

TITLE XXXIII
CHOCTAW TRIBAL ELECTION CODE

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CHAPTER 1. GENERAL PROVISIONS

§33-1-1 Authority

Pursuant to the authority vested in the Mississippi Band of Choctaw Indians by its Revised Constitution and Bylaws and particularly by Article VIII, Section 1(m) and Article V, Section 2, the Tribal Council of the Mississippi Band of Choctaw Indians hereby enacts this Code to establish rules and regulations to govern the conduct of all Tribal elections.

§33-1-2 Purpose

(1) This Code establishes binding rules, regulations, and procedures to govern the conduct of Tribal elections held:

- (A) To elect Tribal Council members and the Chief;
- (B) To fill any other election position or office with the Tribe or instrumentalities of the Tribe which is specifically designated by the Tribal Council to require an “official Tribal election”, and;
- (C) To determine the will of the Choctaw people on any issue, as called by the Tribal Chief, Tribal Council or any arm of the Tribal government.

(2) Elections held to decide any Tribal issue through a recall election, initiative, referendum or constitutional amendment shall be authorized, scheduled and conducted in accordance with the Revised Constitution and Bylaws of the Mississippi Band of Choctaw Indians, and applicable provisions of this Code.

§33-1-3 Definitions

For purposes of this Title, the following terms shall be defined as follows:

- (1) **“Ballot box”** shall mean the locked box or container issued and approved by the Tribal Election Committee in which ballots are inserted when votes are cast during an election.
- (2) **“Business Day”** shall mean any day of the week when the Tribal offices are open for regular business. For purposes of this Title, “business day” does not include Saturday, Sunday, and any federal or Tribal holiday.
- (3) **“Calendar Day”** shall mean any day of the week, including weekends and holidays.
- (4) **“Candidate Election Observer”** shall mean an enrolled MBCI member designated by a candidate to observe the conduct of an election at a polling place.
- (5) **“Community”** shall mean one of the eight (8) recognized Choctaw communities as further described in this Code and includes all land within the described exterior boundaries, whether on-reservation or off-reservation.

- (6) **“Electronic Voting Machine”** shall mean a voting machine that is part of a voting system designed for the sole purpose of scanning, recording and tabulating votes cast by voters at an election. Also referred to as “Voting Machine”.
- (7) **“LCEC”** shall mean Local Community Election Committee.
- (8) **“Poll book”** shall mean the official register of individual MBCI members entitled to vote at a polling place.
- (9) **“Polling place”** shall mean the physical location where votes are cast during an election. The Tribal Election Committee shall designate the polling places for Tribal elections for each of the eight (8) communities of the Mississippi Band of Choctaw Indians.
- (10) **“Poll watcher”** shall mean an enrolled MBCI member designated by the Tribal Election Committee to monitor the conduct of any Tribal election. Poll watchers are acting on behalf of the Tribal Election Committee and not on behalf of any candidate.
- (11) **“Residence”** shall mean the home or dwelling in which one physically lives. A person cannot have more than one permanent residence at the same time.
- (12) **“Reservation”** shall mean all land within the geographical boundaries of the reservation lands of the Mississippi Band of Choctaw Indians.
- (13) **“TEC” or “Committee”** shall mean Tribal Election Committee.
- (14) **“Voting System”** means the total combination of voting equipment, including voting machines, used to define ballots, cast and count votes, report or display election results, and maintain and produce any auditable data and the software, firmware, hardware, and documentation required to program, control and support such equipment.

CHAPTER 2. RESIDENCY

§33-2-1 The Choctaw Communities

(1) As specified in the Revised Constitution and Bylaws of the Mississippi Band of Choctaw Indians, Article IV, Section 2, the eight (8) recognized Choctaw communities are the Bogue Chitto Community, the Bogue Homa Community, the Conehatta Community, the Pearl River Community, the Red Water Community, the Standing Pine Community, the Tucker Community, and the Crystal Ridge Community.

(2) For purposes of this Code, the legal description of the geographical boundaries of the eight (8) recognized Choctaw communities shall be as defined below and as indicated on the map referenced as Exhibit “A” to this Code:

- (A) The Bogue Chitto Community shall include all members of the Mississippi Band of Choctaw Indians residing in Kemper County in its entirety and that part of Winston County lying and being situated south of a line beginning at the NW corner of Section 3 and ending at the NE corner of Section 2, all in T.12N, R.13E, Winston County, Mississippi, said line being approximately 10560 feet (2 miles) in length and in that portion of Neshoba County beginning at a point on the intersection of the Illinois Central Gulf Railroad Line with the northern-most border of Neshoba County; thence eastwardly with the meanderings of the Neshoba County line to the northwest corner of Neshoba County; thence southwardly along the Neshoba County line to a point on the intersection of the Neshoba County line and Mississippi Highway 16; thence westwardly with the meanderings of Mississippi Highway 16 to a point on the intersection of Mississippi Highway 16 and the Illinois Central Gulf Railroad Line; thence northwardly with the meanderings of the Illinois Central Gulf Railroad line to the point of beginning.
- (B) The Bogue Homa Community shall include all members of the Mississippi Band of Choctaw Indians residing in Jones County in its entirety.
- (C) The Conehatta Community shall include all members of the Mississippi Band of Choctaw Indians residing in Newton, Smith, and Scott counties in their entirety.
- (D) The Pearl River Community shall include all members of the Mississippi Band of Choctaw Indians residing in that portion of Neshoba County beginning at a point on the intersection of the Illinois Central Gulf Railroad line with the northern- most border of Neshoba County; thence southwardly with the meanderings of the Illinois Central Gulf Railroad line to a point on the intersection of said Illinois Central Gulf Railroad line with the southern-most border of Neshoba County; thence westwardly along the Neshoba County line to a point on the southwest corner of Neshoba County; thence northwardly along the Neshoba County line to a point on the northwest corner of Neshoba County; thence eastwardly along the Neshoba County line to the point of beginning.
- (E) The Red Water Community shall include all members of the Mississippi Band of Choctaw Indians residing in that portion of Leake County beginning at a point of the northeast corner of Leake County; thence southwardly along the Leake County line to a point on the intersection of the Leake County line with the center

line of the Pearl River; thence southwestwardly with the meanderings of the Pearl River to a point on the intersection of the western-most border of Leake County with the center line of the Pearl River; thence northwardly along the Leake County [line]; thence eastwardly along the Leake County line to the point of beginning.

- (F) The Standing Pine Community shall include all members of the Mississippi Band of Choctaw Indians residing in that portion of Leake County beginning at a point on the intersection of the eastern-most border of Leake County with the center line of the Pearl River; thence southwestwardly with the meanderings of the Pearl River to a point on the intersection of the western-most border of Leake County with the center line of the Pearl River; thence southwardly along the Leake County line to the southwest corner of Leake County; thence eastwardly along the Leake County line to the southeast corner of Leake County; thence northwardly along the Leake County line to the point of beginning.
- (G) The Tucker Community shall include all members of the Mississippi Band of Choctaw Indians residing in that portion of Neshoba County beginning at a point on the intersection of the eastern-most border of Neshoba County with Mississippi Highway 16; thence southwardly along the Neshoba County line to the southeast corner of Neshoba County; thence westwardly along the Neshoba County line to a point on the intersection of the Neshoba County line with the Illinois Central Gulf; thence northwardly with the meanderings of the Illinois Central Gulf Railroad line to a point on the intersection of said Illinois Central Gulf Railroad line with Mississippi Highway 16; thence eastwardly with the meanderings of Mississippi Highway 16 to the point of beginning.
- (H) The Crystal Ridge Community shall include all members of the Mississippi Band of Choctaw Indians residing in Noxubee County and Winston County in its entirety less and except that part of Winston County lying and being situated south of a line beginning at the NW corner of Section 3 and ending at the NE corner of Section 2, all in T.12N, R.13E, Winston County, Mississippi, said line being approximately 10560 feet (2 miles) in length.

(3) The geographical boundaries of the eight (8) Choctaw communities include all land within the exterior boundaries of those communities as described in this Section, whether on- reservation or off-reservation.

§33-2-2 Determination of Residency

- (1) For purposes of this Code, a person who maintains a residence in a particular community is a person who physically resides or lives in that community.
- (2) Residence at the Choctaw Residential Home or other residential nursing home facility is not considered an absence from the Community where the voter is registered.
- (3) Members of the Mississippi Band of Choctaw Indians who maintain a residence within the geographical boundaries of one of the Choctaw communities as identified and described

above for at least six (6) months prior to the date of the election may vote and/or run for office only from the community in which they reside.

(4) Members of the Mississippi Band of Choctaw Indians who do not maintain a residence within the geographical boundaries of one of the Choctaw communities as identified and described above are not eligible to run for an elective Tribal position or office to represent one of these communities.

(5) Any member of the Mississippi Band of Choctaw Indians who does not maintain a residence within the geographical boundaries of one of the Choctaw communities as identified and described above, may register to vote in Tribal elections in one and only one of the eight (8) Choctaw communities. Tribal members who reside in the Henning, Tennessee area may register to vote with, but not run for office from, the Bogue Chitto community and vote in-person at a voting place that may be established in the Henning area by the Tribal Election Committee. Tribal members who choose to register to vote in a particular Choctaw community as provided in this Section shall thereafter be considered voting members of that community, and cannot register to vote in another Choctaw community unless they should later change residence and move within the geographical boundaries of another of the Choctaw communities as identified and described above.

(6) Notwithstanding the provisions of this Section, elected or appointed Tribal officials serving terms of office as of the effective date of this Code shall continue to represent the Choctaw communities from which they have been elected (or appointed) for the duration of their current terms.

§33-2-3 Voter Residency Challenge

(1) Any registered voter in a community may challenge the validity of the residency of a person in that community, and the challenge must be considered and acted upon by the Tribal Election Committee prior to the scheduled election. This Section does not apply to any run-off election. The following procedures shall govern the voter residency challenge:

- (A) A challenge must be in writing and on a form provided by the Tribal Election Committee. The voter challenge form must be submitted to the Tribal Election Committee within ten (10) business days of the posting of the initial voters list.
- (B) The challenger should retain a copy of any challenges submitted. Challenges received after the deadline will not be considered.
- (C) The Tribal Election Committee must immediately notify the voter of the challenge regarding the validity of the voter's residency. The voter will be asked to provide such proof to rebut the residency challenge or show that they have changed their voter registration to another community.
- (D) The Tribal Election Committee must investigate each challenge submitted and issue a written statement of findings to the challenger and the challenged voter within ten (10) business days from the receipt of the written challenge. The decision of the Tribal Election Committee shall be final and not subject to further appeal.

(E) A voter residency challenge may only be made in accordance with this Section. Voter residency challenges are not permitted under any other provision of this Code.

(2) If the prospective voter does not meet the six (6) month residency requirement, the voter shall be allowed to vote in the community in which he last met the residency requirements.

(3) If, after the appropriate investigation, the TEC is unable to confirm a challenged voter resides in the community, and the challenged voter does not respond to rebut the residency challenge, the TEC may remove the voter from the voter list for the community for which the challenge was based. The voter will be required to register in the community where they show proof of residency.

CHAPTER 3. ELECTIONS

§33-3-1 Regular Tribal Election

- (1) There shall be an official regular Tribal election held throughout the eight (8) recognized Choctaw communities to choose members of the Tribal Council of the Mississippi Band of Choctaw Indians and the Tribal Chief of the Mississippi Band of Choctaw Indians. Beginning with the second Tuesday of June of 1975, a regular Tribal election shall be held in June of every odd-numbered year.
- (2) Pursuant to Section 9 of Article V of the Constitution, the term of office for the Tribal Chief shall be four (4) years and until a successor has been elected and seated.
- (3) Pursuant to Section 6 of Article V of the Constitution, the term of office for members of the Tribal Council shall be four (4) years and until their successors are duly elected and seated. The number of Tribal Council members to be elected to represent a given Choctaw community in a given election year, shall be as provided in the Revised Constitution and Bylaws of the Mississippi Band of Choctaw Indians, or amendments thereto.
- (4) Unless otherwise established by the Tribal Council, other Tribal elections as defined in this Code shall be scheduled to coincide with the regular Tribal Council election.

§33-3-2 Special Elections

Special elections are elections other than a regular Tribal election and may be set for the following purposes:

- (1) To fill vacancies in the Tribal Council or the Tribal Chief's Office. A special election for this purpose shall be held within sixty (60) days of the occurrence of the vacancy if more than one (1) year remains of the term of office for the Tribal Council member or Tribal Chief whose office has been vacated.
- (2) For a run-off election between candidates in a regular Tribal election for Tribal Chief or Tribal Council. Due to the short timeframe for a run-off election, there will be no new voter registrations and no voter residency challenge options available. Absentee ballot requests for a run-off election may be made in accordance with Section 33-7-6(10) of this Code. In the event a run-off election is necessary, the run-off election shall be held within thirty (30) calendar days of the initial election, unless a properly perfected election appeal under Chapter 10 is pending. In such a case, the run-off election, if still necessary, will be conducted within thirty (30) calendar days of a final ruling by the Tribal Election Committee or by the Choctaw Supreme Court.
- (3) For a recall election. The rules and procedures for a recall election are governed by Section 33-3-3 of this Code.

(4) For a referendum election held to determine the will of the Choctaw People. The rules and procedures for a referendum election are governed by Section 33-3-4 of this Code.

(5) For a referendum and initiative election under Article XI of the Revised Constitution. The rules and procedures for a referendum and initiative election are governed by Chapter 11 of this Code.

(6) To fill vacancies in the Tribal Council or the Tribal Chief's Office after an election for a particular office has been voided by either the Tribal Election Committee or the Choctaw Supreme Court under the election appeal provisions in Chapter 10 of this Code. All rules and procedures applicable to a regular Tribal election apply to a special election set for this purpose. The election to be held after a voided election shall only be for the particular office(s) that was the subject of the election appeal.

§33-3-3 Recall Elections

(1) Pursuant to Article VI, Sec. 7 of the Revised Constitution and By-Laws of the Mississippi Band of Choctaw Indians, a recall election shall be held when a sufficient number of voters in one of the eight (8) recognized Choctaw communities submit a petition for a recall of a Tribal council member elected by that community. Pursuant to Article VI, Section 9 of the Revised Constitution and By-Laws of the Mississippi Band of Choctaw Indians, a recall election shall be held when a sufficient number of voters in the Tribe submit a petition for a recall of the Tribal Chief.

