six year term. The Tribal Council shall designate one of the Committee members to be the Chairperson of the Committee.

Sec. 8-4202. General Authority.

The Committee shall have the power, authority, and duty to conduct and supervise elections as provided in this Article.

Sec. 8-4203. Appropriations.

(a) The Tribal Council shall appropriate and authorize the expenditure of Tribal funds for the operation of the Committee. The amounts to be appropriated shall be consistent with the needs of the Committee for proper conduct of elections, provided that the Committee members shall not receive compensation for services on the Committee.

(b) To assist the Tribal Council in making such appropriations, the Committee shall annually submit proposed budgets and reports of expenses and expenditures to the Tribal Council

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consistent with prior election expenditures and at the beginning of each fiscal year the Tribal Council shall appropriate funds in such amount as requested.

Sec. 8-4204. Qualifications of Committee Members.

(a) In addition to any other qualifications set by the Tribal Council, all Committee members shall be:

- (1) At least 21 years of age;
- (2) Law abiding; and
- (3) Individuals of good moral character and of good standing in the community.

(b) No individual shall be permitted to sit as a Committee member who:

- (1) Currently holds tribal elective office, or
- (2) Plans to be a candidate in any election during his or her term.

Sec. 8-4205. Oath of Office.

Every Committee member shall swear or affirm the following oath before the Tribal Council or its designee:

“I, _____, do solemnly swear [or affirm] that I will support and defend the Constitution of the Sac & Fox Tribe of the Mississippi in Iowa against all enemies, foreign and domestic; that I will uphold the election laws of the Sac & Fox Tribe of the Mississippi in Iowa; that I will carry out faithfully and impartially the duties of my office to the best of my ability; that I will cooperate, promote and protect the best interests of the Sac & Fox Tribe of the Mississippi in Iowa in accordance with the Constitution and Bylaws of the Sac & Fox Tribe of the Mississippi in Iowa.”

Sec. 8-4206. Resignation and Removal.

(a) Any Committee member may resign from his position by delivering a written resignation to the Tribal Council, which shall be effective upon receipt by the Tribal Council.

(b) Any Committee member who becomes a candidate in any election shall immediately be deemed to have resigned.

(c) The Tribal Council may remove a Committee member, after a hearing under Tribal Council hearing procedures established in Title 1 of this Code, for any of the following:

- (1) Conviction of any offense which requires forfeiture of office;
- (2) Commission of a felony or crime or violation of moral turpitude;
- (3) Violation of any provision of this Title;
- (4) Failure to attend three consecutive meetings of the Committee or to participate in the conduct of any election, without good cause shown;

(d) The Tribal Council may not initiate an action to remove a Committee member for the grounds stated in subsections (c)(2-5) during the time periods stated below. Where an action is initiated prior to the beginning of the specified time periods, the action need not be stayed during the specified time periods. For purposes of this section, an action to remove is initiated when, by Council vote, the Council orders that notice of a hearing to consider removal be sent to a Committee member.

- (1) From the beginning of the nominating meeting held on the first Tuesday of October of odd numbered years, until the certification of results of the related elections; and
- (2) From the time the Chairperson certifies that a petition for referendum or recall has sufficient signatures, until the certification of the results of the election called;
- (3) From the time that a vacancy occurs on the Tribal Council, until the certification of the election of a replacement.

Sec. 8-4207. Vacancies.

In the event of a vacancy on the Committee, whether by removal, resignation, or otherwise, the Tribal Council shall appoint a replacement Committee member to serve the remaining term of the Committee member being replaced. In the event a Committee member is temporarily unavailable to serve, an alternate shall be selected by the Committee to serve until the absent Committee member returns to duty.

Sec. 8-4208. Prohibited Conduct.

It shall be a violation of this Article and grounds for removal for any Committee member:

- (a) Unless lawfully assisting a voter, to knowingly:
 - (1) Previous to the closing of the polls, attempt to find out for whom the voter has voted;
 - (2) Open or permit the folded ballot of a voter which has been delivered to the Committee member to be opened or examined previous to depositing it in the ballot box;

- (b) Make or place a mark or device on a folded ballot with the intent to ascertain for whom any voter has voted;
- (c) Without consent of the voter, disclose the name of any person whom the Committee member has discovered to have been voted for by the voter;
- (d) To knowingly induce a voter, either by menace, reward or promise thereof, to vote differently than the voter intended or desired to vote;
- (e) To knowingly fail or refuse to perform a duty imposed by this Title in the manner prescribed by the laws of the Tribe;
- (f) To send out an absentee ballot to any person not requesting such a ballot; or
- (g) To knowingly act in violation of any provision of this Title.

Sec. 8-4209. Duties of Election Committee.

The duties of the Committee shall be as follows:

- (a) To ensure all records of the Committee are retained in a safe, secure, and predesignated location within the Tribal government building;
- (b) To report irregularities and nonperformance of duty and violations of this Title to appropriate officials;
- (c) To designate dates of elections where such date is not otherwise specified in the laws of the Tribe;
- (d) To publish and post notice of all elections;
- (e) To prepare and secure official ballots to be used in all elections;
- (f) To set up, manage, and supervise activity at the polls;
- (g) To verify the eligibility of every individual who wishes to vote and to distribute one ballot to each eligible voter at the polls;
- (h) To keep a record of individuals who vote and of the number of ballots distributed and cast at an election;
- (i) To resolve any disputes which may arise at the polls regarding an individual's eligibility to vote or balloting procedure, including allowing eligible voters to change their address of record for tribal purposes at the polls if necessary;

- (j) To secure ballot boxes and voting machines;
- (k) To count and validate ballots and record the number of votes cast for each choice after the polls are closed;
- (l) To certify the results of all elections in writing and to notify the public and the Tribal Council;
- (m) To otherwise manage elections and perform such other duties as prescribed in this Article.

