

SAC AND FOX NATION ELECTION ORDINANCE

(Adopted by Governing Council, May 31, 1997)
COURT OF THE SAC & FOX NATION
Filed in The
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CHAPTER ONE

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ELECTION BOARD

FILED
DATE July 30, 1997
SECRETARY
SAC & FOX NATION
Candace Hubbard

Section 101. Election Board Created

There is hereby created and established an Election Board which shall be an agency of the Sac and Fox Nation having the duties and powers hereinafter mentioned, and which shall conduct all elections in compliance with the Election Ordinance and in accordance with the Constitution and laws of the Sac and Fox Nation.

[History: PUBLIC LAW No. SF-85-84, August 23, 1985, approved by the General Council as per Article VI, Section 2 of the Tribal Constitution (Sixth Amendment) by SF-GC-86-06, October 5, 1985.] [Amendment by Governing Council SF-GC-97-04, May 31, 1997.]

Section 102. Board Composition

The Election Board shall consist of a Chairman, Vice-Chairman, Secretary, Assistant Secretary, Sergeant of Arms and such other persons as may be appointed as Judges, Clerks, or Alternates, pursuant to the Election Ordinance.

[History: PUBLIC LAW No. SF-85-84, August 23, 1985, approved by the General Council as per Article VI, Section 2 of the Tribal Constitution (Sixth Amendment) by SF-GC-86-06, October 5, 1985.] [Amendment by Governing Council SF-GC-97-04, May 31, 1997.]

Section 103. Appointment of Members

(a) The Business Committee, by resolution, shall appoint no later than January 31st at least ten (10) persons to the Election Board. The Election Board shall elect from among its members, a Chairman, Vice-Chairman, Secretary, Assistant Secretary, Judges, Clerks, Counters, Alternates, and such other persons as required under Section 102.

(b) Copies of all such appointments shall be filed in the Tribal Secretary's Office.

[History: PUBLIC LAW No. SF-85-84, August 23, 1985, approved by the General Council as per Article VI, Section 2 of the Tribal

Constitution (Sixth Amendment) by SF-GC-86-06, October 5, 1985.] [Amendment by Governing Council SF-GC-97-04, May 31, 1997.]

Section 104. Election Board Eligibility

In order to be appointed to the Election Board, a person must:

(a) Be a member of the Sac and Fox Nation not less than eighteen (18) years of age, and not under any court ordered guardianship due to mental incapacity.

(b) Not be a current candidate for election to any tribal office to be decided by that election, not be the natural or legally adopted brother, sister, parent, child, or spouse to a current candidate.

(c) Persons convicted of a felony or of a crime punishable by banishment shall be ineligible to serve on the Election Board for a period of time equal to that prescribed in such judgment and sentence for imprisonment, banishment, or suspension thereof, including the periods of probation, when such convictions have become final.

[History: PUBLIC LAW No. SF-85-84, August 23, 1985, approved by the General Council as per Article VI, Section 2 of the Tribal Constitution (Sixth Amendment) by SF-GC-86-06, October 5, 1985.] [Amendment by Governing Council SF-GC-97-04, May 31, 1997.]

Section 105. Term of Office

Each Election Board member shall continuously serve or until a position is vacated by resignation, by death or other unforeseen circumstances. In the event a vacancy occurs on the Election Board such vacancy shall be filled by appointment by the Business Committee as soon as possible.

[History: PUBLIC LAW No. SF-85-84, August 23, 1985, approved by the General Council as per Article VI, Section 2 of the Tribal Constitution (Sixth Amendment) by SF-GC-86-06, October 5, 1985.] [Amendment by Governing Council SF-GC-97-04, May 31, 1997.]

Section 106. Oath of Office

Prior to entering into the duties of office, each Election Board member shall take the following oath of office to be administered by a member of the Business Committee or a Judge or a Justice of the Tribe: "I, _____, do hereby solemnly swear, or affirm, that I will support, protect, and defend the Constitution and laws of the Sac and Fox Nation, and will cause the elections of the Sac and Fox Nation to be conducted fairly, impartially, and in accordance with the laws of the Sac and Fox Nation, so help me God."

[History: PUBLIC LAW No. SF-85-84, August 23, 1985, approved by the General Council as per Article VI, Section 2 of the Tribal Constitution (Sixth Amendment) by SF-GC-86-06, October 5, 1985.] [Amendment by Governing Council SF-GC-97-04, May 31, 1997.]

Section 107. Compensation

Members of the Election Board may receive such compensation, stipend, as may be budgeted for the performance of Election Board duties.

[History: PUBLIC LAW No. SF-85-84, August 23, 1985, approved by the General Council as per Article VI, Section 2 of the Tribal Constitution (Sixth Amendment) by SF-GC-86-06, October 5, 1985.] [Amendment by Governing Council SF-GC-97-04, May 31, 1997.]

Section 108. Records

The Election Board shall maintain complete and accurate minutes of its meetings. These records shall be filed in the Tribal Secretary's Office within fifteen (15) days after each meeting and shall be public record open to inspection during regular office hours.

[History: PUBLIC LAW No. SF-85-84, August 23, 1985, approved by the General Council as per Article VI, Section 2 of the Tribal Constitution (Sixth Amendment) by SF-GC-86-06, October 5, 1985.] [Amendment by Governing Council SF-GC-97-04, May 31, 1997.]

Section 109. Duties of the Members of the Election Board

(a) **Chairman.** The Chairman shall be the presiding member of the Election Board and shall be responsible for the overall activities of the Election Board, including safe-keeping of the ballots and ballot box(es).

(b) **Vice-Chairman.** The Vice-Chairman shall assist the Chairman, preside in the Chairman's absence, and assist in the conduct of the elections.

(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.