(2) In order to initiate a recall election, the following requirements must be met:

(A) A petition seeking a recall election of a Tribal Council member or the Tribal Chief must be submitted at least six months prior to the expiration of the term of the Tribal Council member or the Tribal Chief. No recall election will be held if there is less than six months remaining in the term of the Tribal Council member or the Tribal Chief at the time a recall petition is submitted.

(B) A recall petition form must be requested from the Tribal Election Committee, and the date the petition form is issued by the Tribal Election Committee must be included on the form. Requestors may make copies of the recall petition form as needed to accommodate the required number of signatures, provided that all completed recall petition forms must have the issuance date. Only the officially issued recall petition form or true copies of that form will be accepted by the Tribal Election Committee.

(C) Along with the recall petition form, the Tribal Election Committee shall provide the requesting party with a list of registered voters from that community, or all registered Tribal voters in the case of a recall for the Tribal Chief.

(D) The Tribal Election Committee shall determine the number of signatures of eligible voters that are needed to meet the minimum 40% percent of eligible voters' signatures required by Article VI, Sec. 7 or Sec. 9 of the MBCI Constitution. The Tribal Election Committee shall then provide the requesting party with this information. "Eligible voters" shall mean all of the registered voters in that community at the time the recall petition is initiated. It does not mean only those

- voters who voted in the last election.
- (E) The Tribal Election Committee shall notify either the Chief or the Tribal Council member who is the intended subject of the recall within two (2) business days of providing the blank recall petition form.
 - (F) Parties seeking to initiate a recall election shall have twenty-five (25) business days from the issuance date shown on the recall petition form to gather the requisite number of signatures and file the completed recall petition forms. Completed recall petition forms received after the deadline will not be accepted.
 - (G) Completed recall petition forms must contain all of the required information, including the requisite number of signatures of eligible voters from that community and the reason for seeking a recall of the Tribal Council member or the Tribal Chief.
 - (H) Completed recall petitions for the recall of a Tribal Council member shall be filed with the Tribal Chief, or their designated representative. The Tribal Chief, or their designated representative, shall stamp each petition page showing the date received. Within two (2) business days of receipt of the completed recall petitions, the Tribal Chief shall notify the Tribal Election Committee of the receipt of the recall petitions and shall forward the petitions to the Tribal Election Committee for review and certification. The Tribal Chief shall also give written notice to the Tribal Council member who is the subject of the proposed recall, with a copy to the entire Tribal Council, that recall petitions have been received by the Tribal Chief and that such petitions will be forwarded to the Tribal Election Committee for review and certification.
 - (I) Completed recall petitions for the recall of the Tribal Chief shall be filed with the Tribal Council Committee System Coordinator as the designated representative of the Tribal Council. The Tribal Council Committee System Coordinator shall stamp each petition page showing the date received. Within two (2) business days of receipt of the completed recall petitions, the Tribal Council Committee System Coordinator shall notify the Tribal Election Committee of the receipt of the recall petitions and shall forward the petitions to the Tribal Election Committee for review and certification. The Tribal Council Committee System Coordinator shall also give written notice to the Tribal Chief who is the subject of the proposed recall, with a copy to the entire Tribal Council, that recall petitions have been received by the Tribal Council and that such petitions will be forwarded to the Tribal Election Committee for review and certification.
 - (J) Within five (5) business days of receipt of the completed recall petitions from either the Tribal Chief's Office or the Tribal Council Committee System Coordinator, the Tribal Election Committee shall review and verify that the petitions contain the required number of signatures to meet the requisite 40% of eligible voters required to initiate a recall election, and shall verify that the eligible voters' signatures and information contained on the petitions are valid.
 - (K) If the Tribal Election Committee determines that there is an insufficient number of valid signatures of eligible voters to meet the 40% of eligible voters requirement, the Tribal Election Committee shall notify the requesting party of the deficiency. If the deadline for submission of petitions has not passed at the time the Tribal Election Committee issues its decisions, the requesting party shall be allowed to collect such other voter signatures as needed to meet the required percentage and

turn in the additional signatures by the deadline. If the submission deadline has passed at the time the Tribal Election Committee issues its decision, the requesting party shall not be allowed to submit additional signatures and the Tribal Election Committee shall treat the submitted petitions as not meeting the required number of signatures and shall not take further action on the recall matter.

- (L) If the 40% of eligible voters requirement is satisfied, the Tribal Election Committee shall issue a certification that the completed petitions meet the requirements necessary under Article VI, Sec. 7 or Sec. 9 of the Constitution and By-Laws to initiate a recall election. The Tribal Election Committee's certification shall be sent to the Tribal Council, along with a copy to the requesting party and the Tribal Chief or Tribal Council member who is the subject of the proposed recall. The Tribal Council shall then call a special election on the issue of the recall of the identified Tribal Council member or the Tribal Chief to be held within sixty (60) calendar days.

(3) At least 60% of the persons eligible to vote in the election must participate in the recall election, and a majority of those voting in that recall election must vote to recall the Tribal Council member or the Tribal Chief in order for the Tribal Council member or the Tribal Chief to be recalled.

(4) If the results of the recall election are to recall the Tribal Council member, then the vacancy shall be filled in accordance with Article VI, Sections 1 and 2 of the Revised Constitution and By-Laws of the Mississippi Band of Choctaw Indians, which calls for appointment by the Tribal Chief if there is less than one (1) year remaining in the Tribal Council member's term, or a special election if there is more than one (1) year remaining in the term.

(5) If the results of the recall election are to recall the Tribal Chief, then the vacancy shall be filled in accordance with Article VI, Sections 3 and 4 of the Revised Constitution and By-Laws of the Mississippi Band of Choctaw Indians, which calls for the vice-chief of the Tribal Council to automatically fill the position of Tribal Chief if there is less than one (1) year remaining in the term of the Tribal Chief, or a special election if there is more than one (1) year remaining in the term of the Tribal Chief.

(6) A special election to fill a vacancy created by a recall election shall be conducted by the Tribal Election Committee in accordance with this Code.

§33-3-4 Referendum Elections Held to Determine the Will of the Choctaw People

(1) A referendum may be called by the Tribal Chief, Tribal Council, or any arm of the Tribal government (Housing Authority, etc.) at any time that that arm of the Tribal government shall determine that an issue is of sufficient importance that no informal method shall be sufficient for such a determination of the will of the Choctaw people.

(2) All applicable sections of this Code shall govern the conduct of such a referendum with the exception of the specific instructions in Section 33-3-4(3).

- (3) For such a referendum, the following special provisions shall apply:
 - (A) The results of such a referendum shall be considered official if 40% of the registered voters eligible to vote in that election shall have voted.
 - (B) A proposition brought before the Choctaw people in such a referendum shall be held to have been approved if a majority of the voters vote affirmatively.

- (4) In special situations in which the arm of the Tribal government requesting such a referendum shall determine that only a portion of the total number of Tribal members eligible to vote are to be affected by the decision, and therefore should be allowed to vote, their determination shall be followed if and only if:
 - (A) The Tribal Council shall agree to the determination of the arm of government in a formal vote.
 - (B) All such restrictions on voting shall be clearly defined and communicated to the Choctaw people in all official announcements of the election.

CHAPTER 4. ELECTION COMMITTEES

§33-4-1 Tribal Election Committee

A Tribal Election Committee composed of three (3) enrolled Tribal members is hereby established as an independent Tribal entity to conduct all Tribal elections in accordance with this Code. No Tribal Election Committee member shall hold elective Tribal office during his or her tenure as a member of the Tribal Election Committee. The following provisions shall govern the process for determining the composition of the Tribal Election Committee:

- (1) Each Tribal Election Committee member shall be appointed by the Tribal Chief, with the concurrence of the Tribal Council, to serve staggered four (4) year terms and, at the time of appointment, one of the appointees shall be named Tribal Election Committee Chairperson.
- (2) The Tribal Chief, with the concurrence of the Tribal Council, shall also appoint nine (9) enrolled Tribal members, none of whom shall hold elective Tribal office during their appointment, as alternate members of the Tribal Election Committee. In the event of illness, resignation, or unavoidable conflict which prohibits one or more of the standing Tribal Election Committee members from serving, the Tribal Chief shall designate one or more of said alternates to fill the position(s) vacated on the Tribal Election Committee. Any alternate member may assist the Tribal Election Committee with any the TEC's official duties under Section 33-4-2.
- (3) The staggered terms of the current Tribal Election Committee members and the alternates shall not be altered by the enactment of this Code. As these terms expire, new appointments to fill those expired terms may be made during the regular Tribal Council Meeting in October of all even-numbered years subsequent to 2012.
- (4) For purposes of conducting official business, two Tribal Election Committee members shall constitute a quorum. The three members of the Tribal Election Committee and the alternates shall serve for their appointed terms or until their successors are duly appointed, whichever is later. No two Tribal Election Committee members shall be from the same Community. No two alternates shall be from the same Community.

§33-4-2 Duties of the Tribal Election Committee

The Tribal Election Committee shall conduct the following duties in preparation for each official Tribal election:

- (1) Appoint a Local Community Election Committee for each of the eight (8) recognized Choctaw communities from which an elective Tribal office or position is to be filled;
- (2) Appoint poll watchers at its discretion to monitor the conduct of any Tribal election;
- (3) Authorize and regulate candidate election observers who are designated by a candidate to observe the conduct of the election in accordance with Section 33-8-4;

- (4) Appoint individuals from each of the eight (8) recognized Choctaw communities to serve as “Bailiff” at the local community voting place. The Tribal Election Committee shall ensure that all “Bailiffs” are registered voters from the Community from which they are appointed.
- (5) Prepare and disseminate necessary election materials, forms and information as provided in Section 33-7-3 of this Code;
- (6) Issue notice of elections as provided in Section 33-8-1 of this Code;
- (7) Conduct a pre-election instruction and coordination session for all local community election committee members, clerks, and bailiffs;
- (8) Have at least one TEC Member be present at the TEC Offices all day on the date of election to coordinate the election and to handle any election problems that may arise;
- (9) Make the determination whether any tribal election identified in Chapter 3 of this Code will be conducted by paper ballot or by electronic voting machine; and
- (10) All other duties and responsibilities necessary to conduct Tribal elections in accordance with this Code.

§33-4-3 Local Community Election Committee

Prior to each official Tribal election, a Local Community Election Committee (hereinafter referred to as LCEC) shall be appointed by the Tribal Election Committee for each of the eight (8) recognized Choctaw communities from which an elective Tribal office or position is to be filled. Each LCEC shall be responsible for conducting that election within their community and shall dissolve following completion of their duties in connection with that election. Each LCEC shall be composed of a Chairperson, two committee members and three alternate members. The TEC may, in its discretion, appoint such other alternate members to the LCEC as deemed necessary. The Chairperson of each LCEC shall be designated by the Tribal Election Committee. All members of the LCEC must be registered voters of the community from which they are appointed.

§33-4-4 Duties of the Local Community Election Committee

- (1) Prior to each official Tribal election, the Chairperson of the LCEC shall designate from the LCEC members or alternates the following positions at the local community voting place:
 - (A) "Initialing Manager"
 - (B) "Voter Assistance Manager"
 - (C) "Poll Book Clerk"
 - (D) "Voters' List Clerk"
- (2) The Chairperson of each Local Community Election Committee shall have the following duties:

- (A) Serve as the "Receiving and Returning Manager" for that community. Each Receiving and Returning Manager shall meet with the Tribal Election Committee on the day before an election to obtain ballots and election materials ;
- (B) Serve as the "Receipt Book Manager" at the local community voting place;
- (C) Provide for the safeguarding of the ballot boxes and voting machines, in accordance with this Code;
- (D) Be at the voting precinct at 7:00 a.m. on election day and see that the voting place is arranged
to allow voters privacy in marking their ballots, to provide for orderly entrance and exit at poll, and
that the holding of the election and counting of the ballots will be in fair and full public view;
- (E) If all LCEC members are not present when the polls open, the LCEC Chairperson shall request the Tribal Election Committee to designate one of the LCEC alternates to fill the vacated position(s). If one or more of the designated clerks are absent, the LCEC Chairperson shall immediately appoint persons to fill the vacated position(s). Following these appointments, the LCEC Chairperson shall administer the oath to the new appointees;
- (F) Remove everything from the ballot boxes in the presence of the other members of the LCEC. Lock the boxes and safeguard the key. The boxes *must remain locked* all day until the poll closes and counting begins. The ballot boxes cannot be opened or removed from the polling place during the day of the election;
- (G) Assign specific duties and responsibilities to the other members of the LCEC and the designated clerks and bailiffs as necessary;
- (H) Open the polls promptly at 8 a.m.;
- (I) Close the polls promptly at 8 p.m. All persons who are physically in line at the polling place as of 8 p.m. must be allowed to vote. The LCEC shall close the polls by placing a bailiff at the end of the line at 8 p.m. The bailiff shall bar any additional people from joining the line after 8 p.m.;
- (J) Complete the voting process, then unlock and open the ballot boxes, and begin counting and tallying the ballots;
- (K) See that all necessary reports and certificates are signed by the Chairperson of the LCEC and the appropriate election officials;
- (L) Make an effort to balance the ballots to make an unofficial count;
- (M) After all votes are counted, tallied, and balanced, replace in the ballot boxes all ballots, receipt books, list of voters, other election supplies, and all necessary reports and certificates, and;
- (N) Lock the ballot boxes and return, along with the key and poll book, immediately to the Tribal Election Office. Ballot box(es) from the Henning, TN polling place shall be returned no later than noon on the day following the election.

