



DELAWARE
NATION

ELECTION ORDINANCE

Revised: 11-29-18

Delaware Nation
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SECTION 101: AUTHORITY, PURPOSE

A. Authority. This Election Ordinance is established by the Executive Committee of the Delaware Nation under authority delegated to it by Article VII, Section 3 of the Constitution and By-Laws of the Delaware Nation.

B. Purpose. The intent and purpose of this Ordinance is to establish procedures for fair elections and to ensure secrecy and sanctity of the ballot. The regulations and procedures contained in this Ordinance shall be administered in such a way as to accomplish this purpose and intent. No mere informality in the manner of carrying out or executing the provisions of this Ordinance shall invalidate any election held under it. Substantial compliance shall be recognized as adequate.

SECTION 201: DEFINITIONS

For the purpose of this Ordinance, the following words shall be defined as follows:

A. "Absentee Voter" means any voter who votes by absentee ballot as per the procedures set forth in this Ordinance;

B. "Candidate" means a Delaware Nation citizen who meets the qualifications of Article VII, Section 5 of the Delaware Nation Constitution to have his or her name appear on the ballot for consideration by the voters in the election of tribal officials.

C. "Committee" means the Election Committee appointed by the Executive Committee pursuant to Article VII, Section 5 of the Delaware Nation Constitution, with duties to include responsibility for any and all election procedures; preparation and filing of all reports including minutes of each Election Commission meeting; complying with law, policy, findings and actions prescribed by the Executive Committee through this Election Ordinance; providing information to Candidates, potential Candidates and tribal citizens; and consulting with the Executive Committee as to any changes to the election rules and procedures.

D. "Constitution" means the Delaware Nation Constitution.

E. "Constitutional Amendment Election" is the method by which the Delaware Nation Constitution is modified, certain parts deleted or additions made, in an election in accordance with the provisions of Article XIII of the Constitution and 25 CFR 53.

F. "Current" means most recent.

G. "Disability" means for the purposes of this ordinance only when a citizen suffers from a physical or mental condition that limits that person's movements, activities or senses.

H. "Executive Committee" means the Delaware Nation Executive Committee as defined in the Constitution.

I. "In Kind" means any service or thing which has a monetary value but is given to or performed for or on behalf of a Candidate at no cost to the Candidate;

J. "Initiative Petition" means a petition signed by forty (40) Delaware Nation citizens which meets the criteria contained in Article X of the Constitution.

K. "Mail Out Date" means the date that ballots shall be mailed to the voters;

L. "Mail Box Rule" means the date that a ballot is postmarked shall be considered the date it is mailed from the Election Committee under this Ordinance. **The Mail Box Rule shall not mean the date something is received in the Election Committee's mailbox because such is outside the control of the mailing party and the Election Committee.**

M. "Recall Election" means the procedure by which a public official may be recalled by election from office for cause before the end of his term by a vote of the people to be taken on the approval of a Recall Petition pursuant to Article X of the Constitution and this Ordinance. A Recall Petition, if approved, allows for a Recall Election pursuant to Article VII, Section 3 of the Constitution and this Election Ordinance.

N. "Referendum and Initiative" means a method for Tribal Citizens to exercise popular participation in government as granted by Article X of the Delaware Nation Constitution. A Petition for Referendum and Initiative, if approved, allows for a question to be placed on a ballot to be approved by the method set forth in Article VII, Section 3 of the Constitution and this Election Ordinance.

O. "Tribal Assets" means property of all kinds including real, personal and intellectual property such as the use of the Delaware Nation Seal;

P. "Tribal Citizen or Member" means a duly enrolled member of the Delaware Nation.

Q. "Voter" means a Delaware Nation citizen who is over the age of eighteen (18) as of the date of the election;

R. "Voters List" means a list of Delaware Nation citizens who are over the age of eighteen (18) as of the date of the election.

S. "Withdrawal" means the voluntary withdrawal of a candidate from a race prior to an election.

SECTION 301: ELECTION COMMITTEE

- A. Appointment.** The Executive Committee of the Delaware Nation shall appoint an Election Committee consisting of a Chairperson, Secretary, and three (3) other persons, all of whom shall be Tribal Citizens and not members of the Executive Committee.
- B. Terms.** Members of the Election Committee shall serve three (3) year terms. Any Election Committee Member will be permitted to serve consecutive terms if so appointed by the Executive Committee.
- C. Quorum.** Three (3) Election Committee Members shall constitute a quorum for the purpose of conducting business at a duly-called meeting of the Election Committee.
- D. Removal.** An individual appointed to the Election Committee will automatically be removed from the Election Committee if a member of their immediate family (Mother, Father, Brother, Sister, Children or Spouse) should file to run for an Executive Committee position. Election Committee members shall also be removed automatically by the Executive Committee for failing to attend three (3) consecutive Election Committee meetings, for being delinquently indebted to the tribe, for a conviction of a felony, and for failing to follow the Delaware Nation Constitution and/or the Election Ordinance.
- E. Duties.** It shall be the duty of the Election Committee to conduct the elections and carry out all duties of the Constitution and this Election Ordinance in accordance with the procedures prescribed herein.
1. The Election Committee shall retain legal counsel for clarification of this Ordinance and resolution of any conflicts that may arise during an election. Such shall be selected by majority vote of the Election Committee, to be hired by the Executive Committee per the Constitution. Tribal Government shall provide reasonable funding to pay for legal counsel.
 2. The Election Committee will maintain and secure the post office box for candidate filing's and absentee ballots. No person other than a member of the Election Committee shall access the post office box.