Sec. 8-4210. Duties of Chairperson.

The Chairperson of the Committee shall have the following authority, responsibilities, and duties:

- (a) To exercise administrative and supervisory authority over all other Committee members;
- (b) To call meetings of the Committee, *provided* that the other members of the Committee shall be authorized, by majority vote, to call and hold a meeting upon five days notice in the event the Chairperson refuses to do so;
- (c) To preside over all meetings of the Committee; and
- (d) To fulfill all duties and perform all functions of the Chairperson established by this Election Code.

Sec. 8-4211. Officers of the Committee.

- (a) The Committee shall, from time to time, select from amongst its members a Vice-Chairperson, and a Secretary/Treasurer, together with such other officers as it deems appropriate.
- (b) The Vice-Chairperson shall act as Chairperson of the Committee in the absence of the Chairperson.
- (c) The Secretary/Treasurer shall have responsibility for keeping minutes of all meetings, and for ensuring the security of all records, and for preparing the budget and securing all funds appropriated for the Committee's activities.

Sec. 8-4212. Meetings of the Committee.

- (a) The Committee shall meet at such times as are necessary to perform its duties under this Article and whenever directed by the Tribal Council.

(b) Five members of the Committee shall constitute a quorum of the Committee and be required to transact any business of the Committee.

(c) The Committee shall take action by consensus, but if consensus cannot be reached, it shall take action by a vote of a majority of the Committee members.

(d) All meetings of the Committee shall be held at the Tribal government headquarters and be open to the members of the Tribe. Any action of the Committee not taken at the Tribal government headquarters shall be void.

(e) The Committee shall keep minutes of all of its meetings which shall be available for inspection by any member of the Tribe.

Sec. 8-4213. Rules and Regulations.

The Committee is authorized to issue such rules and regulations as it deems necessary to carry out the provisions of this Article, subject to the approval of the Chairman of the Tribal Council.

CHAPTER 3. ELECTIONS GENERALLY

Sec. 8-4301. Polling Places.

The Tribal government headquarters on the Settlement shall be the designated polling place for all elections.

Sec. 8-4302. Ballots and Ballot Boxes.

(a) All elections shall be conducted by secret ballot.

(b) All ballots at every election shall be secured in one or more ballot boxes, or voting machine. The voting machine or ballot box used must:

(1) be approved by the Election Committee;

(2) retain the ballots under lock or seal, so that no vote or compilation of votes can be viewed before the lock or seal is removed;

(3) permit the Election Committee to accurately determine the votes for each candidate and ballot question.

Sec. 8-4303. Absentee Voting Procedures.

(a) Any person duly qualified as an absentee voter under Article 2 of this Title may vote by absentee ballot in accordance with the provisions of this Section.

(b) Any person desiring to vote by absentee ballot shall request an absentee ballot in writing from the Committee at least fifteen days prior to any election.

(c) All absentee ballots must be cast before a notary public or other qualified official authorized to administer oaths and bear the lawful certification of such official that the ballot was executed by the individual voting in the presence of the official.

(d) All absentee ballots must be received prior to the polls being closed on the day of the election. No ballot received after the polls have closed shall be counted.

(e) The Committee shall make and keep a record of absentee ballots cast in any election. The record shall contain the name of the absentee voter, the address of the absentee voter, the date the ballot was requested, the date the ballot was issued, and the date the ballot was returned.

(f) Any person who returns an absentee ballot shall not be permitted to vote in person at the polls, but a person who requests an absentee ballot and does not return it may still appear to vote in person.

(g) No absentee ballot shall be sent to any person not requesting the ballot in writing from the Committee.

Sec. 8-4304. Counting and Certification of Election Results.

(a) The seal or lock on the ballot box or voting machine may only be removed after the polls are closed, in the presence of at all members of the Election Committee, and in a location in which interested eligible voters may witness the opening of the ballot box or voting machine and the counting of the votes.

(b) All members of the Election Committee shall remain present from the time the seal or lock is removed until the Committee members present have counted and verified the votes and the ballots have been secured pending possible request for recount or election contest.

(c) The Committee shall certify the results of every election no later than noon of the first working day after the election and immediately post the certified results at the Tribal Government Center, the Trading Post, and at the Senior Center, and shall send written notice to the Tribal Council.

(d) The Committee shall cause the certified results to be published in the Tribal Newsletter or otherwise send the certified results to all eligible voters as soon as is reasonably practical.

CHAPTER 4. GENERAL ELECTIONS**Sec. 8-4401. Notice of General Election.**

(a) No less than thirty days before the general election, the Committee shall post notice of the general election at all Tribal offices and mail the same notice to all eligible voters. In addition, the Committee shall cause the notice to be published in any Tribal publications.

(b) The notice shall include:

(1) The date and time of the nomination meeting and the date and time of the second meeting, if required;

(2) The date of the primary election;

(3) The date of the general election;

(4) The location of the nominating meeting;

(5) The location of all polling places;

(6) The hours during which polling places will be open for voting;

(7) The number of positions on the Tribal Council and any other positions subject of the election; and

(8) Instructions for requesting an absentee ballot, including the date by which requests must be made, for both the primary election and the general election as well as any run-off election.

Sec. 8-4402. Nominations.

(a) On the first Tuesday of October of every odd-numbered year, nominations for members of the Tribal Council and other officers subject to election whose terms expire on or before the end of that year shall be held at a meeting of the Tribe held in accordance with the laws of the Tribe.

(b) In the event a quorum of eligible voters is not present at the meeting of the Tribe held on the first Tuesday of October as set forth herein, a second meeting of the Tribe shall be held not later than the first Friday immediately following the said first Tuesday of October and any number of eligible voters who attend shall be authorized to conduct nominations without regard to the requirement of a quorum.