- (3) The LCEC Members and Clerks shall have the following duties:
- (A) Poll Book Clerk -- Check voter's name in poll book to confirm whether qualified. After ballot is voted, mark "Voted" in poll book at appropriate place, designating the date of the elections.
 - (B) Receipt Book Manager -- After Poll Book Clerk confirms that a voter is qualified, have voter sign name in receipt book before receiving ballot. The Chairperson of the LCEC is also the Receipt Book Manager.
 - (C) Initialing Manager -- After the voter has signed the receipt book, the Initialing Manager places their initials on the back of the ballot.
 - (D) Voter Assistance Manager -- Assists voters who are unable to mark their ballot because of a physical disability or the inability to read or write and who request assistance or request assistance pursuant to Section 33-8-8(3).
- (4) In the event of illness, resignation or unavoidable conflict which prohibits one or more of the LCEC members from serving, the TEC Chairperson shall designate one or more of the appointed alternates to fill the vacated position(s) on the LCEC.
- (5) If electronic voting machines are used for any tribal election identified in Chapter 3 of this Code, the duties and responsibilities of the TEC and LCEC in this section relating to the electronic voting process are described in Section 33-8-16. All other duties remain the same as specified herein.

§33-4-5 Duties of the Bailiff

The duties of the Bailiff are as follows:

- (1) Prior to the polls opening, the Bailiff shall administer the following oath to all LCEC members and election clerks and have one of the other LCEC members administer the oath to the Bailiff:
 “Do you hereby faithfully swear or affirm to perform all of the duties required of you at this election, according to law, and that you will not attempt to guide, aid, direct, or influence any voter in the exercise of his or her right to vote, except as expressly allowed by law?”;
- (2) Keep the peace and protect the voting place by preventing improper intrusion upon the voting place or interference in the election;
- (3) See that persons desiring to vote have unobstructed access to the voting place;
- (4) Detain for law enforcement officers all persons creating any disturbance about the voting place (the bailiff has the power to detain and the power to summon to his aid all persons at the voting place), and;
- (5) See that no candidate or their supporters engages in electioneering within one hundred and fifty (150) feet of the buildings where an official Tribal election is being held.

§33-4-6 Compensation

Members of the Local Community Election Committee, clerks appointed by the LCEC Chairperson to serve in the local communities, bailiffs and poll watchers appointed by the Tribal Election Committee shall be compensated, when duly appointed pursuant to this Code from Tribal funds at an hourly rate of \$20 for time spent in an official capacity in the conduct of regular or special elections as required by this Code. Members of the Tribal Election Committee shall be compensated from Tribal funds at an hourly rate of \$25 for time spent in an official capacity in the conduct of regular or special elections as required by this Code. Election preparation or instruction meetings at which attendance of certain election official[s] is required shall be considered official election business for purposes of this Section. However, informal work sessions of the Tribal Election Committee are not considered official election business for purposes of this Section.

CHAPTER 5. REGISTRATION OF VOTERS

§33-5-1 Qualification of Voters

Members of the Mississippi Band of Choctaw Indians, eighteen years of age or older, who are duly registered to vote in accordance with this Code, may vote in Tribal elections in the community in which they are registered and in which they have maintained residency for a minimum of six (6) months prior to the date of the election, with the exception of duly registered members who qualify under Section 33-5-3 to vote by mail.

§33-5-2 Regular Registration

(1) The Tribal Council designates the Tribal Election Committee as the Tribal entity responsible for the registration of voters and the maintenance of an up-to-date and accurate listing of Tribal members who are registered to vote in each Choctaw community. Prior to each Tribal election, except for a run-off election, the Tribal Election Committee, shall:

- (A) Authorize the preparation of registration forms, in duplicate, which provide space for at least the following information: the voter's name, address, birth date, the name of the Choctaw community in which the voter is registering, proof that the voter actually resides within the boundaries of that Choctaw community, and the signature of the registrar. The Tribal Election Committee may require additional proof to document residency which may include, but is not limited to, federal, state or Tribally-issued photo identification cards or a bill that includes the voter's name and physical address. A signed and notarized Affidavit of Voter Residency may be accepted as such proof if no other forms of documentation are available.
- (B) All registration forms shall be numbered sequentially. The original registration form shall be used by the Tribal Election Committee to prepare the list of voters, and the copy shall be retained by the voter. A voter whose name is, through error, left off the list of voters, may vote upon presentation of his copy of the registration form to the Local Community Election Committee at the polling place.
- (C) Designate the persons to act as official Tribal voter registrars in sufficient numbers to carry out the provisions of this Section.
- (D) Provide registrars with registration forms as described above and instructions for their use.
- (E) Determine and publicize the dates when members of the Tribe may register to vote and when registration shall be closed to allow time for the preparation of the list of voters.
- (F) In addition to year-round registration activities, conduct a supplemental registration of voters in each of the Choctaw communities on at least one day 30 to 90 days prior to each official Tribal election, except for run-off elections.
- (G) Provide for the conduct of voter registration by mail in accordance with Section 33-5-3 below.
- (H) Provide each LCEC Chairperson with updated and accurate lists of persons registered to vote in their community when: (1) the notice of election is issued, and; (2) within one week after the date that registration is closed. The voters lists

established through the process described in this Section shall also be posted and publicized in conspicuous places in each of the eight (8) recognized Choctaw communities and at the Choctaw Agency, Bureau of Indian Affairs.

(2) The Tribal Election Committee may periodically authorize and conduct special voter registration drives in the Choctaw communities, as it deems appropriate.

§33-5-3 Registration By Mail

Any member of the Mississippi Band of Choctaw Indians who resides 50 or more miles outside of the nearest border of the community in which he or she desires to register to vote shall be entitled to register to vote in that community by mail consistent with the following provisions:

(1) Tribal members desiring to register to vote by mail must complete the registration form provided by the Tribal Election Committee, which must be witnessed and signed by at least two persons. The closing date for voter registration by mail shall be the same as the closing date for regular voter registration. Registration forms received past 5 p.m. on the closing date for voter registration in a given election shall not be honored.

(2) Upon receipt of a request for a registration form from a person eligible to register by mail under this Section, the Voter Registrar shall forward an envelope containing an official voter registration form (after making proper record of the number of the registration form, to whom sent, and the date).

(3) The Voter Registrar shall write, mark, stamp or print on the margin of each such registration form the words "Voter Registration Form" and date of issuance. There shall be enclosed an outer envelope on which has been imprinted "Voter Registration Form" and an inner envelope, on which has been imprinted the form of affidavit below described:

I do solemnly swear or affirm that I am a member of the Mississippi Band of Choctaw Indians; that I am or will be of legal voting age on or before the election date; that I am now a resident of: Town_____, County_____, and State_____, and that I reside 50 or more miles outside of the nearest border of the_____ Community.

Signature

Witness

Witness

(4) The person registering to vote by mail shall enclose only his registration form in the inner envelope. The inner envelope shall then be sealed by the voter and enclosed in the outer envelope (mailing envelope). It shall be the responsibility of the voter to affix the necessary postage stamp for mailing. The outer pre-addressed envelope shall be imprinted to show address as follows:

MBCI Office of Tribal Elections

Voter Registrar

P.O. Box 6052 (for mailing) OR 101 Industrial Road (physical address for delivery)

Choctaw, MS 39350

(5) Any Tribal member who registers to vote by mail must still make a request for an absentee ballot under the process outlined in Section 33-7-6.

CHAPTER 6. CANDIDATES

§33-6-1 Tribal Council Candidate Requirements

Any enrolled member of the Mississippi Band of Choctaw Indians may become a candidate for Tribal Council to be filled by Tribal election who:

- (1) Is at least 21 years of age at the time of election;
- (2) Has not been convicted of, or pled nolo contendere to, any felony offense occurring at any time in any jurisdiction, unless such felony conviction has been pardoned;
- (3) Has a minimum of a High School diploma or a GED of a twelfth grade equivalency;
- (4) Is a resident of the Choctaw community which he or she desires to represent for at least six (6) months prior to the date of election;
- (5) Is registered to vote in the Choctaw community which he or she desires to represent;
- (6) Secures endorsement signatures by at least 10 persons registered to vote in Tribal elections in the community from which he or she intends to run for office. (This requirement shall not apply to the Bogue Homa Community and Crystal Ridge Community where three signatures will be required).

§33-6-2 Tribal Chief Candidate Requirements

Any enrolled member of the Mississippi Band of Choctaw Indians may become a candidate for Tribal Chief who:

- (1) Is at least 30 years of age by the time of the election;
- (2) Has not been convicted of, or pled nolo contendere to, any felony offense occurring at any time in any jurisdiction, unless such felony conviction has been pardoned;
- (3) Has a minimum of a High School diploma or a GED of a twelfth grade equivalency;
- (4) Is a community resident registered to vote in a community;
- (5) Secures the endorsement signatures of at least 51 registered voters, at least nine each from Pearl River, Bogue Chitto, and Conehatta, at least six each from Tucker, Red Water, and Standing Pine, and at least three each from Bogue Homa and Crystal Ridge.

§33-6-3 Other Requirements

- (1) The general requirements stipulated above shall be subject to the special provision that at no time shall a Tribal member be employed by the Bureau of Indian Affairs or the U.S. Public Health Service or any other federal agencies in any capacity and hold any elective office or position with the Tribe or instrumentality of the Tribe, whether said office or position is held by Tribal election or appointment to complete the unexpired term. Candidates for Tribal Chief or Tribal Council must resign their positions with the Bureau of Indian Affairs or the U.S. Public Health Service or any other federal agencies at the time of the certification of their election by the TEC.
- (2) No tribal member shall be allowed to be a candidate for more than one (1) tribal elective office or position at the same time (i.e. Tribal Council and Tribal Chief).

§33-6-4 Other Tribal Positions or Offices

Qualifications for candidates for other elective Tribal positions or offices or of elective offices or positions of Tribal instrumentalities shall be established by the Tribal Council.

§33-6-5 Filing Date

Candidates shall file as a candidate not later than sixty (60) calendar days prior to the date of election, except the filing period for a special election to fill a Tribal Council or Tribal Chief vacancy shall be not later than twenty-five (25) calendar days prior to the date of the election.

§33-6-6 Candidates' Responsibilities

- (1) Any eligible Tribal member who wishes to become a candidate shall submit to the Tribal Election Committee, on or before the closing date for filing for a given election a completed nomination petition requesting that his or her name be placed on the ballot as a candidate for said office or position. Said nominating petition shall be in form provided by the Tribal Election Committee. The prospective candidate shall sign the nominating petition and all other required forms provided by the Tribal Election Committee.
- (2) This nominating petition shall contain signatures of at least 10 persons registered to vote in Tribal elections in the community in which the person intends to run for office. (This condition shall not apply to the Bogue Homa Community and Crystal Ridge Community, or, if a candidate for Chief, the signature of 51 registered voters from the communities).
- (3) It shall be the responsibility of each candidate to ensure that the persons signing his or her petition are registered to vote in Tribal elections in the community which he or she wishes to represent.
- (4) A candidate for Tribal Council shall pay a non-refundable filing fee of \$50.00 to the Finance Office and shall then present a copy of the receipt to the Chairperson of the LCEC or the

Chairperson of the Tribal Election Committee. A candidate for Tribal Chief shall pay a non-refundable filing fee of \$200.00 to the Finance Office and shall then present a copy of the receipt to the Tribal Election Committee.

§33-6-7 Committee Responsibilities

(1) Upon receipt of a nominating petition from a prospective candidate, the TEC Chairperson shall examine said petition(s) to ensure that:

- (A) For a Tribal Council candidate: Each petition contains the signatures and addresses of at least 10 persons, or 3 persons, in the case of Bogue Homa and Crystal Ridge, or; For a Tribal Chief candidate: The petition contains the signatures and addresses of 51 persons.
- (B) Each of the 10 (or 3 or 51) persons who have signed the petition are registered to vote in Tribal elections in that community (the TEC Chairperson or designee shall verify this with the Tribal Registrar(s), or in a community, in the case of the election of the Chief.
- (C) The prospective candidate has signed the petition and entered his address thereon.
- (D) The position or office for which the prospective candidate wishes to run is identified.
- (E) The date of said election is entered thereon.
- (F) The Choctaw community that the prospective applicant wishes to represent is identified, except in the case of the election of the Chief.
- (G) The date on which each of the 10 persons or the 3 persons or the 51 persons signing the petition signed said petition is entered thereon.
- (H) In the case of a nominating petition for Tribal Chief, the community in which the signer is registered to vote.

(2) Failure by the prospective candidate to comply with Section 33-6-6 and failure of the petition to contain all requirements under Section 33-6-7(1) shall result in the petition being denied as filed.

(3) After examination of a nominating petition, the TEC Chairperson shall inform the prospective candidate that:

- (A) The petition is rejected as filed, or;
- (B) The petition is accepted.

(4) In the event that the TEC or designee rejects a nominating petition because of the candidate's failure to comply with one or more of the requirements established in this Section, he (or she) shall inform the prospective candidate of the reasons why said petition was rejected and that it may be corrected and resubmitted up to the closing date for filing.

(5) If a prospective candidate's petition is rejected and he feels that he has complied with all requirements established by this Section, he may appeal said rejection to the Tribal Election Committee within two (2) business days of said rejection. The Tribal Election Committee shall rule to affirm or reverse the rejection within two (2) business days of receipt of said appeal. If the closing date for filing is passed during the appeal process, the candidate's petition shall be

accepted as properly filed if the Tribal Election Committee rules to reverse the Chairperson's rejection and if the nomination petition was originally filed prior to the closing date for filing. If the Tribal Election Committee rules to affirm the Chairperson's rejection, and the closing date for filing is passed during the appeal process, the candidate's petition shall be void.

(6) Following the closing date for filing, the TEC shall notify the public at the TEC Office, not later than two (2) business days following the closing date for filing, of the names of all persons who submitted proper nominating petitions in support of their candidacy for a particular office or position representing a community so that certification and preparation of the ballots can be completed.

(7) If a registered voter believes that a certified candidate is not qualified, he or she may file a complaint in accordance with the appeal procedure outlined below:

- (A) the complaint must be placed in writing and submitted to the Tribal Election Committee within two (2) business days from the date of the certification of the candidates. The complainant should retain a copy of any complaints submitted.
- (B) the Tribal Election Committee must investigate each complaint submitted and issue a written statement of findings to the complainant within two (2) business days of receipt of each complaint. The decision of the Tribal Election Committee shall be final and not subject to further review.