- F. Chair.** The Election Committee shall select a Chair by majority vote each calendar year. The Chair is responsible for creating an agenda for each meeting, coordinating acceptable times for meetings with members, calling meetings to order, conducting such duly-called meetings, and any other duties reasonably related to the administration of the committee. The Chair is entitled to vote.
- G. Secretary.** The Election Committee shall select a Secretary by majority vote each calendar year. The Secretary is responsible for taking minutes of each duly-called meeting, preparing the minutes for approval of the Election Committee, and creating and transmitting correspondence to third parties, including the Executive Committee and candidates.
- H. Meeting Minutes.** The Election Committee shall have minutes of each duly-called meeting where a quorum is present. Such minutes shall be approved by the Election Committee in a reasonable period of time after each meeting, and a copy be provided to the tribal administrator's office within 24 hours of approval. Minutes that have been approved by the Election Committee and transmitted to tribal administration are available for review by verified tribal citizens who make a written request to review the same. Such request shall be on a form provided by the Election Committee, and a time will be scheduled for such review with the Election Committee within fourteen (14) days. After review, if the verified tribal citizen requests a copy of such minutes, then such will be provided at a cost of \$2.00 per page. Verification of tribal citizenship shall be by tribal ID.

SECTION 401: ELECTION NOTICES

- A. Terms of Office.** The office to be filled, and the term of office are as follows:

<u>OFFICE POSITION</u>	<u>TERMS OF OFFICE</u>
President	4 years
Vice-President	4 years
Treasurer	4 years
Secretary	4 years
(1) Committee Person	4 years
(2) Committee Person	4 years

- B. Call For Election.** Call for Election shall be the first Saturday in the month of December prior to the Bi-Annual June Election of an election year. It shall be the Election Committee Chairperson and/or any Delaware Election Committee Member's responsibility to post notices at the Bureau of Indian Affairs (BIA) Anadarko Area office and the BIA Anadarko Agency, on the Delaware Nation website, in the Anadarko Newspaper and at various other public places.

- C. Filing Fees.** The office to be filled and the filing fees are as follows:

<u>OFFICE POSITION</u>	<u>FILING FEE</u>
President	\$300.00
Vice-President	\$200.00
Treasurer	\$200.00
Secretary	\$200.00
(1) Committee Person	\$200.00
(2) Committee Person	\$200.00

The above listed filing fee shall accompany the Notice of Candidacy with a CASHIERS CHECK OR MONEY ORDER made payable to the DELAWARE ELECTON COMMITTEE to be deposited by the Tribal Finance Officer into the Delaware Tribal Treasury. No cash will be accepted. All Filing FEES WILL BE NON-REFUNDABLE, regardless if the election results in a winner or disqualification of candidates.

- D. Filing Period.** In the regular Bi-Annual election of officers, the election notice shall provide for a filing period to consist of ten (10) calendar days. The filing period will begin the second Monday of January of an election year and end on the tenth (10th) day thereafter. Persons who wish to file as candidates for one of the offices to be filled that year must do so in writing on a prescribed Candidacy Form provided by the Election Committee and mail the same to be postmarked by the 10th day after the second Monday of January of an Election year to:

**DELAWARE ELECTION COMMITTEE
P.O. Box 850
ANADARKO, OKLAHOMA 73005**

- E. Release to Perform Background Investigation.** Such Release shall be a part of the Candidacy Form and must be signed by the candidate when such Candidacy Form is returned to the Election Committee within the Filing Period. Failure to complete the entire form can result in a Tribal Citizen not being considered as a candidate.
- F. Background Investigation – OSBI/FBI/OSCN/ODCR –** The Election Committee shall complete the background investigation of each candidate by February 15 of such bi-annual election year.

Such shall not include a credit check, but shall only investigate the Constitutional requirements for candidacy. In addition to reviewing public, court records, the Election Committee may utilize the Delaware Nation Gaming Commission, the Oklahoma State Bureau of Investigation, and/or similar third party organization in order to conduct such background investigations. Candidates may be required to submit to fingerprinting pursuant to this Section.

- G. Determination of Candidacy/Notification to Candidates.** The Election Committee shall determine the eligibility of candidates pursuant to the provisions of the Article VII, Section 5 of the Constitution. Upon receipt of the completed background investigation, the Election Committee shall determine the eligibility of all candidates that have filed for office. The Election Committee shall notify candidates of the determination in writing, to be postmarked within **two (2) business days** after receipt of the completed background investigation. The Election Committee shall decide all issues of eligibility of a person to be a candidate. The decision of the Election Committee on eligibility shall be final.
- H. Candidacy Challenge.** If the Election Committee determines that a citizen is not eligible to be a candidate, the Committee shall notify such citizen that his/her candidacy is being challenged. The notice must provide reasons for the challenge, and that if satisfactory proof of eligibility is furnished within five (5) business days after notification, he/she shall be declared to be a candidate. Failure to provide such information within the time period will result in final determination of ineligibility.
- I. Withdrawal of Candidacy.** If a person who submitted a notice of candidacy wishes to withdraw his/her name from a race and remove his/her name from the ballot, then such must be done in writing, signed by the candidate, and sent by certified mail to the Election Committee at P.O. Box 850, Anadarko, OK 73005. Any such request, after verified by the Election Committee, will be granted up until 45 days prior to the election.
- J. Public Record.** The following shall be a matter of public record: any person who filed a notice of candidacy, persons found eligible to be placed on the ballot, persons found not eligible to be placed on the ballot, persons who have withdrawn their candidacy prior to an election. The following shall not be a matter of public record: information provided to the Election Committee by any potential candidate for a background investigation or the information gathered during the background investigation. However, any candidate is allowed to review their own background investigation.
- K. Unopposed Candidates.** If any candidate who timely files for the office to be filled has been determined eligible by the Election Committee, pursuant to the provision of Article VII, Section 5 of

the Constitution and this Section, and such candidate is unopposed for office, it shall be the duty of the Election Committee to certify such candidate as officially elected without opposition and to proceed to cancel the election of the unopposed position. All eligible registered voters, resident and non-resident shall be notified by letter of cancellation of the unopposed position of the election of officers at least fourteen (14) days prior to Election Day or as soon as practicable. A copy of the election cancellation notice shall be sent to the local newspaper and/or radio station for public announcement.