(c) The Committee shall count all ballots cast at the nomination meeting and otherwise conduct all matters related to ballots at the nomination meeting. The Committee shall have the

authority to organize the nomination meeting such that nominations are conducted separately for each class of office subject of election such that nominations of candidates for Tribal Council may be conducted separately from nominations for candidates to other Tribal offices. In the event all Committee members do not appear at the nomination meeting, the eligible voters present at the meeting shall be authorized to elect individuals from among the eligible voters present to fill the positions of the absent Committee members such that there are at least four individuals assigned to perform the duties of the Committee at the nomination meeting. Any Committee member who fails or refuses to attend the nomination meeting and perform his duties shall be deemed to have resigned and the individual elected at the nomination meeting to fill his position shall fill the position of that Committee member until the general election is completed and the Tribal Council appoints a new Committee member to fill the vacancy in accordance with this Article.

(d) At the meeting for nominations, each eligible voter present shall be entitled to write down the names of qualified individuals who that eligible voter desires to be a candidate for each office subject to nomination at that meeting. Each person shall write down no more than one name for each position subject of the general election in the year the nomination meeting is being held.

(e) After all nominations have been received, nominees shall be asked whether they accept nomination. If a nominee is not personally present, or if the nominee does not accept the nomination, the nominee's name shall be removed from further consideration.

(f) All nominees who accepted nomination shall be presented to all of the eligible voters and each eligible voter shall be permitted to cast a vote for those nominees they desire as candidates. With respect to each office, each voter shall be permitted to vote for three times the number of nominees as there are positions to be filled. The nominee receiving the least number of votes shall be eliminated from the list of nominees. The eligible voters shall then be permitted to cast a vote for those remaining nominees they desire as candidates in the same manner and the nominee of those remaining that receives the least amount of votes shall also be eliminated from the list of nominees. Voting on the list of nominees shall continue in this manner until the list of nominees contains no more than three times as many names as there are positions to be filled on the Tribal Council in the coming general election or, in the case of other offices, three candidates per position to be filled in the coming general election.

(g) The remaining names on the list of nominees at the end of the nomination meeting shall be the names which shall appear on the ballot for the primary election. The Committee shall post the names of the candidates from the nomination meeting at all Tribal offices.

Sec. 8-4403. Primary Election.

(a) On the second Tuesday of October of every odd-numbered year, a primary election shall be held for the determination of candidates for the general election.

(b) The names on the ballot for the primary election shall be the names selected at the nomination meeting. The Committee shall send out any absentee ballots requested for the primary election no later than the day after the nomination meeting.

(c) The primary election shall be conducted in accordance with Chapter 3 of this Article and the rules and regulations of the Committee.

(d) The candidates on the ballot for the primary election who receive the greatest number of votes, so that there remains up to but not more than two times as many candidates as there are positions to be filled, shall be the candidates for the general election. The Committee shall post the names of the candidates from the primary election at the Tribal Government Center, the Trading Post, and at the Senior Center, and shall send written notice to the Tribal Council.

Sec. 8-4404. General Election.

(a) On the third Tuesday of October of every odd-numbered year, a general election shall be held for the election of the members of the Tribal Council as well as any other officers of the Tribe subject to election whose terms expire on or before the end of that year.

(b) The names on the ballot for the general election shall be the names selected from the primary election. The Committee shall send out absentee ballots requested for the general election the day after the primary election.

(c) The general election shall be conducted in accordance with Chapter 3 of this Article and the rules and regulations of the Committee.

(d) The candidates, equal in number to the positions available, who receive the greatest number of votes shall be the winners of the election to be certified by the Committee, except that if there is a tie between two or more persons for a position such that it cannot be declared that one-half of the candidates for that position won the election, the Committee shall certify those candidates who received more votes than those who tied and simultaneously post notice of a run-off election.

Sec. 8-4405. Run-Off Election.

(a) On the first Tuesday immediately following the general election, a run-off election shall be held, if necessary, to decide the results of any tie vote from the general election.

(b) The names on the ballot for the run-off election shall be the names of those candidates who received tie votes and were not eliminated by the general election. The Committee shall send out absentee ballots requested for the run-off election the day after the general election.

(c) The run-off election shall be conducted in accordance with Chapter 3 of this Article and the rules and regulations of the Committee.

(d) The candidate on the ballot for the run-off election for each position who receives the greatest number of votes shall be the winner of the run-off election to be certified by the Committee, except that:

(1) If there is more than one position on the Tribal Council or another board or commission of the Tribe which has not been determined, the number of candidates equal to the number of remaining positions on the Tribal Council who receive the most votes shall be the winners to be certified by the Committee; and

(2) If there is another tie which still prevents the determination of winners for all positions subject to election at that time, another run-off election shall be scheduled and held on the first Tuesday immediately following the run-off election in accordance with this Section.

CHAPTER 5. RECALL ELECTIONS

Sec. 8-4501. Applicability.

(a) This Chapter shall apply to the recall of any member of the Tribal Council and any other officer of the Tribe where the laws of the Tribe permit that officer to be recalled by the members.

(b) Any officer of the Tribe that is elected by the eligible voters of the Tribe shall be subject to recall in accordance with this Chapter.

Sec. 8-4502. Petition for Recall.

(a) Unless the Tribal Council member resigns prior to the election, an election to recall a member of the Tribal Council shall be held upon the petition of at least thirty percent of the eligible voters of the Tribe enumerated at the last general election requesting such recall.

(b) For officers other than Tribal Council members, except where the laws of the Tribe expressly provide a different procedure or amount of signatures for a particular officer of the Tribe, unless the officer of the Tribe resigns prior to the election, an election to recall an officer of the Tribe where the laws of the Tribe permit that officer to be recalled by the members shall be held upon the petition of at least thirty percent of the eligible voters of the Tribe enumerated at the last general election requesting such recall.

(c) Recall petitions shall be circulated, filed, and certified in accordance with Article III of this Title.

