

**TITLE IX  
ELECTIONS**

**CHAPTER 1  
GENERAL PROVISIONS**

**Section 9-1-1. Authority.** This Title is hereby established in accordance with Article VII, Section 1, Article VIII, Section 2, and Article V, Section 1(k) of the Constitution of the Ponca Tribe of Nebraska.

**Section 9-1-2. Purpose.** The purpose of this Title is to establish procedures for efficient, fair and honest elections and to ensure the secrecy and sanctity of the ballot. The regulations and procedures provided herein shall be administered in such a way as to accomplish this purpose and intent.

**Section 9-1-3. Applicability & Construction.**

1. This Title applies to all elections, including but not limited to, Tribal Council elections; filling Tribal Council vacancies; petitions and elections, referendum, and initiative.

2. In case of dispute as to compliance with these regulations, substantial, rather than complete compliance shall be deemed adequate.

**Section 9-1-4. Definitions.**

1. "Ballot" includes a mail-in ballot, a fax ballot and an electronic ballot.

2. "Candidate" means a person whose name is on an official ballot to be voted upon for election to office.

3. "Consecutive term" means a term which follows in order without interruption and is successive.

4. "District Board" means a body appointed by the Election Board for a particular district to assist the Election Board in conducting elections in that district.

5. "Election" means any election whatsoever held under the laws of the Tribe.

6. "Election Board" means the body established herein to supervise all elections, verify petitions, and perform such other election related duties set forth in the laws of the Tribe.

7. "Eligible voter" means a member who has reached the age of eighteen (18) or older on or before election day.

8. "Enrollment Specialist" means the Tribal official whose duty it is to verify enrollment in the Tribe.

9. "Enrollment Department" means the Tribal agency whose duty it is to oversee enrollment in the Tribe.

10. "Electronic ballot" means an official ballot of a Ponca Tribal election which may be returned to the Election Board via email as provided herein.

11. "Fax ballot" means an official ballot of a Ponca Tribal election which may be returned to the Election Board via facsimile as provided herein.

12. "General election" means the election which shall be held on the first Tuesday of November in even-numbered years, as outlined in Article VII of the Constitution.

13. "Immediate Family" means mother, father, grandparent, child, grandchild, brother, sister, spouse, domestic partner, or individuals residing in the same household, including half, step and in-law relations.

14. "Inactive voter" means a voter who has been mailed an invalid address confirmation notice in accordance with this title because an invalid address notice was received from the post office; and who has either failed to respond or has failed to vote in any election conducted after the mailing of the confirmation notice. These individuals may reactivate their status by contacting the Election Registrar. Inactive voters will not receive a ballot unless they reactivate their status according to 9-3-5 of this Title.

15. "Invalid ballot" means a ballot which is:

- a. Forged;
- b. Fraudulent;
- c. Fraudulently obtained;

- d. Cast by an ineligible voter;
- e. Not returned in the proper return identification envelope;
- f. Opened or otherwise tampered with;
- g. Not received by the last pickup of mail by the Election Board on the day of election;
- h. Returned in the proper return identification envelope, but without a proper signature; or
- i. Otherwise legally invalid.

16. "Mail-in ballot" means the official ballot of a Ponca Tribal election mailed to registered voters by first class, non-forwardable mail and which may be returned to the Election Board through the United States Postal Service or other delivery service prior to the closing of the polls.

17. "Majority" means one more than one half of the votes cast for a particular office, measure, or election.

18. "Malfeasance" means the commission of some act which is illegal or unlawful or an act which is wholly wrongful.

19. "Misfeasance" means the commission of some act which is lawful, but committed in an illegal or improper manner and includes wrong or improper conduct in public office.

20. "Observers" means individuals who desire to observe the election process pursuant to and in accordance with this Title.

21. "Poll book" means the book created by the Election Board for each election pursuant to this Title.

22. "Registrar" means the official responsible for receiving voter registration forms and preparing voter registration lists under this Title and shall be the Enrollment Specialist unless otherwise specified by the Election Board in accordance with this Title.

23. "Special election" means a duly called and authorized election other than a general election, including but not limited to recall elections and elections on referenda and initiatives.

24. "Registered voter" means one who is registered to vote in accordance with this Title.

25. "Spoiled ballot" means a ballot that:

- a. Has not been marked;
- b. Has been marked with more than one choice where only one choice is allowable;
- c. Is otherwise illegible;
- d. Contains a "write-in" candidate; or
- e. Where the voter's choice is not clear.

26. "Term" means the length of time during which a position is held or a person serves in a particular office or position.

27. "Voter registration list" means the list approved by the Election Board pursuant to this Title of registered voters eligible to vote in Tribal elections.

**Section 9-1-5. Voting Districts.** The voting districts of the Tribe shall be as follows:

1. District 1 shall be the area consisting of Antelope, Box Butte, Boyd, Brown, Cedar, Cherry, Dakota, Dawes, Dixon, Holt, Keya Paha, Knox, Rock, Sheridan and Sioux Counties of Nebraska; Allamakee, Bremer, Buena Vista, Butler, Calhoun, Cerro Gordo, Cherokee, Chickasaw, Clay, Clayton, Dickinson, Emmet, Fayette, Floyd, Franklin, Hancock, Howard, Humboldt, Ida, Kossuth, Lyon, Mitchell, Obrien, Osceola, Palo Alto, Plymouth, Pocahontas, Sac, Sioux, Webster, Winnebago, Winneshiek, Woodbury, Worth and Wright Counties of Iowa; and the States of Alabama, Connecticut, Delaware, Florida, Georgia, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Vermont, Virginia, Washington D.C., West Virginia, Wisconsin and all areas outside the United States of America;

2. District 2 shall be the area consisting of Burt, Cass, Douglas, Johnson, Nemaha, Otoe, Pawnee, Richardson, Sarpy and Washington Counties of Nebraska; Adair, Adams, Appanoose, Audubon, Benton, Black Hawk, Boone, Buchanan, Carroll, Cass, Cedar, Clarke,

Clinton, Crawford, Dallas, Davis, Decatur, Delaware, Des Moines, Dubuque, Fremont, Greene, Grundy, Guthrie, Hamilton, Hardin, Harrison, Henry, Iowa, Jackson, Jasper, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Lucas, Madison, Mahaska, Marion, Marshall, Mills, Monona, Monroe, Montgomery, Muscatine, Page, Polk, Pottawattamie, Poweshiek, Ringgold, Scott, Shelby, Story, Tama, Taylor, Union, Van Buren, Wapello, Warren, Washington and Wayne Counties of Iowa; the States of Arkansas, Illinois, Indiana, Kansas, Louisiana, Missouri and Texas;

3. District 3 shall be the area consisting of Adams, Buffalo, Butler, Chase, Clay, Dawson, Dundy, Fillmore, Franklin, Frontier, Furnas, Gage, Gosper, Hall, Hamilton, Harlan, Hayes, Hitchcock, Jefferson, Kearney, Keith, Lancaster, Lincoln, Nuckolls, Perkins, Phelps, Polk, Red Willow, Saline, Saunders, Seward, Thayer, Webster and York Counties of Nebraska; and the States of Arizona, California, Colorado, Montana, New Mexico, Oklahoma, Utah and Wyoming; and

4. District 4 shall be the area consisting of Arthur, Banner, Blaine, Boone, Cheyenne, Colfax, Cuming, Custer, Deuel, Dodge, Garden, Garfield, Grant, Greeley, Hooker, Howard, Kimball, Logan, Loup, Madison, McPherson, Merrick, Morrill, Nance, Pierce, Platte, Scottsbluff, Sherman, Stanton, Thomas, Thurston, Valley, Wayne and Wheeler Counties of Nebraska; and the States of Alaska, Hawaii, Idaho, Nevada, Oregon and Washington.

**Section 9-1-6. Prohibition on Power of Attorney.**

A power of attorney or other form of proxy is not valid for use by any individual in any procedure or transaction concerning elections, including voter registration, petition circulation or signature, voter registration cancellation, early ballot requests or voting another individual's ballot.

**Section 9-1-7. Amendments.**

1. Amendments to this Title shall only be made by majority vote of the Tribal Council. Any proposed amendment(s) to this Title shall be approved by the Tribal Council before the end of February of election year to ensure that the provisions contained herein shall be adhered to during the election process.

2. The Election Board may recommend amendments to this Title, but is not vested with the power to amend it.

**Section 9-1-8. Severability.** All previous resolutions, legislation, laws and acts taken by the Tribal Council which deal with any matter covered under this Title and which are inconsistent with this Title are void and of no further force and effect. If a court of competent jurisdiction should hold any part of this Title to be invalid, the remainder of the Title shall remain in full force and effect.

**Section 9-1-9. Ratification.** This Title shall be ratified and become effective upon its adoption by the Tribal Council.

## **CHAPTER 2 ELECTION BOARD**

**Section 9-2-1. Establishment.** In accordance with Article VII, Section 4 of the Constitution, an Election Board is hereby established.