(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) **Clerks.** The 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 the Chairman's designate, to insure accuracy.

(f) **Judges.** The Judges shall hear questions at the polls and shall make initial determinations regarding the election process and shall undertake such duties as may be assigned by the Election Board.

(g) **Sergeant of Arms.** The Sergeant of Arms shall maintain order at the polls, and enforce the election laws. The Sergeant of Arms shall have these powers from the time the polls open until the declaration of all election results are final.

(h) **Counters.** The Counters shall assist in the conduct of the elections and undertake such duties as may be assigned by the Election Board.

(i) It shall be the duty of all members of the Election Board to become thoroughly familiar with the Election Ordinance, to see that it is rigorously followed, and to immediately document and report any violations of the Election Ordinance or other

laws to the Attorney General's Office to insure compliance.

(j) Alternates shall assist in election procedures and shall perform such duties as may be prescribed by the officers of the Election Board.

[History: PUBLIC LAW No. SF-85-84, August 23, 1985, approved by the General Council as per Article VI, Section 2 of the Tribal Constitution (Sixth Amendment) by SF-GC-86-06, October 5, 1985.] [Amendment by Governing Council SF-GC-97-04, May 31, 1997.]

Section 110. Internal Procedure of Election Board

(a) Quorum. A quorum of the Election Board shall consist of one-half of the membership of said Board.

(b) Meetings. Meetings may be called at any time by the Chairman, or by request of a majority of the Election Board. In the event the Chairman fails to call a meeting as requested the other members of the Election Board who request it may convene upon proper notification to all members of the Board. All meetings shall be at the Tribal office unless notice of the change in meeting place and time is conspicuously posted for at least twenty-four hours in the Tribal office prior to the meeting.

[History: PUBLIC LAW No. SF-85-84, August 23, 1985, approved by the General Council as per Article VI, Section 2 of the Tribal Constitution (Sixth Amendment) by SF-GC-86-06, October 5, 1985.] [Amendment by Governing Council SF-GC-97-04, May 31, 1997.]

Section 111. Rules

The Election Board shall have the authority to prescribe such rules, not inconsistent with this Election Ordinance as may be necessary or proper for the conduct of Tribal Elections.

Copies of such rules shall be filed in the Secretary's Office before they are binding, and posted in prominent places in the Tribal offices and such other places as the Election Board may deem advisable. Whenever possible they shall be published in the Tribal Newsletter.

[History: PUBLIC LAW No. SF-85-84, August 23, 1985, approved by the General Council as per Article VI, Section 2 of the Tribal Constitution (Sixth Amendment) by SF-GC-86-06, October 5, 1985.] [Amendment by Governing Council SF-GC-97-04, May 31, 1997.]

CHAPTER TWO

GENERAL PROVISIONS

Section 201. Election Days

(a) Regular General Elections of members of the Business Committee and Grievance Committee shall be held on the last Saturday in August of each election year. All other required Tribal elections shall be held upon call of the Business Committee.

(b) Primary Election shall be called by the Election Board any time three (3) or more candidates have properly filed for one (1) office. This Primary Election shall be conducted by General Election procedures.

(c) Any such Primary Election shall be held at least thirty (30) days prior to the regular General Election.

(d) Any candidate receiving the majority fifty percent plus one (50% + 1) of the votes in the Primary Election will be declared the winner of that office. If no candidate receives the majority of the votes, then the two (2) candidates with the highest votes cast in the Primary Election will advance to the General Election.

[History: PUBLIC LAW No. SF-85-84, August 23, 1985, approved by the General Council as per Article VI, Section 2 of the Tribal Constitution (Sixth Amendment) by SF-GC-86-06, October 5, 1985.] [Amendment by Governing Council SF-GC-97-04, May 31, 1997.]

Section 202. Forms

All forms of ballots and other forms of papers needed for Tribal elections shall be prescribed and provided by the Election Board. Cost of producing all such forms shall be paid by the Sac and Fox Nation.

[History: PUBLIC LAW No. SF-85-84, August 23, 1985, approved by the General Council as per Article VI, Section 2 of the Tribal Constitution (Sixth Amendment) by SF-GC-86-06, October 5, 1985.] [Amendment by Governing Council SF-GC-97-04, May 31, 1997.]

Section 203. Instructions to Voters

(a) Instructions to voters describing the manner of casting one's vote shall be posted outside each polling place and inside each voting booth by the Election Board.

(b) A ballot shall be issued to each voter only after the voter signs the poll register.

[History: PUBLIC LAW No. SF-85-84, August 23, 1985, approved by the General Council as per Article VI, Section 2 of the Tribal Constitution (Sixth Amendment) by SF-GC-86-06, October 5, 1985.] [Amendment by Governing Council SF-GC-97-04, May 31, 1997.]

Section 204. Public Information

The Election Board shall determine and disseminate information about the dates and times of election, locations of polling places and other data necessary to inform the public of the same. Whenever possible, print and electronic media of general circulation in the area shall be used to publish the notice of elections.

[History: PUBLIC LAW No. SF-85-84, August 23, 1985, approved by the General Council as per Article VI, Section 2 of the Tribal Constitution (Sixth Amendment) by SF-GC-86-06, October 5, 1985.] [Amendment by Governing Council SF-GC-97-04, May 31, 1997.]

Section 205. Polling Places

(a) Polling places shall be designated by the Election Board for each election in the Sac and Fox Nation's Jurisdiction.

(b) The Election Board shall have the authority to have Cushing, be designated as an additional polling place provided, that such designation shall be published in the Tribal Newsletter and posted in the Tribal Offices thirty (30) days prior to said election.