Sec. 8-4503. Notice of Acceptance of Petition.

(a) Whenever the Chairperson accepts a recall petition for filing, he shall notify the Tribal Council and the office of the Tribe subject of the recall petition within forty-eight hours, excluding Saturdays, Sundays, and holidays. The notice shall state that a recall petition has been filed seeking the recall of the officer.

(b) If an officer of the Tribe against whom a recall petition is filed desires to resign, the officer may do so by filing a written tender thereof with the Tribal Council and the Chairperson no later than five days after the Chairperson certifies the petition. In such event the officer's resignation shall be accepted and the vacancy shall be filled as provided by the laws of the Tribe.

Sec. 8-4504. Order for Recall Election.

(a) If the officer of the Tribe against whom a recall petition is filed does not resign within five days after the Chairperson certifies the recall petition, an order calling a recall election shall be issued within five days.

(b) Unless the laws of the Tribe expressly provide otherwise, an order calling a recall election shall be issued:

- (1) If for a member of the Tribal Council, by the Committee;
- (2) If for another officer of the Tribe, by the Tribal Council.

Sec. 8-4505. Filling of Vacancy.

An election to fill any vacancy that may be created as a result of the recall election shall be conducted at the same time as the recall election.

Sec. 8-4506. Time for Recall Election.

(a) Except as otherwise expressly provided herein, whenever a recall petition is certified by the Chairperson, the Committee shall schedule a special election on the recall to occur no later than twenty days from the date of the order calling a recall election and set a date for nominations of individuals to fill any vacancy that may be created by the recall in accordance with Chapter 6 of this Article.

(b) No less than twenty days before the recall election, the Committee shall post notice of the recall election at the Tribal Government Center, the Trading Post, and at the Senior Center, and shall send written notice to the Tribal Council. In addition, the Committee shall cause the notice to be published in any Tribal publications.

(c) The notice of the recall election shall include:

- (1) A statement that a recall petition has been filed and certified;
- (2) The name and title of the officer subject of the recall election;
- (3) The date of the recall election;

- (4) The date and time of the nomination meeting and the date and time of the second meeting, if required;
- (5) The location of the nominating meeting;
- (6) The location of all polling places;
- (7) The hours during which polling places will be open for voting; and
- (8) Instructions for requesting an absentee ballot, including the date by which requests must be made, for both the primary election and the general election as well as any run-off election.

Sec. 8-4507. Form of Ballot.

- (a) The form of the ballot for a recall election shall conform as nearly as practicable to the ballot prescribed for general elections and shall be divided into two distinct parts.
- (b) The first part of the ballot shall ask whether the officer subject of the recall should be recalled such that an affirmative vote will result in recall and a negative vote will defeat the recall.
- (c) The second part of the ballot shall ask who should replace the officer subject of the recall in the event the officer subject to recall is in fact recalled.

Sec. 8-4508. Election Results.

- (a) If a majority of votes cast on the question of recall is in favor of recalling the officer subject of the recall election, the officer shall be recalled and the individual on the second part of the ballot to fill the vacancy receiving the most votes shall be declared elected for the remainder of the recalled officer's term.
- (b) Except where the laws of the Tribe expressly provide otherwise, an officer who is recalled after a recall election shall be deemed removed from office on certification of the election results by the Committee.
- (c) Except where the laws of the Tribe expressly provide otherwise, the individual elected to serve the remainder of the recalled officer's term shall begin serving the remainder of the term on his qualification for the office and certification of the election results by the Committee.

Sec. 8-4509. Election Laws Applicable.

- (a) The provisions of Chapter 3 of this Article shall govern the conduct of recall elections.

(b) Except where otherwise provided in this Chapter, the provisions of Chapter 6 of this Article shall govern the manner and conduct of the portion of all recall elections governing the filling of any vacancy as a result of the recall election.

CHAPTER 6. ELECTIONS TO FILL VACANCIES

Sec. 8-4601. Applicability.

Except where the laws of the Tribe expressly provide another means for filling a vacancy in an office of the Tribe, this Chapter shall apply to the filling of any vacancy in an office of the Tribe which is normally filled by election.

Sec. 8-4602. Order for Special Election.

(a) Whenever there is a vacancy in an office of the Tribe which is subject to filling by election, an order calling a special election to fill the vacancy shall be issued within five days.

(b) Unless the laws of the Tribe expressly provide otherwise, an order calling a special election to fill a vacancy shall be issued:

- (1) If for a member of the Tribal Council, by the Committee;
- (2) If for another officer of the Tribe, by the Tribal Council.

Sec. 8-4603. Time for Special Election.

(a) Except as otherwise expressly provided herein, whenever an order for special election to fill a vacancy is issued, the Committee shall schedule a special election to fill the vacancy to occur no later than twenty days from the date of the order calling the special election to fill the vacancy and set a date for nominations.

(b) Except as otherwise expressly provided herein, no less than twenty days before the special election to fill a vacancy, the Committee shall post notice of the special election at the Tribal Government Center, the Trading Post, and at the Senior Center, and shall send written notice to the Tribal Council. In addition, the Committee shall cause the notice to be published in any Tribal publications.

(c) The notice of special election shall include:

- (1) A statement that there is a vacancy in an office of the Tribe;
- (2) The office of the Tribe that is vacant;
- (3) The date of the special election to fill a vacancy;

- (4) The name and title of the officer subject of the recall election;
- (5) The date and time of the nomination meeting and the date and time of the second meeting, if required;
- (6) The location of the nominating meeting;
- (7) The location of all polling places;
- (8) The hours during which polling places will be open for voting; and
- (9) Instructions for requesting an absentee ballot, including the date by which requests must be made, for recall election and any run-off election.

Sec. 8-4604. Nominations.

