

TITLE 6 SHAWNEE TRIBE ELECTIONS ACT

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CHAPTER 1 GENERAL PROVISIONS

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§ 1. Purpose

This Title is adopted for the purpose of conducting all Shawnee Tribe elections and referenda, (e.g., for the positions of Chief, Second Chief, Secretary, Treasurer, seven (7) Business Council members, and the Judge(s) of the Shawnee Tribal Court, and votes regarding Constitutional amendments and all other matters brought before the votership of the Shawnee Tribe).

§ 2. Authority

This Title is enacted pursuant to Article XII, Section 1 of the Constitution of the Shawnee Tribe (hereafter, "Constitution").

§ 3. Tenure of Elected Officials

The tenure of the Chief, Second Chief, Secretary, Treasurer and the seven (7) other Business Council members shall be a term of four (4) years: the Business Council Seats shall be numbered one through seven and elected for a term of four years beginning on the third Saturday of September, except for vacancies that are filled in accordance with Article XII, Section 6 of the Constitution. The first and second Business Council Seats will be elected for a four-year term. The third and fourth Business Council Seats will be elected the following year for a four-year term. The fifth and sixth Business Council Seats will be elected the following year for a four-year term. The seventh Business Council Seat will be elected the following year for a four-year term.

§ 4-7. Reserved

CHAPTER 2 SUPERVISORY BODIES

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8. Tribal Election Committee
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§ 8. Tribal Election Committee

- A. There shall be a Tribal Election Committee composed of three (3) members, nominated by the Chief of the Shawnee Tribe and confirmed by the Business Council of the Shawnee Tribe. At least two of the three appointees shall be members of the Shawnee Tribe as of the date of their appointments. The Tribal Election Committee shall be responsible for all elections and votes conducted by the Shawnee Tribe and shall serve for a period of one (1) year, beginning on the day of their appointment. Said Tribal Election Committee shall be confirmed by the Business Council no later than 180 days prior to the third Saturday in September of each year. No elected official of the Shawnee Tribe or tribal employee shall serve on the Tribal Election Committee. No candidate or regular employee of a candidate running for office or a person who is related within the first degree by either consanguinity or affinity to a candidate running for office shall serve on the Tribal Election Committee. Any person nominated by the Chief and not confirmed by the Business Council must be replaced by another nominee and confirmed by the Business Council within 24 hours of the action of rejecting the initial nominee.
- B. The Tribal Election Committee shall elect a chairman from its own membership.
- C. It shall be the duty of the Tribal Election Committee to prepare official ballots.
- D. The Tribal Election Committee shall be responsible for the storage of and safekeeping of all ballots and allied documents after the close of the election.
- E. The Tribal Election Committee shall be empowered to develop regulations necessary to conduct tribal elections and other votes. The regulations shall be approved by the Council no later than the May monthly Business Council meeting of each year.
- F. The Tribal Election Committee shall have the following specific duties:
 - i. To ascertain that the name of each person offering to vote is on the official Shawnee Tribe Membership Roll, provided to the Tribal Election Committee by and certified by the Tribal Enrollment Administrator by said Administrator's dated signature on each page of the Roll. The date of the Enrollment Administrator's signature must not be more than seven (7) days prior to the date of the election or vote.
 - ii. To see that each voter signs or otherwise makes his or her official mark next to his or her name on the Shawnee Tribe Membership Roll. A

voter's official mark must be witnessed by the Chairman of the Tribal Election Committee and one other Tribal Election Committee member, who will both write their initials beside the voter's official mark.