**Section 9-2-2. Powers and Duties of Board.**

1. The power, authority and duties of the Election Board shall be as follows:

a. To designate dates of elections where such date is not otherwise specified in the laws of the Tribe;

b. To publish and post notice of all elections and ensure all notice requirements under this Title are met;

c. To prepare and secure official ballots to be used in all elections;

d. To see that the name of each person offering to vote is on the approved voter registration list;

e. To distribute one ballot to each eligible voter in accordance with this Title;

f. To prepare ballot boxes and secure them by lock at all times except when ballots are being counted;

g. To count and validate ballots and record the number of votes cast for each choice after the polls are closed;

h. To certify and post the results of all elections in writing and to notify the public and the Tribal Council;

i. To receive and certify petitions as provided in this Title;

j. To publish and post notice of all petition certifications;

k. To redistrict the voting districts of the Tribe when required pursuant to this Title;

l. To provide notices as required by and in accordance with this Title to all members entitled to receive notice under this Title;

m. To ensure all records of the Election Board are retained in a safe, secure, and pre-designated location within the Tribal government building in Niobrara, Nebraska;

n. To ensure that the requirements and procedures under this Title are carried out and enforced;

o. To report irregularities and nonperformance of duty and violations of this Title to appropriate officials;

p. To work with the Enrollment Department to accomplish the tasks listed; and

q. To otherwise conduct, manage, and supervise elections and perform such other duties as prescribed in this Title.

2. To ensure efficient, fair and honest elections and to ensure the secrecy and sanctity of the ballot, at the request of the Election Board, the Tribal Council may retain the services of an independent outside entity to assist the Election Board with its duties and responsibilities.

### **Section 9-2-3. Composition.**

1. The Election Board may consist of five (5) individuals, with four (4) members from each voting district and one (1) member at large. In the event not every voting district has an individual willing to serve, the Election Board may include two (2) members from the a single voting district.

2. The members of the Election Board shall all be appointed by the Tribal Council and the Election Board shall designate one of the members to be the Chairperson of the Election Board.

3. Tribal Members interested in serving on the Election Board must submit a letter of interest with a release of information for criminal background checks to the Tribal Council. The Tribal Council shall publish notice in the "Ponca Tribe Newsletter" and/or Tribal Web site, concerning vacancies on the Election Board and how Tribal Members can apply to fill said vacancies, including the deadline for application.

**Section 9-2-4. Qualifications.**

1. To be qualified to be appointed to the Election Board, a person shall:

- a. Be an enrolled member of the Tribe;
- b. Be a resident of the voting district from which they are appointed;
- c. Be eligible to vote in the election for which they will serve as an Election Board member; and
- d. If convicted of a felony, have completed his sentence requirements, including any parole, at least two (2) years prior to appointment.

2. No individual shall be permitted to sit as an Election Board member who:

- a. Has been convicted of a crime involving the theft of funds or property of the Tribe in any court of any jurisdiction regardless of any pardon or restoration of civil rights for said offense;
- b. Currently holds elective office in the Tribe;
- c. Is or plans to be a candidate in any election during his or her term; or
- d. Has an immediate family member who is currently a member of the Tribal Council, or who is or plans to be a candidate in any election during his or her term.

**Section 9-2-5. Election Board Records.**



1. The Election Board shall be responsible for the maintenance of the records of all elections, petitions for recall, petitions for initiative and referendum, petitions to amend the Constitution, and any other records related to the Election Board's duties and responsibilities under this Title.

2. The Election Board shall elect a Secretary to ensure that records of all Election Board activities are kept and all notice requirements are met.

3. Records of the Election Board shall be kept in a safe, secure, locked cabinet within the Tribal government building in Niobrara, Nebraska.

4. The following records shall be kept for all notices:

a. Names and addresses of persons to whom notices are mailed;

b. Date of mailing; and

c. A copy of each return registration request.

**Section 9-2-6. Quorum.** Three (3) members of the Election Board shall constitute a quorum for conducting business.

**Section 9-2-7. Term of Office.** The term of office for members of the Election Board shall be for four (4) years and expire on February 1, provided that the terms of one-half of the members, or one less than one-half if the number of members is odd, appointed to the first Election Board appointed after enactment of this Title shall be for two (2) years in order to establish staggered terms. Each member of the Election Board shall hold office until his or her successor has been appointed and has qualified.

**Section 9-2-8. Redistricting.**

1. The Enrollment Department shall notify the Election Board in writing whenever it determines that any one voting district has twenty percent (20%) or more eligible voters than any other voting district.

2. Within 180 days of the Enrollment Department's notification, the Election Board shall:

a. Provide notice to members of the Tribe of its intent to redistrict;

b. Receive comments and input from members of the Tribe on the proposed redistricting;

c. Redistrict the voting districts, with the assistance of the Enrollment Department, in a manner that equalizes the population amongst voting districts, taking consideration of comments and input of members of the Tribe as appropriate; and

d. Present the new proposed voting districts to the Tribal Council for final approval through amending this Title appropriately.

3. The proposed redistricting by the Election Board shall not be considered a final decision, action or order of the Election Board and shall not be subject to judicial review in any court or tribunal.

4. No redistricting shall be undertaken once an election process has begun.

**Section 9-2-9. District Boards.**

1. The Election Board may establish District Boards for each voting district to assist the Election Board in conducting elections consisting of at least two (2) members from the voting district and appointed by the Election Board.

2. The Election Board shall not establish any District Board until after candidates for office have been certified by the Election Board.

3. No individual shall be permitted to sit as a District Board member who:

a. Currently holds elective office in that voting district or is the immediate family member of an individual who currently holds elective office in that voting district; or

b. Is a candidate in that voting district for the upcoming election or is the immediate family member of a candidate in that voting district for the upcoming election.

4. The term of office for members of District Boards shall be only for the period of the election for which they are appointed to assist and shall automatically terminate upon the posting of election results.

5. It shall be the duty of the Election Board to conduct an orientation for all District Board members prior to the date of the election.

**Section 9-2-10. Compensation.** Members of the Election Board and District Boards shall be compensated at a rate set by the Tribal Council.

**Section 9-2-11. Resignation and Removal.**

1. Any member of the Election Board or any District Board may resign from his position by delivering a written resignation to the Tribal Council or, in the case of District Board members, the Election Board.

2. Any member of the Election Board or any District Board who becomes a candidate in any election shall immediately be deemed to have resigned.

3. The Tribal Council may, by majority vote, remove a member of the Election Board or any District Board only for any the following:

- a. Violating or permitting violation of this Title;
- b. Neglect of duty;
- c. Malfeasance or misfeasance in the handling of election procedures;
- d. Acceptance or solicitation of bribes;
- e. Unexcused absence from three (3) or more board meetings;
- f. Any crime committed against the Tribe which results in a conviction or admission of guilt;
- g. When an immediate family member holds elective office in the Tribe or becomes a candidate for office in the Tribe; or

h. Upon the happening of any event which would have made the member ineligible for appointment if the event had occurred prior to appointment.

**Section 9-2-12. Vacancies.**

1. In the event of a vacancy on the Election Board, whether by removal, resignation, or otherwise, the Tribal Council shall appoint a replacement to serve the remaining term of the Election Board member being replaced. In the event of an emergency vacancy, the Tribal Council may hold a special meeting to fill the vacancy.

2. In the event of a vacancy on a District Board, whether by removal, resignation, or otherwise, the Election Board shall appoint a replacement to serve the remaining term of the District Board member being replaced.

**Section 9-2-13. Judicial Review of Election Board Actions.**

1. The Tribal Court shall have exclusive, original subject matter jurisdiction over judicial review of final decisions, orders and actions of the Election Board in accordance with the provisions of, and where expressly permitted in, this Title.

2. Except where a different standard is set forth in this Title to review of a particular decision, order or action of the Election Board, the Tribal Court may affirm, reverse, modify or vacate and remand the decision, order or action of the Election Board, but shall affirm the decision, order or action unless the Tribal Court concludes that the decision, order or action is contrary to the laws of the Tribe.

3. Except as otherwise provided in this Title, the laws of the Tribe related to service of process and other procedure in actions before the Tribal Court shall apply to actions brought pursuant to this Title.

4. Except as otherwise expressly provided in this Title, in any suit brought pursuant to this Title, the Election Board shall be the named respondent and the petitioner shall not be required or permitted to name the Tribe, the Tribal Council, any other officer or employee of the Tribe, or any individual member of the Election Board.

5. The Election Board shall not be permitted to claim any official or sovereign immunity in any action brought in the Tribal Court pursuant to this Title, provided that nothing herein shall

be read or construed to alter, affect, diminish, or waive any official or sovereign immunity of the Election Board with respect to:

a. Any claim or action other than judicial review of the Election Board's final decision, order, or action;

b. Any claim for damages, costs, or other monetary relief; or

c. Any claim regardless of its nature that is brought in any other court or tribunal other than the Tribal Court.

### **CHAPTER 3 VOTERS**

**Section 9-3-1. Eligibility.** An individual shall be eligible to register to vote if the individual:

1. Is a member of the Tribe;

2. Will have reached the age of eighteen (18) years of age or older on or before the date of the election next following his registration.

**Section 9-3-2. Time Limit for Registration.**

1. Subject to submitting a registration form in time for a particular election, an eligible individual who desires to vote may register at any time during the regular operating days and hours of the Tribe.

2. In order to vote in an upcoming election, an eligible individual must register to vote:

a. In the case of general elections, no later than the first Friday in September before the election; and

b. In the case of all other elections, no later than sixty (60) days before the election.