(a) Unless the election to fill a vacancy is to occur with the general election as provided herein, no less than seven days prior to the date set for a special election, nominations of individuals to fill the vacant office subject of a special election to fill a vacancy in an office of the Tribe shall be held at a meeting of the Tribe held in accordance with the laws of the Tribe. No less than five days before the nomination meeting, the Committee shall post notice of the meeting in public places on the Settlement.

(b) In the event a quorum of eligible voters is not present at the first meeting of the Tribe set forth herein, a second meeting of the Tribe shall be held not later than three days following the said first meeting and any number of eligible voters who attend shall be authorized to conduct nominations without regard to the requirement of a quorum. No less than one day before the second meeting, the Committee shall post notice of the meeting in public places on the Settlement.

(c) The nomination meeting shall be conducted in the same manner as nomination meetings held for general elections, except that voting on the list of nominees shall continue in the manner provided for general elections until the list of nominees contains no more than twice as many names as there are positions to be filled in the coming special election.

(d) The remaining names on the list of nominees at the end of the nomination meeting shall be the names which shall appear on the ballot for the special election to fill the vacancy. The Committee shall post the names of the candidates from the nomination meeting at all Tribal offices.

Sec. 8-4605. Form of Ballot.

The form of the ballot for a special election to fill a vacancy shall conform as nearly as practicable to the ballot prescribed for general elections.

Sec. 8-4606. Election Results.

(a) Except where the laws of the Tribe expressly provide otherwise, the individual elected to fill a vacancy in an office of the Tribe shall begin serving the remainder of the term on the vacant office on his qualification for the office and certification of the election results by the Committee.

(b) In the event a special election to fill a vacancy in an office of the Tribe involves more than one vacancy on the Tribal Council or a single committee, board, or commission, the individuals elected with the most votes shall fill the vacancies with the longest amount of time remaining on the term of the former officer and those with the least amount of votes shall fill the vacancies with the shortest amount of time remaining on the term of the former officer.

(c) If there is any tie in the number of votes for a position being filled in a special election to fill a vacancy, a run-off election shall be held in the same manner as run-off elections from general elections.

Sec. 8-4607. Election Laws Applicable.

The provisions of Chapter 3 of this Article shall govern the conduct of special elections to fill vacancies.

CHAPTER 7. REFERENDUM

Sec. 8-4701. Applicability.

This Chapter shall apply to elections on any election to ratify or reject any action by the Tribal Council.

Sec. 8-4702. Petition for Referendum.

(a) A referendum election shall be held upon the petition of at least thirty percent of the eligible voters of the Tribe enumerated at the last general election requesting such referendum.

(b) Referendum petitions shall be circulated, filed, and certified in accordance with Article III of this Title.

Sec. 8-4703. Notice of Petition.

Whenever the Chairperson accepts a referendum petition for filing, he shall notify the Tribal Council within forty-eight hours, excluding Saturdays, Sundays, and holidays. The notice shall state that a referendum petition has been filed seeking to approve or reject an action of the Tribal Council and shall identify the particular action subject of the referendum petition.

Sec. 8-4704. Referendum Upon Tribal Council Order.

The Tribal Council may call a referendum election without the circulation, filing, or certification of a referendum petition to allow the members to ratify or reject an action taken by the Tribal Council.

Sec. 8-4705. Order for Referendum Election.

(a) An order calling a referendum election shall be issued by the Tribal Council within five days of (i) the certification of the referendum petition, or (ii) the adoption of a Resolution by the Tribal Council calling for a referendum election. Such order shall be directed to the Committee and shall include such substantive information as necessary for the Committee to prepare the notice and ballot for the referendum election in accordance with this Chapter 7.

(b) Unless the laws of the Tribe expressly provide otherwise, an order calling a referendum election shall be issued:

- (1) If requested by referendum petition, by the Committee;
- (2) If ordered by the Tribal Council without a referendum petition, by the Tribal Council.

[subsection (a) amended on Feb. 13, 2008 by Tribal Council Resolution 3-2008]

Sec. 8-4706. Time for Referendum Election.

(a) Except as otherwise expressly provided herein, the Committee shall schedule a special election on the referendum to occur no later than twenty-five days from the date of the order calling a referendum election.

(b) If a recall petition is certified or an order of the Tribal Council calling for a referendum election is issued within thirty days of a scheduled general election, the referendum election shall be held with the general election and the notice of the referendum election and all other matters of the referendum election shall occur to coincide with the general election.

(c) No less than twenty days before the referendum election, the Committee shall post notice of the referendum election at all Tribal offices and mail the same notice to all eligible voters. In addition, the Committee shall cause the notice to be published in any Tribal publications.

(d) The notice of the referendum election shall include:

- (1) A statement that a referendum petition has been filed and certified or that an order for referendum has been issued by the Tribal Council, as appropriate;

- (2) A detailed description of the action of the Tribal Council subject of the referendum election;
- (3) The date of the referendum election;
- (4) The location of all polling places;
- (5) The hours during which polling places will be open for voting; and
- (6) Instructions for requesting an absentee ballot, including the date by which requests must be made, for the referendum election.

[subsection (a) amended on Feb. 13, 2008 by Tribal Council Resolution 3-2008]

Sec. 8-4707. Form of Ballot.

(a) The form of the ballot for a recall election shall conform as nearly as practicable to the ballot prescribed for general elections except as provided herein.

(b) The ballot shall have printed upon it the title of the action or part of an action of the Tribal Council that is subject of the referendum. If no official title exists, a reasonable descriptive title shall be used.

(c) Immediately below the title, the precise language of the action or part of an action taken by the Tribal Council that is subject of the referendum. If no such precise language is available, a clear and concise description of the action shall be used.

(d) After the language of the action subject of the referendum election shall appear the words “approve” and “reject” and a place for the voter to put a mark by one or the other.

Sec. 8-4708. Election Results.