(c) If the Chairman of the Election Board receives a request from a physically disabled or incapacitated voter who is unable to vote at a polling place, and who resides within the territorial jurisdiction of the Sac and Fox Nation, the Chairman shall develop and implement rules and procedures to provide for such persons to vote.

[History: PUBLIC LAW No. SF-85-84, August 23, 1985, approved by the General Council as per Article VI, Section 2 of the Tribal Constitution (Sixth Amendment) by SF-GC-86-06, October 5, 1985.] [Amendment by Governing Council SF-GC-97-04, May 31, 1997.]

Section 206. Ballot Boxes

(a) There shall be one locked ballot box for each polling place. 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 the others. Each box shall be equipped with a slot or opening in the top through which a ballot may be inserted, so that the box must be unlocked before the ballots can be removed. The Election Board Chairman or his designated representative shall retain the keys in his custody until the time to tally the votes cast.

(b) Only Election Board members shall have access to the ballot boxes.

(c) New locks and keys shall be provided for each election.

[History: PUBLIC LAW No. SF-85-84, August 23, 1985, approved by the General Council as per Article VI, Section 2 of the Tribal Constitution (Sixth Amendment) by SF-GC-86-06, October 5, 1985.] [Amendment by Governing Council SF-GC-97-04, May 31, 1997.]

Section 207. Voting Booths

At least two voting booths shall be provided at each polling place. Said booths shall be constructed with a counter or shelf in such a manner that a member of the Election Board may ensure that no more than one person is in the booth and to insure secrecy by the voter in marking the ballot.

[History: PUBLIC LAW No. SF-85-84, August 23, 1985, approved by the General Council as per Article VI, Section 2 of the Tribal Constitution (Sixth Amendment) by SF-GC-86-06, October 5, 1985.] [Amendment by Governing Council SF-GC-97-04, May 31, 1997.]

Section 208. Poll Watchers

Each candidate may designate in writing one person, not a candidate, to watch the activities at the polls. Such designation shall be presented to Election Board Officials prior to the election. Such persons 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, shall be rejected from the poll area by a Sergeant of Arms or law enforcement officer.

[History: PUBLIC LAW No. SF-85-84, August 23, 1985, approved by the General Council as per Article VI, Section 2 of the Tribal Constitution (Sixth Amendment) by SF-GC-86-06, October 5, 1985.] [Amendment by Governing Council SF-GC-97-04, May 31, 1997.]

Section 209. Electioneering and Loitering

No electioneering shall be allowed 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. It shall be the duty of the election officials at the polling place to obtain such assistance, as may be required, to maintain order about the building during the progress of the election.

[History: PUBLIC LAW No. SF-85-84, August 23, 1985, approved by the General Council as per Article VI, Section 2 of the Tribal Constitution (Sixth Amendment) by SF-GC-86-06, October 5, 1985.] [Amendment by Governing Council SF-GC-97-04, May 31, 1997.]

Section 210. Voter Conduct

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

[History: PUBLIC LAW No. SF-85-84, August 23, 1985, approved by the General Council as per Article VI, Section 2 of the Tribal Constitution (Sixth Amendment) by SF-GC-86-06, October 5, 1985.] [Amendment by Governing Council SF-GC-97-04, May 31, 1997.]

Section 211. Publication of Election Information

The Election Board is authorized to publish in the Tribal Newsletter or other newsprint

media names of candidates, election dates, polling places, election results, and such other information as it may deem necessary in the discharge of its duties.

[History: PUBLIC LAW No. SF-85-84, August 23, 1985, approved by the General Council as per Article VI, Section 2 of the Tribal Constitution (Sixth Amendment) by SF-GC-86-06, October 5, 1985.] [Amendment by Governing Council SF-GC-97-04, May 31, 1997]

CHAPTER THREE

VOTERS

Section 301. Eligibility

Every member of the Sac and Fox Nation, eighteen (18) years of age or older shall be entitled to vote in all Tribal Elections with the following exceptions:

(a) Persons convicted of a felony or of a crime punishable by banishment or of a crime involving moral turpitude shall be ineligible to vote for a period of time equal to the time prescribed in such judgment and sentence for imprisonment, banishment, or suspension thereof, including periods of probation, when such convictions have become final.

(b) Persons who have been adjudged mentally incompetent by a court of competent jurisdiction and whose status of competency has not been reinstated.

[History: PUBLIC LAW No. SF-85-84, August 23, 1985, approved by the General Council as per Article VI, Section 2 of the Tribal Constitution (Sixth Amendment) by SF-GC-86-06, October 5, 1985.] [Amendment by Governing Council SF-GC-97-04, May 31, 1997.]

Section 302. Voting List

(a) It shall be the duty of the Tribal Secretary to compile from the Tribal membership rolls a list of all persons who will be eligible voters on the date scheduled for the Primary Election and General Election and to present sufficient certified copies of this list as requested to the Election Board no later than sixty (60) days prior to the Primary Election and no later than sixty (60) days prior to the General Election. The said copies are to be returned to the Tribal Secretary.

(b) One copy of the voting list shall be maintained in the Tribal office and be open to public inspection during regular business hours no later than sixty (60) days prior to the election.

(c) One copy of the voting list shall be maintained at each polling place on election day to check the eligibility of those presenting to vote.

[History: PUBLIC LAW No. SF-85-84, August 23, 1985, approved by the General Council as per Article VI, Section 2 of the Tribal Constitution (Sixth Amendment) by SF-GC-86-06, October 5, 1985.] [Amendment by Governing Council SF-GC-97-04, May 31, 1997.]

Section 303. Challenges to Voting Lists

(a) At any time more than twenty (20) days before the Primary Election and General Election, any person may challenge the voting eligibility of any person whose name appears on said list, or may apply to have their name added to said list by filing an

application with the Election Board. The application shall clearly indicate the substance of the challenge, the specific names challenged, and the relief requested.