3. In the event an eligible individual does not register to vote in time for the upcoming election, the individual shall not be eligible to vote in the upcoming election. However, the registration shall take effect for the next following election without any requirement of re-registration except as otherwise required in this Title.

4. Individuals will not be permitted to register for a runoff election. Only previously registered voters can vote in a runoff election.

**Section 9-3-3. Designation of Registrar; Duties.**

1. The Enrollment Specialist shall be the official Registrar of the Tribe and shall be located at a Tribal Office in Niobrara, Nebraska to receive voter registration forms.

2. The Election Board may designate an alternate Registrar if:

a. The position of the Enrollment Specialist is vacant; or

b. The individual holding the position of Enrollment Specialist or a member of her immediate family is a candidate for office in the upcoming election.

3. The Registrar shall have the following duties and responsibilities:

a. Receiving all registration forms and verifying their validity; and

b. Preparing a voter registration list according to the registration books in accordance with this Chapter.

**Section 9-3-4. Registration Procedure.**

1. No later than 120 days prior to the deadline for registration, the Election Board shall mail registration forms to individuals who are eligible to register to vote under this Chapter and have not previously registered, including all new members of the Tribe who are now eligible to vote and inactive voters at their last known address. The Enrollment Department shall notify the Election Board of any members who were not previously eligible to register and are now eligible. The Election Board shall notify such individuals of their right to vote in the voter registration mailing.

2. The voter registration mailing shall include:

- a. Notification of the forthcoming election;
- b. The requirement of registration to vote;
- c. A blank registration form;
- d. The deadline for submitting registration forms to the Registrar; and
- e. A return envelope addressed to the Registrar.

3. Eligible individuals shall return their registration forms by mail or by personal delivery to the Registrar.

4. Upon receipt of a completed registration form, the Registrar shall:

- a. Mark the registration form to indicate the date received; and
- b. Verify the validity of the registration form with the assistance of the Enrollment Department.

**Section 9-3-5. Voter Registration Form.** All voter registration forms shall be embossed with the Ponca Tribe of Nebraska Seal and shall be in substantially the following form:

ENROLLMENT NUMBER \_\_\_\_\_  
 NAME: \_\_\_\_\_  
 ADDRESS: \_\_\_\_\_  
 \_\_\_\_\_  
 DATE OF BIRTH: \_\_\_\_\_  
 VOTING DISTRICT: \_\_\_\_\_

I, \_\_\_\_\_, hereby certify that I am a member of the Ponca Tribe of Nebraska, and that I am at least 18 years of age or will be 18 years of age on the date of the next election.

\_\_\_\_\_  
 Signature

\_\_\_\_\_  
 Date

Completion of and return of this Registration form is necessary if you desire to become qualified to vote in

the forthcoming election. This form must be received by the Election Board Registrar, in the case of a General Election, no later than the first Friday in September prior to the General Election and, in the case of all other elections, no later than sixty (60) days prior to the election. This form, upon completion and return to the Election Board Registrar, shall be the basis for determining whether you qualify to have your name placed upon the list of registered voters and to receive a ballot.

Completion of this form is voluntary.

**Section 9-3-6. Duration of Registration; Re-Registration.**

1. Once an individual has been certified as a registered voter, the certification shall remain in effect unless the voter:

- a. Changes address;
- b. Relinquishes his or her membership in the Tribe;
- c. Dies; or
- d. Becomes an inactive voter; or
- e. Otherwise becomes ineligible to vote.

2. If a registered voter changes voting districts, name or re-enrolls, he or she must re-register.

3. If a voter is an inactive voter, he or she must re-register.

4. If a registered voter moves within his or her voting district, the voter need not re-register, but must submit a change of address form to the Registrar before ballots are sent out.

**Section 9-3-7. Voter Registration List.**

1. After the deadline date for returning and receiving registration forms, the Registrar shall:

- a. Compile a voter registration list in alphabetical order by last name and arranged by voting districts;



b. Certify the accuracy and eligibility of the names placed thereon; and

c. Submit the voter registration list to the Election Board for review and approval or disapproval of individual names.

2. The Election Board shall:

a. Review and approve or disapprove all certified voter registration lists in accordance with this Section; and

b. Check the certified voter registration list from the Registrar according to voting districts with the registration books before the election process begins and again before balloting begins to ensure their accuracy.

3. The Election Board shall only disapprove a registered voter on a certified registration list if:

a. There is documented proof that the individual is not eligible to vote in accordance with the Constitution and this Title; or

b. The individual:

i. Is recorded as having an invalid address in accordance with Chapter 5 of this Title;

ii. Has not responded to the address confirmation notice mailed to him or her by the Election Board;

iii. Has not voted in any election of the Tribe conducted since the Election Board mailed the address confirmation notice to the individual; and

iv. Has not re-registered in accordance with this Chapter.

4. Individuals disapproved under paragraph (b) of subsection (3) of this Section shall be declared inactive voters and placed on a written list of inactive voters maintained by the Election Board.

5. If the Election Board disapproves an individual on a

certified registration list, the individual(s) shall be stricken from the voter registration list and a new voter registration list shall be established. The Election Board shall provide written notice to any individual stricken from the voter registration list within seven (7) days of the Election Board striking the individual from the list.

6. By September 30th of each General Election year or thirty (30) days before any other election, the Election Board shall:

a. Determine whether there are any members who were not previously eligible to register because of age or non-enrollment or who have moved or who are otherwise now eligible to vote;

b. Provide a copy of the final approved voter registration list to each District Board;

c. Post a copy of the final approved voter registration list at:

i. The headquarters of the local administrative unit of the Bureau of Indian Affairs;

ii. Each location of Tribal governmental offices; and

iii. At various other public places designated by the Election Board; and

d. Provide a copy of the final approved voter registration list to any candidate or voter who requests one.

#### **Section 9-3-8. Eligibility Disputed.**

1. Any individual who believes they are eligible to vote and received notice that they were stricken from the voter registration list or whose name does not appear on the final approved voter registration list may challenge their omission from the approved voter registration list by filing a written challenge with the Election Board which details the reasons the individual believes he or she should be included on the approved voter registration list.

2. Any registered voter may challenge the right of any other registered voter whose name appears on the final approved voter registration list by filing a written challenge with the Election

Board which details the reasons the challenger believes the registered voter is not qualified to vote.

3. Any challenge shall be limited to the qualifications enumerated in the Constitution and this Title and any other basis for the challenge shall not be considered. No challenge shall be allowed or accepted unless raised more than ten days prior to an election.

4. Upon receipt of any challenge under this Section, the Election Board shall promptly review the challenge and issue a decision within ten (10) days. The Election Board's decision shall be final and not subject to challenge or review.

**Section 9-3-9. General Voter Qualifications.**

1. No individual shall be eligible to vote in any election unless the individual:

a. Is a member of the Tribe;

b. Is eighteen (18) years of age or older on or before the date of the election;

c. Is registered to vote in accordance with this Chapter; and

d. Is not an inactive voter who has failed to re-register in accordance with this Chapter.

2. An individual continues to be an eligible voter until that individual's registration is canceled pursuant to this Chapter or until that individual is not otherwise eligible to register or to vote as provided in this Chapter.

**Section 9-3-10. Absentee Voter Qualifications.**

1. An individual shall be entitled to vote as an absentee voter in any election if the individual:

a. Is eligible to vote in accordance with Section 9-3-9 of this Chapter; and

b. Is temporarily absent from his or her voting district due to college attendance, military service, physical or mental disability, or incarceration.

2. An absentee voter shall vote within the voting district for which he or she was a resident prior to the temporary absence but only during the period of temporary absence.

#### **CHAPTER 4 PETITIONS**

**Section 9-4-1. Applicability.** The rules set out in this Chapter apply to the circulation, filing, and certification of any petition:

1. For recall of a member or officer of the Tribal Council;
2. For referendum;
3. For initiative;
4. To amend the Constitution;
5. For nomination of a candidate for office; and

6. Any other purpose for which formal petitioning of the government is permitted or authorized under the laws of the Tribe.

**Section 9-4-2. Exclusiveness.** Except where otherwise expressly provided by the laws of the Tribe, the provisions of this Chapter shall be the exclusive procedures for circulating, filing, and certifying petitions for recall of a member or officer of the Tribal Council, for referendum, for initiative, to amend the Constitution of the Tribe, for nomination of a candidate for Tribal Council or Chairperson, and any other purpose for which formal petitioning of the government is permitted or authorized under the laws of the Tribe. Failure to follow the rules and procedures set forth in this Chapter shall result in the declaring of the petition to be invalid.

**Section 9-4-3. 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 Chapter does not apply to the filed petition.

**Section 9-4-4. Content of Petition Sheets.** Every petition circulated pursuant to this Chapter shall contain the following on every petition sheet, in the order given:

1. A title of the subject of the petition, such as "petition to nominate," "petition for referendum," "petition for initiative," or "petition for recall;"

2. The name, mailing address, and phone number of the sponsor of the petition.

3. A description of no more than 100 words of the principle purpose of the petition, including the name of any individual member or officer of the Tribal Council subject of the petition if it is a petition for nomination or recall;

4. For referenda, initiatives, and amendments to the Constitution, a notice which states:

a. In the case of a referendum:

NOTICE: This is only a description of the action of the Tribal Council sought to be rejected or affirmed by referendum. It may not include every provision contained in the action of the Tribal Council sought to be rejected or affirmed. Before signing, make sure the text of the action of the Tribal Council or other appropriate complete description is attached. You have the right to read or examine the action of the Tribal Council involved before signing.

b. In the case of an initiative or amendment to the Constitution:

NOTICE: This is only a description of the proposed measure (or constitutional amendment) prepared by the sponsor of the measure. It may not include every provision contained in the measure. Before signing, make sure the title and text of the measure are attached. You have the right to read or examine the title and text before signing.