If a majority of votes cast on the referendum election are to reject the action of the Tribal Council, the action of the Tribal Council shall be deemed rejected and null and void, except as otherwise provided by the laws of the Tribe.

Sec. 8-4709. Election Laws Applicable.

The provisions of Chapter 3 of this Article shall govern the conduct of referendum elections.

CHAPTER 8. RECOUNTS

Sec. 8-4801. Automatic Recount.

A recount of the vote is required when the counting of results in an election shows that the margin between two candidates receiving the greatest number of votes for a particular office, or between the number of votes cast for and against a recall or referendum is less than or equal to three votes.

Sec. 8-4802. Supplementary Nature of Chapter.

This Chapter is supplemental to and not in derogation of the laws of the Tribe relating to election contests and, upon the initiation of such a contest, a recount under this Chapter shall abate.

CHAPTER 9. ELECTION CONTESTS

Sec. 8-4901. Court Jurisdiction Over Election Contest.

The Tribal Court shall have subject matter jurisdiction, where , within five days of the certification of the election results by the Election Committee, a petitioner files with the Tribal Court a written document contesting the election results and where the petitioner is:

- (1) In an election of a person, the candidate who was not declared elected;
- (2) In a recall election, the person recalled, the lead petitioner, or the person who would have been elected in the replacement election if the officer had been recalled; or
- (3) In any other election, an eligible voter who voted or sought to vote.

Sec. 8-4902. Grounds for Election Contest.

The sole grounds for contesting an election are:

- (a) Misconduct on the part of the Committee or any members thereof or on the part of any officer making or participating in the counting of votes which affected the outcome of the election;
- (b) That the person whose right to the office is contested was not at the time of the election eligible to hold the office to which he was elected;
- (c) That the person whose right is contested, or any person acting for him, has given to a voter, Committee member, or other officer of election, a bribe or reward, or has offered such bribe or reward for the purpose of procuring his election, or has committed any other offense as defined in this Title;
- (d) On account of illegal votes which affected the outcome of the election;
- (e) That an erroneous count affected the outcome of the election.

Sec. 8-4903. Contents of Petition of Election Contest.

- (a) A petition seeking Court review of an election shall state:
- (1) The name and residence of the petitioner and the name and residence of the person whose right to office is being contested, if any;
 - (2) facts which establish that petitioner has authority under section 8-4901 to challenge the election results;
 - (3) The election being contested; and
 - (4) The particular grounds of the contest as described in this Chapter.
- (b) The statement shall be verified by the affidavit of the contestor that he believes the matters and things therein contained are true.

Sec. 8-4904. Service and Court Caption for Election Contest.

- (a) Where a right to office is contested, the petitioner shall bring the action against the person who holds the contested office;
- (b) In all other matters, the case shall be denominated as “In re:” followed by a brief reference, sufficient to identify the election being contested.
- (c) Except as otherwise expressly provided herein, the laws of the Tribe related to service of process in actions before the Tribal Court shall apply to actions brought pursuant to this Chapter.
- (d) In addition to service of process on any officer subject of the election contest, service of process shall be made on the Tribe in accordance with the laws of the Tribe governing service on the Tribe and the Tribe shall have the right to intervene in the matter.

Sec. 8-4905. Time for Hearing Election Contest.

In any contest brought under the provisions of this Chapter, the Trial Court shall set a time for the hearing of the contest not later than ten days after the date on which the statement of contest was filed, which may be continued for a period not to exceed five days for good cause shown.

Sec. 8-4906. Order of Trial Court in Election Contests.

- (a) The Trial Court shall issue its findings and order either confirming or annulling and setting aside the election within five days after the hearing of the contest.
- (b) If in an election contest, other than a contest of a primary election, it appears that petitioner has the highest number of legal votes, the Trial Court shall declare petitioner elected and

shall declare that the certificate of election of the person whose office is contested is of no further legal force or effect.

Sec. 8-4907. Appeals of Election Contests.

(a) Any party to an action brought pursuant to this Chapter may appeal any decision of the Trial Court pursuant to this Chapter to the Court of Appeals in the same manner as other appeals are made to the Court of Appeals.

(b) The Court of Appeals shall determine all issues appealed to it pursuant to this Chapter within ten days of the filing of the appeal.

CHAPTER 10. ACTIONS TO ENFORCE ELECTION LAWS

Sec. 8-41001. Jurisdiction of Tribal Court.

(a) The Tribal Court shall have subject matter jurisdiction in accordance with the provisions of this Chapter over a suit to compel any officer of the Tribe or group of officers of the Tribe, including the Committee and Tribal Council, to take action which is mandated by this Article to be taken within a specified period of time whenever such officer or group of officers fails or refuses to take such mandated action within the time prescribed.

(b) No officer of the Tribe or group of officers of the Tribe, including the Committee and the Tribal Council, shall be permitted to claim any official or sovereign immunity in any action brought in the Tribal Court pursuant to this Chapter, *provided* that nothing herein shall be read or construed to alter, affect, diminish, or waive any official or sovereign immunity of any officer of the Tribe or group of officers of the Tribe, including the Committee and Tribal Council:

(1) Against any claim other than a claim to compel such officer or group of officers to take action with respect to an election which is mandated pursuant to this Article to be taken within an express limited amount of time;

(2) Against any claim for damages, costs, or other monetary relief;

(3) Where the action complained of is action which is not mandated by this Article or is otherwise within the discretion of such officers or group of officers; or

(4) Against any claim regardless of its nature that is brought in any other court or tribunal other than the Tribal Court.

Sec. 8-41002. Suit to Compel Action.

(a) Whenever an officer of the Tribe or group of officers of the Tribe, including the Committee and Tribal Council, fails or refuses to take action with respect to an election which is mandated by this Article within the time specified by this Article or elsewhere in the laws of the

Tribe, any eligible voter may bring an action in the Trial Court to compel such officer or group of officers to take the required action.