§33-6-8 Conflict of Interest

No candidate for an elective Tribal office may serve on a Local Community Election Committee or on the Tribal Election Committee or be employed by the Office of Tribal Elections. If a member appointed to serve on either the Tribal Election Committee or a Local Community Election Committee should announce as a candidate, the individual must resign from their position with the TEC or LCEC, and the alternate named by the Chief and/or Tribal Election Committee, respectively, shall replace the member announcing as a candidate. The Tribal Election Office employee must resign from their employment upon their announcement as a candidate.

CHAPTER 7. ELECTION MATERIALS

§33-7-1 Ballots

- (1) The Tribal Election Committee is responsible for the preparation of ballots.
- (2) A ballot showing the legal names of the candidates shall be prepared. No nicknames or aliases shall be allowed on the ballot. The names of the candidates shall be placed on the ballot in alphabetical order according to the surname.
- (3) The words "Official Ballot" shall be printed on the back of each ballot so that these words are visible when the ballot is folded, except as provided in (4) below.
- (4) If electronic voting machines are used for any tribal election identified in Chapter 3 of this Code, the ballots shall be prepared in a form necessary to allow voters to cast ballots electronically.

§33-7-2 Ballot Boxes

- (1) There shall be provided for each Local Community Election Committee a substantial ballot box with a secure lock and key for the ballots. There shall be one opening and no more in each ballot box of sufficient size to admit a single folded ballot.
- (2) In elections for both Tribal Chief and Tribal Council positions, separate ballot boxes shall be used for ballots for Tribal Chief and ballots for Tribal Council, except in instances where voting machines are used.
- (3) If electronic voting machines are used for any tribal election identified in Chapter 3 of this Code, the electronic voting machines shall have locked and secure ballot compartment(s) to hold cast ballots.

§33-7-3 Forms and Instructions

The Tribal Election Committee shall be responsible for the preparation and dissemination of all forms and instructions required to conduct Tribal elections in accordance with this Code.

§33-7-4 Pre-Election Instructions

Not less than four (4) days preceding the date of the election, the Tribal Election Committee shall hold a meeting of all LCEC members and designated officials to instruct said members and officials as to the manner in which the election is to be conducted. Additional meetings may be held between the Tribal Election Committee and the LCEC members, clerks, and bailiffs, as deemed necessary prior to the election date. The Tribal Election Committee shall be available to answer any questions that the LCEC members, clerks and bailiffs may have prior to the elections

regarding election rules and procedures or the duties and responsibilities of all election officials.

§33-7-5 Dissemination of Materials

(1) On the day before an election, the Tribal Election Committee shall meet at the Tribal Office and distribute to the Chairperson of each Local Community Election Committee (as the Receiving and Returning Manager for that community) a Poll Book List of voters qualified and registered to vote in that community. The Tribal Election Committee shall also issue ballots, ballot boxes and other election materials necessary for carrying out the Tribal election.

(2) If electronic voting machines are used for any tribal election identified in Chapter 3 of this Code, the TEC and LCEC shall ensure the security of the machines prior to the election.

§33-7-6 Absentee Ballot

(1) Any qualified registered voter shall be entitled to vote by absentee ballot who meets at least one of the following requirements:

- (A) the qualified registered voter is age fifty-seven (57) or above;
- (B) the qualified registered voter is physically unable to appear at the polling place on the date of the election; or
- (C) the qualified registered voter resides fifty (50) miles or more distant from the community in which he or she is registered to vote.

(2) Requests for absentee ballots shall be submitted in writing, complete with a signature, to the Tribal Election Committee at the TEC office. Proof or documents that the requestor meets one of the requirements is mandatory.

(3) MAILED or courier delivered request for absentee ballots must be received at the TEC office not later than 12:00 noon (Central Standard Time) of the 20th calendar day preceding the date of election. Requests for absentee ballots received by the TEC after the deadline will not be honored.

(4) WALK-IN absentee ballot requests may be made starting on the 19th calendar day prior to the date of the election and shall be submitted in writing to the Tribal Election Committee at the TEC office and such requests may be made up to 12:00 noon (Central Standard Time) the day before the election date. No other walk-in absentee ballot requests shall be honored after 12:00 noon (Central Standard Time) the day before the election date. Voters with a physical disability that prevents them from walking into the TEC Office may request assistance from the TEC. The TEC is authorized to assist the voter to make a WALK-IN absentee ballot request, to provide the voter with an absentee ballot in the TEC Office parking lot, and to accept a completed absentee ballot from the voter and place the ballot in the locked absentee ballot box.

(5) The Tribal Election Committee, upon receipt of such request for absentee ballot, shall provide to such absentee voter an envelope containing a ballot, after making proper record to whom the ballot is sent, and the date.

(6) The Tribal Election Committee shall ensure that absentee ballots are differentiated from regular ballots and shall mark, on each absentee ballot the date of issuance. There shall be enclosed an outer envelope on which has been imprinted "Absentee Ballot" and an inner envelope, on which has been imprinted the form of affidavit below described.

I do solemnly swear or affirm that I am a member of the Mississippi Band of Choctaw Indians; that I am or will be of legal voting age on or before the election date; that I am registered to vote (for Tribal elections) in the _____ Choctaw Community; and that one of the following applies to me (check one):

- I am age fifty-seven (57) or above;
- I am physically unable to appear at the polling place on the date of the election, or;
- I reside fifty (50) miles or more distant from the community in which I am registered to vote.

Signature

Witness

Witness

(7) The absentee voter shall enclose only his ballot in the inner envelope. After the affidavit is completed, the inner envelope shall then be sealed by the voter and placed in the outer envelope (mailing envelope.) The outer pre-addressed mailing envelope shall be printed to show the address as follows:

MBCI Office of Tribal Elections
Tribal Election Committee
P.O. Box 6052 (for mailing) OR 101 Industrial Road (physical address for delivery)
Choctaw, Mississippi 39350

(8) The TEC shall cover the cost of sending the requested absentee ballot to the voter and the cost to return the completed absentee ballot to the TEC office by prepaid courier service.

(9) Absentee ballots may be requested and completed by the voter at the TEC Office during regular office hours during the WALK-IN absentee ballot request period. The TEC shall ensure that the voter can complete their absentee ballot in secret at the TEC Office. The TEC is authorized to provide voter assistance if requested by the voter. .

(10) Absentee ballots which are received later than 12:00 noon on the day preceding the date of election shall not be counted.

(11) In the event of a run-off election, any absentee voter who timely requested an absentee ballot in the first election shall automatically receive an additional ballot for the run-off election without any further request. New WALK-IN absentee ballot requests for a run-off election may be made starting on the 15th day prior to the date of the election and shall be submitted in writing to

the Tribal Election Committee at the TEC office, and such requests may be made all the way up to 12:00 noon (Central Standard Time) the day before the run-off election date. No other walk-in absentee ballot requests shall be honored after 12:00 noon (Central Standard Time) the day before the run-off election date. New MAILED or courier delivered request for absentee ballots must be received at the TEC office as soon as practical; however, due to the short time frame of a run-off election, the Tribal Election Committee cannot guarantee that the requestor will timely receive the absentee ballot or that the returned ballot will be received by the Tribal Election Committee by the deadline.

(12) If a registered voter who is active duty military personnel provides deployment orders to the TEC which shows that he or she will be unavailable to request an absentee ballot within the prescribed deadlines and is physically unable to appear at the polling place on the date of the election due to his or her deployment, and the official ballot is printed and available, the TEC is authorized to issue an absentee ballot to that voter for that election.

CHAPTER 8. ELECTION PROCEDURES

§33-8-1 Notice of Elections

(1) Notice of Tribal elections shall be issued by the Tribal Election Committee and shall give the date, the polling places, time and purpose for holding Tribal elections and shall notify voters they may be required to show a form of identification at the polling place. Election notices shall be posted at least ninety (90) calendar days prior to each election, except for the following:

- (A) For special elections to fill vacancies for the Tribal Council or the Tribal Chief, the notice shall be posted at least forty-five (45) calendar days prior to the election, and;
- (B) For run-off elections, the notice shall be posted at least twenty (20) calendar days prior to the election.

(2) The notice shall be posted and publicized in conspicuous places in each of the eight (8) recognized Choctaw communities and at the Choctaw Agency, Bureau of Indian Affairs, and shall be widely publicized through the news media. Except in a run-off election, interested persons may file as candidates for elective office with the Tribal Election Committee from the date that notice of election is posted until the closing date for filing as established in Section 33-6-5.

§33-8-2 Qualifications for Voting

(1) In order to vote in a particular community, a person's name must appear on the poll book for that community. Any person offering to vote whose name is not on the poll book and who honestly believes the omission is a result of clerical error can make an affidavit in writing to one of the LCEC members that he is entitled to vote and may prepare a vote and hand it to the member who will enclose it in an envelope with the affidavit and seal it and mark it with the name of the person offering to vote. The Tribal Election Committee will then decide if the vote is to be counted when the returns are canvassed.

(2) Any Tribal member may challenge the qualifications of any person offering to vote, except for a challenge to the voter's residency, which must have been raised prior to the day of the election per Section 33-2-3. The voter qualification challenge must be considered and acted upon by the LCEC. The LCEC can cause the person to produce a form of identification and to answer, under oath, questions relating to his or her qualifications.

- (A) If the LCEC decides that the challenge is insignificant or is not made in good faith, they may disregard the challenge and accept the offered vote as though it was not challenged.
- (B) If it clearly appears in the unanimous opinion of the LCEC that the challenge is well taken, the voter shall be allowed to mark the ballot but the vote should not be counted and the LCEC member who was designated to serve as Initialing Manager should mark "Rejected" on the ballot, along with the name of the voter and the reason for the ballot's rejection. Rejected ballots should be placed in a sealed envelope so marked and returned with the ballot box.

- (C) If the LCEC is in doubt as to the validity of the challenge, the person shall be allowed to vote, and the word "Challenge" shall be written on the back of the ballot by the LCEC member who was designated to serve as Initialing Manager. All ballots marked "Challenged" shall be placed in an envelope so marked. When all unchallenged votes have been counted, the challenged votes shall be counted, and a separate return shall be made. When the count is completed, the envelope containing ballots marked "Challenged" shall be placed in the secure lock box for review and determination by the Tribal Election Committee when certifying the election results.

§33-8-3 Polling Places

The polling place for Tribal elections for each of the eight (8) communities of the Mississippi Band of Choctaw Indians shall be designated by the Tribal Election Committee. The Tribal Election Committee may designate a polling place at a location in the Henning Tennessee area where a large number of Tribal members reside, and that polling place shall be considered as a remote Bogue Chitto Community polling place. The polling place for each community shall be identified on the Notice of Election.

§33-8-4 Candidate Election Observers

(1) Candidates may have more than one candidate election observer for each polling place but only one (1) observer may be present at the polling place at a time. An election observer must be an enrolled MBCI Tribal member.

(2) Candidates must pick up an election observer form from the Tribal Election Committee for each of their election observers. The candidate and candidate election observer must complete and sign the election observer form and the candidate must return the completed form(s) to the Tribal Election Committee at least five (5) calendar days prior to the date of the election. Any candidate election observer who has not completed and filed a candidate election observer form with the Tribal Election Committee prior to the election date shall not be allowed to sit at a polling place on election day.

- (A) Candidates are responsible for the conduct of their candidate election observers. Candidate election observers are required to comply with the terms of conduct in the candidate election observer form and are not allowed to approach or communicate with any voter regarding the election. A candidate election observer who does not comply with the conduct terms or creates a disturbance at the polling place will be removed and no other candidate election observer for that candidate will be allowed at the polling place.
- (B) Candidate election observers in the polling place are not allowed to have any type of voter list or document that may be used to show a particular voter has voted.
- (C) Candidate election observers are prohibited from using electronic devices at a polling place on election day. For purposes of this Section, an "electronic device" means a cell phone, computer, and any other similar device that is capable of

transmitting, receiving, or recording images, messages, data, sounds, or other information by electronic means.

§33-8-5 Voting

- (1) When a person offers to vote, the Poll Clerk shall place a check mark beside the voter's name to in the poll book and confirm if the voter is qualified to vote.
- (2) After the voter has been confirmed as qualified, the LCEC Chairperson (Receipt Book Manager) shall have the voter sign his name in the receipt book. (For assisting voters who are illiterate, see Section 33-8-8).
- (3) The Initialing Manager shall initial a ballot and hand it to the voter.
- (4) The voter shall go to the polling booth, mark his ballot, and fold the paper ballot in such a way that the words "Official Ballot" are visible to the election officials. If electronic voting machines are used, the polling booth shall have instructions on how to mark and handle the ballot. A voter cannot occupy a voting booth longer than fifteen minutes, and no longer than ten minutes, if other voters are waiting. No ballot can be removed from the polling place.
- (5) Once the voter has marked his ballot, the voter shall place the ballot in the appropriate ballot box or voting machine.
- (6) When the ballot is cast, the Voter List Clerk shall write the voter's name in the "Voters' List" booklet.
- (7) The Poll Book Clerk shall mark "Voted" in the poll book in the appropriate place, designating the date of the election.
- (8) Any person, including candidate election observers, causing a disturbance or disruption of or during the voting process shall be removed from the location and is subject to prosecution under the Choctaw Tribal Code.

§33-8-6 Prohibited Electioneering

- (1) "Electioneering" means the visible display or audible dissemination of information that advocates for or against any candidate or ballot measure within one hundred and fifty (150) feet of the polling place. For purposes of this Section, a polling place means the building where an official Tribal election is being held. It is unlawful for any person to engage in any prohibited electioneering activities as described in this Section. Electioneering information includes, but is not limited to, any of the following:
 - (A) display of a candidate's name, likeness, logo or other campaign advertising;
 - (B) a display of a ballot measure title, subject, logo or other campaign advertising;

- (C) buttons, hats, pencils, pens, shirts, signs or stickers containing electioneering information, provided that any voter who displays campaign material shall remove or cover the material before entering the polling place;
- (D) dissemination of audible electioneering information, such as shouting, use of audio equipment, etc.;
- (E) Electioneering shall not include bumper stickers on vehicles traveling to and from the voting place for the purpose of voting when such stickers are placed on the vehicle by the owner of the vehicle, and;
- (F) This prohibition does not apply to persons who reside within such distance of the polling place.