- L. Employees as Candidates.** Any employee may file as a candidate and maintain employee status until elected to office. Once elected to office, the employee must resign their position with the Delaware Nation. Nothing in this Section shall be construed as affecting any Tribal Citizen who does any work for the Tribe on a contract/1099 tax form basis with the Delaware Nation or any of its subsidiaries.
- M. Current Executive Committee Members as Candidates.** If a member of the Executive Committee wishes to run for a vacant office other than the seat he/she occupies, he/she will remain seated in his/her current position until the new election results are final. If the Executive Committee member wins the election for the new position, he/she will transfer to the new position upon being sworn into the office. If he/she is not successful in the new election, he/she will serve out the term of the original elected position.
- N. Current Election Committee Members as Candidates.** If a member of the Election Committee runs for a vacant office, the member must immediately resign from the Election Committee. If he/she is not successful in the election, he or she may request to be reappointed to the committee, which is at the discretion of the Executive Committee.
- O. Candidacy Limited to One Position.** Candidates are limited to running for one position during each election period.

SECTION 501: POLLING PLACE

- A. Location.** All elections shall be conducted at the Delaware Nation Tribal Complex, Anadarko, Oklahoma.
- B. Hours.** The polls shall remain open from 9:00 a.m. to 4:00 p.m. on Election Day which shall be the third Saturday in June Bi-Annually. Any person waiting in line to vote at closing time will be permitted to vote, but those presenting themselves after 4:00 p.m. will not be permitted to vote.
- C. Improper Conduct.** No person, including candidates running for office, shall be allowed to electioneer on any tribally-owned property, whether owned by the Tribe in trust or fee, while an election is being held. Neither shall any person, including candidates running for office, loiter or be permitted in the polling place during the voting hours. The prohibition against loitering does not apply to Election Committee members or their designees working the election.
- D. Security.** It shall be the duty of the election officials at the polling place to obtain such assistance as may be required to maintain order about the building during the process of the election, including but not limited to security guards or calling the tribal or BIA police for assistance.
- E. Application of Law and Order Code.** Tribal citizens shall be required to follow all provisions of the Delaware Nation Law and Order Code with regard to their conduct on election day, including but not limited to the following provisions of Part C: Criminal Offenses Code: Section 402 (Improper Influence in Official Matters); Section 412 (Tampering with Public Records); and Section 414 (Obstructing Government Function). Conviction of any such offense is punishable by law.

SECTION 601: VOTER REGISTRATION

- A. Qualification.** Eligible persons are those enrolled citizens of the Delaware Nation who are eighteen (18) years of age or older on Election Day. Such are automatically registered to vote.
- B. Banishment.** Pursuant to the Delaware Nation Law and Order Code, tribal citizens who have been banished as a punishment from the Delaware Nation District or Supreme Courts cannot come onto tribal lands for any reason during such period of banishment.

SECTION 701: ELECTION EXPENSES

- A. Budget.** All expenses pertaining to the election shall be paid by the Tribal Finance Director from designated Tribal accounts approved by the Executive Committee. Supplies and expenses include: Envelopes, copies, outgoing postage, background investigations, fingerprinting, meeting fees, ballots, Xerox paper, etc.
- B. Meeting Fees.** Regular meeting fee stipends shall be Two Hundred Dollars (\$200.00) except on Election Day, which shall be Four Hundred Dollars (\$400.00).
- C. Legal Representation.** The Election Committee will be primarily responsible for choosing the legal counsel for the Election Committee with the acknowledgement of the funds allocated for this purpose.

SECTION 801: CONDUCT OF ELECTION

- A. Voter Registration List.** It shall be the duty of the Election Committee to see that the name of each person requesting to vote is on the Official Voting Registration List. Persons requesting to vote must present their Tribal I.D. card along with proper photo identification.
- B. Security of Ballot Box.** The ballot boxes shall be locked at all times, except when ballots are being counted.
- C. Ballot Marking/Depositing by Voter.** The Election Committee shall see that the ballot is marked and deposited by the voter.
- D. Disabled Voter Assistance.** When any voter is physically present and communicates to the Election Committee that the voter suffers from a disability, and as a result of the disability the voter is unable to mark his/her ballot, one of the election officials shall swear the voter as follows: "Do you solemnly swear (or affirm) that you are unable to mark your ballot for voting because of a disability?" Should the voter so qualify himself/herself, it shall be the duty of two (2) election officials to give the voter such assistance as he/she needs, but in all such instances, the voter must state without suggestions from such officials, who he/she wishes to vote for, and in no instance shall an election official by work, action, or expression attempt to influence the voter as to how he/she should vote. Such assistance shall be given in privacy and all persons other than the election officials shall be kept sufficiently distant so that they will not hear or know how such voter voted.
- E. Counting of Regular Ballots.** The Election Committee shall count the regularly cast ballots immediately after the close of the polls; and to certify the election returns pursuant to Section 1001.

SECTION 901: ABSENTEE VOTING

- A. Right to cast absentee ballot.** Whenever an eligible voter shall be absent for any reason, such voter shall be entitled to exercise their right to vote in the manner or form prescribed herein.

- B. Mailing of Absentee Ballots/Voter Requirement to Keep Addresses Current.** All voters shall be notified by letter sent to the address contained in the Enrollment Office. **THE RESPONSIBILITY FOR PROVIDING CURRENT MAILING ADDRESSES SHALL REST UPON EACH INDIVIDUAL ELIGIBLE VOTER.**
- C. Deadline of Mailing.** It shall be the duty of the Election Committee to provide all absentee ballots, affidavit forms, return envelopes, etc., to all voters no less than thirty (30) days prior to the Election Day utilizing the Mailbox Rule defined in this Ordinance.
- D. Marking of Absentee Ballots.** The absentee voter shall mark and enclose the ballot in the inner envelope supplied by the Election Committee.

NO NICKNAMES OR OTHER NAMES SHALL BE ACCEPTED OTHER THAN THE OFFICIAL NAME LISTED ON THE TRIBAL MEMBERSHIP ROLL WHEN PRINTING AND SIGNING EACH INDIVIDUAL NAME OF THE AFFIDAVIT.

- E. Affidavit Requirement.** The absentee voter shall execute the affidavit supplied by the Election Committee which shall be generally in the following form:

ABSENTEE VOTER AFFIDAVIT

I, (PRINT FULL LEGAL NAME) _____, hereby certify that I am an eligible voter of the Delaware Nation, that I will be eighteen (18) years of age or over on the Election Date and am entitled to vote in the election to be held on (DATE)_____.