(b) The Election Board shall promptly notify the Tribal Secretary and any interested parties, such as a person whose voting eligibility is challenged, an opportunity for all parties to be heard and to confront any witnesses against them, and render a decision on the petition.

(c) Any person whose eligibility to vote is questioned shall provide sufficient proof of such eligibility to Election Board Officials.

[History: PUBLIC LAW No. SF-85-84, August 23, 1985, approved by the General Council as per Article VI, Section 2 of the Tribal Constitution (Sixth Amendment) by SF-GC-86-06, October 5, 1985.] [Amendment by Governing Council SF-GC-97-04, May 31, 1997.]

Section 304. Court Review of Challenge to Voting Lists

If the Election Board fails to render a decision within ten (10) days of the filing of an application filed pursuant to Section 303, or upon rendering their decision, any party aggrieved by the action of the Election Board may file an action in the Tribal Court against the Election Board in mandamus to secure appropriate relief. The individual members of the Election Board shall not be named as defendants in such actions. The Tribal Attorney shall represent the Election Board and the Court shall expedite such cases so as to reach a final decision prior to election day. No election shall be postponed due to such court action.

[History: PUBLIC LAW No. SF-85-84, August 23, 1985, approved by the General Council as per Article VI, Section 2 of the Tribal Constitution (Sixth Amendment) by SF-GC-86-06, October 5, 1985.] [Amendment by Governing Council SF-GC-97-04, May 31, 1997.]

Section 305. Court to Notify of Judgments

It shall be the duty of the Clerk of the Tribal Court to notify the Tribal Secretary and Chairperson of the Election Board of the entry of any judgment which would cause a member of the Sac and Fox Nation to lose their right to vote pursuant to Section 301 of this Election Ordinance within thirty (30) days of the entry of final judgment.

[History: PUBLIC LAW No. SF-85-84, August 23, 1985, approved by the General Council as per Article VI, Section 2 of the Tribal Constitution (Sixth Amendment) by SF-GC-86-06, October 5, 1985.] [Amendment by Governing Council SF-GC-97-04, May 31, 1997.]

CHAPTER FOUR

FILING FOR OFFICE

Section 401. Eligibility for Office

To be eligible to file for office as a member of the Business Committee or Grievance Committee of the Sac and Fox Nation, a person, must meet these requirements:

- (a) Be twenty-one (21) years of age or older.
- (b) Be an eligible voter of the Sac and Fox Nation.
- (c) Candidates must be a resident of and domiciled in the state of Oklahoma for at least six (6) months prior to the time of the election. (Proof required)
- (d) Persons convicted of a crime punishable by banishment or convicted of a crime involving moral turpitude shall be ineligible to hold office for a period of time in addition, equal to the time prescribed in such judgment and sentence for imprisonment, banishment or suspension thereof, including periods of probation, when such convictions have become final.
- (e) No person convicted of crimes of dishonesty including but not limited to: such as, larceny, embezzlement, theft, fraud, forgery, shall be eligible to run for office.
- (f) Not to be the Natural or legally adopted brother, sister, parent, child or spouse to a current candidate or elected official.
- (g) Persons who have been adjudged mentally incompetent or by a court of competent jurisdiction may not hold office until their status of competency has been reinstated.
- (h) Be insurable under or be able to obtain an appropriate Fidelity Bond after background check is conducted.
- (i) Complete and sign an affidavit to do a criminal background check prescribed by the Election Board certifying that person is eligible to be a candidate for and hold office.
- (j) A person who has been removed from any elected office by General Council action shall be ineligible to file and/or be appointed to hold elective office, after all appeals have been exhausted.
- (k) Detail of the appeals process. (See Section 803. Tribal Court Review)

(l) Be able to devote themselves to a full time position, (40 hours a week) for Business Committee positions only.

[History: PUBLIC LAW No. SF-85-84, August 23, 1985, approved by the General Council as per Article VI, Section 2 of the Tribal Constitution (Sixth Amendment) by SF-GC-86-06, October 5, 1985.] [Amendment by Governing Council SF-GC-97-04, May 31, 1997.]

Section 402. Filing for Office

To be eligible for election and have one's name placed upon the ballot, Notice of Candidacy for an elective office must be filed with:

The Tribal Secretary after depositing the candidate's non-refundable filing fee of two-hundred dollars (\$200.00) (cashiers check only) with the Tribal Treasurer during regular business hours at the Tribal Office complex not later than sixty-five (65) calendar days prior to the date of the Primary Election and General Election. The Tribal Secretary shall notify the Chairman of the Election Board of all candidates who have filed for office.

[History: PUBLIC LAW No. SF-85-84, August 23, 1985, approved by the General Council as per Article VI, Section 2 of the Tribal Constitution (Sixth Amendment) by SF-GC-86-06, October 5, 1985.] [Amendment by Governing Council SF-GC-97-04, May 31, 1997.]

Section 403. Petition for Office

A petition of ten (10) or more members of Council may submit a written notice with required filing fees of two-hundred dollars (\$200.00) non-refundable (cashiers check only) no later than sixty-five (65) calendar days prior to the date of the Primary Election and/or General Election stating the name of the candidate, age, birth date, and proof of actual residence and domicile.

[History: PUBLIC LAW No. SF-85-84, August 23, 1985, approved by the General Council as per Article VI, Section 2 of the Tribal Constitution (Sixth Amendment) by SF-GC-86-06, October 5, 1985.] [Amendment by Governing Council SF-GC-97-04, May 31, 1997.]

Section 404. Nicknames

Each candidate may specify one (1) nickname to be placed on the ballot alongside the candidates true name.