- iii. To decide any challenge of the right of a person to vote.
 - iv. To keep the ballot boxes locked at all times except when the ballots are being counted.
 - v. To count the ballots cast. Counting may begin after 25 or more votes have been cast on the day of the election.
 - vi. To make and have all members of the Tribal Election Committee sign a consolidated return summarizing the counts for all elections and votes, and to immediately publicly post such signed consolidated return with a time posted affixed.
 - vii. To report the signed consolidated return of votes to the Tribal Chief.
 - viii. Upon certification of election return, vote totals and votes cast for each candidate shall be posted at the main entryway to all Shawnee Tribe's governmental buildings and shall remain posted for a period of thirty (30) days.
 - ix. Upon expiration of any contest or appeal period if no contest or appeal is taken, or upon a final decision of any contest or appeal, to certify such election and to submit the certified election return to the Shawnee Court Clerk, Shawnee Secretary and Shawnee Chief. The certified election return shall be permanently filed in the Tribal Office.
 - x. To see that spoiled and mutilated ballots are preserved in a separate sealed container in the Tribal office for a period of six months following the election to which the ballots pertain.
 - xi. To return all of the ballots cast to a separate storage container after the counting, to seal and mark said container with the location of the voting place and the date of election, and to see that said container is preserved in the Tribal office for a period of six months following the election to which the ballots pertain.
 - xii. To return all unused ballots to the Tribal Business Council immediately following the election.
 - xiii. To remain at all times within the confines of the voting place during voting hours. If it becomes necessary for any Tribal Election Committee member to leave the voting place, said member cannot return to the voting place.
- G. On the day immediately after the five (5) day period for filing an election contest expires or any contest or appeal is final, the Tribal Election Committee Chairman shall transmit a copy of the certified election of any final election results to the: Director, Eastern Oklahoma Regional Office, Bureau of Indian Affairs in Muskogee, Oklahoma; the Field Representative, Miami Field Office, Bureau of Indian Affairs, Miami, Oklahoma; the Director, Southern Plains Regional Office, Bureau of Indian Affairs in Anadarko, Oklahoma; and the Field Representative,

Horton Field Office, Bureau of Indian Affairs, Horton, Kansas. The certified election results shall list the names of all elected candidates and the offices to which they have been elected. The names of all candidates not involved in an unresolved recount or protest shall be so transmitted. Transmittal of the names of any remaining candidates shall be made following any pending recounts or resolution of any outstanding petitions of contest.

§ 9. Shawnee Court Clerk

The Shawnee Tribe Court Clerk may, upon request of the Tribal Election Board, assist in the Election Board in administrative matters in conducting an election such as storing Election Board records or equipment, and other strictly clerical tasks. Provided, the Court Clerk shall not make substantive decisions regarding Shawnee Elections which are to remain the obligation of the Election Board to fulfil.

§ 10-14. Reserved

**CHAPTER 3
QUALIFICATIONS AND REGISTRATION OF VOTERS**

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- 15. Eligibility to Vote Generally
- 16. Preparation of List of Qualified Voters
- 17-20. Reserved

§ 15. Eligibility to Vote Generally

All enrolled members of the Shawnee Tribe who are eighteen (18) years of age or older as of the date of the election and whose names appear on the Tribe's Membership Roll shall be entitled to vote in all elections and on all other matters brought before the votership of the Shawnee Tribe. No registration shall be required for voting purposes.

§ 16. Preparation of List of Qualified Voters

The Shawnee Tribe Enrollment Administrator shall prepare a copy of the official Shawnee Tribe Membership Roll, which shall reflect a complete listing of all enrolled members of the Shawnee Tribe as of the conclusion of the monthly Business Council meeting preceding the date of the election or vote, together with the members' birth dates. Said Membership Roll shall be certified as correct and complete by the following manner: each page shall be signed and dated by the Enrollment Administrator, the date not to be more than seven (7) days prior to the date of the election or vote.

§ 17-20. Reserved

CHAPTER 4 QUALIFICATIONS OF AND FILING BY CANDIDATES

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§ 21. Qualifications of Candidates for Elective Office – Generally

Each candidate who desires to run for an elective tribal office (i.e., Chief, Second Chief, Secretary, Treasurer, and other Business Council member) within the Shawnee Tribe shall meet the general qualifications provided in the Constitution of the Shawnee Tribe, particularly Article V, this Chapter of the Shawnee Tribe Elections Act, and any regulations developed by the Tribal Election Committee and approved by the Tribal Business Council.

§ 22. Qualifications for Chief

- A. The candidate for Chief shall be a member of the Shawnee Tribe, for one year prior to the beginning of the period for filing of candidacy, in accordance with the Constitution of the Shawnee Tribe, Article III.
- B. The candidate shall have been born within the boundaries of the United States of America, its territories, or possessions.
- C. The candidate shall have obtained the age of thirty (30) years at the time of the election.
- D. The candidate shall not have been convicted of a felony charge under the laws of the United States of America or of any state, territory, or possession thereof, unless such person has received a pardon.
- E. The candidate shall automatically be disqualified in the event that any false or misleading information is given in filing for this office.

§ 23. Qualifications for Second Chief

The qualifications for Second Chief shall be the same as those for the office of Chief.

§ 24. Qualifications for Secretary

The qualifications for Secretary shall be the same as those for the office of Chief.

§ 25. Qualifications for Treasurer

The qualifications for Treasurer shall be the same as those for the office of Chief.

§ 26. Qualifications for Business Council

The qualifications for Business Council members shall be the same as those for the office of Chief, except as stated, following: The candidate shall have obtained the age of twenty-five (25) years at the time of the election.