I further certify that I marked the enclosed ballot in secret.

SIGNED _____ FULL LEGAL NAME _____

Subscribed and certified before us this _____ day of _____, 20_____, and hereby certify that I am 18 years of age; that the voter exhibited the ballot to me unmarked: that he/she in my presence and of no other person and in such manner that I could not see the vote: marked such ballot and enclosed and sealed the same in the envelope marked Absentee Ballot.

WITNESS:

PRINT FULL LEGAL NAME

SIGNATURE (FULL LEGAL NAME)

PHYSICAL ADDRESS:

CITY:

STATE:

ZIP:

- F. Submission of Absentee Ballot and Affidavit.** The voter shall, in the presence of one (1) witness of adult age, and no other person, mark such ballot, but in such a manner that such witnesses cannot know how the ballot was marked, and that ballot shall then in the presence of the witnesses, be placed in the envelope marked "Absentee Ballot: together with the affidavit in the outer envelope and mail it. The preaddressed outer envelope shall be directed to the Election Committee, **ANY ABSENTEE BALLOT NOT PROPERLY SUBMITTED IN ACCORDANCE WITH THESE INSTRUCTIONS FOR ABSENTEE BALLOTING WILL NOT BE COUNTED.**

SECTION 1001: CANVAS OF ELECTION RESULTS

- A. Absentee Ballots.** ALL MAILED ABSENTEE BALLOTS AND AFFIDAVITS SHALL BE MAINTAINED AT THE DESIGNATED POST OFFICE BOX (PO BOX 850) UNTIL 4:50 P.M. ON THE FRIDAY IMMEDIATELY BEFORE THE ELECTION DAY.

At 4:50 p.m. on the Friday immediately before the Election Day, the Election Committee shall retrieve all absentee ballots that have been mailed to the designated post office box (P. O. BOX 850) the Chairperson of the Election Committee in the presence of at least one (1) other Election Committee Member shall immediately obtain the absentee ballots and then open each outer envelope, but they shall not open the inner envelope: they shall then determine whether the person whose name which is signed to the affidavit is a duly qualified voter of the Nation and check said voter against and off the Nation's Voting list.

If correct, the sealed inner envelope shall then be dropped into the official ballot box and remain there until the counting of all absentee ballots is commenced. Any ballot not properly submitted in accordance with these instructions for absentee balloting will not be counted. The Election Committee shall record the number of absentee ballots, envelopes, stamp the date and time received and secure them in a locked box, until 4:00 p.m. on Election Day.

- B. Counting of All Ballots.** Immediately after the closing of the polls, the Election Committee shall count the absentee ballots which have been prepared as provided in this Ordinance. Following the counting, the ballots cast at the polling place shall be counted. The count of the ballots shall be done at the Delaware Nation Complex. Each candidate for a position on the Executive Committee is entitled to choose one person who is at least 18 years of age to observe, on their behalf, the counting of the ballots.
- C. Tie Vote Procedures.** Following the counting of the ballots, (both, the absentee ballots and the ballots cast at the polling place), in an instance where two (2) or more tribal citizens filed as a candidate for the same office, and each received the same number of votes that resulted in a "tie" vote between the two, then the Election Committee shall be responsible for conducting a "Run-Off" Election between the two (2) candidates within ninety (90) days following conclusion of the protest period. (Under Section 13, manner of Contesting Election Results, (b) Protests Not Involving Recounts).
- D. Disposition of Ballots.** The lists of eligible voters which were signed at the polling place together with the ballots cast at the polling place and the list of absentee voters together with the absentee ballots cast shall be locked in the ballot box and remain in a designated locked file cabinet at the Delaware Nation Complex for a period of ninety (90) days before being destroyed, where they shall be available for inspection under the supervision of the Election Committee. No ballot shall be destroyed if an appeal from the election is pending.
- E. Observer/Counter.** Each candidate shall be entitled to one (1) official observer 18 years of age or older for the counting of ballots. Official observers shall be designated in writing by the candidate and submitted to the Election Board no less than one (1) day before the election.

SECTION 1101: CERTIFICATION AND ANNOUNCEMENT OF ELECTION RESULTS

- A. Unofficial Tally/Nullification of Election.** The Election Committee may post an unofficial tally of votes on the date of the election in order for the Election Committee to take time to convene a separate meeting the following day, if necessary, to review the conduct of the election. It is the duty of the Election Committee to ensure that the conduct of the election was followed by tribal citizens before proceeding to Subsection B, below. Any gross violation of law by tribal citizens observed during the election process and/or on Election Day that has a substantial effect upon the election that is recognized by the Election Committee may result in an election not being certified. The Election Committee may nullify the election and request a Special Election to be called

thereafter pursuant to the terms of this Ordinance.

- B. Certification and Announcement.** A statement pertaining to the conduct of the election, the correctness of the votes tallied, and the election results shall be prepared by the Chairperson of the Election Committee and certified by each member of the Election Committee. These results shall be posted on the door of the Delaware Nation Complex as soon as the tabulation is completed and published by available means as soon as possible.
- C. Installation.** After the certification of the election has been issued, and providing there are no protests to the Election, the Election Committee shall set a date as near to June 30 as possible on which newly elected members of the Executive Committee shall be installed and take office. As such ceremony, the following Oath of Office shall be administered by the Chairperson of the Election Committee and/or any Election Committee Member present.

I (NAME OF OFFICER) DO HEREBY SOLEMNLY AFFIRM THAT I WILL SUPPORT AND DEFEND THE CONSTITUTION OF THE UNITED STATES AND THE DELAWARE NATION, AND WILL CARRY OUT FAITHFULLY AND IMPARTIALLY, THE DUTIES OF MY OFFICE TO THE BEST OF MY ABILITY AND WILL PROMOTE AND PROTECT THE BEST INTERESTS OF THE DELAWARE NATION IN ACCORDANCE WITH THE TRIBAL CONSTITUTION AND BY-LAWS.