[History: PUBLIC LAW No. SF-85-84, August 23, 1985, approved by the General Council as per Article VI, Section 2 of the Tribal Constitution (Sixth Amendment) by SF-GC-86-06, October 5, 1985.] [Amendment by Governing Council SF-GC-97-04, May 31, 1997.]

Section 405. Filing for More Than One Office Prohibited

No person shall be a candidate for more than one office at any one election.

[History: PUBLIC LAW No. SF-85-84, August 23, 1985, approved by the General Council as per Article VI, Section 2 of the Tribal Constitution (Sixth Amendment) by SF-GC-86-06, October 5, 1985.] [Amendment by Governing Council SF-GC-97-04, May 31, 1997.]

Section 406. Withdrawals

Any candidate for office may withdraw by filing a written notice of withdrawal with the Election Board at any time within ten (10) days after the closing date of filing for office. Such notice shall contain the candidates name, the office filed for, a statement of withdrawal and shall be notarized or sworn to before a person authorized to administer oaths. (Required filing fee non-refundable)

[History: PUBLIC LAW No. SF-85-84, August 23, 1985, approved by the General Council as per Article VI, Section 2 of the Tribal Constitution (Sixth Amendment) by SF-GC-86-06, October 5, 1985.] [Amendment by Governing Council SF-GC-97-04, May 31, 1997.]

Section 407. Procedure on Withdrawal

If a candidate withdraws, the Election Board 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 ballots. Any votes cast for a withdrawn candidates shall be disregarded.

[History: PUBLIC LAW No. SF-85-84, August 23, 1985, approved by the General Council as per Article VI, Section 2 of the Tribal Constitution (Sixth Amendment) by SF-GC-86-06, October 5, 1985.] [Amendment by Governing Council SF-GC-97-04, May 31, 1997.]

Section 408. Contest of Candidate Eligibility

Any candidate or eligible voter may challenge a candidate's legal qualifications to run for office by filing a written petition with the Election Board within three (3) business days of the closing of the filing period. Each petition shall state with particularity the reasons the candidate is not eligible to file for office. There is a one-hundred dollars (\$100.00) non-refundable cashier's check contest fee.

[History: PUBLIC LAW No. SF-85-84, August 23, 1985, approved by the General Council as per Article VI, Section 2 of the Tribal Constitution (Sixth Amendment) by SF-GC-86-06, October 5, 1985.] [Amendment by Governing Council SF-GC-97-04, May 31, 1997.]

Section 409. Procedure for Hearing

Upon receiving a petition pursuant to Section 408, the Election Board shall immediately deliver a copy to the challenged candidate and set a hearing before the Election Board to decide the contest. No formal pleadings are required. The Election Board may subpoena witnesses and take testimony under oath. In all cases, the burden of proof shall be on the petitioner.

[History: PUBLIC LAW No. SF-85-84, August 23, 1985, approved by the General Council as per Article VI, Section 2 of the Tribal Constitution (Sixth Amendment) by SF-GC-86-06, October 5, 1985.] [Amendment by Governing Council SF-GC-97-04, May 31, 1997.]

CHAPTER FIVE

BALLOTS

Section 501. Candidate's Names

The name of any candidate for office shall be printed on the official ballot as the candidate signed the declaration of candidacy without any prefix, suffix, or title. A nickname may be included if requested pursuant to Section 404.

[History: PUBLIC LAW No. SF-85-84, August 23, 1985, approved by the General Council as per Article VI, Section 2 of the Tribal Constitution (Sixth Amendment) by SF-GC-86-06, October 5, 1985.] [Amendment by Governing Council SF-GC-97-04, May 31, 1997.]

Section 502. Unopposed Candidates

Any candidate who is unopposed shall be deemed to be elected, and the candidate's name shall appear on the ballot with the designation "unopposed" printed next to the name.

[History: PUBLIC LAW No. SF-85-84, August 23, 1985, approved by the General Council as per Article VI, Section 2 of the Tribal Constitution (Sixth Amendment) by SF-GC-86-06, October 5, 1985.] [Amendment by Governing Council SF-GC-97-04, May 31, 1997.]

Section 503. Care of Ballots

- (a) Only one ballot shall be cast each eligible voter.
- (b) A ballot shall be issued only after the voter has signed the poll register.
- (c) Election Board Officials shall account for all "ballots."

[History: PUBLIC LAW No. SF-85-84, August 23, 1985, approved by the General Council as per Article VI, Section 2 of the Tribal Constitution (Sixth Amendment) by SF-GC-86-06, October 5, 1985.] [Amendment by Governing Council SF-GC-97-04, May 31, 1997.]

Section 504. Instruction on Ballots

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.

[History: PUBLIC LAW No. SF-85-84, August 23, 1985, approved by the General Council as per Article VI, Section 2 of the Tribal Constitution (Sixth Amendment) by SF-GC-86-06, October 5, 1985.] [Amendment by Governing Council SF-GC-97-04, May 31, 1997.]

CHAPTER SIX

ABSENTEE VOTING

Section 601. Eligible Absentee Voters

Any eligible voter is eligible to vote by absentee ballot.

[History: PUBLIC LAW No. SF-85-84, August 23, 1985, approved by the General Council as per Article VI, Section 2 of the Tribal Constitution (Sixth Amendment) by SF-GC-86-06, October 5, 1985, as amended by PUBLIC LAW SF-91-118, August 28, 1991.] [Amendment by Governing Council SF-GC-97-04, May 31, 1997.]

Section 602. Application for Absentee Ballot

Qualified voters wishing to cast vote by absentee ballots shall notify the Election Board not sooner than ninety (90) days and not later than thirty (30) days prior to the election. Such notices must be in writing and must include the correct mailing address of the person making the request. Only one ballot per written request.