5. A direction to the appropriate officer or body, as follows:

a. In the case of a nomination for office:

To the Election Board:

We, the undersigned qualified voters of the Tribe, respectfully nominate \_\_\_\_\_ for the office of \_\_\_\_\_.

b. In the case of all other petitions, to the Tribal Council:

To the Tribal Council:

We, the undersigned qualified voters of the Tribe, respectfully demand \_\_\_\_\_.

6. The following acknowledgment for signatories:

I have personally signed this petition with my first and last names. I have not signed any other petition for the same action. I am a qualified voter of the Tribe.

7. Lines for signatures, which shall be numbered.

**Section 9-4-5. Attachments for Referenda and Initiative.** In the case of petitions for referenda, initiative, or to amend the Constitution, a petition sheet or group of petition sheets shall be attached at all times during circulation to a full and correct copy of the title and text of the measure or amendment subject of the petition. The title and text shall be in at least eight point type and, in the case of an amendment, shall include both the original and the amended text. The text shall indicate material deleted, if any, by printing the material with a line drawn through the center of the letters of the material and shall indicate material added or new material by printing the letters of the material in capital letters.

**Section 9-4-6. Single Matter.**

1. Any petition circulated, filed, or certified pursuant to this Chapter shall only request a referendum on one action of the Tribal Council, nomination of one candidate to office, or a recall of a single member or officer of the Tribal Council. If a qualified voter desires an action on more than one matter, the nomination of more than one candidate, or the recall of more than one member or officer of the Tribal Council, a separate petition must be circulated for each single action and each such nominee or member or officer of the Tribal Council.

2. A petition requesting an amendment to the Constitution or the enactment of a law by initiative may contain multiple matters and subjects to be presented as a single amendment or initiative or request amendment to more than one article, section, or clause of the Constitution.

**Section 9-4-7. Sponsor.**

1. Every petition circulated, filed, or certified pursuant to this Chapter shall have at least one sponsor, who shall:

- a. Be a member of the Tribe;
- b. Be eligible to vote in accordance with Chapter 3 of this Title; and
- c. Be responsible for ensuring that the rules provided in this Chapter are followed.

2. In the case of a petition for nomination to office, the sponsor shall be the candidate for office and/or a person who obtains signatures on behalf of the candidate.

3. All correspondence and communication with the Election Board shall take place with the sponsor(s).

4. A sponsor may circulate the petition he or she is sponsoring.

**Section 9-4-8. Circulators.** No person other than an individual who is eligible to register to vote pursuant to Chapter 3 of this Title may circulate a petition.

**Section 9-4-9. Signatures.**

1. Every eligible voter of the Tribe who is mentally competent may sign a petition upon any measure or action which he is legally entitled to vote upon.

2. Individuals must sign the entire petition and must be advised that they must be an eligible voter in order to sign. The name of each signer shall be printed first and then signed and dated. Each signature shall be in ink.

3. Except for signatures obtained by mail as authorized in this Chapter, every eligible voter signing a petition shall do so personally in the presence of the individual who is circulating the petition and who shall verify the signature. No person shall sign the name of another regardless of any permission given or competency of the person whose signature is sought to be signed by another. Any false signature shall be stricken from the petition.

**Section 9-4-10. Signatures Obtained by Mail.**

1. A sponsor of a petition may obtain the signature of an eligible voter who lives out of the territory of the Tribe by mail, provided that the signature is duly acknowledged by a notary and such notary acknowledgment is attached to the petition.

2. A signature obtained by mail shall appear on its own sheet with the notary acknowledgment and shall, by itself, constitute a single petition sheet.

3. The Election Board shall prescribe the proper form for petition signatures obtained by mail.

**Section 9-4-11. Form for Filing Petition.** All petitions filed shall:

1. Be in the form prescribed by this Chapter;
2. Be attached to a full and correct copy of the title and text of the measure, or amendment referred by the petition, if any; and
3. Be accompanied by the certifications required under this Chapter.

**Section 9-4-12. Filing of Petitions.**

1. Except as otherwise expressly provided by the laws of the Tribe, all petitions shall be filed by the sponsor(s) with the Election Board by tendering to it all petition sheets of the petition.

2. Upon filing of a petition, the Election Board shall immediately issue a receipt to the sponsor(s) filing the petition. Such receipt shall include an estimate of the purported number of petition sheets and signatures filed. A petition shall be deemed filed when the petition sheets are tendered to the Election Board and a receipt issued.

3. After the issuance of the receipt, no additional petition sheets may be accepted for filing.

**Section 9-4-13. Certification of Signatures.**

1. Except for signatures obtained by mail in accordance with the provisions of this Chapter, each petition submitted for



filing shall contain a statement of certification by the circulator that:

a. Each of the names was signed and the name printed in the presence of the eligible voter and the circulator on the date indicated;

b. In the belief of the circulator, each signer is an eligible voter of the Tribe;

c. At all times during circulation of the petition sheet, a copy of the title and text was attached to the petition sheet; and

d. To the best of the circulator's knowledge, no signature on the sheet was obtained by coercion, threat, intimidation, or in exchange for anything of value.

2. The certification required by this Section shall be made on a form prescribed by the Election Board and under oath or affirmation under penalty of perjury before a notary public.

3. If a petition submitted for filing contains signatures obtained by more than one circulator, each circulator shall complete the certification required by this Section for each petition sheet circulated by that circulator.

**Section 9-4-14. Action Upon Filing.** Upon the filing of a petition with it, the Election Board shall:

1. Within fifteen days, remove petition sheets as required or allowed pursuant to this Chapter;

2. Within thirty days, verify all of the signatures on a petition and determine with respect to each signature whether the signature is valid or invalid; and

3. Within thirty days, either certify or deny certification of the petition.

**Section 9-4-15. Removal of Petition Sheets.**

1. The Election Board shall remove the following petition sheets from a petition:

a. Those petition sheets not attached to a copy of the title and text of the measure, if any;

b. Those petition sheets not in a form substantially complying with the requirements of this Chapter;

c. Those petition sheets which are not accompanied by a signed and completed circulator's certification, or;

d. Those petition sheets which are accompanied by an affidavit of the circulator that is not notarized, where the notary's signature is missing, where the notary's commission expired prior to the date of notarizing, or the notary's seal is not affixed; and

e. Those petition sheets on which the signatures of the circulator or the notary are dated earlier than the dates on which the qualified voters signed the face of the petition sheet.

2. No petition sheet shall be removed from the petition except as provided in this Section.

#### **Section 9-4-16. Validity of Signatures.**

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

a. The individual was not an eligible voter on the date of signing the petition;

b. The individual was a registered voter but was not at least eighteen years of age on the date of signing the petition;

c. No date of signing is provided;

d. No signature is provided or the signer is unidentifiable;

e. The signature does not match the signature of the qualified voter on the affidavit of registration filed by the voter; or

f. The Election Board 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 by coercion, threat, intimidation, in exchange

for something of value, or otherwise in violation of this Chapter and sets forth facts which demonstrate the coercion, threat, intimidation, exchange or violation.

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

3. If a signature is valid, it shall be counted toward the total number of signatures on the petition. If a signature is not valid, it shall not be counted toward the total number of signatures on the petition.

**Section 9-4-17. Certification of Petitions.**

1. The Election Board shall certify any petition filed pursuant to this Chapter if it verifies that at least the minimum number of qualified voters required by the laws of the Tribe for the action demanded in the petition are present on the petition. Otherwise, the Election Board shall deny certification.

2. The Election Board shall provide notice of its certification or denial by posting notice thereof at each of the Tribal governmental offices, publishing the same in the Tribal newsletter, and mailing the same to the sponsor(s). Such notice shall include the following:

a. The number of signatures required for the action subject of the petition;

b. The number of petition sheets removed as required herein;

c. The number of total signatures remaining on the petition after any petition sheets were removed;

d. The number of signatures disqualified as provided herein;

e. The number of valid signatures on the petition; and

f. Notification that any qualified voter of the Tribe may view the results of counting and verifying the signatures on the petition.

3. If the Election Board does not certify the petition, it shall return the original petition sheets to the sponsor after the

time for any judicial review of the Election Board's decision has expired.

4. If the Election Board certifies a petition, it shall act on the petition as provided in the laws of the Tribe.

**Section 9-4-18. Judicial Review of Certification.**

1. If a person is aggrieved by the Election Board's decision as to certification of a petition, the person may challenge the decision by filing a petition requesting judicial review of the decision in the Tribal Court.