(2) A person shall not display campaign advertising material; operate an advertising medium including a sound amplification device, or distribute campaign literature, posters, cards, buttons, badges or stickers containing a candidate's name or otherwise intending to influence the opinion of any voter regarding the candidate or ballot question within one hundred and fifty (150) feet of the polling place.

(3) A person shall not, either before or after the voter has cast their ballot, interfere with the voter and shall not conduct polling, sampling, or otherwise try to solicit information about how the voter intends to vote or voted.

(4) A person shall not interfere with a voter who is traveling to or from the polls, even if outside of the one hundred and fifty (150) foot prohibited electioneering area, by such actions such as, but not limited to, touching or hitting the voter's vehicle, waving or placing campaign materials in such a way to obstruct a driver's view, or by placing unauthorized campaign materials on a vehicle.

(5) The bailiff is authorized to take appropriate action to remedy any potential or ongoing violation(s) of this Section by any individual. In the event an individual(s) does not comply with the direction of the bailiff regarding a potential or ongoing violation(s) of this Section, that individual(s) may be subject to a criminal violation, and that violation shall be deemed a Class B offense.

§33-8-7 Spoiled Ballots

(1) If any voter spoils a ballot, he may obtain other ballots, one at a time, not exceeding four in all, upon returning each spoiled ballot.

(2) If a ballot is spoiled, the Initialing Manager shall mark it "Spoiled" and sign his name on the back of the ballot.

(3) Spoiled ballots shall be placed in an envelope marked "Spoiled Ballots" and returned to the Tribal Election Committee with other election material.

(4) All ballots including spoiled, voted ballots and unused ballots, must be accounted for.

§33-8-8 **Assisting Voters**

- (1) Blindness or physical disability: If a voter declares to an LCEC member that by reason of blindness or other physical disability he is unable to mark his ballot, and it appears true, he may have the assistance of the Voter Assistance Manager or another person of his own selection in marking the ballot, excluding candidates.

- (2) Illiteracy: If a voter cannot vote because he is unable to read or write, then the Voter Assistance Manager or another person selected by the voter must accompany the voter into the voting compartment and assist him in marking his ballot, excluding candidates.

- (3) If electronic voting machines are used for any tribal election identified in Chapter 3 of this Code, the Voter Assistance Manager may assist any voter who requests assistance regardless of physical disability or illiteracy. If the Voter Assistance Manager simply provides guidance or assistance to the voter but does not assist the voter with marking of their ballot, the Voter Assistance Manager does not have to mark the ballot as required in (5) below.

- (4) The person giving assistance to a voter must not attempt to influence the voter in his selection of candidates and must not reveal how the ballot was marked. The LCEC Chairperson shall inform all voters who signify a need for assistance of this policy prior to the assistance being provided.

- (5) The person aiding a voter in marking his ballot shall note on the back of the ballot, "Marked by Assistance" or by initials "MBA."

- (6) In the case of a voter who cannot write his name, the LCEC Chairperson (Receipt Book Manager) should write the voter's name in the receipt book, showing that it was written by him because of the voter's inability to write his name. The LCEC Chairperson should also write on the back of the ballot that it was receipted for with his assistance. The voter so assisted should place his mark (X) or (✓) beside his name as written in the receipt book.

§33-8-9 **Counting the Votes**

- (1) Polls shall close promptly at 8 p.m.

- (2) The LCEC shall publicly proceed to count the ballots.

- (3) Counting and tallying of the ballots must be done in fair and full view of the voting public.

- (4) Any person causing a disturbance of or during the vote counting shall be removed from the location and is subject to prosecution under the Tribe's Criminal Code.

- (5) Counting Paper Ballots:
 - (A) The name of each candidate voted for shall be read aloud by the LCEC member

and taken down on the tally sheets and called back by the clerks. Each Clerk will tally separately and to compare the results at the conclusion of the count. Ballots in a given box cannot be split in several groups and counted by different LCEC members and clerks, but must be all counted in one group.

- (6) Counting Electronic Voting Machine Ballots:
 - (A) The LCEC shall cause the voting machine to tabulate the unofficial vote count. The LCEC shall post a certified copy of the unofficial voting results in a conspicuous location at the polling place.
 - (B) The LCEC shall examine any ballots that could not be scanned and determine if these ballots were properly cast.
 - (C) The vote results from any properly cast ballots that were manually counted shall be added to the unofficial voting results and the ballots shall be placed in an envelope marked "Cast and Counted Ballots".
- (7) Ballots must be marked with a cross (X) or a check (✓), or other mark that clearly shows the voter's intent throughout the ballot. If electronic voting machines are used, the voter must mark the ballot as instructed in order for ballot and vote(s) to be read by the voting machine.
- (8) All properly cast ballots must be counted except:
 - (A) Where it is impossible to determine the voter's choice.
 - (B) Where more names are marked than there are persons to be elected to an office.
- (9) Write-in votes cannot be counted.
- (10) Even if the ballot is not marked properly for a given race, votes in races where the ballot is marked properly must be counted.
- (11) If an entire ballot is rejected as improper, the ballot shall be placed in an envelope marked "Rejected Ballots." If only part of the ballot is rejected, the ballot should be marked "Rejected as to _____ race, only because _____," giving the reason, and the ballot shall be placed with the accepted ballots. If the voting machine ballot was rejected at the time the voter attempted to cast the ballot because the voter improperly marked the ballot, the voter will be given the opportunity to spoil the ballot and revote or cast the improper ballot with the understanding that the improperly marked ballot will not be counted in its entirety or for the particular race that was improperly marked.
- (12) The counting of the ballots shall be completed without an adjournment. If an adjournment is necessary by reason of emergency, the ballot boxes or voting machines shall be locked and the LCEC Chairperson shall keep the boxes or secure the voting machines and another LCEC member shall keep the key.
- (13) Once the counting of the ballots has been completed, it must be ascertained that the total number of accepted, rejected, and challenged ballots equal the number of names on the receipt

book and that the total number of accepted, rejected, challenged, spoiled, and unused ballots equal the number of ballots for which the Chairperson of the LCEC (Receiving and Returning Manager) signed a ballot receipt.

(14) If a candidate whose name has been printed on the ballot should die before the election, then any votes for the deceased candidate are void and cannot be counted for that office.

§33-8-10 Making the Returns

(1) When the counting and tallying of the votes has been completed, the results of the election shall be publicly proclaimed by the LCEC.

(2) A statement of the results of the election shall be certified in duplicate and the certificate should be signed by the LCEC Chairperson and the two clerks. One copy of the certificate should be enclosed in the ballot box and the other copy should be kept by the LCEC Chairperson (the Receiving and Returning Manager). The election supplies kit provided by the Tribal Election Committee shall contain a form for this purpose. If electronic voting machines are used, a certified copy of the voting results report tape must be placed in the media bag, along with the media stick.

(3) The LCEC Chairperson (the Receiving and Returning Manager) shall place the following items in the ballot boxes and lock the boxes:

- (A) Voted Ballots, spoiled ballots, ballots rejected because they were not properly marked, challenged ballots, rejected challenged ballots, and unused ballots;
- (B) The duplicate receipt given by the distributor of ballots to the Receiving and Returning Manager;
- (C) The tally list;
- (D) The receipt book;
- (E) The list of voter[s] book;
- (F) Cards of instructions;
- (G) The "Certification of Primary Election Results" and;
- (H) All other supplies.

(4) After the specified materials have been locked in the ballot boxes, the LCEC Chairperson shall deliver the ballot boxes and key, and the poll book, to the Tribal Election Committee Offices. A Tribal Election Committee member must, in the presence of the LCEC Chairperson, place a metal seal on the lock of the boxes.

(5) If electronic voting machines were used, the LCEC Chairperson shall follow the process in 33-8-16(H) for securing and returning election materials to the TEC Offices.

§33-8-11 Reports of Local Community Election Committees

Unofficial results of elections held throughout the eight (8) communities of the Mississippi Band of Choctaw Indians shall be certified and transmitted by the Chairperson of each of the Local

Community Election Committees, to the Tribal Election Committee immediately after the votes are counted and tallied and certified by the LCEC..

§33-8-12 Assessing Returns

The following procedures shall be followed in assessing election returns for Tribal Council elections:

- (1) Each qualified voter may vote for as many candidates as there are contested positions in his or her community in a given election. Ballots containing votes for more or less candidates than there are contested positions in the community shall not be counted.
- (2) The candidates receiving the largest number of votes in a given community shall be declared elected.

§33-8-13 Tie Votes; Run-Off Elections

- (1) In the event of a tie vote between candidates for Tribal Chief, when there are only two candidates, a run-off will be necessary to determine the winning candidate.
- (2) In all elections of communities with only one Council seat at stake, in the event of a tie between two candidates receiving the largest number of votes, a run-off will be necessary.
- (3) For elections in all communities having two Council seats at stake in that election year, in the event of a tie between two candidates receiving the second-largest number of votes, a run-off will be necessary to determine the winner of the community's second Council seat.
- (4) For a Tribal Chief election, if no candidate receives a majority of the total votes cast, the two candidates receiving the highest number of votes shall be paired in a run-off election. Of the two candidates, the one who receives the majority of the total votes cast in the run-off election shall be declared the Tribal Chief.
- (5) In the event a run-off election is necessary under this Section, the run-off election shall be held within thirty (30) calendar days of the initial election.

§33-8-14 Counting Absentee Ballots

- (1) All absentee ballots received by the Tribal Election Committee by the deadline established in this Code shall remain in a locked box at the Tribal Election Committee Office until the Tribal Election Committee shall meet at 1 p.m. on the day following the election, at which time the Chairperson of the Tribal Election Committee shall, in the presence of the other two Tribal Election Committee members, unlock the locked box containing the absentee ballots, and then open each outer envelope, but shall not open the inner envelope until it has been determined

whether the persons whose name which is signed to the affidavit is a qualified, registered voter of the Mississippi Band of Choctaw Indians. The name of the absentee voter shall then be checked against and off the list of registered voters. The sealed inner envelope shall then be deposited in an official ballot box for *Absentee Ballots Only*. The absentee ballot contained in any inner envelope that has been opened and unsealed before it has been delivered to the Chairperson of the Tribal Election Committee shall be rejected and not deposited in the official box nor counted.

(2) After it has been determined that all of the absentee ballots have been made by only qualified voters of the Mississippi Band of Choctaw Indians, the Tribal Election Committee members, in the presence of the other Tribal Election Committee members, shall open the inner envelopes containing the absentee ballots. The absentee ballots shall then be counted and the count shall continue until all absentee votes have been counted.

(3) The vote of each ballot shall be recorded opposite the names of each candidate for whom the absentee voter has designated his or her choice.

(4) If voting machines are used, all absentee ballots shall be processed through the voting machine and the totals shall be added to the returns as described in (5) below.

(5) If an absentee ballot is rejected by a voting machine, the TEC is authorized to accept the ballot and take such actions as necessary to record the vote if the voter's intent is clear in accordance with the requirements of Section 33-8-9(8).

(6) The absentee ballot results shall then be added to the returns submitted by the appropriate Local Community Election Committee Chairperson.

§33-8-15 Certification of Election Returns

(1) The Tribal Election Committee at 1 p.m. on the day following the election date shall convene for the purpose of preparing a statement certifying to the conduct of the election and the correctness of the votes tallied for each candidate, including absentee ballots. The Tribal Election Committee shall prepare a report summarizing the election results. This report shall be presented to the Tribal Council at the next Council meeting and shall be accompanied by a roster showing names and addresses of all newly elected or re-elected officials, if any. This report and accompanying roster shall also be submitted to the Superintendent of the Choctaw Agency, Bureau of Indian Affairs, to the Central Office of the Bureau of Indian Affairs, Washington, D.C., and to Tribal instrumentalities.

(2) The Chairperson of the Tribal Election Committee shall ensure that all reports of elections and accompanying certifications are properly signed and shall ensure that said election reports and certifications are maintained on file in the Tribal Election Committee Office.

§33-8-16 Electronic Voting Machines

(1) If electronic voting machines are used for any tribal election identified in Chapter 3 of this Code, and a particular section of this Code does not address the electronic voting process, the provisions of this section shall apply. In the event the Code is silent, the TEC shall make the necessary determination.

(2) Local Community Election Committee Duties on Election Day:

- (A) Ensure that the ballot box is empty in the presence of the other members of the LCEC;
- (B) Inspect the voting machine(s) to ensure the ballot compartments are secured. The compartments must remain locked and cannot be opened during the day of the election, *provided* that the ballot compartment or voting machine may be accessed or opened as necessary to fix a machine malfunction or ballot jam. If the ballot compartment or voting machine is accessed or opened at any time during the election, such action must take place in the presence of another LCEC member;
- (C) Turn on the voting machine(s) and confirm machine(s) are properly functioning before the opening of the polls at 8:00 a.m.;
- (D) If for any reason the voting machines become inoperable, the LCEC shall direct voters to operating voting machines or to cast ballots in the auxiliary ballot compartment. Ballots cast in the auxiliary compartment shall be counted after the polls close by scanning the ballots through the voting machine to be included with the unofficial vote count report. If the ballots are unable to be scanned, the LCEC shall count the ballots manually and add the results to the unofficial vote count report;
- (E) Close the polls promptly at 8 p.m. All persons who are physically in line at the polling place as of 8 p.m. must be allowed to vote. The LCEC shall close the polls by placing a bailiff at the end of the line at 8 p.m. The bailiff shall bar any additional people from joining the line after 8 p.m.;
- (F) Complete the voting process, then begin counting and tallying the ballots as stated in §33-8-9.
- (G) Seal the ballot box(es); place certified voting results report tape and media stick in media bag and secure media bag.
- (H) After the votes are counted, tallied and balanced, place all unused and spoiled ballots, receipt books, voters list, other election supplies, all reports and certificates, and sealed media bag in the provided secure box, lock the secure box and return it, along with sealed ballot box(es) in accordance with §33-4-4 (2)(N).

(3) Rejection of Damaged or Defective Ballots

- (A) The voting machine(s) shall be programmed, calibrated, adjusted and set up to reject ballots that appear to be damaged or defective. Ballots rejected by the voting machine because the ballots appear to be damaged or defective shall be placed in an envelope marked "Spoiled Ballots" and the voter may obtain another ballot.