§ 27. Filing Fees Generally

A filing fee shall be charged each candidate filing for an elected office of the Shawnee Tribe. Such fees are to be paid at the time of filing for candidacy only. Cash or money orders, only, shall be accepted. The fees shall be as follows:

Office of the Chief	\$25
Office of the Second Chief	\$20
Office of the Secretary	\$20
Office of the Treasurer	\$20
Member Business Council	\$15

§ 28. Deadline for Filing for Candidacy

The filing date shall be the first Monday of June through the third Friday of June of the election year. The deadline for filing for an elected office of the Shawnee Tribe shall be publicized by the Tribal Election Committee in two newspapers of general circulation in northeastern Oklahoma within the thirty (30) days prior to the beginning of the filing date.

§ 29. Manner of Filing for Candidacy

The prospective candidate must submit a written statement of his/her intent to run for election and clearly state the elected position for which he/she is filing. The prospective candidate must include his or her name, address, phone, and roll number on the written statement. Mailed filings for candidacy must be postmarked between the first Monday of June and the third Friday of June and must be received by the third Friday of June. The address for mailed filings is: Shawnee Tribe Election Committee, P.O. Box 189, Miami, Oklahoma, 74355. Hand-delivered filings must be brought to the tribal office in Miami, Oklahoma, at 29 South Highway 69 A, between these same dates. All filings will be stamped with a received date in the tribal office and inspected for accuracy and completeness by the Election Committee Chairman.

§ 30. Voluntary Withdrawal of Candidacy and Refund of Filing Fees

Any candidate who wishes to withdraw from the election shall have the opportunity to do so by providing a formal written notice to the Tribal Election Committee within six (6) working

days after the deadline for filing, at which time the filing fee shall be refunded. Withdrawals must be mailed or hand-delivered to the Tribal office in Miami, Oklahoma. Hand-delivered and mailed withdrawals must be received within six (6) working days after the deadline for filing. No refund of filing fees shall be permitted after this six (6)-day deadline for withdrawal of candidacy. The decision of the Tribal Election Committee shall be final.

§ 31. Protest of Eligibility for Candidacy

Any tribal member eligible to vote shall have the right to protest the eligibility of any candidate to run for office. The protest must be received by the Tribal Election Committee within two (2) working days after the deadline for filing. Protests must be in writing and must clearly state the name of the tribal member protesting, the name of each candidate whose eligibility is being protested, and the reason(s) for the protest. Protests must be signed and dated by the tribal member protesting. Protests must be mailed or hand-delivered to the Tribal office in Miami, Oklahoma. Hand-delivered protests must be received within two (2) working days after the deadline for filing. Mailed protests must be postmarked within two (2) working days after the deadline for filing and must be received within four (4) working days after the deadline for filing. The decision of the Tribal Election Committee shall be final.

§ 32. Removal of Candidates by the Tribal Election Committee

In the event of a valid protest (pursuant to section 31 of this Chapter) or in the event that the Tribal Election Committee otherwise discovers that a candidate is ineligible to run for office, the Tribal Election Committee shall inform the ineligible candidate(s) by signature-verified, overnight courier delivery (e.g., Fed Ex, UPS, Express Mail) within one (1) working day of their finding(s) of ineligibility. The Tribal Election Committee will make every reasonable effort to identify ineligible candidates within four (4) working days following the deadline for filing, thus allowing for the return of the filing fee of the ineligible candidate(s). If any candidate is found to be ineligible following the period allowed for voluntary withdrawal of candidacy (pursuant to section 30 of this Chapter), then no filing fees will be returned to the ineligible candidate(s). The decision of the Tribal Election Committee shall be final.

§ 33-35. Reserved

CHAPTER 5 CONDUCT OF ELECTIONS

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- 36. Official Election Dates
- 37. Special Elections
- 38. Electioneering
- 39. Voting Places and Hours - Notice
- 39a. Run-Off
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- 40. Manner of Voting Generally
- 41. Voting by Persons with Physical Disabilities or Language Barriers
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§ 36. Official Election Dates

The following dates are the official dates pertaining to the elections of the Shawnee Tribe:

- A. The cut-off date for persons who become members of the Shawnee Tribe and qualify to vote shall be no later than the conclusion of the monthly Business Council meeting prior to the date of the election. A complete list of eligible members for voting purposes must be presented to the Tribal Election Committee on the day of the election or vote, prepared as discussed above in section 16 of Chapter 3.
- B. Filing of Candidates: Candidates may file for office from the first Monday of June through the third Friday of June of the election year, as addressed specifically above in sections 27-29 of Chapter 4.
- C. The election for tribal office shall be the third Saturday in September of each year.
- D. Swearing-In of Elected Officials: The swearing in of the tribal elected officials, i.e. Chief, Second Chief, Secretary, Treasurer, and other members of the Business Council, shall be at the October Business Council meeting following the election.