SECTION 1201: CONTESTING ELECTION RESULTS

A. Request for Recount

- 1. Submission/Notice.** Any valid candidate may, at any time within five (5) business days following the official announcement of the election results, file with any member of the Election Committee, a challenge to the correctness of the announced results of the election and request a recount of the ballots. The request for a recount shall be accompanied by a list of the charges on which the challenge is based together with evidence to substantiate the charges. The Election Committee shall send notice with a copy of the protest to every candidate within one (1) day of receipt of the same.
- 2. Cost.** Said request for recount shall be accompanied by a Recount Fee of \$1,000.00 by cashier's check or money order. Such fee is non-refundable unless the recount changes the outcome of the election.
- 3. Deadline.** Said recount shall be conducted within five (5) business days after the recount request is filed. NO CHALLENGE SHALL BE CONSIDERED UNLESS IT IS MADE WITHIN THE TIME PROVIDED FOR THAT PURPOSE.
- 4. Results of Recount.** It shall then be the duty of the Election Committee to proceed with the recount in accordance with the manner prescribed in Section 1201 (b) of these regulations. The results of the recount shall be final.
- 5. Continuation of Government.** Pursuant to Article V, Section 2 of the Constitution, the incumbent Executive Committee shall serve until the protest, recounts, appeals are resolved and successors are seated.

B. Other Protests.

- 1. Submission/Notice.** Any qualified voter of the Nation may, at any time within the five (5) business days following the official announcement of the election results, file a written protest with any member of the Election Committee and must be signed by the protestor. The Election Committee shall send notice with a copy of the protest to every candidate within one (1) day of receipt of the same.

2. **Cost.** A protest must be accompanied by a \$1,000.00 protest fee by cashier's check or money order, made payable to the Delaware Nation Election Committee. Such fee is non-refundable unless the protest is found to be valid.
3. **Deadline.** The Election Committee will respond in writing to such protest or challenge no later than five (5) business days following the closing of the protest period.
4. **Continuation of Government.** Pursuant to Article V Section 2 of the Constitution, the incumbent Executive Committee shall serve until the protest recounts, and appeals are resolved and successors are seated.

C. Appeal of Protest Decision.

1. **Who May Appeal.** Any eligible tribal voter over the age of 18 may file an appeal from the Election Committee's decision.
2. **Expedited Appeal to Tribal District Court.** Within five (5) business days of the Election Committee's decision on appeal, the protestor/appellant may file an appeal with the Tribal District Court on any question of law. The Tribal District Court shall hear any appeal from a decision of the Election Committee on an expedited basis. Further appeal of the Tribal District court's decision is available only to the Tribal Supreme Court. All decisions of the Tribal Supreme Court are final.
3. **Expedited Procedure.** Any appeal to the Tribal District Court or Tribal Supreme Court shall be done on an expedited basis. The Tribal District Court is required to hold a hearing within twenty (20) days of the filing of an appeal and shall render a written decision within ten (10) days thereafter. The Tribal Supreme Court is required to hold a hearing within (20) days of the filing of any further appeal and shall render a written decision within ten (10) days thereafter. This expedited requirement for court review shall allow resolution of all election concerns for the stability of the Nation's government and will require parties to shorten timing of filing briefs and responses accordingly.
4. **Standard of Review.** A decision of the Election Committee shall be upheld by the Tribal Court unless it is arbitrary and capricious, and abuse of discretion, not supported by substantial evidence or unauthorized by law.
5. **Seating of Elected Official.** Any candidate upheld as a winner of an election after an appeal is complete shall be seated within 5 days of the final appeal decision.

SECTION 1301: RECALL, REFERENDUM AND INITIATIVE

A. Recall Elections.

1. **Grounds for Recall.** Any tribal citizen qualified to vote may file a Petition for Recall of any Executive Committee member based on the following grounds: that an Executive Committee member does not meet the qualifications of office as set forth in the Delaware Nation Constitution Article VII, Section 5 (Qualifications of Candidates), or that the Executive Committee member fails to uphold the Constitution. Any challenges to grounds for recall may be filed as a declaratory judgment action in Tribal Court.
2. **Form of Petition.** Such shall be in strict conformance with Article X, Section 1 of the Delaware Nation Constitution, including that only one member shall be considered for recall election at one time, and that once an individual is subjected to recall proceedings, that person cannot be considered again for such action until at least six months have passed.
3. **Filing of Petition.** All petitions must be submitted to the Tribal President or person acting in their absence at the Delaware Tribal Government Office. All petitions filed must be original

copies. Once a petition is submitted to the Tribal President it cannot be returned to petitioner for any reason.

4. **Cost.** A petition must be accompanied by a \$1,000.00 fee by cashier's check or money order, made payable to the Delaware Nation Election Committee. Such fee is non-refundable.
5. **Acknowledgment of Receipt.** A written statement shall be given to the person submitting the petition, stating date and time received, by the President or their designated person.
6. **Record Keeping.** Election Committee shall maintain original Recall Petitions in a secure manner, and make certified copies of such Petitions for purposes of undertaking its duties under this Ordinance.
7. **Verification of Signatures.** After notification has been given to the Executive Committee about a Recall Petition being filed, the Election Committee shall review the signatures on the Petition to ascertain an accurate and exact count of the number of signatures which are valid signatures of registered tribal voters. No addition of signatures will be allowed to a Recall Petition after it has been submitted for verification of signatures pursuant to this Ordinance. Signatures shall be declared invalid for the following reasons:
 - a. The signer is not a citizen of the Delaware Nation;
 - b. The signature is illegible and the identity of the signer cannot be determined;
 - c. The signature is difficult to read and the person thought to be the signer does not verify his/her signature within three (3) days after being contacted by the Election Committee;
 - d. The signature is not that of the person whose name it purports to be;
 - e. The signer has validly withdrawn his or her name from the Petition by notifying the Election Committee of the request to do so, in writing;
 - f. A signature has been the subject of a challenge pursuant to the procedure set forth below, and the Election Committee has sustained the challenge.
8. **Challenges to signatures.** As soon as practicable after receiving a recall petition, the Election Committee shall provide notice to the elected official who is the subject of a recall petition that such a petition has been received and that such petition will be the subject of consideration by the Election Committee in accordance with these procedures. The Election Committee shall, along with such notice, provide the official who is the subject of a recall petition with a certified copy of such petition for the purpose of enabling the official to review the signatures on the petition. The official who is the subject of a recall petition shall have 5 business days from the date on which the official is notified by the Election Committee of the filing of the recall petition to challenge the validity of any signatures on the petition. Such a challenge shall be in writing to the Election Committee, and shall state the grounds on which the challenge is based. The Election Committee shall hold a hearing on any such challenges within seven (7) business days of receiving the challenges. At such hearing, the official who is the subject of the recall petition, the presenters of the recall petition, and such other persons as the Election Board determines have an interest in the hearing shall have the right to be heard, the right to be represented by counsel at his or her own expense, the right to present written or oral evidence, and the right to cross-examine any witnesses called by the Election Committee or any other interested party. The burden of proof shall be on the challenger to any signature to demonstrate by a preponderance of the evidence that the challenged signature shall be invalidated. The Election Board shall issue a written decision on all challenges to signatures.