- (4) Rebuttable Presumption
 - (A) When there is a conflict between an electronic voting system and a paper record or ballot, there is a rebuttable presumption that the paper record is correct.

- (5) Electronic Voting Machine Vendors
 - (A) Voting systems that are leased or procured from a vendor must be certified by a nationally accredited organization.
 - (B) Authorized employees of the vendor shall be allowed to provide technical support and assistance to the TEC and LCEC for the conduct of the election and to address technical issues that may arise during the election, and the vendor employee is authorized to handle the voting machines, related equipment and ballots as necessary to provide technical assistance, *provided* that such action must take place in the presence of at least one LCEC or TEC member.

CHAPTER 9. NOTIFICATION AND SEATING OF ELECTED OFFICIALS

§33-9-1 Notification of Duly Elected Candidates

A certificate of election shall be forwarded by the Tribal Election Committee to each duly elected official bearing the title of his office, the dates of the beginning and ending of the term for which he is elected, and the signatures of the Tribal Election Committee.

§33-9-2 Seating of Elected Tribal Officials

- (1) For the Office of Tribal Chief.
 - (A) Pursuant to Section 9 of Article V of the Constitution, the term of office for the Tribal Chief shall be four (4) years and until a successor has been elected and seated.
 - (B) For a Tribal Chief re-elected into office, the new term of office for the Tribal Chief begins at the next regular meeting of the Tribal Council following the election, and he or she shall take the oath of office at that time.
 - (C) For a Tribal Chief who is not re-elected into office, the term of office does not end until the winner of the Tribal Chief election (the “Chief-elect”) shall be seated into that position and shall take the oath of office at the next regular meeting of the Tribal Council following the election. During this time, the sitting Tribal Chief shall coordinate with the Chief-elect to help ensure a smooth and efficient transition of all official duties and responsibilities of the Office of the Tribal Chief.
 - (D) Pursuant to Section 3 of Article VI of the Constitution, if a vacancy occurs in the Office of the Tribal Chief and less than one (1) year remains of his or her term of office, the office shall automatically be filled by the Vice-Chief of the Tribal Council. The Vice-Chief of the Tribal Council shall immediately assume all duties and obligations of the Office of Tribal Chief and shall be sworn into office by a Justice of the Supreme Court in accordance with Section 33-9-3 as soon as practical. The swearing-in of the Vice-Chief to the position of Tribal Chief may occur in an informal setting as soon as he or she assumes office.
 - (E) Pursuant to Section 4 of Article VI of the Constitution, if a vacancy occurs in the Office of the Tribal Chief and more than one (1) year remains of his or her term of office, the Tribal Council shall, within sixty (60) days, cause to be held a special election in which all qualified voters of the Tribe may participate for the purpose of filling the vacancy. The Vice-Chief of the Tribal Council shall immediately assume all duties and obligations of the Office of Tribal Chief and shall be sworn into office by a Justice of the Supreme Court in accordance with Section 33-9-3 as soon as practical. The swearing-in of the Vice-Chief to the position of Tribal Chief may occur in an informal setting as soon as he or she assumes office. The Vice-Chief of the Tribal Council shall serve as Tribal Chief during the period of such vacancy until a new Tribal Chief is elected and seated. The term of office for the Tribal Chief shall begin at the next regular meeting of the Tribal Council following the election.

- (2) For Tribal Council Members.
- (A) Pursuant to Section 6 of Article V of the Constitution, the term of office for members of the Tribal Council shall be four (4) years and until their successors are duly elected and seated consistent with Section 7 of Article V of the Constitution.
 - (B) Pursuant to Section 8 of Article V of the Constitution, newly elected members of the Tribal Council shall take office at the first regular meeting of the Council following their election.
 - (C) For a Tribal Council member re-elected into office, the new term of office for the Council member shall begin at the next regular meeting of the Tribal Council following the election.
 - (D) For a Tribal Council member who is not re-elected into office, that Council member's term in office does not end until the winner of the Tribal Council election shall be seated into that position and shall take the oath of office at the next regular meeting of the Tribal Council following the election.
 - (E) Any individual who is appointed to fill a vacancy in the membership of the Tribal Council under Section 1 of Article VI of the Constitution shall immediately assume all duties and obligations as a Tribal Council member as soon as he or she is appointed and shall be sworn into office by a Justice of the Supreme Court in accordance with Section 33-9-3 as soon as practical. Any individual who is elected in a special election to fill a vacancy in the membership of the Tribal Council under Section 2 of Article VI of the Constitution shall take office at the first regular meeting of the Tribal Council following their election.
- (3) For purposes of determining the winner of any election under this Section, said winner shall be the individual(s) certified by the TEC under one of the following situations:
- (A) by certifying the election results (after an initial election, a run-off election, or a special election after an initial election is voided under Chapter 10) under Section 33-8-15 and no election appeal is filed under Chapter 10;
 - (B) by certifying the election results under Section 33-8-15 and the TEC upholds the election results after an appeal is filed under Section 33-10-2, but no further judicial review is sought, or;
 - (C) by certifying the election results under Section 33-8-15 and a final order is issued by the Choctaw Supreme Court under the judicial review procedures under Section 33-10-6 upholding the election results.
- (4) In the event of an election appeal under Chapter 10 for any Tribal official re-elected into office, that official shall remain in office pending a final outcome of the appeal.

§33-9-3 Oath of Office

A Justice of the Supreme Court shall administer an oath of office to all duly elected Tribal officials upon entrance on duty, to wit:

"I, _____, do solemnly swear or affirm that I will support, obey, and defend the Constitution and Bylaws of the Mississippi Band of Choctaw Indians;

that I will faithfully and impartially discharge the duties of my office to the best of my ability; that I will promote, and protect the best interests of the Mississippi Band of Choctaw Indians in accordance with its laws, so help me God."

CHAPTER 10.

ELECTION APPEAL PROCEDURES

§33-10-1 Application

- (1) If a candidate believes that a violation(s) of this Code has occurred in the election in which they are a candidate, he or she (the “Complainant”) may file an appeal in accordance with the election appeal procedure outlined in this Chapter. Candidate qualifications are not subject to this Chapter. Challenges to a candidate’s qualifications must be made under Section 33-6-7(7) of this Code. Voter residency qualifications are not subject to this Chapter. Challenges to the validity of a voter’s residency must be made under Section 33-2-3 of this Code.
- (2) As described in this Chapter, the appeal process begins with the Complainant filing a complaint with the Tribal Election Committee for a decision on the merits of the election complaint.
- (3) If the Complainant is not satisfied with the decision of the Tribal Election Committee, the Complainant may seek judicial review of the decision with the Choctaw Supreme Court in accordance with the provisions of this Chapter. Similarly, the winning candidate in an election that has been voided by the Tribal Election Committee decision may seek judicial review of that decision by the Choctaw Supreme Court.
- (4) Only the Complainant(s) who filed an appeal with the Tribal Election Committee, or the winning candidate in a voided election, may seek judicial review of any decision by the Tribal Election Committee. The Choctaw Supreme Court shall possess jurisdiction to adjudicate election appeals filed under this Chapter.

§33-10-2 Appeal to the Tribal Election Committee

- (1) With the exception of a winning candidate seeking judicial review under Section 33-10-3, the appeal process begins with the Complainant filing a complaint with the Tribal Election Committee. The complaint must be in writing and submitted to the Tribal Election Committee within three (3) calendar days from the date of the election in which the violation is alleged to have occurred. Failure to file a complaint with the Tribal Election Committee within three (3) calendar days will forever bar any candidate from appealing the election result.
- (2) A complaint must contain the following information:
 - (A) Complainant’s name, address, telephone number and email address (if any);
 - (B) Sworn, notarized Statement of Facts alleged to evidence the violation that provides with specificity:
 - (i) The election in which the Complainant was a candidate;
 - (ii) Code provision(s) that were violated;
 - (iii) Identity of the individual(s) involved in the alleged violation(s);
 - (iv) Date and time of the alleged violation(s);
 - (v) Location of the alleged violation(s);
 - (vi) Estimated number of votes affected by the alleged violation(s), and;

(vii) Name and telephone number of any witnesses to the alleged violation(s).

(C) Relief requested from the Tribal Election Committee.

A Complainant may include any documents, photographs, or other supporting material with the complaint. Upon filing the complaint with the Tribal Election Committee, the Complainant shall concurrently provide a true and correct copy of the complaint and all documents to all other candidates in the race. The Complainant must include with the complaint a statement affirming that he or she will provide copies to all other candidates in that race by identifying the candidate(s) by name and the address(es) where the copies will be mailed or delivered within two (2) business days of filing with the TEC. Failure to comply with this requirement will result in the complaint being summarily dismissed.

(3) The Tribal Election Committee must investigate each complaint submitted.

(4) Upon receipt of a complaint, the Tribal Election Committee shall invite submissions from the winning candidate(s) in the challenged election to submit their own evidence bearing on the complaint. Those winning candidates shall be given three (3) business days of such Tribal Election Committee notice to submit such evidence or argument. The Tribal Election Committee shall thereafter issue a written statement of findings within five (5) business days of the deadline for receipt of the winning candidate(s) submission(s). These findings shall reference any evidence upon which the decision relies. The Tribal Election Committee's findings and decision shall be provided to the Complainant, the winning candidate(s), and to the Tribal Chief who shall provide same to the Tribal Council.

(5) The following guidelines shall be utilized by the Tribal Election Committee when considering complaints submitted: No official tribal election shall be voided by order of the Tribal Election Committee in response to a complaint unless the Complainant clearly demonstrates by a preponderance of the evidence that: (i) a violation(s) of the Code occurred, and; (ii) said violation(s) resulted in a strong likelihood of affecting the outcome of the election.

(6) Following the receipt and review of a properly executed complaint, and such other evidence before the Tribal Election Committee, the Tribal Election Committee shall issue findings:

- (A) To dismiss the appeal, or
- (B) To acknowledge the merit of the appeal but to reaffirm the election in question, or
- (C) To acknowledge the merit of the appeal and to void the election in question.

(7) In the event that the Tribal Election Committee voids a tribal election as provided under subsection (6)(C) above, the Tribal Election Committee shall set a special election to fill the positions affected by the voiding of the election in question. All requirements governing official regular tribal elections, as specified in this Code, shall also govern a special election set under this subsection.

(8) More than one losing candidate may file an appeal with the Tribal Election Committee, and each appeal will be considered on its own merits.

§33-10-3 Judicial Review by the Choctaw Supreme Court

If the Complainant, or the winning candidate of an election that is voided by the Committee, is not satisfied with the decision of the Tribal Election Committee, that party may seek judicial review of the decision by filing an appeal petition with the Choctaw Supreme Court in accordance with the procedures below. The Choctaw Supreme Court may consolidate more than one candidate appeal petition in its discretion.

§33-10-4 Requirements for the Supreme Court Appeal Petition

(1) Only the Complainant, or the winning candidate of an election voided by the Tribal Election Committee, may file an appeal petition. An appeal petition challenging the decision of the Tribal Election Committee must be filed with the Choctaw Supreme Court no later than five (5) business days of receipt of the Tribal Election Committee's decision. The appeal petition shall name the party filing the appeal as the "Petitioner" and name the Tribal Election Committee as the "Respondent."

(2) Any appeal petition must be sworn and notarized and must include a copy of the decision by the Tribal Election Committee and Statement of Reasons setting out the factual and legal basis for why the Tribal Election Committee decision should be overturned. Such Statement of Reasons shall include the following information:

- (A) Petitioner's name, address, telephone number and email address (if any);
- (B) Statement of the facts alleged to evidence violations which the Petitioner contends warrant voiding the election and shall provide with specificity:
 - (i) The election in which the Complainant was a candidate;
 - (ii) Code provision(s) that were violated;
 - (iii) Identity of the individual(s) involved in the alleged violation(s);
 - (iv) Date and time of the alleged violation(s);
 - (v) Location of the alleged violation(s);
 - (vi) Estimated number of votes affected by the alleged violation(s), and;
 - (vii) Name and telephone number of any witnesses to the alleged violation(s).
- (C) A copy of the Tribal Election Committee decision.
- (D) The factual and legal basis which meet one or more of the legal standards of review

identified in Section 33-10-6(6).

The Petitioner may not submit any evidence that was not before the Tribal Election Committee.

(3) If the Petitioner is the winning candidate who seeks judicial review of the Tribal Election Committee's decision to void the election, the appeal petition need only contain:

- (A) Petitioner's name, address, telephone number and email address (if any),
- (B) A copy of the Tribal Election Committee decision, and;
- (C) The factual and legal basis which meet one or more of the legal standards of review

identified in Section 33-10-6(6).

The Petitioner may not submit any evidence that was not before the Tribal Election Committee.

(4) If an appeal petition fails to provide the required information identified in this Section, or if the required filing fee (under Section 33-10-5) is not paid upon filing of the appeal petition, the appeal is subject to dismissal by the Choctaw Supreme Court, on its own motion or on motion of any party.

§33-10-5 Filing Fees

An appeal petition must be accompanied by a non-refundable filing fee in the form of a cashier's check or money order in accordance with the following fee schedule:

- (1) For appeals of a Tribal Chief election: \$500.00
- (2) For appeals of a Tribal Council election: \$250.00

The Court Clerk shall not accept a filing of the appeal petition without the appropriate filing fee. Failure to remit the appropriate filing fee will result in the appeal not being perfected and subject to dismissal.

§33-10-6 Judicial Review Procedures

(1) The Petitioner shall serve a copy of the appeal petition on the Tribal Election Committee, along with a copy delivered to the Tribal Chief and to the prevailing party(ies) below, within two (2) business days of filing the appeal petition with the Choctaw Supreme Court. The appeal petition served upon the Tribal Election Committee and delivered to the Tribal Chief shall have the "filed" stamped date on the front page of the petition. No summons is required to be included with the appeal petition. For purposes of this Section, "serve" shall mean via hand-delivery, by certified mail, by private process server, or by Choctaw Police Department.