§ 37. Special Elections

Special elections may be called by the Business Council for purposes of filling a vacancy among the elected offices.

§ 38. Electioneering

No electioneering shall be permitted during the annual meeting at which an election is to be held. Each candidate may distribute a single sheet of paper, 11" x 8 ½" in size, with information on one side only, describing his or her qualifications. No other material may be distributed at the meeting regarding the candidacy of any person.

§ 39. Voting Places and Hours – Notice

The voting place shall be determined by the Business Council and access shall be provided to the Tribal Election Committee. The voting place shall be open during the hours from 8:00 a.m. to 11:00 a.m. on the day of the election. Proper notice of the election shall be given by the Tribal Election Committee, as follows: If the election falls during the annual meeting of a given year, it is the responsibility of the Secretary of the Shawnee Tribe to advertise the date, time, and place of the meeting in two (2) newspapers of general circulation; it shall be the responsibility of the Tribal Election Committee to be sure that the Secretary includes information

about the nature of the election and the election times in said advertisement. If the election falls outside the date of the annual meeting of a given year, it is the responsibility of the Tribal Election Committee to advertise the date, time, place, and nature of the election in two (2) newspapers of general circulation in northeastern Oklahoma.

§ 39.a. Run-off

A candidate must receive a plurality of the votes cast for an office (one more than the next most votes cast for any other candidate) in order to be elected. If two or more candidates shall tie for the top spot, then the Election Board shall declare a run-off election between the tied candidates. The run-off election shall be conducted the same day as the primary as soon as the results of the primary election are known with the run-off polls open until 4:00 p.m. The run-off election shall be conducted in accordance with the provisions of this Ordinance. If the run-off election results again in a tie for the top spot, the winner shall be determined from the tied candidates by a coin-flip or other method of drawing lots conducted by the Election Board in the presence of the candidates or the candidates' representative. The winner of the run-off shall be certified as soon as the results are known.

§ 39.b. Unopposed Candidates

Any candidate who is unopposed in any election shall be deemed to have been nominated or elected, as the case may be, and shall be declared the winner and not appear on the ballot at the election to which they were unopposed and shall be certified by the Election Committee in the same manner as allowed in the Shawnee Tribe Election Act.

§ 40. Manner of Voting Generally

- A. Voting shall be by secret ballot. All ballots must be cast in person.
- B. Except as otherwise provided, any eligible voter may vote by appearing at the prescribed voting place, announcing to the Tribal Election Committee his/her name, providing his/her address or other identifying information (e.g., a Shawnee Tribe membership card or state driver's license), signing his/her name or official mark on the Membership Roll, and by marking and placing in the ballot box the ballot which shall be handed to him/her.

§ 41. Voting by Persons with Physical Disabilities or Language Barriers

If a voter presents himself/herself and states that he/she, because of a physical disability or infirmity or language barrier, is unable to read or mark his/her ballot, the Chairman of the Tribal Election Committee shall recite to said voter the following oath:

"Do you solemnly swear or affirm that you are unable to mark and/or read (whichever the case may be) your ballot for voting because of (name the appropriate disability or condition)?"

Once a voter has been so sworn, he/she should be permitted to be assisted by any person of his/her choice in voting his/her ballot.

§ 42. Recounts

The Tribal Election Committee shall have the sole responsibility and explicit authority to conduct any recount. Only candidates for office may ask for a recount. A candidate requesting a recount shall petition the chairman of the Election Committee. A non-refundable fee of twenty-five dollars (\$25) shall be charged the candidate requesting the recount. The time limit for filing for a recount shall be from the first working day following the election and shall continue for five (5) working days.

The actual recount of ballots shall be conducted by the Tribal Election Committee. The recount shall be conducted at the Tribal Office or other appropriate facilities as determined by the Tribal Election Committee.

§ 43. Procedure for Election Contests Generally

In the event a candidate contests the results of an election by alleging fraud or any other irregularity, the Chairman of the Election Committee shall notify the Chief of the Business Committee of the allegations and shall notify the contesting party or parties of their rights under sections 44 and 45 of this chapter.