9. **Verification.** The Election Committee shall submit a notarized Verification to the Executive Committee concerning the validity of such signatures within five (5) business days of receipt of the Petition, or as soon as practicable if such is challenged.
10. **Invalid Petition.** Should the list not contain the proper number of voter signatures as required by Article X, Section 1 of the Constitution, or should the signatures be successfully challenged, or should it be based on grounds other than set forth in Section 1301(A) (1) above, the Election Committee shall notify the person who filed the Petition and the Executive Committee of the same and, through use of all available media, to also notify the public of the failure of the Recall Petition.
11. **Notice to Accused.** The Executive Committee member who has been the subject of a Recall Petition shall be noticed within 24 hours of receipt by the Tribal President of such Petition.
12. **Notice of Recall Meetings.** Notice of recall meetings shall be issued in accordance with the Constitution of the Delaware Nation at Article X, Section 1. The notice of a recall meeting must contain the time and place of such meeting and state that it is for the purpose of considering the recall of a member of the Executive Committee. It shall contain both the name of the accused and the charges.
13. **Recall Meeting.** A Recall meeting must be held in accordance with Article X of the Delaware Nation Constitution.
- a. **Quorum.** Quorum shall be determined in accordance with the Constitution of the Delaware Nation at Article XV- Conduct of Meetings at Section 3. Quorum: "Twenty (20) citizens of the General Council shall constitute a quorum. No business, other than the election of officers to provide for continuity of government, shall be transacted by the general council, unless a quorum is present. Four (4) members of the Executive Committee shall constitute a quorum to transact any business."
- If no quorum is present, the Constitutional requirement for the handling of the subject petition shall be deemed satisfied. No further action shall be taken on the petition.
- b. **Opening of Meeting.** The President of the Executive Committee shall preside at the recall meeting unless they are the subject of such meeting. If the President cannot preside, the Vice-President shall preside.
- c. **Presentation of Recall.** The Presiding Executive Committee member shall give the accused a chance to make an opening statement, call any witnesses, make a personal statement, and a closing argument with regard to any charges leveled at such Committee member, including the right to question any person making such accusation under oath. The Recall meeting shall be adjourned if the accusing party fails to appear at the meeting, and the Petition will be deemed failed.
- d. **Discussion.** After presentation of recall is complete, the General Council shall have thirty (30) minutes to discuss the Recall and the evidence presented.
- e. **Manner of Voting.** At the conclusion of the rebuttal from the accused or their spokesperson, the eligible voters present shall vote "Yes" or "No" to hold a recall election by the secret ballot. Such ballots shall be prepared by the Executive Committee prior to the meeting and shall be in the following form:

Shall _____ be subject to a Recall Election to be held in accordance with Article VII, Section 3 of the Constitution and the Election Ordinance?

- 14. Counting of ballots.** The presiding officer shall count the ballots in the presence of the accuser and the accused. They will immediately announce the results to the General Council Members present. If a recall election is required, one shall be held in accordance with the Election Ordinance and the Constitution.
- 15. Effect of Recall.** No Executive Committee member shall be subject to a recall election until the time to appeal has lapsed, or until the appeal has been fully resolved pursuant to this Ordinance.

B. Petitions for Referendum and Initiative.

- 1. Forms of Petition.** Petitions may consist of as many pages as are necessary to accommodate the signatures of the petitioners. However, each sheet of a petition must set forth at least a summary of the objectives of petitioners and must show the date upon which the petition was signed by each individual, as well as the current address of each signer. A full disclosure of charges must be submitted in writing to the President or their designated person with the original petition. Signatures to a petition must be authenticated in one of the following ways: (a) through having each signer subscribe or acknowledge their signatures by appearing before a Notary Public and signing, in their presence on each sheet of the petition, OR (b) a statement of the collector(s) of signatures attesting that the signatures were affixed on the dates shown and by the individuals whose names appear thereon, and that to the best of their knowledge the signatories thereto are eligible tribal voters. Only an eligible tribal voter shall be recognized as a valid collector of signatures to a petition.
- 2. Filing of Petition.** All petitions must be submitted to the Tribal President or person acting in their absence at the Delaware Tribal Office. All petitions filed must be original copies. Once a petition is submitted to the Tribal President is cannot be returned to petitioner for any reason.
- 3. Cost.** A petition must be accompanied by a \$1,000.00 fee by cashier's check or money order, made payable to the Delaware Nation Election Committee. Such fee is non-refundable.
- 4. Acknowledgment of Receipt.** A written statement shall be given to the person submitting the petition, stating date and time received, by the President or their designated person.
- 5. Establishing Validity of Petition.** The Election Committee shall follow the procedures set forth in the Section 1301(A) for determining the validity of the Petition, verification of signatures, challenges to the same, notice requirements, and recordkeeping.
- 6. Official Call of Meeting of General Council.** If such Petition is certified as valid by the Election Committee, then the President of the Delaware Nation shall follow Article X, Section 2 with regard to calling and conducting a meeting of the General Council to determine such referendum and initiative question. Such shall also be presented by ballot and absentee ballot to all Delaware Nation eligible voters in order for the issue to be properly presented to all non-resident Tribal citizens. The election and any appeal therefrom shall be held in accordance with the Election Ordinance, and all ballots shall be counted in the same manner as those for election of officers pursuant to this Ordinance.
- 7. Special General Council Meeting.** The General Council meeting shall be conducted in the same manner as General Council Meetings on election years pursuant to the Constitution, including the requirement of a quorum, presentation of issues, discussion, and counting of ballots and absentee ballots by the Election Committee.