[History: PUBLIC LAW No. SF-85-84, August 23, 1985, approved by the General Council as per Article VI, Section 2 of the Tribal Constitution (Sixth Amendment) by SF-GC-86-06, October 5, 1985, as amended by PUBLIC LAW SF-91-118, August 28, 1991.] [Amendment by Governing Council SF-GC-97-04, May 31, 1997.]

Section 603. Delivery of Absentee Ballot

As soon as the filing period for candidates has closed (sixty-five (65) calendar days before the election) the Election Board will prepare a special ballot and send one to each qualified voter who has requested same. The Election Board shall maintain an accurate record of all absentee ballots so issued, including the name and address of the voter to whom the ballot was issued and the date of issue.

[History: PUBLIC LAW No. SF-85-84, August 23, 1985, approved by the General Council as per Article VI, Section 2 of the Tribal Constitution (Sixth Amendment) by SF-GC-86-06, October 5, 1985.] [Amendment by Governing Council SF-GC-97-04, May 31, 1997.]

Section 604. Return of Absentee Ballots

All absentee ballots must be marked, sealed in an inner envelope and mailed in an outer envelope so as to reach the Election Board not later than the time the polls close on election day. Only the outer envelope shall have the voters name and return address written upon it.

[History: PUBLIC LAW No. SF-85-84, August 23, 1985, approved by the General Council as per Article VI, Section 2 of the Tribal Constitution (Sixth Amendment) by SF-GC-86-06, October 5, 1985.] [Amendment by Governing Council SF-GC-97-04, May 31, 1997.]

Section 605. Absentee Ballots to Remain at Post Office

All absentee ballots received by the Election Board shall remain in a locked post office box provided for that purpose. The Chairman of the Election Board, or an election

official designated by the Chairman, and at least one other election official shall receive the ballots from the post office to a locked ballot box and shall personally transport them to the counting site where they shall be delivered immediately, still sealed, to the remaining members of the Election Board. No absentee ballot will be received by any other means than provided for in this Chapter, which is by U.S. mail.

[History: PUBLIC LAW No. SF-85-84, August 23, 1985, approved by the General Council as per Article VI, Section 2 of the Tribal Constitution (Sixth Amendment) by SF-GC-86-06, October 5, 1985.] [Amendment by Governing Council SF-GC-97-04, May 31, 1997.]

CHAPTER SEVEN

CONDUCT OF ELECTIONS

Section 701. Hours of Voting

The polls shall be open at each polling place from 9:00 a.m. until 6:00 p.m. Any voter in line at the polling place but unable to cast a ballot before 6:00 p.m. shall be allowed to finish voting. Prior to beginning the voting, the Election Board shall open the ballot boxes and display the empty box to all persons present to insure that no ballots are contained therein.

[History: PUBLIC LAW No. SF-85-84, August 23, 1985, approved by the General Council as per Article VI, Section 2 of the Tribal Constitution (Sixth Amendment) by SF-GC-86-06, October 5, 1985, as amended by PUBLIC LAW SF-91-118, August 28, 1991.] [Amendment by Governing Council SF-GC-97-04, May 31, 1997.]

Section 702. Method of Voting

All eligible voters shall be subject to vote by secret ballot cast by the qualified voters at the time and place designated for the election. Each prospective voter, upon being identified as being on the official voters list, shall sign the voter register kept for that purpose to acknowledge receipt of a ballot, and shall be handed an unused ballot by an election official. The voter shall vote in privacy, in a voting booth, by making an identifiable mark opposite the name of each candidate for whom voting, shall fold the ballot so the voter's choice cannot be seen by others, and shall personally deposit the ballot in the ballot box. The Election officials may allow a voter to obtain the assistance of any person in casting a vote if physically unable to cast a ballot and the voter requests assistance without previous suggestion. The Election Board, or its members present shall decide whether assistance may be rendered, and their decision shall be final.

[History: PUBLIC LAW No. SF-85-84, August 23, 1985, approved by the General Council as per Article VI, Section 2 of the Tribal Constitution (Sixth Amendment) by SF-GC-86-06, October 5, 1985.] [Amendment by Governing Council SF-GC-97-04, May 31, 1997.]

Section 703. Marking the Ballot

A ballot shall show only the marking of the voters choice and shall not show more choices than the election calls for. A person may vote for fewer candidates or offices designated by the election without having the ballot affected. Ballots written upon or marked with more choices than designated by the election or bearing other such abuses will be rejected.

[History: PUBLIC LAW No. SF-85-84, August 23, 1985, approved by the General Council as per Article VI, Section 2 of the Tribal Constitution (Sixth Amendment) by SF-GC-86-06, October 5, 1985.] [Amendment by Governing Council SF-GC-97-04, May 31, 1997.]

Section 704. Mutilated Ballots

If a voter mutilates a ballot or renders the ballot unusable the voter may obtain another and the mutilated ballot shall be folded and marked "mutilated" in ink. Each member of the Election Board on duty at the polling place shall sign the mutilated ballot 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.

[History: PUBLIC LAW No. SF-85-84, August 23, 1985, approved by the General Council as per Article VI, Section 2 of the Tribal Constitution (Sixth Amendment) by SF-GC-86-06, October 5, 1985.] [Amendment by Governing Council SF-GC-97-04, May 31, 1997.]

Section 705. 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.

[History: PUBLIC LAW No. SF-85-84, August 23, 1985, approved by the General Council as per Article VI, Section 2 of the Tribal Constitution (Sixth Amendment) by SF-GC-86-06, October 5, 1985.] [Amendment by Governing Council SF-GC-97-04, May 31, 1997.]