2. Judicial review of the Election Board's certification decision shall proceed in accordance with the following:

a. Unless another time is provided in this Title, the petition for judicial review shall be filed within ten (10) days of the date when the Election Board posts notice of its decision regarding certification;

b. The Tribal Court shall issue a final order on the petition for judicial review within fifteen days of the filing of the petition;

c. An appeal of the Tribal Court's order on the petition for judicial review shall be filed no later than five days after the date of the Tribal Court's order and the Court of Appeals shall decide the appeal with fifteen days of the filing of the notice of appeal;

d. The Tribal Court shall not accept any affidavit or other evidence from any signer claiming that the signer's signature was obtained by coercion, threat, intimidation, in exchange for something of value, or otherwise in violation of this Chapter unless such signer filed an affidavit with the Election Board asserting the same as provided in this Chapter prior to the Election Board's notice regarding certification;

e. The Tribal Court may not find that any signature is disqualified except for the reasons set forth in this Chapter; and

f. The Tribal Court may affirm, reverse, modify or vacate and remand the certification decision, but shall affirm the certification decision unless the Tribal Court concludes that the certification decision is contrary to the laws of the Tribe.

**Section 9-4-19. Suit to Compel Action.**

1. If the Election Board fails or refuses to allow a sponsor to file a petition or to take action on the certification of a filed petition within the time provided in this Chapter, the sponsor may bring an action against the Election Board in the Tribal Court to compel the Election Board to accept the petition for filing or act on the certification.

2. The Tribal Court shall dismiss any action brought under this Section that is filed before the time limits provided in this Chapter for the Election Board to act or is not filed by the sponsor of the petition.

3. If the Tribal Court determines that the Election Board 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 Chapter, the Tribal Court shall, within fifteen days of the filing of the original petition, order the Election Board to:

a. In the case of a failure or refusal to permit a petition to be filed, immediately accept the petition for filing and issue a receipt as provided herein;

b. In the case of a failure or refusal to take action on the certification of a filed petition, to take action on the certification within fifteen days of the order of the Tribal Court.

4. In the event the Election Board fails or refuses to comply with an order of the Tribal Court issued pursuant to this Section within fifteen days of its issuance, and the matter is not on appeal to the Court of Appeals, the Tribal 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 Election Board had acted on the certification itself.

**CHAPTER 5  
GENERAL ELECTION PROCEDURES**

**Section 9-5-1. Election Dates.**

1. In accordance with Article VII, Section 1 of the Constitution, general elections shall be held on the first Tuesday in the month of November of even numbered years.

2. The Election Board shall set the date of all other elections and provide notice thereof in accordance with this Title.

**Section 9-5-2. Manner of Voting.**

1. All elections shall be conducted by secret ballot.

2. Except for absentee voting, all voting in elections shall be by mail-in ballot.

**Section 9-5-3. Absentee Voting.** A person duly qualified as an absentee voter that is an active overseas deployed military member under Chapter 3 of this Title may vote by fax ballot or electronic ballot.

**Section 9-5-4. Poll Book.**

1. The Election Board shall create a poll book consisting of a simple ledger with bound and numbered pages for each election and shall be part of the official record for the election and secured in the same manner as counted valid ballots.

2. Information regarding all aspects of a particular election will be noted in the poll book for that election, including dates, times, and any untoward circumstances.

3. The Election Board members, District Board members, and any observers or visitors will sign in and out in the poll book. Anyone may write personal comments in the poll book.

**Section 9-5-5. Observers.**

1. The Election Board shall encourage observers throughout the election process.

2. The Election Board shall prepare and post a code of conduct for all observers.

3. The Election Board designate and set aside an observation area to allow adequate viewing of the election process, but not compromise the security of the ballots or any sensitive election related materials.

4. Observers may direct questions regarding the election process to the Election Board Chairperson.

5. Videoconferencing may be utilized, but is not required. Observers by videoconference may have a limited view.

**Section 9-5-6. Form of Ballots.**

1. The Election Board shall prepare and be responsible for all ballots throughout the election process.

2. In addition to any other requirements in this Title for ballots for a specific type of election, ballots shall:

a. Be prepared clearly and simply so it is easy for the voters to indicate a choice between candidates or for or against a recall, initiative, referendum, or other question presented to the voters;

b. Consist of a separate ballot for each vacant position which shall declare the position and the voting district (if applicable) and the names of each individual certified as a candidate for that office;

c. Be printed on different color of paper for each voting district and a different color of paper for Chairperson, with black ink; and

d. Be stamped in ink on its face and in the same place "Official Ballot."

3. If a printed ballot is defaced or ruined prior to the mailing, it shall be marked invalid by crossing through with an X in ink, its number and the type of ballot recorded and secured in an envelope marked "Invalid Printed Ballots."

4. After printing, the master copies of the ballot forms shall be marked through with an X in ink to render them invalid and secured with other voter sensitive materials.

5. The ballots and other election sensitive materials, including the invalid printed ballots and master ballot forms shall be secured in a locked box at all times during the election process when the Election Board is not present. The Election Board Chairperson or other Election Board member designated by the Chairperson shall have custody of the key to the box.

**Section 9-5-7. Ballot Instructions and Certification.** The following shall accompany each ballot or set of ballots for an election:

1. An inner envelope, bearing on the outside the words "Official Ballot" and in which the ballot may be inserted and sealed.

2. Instructions for completion of the ballot.

3. Notice concerning the deadline for returning and receiving ballots.

4. A certificate form containing the following language:

I, \_\_\_\_\_ (name of voter), hereby certify that I am a Member of the Ponca Tribe of Nebraska; that I have registered to vote in this election as required by Title IX of the Ponca Tribe of Nebraska Code and am entitled to vote in the election to be held \_\_\_\_\_ (date of election); and I further certify that I marked the enclosed ballot in secret.

Signed: \_\_\_\_\_ (voter's signature)

5. A return identification outer envelope in which the ballot in the inner "Official Ballot" envelope and the certificate shall be inserted. The voting district number of the voter will be marked on the outside on this envelope. This envelope will be pre-addressed to the Tribe at a post office box in Niobrara, Nebraska designated for ballots.

**Section 9-5-8. Mailing out Ballots.**

1. No later than thirty (30) days prior to an election, the Election Board or its designee shall send out by regular mail all ballot packets to all eligible voters on the approved voter registration list.

2. The Election Board shall make a record of all ballots mailed, to whom mailed, the date of mailing, and the address on the envelope.

**Section 9-5-9. Undeliverable Ballots.** In the event a mailed ballot is returned to the Election Board as undeliverable or as a result of an invalid address by the United States Postal Service



or other delivery service used by the Election Board to deliver the ballot, the Election Board shall:

1. Confirm the address used to mail the ballot by comparing it to the voter's registration information;

2. If the Election Board used the incorrect address, re-mailing the ballot in a method which will ensure receipt and return of the ballot by the voter before the polls are closed;

3. If the Election Board used the correct address, mailing an address confirmation notice to the voter which requests the voter to confirm his or her address with the Election Board in time to receive and return a ballot before the polls are closed; and

4. If the address confirmation notice is returned to the Election Board by the United States Postal Service or other delivery service used by the Election Board to deliver the notice or the voter fails to confirm his or her address before the polls are closed, the Election Board shall note the invalid address on the voter registration list or other list of voters maintained by the Election Board, provided that if the voter responds to the address confirmation notice after the polls are closed and prior to the next election of the Tribe, the Election Board shall remove the invalid address note.

#### **Section 9-5-10. Replacement Ballot.**

1. If a ballot is destroyed, defaced, lost or not received by the registered voter, the registered voter may obtain a replacement ballot from the Election Board by signing a statement verified on oath or affirmation on a form prescribed by the Election Board that the ballot was destroyed, defaced, lost or not received.

2. A request for a replacement ballot must be received by the Election Board at least ten (10) business days prior to the election.

3. After the Election Board receives a request for a replacement ballot with a statement meeting the requirements of this Section, the Election Board shall mail a replacement ballot to the registered voter at the address shown on the statement by express mail or other rapid delivery to ensure receipt and return of the replacement ballot before the polls are closed.

4. The Election Board shall keep a record of all requests for replacement ballots and all replacement ballots provided.

**Section 9-5-11. Ballot Boxes.**

1. All ballot boxes shall be constructed of substantial material and be equipped with two locks interlocked so one lock will not open the ballot box. Each box shall be equipped with an opening in the top through which a ballot may be inserted, but must be constructed in such a manner that the box must be unlocked before the ballots can be removed.

2. At all times, all keys to ballot boxes shall be secured by the Election Board at the Tribal government building in Niobrara, Nebraska.

**Section 9-5-12. Receiving Ballots.**

1. Except for authorized fax or electronic ballots, all ballots must be returned in the return identification envelope provided with the ballot.

2. The Election Board shall open a post office box at Niobrara, Nebraska for the receipt of voters' ballots by United States Mail. If necessary, the Election Board may retrieve ballot packets from the post office box periodically. In the event ballot packets are retrieved, the Election Board shall make a record of the postmark of each ballot packet and the time and date the ballot packet was retrieved from the post office box.

3. The Election Board shall also accept sealed ballot packets from courier delivery services at the Tribal government building in Niobrara, Nebraska. The Election Board shall make a record of all such ballot packets received by courier, from whom, and the date received.

4. The Election Board shall also accept absentee voter ballots from only qualified active overseas deployed military absentee voters received prior to the closing of the polls by:

a. Fax ballot received at a dedicated fax machine with a dedicated fax number; and

- b. Electronic ballot received at a designated email address.