SECTION 1401: VACANCIES, SPECIAL ELECTIONS

- A. Filling of Vacancies.** Pursuant to Article VII, Section 6 of the Delaware Nation Constitution, "any vacancy which occurs in the membership of the Executive Committee shall be filled for the unexpired term at the next duly called meeting of the General Council." Pursuant to the Delaware Nation case of *Gallegos vs. French*, 2 Okla. Tribe 209, (Court of Indian Offenses, June 4, 1991), this provision shall not be interpreted as allowing an election to be conducted from the floor at a General Council meeting, as all elections require absentee balloting, verification of candidates, and other requirements per Article VII, Section 3 of the Constitution.
- B. Constitutional Requirement.** A Special Election shall be held in any year where holding such election at the next General Council meeting would coincide with an election day for regularly elected officers, for the purposes of not violating the Constitutional requirement of staggered elections for elected officials. Only one position at a time may be filled by Special Election.
- C. Special Elections.** In the event that no candidate is elected to a position after a duly called election, or to meet the requirement of Subsection B above, then the Executive Committee shall by Resolution declare a date for a Special Election. Such date must be determined within thirty (30) days after the position opens.
1. The Special Election shall be set to coincide with a Special General Council Meeting on a Saturday within ninety (90) days of the Resolution of the Executive Committee to hold a Special Election.
 2. The Election Committee shall issue a Call for Election within ten (10) business days of the date of the Executive Committee Resolution setting such Special Election.
 3. Tribal citizens shall have ten (10) business days from the date the Call for Election is issued to file the Notice of Candidacy and pay the requisite filing fee pursuant to this Ordinance.
 4. Persons filing a Notice of Candidacy shall execute the required Release form for the background investigation concurrent with the filing of the Notice of Candidacy and payment of filing fee.
 5. The Election Committee shall begin the background investigation within two (2) business days of closing of the Call for Election and shall determine eligibility of candidates within two (2) business days of receipt of the background investigation.
 6. Notification of eligibility of candidates or any challenges to candidacy shall be issued by the Election Committee within two (2) business days of the determination of the same.
 7. After the Special Election is held, ballots counted, and protests/appeals determined, the winning Candidate shall be seated immediately.
 8. All other provisions of this Ordinance pertaining to conduct of elections shall remain in full force and effect for Special Elections and shall be followed by the Election Committee, Candidates, and all tribal citizens.

SECTION 1501: PROHIBITION OF USE OF TRIBAL ASSETS; CAMPAIGN FINANCIAL REPORTING; DONATION RESTRICTIONS

- A. Use of Tribal Assets Prohibited.** Candidates are responsible for their campaigns. Candidates for elective office are prohibited from the use of any Tribal Assets of any kind for campaign purposes. Candidates may submit a one-page submittal to the Delaware Nation newsletter prior to the election and such shall not be considered prohibited by this section.

1. **Complaint.** A Candidate may file a written complaint regarding another Candidate using Tribal Assets for campaign purposes with the Election Committee. The complaint must specify the Candidate stating the cause of the complaint. Such complaints may be filed up to the date of counting of the ballots in such election. The complainant shall be responsible for sending a copy of the complaint to the Candidate who is the subject of the complaint. The copy of the complaint shall be sent to the challenged Candidate by certified mail, return receipt requested.
2. **Response.** The Candidate who is the subject of the complaint shall have five (5) business days from the day of receipt of notice of the complaint to file a response to the complaint; provided, however, that other time frames for filing of complaints and responses may be stipulated by the Election Committee for special elections. The Election Committee may, upon the hearing of testimony or other reliable evidence, recognize a defense of ignorance on the part of the Candidate to the actions of his campaign workers, or misfeasance or malfeasance of campaign workers.
3. **Violation Knowledge.** Any tribal citizen who possesses information about a Candidate using Tribal Assets in violation of this Section shall be required to file a complaint in the same manner and according to the same form as is required of a Candidate's complaint, with the exception of time limitations. The failure of the citizen possessing such information to file a complaint may be cause for criminal charges to be filed pursuant to the Delaware Nation Law and Order Code.
4. **Penalties.** If, upon the conclusion of a duly conducted hearing, it is determined by a majority of the Election Committee that Tribal Assets have been used for campaign purposes, the following penalties may be imposed:
 - a. Upon a first violation, a private reprimand shall be issued to the Candidate in writing. Depending upon the severity of the violation, a public reprimand in writing may be issued to the Candidate and may also be sent to newspapers of general circulation in the Delaware Nation, including the tribal newspaper, for immediate publication.
 - b. Upon second and subsequent violations, in addition to the penalties described above, the Candidate may be fined up to five hundred dollars (\$500) per violation.
 - c. Failure to pay a fine assessed by the Election Committee may result in a winning Candidate not being seated as an elected official until said fines are paid. Penalties imposed shall be enforced by the Tribal Treasurer.

B. Campaign Contributions and Expenditures

1. All Candidates for elective office shall file a Disclosure Statement disclosing the source and amount of all monetary contributions over one hundred dollars (\$100) made to either the Candidate, a campaign worker or the campaign.
2. Any single contributor (excluding Candidates' own personal funds), whether an individual, a business or corporation, is limited to a maximum monetary contribution of \$5,000.00. Any contributions in excess of this limit must be declined or returned immediately.
3. This requirement of disclosure will be effective as of the date passed and will require disclosure for all future elections and any contributions made therefore.