(b) The Trial Court shall dismiss any action brought under this Chapter that is filed before the time limits provided in this Article or elsewhere in the laws of the Tribe for the named officer or group of officers to act.

(c) In any suit brought pursuant to this Chapter, the officer of the Tribe or group of officers of the Tribe shall be the named respondent and the petitioner shall not be required or permitted to name the Tribe. If the Tribe is named as a party, the Court shall substitute the Chairperson for the Tribe as a respondent.

Sec. 8-41003. Service.

(a) Except as otherwise expressly provided herein, the laws of the Tribe related to service of process in actions before the Tribal Court shall apply to actions brought pursuant to this Chapter.

(b) Service of process on any officer of the Tribe or group of officers of the Tribe named in any petition filed pursuant to this Chapter shall be accomplished in the same manner as service of process on the Tribe in an action wherein the Tribe is named.

Sec. 8-41004. Order of Trial Court.

(a) If the Trial Court determines that the officer of the Tribe or group of officers of the Tribe, including the Committee or Tribal Council, has failed or refused to take action with respect to an election which is mandated by this Article to be taken within a specified time required by the laws of the Tribe, the Trial Court shall, within ten days of the filing of the original petition, order the officer or group of officers to take the required action in accordance with the provision of this Article.

(b) In the event the officer of the Tribe or group of officers of the Tribe fails or refuses to comply with an order of the Trial Court issued pursuant to this Section within ten days of its issuance, and the matter is not on appeal to the Court of Appeals, the Trial Court shall have the authority to issue an order, as appropriate:

(1) Ordering the calling of an election where this Article mandates the calling of such election;

(2) Setting the date of an election in accordance with the time limits prescribed by this Article or elsewhere in the laws of the Tribe where this Article mandates the setting of a date of an election; or

(3) If the Committee has failed or refused to conduct an election required to be conducted by it pursuant to this Article, to declare the members of the Committee have forfeited their office and authorizing the eligible voters of the Tribe to hold a meeting of the

Tribe to appoint new members of the Committee who shall finish the unexpired terms of the former Committee members and conduct the election.

Sec. 8-41005. Appeals.

(a) Any party to an action brought pursuant to this Chapter may appeal any decision of the Trial Court pursuant to this Chapter to the Court of Appeals in the same manner as other appeals are made to the Court of Appeals.

(b) The Court of Appeals shall determine all issues appealed to it pursuant to this Chapter within ten calendar days of the filing of the appeal.

TITLE 8. ELECTIONS

ARTICLE V

VIOLATIONS

[NOTE: Except as otherwise noted, the provisions of Article V, Title 8 were enacted on December 15, 2004 by Res. No. 23-2004.]

CHAPTER 1. IN GENERAL

Sec. 8-5101. Persons Liable.

(a) Whoever is concerned in the commission of a violation of this Article shall be deemed a principal and may be charged with the violation although he did not directly commit it and although the person who directly committed it has not been convicted of the violation.

(b) A person is concerned in the commission of a violation of this Article if the person:

(1) Directly commits the violation;

(2) Aids or abets the commission of it; or

(3) Is a party to a conspiracy with another to commit it, or advises, hires or counsels or otherwise procures to commit it.

Sec. 8-5102. Civil Fines.

(a) In addition or in the alternative to any criminal penalties provided in this Article, any person who commits a violation of this Article, as defined in this Chapter, shall be subject to a civil fine of not more than Ten Thousand Dollars (\$10,000.00) for each offense.

(b) In addition to any other remedy or penalty authorized pursuant to this Article, any person who commits a violation of this Article shall forever be disqualified from becoming an officer of the Tribe and shall, if such person is an officer of the Tribe at the time of such violation, forfeit his office.

Sec. 8-5103. Enforcement.

(a) Criminal enforcement of this Article shall be conducted in the same manner as other crimes under the laws of the Tribe are conducted and the provisions of Title 13 of the Code shall apply to criminal enforcement and proceedings under this Article.

(b) The Attorney for the Tribe shall have the authority to bring a civil action against any person for violation of this Article, including the imposition of civil fines.

(c) Any person who has been a victim of a violation of this Article, as defined in this Chapter, may bring an action in the Tribal Court against the person who committed the violation including the imposition of civil fines.

(d) Any civil fines imposed pursuant to this Chapter shall be remitted to the Sac & Fox Tribe of the Mississippi in Iowa and used to defray the costs of elections.

CHAPTER 2. VIOLATIONS RELATED TO PETITIONS

Sec. 8-5201. Violations as to Circulation and Signatures.

(a) It is a violation of this Article for any person:

(1) To knowingly coerce, induce, or compel any other person by menace or threat, or to threaten any other person to the effect that the other person will or may be injured in his business, or discharged from employment, or that he will not be employed, to circulate or file or to refrain from circulating or filing, a petition;

(2) To knowingly coerce, induce, or compel any other person by menace or threat, or to threaten any other person to the effect that the other person will or may be injured in his business, or discharged from employment, or that he will not be employed, to sign or subscribe, or to refrain from signing or subscribing, his name to a petition, or, after signing or subscribing his name, to have his name taken therefrom;

(3) To knowingly offer, give, or receive money or any thing of value to another person with the intent to coerce that person to circulate a petition, cease or refuse to circulate a petition, sign a petition, not sign a petition, file a petition or not file a petition; or

(4) To knowingly sign any name other than his own to a petition, except in a circumstance where he signs for a person, in the presence of and at the specific request of such person, who is incapable of signing his own name, because of physical infirmity;

(5) To knowingly sign his name more than once for the same measure, or proposed amendment, or other action, at one election; or

(6) Who is not at the time of signing an eligible voter of the Tribe, to knowingly sign his name to a petition.

(b) A violation as defined in this Section is a class 1 offense.

Sec. 8-5202. Violations as to Filing.