The Election Board shall make a record of all such fax ballots and electronic ballots noting the method received, from whom, and the date received.

5. Except for spoiled ballots, all ballot packets retrieved from the post office box or received by courier shall be secured in secure, locked ballot boxes until the polls are closed. Fax ballots and electronic ballots shall be secured in a separate secure, locked ballot box for absentee voters only.

6. The Election Board shall refuse to accept or, if refusal is not possible, shall secure in a separate secure, locked ballot box marked "Invalid Ballots," with the key in the custody of the Election Board Chairperson, any ballot packet:

- a. Not returned in the return identification envelope;
- b. Opened; or
- c. Otherwise indicating tampering.

**Section 9-5-13. Poll Closing.** The election polls shall officially close upon the day of the election at the closing of business hours of the Niobrara, Nebraska Post Office.

**Section 9-5-14. Counting Ballots.**

1. The process for counting ballots shall include procedures that promote efficiency yet ensure honest and fair counting of the election results.

2. Only members of the Election Board and, if delegated the authority in accordance with this Section, District Boards shall be authorized to open ballot boxes. A majority of the Election Board or, if delegated the authority, the District Board shall be present when any ballot box is opened or ballots are counted.

3. Upon the closing of the polls, the Election Board shall:

- a. Gather mail-in ballot packets not yet retrieved from the post office box into secure, locked ballot boxes and make a record of the postmark of each ballot packet and the time and date the ballot packet was retrieved from the post office box;

b. Transport all ballot boxes, including any "Invalid Ballots" box, to the location where ballots shall be counted;

c. Unlock each ballot box, count the return identification envelopes, fax ballots and electronic ballots received and sort by voting district;

d. Throughout the counting process, keep envelopes, ballots and other election related materials in a secure area accessible to the Election Board or its designee only;

e. By voting district, open each envelope and review each fax ballot and electronic ballot;

f. Verify the name on the certificate of those who returned ballots against the names on the approved voter registration list;

g. If a voter's name and registration is valid, place the sealed ballots in marked separate containers, one for each voting district and one for the Chairperson;

h. Set any ballot and certificate aside in its return identification envelope with ballots from any "Invalid Ballots" box so it is not counted in the official tally if:

i. A voter's name is not on the voter registration list;

ii. The information on the certificate is not readable;

iii. The ballot was not returned in the proper return identification envelope;

iv. The proper return identification envelope is missing either the ballot or the certificate;

v. The ballot packet is already opened;

vi. The ballot packet otherwise indicates tampering; or

vii. Otherwise constituting an invalid ballot;

i. If the ballot envelope contains only one ballot when more ballots are allowable, the number of missing ballots should be noted to justify the counting process of valid ballots and the return identification envelopes; and

j. Count and record the number of valid returned ballots and the number of invalid ballots for each voting district, tally the count for all voting districts together and ensure the number equals the total return identification envelopes received plus the total fax ballots and electronic ballots received.

4. The Election Board shall count the ballots and place the results thereof on previously prepared tally sheets. The Election Board may delegate the authority to count ballots for a particular voting district to the District Board for that voting district, subject to the Election Board verifying and certifying the results. The Election Board shall count the ballots for any at large vote, including the Chairperson, but may delegate the authority to verify and certify the results to the members of all of the District Boards acting together.

5. The Election Board, or the District Boards if delegated to do so as authorized herein, shall conduct separate tallies of the valid ballots for each voting district election and for each at large vote in accordance with the following:

a. Set any spoiled ballot aside in a "Spoiled Ballots" box so it is not counted in the official tally.

b. Except for spoiled ballots, the Chairperson or other designee of the Election Board shall read aloud the name of the candidate or the for or against position selected on each ballot. Two (2) members of the Election Board or its designee shall record the votes cast on separate, previously prepared tally sheets for each voting district election and for the Chairperson. The tally numbers from each recorder must match and if they do not, the ballots shall be recounted.

c. The Election Board will tally and verify total number of votes cast for each voting district election. The number of votes cast, plus the number of spoiled ballots, must equal the number of valid returned ballots for each voting district.

d. The Election Board, unless the authority has been delegated to the District Board, will tally and verify the

total number of votes cast for any at large vote. The number of votes cast, plus the number of spoiled ballots, must equal the number of valid returned ballots for the at large vote and if they do not, the ballots will be recounted.

e. Any spoiled ballot shall be counted only for the purpose of determining whether the required number of voters have cast their votes. Any spoiled ballots will be counted only as a spoiled ballot.

6. The Election Board will prepare official information sheets to record all data as required in Sections 9-5-6, 9-5-8 and 9-5-10 to ensure the security of the ballots, and in this Section to ensure that the number of ballots cast is equal to the number of ballots returned minus those invalid ballots in the return identification envelopes and those cast but spoiled.

7. The Election Board may establish additional procedures to those in this Section provided that any such additional procedure shall be supplementary and in addition to the requirements of this Title and not in derogation thereof. In order for such additional procedures to apply to an election, the Election Board shall post such additional procedures at each location of Tribal governmental offices and the Tribe's website no later than thirty (30) days prior to the election to which such procedures shall apply.

**Section 9-5-15. Runoff Election to Break Ties.**

1. If the Election Board determines that three (3) or more candidates received the same number of votes and no candidate received more votes, resulting in a tie, the tie shall be broken by runoff election held within thirty (30) days following the election. Only the voters registered for the election shall be allowed to vote in the runoff election. The individual winning the runoff election shall succeed to the position. Should another tie occur, then this tie will be broken by a flip of the coin performed by the Chairperson of the Election Board.

2. If the Election Board determines that two (2) candidates received the same number of votes and no candidate received more votes, resulting in a tie, the tie shall be broken by a flip of the coin performed by the Chairperson of the Election Board.

**Section 9-5-16. Certification.**

1. The Election Board or its designee shall prepare election results sheets prior to the counting of the ballots. A separate sheet shall be prepared for each position subject to election and the names of each candidate for that position shall appear thereon. A separate sheet shall also be prepared for each ballot question subject to vote by recall, referendum, initiative or otherwise and the designations of "yes" and "no" or "for" and "against," as presented on the ballot.

2. The number of votes for each candidate or for or against each question shall be placed on the appropriate election results sheet and the winner of that position or question shall be noted on the top of that sheet. There shall also be a line for spoiled ballots which shall indicate the number of spoiled ballots for that candidate or question.

3. The members of the Election Board shall certify the results by their signatures and date at the bottom of each election results sheet.

**Section 9-5-17. Posting Results.** The results of all elections shall be released and posted in the most timely manner in all Tribal government offices by hand delivery, fax, electronic mail, or Internet and also posted on the Tribe's website. Notices of the election results shall also be mailed to all registered voters within ten (10) business days of the closing of the polls.

**Section 9-5-18. Records.** The Election Board shall ensure that the records of the results of each election and all ballots returned are properly secured and safeguarded in accordance with this Title. Records of elections shall be maintained for a period of at least eight (8) years from the date of the election.

**Section 9-5-19. Challenges to Election Results.**

1. Any eligible voter may challenge the results of an election of any person declared elected to an office of the Tribe or the results of a recall, referendum, initiative, or other question or proposal submitted to vote, upon any of the following grounds:

a. For misconduct on the part of the Election Board, a District Board, or any members thereof or on the part of any individual making or participating in the counting of votes;

b. That the person whose right to the office is contested was not at the time of the election eligible to the office;

c. That the person whose right is contested, or any person acting for him, has given to a voter, Election Board or District Board 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 violation of this Title;

d. On account of illegal votes;

e. That by reason of erroneous count of votes the person declared elected or the recall, referendum or initiative declared, or other question or proposal submitted, which has been declared carried, did not in fact receive the highest number of votes for the office or a sufficient number of votes to carry the recall, referendum, initiative or proposal;

2. An eligible voter may challenge the results of an election by filing a challenge with the Election Board within three (3) business days of posting the election results at Tribal government offices. The challenge shall be in writing, verified under oath or affirmation, and set forth:

a. The name and residence of the party contesting the election, and that he is an eligible voter;

b. The name and office of the person whose right to the office or whose recall is contested, or the title of the referendum, initiative or other question as it appeared upon the official ballot;

c. The particular grounds of the challenge as described in this Section, together with substantiating evidence.

3. The Election Board may summarily deny a challenge without a hearing if the filing does not indicate sufficient evidence to support the challenge or lacks grounds described in this Section. Otherwise, the Election Board shall hold a hearing within five (5) business days of the filing of the challenge to give the challenger an opportunity to present the grounds for their challenge and any substantiating evidence provided that the Election Board may extend the time for determining whether to



summarily deny a challenge or hold a hearing for up to ten (10) additional calendar days in order to validate the evidence.

4. If, in the opinion of the Election Board, the challenge is valid and the evidence and basis for the challenge warrants a recount or new election, the Election Board shall order a recount or new election.

5. In the case of a new election, the Election Board shall notify the affected candidate(s) that a new election shall be held within forty-five (45) business days after the Election Board issues the order for a new election. With the exception of the time in which the new election shall be held, all other election procedures prescribed herein shall apply to the new election, including challenges pursuant to this Section.

6. In the case of a recount, the Election Board shall notify the affected candidate(s) that a recount shall be held in five (5) working days. The results of the recount shall be the final order of the Election Board.