Section 706. The Tally

The Election Board shall unlock the ballot box(es), shall remove the ballots one by one, and as each one is removed, the clerks shall read off the names of the candidates marked thereupon. At least two election officials shall view each ballot, and each counter shall keep a separate tally of the votes cast. Each candidate may select a watcher of their choice, not a candidate, to observe and keep a separate record of the tally of the ballots, and who shall not interfere with the tally process. After the tally is complete, all ballots, absentee ballots, voter registers, and ballot boxes shall be transported to the Sac and Fox Nation Tribal Court House.

[History: PUBLIC LAW No. SF-85-84, August 23, 1985, approved by the General Council as per Article VI, Section 2 of the Tribal Constitution (Sixth Amendment) by SF-GC-86-06, October 5, 1985.] [Amendment by Governing Council SF-GC-97-04, May 31, 1997.]

Section 707. Counting Absentee Ballots

After the count of the regular ballots, the Election Board shall count the absentee ballots. Each outer envelope shall be opened, but the inner envelope shall remain unopened at that point. The Chairman shall then determine whether the person whose name is signed to the envelope and affidavit is a qualified voter and check said voter against the absentee voting list. The sealed inner envelope shall be dropped into the official absentee ballot box and remain there until the actual count of all absentee ballots is started. Any ballot not properly submitted in accordance with the instructions for absentee balloting will not be counted. The absentee ballots shall then be counted in the same manner as regular ballots.

[History: PUBLIC LAW No. SF-85-84, August 23, 1985, approved by the General Council as per Article VI, Section 2 of the Tribal Constitution (Sixth Amendment) by SF-GC-86-06, October 5, 1985.] [Amendment by Governing Council SF-GC-97-04, May 31, 1997.]

1997.]

Section 708. Rejection of Ballots

If the Election Board is unable to determine from a ballot the choices of the voter, the ballot shall be rejected. A rejected ballot shall be marked "rejected" in ink. Each member of the Election Board shall sign the ballot below this marking. Rejected ballot shall be kept together, and placed in the ballot box at the end of the tally.

[History: PUBLIC LAW No. SF-85-84, August 23, 1985, approved by the General Council as per Article VI, Section 2 of the Tribal Constitution (Sixth Amendment) by SF-GC-86-06, October 5, 1985.] [Amendment by Governing Council SF-GC-97-04, May 31, 1997.]

Section 709. The Abstract

At the end of the tally, the Election Board shall determine the total votes cast for each candidate including the absentee ballots. These shall be written down together with the number of rejected ballots, spoiled ballots, unused ballots, and total ballots printed, and shall be certified to by each member of the Election Board signing the abstract. The abstract of votes shall be read aloud to the public and one copy each delivered to the Tribal Secretary, Tribal Court Clerk, and the Election Board files in the Tribal Secretary's office.

[History: PUBLIC LAW No. SF-85-84, August 23, 1985, approved by the General Council as per Article VI, Section 2 of the Tribal Constitution (Sixth Amendment) by SF-GC-86-06, October 5, 1985.] [Amendment by Governing Council SF-GC-97-04, May 31, 1997.]

Section 710. Certification of Election

The election shall be certified by the Election Board immediately after the ten (10) day period for filing an election contest expires, provided, that if an election contest petition is filed within the time period allowed, then no Certificate of Election shall be issued until after such election contest is finally decided.

[History: PUBLIC LAW No. SF-85-84, August 23, 1985, approved by the General Council as per Article VI, Section 2 of the Tribal Constitution (Sixth Amendment) by SF-GC-86-06, October 5, 1985.] [Amendment by Governing Council SF-GC-97-04, May 31, 1997.]

Section 711. Recounts

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

[History: PUBLIC LAW No. SF-85-84, August 23, 1985, approved by the General Council as per Article VI, Section 2 of the Tribal Constitution (Sixth Amendment) by SF-GC-86-06, October 5, 1985.] [Amendment by Governing Council SF-GC-97-04, May 31, 1997.]

Section 712. Run-Off Elections

A candidate for membership on the Business Committee must receive fifty percent plus one (50% + 1) number of votes cast in order to be elected. If the abstract shows that the vote cast for two or more candidates for an office is tied, the Election Board shall supervise the run-off election following the same rules and procedures followed in the General Election. Subsequent run-off elections may be held in the same manner if necessary. As soon as a candidate has received a higher vote than any other candidate, no further run-off elections will be had.

[History: PUBLIC LAW No. SF-85-84, August 23, 1985, approved by the General Council as per Article VI, Section 2 of the Tribal Constitution (Sixth Amendment) by SF-GC-86-06, October 5, 1985.] [Amendment by Governing Council SF-GC-97-04, May 31, 1997.]

Section 713. Installment in Office

Successful candidates for office whose election results are uncontested or are not involved in a run-off election shall be sworn in within ten (10) working days of the certified date, or, if there has been a delay due to election contests, run-off elections, special elections, or other cause, then as soon as reasonably practical after the election results are certified.

[History: PUBLIC LAW No. SF-85-84, August 23, 1985, approved by the General Council as per Article VI, Section 2 of the Tribal Constitution (Sixth Amendment) by SF-GC-86-06, October 5, 1985.] [Amendment by Governing Council SF-GC-97-04, May 31, 1997.]

Section 714. Retention of Ballots

The Election Board upon completion of the election and announcement of the winners shall deposit all ballots and records with the Court Clerk of the Tribal District Court to be held by said clerk for safekeeping until:

- (a) The time for filing a contest to the election is passed or,
- (b) Any protest which has been filed has been finally determined.
- (c) Upon final certification and installation of candidates the Court Clerk shall return all ballots and election records to the Tribal Secretary to be placed in permanent tribal records for a period of one (1) year. From and after the date of final installation of said elected officials and after the one year period is completed, the Tribal Secretary without any other authorization than this Ordinance may remove the election ballots and records, except the final certification of successful candidates, and destroy them.
- (d) The final Certification of Election results entered by the Election Board shall not be removed but shall be retained as a permanent public record.