43.a. Contest Petition

A candidate or qualified voter contesting a Tribal election shall, within Five (5) business days after posting of the tally of the election and declaration of the results, shall deposit a \$100 dollar non-refundable filing fee (no checks accepted) with the Tribal Treasurer and file with the Election Board a statement in writing setting forth their particular grounds for the contest. The statement shall be verified by affidavit of the contestor(s) that they believe the matters and things therein contained are true. After the statement is filed the Election Board shall set a time for a hearing of the contest, no later than ten (10) calendar days after the date on which the statement of contest was filed. Written notice of such hearing shall be mailed or delivered to each candidate for the office contested. Any party to the election protest and the Election Board shall have the right to view the ballots and records in the presence of the Court Clerk in the Court Clerk's office. Any party to the protest shall be entitled to receive a photocopy of said documents certified as true and correct copies by the Tribal Secretary upon payment of the normal and customary charges. Said certified copies shall be received as evidence by the Election Board in like manner as an original. Alternatively, the Election Board, upon request of a party or on its own motion, may convene a hearing for any protested election at the Tribal Courthouse for the purpose of review of said election materials. After hearing the proofs and allegations of the contestants, the Election Board shall within seventy-two (72) hours of the hearing make their findings and shall pronounce their judgment either setting aside or confirming the election. Any harmless error in the Election process shall not be grounds for reversal of the Election results.

§44. Proceedings on Appeal Alleging Fraud

A. A contestee not satisfied with the findings and decision of the Election Board, may file

an appeal to the Shawnee Tribe District Court, Miami, Oklahoma within five (5) days of being notified of the decision of the Election Board. The Election Board shall be a named party defendant along with the person whose election is challenged. Any other candidates for that office may intervene. The individual Election Board members need not be made a party to such action. The appeal may be conditioned upon payment of a bond sufficient to cover any and all liabilities or judgments arising from the contest so filed.

- B. In the appeal, the contestant must allege that fraud occurred. He/she must further allege the specific act constituting such alleged fraud and the names of the alleged perpetrators of such fraud. In any case where fraud is proven on the part of a candidate, he/she shall be declared ineligible for the office for which he/she was a candidate. The Court on appeal of the Election Board's decision shall not conduct a trial de novo upon the election contest unless it appears from the record presented that the Election Board proceeding was so fundamentally flawed as to question the validity of the Election Board's determination. If it appears by clear and convincing evidence that the numerical accuracy of the Election results dictate a different result than announced or certified by the Election Board, cannot be accurately determined to declare a clear winner or that the error found in said election is so manifest and substantial that the error in and of itself destroys the integrity of the election the Court may order such remedy as it deems fit including but not limited to declaring the winner of the Election, remand to the Election Board for further proceedings in conformity with the Court's ruling or directing that another election be held.
- C. The Election Board or any candidate intervenor may file a response within ten (10) days of service of the appeal upon them. The Shawnee District Court shall set a hearing upon the appeal with 20 days of service of the Petition upon the Election Board. The District Court shall issue its decision(s) within ten (10) days of conclusion of any hearings on the Appeal.
- D. An appeal from the District Court's decision may be taken to the Shawnee Supreme Court within Five (5) business days of the District Court's decision. Such appeal shall be otherwise be subject to the Supreme Court's procedure except that it is allowed, as it see fit, to issue expediated deadlines for such appeal. All fees otherwise required for appeal to the Supreme Court must be complied with by all parties. The decision of the Supreme Court shall be final.
- E. Any times or deadlines contained herein for petition or appeal of an election dispute are mandatory and may not be waived.
- F. In all cases where an appeal is filed that alleges fraud but, after the hearing, said allegations are not reasonably sustained by competent evidence, the contestant shall be civilly liable in damages to the contestee for all damages sustained, including a reasonable attorney fee and all reasonable and proper costs of conducting such contest.

§ 45. Proceedings on Petitions Alleging Irregularities Other Than Fraud

A petition alleging irregularities other than fraud proceed in the same manner as listed in

Section 44 alleging Fraud. The petition must specifically allege a sufficient number of irregularities and of such nature to: prove that a contestant is lawfully entitled to be certified as a candidate, or to have his/her name appear on a runoff or other special ballot; or prove that it is impossible to determine with mathematical certainty which candidate is entitled to be certified as a candidate or to have his name appear on a runoff or other special ballot.

Section 46. Installment in Office

Successful candidates for office whose election results are uncontested or are not involved in a run-off election shall assume office immediately following the certification date or, if there has been delay due to election contests, run-off elections, special elections, or other cause, then after election results are certified as final.

§ 47-50. Reserved