**Section 9-5-20. Judicial Review of Challenge.**

1. If a challenger or person whose right to office was contested in a challenge before the Election Board is aggrieved by a final order of the Election Board on recount or denying a recount or new election, the person may challenge the decision by filing a petition requesting judicial review of the final order in the Tribal Court.

2. Judicial review of the Election Board's final order shall proceed in accordance with the following:

a. The petition for judicial review shall be filed within three (3) business days of the issuance of the Election Board's final order;

b. The Tribal Court shall issue a final order on the petition for judicial review within five (5) days of the filing of the petition;

c. An appeal of the Tribal Court's order on the petition for judicial review shall be filed no later than five (5) days after the date of the Tribal Court's order and the Court of Appeals shall decide the appeal with ten (10) days of the filing of the notice of appeal; and

d. The Tribal Court may affirm, reverse, modify or vacate and remand the Election Board's final order, but shall affirm the final order unless the Tribal Court concludes that the final order is not justified based on the grounds for challenge to elections permitted in this Chapter.

## **CHAPTER 6 TRIBAL COUNCIL ELECTIONS**

**Section 9-6-1. General Election Date.** In accordance with Article VII, Section 1 of the Constitution, general elections shall be held on the first Tuesday in the month of November of even numbered years.

**Section 9-6-2. Qualification for Office.** In accordance with the Constitution, to be eligible to be a candidate for a position on the Tribal Council or Chairperson, a person must:

1. Be an enrolled member of the Tribe;
2. Be at least twenty-five (25) years of age;
3. Submit to a criminal background check and drug screening in accordance with this Chapter that returns a negative result;
4. Not have been convicted of any felony in any court of any jurisdiction unless pardoned and fully restored of his or her civil rights by the proper authorities prior to the election; and
5. Not have been convicted in any court of any jurisdiction of a crime involving the theft of Tribal funds or property regardless of any pardon or restoration of civil rights for said offense.

**Section 9-6-3. Nominating Procedures.**

1. To appear on an election ballot as a candidate for a position on the Tribal Council or Chairperson, an individual must:
  - a. Notify the Election Board in writing of his or her intent to run for office, identifying the position and voting district from which he or she intends to run and requesting a nominating petition;
  - b. Sign an appropriate release authorizing the Human Resources Department to conduct a criminal background check and a drug screening and for the Election Board to receive

the results of such criminal background check and drug screening;

c. Pay a non-refundable filing fee, in an amount set by the Election Board, at the time of picking up the nominating petition packet. The fee is for the criminal background check and the drug screening. Payment will need to be in the form of a cashier's check or money order made payable to the Ponca Tribe of Nebraska; and

d. Submit the nominating petition packet to the Election Board with the requisite amount of valid signatures prior to the deadline set for filing nominating petitions.

2. Candidates for a position on the Tribal Council must file a petition signed by at least twenty-five (25) individuals from the voting district the candidate intends to represent who are eligible to vote or register to vote as provided in this Title. Candidates for Chairperson must file a petition signed by at least fifty (50) individuals who are eligible to vote or register to vote as provided in this Title.

3. If an individual signs one nominating petition, it shall not prohibit that individual from signing another nominating petition for a different individual who is seeking to be nominated as a candidate for a position on the Tribal Council from the same voting district.

4. No individual shall be permitted to be a candidate for a position on the Tribal Council or Chairperson unless nominated by petition in accordance with this Title.

5. No individual shall be permitted to be a candidate for more than one position on the Tribal Council.

**Section 9-6-4. Submission of Nominating Petition Packets.**

1. Nominating petition packets shall be filed with the Election Board in accordance with Chapter 4 of this Title and this Section.

2. Nominating petition packets may be picked up beginning May 1st and no later than the last business day in May of each general election year.

3. Nominating petitions must be filed with the Election Board no later than the close of business on the last business day

in June of the general election year in which the candidate desires to appear on the ballot. If a nominating petition is not filed by this deadline, the proposed candidate shall not be eligible to be placed on the ballot.

4. The Election Board shall provide notice to all members of the deadline for submitting nominating petitions no later than March 1 of each general election year.

**Section 9-6-5. Certification Procedure for Review and Determination of Candidacy Qualification.**

1. Upon the filing of a nominating petition, the Election Board shall:

a. Certify or deny certification of the petition in accordance with Chapter 4 of this Section;

b. If the Election Board certifies the petition:

i. Direct the Human Resources Department of the Tribe to perform a criminal background check and drug screening of the nominee and submit the results of each to the Election Board in accordance with this Title, which the Human Resources Department shall do;

ii. Direct the Human Resource Department to notify the nominee of where the nominee should go and what time the nominee should appear to have the drug screening conducted; and

iii. After receipt of the results of the criminal background check and drug screening, review the background and eligibility of nominee to ensure he or she meets the qualifications for office set out in this Chapter; and

c. If the Election Board determines that the nominee meets the qualifications for office, certify the nominee as a candidate for office.

2. The results of the criminal background check and drug screening shall be submitted to the Election Board no later than the close of business on the last business day in June of the general election year in which the nominee desires to appear on the ballot. If the results of the criminal background check and drug screening are not submitted by this deadline, the nominee

shall not be eligible to be placed on the ballot unless the nominee can affirmatively demonstrate the results were late due to no fault of the nominee.

3. The Election Board shall notify the nominee in writing of its decision to certify or not certify the nominee as a candidate. If the Election Board denies certification of the nominee as a candidate, the written notice shall include the reasons for denial and the right to appeal as provided in this Chapter and be sent by certified mail.

4. The information obtained from the criminal background check and drug screening required herein shall be kept strictly confidential. Only the Election Board shall be permitted to view or access such information. The Election Board and Human Resources Department shall maintain the results and information from such criminal background check and drug screening with its other records for two (2) years.

**Section 9-6-6. Appeal of Denial of Certification.**

1. A nominee who has been denied certification as a candidate may appeal the denial as provided herein.

2. If the basis of denial of certification as a candidate is the denial of certification of the nominating petition, the appeal shall be handled in accordance with appeals of petition certifications in Chapter 4 of this Title, except that such appeal must be filed within three (3) business days of receipt of the notice of denial.

3. Any other basis for denial of certification as a candidate may be appealed by filing a written appeal with the Election Board within three (3) business days of receipt of the notice of denial. Such written appeal shall include substantiating evidence supporting the nominee's grounds for appeal. The Election Board shall immediately review the appeal and issue a decision based on the evidence provided and its own records. The decision of the Election Board shall be their final order subject to judicial review as provided in Chapter 2 of this Title.

**Section 9-6-7. Posting of Candidates.** Upon review and certification of candidates for office, the Election Board shall notify eligible voters by posting the candidates certified for office, including the office and/or voting district for which the candidate is running, at each Tribal government office and publication in the Tribal newsletter and the Tribe's website.

**Section 9-6-8. Tribal Council Elections.**

1. For members of the Tribal Council, only the registered voters in a voting district shall be entitled to vote for candidates of that voting district.

2. For the Chairperson, all registered voters shall be entitled to vote for the position.

**Section 9-6-9. Residency Requirements.**

1. In accordance with Article IV, Section 8 of the Constitution, any person elected to the Tribal Council must meet the residency requirements of this Section.

2. All Tribal Council members elected to the Tribal Council shall reside within 100 miles of the borders of the following areas according to the voting district from which they were elected:

a. District 1: Boyd, Knox, or Holt Counties in Nebraska, Woodbury County in Iowa; or Charles Mix County in South Dakota.

b. District 2: Douglas, Sarpy, or Burt Counties in Nebraska; or Pottawattamie County in Iowa.

c. District 3: Lancaster or Hall Counties in Nebraska.

d. District 4: Madison, Platte, Stanton or Wayne Counties in Nebraska.

3. The elected Chairperson shall reside within 100 miles of the headquarters of the Tribe or within any service area of the Tribe established by an act of the United States Congress.

4. Any person elected to the Tribal Council or as Chairperson who resides outside the applicable area for their office shall have ninety (90) days from the date of election to establish a residence as required in this Section. Failure of an elected official to meet the residence requirements set forth in this Section shall constitute forfeiture of office and the candidate in the election for that office who had the next highest vote total shall succeed to the office after compliance with the requirement of residency.

**Section 9-6-10. Installation of Candidates.** Successful candidates for a position on the Tribal Council and Chairperson

shall be sworn in and installed in office on the third Saturday in January at the Niobrara Headquarters. The Chairperson of the Election Board shall administer the oath of office.

**Section 9-6-11. Term Limits.**

1. No one shall serve on the Tribal Council, whether as a member or Chairperson, for more than two (2) consecutive terms. A person may serve two (2) consecutive terms, not run for office for a third term and run again in the next general election thereafter.

2. If a person remains in office on Tribal Council, whether as a member or Chairperson, for more than two (2) years from the date the individual is sworn in and installed in office, it shall constitute serving a full term for purposes of term limits.

**CHAPTER 7  
FILLING VACANCIES ON THE TRIBAL COUNCIL**

**Section 9-7-1. Applicability.** This Chapter applies to filling all vacancies on the Tribal Council regardless of the basis or cause for the vacancy.