(2) The Tribal Election Committee shall file an answer to the appeal petition(s) with the Choctaw Supreme Court within five (5) business days of being served with the appeal petition. The Tribal Election Committee shall also compile and file with the Supreme Court and serve on the Petitioner any documents and other evidence that was before the Tribal Election Committee when its decision was made, together with any submissions to, and the decisions of, the Tribal Election Committee regarding the election complaint at issue. This submission shall constitute the record on appeal. The Tribal Election Committee shall deliver a copy of the answer and record to the Petitioner within two (2) business days of filing the answer and record with the Choctaw Supreme Court, and shall provide a copy thereof to the Tribal Chief.

(3) After the deadline for all appeal petitions to be filed has passed, the Choctaw Supreme Court:

- (A) may set a hearing on its own motion or by motion of a party to address any requests for dismissal for failure to comply with this Chapter before scheduling a full hearing on the merits;
- (B) shall, after determining the appeal is proper, set the appeal for a hearing as expeditiously as possible, but no later than ten (10) business days after the filing of the TEC answer. The Choctaw Supreme Court may consolidate more than one

appeal for purposes of any hearing. A continuance of the hearing will not be granted except upon a showing of good cause.

- (4) The conduct and procedure of the appeal hearing shall be governed as follows:
 - (A) All rules of procedure for an election appeal before the Choctaw Supreme Court will be governed by this Chapter.
 - (B) The Tribal Election Committee may be represented by its own legal counsel, and the Petitioner may appear pro se or be represented by his/her own legal counsel. No Tribal funds may be used to pay for any legal fees, filing fees, or expenses incurred by any Petitioner.
 - (C) On the day of hearing, the Choctaw Supreme Court shall hear oral arguments from the Petitioner and Respondent.

- (5) The standard of review of the Tribal Election Committee's decision is clear and convincing evidence based on the same evidence that was before the Tribal Election Committee when its decision was made as shown by the record.

- (6) The Supreme Court shall not overturn the decision of the Tribal Election Committee unless it is shown by clear and convincing evidence that the Petitioner is clearly entitled to the relief requested because the Tribal Election Committee decision was:
 - (A) arbitrary and capricious;
 - (B) was an abuse of discretion;
 - (C) was not supported by the evidence of record;
 - (D) or was contrary to Choctaw law.

- (7) The Choctaw Supreme Court may verbally announce its decision at the end of the hearing; or it may wait and issue its final decision in writing within three (3) business days of the hearing. Any final decision shall be in writing and include the names and signatures of the Justices in agreement or otherwise. The final decision shall specify one of the following:
 - (A) To affirm the decision of the Tribal Election Committee; or
 - (B) To reverse the decision of the Tribal Election Committee.The Supreme Court may also issue the appropriate order(s) necessary to carry out its final decision.

- (8) No party shall be entitled to recover costs or attorney's fees in any action filed under this Chapter.

- (9) The decision of the Choctaw Supreme Court is final and not subject to further review.

**CHAPTER 11. REFERENDUMS AND INITIATIVES UNDER ARTICLE XI
OF THE REVISED CONSTITUTION**

§33-11-1 Authority

Pursuant to Article XI, Section 6, of the Revised Constitution of the Mississippi Band of Choctaw Indians, the Tribal Council hereby establishes the following rules and procedures governing referendum and initiative measures.

§33-11-2 Definitions

(1) A “referendum” is any legislative measure proposed by members of the Tribe which, if approved, would have the effect of rejecting or revoking any prior ordinance or resolution which constituted a “legislative action” of the Tribal Council of the Mississippi Band of Choctaw Indians.

(2) An “initiative” is any legislative measure proposed by members of the Tribe to adopt an ordinance or resolution which if enacted by the Tribal Council would constitute “legislative action” except for an ordinance or resolution that would amend or change a prior ordinance or resolution, which actions can only be taken by referendum.

(3) A “Constitutional initiative” is any initiative measure which, if approved, would constitute a Tribal request that a Secretarial election be carried out pursuant to 25 U.S.C. § 476 on a proposed constitutional amendment which would have the effect of amending or modifying the Revised Constitution and Bylaws of the Mississippi Band of Choctaw Indians in accordance with Articles XI and XIII of such Revised Constitution and Bylaws, if those proposed Amendments are approved by the voting members of the Tribe per Article XI § 4 of the existing Revised Constitution.

(4) A “legislative action” of the Tribal Council is Tribal Council action which adopts or enacts a new law, new Tribal policy or new plan approving a particular project, program, business or other objective. Legislative actions of the Tribal Council are subject to referendum or initiative.

(5) An “administrative action” of the Tribal Council is Tribal Council action which approves a particular stage or step or contract award in furtherance of or to implement a law, Tribal policy or plan previously approved or enacted by the Tribal Council. Administrative actions of the Tribal Council are not subject to referendum or initiative.

§33-11-3 General Rules for Applications

(1) Qualified voters of the Mississippi Band of Choctaw Indians may initiate a referendum or initiative proposing “legislative action” through procedures set forth herein. To begin this process, qualified electors must file with the Chief, or a representative designated by the Chief,

an application for a petition for the proposed referendum or initiative, accompanied by a separate cover letter signed and notarized by at least three (3) Sponsors stating that each of said Sponsors is a member of the Tribe and registered to vote in Tribal elections.

- (2) The application shall include:
 - (A) the name and mailing address of each Sponsor;
 - (B) one physical address for delivery of any notice to the Sponsors as provided herein;
 - (C) a short and plain statement of the initiative or referendum measure proposed;
 - (D) a statement explaining that the proposed measure either proposes legislative action (for an initiative) or proposes a constitutional amendment (for constitutional initiative), or challenges a prior Tribal council ordinance or resolution which constituted legislative action under this ordinance (for a referendum);
 - (E) a good faith estimate of the amount and source of revenue required to implement the proposed initiative or referendum measure, should it be enacted;
 - (F) a statement as to whether the initiative or referendum measure would impact funding of currently funded projects, programs, or services and a description of the project(s), program(s), or service(s) whose funding would be impacted if the proposed initiative or referendum is approved. This requirement is not satisfied by merely preparing a fiscal analysis of the expense of the election on the initiative or referendum question, where particular Tribal programs or projects are targeted, and;
 - (G) an attached copy of the full text of the proposed initiative or referendum measure.
- (3) Applications for a Constitutional initiative must also contain the full text of all sections of the Revised Constitution as then currently in force which the Sponsors propose to amend together with the text of a proposed Council resolution requesting that the Secretary of the Interior conduct a Secretarial Election on the proposed constitutional amendment together with the full text of the proposed Constitutional amendment.
- (4) A referendum or initiative measure (including a Constitutional initiative) shall address no more than one (1) general subject matter or category of legislative action (including a Constitutional initiative). No more than one (1) measure shall be submitted to the voters on a single ballot. However, more than one (1) referendum or initiative election may be held simultaneously.

§33-11-4 Referendum Procedures

- (1) The application for a petition seeking to initiate a proposed referendum shall be filed with the Chief or his designated representative, not more than fourteen (14) business days following the date of enactment by the Tribal Council of the ordinance or resolution sought to be affected or from the effective date of that ordinance or resolution, whichever is later.
- (2) Upon receipt of the cover letter and application for a petition for referendum, the Chief,

or his designated representative, shall stamp the letter and application showing the date received. The Chief shall within ten (10) business days of receipt of the application forward the same with or without comment to the Chairperson of the Tribal Election Committee and give written notice of the same, including the Chief's comments, if any, to the Sponsors at their designated physical address.

(3) Upon the Tribal Election Committee's receipt from the Chief of a referendum cover letter and application for a petition the Committee shall determine if the application complies with the applicable requirements set forth in Sections 33-11-3 and 33-11-4, including a determination of whether the prior Tribal Council action challenged is legislative or administrative in nature.

(4) If the Committee finds the application complies with Sections 33-11-3 and 33-11-4 and does not involve a challenge to an administrative action of the Tribal Council, the Committee shall transmit the application to the Chief together with a copy of the Committee's written decision and give written notice by certified mail, return receipt requested, to the Sponsors at their physical address.

(5) If the Chief or any registered voter other than a Sponsor disagrees with the Committee's positive determination, the Chief or such member may within fourteen (14) business days after mailing of the Committee's decision file a petition for emergency review with the Choctaw Supreme Court as set forth in Section 33-11-6 naming the Sponsors as respondents and serve the same upon the respondents. If more than one petition for emergency review is filed, they shall be consolidated for hearing by the Court.

(6) If the Committee finds the application does not comply with the requirements of Sections 33-11-3 and 33-11-4, including the requirement that a petition for a referendum which seeks to challenge an administrative action of the Tribal Council must be rejected, the Committee shall then return the application to the Sponsors with a copy of its written decision setting forth a statement of the factual and legal grounds for the decision. A copy of the Committee's decision shall also be delivered to the Chief.

(7) The Sponsors shall have fourteen (14) business days from mailing of the first rejected application within which to withdraw it, amend and resubmit it, or file a new application; or, the Sponsors may file a petition for review of the Committee's decision with the Choctaw Supreme Court as set forth in Section 33-11-6, naming the Chief as respondent. The provisions of this Section available to the Sponsors who receive a rejected application shall apply only to the first application. The provisions of this Section shall not apply to any subsequent application.

§33-11-5 Initiative Procedures

(1) Upon receipt of the cover letter and application for a petition for an initiative, the Chief, or the Chief's designated representative, shall stamp the letter and application showing the date received. The Chief shall within ten (10) business days of receipt of the application forward the same with or without comment to the Chairperson of the Tribal Election Committee and give

written notice of the same, including the Chief's comments, if any, to the Sponsors at their designated physical address.

(2) Upon the Tribal Election Committee's receipt from the Chief of an initiative cover letter and application for a petition, the Committee shall determine if the application complies with the applicable requirements set forth in Section 33-11-3, including determination of whether the initiative proposed is legislative or administrative in nature, or proposed adoption of a Constitutional Amendment. That application for a petition for a proposed initiative or Constitutional initiative may be filed with the Chief at any time.

(3) If the Committee finds the application complies with Section 33-11-3 and proposes an initiative which is legislative in nature, the Committee shall transmit the application to the Chief together with a copy of the written decision and give written notice by certified mail, return receipt requested, to the Sponsors at their designated physical address.

(4) If the Chief or any registered voter other than a Sponsor disagrees with the Committee's positive determination, the Chief or such member may within fourteen (14) business days after mailing of the Committee's decision file a petition for emergency review with the Choctaw Supreme Court as set forth in Section 33-11-6 naming the Sponsors as respondents and serve the same upon the respondents. If more than one petition for emergency review is filed, they shall be consolidated for hearing by the Court.

(5) If the Committee finds the application does not comply with the requirements of Section 33-11-3, including the requirement that a petition for an initiative which seeks to propose an administrative action of the Tribal Council must be rejected, the Committee shall then return the application to the Sponsors with a copy of its written decision setting forth a statement of the factual and legal grounds for the decision. A copy of the Committee's decision shall also be delivered to the Chief.

(6) If the Committee rejects an application for an initiative, the Sponsors shall have fourteen (14) business days from mailing of the first rejected application within which to withdraw it, amend and resubmit it, or file a new application; or, the Sponsors may file a petition for emergency review for review of the Committee's decision with the Choctaw Supreme Court as set forth in Section 33-11-6. The provisions of this Section available to the Sponsors who receive a rejected application shall apply only to the first application. The provisions of this Section shall not apply to any subsequent application.

§33-11-6 Challenging Initial Election Committee Decisions

(1) A petition for emergency review challenging a decision of the Election Committee shall set forth the reasons the Tribal Election Committee's decision violated the provisions of Article XI of the Revised Constitution and this Chapter and any other grounds in support thereof. The petition for emergency review shall also include a copy of the Committee's decision and all documents filed with the Committee by the Sponsors and Chief. Upon the filing of a petition for emergency review by the Sponsors they shall immediately cause to be served a copy of the

petition for emergency review upon the Chief. Service may be made by personal service or by registered mail, return receipt requested. Response to said petition shall be filed within fourteen (14) business days after service. Any registered voter who is not a sponsor shall have the right within fourteen (14) business days of the service date of the petition to file amicus briefs with the Court supporting either party.

(2) If a petition for emergency review is filed by the Chief it shall name the Sponsors as respondents and shall cause the same to be served on the Sponsors in the manner provided above. Said respondents shall have the right within fourteen (14) business days of the date of service of the petition for emergency review to file a response with the Choctaw Supreme Court. Any Tribal member who is not a Sponsor shall have the right within the fourteen (14) business day period to file an amicus brief.

(3) The Tribal Election Committee shall not be a necessary or indispensable party to any such proceedings, nor shall the Committee be deemed a real party in interest, but the Committee shall be bound by any final judicial decision issued under this Code.

(4) The Choctaw Supreme Court shall have original jurisdiction to review all proceedings initiated pursuant to Section 33-11-6 of this Code. All such proceedings shall be decided on the record. No decision of the Election Committee shall be reversed or altered in any such proceeding unless the party seeking such relief has established a right thereto under the legal standards applicable to cases seeking mandamus relief.

(5) All such proceedings, and all appeals filed under this Section, shall be deemed to involve an emergency matter of urgent and necessitous public concern and shall be heard and determined with all convenient speed.

(6) The Supreme Court shall have the power to stay actions of the Tribal Election Committee and the Chief, when such actions may impact the subject matter of the application, upon the filing of a petition until the court has ruled on the matter.

(7) If no petition challenging a decision of the Tribal Election Committee under Section 33-11-4 or Section 33-11-5 of this Code is timely filed, the determination of the Election Committee shall stand and the Committee shall proceed as provided in Sections 33-11-7 and 33-11-8.

(8) Upon the filing of any responses to the petition for emergency review, the Choctaw Supreme Court may determine that a hearing on the matter is necessary or issue its decision without a hearing within thirty (30) business days. If the Court determines a hearing is necessary, it shall hold a hearing within thirty (30) business days after receipt of any response to the petition for emergency review and issue its decision within thirty (30) business days after completion of the hearing. The decision of the Court shall be mailed to the Applicants and Respondents and their attorneys, if any, and to the Election Committee.