C. Disclosure Statements

1. Campaign Contribution Disclosure Statements will be filed along with an affidavit by the Candidate swearing to its accuracy. Such shall be filed with the Election Committee upon declaration of candidacy and updates shall be filed at the end of every month until the

election(s) for said Candidate is completed.

2. It shall be filed on a form provided by the Election Committee which will reflect the above information and be made available for public inspection and copying if requested in writing during regular business hours. The Election Secretary shall make such copies within two (2) business days of receipt of a proper written request. Copies shall be made at twenty five cents (\$.25) per page.

D. Failure to File Statement or Filing Inaccurate Statement

1. If any Candidate should fail to file a campaign contribution report within five (5) business days after the end of the month, the Election Committee shall issue a Notice to the Candidate to appear before the Election Committee within five (5) business days.
2. If an Election Committee member or any tribal citizen has reason to believe that a Candidate has willfully filed an inaccurate report, they shall file a complaint with the Election Committee.
3. A complaint must specify the Candidate and state the cause of the complaint. The Election Committee shall send a copy of the complaint to the Candidate who is the subject of the complaint by certified mail, return receipt requested.
4. The Candidate who is the subject of the complaint shall have five (5) business days from the day of receipt of notice of the complaint to file a response with the Election Committee and send a copy to the Executive Committee.
5. Complaints regarding campaign contribution reporting and tribal assets shall be heard by the Election Committee in accordance with civil procedures set forth in this Ordinance for appeals.

E. Inaccurate Reports; Enforcement.

1. If, upon the conclusion of a duly conducted hearing, it is determined by a majority of the Election Committee that a Candidate failed to file campaign contribution reports in a timely manner or willfully filed inaccurate reports, the following penalties may be imposed:
 - a. Upon a first violation, a private reprimand shall be issued to the Candidate in writing. Depending upon the severity of the violation, a public reprimand in writing may be issued to the Candidate and may also be sent to newspapers of general circulation in the Delaware Nation, including the tribal newspaper, for immediate publication.
 - b. Upon second and subsequent violations, in addition to the penalties described above, the Candidate may be fined up to five hundred dollars (\$500) per violation. Failure to pay fines shall result in the Candidate not being seated as the winning candidate unless the same is paid.

SECTION 1601: MISCELLANEOUS

- A. **Amendments.** The Executive Committee of the Delaware Nation may amend this Ordinance by a majority vote of a quorum at any duly called meeting of that body.
- B. **Severability.** Any portion of this Election Ordinance that is deemed incorrect may be severed from the Ordinance and does not affect the enforceability of the remainder of the Ordinance.
- C. **No Waiver of Sovereign Immunity.** Nothing in this Ordinance shall constitute a waiver of the Delaware Nation's sovereign immunity.

SECTION 1701: MISCELLANEOUS

We hereby certify that the foregoing Election Ordinance was amended by the Executive Committee of the Delaware Nation located in Anadarko, Oklahoma, on this 29TH day of November, 2018, with the Executive Committee voting 4 Yes, 0 No, and 1 Abstention, approving said enactment.

ATTEST:



Sue Stone, Secretary



APPROVED:



Deborah Dotson, President

Election Ordinance Legislative History:

Section 3 Revision made and approved-Executive Committee Meeting 11-8-93
Meeting fees revised to increase to \$50 Executive Committee 12-27-93
Revisions incorporated into Election Ordinance 9-26-94 and 2-20-95
Revisions made and approved Executive Committee Meeting 3-13-97
Amendment "Tie vote procedures" Section 11, Canvas of Election results Approved Executive Committee Meeting 6-23-99
Revisions made and approved- Executive Committee Meeting 01-09-02
Revisions made and approved- Executive Committee Meeting 10-03-06
Revisions made and approved- Executive Committee Meeting 12-05-06
Revisions made and approved- Executive Committee Meeting 1-24-07
Revisions made and approved-Executive Committee Meeting 11-17-08
Revisions made and approved per Executive Committee Resolution 2011-179 on 11-15-11
Revisions made and approved per Executive Committee Resolution 2016-234 on 1-10-17
Revisions made and approved per Executive Committee Resolution 2018-219 on 11-29-18

Delaware Nation

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Anadarko, OK 73005
405 / 247-2448
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Resolution 2018-219

RESOLUTION APPROVING DELAWARE NATION ELECTION ORDINANCE

WHEREAS, the Delaware Nation, is a federally-recognized Indian Tribe that operates in accordance with the Constitution adopted by the Nation, as ratified on April 21, 1973 and as amended from time to time, and recognized by the Secretary of the Interior; and

WHEREAS, according to the Article VI – Powers of the Constitution, “the Executive Committee shall have specific authority ... to promulgate and enforce ordinances and codes governing law and order to protect the peace, health, safety, and general welfare of Delaware tribal citizens...”, and generally “shall have full authority to act on behalf of the Nation in all other matters upon which the Nation is empowered to act...”; and

WHEREAS, the Delaware Nation Election Committee has recommended revisions to the Election Ordinance last approved November 15, 2016, including but not limited to addressing issues of withdrawal of candidates from Elections, and expedited appellate procedure for Election Protests; and

WHEREAS, the Delaware Nation Executive Committee has reviewed the Amended Ordinance and believes the changes are in the best interest of the Nation’s citizens; and

WHEREAS, the Delaware Nation Executive Committee voted by telephone poll to approve the Amended Election Ordinance (attached hereto) on November 29, 2018, by a vote of 4-0-1, and authorizes the Election Committee to utilize this Amended Election Ordinance for the 2019 Election.

NOW THEREFORE BE IT RESOLVED that the Delaware Nation Executive Committee has approved, passed and enacted the Delaware Nation Election Ordinance on November 29, 2018 by a vote of 4-0-1.

CERTIFICATION

The foregoing resolution was adopted by the Delaware Nation Executive Committee at a duly called Executive Committee meeting held on November 29, 2018, by a vote of 4 For, 0 Against, 1 Abstentions, a quorum being present.

ATTEST:



Sue Stone, Secretary



APPROVED:



Deborah Dotson, President