(a) It is a violation of this Article for any person:

(1) To file a petition pursuant to this Title knowing, at the time of filing the petition, it is falsely made; or

(2) To knowingly destroy or suppress a petition, or any part thereof, which has been duly filed as provided by this Title.

(b) A violation as defined in this Section is a class 1 offense.

Sec. 8-5203. Refusal to Perform Duty.

(a) It is a violation of this Article for an officer of the Tribe to knowingly fail or refuse to perform any duty required of him under Article III of this Title.

(b) A violation defined in this Section is a petty offense.

CHAPTER 3. VIOLATIONS RELATED TO ELECTIONS

Sec. 8-5301. Violations Related to Ballots.

(a) It is a violation of this Article for any person:

(1) To counterfeit a ballot, or circulate or give to another a counterfeit ballot, knowing at the time that the ballot has not been issued pursuant to this Article;

(2) To knowingly forge or falsely make the official endorsement of a ballot;

(3) To knowingly destroy or deface a ballot; or

(4) To knowingly delay the delivery of a ballot.

(b) A violation as defined in this Section is a class 1 offense.

Sec. 8-5302. Interference with Election Officials.

(a) It shall be a violation of this Article for any person:

(1) To knowingly interfere in any manner with an officer of an election in the discharge of his duty; or

(2) To knowingly induce an officer of an election or officer whose duty it is to ascertain, announce or declare the result of such election, to violate or refuse to comply with his duty or any law regulating the election.

(b) A violation as defined in this Section is a class 1 offense.

Sec. 8-5303. Changing Vote of Voter by Force.

- (a) It shall be a violation of this Article for any person:
- (1) To knowingly by force, threats, menaces, bribery or any corrupt means, either directly or indirectly:
 - (i) Attempt to influence a voter in casting his vote or to deter him from casting his vote;
 - (ii) Attempt to awe, restrain, hinder or disturb a voter in the free exercise of the right to vote; or
 - (iii) Defraud a voter by deceiving and causing him to vote for a different person for an office or for a different measure than he intended or desired to vote for;
 - (2) To directly or indirectly, to make use of force, violence or restraint, or to inflict or threaten infliction, by himself or through any other person, of any injury, damage, harm or loss, or in any manner to practice intimidation upon or against any person, in order to induce or compel such person to vote or refrain from voting for a particular person or measure at any election, or on account of such person having voted or refrained from voting at an election; or
 - (3) By abduction, duress or any forcible or fraudulent device or contrivance whatever, to impede, prevent or otherwise interfere with the free exercise of the right to vote of any voter, or to compel, induce or to prevail upon a voter either to cast or refrain from casting his vote at an election, or to cast or refrain from casting his vote for any particular person or measure at an election.
- (b) A violation as defined in this Section is a class 1 offense.

Sec. 8-5304. Changing Vote of Voter by Bribery.

- (a) It is a violation of this Article for any person to, by himself or through any other person knowingly:
- (1) Treat, give, pay, loan, contribute, offer or promise money or other valuable consideration, or to give, offer or promise an office, place or employment, or to promise or to procure or endeavor to procure an office, place or employment, to or for a voter, or to or for any other person, to induce the voter to vote or refrain from voting at an election for any particular person or measure, or to induce the voter to go to the polls, or remain away from the polls at an election, or on account of the voter having voted or refrained from voting for any particular person or measure, or having gone to the polls or remained away from the polls at an election;

(2) Advance or pay or cause to be paid, money or other valuable consideration to or for the use of any other person with the intent that it, or any part thereof, be used for bribery at any election provided by law, or to knowingly pay or cause to be paid money or other valuable thing to any person in discharge or repayment of money, wholly or in part expended for bribery at any election; or

(3) To receive, agree or contract for, before, during or after an election provided by law, money, gifts, loans or other valuable consideration, office, place or employment for himself or other person, for voting or agreeing to vote, or for going or agreeing to go to the polls, or for refraining or agreeing to refrain from voting for a particular person or measure, or for inducing any person to vote or refrain from voting, or to vote or refrain from voting for a particular person or measure at an election; or

(4) To distribute any money or other thing of value to voters contemporaneously with, immediately prior to, or immediately after such voter casts a ballot or to make the casting of a ballot a condition precedent to the receipt of any money or other thing of value.

(b) A violation as defined in this Section is a class 1 offense.

Sec. 8-5305. Hindering Voting.

(a) It is a violation of this Article for any person to knowingly hinder the voting of others.

(b) A violation as defined in this Section is a class 1 offense.

Sec. 8-5306. Violations Related to Election Results.

(a) It shall be a violation of this Article for any person:

(1) To knowingly forge or counterfeit returns of an election purporting to have been held at a place where no election was in fact held, or who knowingly substitutes, forges, or counterfeits returns of election instead of the true returns for an election that was actually held;

(2) Not being entitled to vote, to knowingly vote;

(3) To knowingly vote more than once at any election;

(4) To knowingly give to an election official two or more ballots folded together;

(5) To knowingly change or destroy a ballot after it has been deposited in the ballot box;

(6) To knowingly add a ballot to those legally cast at any election, by fraudulently introducing the ballot into the ballot box either before or after the ballots therein have been counted;

(7) To knowingly add to or mix with ballots lawfully cast, other ballots, while they are being canvassed or counted, with intent to affect the result of the election, or to exhibit the ballots as evidence on the trial of an election contest;

(8) To knowingly and unlawfully carry away, conceal or remove a poll list, ballot or ballot box from the polling place, or from possession of the person authorized by law to have custody thereof;

(9) To knowingly destroy a polling list, ballot or ballot box with the intent to interrupt or invalidate the election;

(10) To knowingly detain, alter, mutilate or destroy ballots or election returns; or

(11) To knowingly mark on a ballot with the intent to fix an election for his own benefit or for that of another person.

(b) A violation as defined in this Section is a class 1 offense.