**Section 9-7-2. Declaration of Vacancy.**

1. The Tribal Council may declare a position on the Tribal Council vacant if any member or officer of the Tribal Council shall:

- a. Die;
- b. Resign;
- c. Be removed by the Tribal Council;
- d. Be recalled by the members of the Tribe;
- e. Fail to attend three (3) consecutive Tribal Council meetings without just cause;
- f. Be convicted of a felony or misdemeanor in any court of competent jurisdiction involving dishonesty, moral turpitude or accepting bribes; or
- g. Otherwise have or cause their position to be vacant.

2. A minimum vote of two-thirds (2/3) of the full Tribal Council, excluding the individual or position being considered as vacant, shall be required to declare a position vacant.

**Section 9-7-3. Procedures for Filling Unexpired Terms.**

1. When the Tribal Council has declared a position on the Tribal Council vacant, it shall provide notice to the members of the Tribe in the Tribal newsletter, on the Tribal website and through any other reasonable means the Tribal Council deems appropriate.

2. Any individual interested in serving as the replacement member or officer of the Tribal Council shall notify the Tribal Council Secretary and include information necessary to demonstrate or determine the individual's qualifications for office under this Chapter and Chapter 6 of this Title and the Constitution.

3. The Tribal Council Secretary shall provide the Election Board with all notices from interested individuals. The Election Board shall review the background of every interested individual and determine whether the individual meets the qualifications to be a candidate for office set forth in this Chapter and Chapter 6 of this Title. The Election board shall certify or deny certification pursuant to Chapter 6 of this Title, including provisions governing notice and appeal.

4. The Election Board shall provide to the Tribal Council Secretary a final list of all interested members it certifies as candidates for appointment to fill the declared vacancy.

5. The Tribal Council shall appoint one of the certified candidates to the vacant position by a majority vote of the full Tribal Council, excluding the individual or position being considered as vacant. If a tie between two (2) candidates shall occur, the tie shall be broken by a flip of a coin.

**Section 9-7-4. Candidacy and Residency Requirements.** In addition to any other qualifications of candidacy required by the laws of the Tribe, an individual seeking appointment or appointed to fill a vacancy shall also, for a period of at least ninety (90) days prior to appointment:

1. In the case of a member of the Tribal Council, have resided within 100 miles of the borders of the voting district for which he or she will be or is appointed to serve as set forth in Chapter 6 of this Title; and



2. In the case of the office of Chairperson, have resided within 100 miles of the headquarters of the Tribe or within any service area of the Tribe established by an act of the United States Congress.

**Section 9-7-5. Term of Office for Appointee.**

1. Any individual appointed to fill a vacant seat on the Tribal Council shall serve only for the balance of the unexpired term being filled.

2. If the length of the unexpired term an appointed individual serves is more than two (2) years from the date the individual is sworn in and installed in office, it shall constitute serving a full term for purposes of term limits applicable to members and the Chairperson of the Tribal Council.

**CHAPTER 8  
RECALL ELECTIONS**

**Section 9-8-1. Recall from Office.**

1. In accordance with Article VIII, Section 1 of the Constitution, any person elected or appointed to the Tribal Council shall be subject to recall from office as provided in this Chapter.

2. More than one person may be recalled simultaneously in a single recall election, but a separate recall petition must be filed for each person whose recall is sought.

**Section 9-8-2. Petition for Recall.** Recall shall be initiated by petition in accordance with Chapter 4 of this Title, subject to the following:

1. In the case of an elected person, only eligible voters entitled to vote for the person subject of the petition at the time he or she was elected shall be allowed to sign the petition;

2. In the case of an appointed person, only eligible voters entitled to vote for the person originally elected to the position shall be allowed to sign the petition;

3. The petition must be signed by at least thirty percent (30%) of the eligible voters allowed to sign the petition;

4. The petition shall be filed with the Secretary of the Tribal Council who shall issue a receipt to the sponsor in accordance with the requirements of Chapter 4 of this Title;

5. The Secretary shall forward the recall petition to the Election Board within three (3) business days of filing for review and certification in accordance with and subject to the time limits of Chapter 4 of this Title;

6. The Secretary shall provide written notice of the filing of the recall petition to the person subject of the recall petition within three (3) business days of the filing;

7. The Election Board shall provide the Secretary with the results of its review and its certification decision;

8. The Secretary shall issue the certification decision of the Election Board as the decision of the Secretary and provide notice of the same in accordance with the requirements of Chapter 4 of this Title within forty-five (45) days of the submission of the petition to the Secretary;

9. In the event the Secretary fails to issue a certification decision within forty-five (45) days of the filing of the petition, the petition shall be deemed certified;

10. If the Secretary is the subject of the recall petition, the petition shall be filed directly with the Election Board and the Election Board shall issue and provide notice of its certification decision within the time provided in this Section; and

11. In any appeal of the certification decision on a recall petition, the Secretary may be named with the Election Board unless the Secretary is the official subject of the recall petition.

**Section 9-8-3. Calling of Election.** Within five (5) days of certification of a recall petition, the Election Board shall set a date for a recall election to be held no later than sixty (60) days from the date of certification, unless another election is already scheduled ninety (90) days or less from the date of certification and there is sufficient time to provide all notices and ballots within the time limits provided by the laws of the Tribe.

**Section 9-8-4. Notice of Election.** Prior to mailing ballots to eligible voters, the Election Board shall mail notice of the recall election to all eligible voters. The notice shall contain:

1. The date of the recall election;
2. The name and position of the official subject to the recall election;
3. Any statement against or in favor of the recall submitted by the sponsor of the recall petition or the official subject to the recall election and not found to be inappropriate by the Election Board;
4. Any statement against or in favor of the recall submitted by an eligible voter and approved as appropriate and informative by the Election Board, provided that the Election Board shall have the authority to limit the total number of such statements not from the sponsor of the recall petition or the official subject to the recall election to one in favor and one against; and
5. Notification that ballots will be mailed and must be returned by the date of the recall election.

**Section 9-8-5. Election Procedures.** Except as otherwise provided in this Chapter, the procedures applicable to all elections shall apply to recall elections and all eligible voters entitled to vote for the position subject to recall shall be entitled to vote in the recall election.

**Section 9-8-6. Number of Votes Required for Recall.** If a person subject to a recall election does not receive a majority of votes in favor of retaining the person in office, the person shall be deemed recalled and the Tribal Council shall declare the position vacant and fill the position in accordance with Chapter 7 of this Title.

## **CHAPTER 9 INITIATIVE AND REFERENDUM**

**Section 9-9-1. Referendum and Initiative.**

1. In accordance with Article IX, Section 1 of the Constitution, an action, other than a refusal or decision not to act, of the Tribal Council taken pursuant to its enumerated powers

may be referred to a vote of the eligible voters as provided in this Chapter.

2. In accordance with Article IX, Section 2 of the Constitution, a matter of concern to the Tribe not previously considered or acted on by the Tribal Council may be presented for vote of the eligible voters as provided in this Chapter.

**Section 9-9-2. Petition for Referendum or Initiative.** Referendum and initiative shall be initiated by petition in accordance with Chapter 4 of this Title, subject to the following:

1. The petition must be signed by at least forty-five percent (45%) of the total number of eligible voters in the last general election;

2. The petition shall be filed with the Chairperson of the Tribal Council who shall issue a receipt to the sponsor in accordance with the requirements of Chapter 4 of this Title;

3. The Chairperson shall forward the petition to the Election Board within three (3) business days of filing for review and certification in accordance with and subject to the time limits of Chapter 4 of this Title; and

4. If the Chairperson refuses to accept a petition for filing or fails or refuses to forward the petition to the Election Board, the sponsor may file the petition directly with the Election Board.

**Section 9-9-3. Calling of Election.** Within five (5) days of certification of a petition for referendum or initiative, the Election Board shall set a date for a special election to be held no later than sixty (60) days from the date of certification, unless another election is already scheduled ninety (90) days or less from the date of certification and there is sufficient time to provide all notices and ballots within the time limits provided by the laws of the Tribe.

**Section 9-9-4. Notice of Election.** Prior to mailing ballots to eligible voters, the Election Board shall mail notice of the special election to all eligible voters. The notice shall contain:

1. The date of the special election;

2. A short description or title of the referendum or initiative issue subject of the special election as it will appear on the ballot;

3. The full text of the referendum or initiative subject of the special election;

4. Any analysis or argument against or in favor of the referendum or initiative submitted by the sponsor of the petition or any eligible voter and approved as appropriate and informative by the Election Board, provided that the Election Board shall have the authority to limit the total number of such analyses or arguments to one in favor and one against;

5. Any analysis or argument against or in favor of the referendum or initiative submitted by the Tribal Council to the Election Board; and

6. Notification that ballots will be mailed and must be returned by the date of the special election.

**Section 9-9-5. Election Procedures.** Except as otherwise provided in this Chapter, the procedures applicable to all elections shall apply to referendum and initiative elections and all eligible voters shall be entitled to vote in the special election.

**Section 9-9-6. Number of Votes Required for Referendum or Initiative.**

1. A referendum or initiative shall pass only if:

a. At least thirty percent (30%) of the eligible voters cast a vote in the election for the referendum or initiative; and

b. A majority of the votes cast are in favor of the referendum or initiative.

2. All determinations of the sufficiency of the number of ballots cast shall be based upon the number of registered voters on the final approved voter registration list of the Election Board.

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