[History: PUBLIC LAW No. SF-85-84, August 23, 1985, approved by the General Council as per Article VI, Section 2 of the Tribal Constitution (Sixth Amendment) by SF-GC-86-06, October 5, 1985.] [Amendment by Governing Council SF-GC-97-04, May 31, 1997.]

CHAPTER EIGHT

ELECTION CONTESTS

Section 801. Grounds for Contest

Any candidate or qualified voter of the Sac and Fox Nation may contest the election results on any of the following grounds:

(a) For misconduct by the Election Board or any member thereof, or on the part of any official making or participating in a campaign, petition, or solicitation of votes for a tribal election.

(b) That the candidate whose election is contested, or any person acting for the candidate had given to a voter, or election official, a bribe, or has offered such bribe or reward for the purpose of procuring the candidate's election.

(c) Misconduct on the part of any candidate or any person acting for the candidate at the polling place or in the immediate area.

(d) Violation of the Sac and Fox Election Ordinance or the rules in effect.

(e) Casting of ballots by unqualified voter.

(f) That by reasons of erroneous rejection of ballots the person declared elected did not in fact receive the highest number of votes for the office.

[History: PUBLIC LAW No. SF-85-84, August 23, 1985, approved by the General Council as per Article VI, Section 2 of the Tribal Constitution (Sixth Amendment) by SF-GC-86-06, October 5, 1985.] [Amendment by Governing Council SF-GC-97-04, May 31, 1997.]

Section 802. Contest Petition

A candidate or qualified voter contesting a Tribal Election shall, within ten (10) days after completion of the tally of the election and declaration of the results, shall deposit a two-hundred dollar (\$200.00) non-refundable cashier's check contest filing fee with the Tribal Treasurer, file with the Election Board a statement in writing setting forth their particular grounds for the contest. The statement shall be verified by affidavit of the contestor(s) that they believe the matters and things therein contained are true. After the statement is filed the Election Board shall set a time for a hearing of the contest, no later than ten (10) days after the date on which the statement of contest was 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 Board shall have the right to view the election ballots and records in the presence of the Court Clerk in the clerk's office. Any party to the protest or a Tribal member shall be entitled to receive a photocopy of said documents certified as true and correct copies by the Court Clerk upon payment to said clerk of the

normal and customary charges.

Said certified copies shall be received as evidence by the Election Board in like manner as an original. Alternatively the Election Board, upon request of a party or on its own motion, may convene a hearing for any protested election at the Tribal Courthouse for the purpose of review of said election materials. After hearing the proofs and allegations of the contestants, the Election Board shall make their findings and shall have authority to pronounce their judgment either setting aside, or confirming the election.

[History: PUBLIC LAW No. SF-85-84, August 23, 1985, approved by the General Council as per Article VI, Section 2 of the Tribal Constitution (Sixth Amendment) by SF-GC-86-06, October 5, 1985.] [Amendment by Governing Council SF-GC-97-04, May 31, 1997.]

Section 803. Tribal Court Review

A contestee not completely satisfied with the findings and decision of the Election Board, may appeal to the Tribal Court within five (5) days of being notified of the decision of the Election Board. The Election Board shall be a named party defendant along with the person whose election is challenged. Any other candidates for that office may intervene. The individual Election Board members need not be made a party to such action, and the Tribal Court shall conduct a trial de novo on the matter with the right of appeal as in other cases, and the decision of the court shall be final. The Court may order appropriate relief.

[History: PUBLIC LAW No. SF-85-84, August 23, 1985, approved by the General Council as per Article VI, Section 2 of the Tribal Constitution (Sixth Amendment) by SF-GC-86-06, October 5, 1985.] [Amendment by Governing Council SF-GC-97-04, May 31, 1997.]

Section 804. Harmless Error

Neither the Election Board nor the Courts shall invalidate any tribal election unless it appears by clear and convincing evidence that the numerical accuracy of the Election results cannot be accurately determined to declare a clear winner with sufficient accuracy or that the error found in a said election is so manifest and substantial that the error in and of itself destroys the integrity of the election.

[History: PUBLIC LAW No. SF-85-84, August 23, 1985, approved by the General Council as per Article VI, Section 2 of the Tribal Constitution (Sixth Amendment) by SF-GC-86-06, October 5, 1985.] [Amendment by Governing Council SF-GC-97-04, May 31, 1997.]

Section 805. 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 Board Chairman, or the Chairman's designated representative within five (5) days after the election. Such request must be accompanied by a non-refundable cashier's check of two-hundred dollars (\$200.00) made payable to the Sac and Fox Nation. Said check shall be forwarded to the Tribal Secretary-Treasurer to be credited against the cost of the recount. The Election Board shall meet and decide within ten (10) days of receipt of the notice whether or not the reasons listed in the request are sufficient to cause a

recount of ballots.

[History: PUBLIC LAW No. SF-85-84, August 23, 1985, approved by the General Council as per Article VI, Section 2 of the Tribal Constitution (Sixth Amendment) by SF-GC-86-06, October 5, 1985.] [Amendment by Governing Council SF-GC-97-04, May 31, 1997.]

Section 806. Finality

The declaration of election results which is uncontested, or the declaration of the election results following an election contest provided for herein shall be final.

[History: PUBLIC LAW No. SF-85-84, August 23, 1985, approved by the General Council as per Article VI, Section 2 of the Tribal Constitution (Sixth Amendment) by SF-GC-86-06, October 5, 1985.] [Amendment by Governing Council SF-GC-97-04, May 31, 1997.]