§33-11-7 Referendum and Initiative Process

(1) If within fourteen (14) business days after the Tribal Election Committee has determined the application and cover letter to be in compliance with the Revised Constitution and this Article XIV and no petition for judicial review has been timely filed, or once all judicial proceedings have been completed and there has been no court ruling barring the proposed referendum or initiative, the Tribal Election Committee shall assign a serial number to the proposed referendum or initiative. (Hereafter, the referendum or initiative shall be known and designated on all petitions, ballots and proceedings as “Referendum No. ___” or “Initiative No. ___”.)

(2) During the aforesaid fourteen (14) day period, the Tribal Election Committee shall also design and prepare a petition form for the referendum or initiative complying with Article XI, Section 5 of the Revised Constitution and bearing the serial number of the referendum or initiative containing a concise summary of the measure not to exceed twenty (20) words and a description of the referendum or initiative not to exceed seventy-five (75) words. The description shall give a true and impartial statement of the purpose and effect of the initiative or referendum. Neither the summary nor the description shall be argumentative, nor likely to create prejudice, either for or against the measure. Such summary formulated by the Tribal Election Committee shall include the ballot title of the referendum or initiative in all petitions, ballots and other proceedings in relation thereto.

(3) When practicable, the statement posed by a referendum ballot title shall be written in such a way that an affirmative vote on the measure would leave the ordinance or resolution in full force and effect, and a negative vote on the measure would result in rejection or revocation to the ordinance or resolution.

(4) The issue posed by an initiative ballot shall be written in such a way that an affirmative vote would result in adoption of the proposed resolution, ordinance or Constitutional amendment, and a negative vote would result in the rejection of the proposed resolution, ordinance or Constitutional amendment. The summary shall appear on all petitions directly following the ballot title and the description shall follow thereafter.

(5) The petition form shall also contain:

“WARNING”

**ANY PERSON WHO SIGNS THIS PETITION WITH ANY OTHER
THAN HIS OR HER TRUE NAME, KNOWINGLY SIGNS MORE THAN ONE
OF THESE PETITIONS RELATING TO THE SAME REFERENDUM, SIGNS
THIS PETITION WHEN HE OR SHE IS NOT A QUALIFIED ELECTOR OR
MAKES ANY FALSE STATEMENT ON THIS PETITION MAY BE
PUNISHED BY FINE, IMPRISONMENT, OR BOTH.
PETITION FOR [REFERENDUM OR INITIATIVE]
To the Tribal Chief, Mississippi Band of Choctaw Indians:**

I, the undersigned, a registered voter of the Mississippi Band of Choctaw Indians, respectfully ask that this petition and the proposed (Referendum or Initiative No. . .) entitled (here insert the established ballot title of the initiative or referendum), be transmitted to the Tribal Election Committee and that a [referendum or initiative] election be held thereon in accordance with the Revised Constitution, rules and procedures pertaining thereto, and further say: I have read or had read to me this petition; I have personally signed this petition; I am a registered voter of the Mississippi Band of Choctaw Indians registered in the community written after my name; my residence address is correctly stated; and, I have knowingly signed a petition only once for this proposed referendum or initiative.

(6) Each petition form shall also provide adequate space for the following information: Petitioner's signature; print name for positive identification; residence address, post office box or street and number; city or town; and, community.

(7) The Tribal Election Committee shall print in the form established pursuant to this Section, blank petitions upon single sheets, not less than eight and one-half (8½) inches in width and not less than eleven (11) inches in length. No other form shall be acceptable for petitions.

(8) Within the same fourteen (14) business day period referred to in this Section, the Tribal Election Committee shall also file the petition form as required by these procedures, together with the application and cover letter, in the official records of the Committee and transmit copies thereof by certified mail, return receipt requested, to the Sponsors at their designated address and to the Chief. The Committee shall note the date of mailing in its official records. The date received by the Sponsors indicated on the return receipt shall determine the "Petition Submittal Date" as set forth in Section 33-11-7(11).

(9) The Tribal Election Committee shall make petition forms so printed available to the Sponsors within the same fourteen (14) business day period. Sponsors may make as many copies as they deem necessary.

(10) Petitions shall be filed during regular business hours from 8:00 a.m. to 4:30 p.m. Monday through Friday at:

MBCI OFFICE OF TRIBAL ELECTIONS
TRIBAL ELECTION COMMITTEE
P.O. BOX 6052 (for mailing) OR 101 Industrial Road (physical address for
delivery)
CHOCTAW, MS 39350

Petitioners or Sponsors shall make every effort to turn in petitions to the Tribal Election Committee on a weekly basis. The Tribal Election Committee shall on a weekly basis advise the Tribal Chief, the members of the Tribal Council, and the Sponsors of the total number of qualified electors filing petitions in each community.

(11) No petition may be filed after 4:30 p. m. on the thirtieth (30th) day following the petition Submittal Date. Within five (5) business days after the petition Submittal Date, the Tribal Chief

and Election Committee shall canvass the petitions, examine each, determine whether the person signing it is a registered voter and whether the petition otherwise conforms to the Revised Constitution Article XI, Section 3 and these rules and procedures. The Chief and the Election Committee shall in addition to the foregoing refuse to accept or consider any petition if the petition is not in the form or contains less than the information required by Section 33-11-7(5); or the time within which the petition may be filed has expired.

(12) In case of such refusal, the Chief or Tribal Election Committee shall endorse on the petition the word “refused” and the date, and retain the petition pending any court action. If the Chief and the Election Committee cannot agree whether to accept or refuse the petition, the Chief shall decide whether to accept or refuse the petition per Article XI, § 3 of the revised constitution and bylaws. If the Chief and Committee determine that thirty (30) per cent of the registered voters, as provided in the Revised Constitution, have signed valid petitions, the Chief and the Committee shall issue a certification that this revised Constitutional requirement has been met and file the same in its records.

(13) If the Chief or Tribal Election Committee refuses to certify the referendum or initiative measure for election, the Sponsors or any registered voter may, within twenty (20) business days from the date the Sponsors receive the refusal to certify at their designated address, apply to the Choctaw Tribal Court, Civil Division (“Tribal court”) for an order requiring the Chief and the Election Committee to bring all filed petitions before the court and, if found to conform to the Revised Constitution and these rule and procedures, for a writ of mandamus to compel the Chief and Election Committee to certify the referendum or initiative for election.

(14) The application to the Tribal court shall be considered an emergency matter of urgent and necessitous public concern and shall be heard and determined with all convenient speed.

(15) The Tribal court may consider any evidence, matter or argument relevant to whether the petitions in the form filed with the Committee are in the form required pursuant to Section 33- 11-7(5) and contain the name of at least thirty (30) percent of the registered voters as provided in Section 33-11-7(12) and the Revised Constitution.

(16) If the Tribal court decides that there has been filed a legally sufficient number of valid petitions containing the Revised Constitution’s required number of registered voters, it shall order the Chief and Election Committee to call the election pursuant to Article XI, Section 3 of the Revised Constitution, otherwise, the action shall be dismissed.

(17) If no appeal of the Tribal court’s decision is taken to the Choctaw Supreme Court within ten (10) business days from the ruling of the Tribal Court, Civil Division, or if an appeal is taken and the Chief or Tribal Election Committee is not ordered by the Supreme Court to certify the referendum or initiative election, the Tribal Election Committee shall keep all petitions for six (6) months. Thereafter the Committee may dispose of the petitions as it sees fit.

(18) Within ten (10) business days of the written certification by the Chief and Election Committee or the Court certifying there are petitions filed containing legally sufficient number of registered voters as required by the Revised Constitution, or within ten (10) days of any final

court ruling affirming that result, the Chief Tribal financial officer shall prepare a fiscal analysis of the effect of the measure and submit a report of his analysis to the Tribal Council, Chief, Tribal Election Committee and to the Sponsors, all of whom shall have the right to comment thereon within three (3) business days. The financial officer shall consider such comments in good faith and within three (3) business days thereafter shall finalize his or her report of the fiscal analysis of the measure and deliver same to the Tribal Chief, the members of the Tribal Council, Tribal Election Committee and the Sponsors. A summary prepared by the Chief Tribal financial officer of each fiscal analysis shall appear on the ballot.

(19) Each measure submitted to the membership for approval or rejection shall be so printed on the ballot, under the proper heading, that a voter can, by making one (1) choice, express his approval or rejection of such proposal. The following form shall be substantially in compliance with this Section:

OFFICIAL BALLOT
 [REFERENDUM OR INITIATIVE] MEASURE NO. _____
 BE IT ENACTED BY THE MISSISSIPPI: BAND OF CHOCTAW INDIANS:
 (Here insert the ballot title of the measure.)
 (Here insert summary fiscal analysis.)
 YES..... ()
 NO..... ()

(20) A referendum or initiative proposal approved by a majority of registered voters voting in an election in which at least forty percent (40 %) of the registered voters have voted shall take effect on the date of the official declaration of the vote by the Tribal Election Committee unless otherwise required by federal law, except that a Constitutional initiative proposal shall not become effective until approved by the members in an election conducted by the Secretary of the Interior per 25 U.S.C. § 476.

(21) Notwithstanding anything to the contrary in this Code, pursuant to Article XI, Section 3 of the Revised Constitution, the Tribal Chief shall cause to be held the election on the referendum or initiative measure within sixty (60) business days from the certification by the Chief and Election Committee or Tribal or Supreme Court, except that a revised Constitutional initiative measure shall be called for election by the Secretary of Interior pursuant to Article XIII of the Revised Constitution and Bylaws of the Tribe and in accordance with applicable federal law.

(22) Within twenty (20) business days from receipt of the Chief Tribal financial officer’s summary and the certification of the proposed referendum or initiative measure, a pamphlet containing a copy of the referendum or initiative proposal, including the ballot title and ballot summary, the full text of the ordinance or resolution proposed by an initiative measure, and the amendment proposed by a revised Constitutional initiative, arguments or explanations for and against the proposal and the fiscal analysis prepared by the chief Tribal financial officer shall be compiled and printed by the Tribal Election Committee. The Sponsors may prepare a statement. The Tribal Council and Tribal Chief may also submit their position relating to the proposed measure for the referendum or initiative or may join in a single position. Within five (5) business

days from certification of the proposed referendum or initiative measure, the foregoing statement should be submitted to the Tribal Election Committee. Each statement shall not exceed three hundred (300) words. The Tribal Election Committee shall cause to be printed a number of pamphlets sufficient to supply each registered voter with one (1) copy and shall cause these pamphlets to be distributed to each community at least fifteen (15) business days prior to the election. The Tribal Election Committee shall widely publish through the media the date scheduled for the election, the ballot title, the summary of each fiscal analysis, and the ballot summary. Notwithstanding anything to the contrary in this Code, the Tribal Election Committee shall post notices of the election in conspicuous places in each of the eight (8) recognized Choctaw communities and the BIA Choctaw Agency Office at least fifteen (15) business days prior to the date established by the Tribal Election Committee for the election on the referendum or initiative measure. The costs of printing and publication shall be borne by the Tribal Election Committee from funds appropriated by the Tribal Council.

§33-11-8 Public Hearings

The Tribal Election Committee shall conduct at least one (1) public hearing prior to the scheduled election in each of the eight (8) recognized Choctaw communities and shall give public notice thereof at least ten (10) business days before a hearing. The Tribal Election Committee shall make sure that provisions are made for one representative of the proponents and opponents to speak at each public hearing and shall determine an equal amount of time to be allotted to each representative to speak and answer questions. The Tribal Election Committee shall also insure that a bi-lingual interpreter is provided at each public hearing and said interpreter shall be sworn to interpret faithfully the proceedings at the hearing and shall not be an open and active proponent or opponent of the measure.

§33-11-9 Miscellaneous Rules

- (1) It is unlawful for any person to distribute or post material in support of or in opposition to a referendum or initiative proposal within one hundred fifty (150) feet of any entrance to a polling place where the election is held.
- (2) It is unlawful for a person to give or offer any consideration to an elector to induce the elector to sign or not sign a petition or to vote for or against a referendum or initiative proposal.
- (3) It is unlawful for a person to interfere with or influence the vote of an elector on an initiative or referendum proposal by means of violence, threats, intimidation, harassment, enforcing the payment of a debt, bringing a suit or criminal prosecution, any threat or action affecting a person's conditions of employment or other corrupt means.
- (4) It is unlawful for any person to sign an initiative or referendum petition with any other than his or her true name, to knowingly sign more than one (1) petition relating to the same initiative or referendum measure, to sign such petition when he or she is not a registered voter, or to make any false statement on such petition.

- (5) Any violation of Section 33-11-9(1) through Section 33-11-9(4) shall be deemed a Class A offense.
- (6) This Chapter shall take effect and be in force from and after the date of passage.
- (7) Any person wishing to withdraw his or her petition may do so by notifying the Tribal Election Committee of such desire in writing. No withdrawal shall be made after the Tribal Election Committee has formally certified the referendum or initiative as ready for election or after the Secretary of Interior has called a revised Constitutional initiative election. The Tribal Election Committee shall provide forms for withdrawal.
- (8) Except where otherwise specified in Sections 33-11-7(20), 33-11-7(22), and 33-11-8, the election on the referendum or initiative measure certified by the Tribal Election Committee shall be held in accordance with applicable provisions of this Code. If any provision or clause of these procedures or application thereof to any person or circumstances is held invalid by a court of competent jurisdiction without benefit of further appeal, such invalidity shall not affect other provisions or applications of these procedures which can be given effect without the invalid provision or application, and to this end the provisions of these procedures are declared to be severable.

CHAPTER 12. MISCELLANEOUS

§33-12-1 Amendments

The Tribal Council reserves the right to amend any of the sections, paragraphs and phrases of this Code.

§33-12-2 Savings Clause

In the event any sentence and/or paragraph or section of this Code shall be held unconstitutional or invalid by a court of competent jurisdiction, the remaining sentences, paragraphs and sections shall remain valid and in effect and presumed constitutional.

§33-12-3 Admissibility in Legal Proceedings

In any suit, action or proceeding involving the validity or enforcement of or relating to the rules and procedures established by this Code, said rules and procedures shall be conclusively deemed to have become established upon proof of adoption of this Code. A copy of this Code duly certified by the Secretary-Treasurer of the Tribal Council shall be admissible in evidence in any suit, action or proceeding.

EXHIBIT "A"

